



# Staff Report

Public Hearing: **February 25, 2014**

Petition: **CUP 2262**

Zoning Amendment:  
**A-1EX Exclusive Agriculture District to A-1EX Exclusive Agriculture District**

Town/sect:  
**Deerfield Section 29**

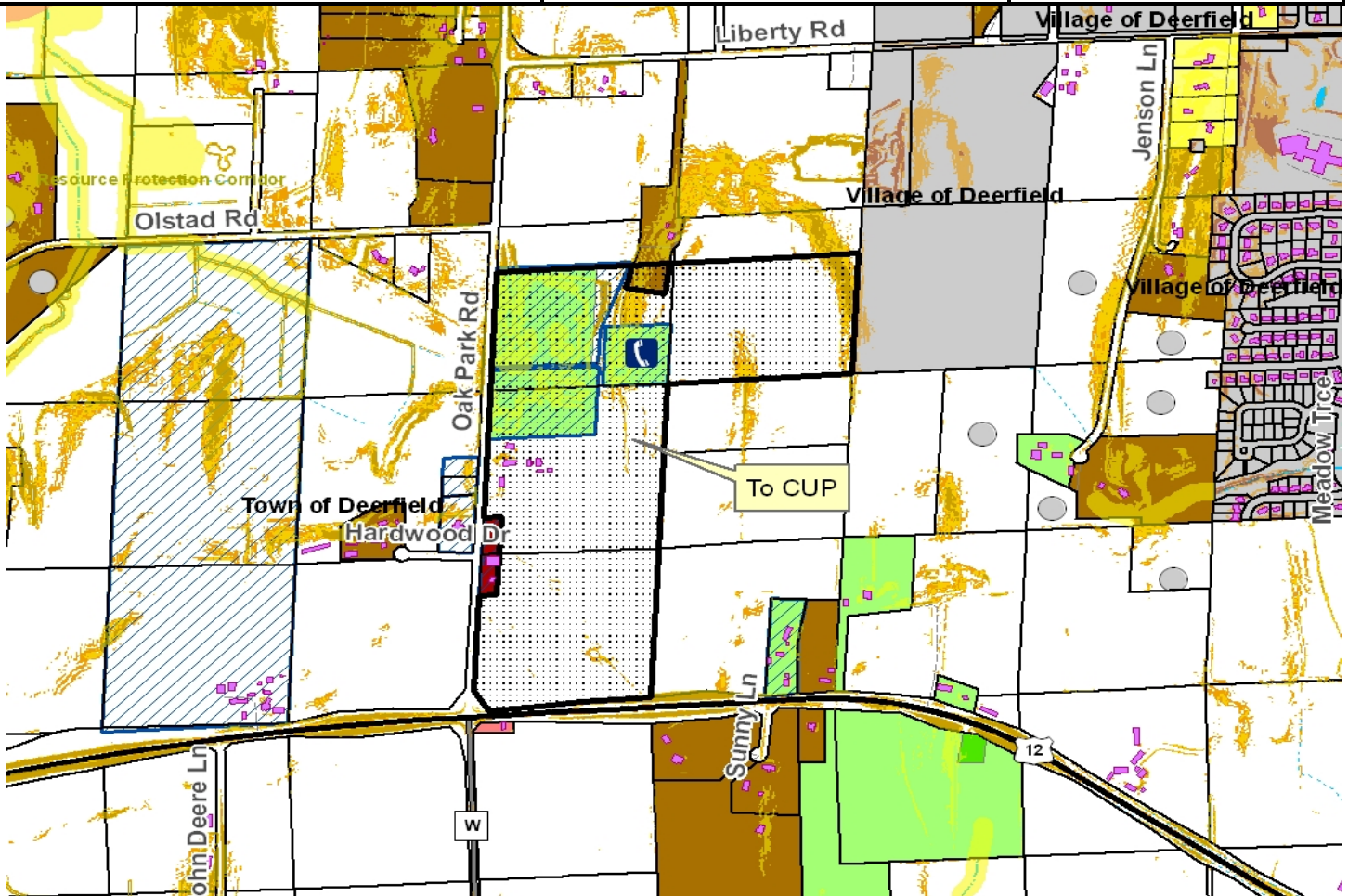
Acres: **103.56 , 25.6**  
Survey Req. No

Applicant  
**Oak Park Quarry LLC**

Reason:  
**Mineral Extraction**

Location:  
**3522 Oak Park Rd**

Zoning and Land Regulation Committee



**Description:** Jon Halverson would like to expand an existing quarry operation. The current operation is operating under Conditional Use Permit 2103 which is set to expire in 2019. Mr. Halverson would like to expand the site to 129 acres.

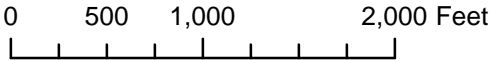
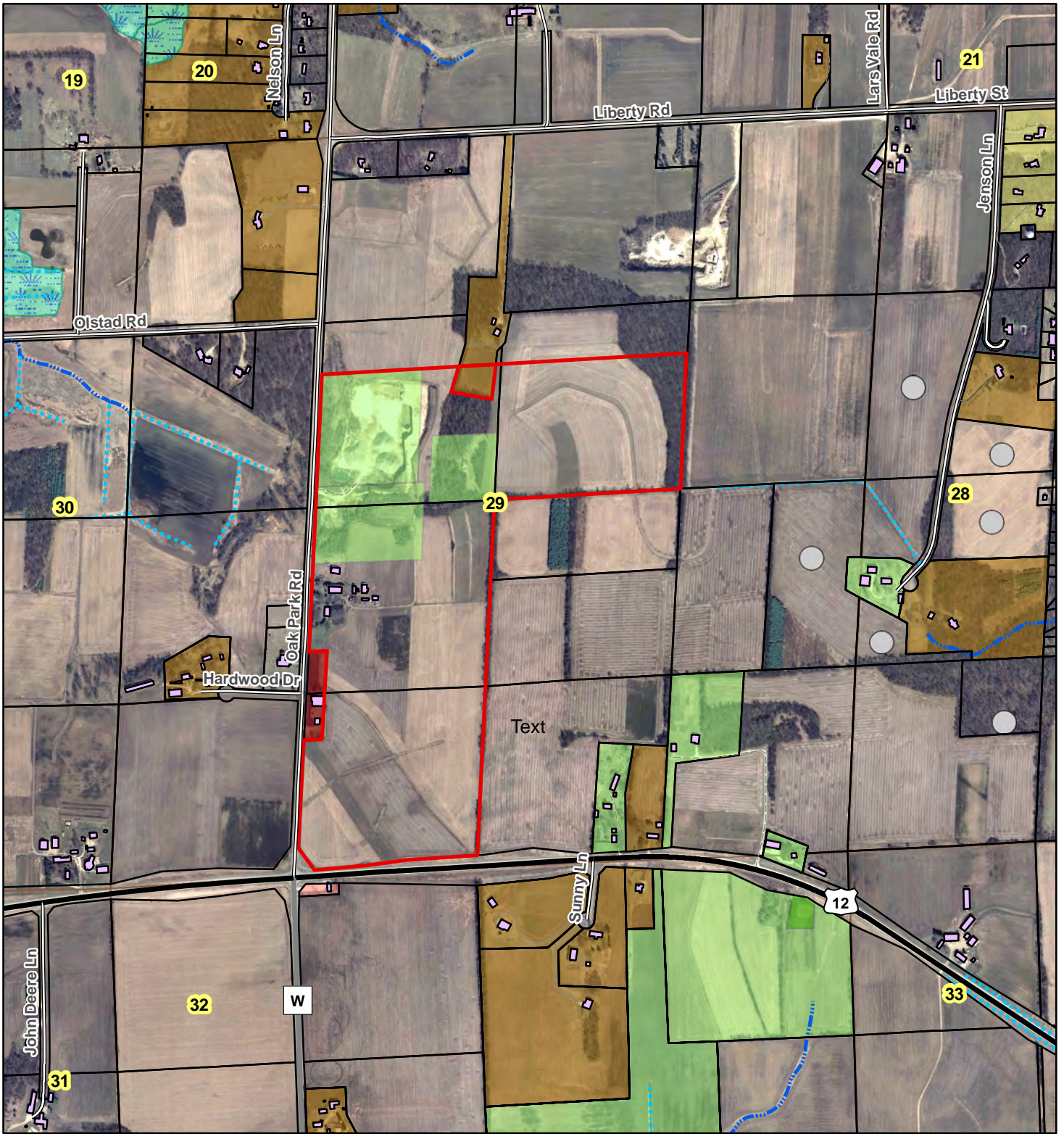
**2/24 ZLR:** The Committee postponed action due to no town action and public opposition. The adjacent land owners expressed concerns for depreciation of property values, having limitations on blasting, having limitation on hours of operation, having limitations on depth of excavation, and also expressed concerns for the existing church located nearby. The State Historic Society identified Native American burial mounds located in the proposed expansion area.

**4/24 ZLR:** The Committee received an action report from the Town noting a 2-2 vote for denial. The Committee postponed action for 60 days. Staff was instructed to work with the Town and the applicant to see if the neighborhood concerns could be resolved.

**TOWN:** County Staff met with the Town in May to review the proposal. Although revisions were discussed, the Town felt that conditions could not be crafted in order to mitigate potential nuisances as part of the operation. The town suggested the applicant submit a new application in a year. On June 14, 2014, the Town of Deerfield denied the application stating that standards 1,2,3,and 6 were not met in order to obtain a conditional use permit.

**STAFF:** Staff recommends denial of the application due to Town concerns and conflicts with surrounding land uses (burial mounds, communication tower, church/daycare).

**SEE ATTACHED STAFF REPORT.**



**Legend**

- Wetland
- 100-year Floodplain

CUP #2262  
 Oak Park  
 Quarry

## MEMORANDUM

**TO:** DANE COUNTY ZONING & LAND REGULATION (ZLR) COMMITTEE

**CC:** ROGER LANE, ZONING ADMINISTRATOR; JON HALVERSON, APPLICANT

**FROM:** PAMELA ANDROS, AICP

**DATE:** JULY 2, 2014

**RE:** CUP 2260 OAK PARK QUARRY, DEERFIELD

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On June 17<sup>th</sup>, 2014, the town of Deerfield Board, with one member abstaining, voted 4:0 to deny conditional use permit #2260. The basis for their decision was that the proposal failed to meet 4 of the 6 standards noted in section 10.255(2)(b). Those standards are as follows.

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

As noted in the Town Action Report, standards 1, 2, 3 and 6 were not satisfied.

After the ZLR referred CUP 2260 back to the town for reconsideration and clarification, the applicant responded to the numerous concerns identified at that point in the process. On May 12, 2014, the town held a meeting for consideration of the CUP. Dane County staff (Andros) attended that meeting to answer questions and provide clarification for the town board and citizens. Land use conflicts of note included proximity to a neighboring church, and burial mounds and a cell tower on site. To address local concerns, the applicant offered to reduce the size of the CUP area from 130 acres to 70 acres, to reconfigure access to the operation, and to provide an archeological study to care for the burial site located within the CUP area. They also tried to address numerous other concerns (for instance, additional noise controls), in a detailed list of potential conditions of approval.

Ultimately, it appears that there were too many conflicts associated with this proposal for local support and approval at this time. The applicant's current operation (CUP #2103) is still in effect and will expire in 2019.

**STAFF REPORT FOR CUP #2262**

**February 25, 2014 ZLR Committee Public Hearing**

**Conditional Use Permit for a Mineral Extraction Site in the A-1EX and A-2 District, Deerfield, Section 29**

**DANE COUNTY ZONING STAFF COMMENTS / BACKGROUND**

- **Owner(s) of record:** Oak Park Quarry, LLC
- **Agent:** Jon Halverson
- **Size, zoning, use of existing parcel:** The proposed CUP area covers 130 acres, 104 of which is zoned A1-EX and 26 is A-2. A portion this area currently has a conditional use permit for mineral extraction. See *history* below and the attached maps.
- **Rezone/CUP desired:** CUP for mineral extraction, expansion and extension of CUP #2103..
- **Number of new home sites created:** None
- **History:** CUP#1316 for Mineral Extraction, approved with 14 conditions, became effective on 3/26/1996 and expired on 3/26/2001. CUP#1757 for Mineral Extraction, approved with 18 conditions, became effective on 4/9/2002 and expired on 4/9/2007. CUP #2103 for Mineral Extraction, approved with 14 conditions, became effective on 3/24/2009 and has an expiration date of 3/24/2019.
- **Shoreland/Floodzone/Wetlands:** None
- **Zoning Issues:** An erosion control (Chapter 14) and nonmetallic mining reclamation permit (Chapter 74) are required.

**TOWN ACTION REPORT**

The county has not yet received the Town Action Report.

**PROPOSAL SUMMARY**

**Overview:** This petition is for continuation and expansion of an existing limestone quarry mineral extraction operation (CUP #2103). This request is for an area covering 130 acres for a period of 10 years. The site would be operated and serve contractors for both public and private projects.

**Analysis**

**Surrounding Area Characteristics:** The surrounding area is agricultural, with scattered residential land uses. Please see attached maps.

**Operational:** Included with the application is a list of 10 items describing the operation. They are as follows:

- 1) Continuation of hours (associated with CUP# 2103). Hours of operation will be 6:00 a.m. to 6:00 p.m. Monday through Friday; 6:00 a.m. to 1:00 p.m. Saturday; plus 24 hour 7 day per week hours for municipal jobs that are required to be done at night (mainly WisDOT).
- 2) 2 employees on site – one in the office/scale house and one equipment operator.
- 3) Contractors for both public and private projects, local townships, cities, Dane County and WisDOT projects.
- 4) Outside storage will be minimal. Primarily equipment will be used on site.
- 5) The land around the quarry will continue to be farmed. Other quarry activities will include earth moving, processing rock, removing clay and fill.
- 6) One small yard light at scale house.
- 7) No loudspeakers will be used.
- 8) Signs at quarry exit will include: one stop sign and all trucks must turn left.
- 9) Trash pick-up is done by the township's chosen contractor.

Further information was also provided including:

- 10) Acres not mined will continue to be farmed.
- 11) Existing floor elevation is 910' and it is above groundwater.
- 12) Clay, fill and limestone are the materials extracted
- 13) Limestone deposit is 75-100' at its deepest.
- 14) Current entrance is south on Oak Park Road to Hwy 12&18
- 15) Our best estimate based on current trends is that 1-2 acres of farmland per year will be used for quarrying.
- 16) Heavy equipment for earth moving, rock drilling, crushing and screening. Wheel loaders and trucks for hauling of finished products. We estimate portable crushing equipment will be brought in 2-5 times per year.
- 17) Blasting will occur 3-5 times each time the crusher is on site. Fuel storage: No tanks over 1100 gallons will be on site. There will be no asphalt batching or concrete mixing.
- 18) No extraction below water table.
- 19) Portable office trailer is currently in use as a scale house. A permanent scale house with some storage may be built in the future.
- 20) Entrance to the quarry is paved. All reasonable efforts will be made to eliminate tracking, dust, and mud onto roadways.
- 21) After reclamation, the site will be returned to agricultural use.

Town Plan:

- *Town of Deerfield Comprehensive Plan, adopted 2009:* The subject property is located in the *Agricultural Transition* district. This district is described as “Preserve in agriculture and open space until development may be appropriate; Town may identify these lands in future for more intensive development; and same policies as Agricultural Preservation District until then”.

Compliance with County Ordinances: Mineral extraction operations must meet requirements found in Chapters 10 (Zoning), 14 (Erosion Control and Storm Water) and 74 (Nonmetallic Mining Reclamation) of the Dane County Code of Ordinances. Chapter 10 provides six standards for granting a CUP in Section **10.255(2)(h)** of the zoning ordinance are as follows:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

According to **S. 10.123(3)(a)** of the zoning ordinance, the ZNR Committee must also consider the following factors when approving CUPs in the A-1 Exclusive District:

1. The statement of purposes of the zoning ordinance and the A-1 Exclusive Agriculture District.
2. The potential for conflict with agricultural use
3. The need of the proposed use for a location in an agricultural area.
4. The availability of alternative locations
5. Compatibility with existing or permitted use on adjacent lands.
6. The productivity of lands involved
7. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural lands converted.
8. The need for public services created by the proposed use.
9. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
10. The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

#### **RECOMMENDED CONDITIONS**

- **Conditions:** If the proposal is approved, the ZLR Committee should condition approval on a set of conditions based on the list of standard recommended conditions, customized to reflect the specifics of this site, the operation, and where appropriate, the concerns expressed during the Town Board and ZLR Public Hearing. Dane County staff can provide assistance in developing a list of specific conditions based on the needs expressed above. Please see the following note and list of recommended standard conditions.

*Note: Over the past few years, Dane County has applied a standard set of conditions to approvals of mineral extraction operations to assure that they meet CUP standards in S. 10.255(2)(h) of the zoning ordinance. Based on the specifics of the proposal, these conditions can vary slightly and other conditions are sometimes included. The standard conditions are generally as follows:*

#### **STANDARD CONDITIONS OF APPROVAL FOR MINERAL EXTRACTION OPERATIONS**

1. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.
2. The applicant shall apply for and receive all other required local, state and federal permits.
3. The operator shall develop and operate the site according to the site/operations and phasing plan dated [enter date]
4. Operations shall cease no later than [# of years requested or less as appropriate] years from the date of CUP approval.
5. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances.
6. The driveway accessing the subject site shall be paved. The operator shall maintain the driveway in a dust free manner in accordance with local, state, and federal regulations, and shall clean any dust or mud tracked onto public roads. [Note: At a minimum, the driveway should be paved for a distance of at least 100 feet from the public road. All other driveways not paved should be graveled.]
7. The operator and all haulers shall access the CUP site only through those points designated as entrances on the Site/Operations Plan dated [date of most recent plan].

8. The access to the driveway shall have gates securely locked when the extraction site is not in operation. The site shall be signed “no trespassing.”
9. Hours of operation shall be from \_\_\_\_ a.m. to \_\_\_\_ p.m., Monday through Friday, and from \_\_\_\_ a.m. to \_\_\_\_ p.m. on Saturdays. No operations of any kind shall take place on Sundays or legal holidays. [Note: Typical hours of operation are from 6:00 a.m. to 6:00 p.m., Monday through Friday, and 8 a.m. to early afternoon on Saturday. If there are residences nearby, hours may be more limited (e.g., start at 7:00 a.m. with no Saturday hours). Further, hours for crushing, screening, and washing, when permitted, are generally more limited than general operating hours, due to noise impacts.]
10. There shall be no blasting or drilling on the site. [If blasting or drilling are requested and allowed, an additional set of conditions should be required related to frequency, noise and vibration levels, notice to neighbors, pre-inspection of neighboring basements and wells, claims procedures, etc. See memo for summary of issues to review if blasting or drilling are requested.]
11. There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 5 feet in height with a single strand of barbed wire on the top. [If the extraction operation does not contain steep slopes, a safety fence surrounding the entire area may not be necessary. Instead, the following condition may be appropriate: “During operations, the edge(s) of the extraction area shall be maintained at a slope of no greater than 1:1.”]
12. The operator shall use spray bars (water) in the crushing process to reduce dust. Use of spray bars is not required when the temperature is below freezing. The operator shall spray the site with water if and when needed to control dust.
13. No water shall be pumped or otherwise removed from the site.
14. There shall be no bulk fuel stored on site. [In cases where the operator wishes to have bulk fuel stored on site, the operator should indicate why and provide a plan for spill containment that meets state regulations.]
15. [The following condition is advisable only when the extraction operation is at or near groundwater level.] All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands above \_\_\_\_ [3 feet above highest water table elevation] feet in elevation to prevent against groundwater contamination from leaks or spills.
16. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
17. If the Highway Commissioner determines that improvements to the intersection of the access road and CTH \_\_\_\_ [or fronting local public road and nearest CTH] are necessary as a result of the mineral extraction operation, the operator shall improve such intersection at its expense to the specifications of the Highway Commissioner. [Note: The town may also request this type of guarantee or a letter a credit for repair to local roads. It would generally be appropriate to include such a request as a condition of county approval.]
18. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
19. Dane County and the Town of \_\_\_\_\_ shall be listed as additional named insureds on the [name of operator] liability insurance policy, which shall be for a minimum of \$1,000,000 combined single limit coverage per occurrence. The operator shall furnish a copy of a Certificate of Insurance as evidence of coverage before operations commence. The liability insurance policy shall remain in effect until reclamation is complete.
20. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.

**(Questions? Contact Pam Andros – 266-5915 or 261-9780)**

# CUP 2262 - Oak Park Quarry LLC

