



# Dane County Planning & Development

## Mining Regulatory

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Date: December 17, 2024

To: Zoning & Land Regulation Committee

From: Daniel Everson, Land Division Review

Re: CUP 2582 – Mineral Extraction  
Town of Rutland, Section 28  
Property owner/Operator: K & D Stone (Kevin Hahn)

### **DCCO 10.101(7)(g) Revocation of Conditional Use Permit.**

1. Application for a conditional use permit constitutes consent to inspection of the permitted premises by the zoning administrator or designee to assure permit compliance.
2. If a landowner or holder of the conditional use permit is found to be in violation of the permit conditions, the landowner or holder of the permit shall be notified in writing of the said violation(s) and given 10 days to correct the violation.
3. If the violation is not corrected within the assigned correction period, a report shall be filed with the zoning committee documenting the violation.
4. If the zoning committee finds that the conditions stipulated in the conditional use permit are not being complied with, the zoning committee, after a public hearing, may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in s. 10.101(7)(d).

10.101(7)(h)(2)(a) xii.

2. Conditions.

a. Standard conditions.

Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

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The Zoning and Land Regulation Committee conditionally approved CUP 2582 on March 14, 2023.

On June 22, 2023, the Board of Adjustment heard appeal #3724 which was an appeal by Rutland Citizens United, U.A., Pamela J. Marr-Laundrie, and Henry Spelter appealing the decision of the Dane County Zoning and Land Regulation Committee regarding approval of conditional use permit 2582. The BOA approved conditional use permit 2582 with conditions as modified.

- *Amend condition 21 to be subject to State Statute 66.0441(3)(c).*
- *Append condition 38 to read, "Upon 24 hour notice to conditional use permit operator, operations must cease during interment at the Graves Cemetery."*

On Monday, November 19, 2024, emails were received by residents in the township of Rutland requesting that our department investigate a massive amount of garbage and construction debris being buried at the site. Concerns were raised with regards to the contamination of the groundwater and that the site was being used as a landfill. Several photos were attached showing the types of material from a neighboring property.

On November 20, 2024, I met with Kevin Hahn to go over the concerns raised and to investigate the fill material that was being placed on site. One of the first things I noticed is there were two distinct piles of broken concrete and asphalt. The asphalt is being recycled on site for the purpose of being sold for driveways and parking lots. The concrete is being recycled as well. There are several pieces that do contain rebar, but the operator has the ability to remove as much as practicable before the concrete is crushed. Both materials are not being buried and are contained within the boundaries of the site.







Further to the west there was a large pile of brush, trees and branches. The operator will be burning this pile over time. The DNR does have guidance on this type of material and wood stumps cannot be buried, but can be shredded or chipped then spread out.





The operator took me to the area where there has been recent dumping of various types of building materials. Materials were cinder blocks, clay tile, cream colored bricks, broken concrete and small pieces of asphalt. I did see small pieces of splintered plywood and a couple pieces of aluminum, maybe a window frame. I mentioned to the operator that any type of building materials that isn't allowed must be removed. Various types of stone materials is allowed, whether it is a man made or naturally made like boulders or rocks. The operator must monitor every load that comes into the site to verify the types of materials being dumped.

I did not see anything egregious that would constitute a violation. I also had conversations with Wisconsin DNR staff that oversee the reclamation program and the solid waste division at the state level to get their thoughts on this issue. These types of building materials are allowed to be used as fill within a non-metallic mining site.

NR 500.08(2)(a), *Wisconsin Adm. Code* considers clean fill to be clean soil, brick, building stone, concrete or reinforced concrete not painted with lead-based paint, broken pavement, and wood not treated or painted with preservatives or lead-based paint.







The original CUP application materials does mention that the site will accept general fill.

The site will also accept general fill from offsite to aid in the reclamation of the site – materials will include but not be limited to topsoil and general fill – no trash or solid waste is accepted but a dumpster will be provided onsite to manage any materials that need to be disposed of. Finally, note that concrete and asphalt will also be accepted to be recycled as noted in *Appendix D – Aggregate Products List*.

#### **AGGREGATE PRODUCTS LIST**

##### **Crushed Stone:**

- 3/4" Clear Crushed Limestone
- 1 1/4" Clear Crushed Limestone
- 3" Clear Crushed Limestone
- 5" Clear Crushed Limestone
- 3/4" Base Crushed Limestone
- 1 1/4" Base Crushed Limestone
- 3" Breaker Run
- Screenings
- Rip-Rap – Various Sizes

##### **Recycled Products:**

- 1 1/4" Crushed Asphalt
- 1 1/4" Crushed Concrete

##### **Other Products:**

- Bank Run Sand
- Screened Sand
- Topsoil
- Screened Topsoil
- Landscape Boulders
- Cobblestone – Various Sizes

As per 10.004(99)3 *Dane County Code of Ordinances*, Importing and dumping of clean fill materials is an accessory use to Mineral extraction. In addition, under 10.004(99)2; stockpiling and processing of concrete and asphalt pavements for the purpose of recycling for reuse in asphalt or concrete mixtures or base course products is allowed as an accessory use to Mineral Extraction.

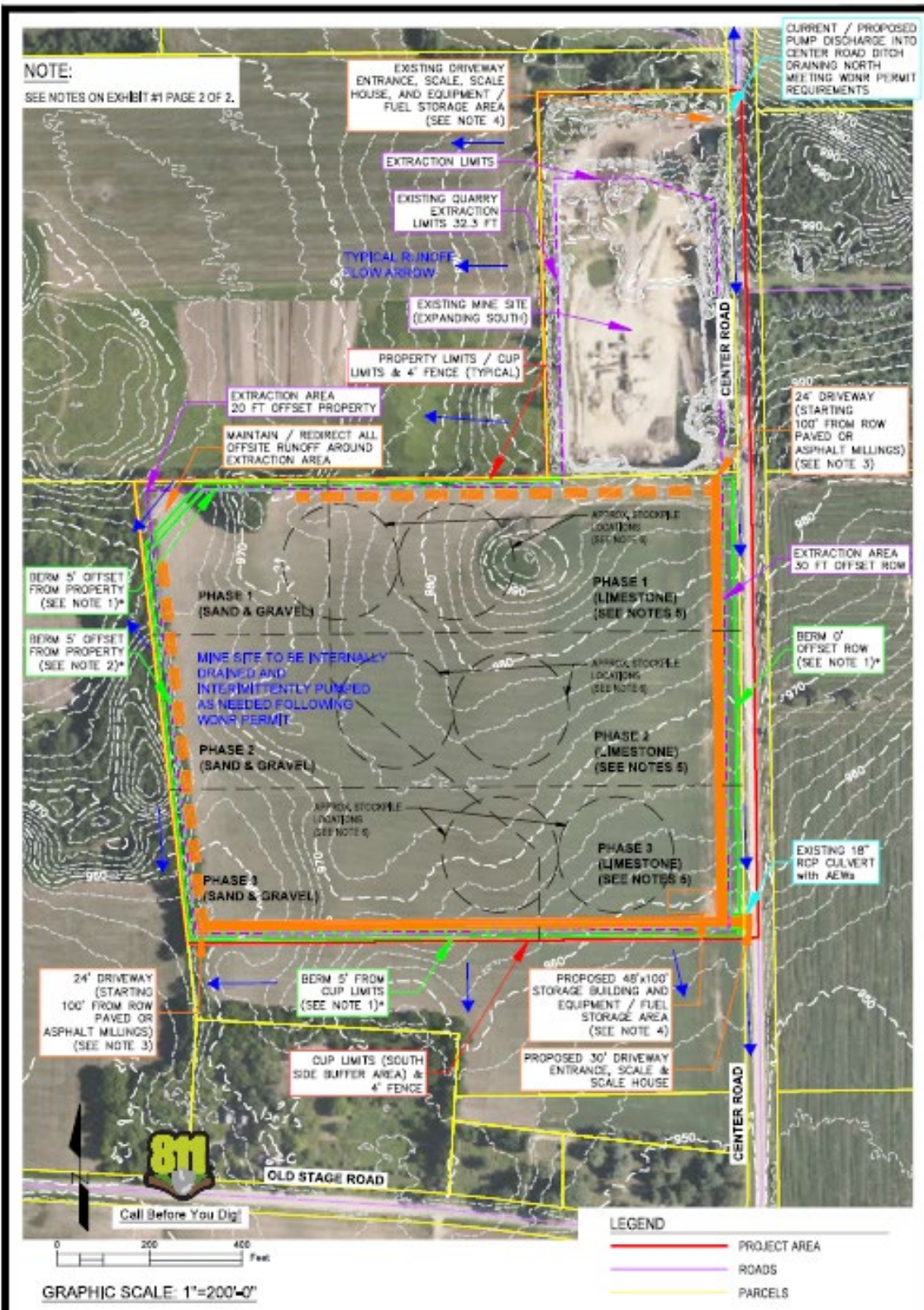
Lastly, the site in general appeared to be in compliance. No erosion control issues and the newly constructed berms seemed to be providing stormwater control. I will be following up on the landscape of the berm along Center Road next spring as the evergreen trees do not appear to be healthy.



Also, I initiated a conversation with the operator with regards to the overall strategy with the operations plan and the reclamation plan. Technically, there are no areas considered to be reclaimed and the reclamation plan can be modified over time as the initial conception is for the site is to be returned to a small lake.

However, Condition #1 of CUP 2582 states that the the physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, phasing plan, and following conditions.





Project Name and Address CENTER ROAD QUARRY NON-METALLIC MINE TOWN OF RUTLAND DANE COUNTY	1. PERMIT	8/15/22
	2. REVISION 1	1/11/22
	No. Revision Issue	Date

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Sheet Title <b>OPERATIONAL PLAN &amp; EROSIONAL CONTROL</b>
Project No. 22-028
Sheet No. <b>EXHIBIT #1</b> PAGE 1 OF 2



Spring 2022





Summer 2023