

**COMMENTS OF YAHARA MATERIALS, INC. ON LATEST REVISION OF CHAPTER 10 ORDINANCE RELATED TO MINERAL EXTRACTION**

**January 9, 2017**

On behalf of Yahara Materials, Inc., we are submitting the following additional comments on the latest draft of the Dane County Comprehensive Revision of Chapter 10 proposed ordinance related to mineral extraction (numbers below tie into the numbers in the County staff's "Proposed ordinance related to mineral extraction REVISED DRAFT 1/3/2017"):

1.B.(a)5. – Definition of mineral extraction accessory uses. Move production of asphalt and concrete to a separate CUP section so that these activities are not automatically tied to mineral extraction sites generally. These activities should be specifically requested as a CUP by the applicant and not tied to all mineral extraction permits.

1.B.(b) – Conditions for mineral extraction accessory uses. Additional conditions or requirements should only be imposed if approved by both the Town and the ZLR. This implies that either can require additional conditions and this power should only be exercised if both agree.

2.(a)2.a., b. and c. – Abandonment or discontinuation of a non-conforming use. The new ordinance must restate all of the wording in the current ordinance that preserves the non-conforming mineral extraction rights of currently registered sites. Failure to restate all of the current language in the ordinance will suggest that the current non-conforming status of registered sites, even if active, is being weakened.

2.(a)2.b. – Deemed abandonment or discontinuation of a non-conforming use. This proposed amendment should be reworded so that it states that filing a reclamation plan, and filing the annual report and paying the annual fee, assures the owner of a non-conforming site of continuing non-conforming status, including with regard to all currently registered non-conforming sites. The staff version merely states that sites will be considered abandoned if these things are not done, but does not express state that if these things are done a given site will be deemed still active automatically.

2.(a)2.c. – Changes to non-conforming use. This language is confusing, particularly for mineral extraction sites and could be read as an effort to limit the diminishing asset rule as applied to mineral extraction sites. We suggest that this language not apply to mineral extraction sites, as activity over time in a mineral extraction site moves from one part of the parcel to another, but the site is managed as a whole and should be treated as such.

3.(c)4.(a) – Third party consultation. This should be modified to provide that the cost of outside consultants will be shared with the applicant from the first dollar, not just after spending \$10,000.

4.2(a)(ix) – Standard conditions – Town Engineer. This should be modified to state that town engineer decisions must be approved by the County, rather than the Town and County making separate decisions.