

Attorney Christa O. Westerberg
cwesterberg@pinesbach.com

February 8, 2018

BY E-MAIL

Dane County Zoning & Land Regulation Committee
City-County Building, Room 116
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Re: February 13, 2018, ZLR meeting; a) Supplemental information, CUP # 2405, Rocky Rights LLC/Wade Cattell, Eilenfeldt, application for non-metallic mining on 35 acres zoned A1-EX; b) Request for Revocation of CUP # 2175, Concrete Batch Plant

Dear Chair Kolar and Members of the Zoning and Land Regulation Committee:

This firm represents Alex and Jamie Tukiendorf, who appeared at your January 23 meeting to oppose proposed CUP #2405 for a non-metallic mine in the Town of Cottage Grove. This letter is to provide supplemental information regarding this application, which we understand you will consider at your February 13, 2018, meeting. This same information should also be considered for the Tukiendorfs' request to revoke CUP #2175.

First, we provide the attached letter of Craig Hungerford, a certified real estate appraiser with 30 years of experience who prepared the appraisal report we submitted in January. (See **Attachment 1**.) The letter responds to comments of Scott McWilliams at your January meeting, on behalf of Wade Cattell, regarding the sale of a home to the east of the Tukiendorfs' property. For the reasons explained in his letter, Mr. Hungerford concludes that the sale does not impact his earlier opinion that the Tukiendorfs' home is so impacted by the concrete plant and existing mine as to have lost all value as a residence and is better characterized as an industrial use.

These significant impacts to neighboring property values demonstrate that Mr. Cattell cannot not meet the County's criteria for granting CUP #2405, and further demonstrates that the County should revoke CUP # 2175 due to failure to comply with the criteria.

Second, in response to concerns expressed at the January meeting that Mr. Cattell's existing mine has not been reclaimed, we reiterate that **reclamation was supposed to have been completed in Fall 2014 for the northern portion of the site**, under a permit issued by the Dane County Land & Water Resources Department. (See **Attachment 2**.) It has not been reclaimed and remains a large, open, unsightly, disturbed area that is bothersome to neighbors.

Dane County Zoning has not enforced this permit and has instead stated that it cannot order reclamation if the site is still being mined. Without debating the merits of this argument, Mr. Cattell stated at the Committee's January meeting that he was using the northern portion of the site for recycling. He has also stated at prior meetings that the existing site is exhausted for aggregate, needed for concrete. There does not appear to be any mining occurring at the northern portion of the site, and it should be reclaimed as the Land & Water Resources Department required. The ZLR Committee should not consider granting CUP #2405 until these problems are resolved.

Third, Mr. Cattell made representations to you in January regarding his plans for the new CUP site that are contained nowhere in his application for CUP #2405, such as that he intends to reforest the eastern portion of the site when mining is completed. The record is replete with examples of Mr. Cattell promising one thing in meetings, then doing another in actual operations.¹ If the Committee relies on any of these statements as a basis for issuing the permit, it must include them as permit conditions. However, the better inference from this track record is that Mr. Cattell cannot show he meets the County's standards for issuing CUP #2405, and has not met the standards for keeping CUP #2175.

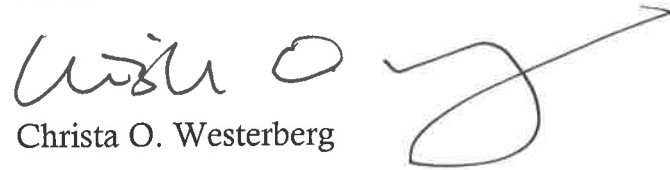
CUP #2405 should be denied. The Committee should revoke CUP #2175, or at a minimum, hold a hearing on the Tukiendorfs' revocation request.

¹ For example, Mr. Cattell promised the Town of Cottage Grove when the concrete plant was originally proposed that he would not generate concrete for highway projects (Attachment 3), but then he took highway projects and night work that have disturbed the plant's neighbors, as shown in the Tukiendorfs' prior submissions.

Thank you for your consideration.

Sincerely,

PINES BACH LLP

A handwritten signature in black ink, appearing to read 'Christa O. Westerberg', followed by a large, stylized flourish that extends to the right.

Christa O. Westerberg

COW:hmm
Enclosures

cc: Roger Lane (via e-mail)
Alex & Jamie Tukiendorf (via e-mail)

Real Estate Dynamics, Inc.

February 7, 2018

Alex Tukiendorf
2292 US Highway 12/18
Cottage Grove, WI 53527

Re: A review of the recent transaction of property located at 2236 US Highway 12/18 and its relationship to our September 13, 2017 appraisal of your property located at 2292 US Highway 12/18 in the Town of Cottage Grove, Wisconsin

Dear Mr. and Mrs. Tukiendorf:

I wanted to address the testimony from a consultant representing Wade Cattell at a recent meeting regarding the quarry expansion. As you are aware, the consultant inferred or stated that the June 19, 2017 sale of the property at 2236 US highway 12/18 was evidence of a lack of area property value impact from the existing concrete batch plant and gravel quarry activity.

First, some background. The property at 2236 US highway 12/18 sold on June 19, 2017 for \$243,900. The original list price was \$269,900 posted on November 23, 2016. The property was on the market for 147 days. The average days on the market for the Town and Village of Cottage Grove in 2017 was 39 days. The sale included a 1,674 square foot house and 2 barns, one which is behind the house on a parcel that is 3.04 acres. Without interviewing the parties who were interested in purchasing this property, it is impossible to say whether the concrete batch plant and gravel quarry activity and traffic did or did not affect the sale of the property. Clearly, the property was on the market for nearly 5 months and the seller had to reduce the property price to consummate a sale.

The factors that make this property so completely different from your property are as follows:

1. The property has direct shared access to US Highway 12/18. The property cannot be accessed from the adjacent driveway that you, your neighbors and the concrete plant share. Therefore, there is no heavy truck traffic near the home except for the normal everyday traffic from US Highway 12/18.
2. The property at 2236 US Highway 12/18 is approximately 670 feet from your shared driveway, or over two football fields placed end to end away from the road that carries concrete and gravel truck traffic. This property is not affected by the regular truck traffic adjacent to your property.



Land Conservation Division
 Dane County Land & Water Resources Department
 Patrick J. Sutter, County Conservationist

DATE: May 15, 2012

TO: Wade Cattell
 Rocky Rights, LLC

FROM: Jeremy Balousek, P.E.
 Urban Conservation Engineer

RE: **Hellickson Pit – Revised Erosion Control and Stormwater Management Plan, ES2003-0186**
Associated Non-Metallic Mining Permit 74-28

RECEIVED

MAY 15 2012

DANE COUNTY - LAND CONSERVATION

The submitted revised erosion control and stormwater management plan meets the needs of the site. The plan includes the following conditions:

1. The site may only be accessed off USH 12 using the existing gravel drive and a stone tracking pad. The pad must be a minimum of 50' long x 24' wide x 12" deep and be constructed of 3-inch clear stone. No other site access may be used and material deposited in the road will be cleaned up throughout and at the end of each workday.
2. The site is internally drained. All grading activity will proceed in a manner to preserve the internal drainage of all runoff from disturbed areas. If at any time, runoff is allowed to leave the site, additional controls and a revised erosion control and stormwater management plan will be required.
3. Silt fence must be installed prior to grading in the locations shown on the plan and where deemed necessary, including down slope of all soil stockpiles not draining internally to the pit. The silt fence must be maintained until the site has been vegetated and stabilized.
4. Topsoil must be segregated from the overburden and will be stored in stockpiles. The stockpiles will be contained within the internally drained portion of the site.
5. Grading must be confined to the areas shown on the plan. No material storage, vehicle traffic or grading may occur in the areas identified as "undisturbed" or "vegetated buffer" on the plan. In the event any of these areas are disturbed, additional erosion control measures will be required.
6. The plan includes a construction schedule as follows:

Grading and operation is underway.

The phased restoration of disturbed areas included in the plan must be followed.

All disturbed areas on the site must be permanently seeded and mulched by September 15, 2037.

The construction site will follow the plan according to the schedule approved by Dane County Land Conservation. **This permit will expire on the stabilization date included in the plan (September 15, 2037) and may be amended prior to permit expiration only.** This review is for the erosion control requirements of 14, Dane County Code of Ordinances only and other approvals may be necessary.

Cc: Daniel Everson, Dane County Zoning Division (via Email and Inter-D)

I. Site Information.

a. General Description.

The Hellickson pit is a sand and gravel quarry located approximately 1.5 miles east of the intersection of County Hwy N and US Hwy 12&18. The property is owned by Sun Prairie Sand and Gravel LLC and operated by Yahara Materials, Inc.

b. Legal Description.

Part of the Northwest ¼ of the Northeast ¼, part of the Southwest ¼ of the Northeast ¼, part of the Southeast ¼ of the Northwest ¼, and part of the Northeast ¼ of the Northwest ¼ of Section 34, T7N, R11E, Town of Cottage Grove, Dane County, Wisconsin is described as follows; commencing at the Northwest corner of said Section 34; thence along the North line of the said Northwest ¼, North 88deg30'19" East, 1992.82 feet to the point of beginning; thence continuing North 88deg 30'19" East, 660.60 feet to the North ¼ corner of said Section 34; thence continue North 88deg30'19" East, 412.44 feet; thence south 00deg11'54" East, 2113.60 feet tot the extended North line of CSM # 9984, South 88deg22'36" West, 981.29 feet to the Northwest corner of Lot 1 of said CSM #9984; thence along the West line of said Lot 1, South 01deg02'30" East, 491.25 feet to the Southwest corner of said Lot 1 and a point of the North right of way line of USH 12&18;thence along said North right of way line, South 87deg57'53" West, 66.01 feet to a point on the West line of the East ½ of the Southeast ¼ of the Northwest ¼ and East ½ of the Northeast ¼ of the Northwest ¼ of said section 34 as established on CSM #9984;thence along the West line of the said East ½ of the Southeast ¼ of the Northwest ¼ and the east ½ of the Northeast ¼ of the Northwest ¼, North 01deg03'21" West, 2607.43 feet to the point of beginning

c. Property Boundaries.

See Appendix B.

d. Aerial Extent.

See Plan 1.

e. Geologic Composition.

Roughly two-thirds of Dane County was subject to continental glaciations during the Pleistocene age, which ended roughly 15,000 years ago. The Town of Cottage Grove is located in the southeastern part of Dane County where the surface is predominantly glacial till and outwash. The site contains seven geologic formations from oldest to youngest they are: Cambrian-aged sandstone; Ordovician-aged dolostone of the Prairie du Chien Group; Ordovician-aged sandstone and limestone shale of the St. Peter Formation; Ordovician-aged Sinnenippee group dolostone of the Platteville and Galena Formations; and the Unconsolidated Sand and Gravel of the Pleistocene.

h. Ground Water Information.

The site is at an approximate elevation of 806 ft and the water table is at approximately 776 ft. The site also contains a high capacity well for a previous washing operation. The well is high capacity and is pumping at a depth of 60 feet or at an elevation of 746 ft. The capacity of the well is 10 gpm/foot at specific capacity.

i. Location of Surface Waters.

The surface waters on site include a 20 ft by 50 ft by 3 ft deep retention pond for the previous operators wash plant on site. The site also contains a wetland area were there is standing water approximately 20 by 50 by 3 feet. This area will be left untouched by the mining process and seeded and mulched around the perimeter of the wetlands.

j. Existing Drainage Patterns.

See Plan 7.

k. Location of Manmade Features.

Manmade features constructed on site after the change in operators include a 200-ft paved asphalt access point from US Hwy 12 & 18 with the remaining driveway spread with recycled asphalt. The site will also have a gated entrance with a six foot high chain link fence that encompasses the entire mined area. A scale house and scale will also be present on site. The site also has an existing high capacity well that will be maintained for future wash plant use, the sediment pond that also exists on site will be cleaned and maintained throughout the life of the mine.

l. Previously Mined Areas.

The original mine was began in the 1960's and switched hands between operators until 1990. In 1990 Amon Brothers became operators of the site and continued mining until 1994. Through a lease agreement signed December 23, 1993 and amended March 24, 1999, Yahara Materials, Inc. ("Yahara") acquired the right to mine through the period of the lease which expires on December 23, 2004.

m. Biological Resources.

The Hellickson Property was originally farmland before mining took place. Agricultural crops such as corn, alfalfa, and oats were grown on the property along with pasture for grazing. Because of the agricultural background many of the species affected by the mining processes are edge species like raccoons, red fox, coyotes, pheasants, and whitetail deer. However before farming, the land was originally oak savanna and sedge meadows. This eco-type is characterized by prairie grasses with sparse oak trees usually burr and white oaks. The savanna was home to many species of plants and animals such as buffalo, elk, red fox, red-tailed hawk, and prairie chicken. In addition to having a wide diversity of animal species, savannas also contained a wide variety of plant species such as big blue stem, little blue stem, Indian grass, cardinal flower, rattle snake master, wild

quinine, wild geraniums, and multiple sedges. No remnants are present.

II. Post Mining Land Use.

The post mining land use for this site will be agricultural land. After the mining has ended at the end of twenty years, it is the goal of Sun Prairie Sand and Gravel, LLC to rehabilitate the land back to its original agricultural use. The reclamation plan can be found in Plan 10.

III. Reclamation Measures.

a. Earthwork: Final Grade and Slope.

The final grade and slope for the site is illustrated in Plan 10. The site will be graded to match the contours of the surrounding farmland. The high wall will be graded to a maximum slope of 4:1. The site will also have a retention pond constructed for internal drainage which can be found on Plan 10. The pond will be seeded and mulched with a native grass wetland mixture. The seed mixture can be found in Figure 1.1.

b. Topsoil.

For erosion control purposes, all topsoil and overburden will be stripped and placed in berms located along the perimeter of the mined area for ease of reclamation. Following construction of the topsoil and overburden berms, all berms will be seeded and mulched with polymers applied in granular form in accordance with Dr. Aicardo Roa's June 4, 2004 letter. Yahara has successfully completed items 1 through 8 first listed in Dr. Roa's letter to improve site existing conditions. The practices described in Dr. Roa's letter will also be applied to all future mining areas as shown in Plan 9 including seeding, mulching, and application of polymers. Dr. Roa's letter can be found in Appendix A.

c. Topsoil Redistribution and Site Preparation.

Before topsoil is redistributed over the site, overburden will first be used to create the new contours for the site as illustrated in Plan 10. After all final grading has been accomplished, topsoil will be redistributed over the entire site at an average depth of six inches on the agricultural land and 4-6 inches on the high-wall slopes to coincide with the surrounding areas. The site may need to have topsoil hauled in from other sites to complete the six inch depth needed for agricultural land use. The topsoil will be free of trees, brush, and other woody materials. Also all topsoil redistributed on site will be clean and uncontaminated. After the topsoil has been graded to specifications, the entire area will be deep tilled to alleviate compaction and to increase infiltration with a seven shank parabolic subsoiler pulled by a John Deere 9520 articulated tractor. The tractor is equipped with high flotation tires to limit compaction.

d. Phasing.

The site will essential have two phases. Phase 1 will be the continued mining of the northern 20 acres until 2009 when reclamation will take place. Phase 2 will include the reclamation of Phase 1 and the continued mining the southern half of the property. At the end of phase two, reclamation will take place on for the entire site. These mining phases are shown on Plan 8.

e. Structures.

There will be no man made structures left on the site after reclamation has taken place, except for an access road for neighbor's driveways. The road and scale will be removed to make way for agricultural land. Also the fence will be removed after the high wall has been graded to a 4 to 1 slope.

f. Revegetation Plan.

The revegetation plan will be implemented in two phases. The first phase of reclamation will take place in the fall of 2009. The northern half of the mine will be reclaimed with the construction and seeding of the retention pond and all other lands surrounding the pond. All other areas surrounding pond will be reclaimed back to agricultural land and planted with a cover crop of winter wheat until other agricultural crops such as corn and soybeans will be planted. The pond will be planted with a native wet prairie mixture and a cover crop of annual rye. Phase two reclamation will take place in the fall of 2014 with the area planted in winter wheat until the following season when other agricultural crops will be planted. Each planting will first be tilled with a seven shank parabolic subsoiler to lower compaction and increase infiltration. After the subsoiler, the area will be disked with a soil finisher for preparation of the seedbed. After the areas have been tilled, a Brillion drill will be used to apply the seed. The schedule outlined in this plan replaces the schedule proposed in Dr. Roa's June 4, 2004 letter.

Figure 1.1

Common Name	Price	Rate lbs/acre	% of Mixture
big bluestem	9	2.5	27.5
indian grass	11	2.5	27.5
Virginian wild rye	10	2	20
switch grass	6	1.5	15
green bulrush	38	0.25	2.5
wool grass	101	0.25	2.5
reed mana grass	105	0.05	5
Total	\$119	10	100

Annual Rye Grass	50 lbs per Acre	100% annual rye grass
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Figure 1.2

Fertilizer Type	Rate of Application
16-6-10	300 lbs per Acre

Mulching Rates

Mulch	Rate of Application
Straw Mulch	2 tons per Acre

IV. Erosion Control.

During the mining process, **erosion will be self-contained in the mine area.** All slopes that are not being mined will have polymers in granular form added then seeded and mulched with annual rye. The seed will help to minimize gully and sheet erosion on the steep slopes. All original trees and grasses located on berm 11 of the erosion control plan will be left intact until final reclamation. For further information on erosion control please see Plan 4.

V. Interim Reclamation.

As stated in previously in "d. Phasing," the site will be mined in two phases with the reclamation of the first phase taking place before mining of phase two.

VI. Criteria for Successful Reclamation.

To assess how successful the mine reclamation was a variety of criteria would be studied for each area of the reclamation. First of all the slopes around the perimeter of the pond will be judged on the bank stability and percent cover. The more cover that is present on the slopes the better the erosion control. We would like a percent cover of 70% or more for adequate stabilization. The percent cover will be measured with randomly chosen one-meter quadrates. The farmland success will be measured on the productivity of the land. It is Sun Prairie Sand and Gravel, LLC hope that the land achieves 60 bushels per acre for soybeans and 250 bushels per acre for corn or back to the areas normal cropland capacity.

VII. Anticipated Cost of Reclamation.

Reclamation Costs		
Item	Price per Unit	Total
Annual Rye Grass	.50 per pound	\$250.00
Forage Oats	\$0.34 per pound	\$680.00
Tall Grass Prairie Mix	\$119.00 per acre	\$238.00
Polymer	\$12.50 per pound	\$500.00
Straw Mulch	\$1.50 per bail	\$560.00
Fertilizer	\$54.00 per acre	\$2700.00
Labor and Equipment		\$15,000.00
	Total	\$19,928.00

VIII. Timeline for Mining.

Date	Procedure
July 1, 2004	Erosion Control Implemented
July 1, 2004 – December 23, 2004	Yahara Materials Continues Mining Operations.
July 31, 2004	Hand over of reclamation and bonding duties from Yahara Materials to Sun Prairie Sand and Gravel
December 23, 2004	Hand over of operating duties from Yahara Materials to Sun Prairie Sand and Gravel
October 1, 2014	Phase 1 Reclamation Begins
November 1, 2014	Reclamation of Phase 1 Completed, Phase 2 Mining Begins
October 1, 2024	Final Reclamation of Site Begins
December 1, 2024	Reclamation Completed

*** All dates presented in the timeline are only tentative dates and are subject to market demand. Any changes in the dates will be presented to Dane County Planning and Zoning and Dane County Land Conservation.**

3. The topography from your access road to the house at 2236 US Highway 12/18 slopes from 934 feet at the road to 920 at the house. These slopes combined with the property's mature trees, further shield the house from any negative impact from the concrete batch plant and gravel quarry activity and traffic.
4. As previously mentioned, the property has two large barn structures with one behind the house which acts as significant buffers from the Cattell property. All total, there are five off-site structures (homes and garages) and two on-site structures (barns) which shield the property at 2236 US Highway 12/18 from the activities and traffic of the concrete batch plant and gravel quarry.

Sadly, as you know there are no structures, slopes, trees or distance from your property to protect you from the impacts of your industrial use neighbor. None of this information changes the analysis and value contained in our September 13, 2017 report.

Sincerely,

REAL ESTATE DYNAMICS, INC.

A handwritten signature in black ink that reads "Craig D. Hungerford". The signature is written in a cursive, flowing style.

Craig D. Hungerford, CRE

(1 of 3)

Tax Parcels

[View Parcel in AccessDane](#)

Parcel Number: **071134192400**
Owner: **JEFFREY WILLIAM COFFEY ***
Co-owner: **ALYSSA LYNN COFFEY ***
Site Address: **2236 US HIGHWAY 12 & 18**
Municipality: **Town of Cottage Grove**
Assessed Acres: **3.04**
Square Feet: **132,595.43**
School District: **STOUGHTON SCHOOL DIST**
Land Value: **59,700.00**
Improved Value: **148,700.00**
Total Assessed Value: **208,400.00**
Legal Description: **LOT 1 CSM 13407 CS87/70&73-11/29/2012 F/K/A LOT 2 CSM 11516 CS70/130&131-9/12/2005 & ALSO F/K/A LOT 1 CSM 9983 CS58/141&143-3/14/01 DESCR AS SEC 27 7 11 DPT**
[Zoom to](#)

670.0



TOWN OF COTTAGE GROVE
 PLAN COMMISSION
 JUNE 22, 2011

1. Notice of the meeting was posted at Town Hall, Gaston Road at Brown Thrush, American Way and USH 12 & 18 at County BN. A quorum was present with Silvin Kurt, Kris Hampton, Steve Anders, David Muehl, Phillip Bultman, Kristi Williams and Wilmer Larson in attendance. A list of other attendees is available in the Clerk's office.
2. Chair Silvin Kurt called the meeting to order at 7:00 p.m.
3. Approve minutes of previous meetings: **MOTION** by Williams/Bultman to approve the minutes of the May 25, 2011 Plan Commission meeting as printed. **MOTION CARRIED 7-0.**
4. Public Concerns: None.
5. Wade Cattel, Applicant, Sun Prairie Sand & Gravel, landowner – 2294 US Highway 12 & 18, parcel 0711-341-8600-0: Conditional Use Permit for a Concrete Batch Plant on 2 acres: Mr. Cattel said he is looking to relocate due to the economy, and plans to run a clean operation. He had an email expressing that WDOT has no issues relating to the entrance on U.S. Hwy 12 & 18. He presented an overview of the operation, including new berms on the east, west and south, with the north fenced. He said the manufacturing process will not produce any dust, and roads will be watered to control dust from truck traffic. The operation will use the existing well at a rate of about 6,000 gal/day.

Anders pointed out problems with the current non-metallic mining operation on the site, including a break in the east berm that allows run-off from the site during heavy rains, along with water flowing on the property to the north. He asked about gate maintenance, and Cattel said the gate will be closed and locked when the plant is not in operation. He estimated 2-6 trucks would be hauling on an average day, with 100 loads per week on average. He said this would be less truck traffic than the current operation. Hours of operation would be 6 a.m. to 6 p.m. usually. The plant would not make much noise, a generator would only be temporary until power could be brought in.

Larson questioned how long the material on the site will last, and whether the operation would continue after that point using trucked-in materials. Cattel's answer: for intents and purposes – yes. Larson asked for input on the actual amount of gravel on the site, to help determine whether the site is a good fit. Muehl suggested limiting incoming materials to limit the duration of truck traffic. Bultman also asked what the time frame for operation would be once on site materials were exhausted. It was noted that this is a non-conforming site so mining can continue indefinitely.

Cattel said existing material on the site will last 30-40 years at the planned workload. He occasionally recycles some material from job sites, so this site would be advantageous. He would not want to be limited, but once this site is exhausted, he will probably move on. Regrading will be done as needed to clean up the site and ensure that all water stays captive on the site.

Duane Swalheim, owner of land to the west, said he heard that borings made by Yahara were not suitable for a cement plant.

Donald Viney, owner of land to the east, said that tiling has been needed, and washouts from run-off are terrible. Traffic could also be an issue.

Noel Johnson, 2272 US Hwy. 12 & 18, thinks traffic will be an issue, especially with highway rebuilding. Cattel said he does not do, nor does he have any intents to do highway work.

An unnamed resident said he thought there would be a reclaimed pit, not a concrete plant, and he is concerned about well water.

Kirk Eihlenfeldt, owner of property to the north, wants to make sure the easement to his property is maintained with access, and said there is water flowing north from the pond.

TOWN OF COTTAGE GROVE
 PLAN COMMISSION
 JUNE 22, 2011

The Plan Commission considered the conditions per section 10.255(2)(h), and found them all to be satisfied. **MOTION** by Bultman/Hampton to recommend approval of the Conditional Use Permit for a concrete batch plant on two acres zoned A-2 for with the following conditions:

- No use of jake brakes by trucks
- An email must be furnished from the WDOT allowing for continued truck ingress/egress.
- Inquire with the WDOT regarding a "Truck Entrance" sign on west bound Hwy 12 & 18.
- The berm to the south is to be uniformly graded with pine trees at least 3 feet high, with existing neighbor's input.
- Berms to the west and east, and a fence to the north, are to be completed.
- Owner to work with neighbors to straighten out meandering berm and restore/maintain easement to the property to the north.
- All work to be completed prior to the beginning of operation of the batch plant.
- Acceptable work hours of 6 a.m. to 6 p.m., and some Saturdays. Operation outside of those times will require at least 7 days' notice to the Town and neighbors.

MOTION CARRIED 6-1 (Larson opposed.)

6. Walter J. Olson, vacant land on Kennedy Road, parcels 0711-101-8501-0 and 0711-034-9001-0: Discussion only regarding options to rezone from A-1EX to R-1 to create 4 residential lots: Olson said he wants to "test the market": to gauge the demand for the whole 24 lots. He presented additional alternatives A & B, and stated he hopes to transfer development rights from land he owns in the Village of Deerfield. Hampton said it is OK to proceed, especially if the lawsuit goes away, and it doesn't matter where the development rights come from.
7. Per Dane County ZLR Committee request: Reconsider rezone of 2 acres from A1-EX to RH-1 for new single family residence for Dave Hanson, applicant, Marc Lea Farms, LLC, Landowner, parcels 0711-2728-000-9 and 0711-2718-500-5 at 2257 Nora Road: Hampton updated the commission on the recent denial by the Dane County ZLR committee due to a negative impact on the rustic road. He provided the rustic road regulations, which do not limit development on rustic roads. Hampton had discussed the driveway length with the Fire and EMS Chiefs, who had no concerns as long as the driveway is maintained. **MOTION** by Hampton/Larson to approve the rezone of 2 acres from A-1EX to RH-1 for a new single family residence, with the same conditions that the Town Board approved on April 18, 2011 (The road right-of-way along all of Hanson's property is to be dedicated to the Town.) **MOTION CARRIED 4-3** (Anders, Bultman and Williams opposed.)
8. ADJOURNMENT: **MOTION** by Hampton/Kurt to adjourn. **MOTION CARRIED 7-0**. The meeting was adjourned at 9:26 P.M.

Submitted by: Dave Muehl
 Approved 9-28-2011