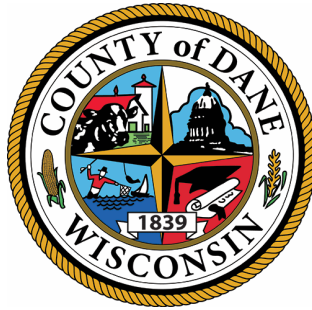


Dane County



Minutes

Tuesday, April 9, 2019

6:30 PM

City - County Building, ROOM 354
210 Martin Luther King Jr. Blvd., Madison

Zoning & Land Regulation Committee

Consider:

Who benefits? Who is burdened?

Who does not have a voice at the table?

How can policymakers mitigate unintended consequences?

A. Call to Order

Chair Bollig call the April 9, 2019 ZLR Committee meeting to order at 6:30pm.

Staff present: Andros, Everson, Lane, and Violante

Present 3 - JERRY BOLLIG, STEVEN PETERS, and HEIDI WEGLEITNER

Excused 1 - JASON KNOLL

B. Public comment for any item not listed on the agenda

No comments made by the public.

C. Consideration of Minutes

[2018](#)
[MIN-545](#)

Minutes of the March 12, 2019 Zoning and Land Regulation Committee meeting

A motion was made by PETERS, seconded by WEGLEITNER, to approve the minutes of the March 12, 2019 Zoning and Land Regulation Committee meeting. The motion carried by a voice vote.

[2018](#)
[MIN-546](#)

Minutes of the March 26, 2019 Zoning and Land Regulation Committee meeting

A motion was made by PETERS, seconded by WEGLEITNER, to approve the minutes of the March 26, 2019 Zoning and Land Regulation Committee meeting. The motion carried by a voice vote.

D. Public Hearing for Zoning Map Amendments, Conditional Use Permits, and Ordinance Amendments

E. Zoning Map Amendments and Conditional Use Permits from previous meetings

[11379](#)

PETITION: REZONE 11379

APPLICANT: WATTS FAMILY TR

LOCATION: 7701 W. MINERAL POINT ROAD, SECTION 30, TOWN OF MIDDLETON

CHANGE FROM: RE-1 Recreational District TO B-1 Local Business District, RE-1 Recreational District TO R-1 Residence District, B-1 Local Business District TO RE-1 Recreational District, B-1 Local Business District TO R-1 Residence District

REASON: residential subdivision plat

A motion was made by WEGLEITNER, seconded by PETERS, to postpone action until sewer services are determined and the stormwater design is studied further. The motion carried by the following vote: 3-0.

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[11381](#)

PETITION: REZONE 11381
APPLICANT: CHRIS HENDRICKSON
LOCATION: 7595 W MINERAL POINT ROAD, SECTION 29, TOWN OF MIDDLETON
CHANGE FROM: B-1 Local Business District and A-1 Agriculture District TO C-1 Commercial District
REASON: expansion of existing land use (retail greenhouse)

A motion was made by PETERS, seconded by WEGLEITNER, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 3-0.

Staff recommends that the petition be recommended for approval with the following conditions:

- 1. A deed restriction shall be recorded with the Register of Deeds to place the following limitations on the property:**
 - a. The land uses shall be limited to the following: Contractor, landscaping or building trade operations; Undeveloped natural resource and open space areas; Office uses; Indoor entertainment or assembly. Any indoor entertainment and assembly use shall be limited to no more than 5000 square feet of floor space; Indoor sales; Indoor storage and repair; Personal or professional services; Utility services associated with a permitted use; Agriculture and accessory uses (livestock not permitted).**
 - b. The installation of off-premises signs (billboards) are prohibited.**
 - b. Any outdoor lighting shall be positioned and designed so as to avoid light pollution spilling onto any adjoining residential property.**
 - c. Business operations and development of the site shall comply with the site and operations plans. Any revisions shall be subject to review and approval by the town of Middleton.**
 - d. Prior to the issuance of zoning permits for any new structural development, the applicant shall obtain any required highway access and/or stormwater/erosion control permits.**

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[11395](#)

PETITION: REZONE 11395
APPLICANT: FELIPE G SOLACHE
LOCATION: 1017 RIDGEWOOD WAY, SECTION 35, TOWN OF MADISON
CHANGE FROM: R-3 Residence District TO R-4 Residence District
REASON: converting single family residence to 3 apartments

A motion was made by PETERS, seconded by WEGLEITNER, that this Zoning Petition be recommended for denial. The motion carried by the following vote: 3-0.

Reasoning: The proposal is not consistent with the planning policies found in the South Madison Comprehensive Plan.

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[11396](#)

PETITION: REZONE 11396

APPLICANT: DAVID D WOOD

LOCATION: 3200 LARSEN ROAD, SECTION 31, TOWN OF BLOOMING GROVE

CHANGE FROM: RR-2 Rural Residential District, TFR-08 Two Family Residential District, and

RM-16 Rural Mixed Use District TO GC General Commercial District

REASON: allow commercial uses for wedding/reception facility

A motion was made by WEGLEITNER, seconded by PETERS, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 3-0.

1. A deed restriction shall be recorded on the property to limit the land uses exclusively to the following: an assembly hall for events, weddings, and meeting; tourist or transient lodging; and passive outdoor recreation.

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[CUP 02453](#)

PETITION: CUP 2453

APPLICANT: DAVID D WOOD

LOCATION: 3200 LARSEN ROAD, SECTION 31, TOWN OF BLOOMING GROVE

CUP DESCRIPTION: OUTDOOR ENTERTAINMENT & RESIDENTIAL USES

A motion was made by WEGLEITNER, seconded by PETERS, that this Conditional Use Permit be approved with 13 conditions. The motion carried by the following vote: 3-0.

- 1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, and phasing plan.**
- 2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.**
- 3. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.**
- 4. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.**
- 5. The operation shall be served by public sewer.**
- 6. 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. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.**
- 7. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.**
- 8. 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. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.**
- 9. Outdoor lighting shall be direct down-lit full cutoff fixtures. If the fixtures are mounted on posts, the maximum mounting height shall be 15 feet. The maximum light produced shall not exceed 3 foot candles. The Kelvin temperature of the lighting shall not exceed 3000K.**
- 10. The amplified sounds shall not exceed 65 decibels DbA measured along Larson Road, south property line, or east property line. All amplified music events shall be held indoors. Outdoor amplified music events are prohibited.**
- 11. The landowner shall obtain street access approval from the Town of Blooming Grove. The landowner shall install any driveway improvement features as deemed necessary by the Town at the landowner's expense.**
- 12. On-site parking must be provided as per submitted operations plans. The parking areas and drive paths shall be paved as designated on the operations plan. Landscaping and screening shall be installed around the parking that meet the City of Madison Landscaping and Screening requirements Ordinance 28.42.**
- 13. The hours of operation shall be 10:00 AM to 11:00 PM on Friday through Sunday, 8:00am to 10:00pm on Mondays through Thursday.**

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[11397](#)

PETITION: REZONE 11397
APPLICANT: KIPPLEY REV LIVING TR, RALPH W & ETHEL T
LOCATION: 9054 COUNTY HIGHWAY Y, SECTION 17, TOWN OF ROXBURY
CHANGE FROM: A-1EX Agriculture District TO RH-1 Rural Homes District
REASON: separating existing residence from farmland

A motion was made by PETERS, seconded by WEGLEITNER, that this Zoning Petition be approved as amended. The motion carried by the following vote: 3-0
1. A deed restriction shall be recorded on the remaining farmland parcels, 0907-174-8500-8, 0907-173-8001-3, 0907-173-9501-6, and 0907-174-9000-1, to prohibit further residential development on the property. The housing density rights have been exhausted per the Town of Roxbury Comprehensive Plan density policies.

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

[CUP 02449](#)

PETITION: CUP 02449
APPLICANT: OAK PARK QUARRY LLC
LOCATION: 1/4 NORTH AND SOUTH OF 3522 OAK PARK ROAD, SECTION 29, TOWN OF DEERFIELD
CUP DESCRIPTION: mineral extraction

A motion was made by PETERS, seconded by BOLLIG, that the Conditional Use Permit be approved with 36 conditions.

A motion was made by WEGLEITNER to amend the original motion by reducing the time limit of the conditional use permit to 3 years subject to an extension as provided for a condition as listed above. Motion failed due to lack of second.

A motion was made by PETERS, seconded by BOLLIG, that this Conditional Use Permit be approved with 36 conditions. The motion carried by the following vote: 2-1 (Wegleitner)

- 1) Any conditions required for specific uses listed under s. 10.103 (see list below).
- 2) The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
- 3) New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
- 4) The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
- 5) Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
- 6) Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
- 7) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
- 8) Off-street parking must be provided, consistent with s. 10.102(8).
- 9) If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be born by the landowner. Costs born by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
- 10) 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. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
- 11) The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
- 12) The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
- 13) 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. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.
- 14) Topsoil, or appropriate topsoil substitute as approved in a reclamation plan under Chapter 74, Dane County Code, from the area of operation shall be saved and stored on site for reclamation of the area. Topsoil or approved topsoil substitute must be returned to the top layer of fill resulting from reclamation.
- 15) The applicant shall submit an erosion control plan under Chapter 14, Dane

County Code covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.

16) The Town and Committee will set an expiration date for the conditional use permit based on the quantity of material to be removed and the expected duration of mineral extraction activities. Extensions: Due to uncertainty in estimating duration for mineral extraction, conditional use permit holders who have operated without violations, may have the duration of their permit extended for a period not to exceed five years, based on an administrative review by the zoning administrator, in consultation with the town board. No more than one such extension shall be granted over the lifespan of the conditional use permit, and all conditions shall remain the same as the original permit. Further extensions or any modifications of conditions shall require re-application and approval of a new conditional use permit.

17) Reclamation shall meet all requirements of Chapter 74 of the Dane County Code of Ordinances. In addition, all reclamation plans must meet the following standards: a) Final land uses after reclamation must be consistent with any applicable town comprehensive plan, the Dane County Comprehensive Plan and the Dane County Farmland Preservation Plan. b) Final slopes shall not be graded more than 3:1 except in a quarry operation. c) The area shall be covered with topsoil and seeded to prevent erosion. d) The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of Dane County. e) Highwalls shall be free from falling debris, be benched at the top, and certified by a civil engineer to be stable.

18) The driveway accessing the subject site shall either be paved or covered with crushed asphalt for a minimum distance of 100 feet from the public right-of-way. 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.

19) 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."

20) All surface and subsurface operations shall be setback a minimum of 20' from any property line that does not abut a public right of way.

21) Excavations below the grade of an abutting public street or highway shall be set back from the street or highway a distance at least equal to the distance that is required for buildings or structures under s. 10.102(9). The committee and town board may require greater setbacks where necessary to avoid subsidence, or for consistency with Chapters 11, 14, 17 or 74, Dane County Code.

22) The Town and Committee will assign hours of operation appropriate to the particular application. No operations of any kind shall take place on Sundays or legal holidays. The committee and town board may approve limited exceptions to normal hours of operations for projects associated with Wisconsin Department of Transportation or municipal road projects requiring night work. [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).] See specifics for this operation below.

23) There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 4 feet in height.

24) Except for incidental removal associated with dust spraying or other routine operations under this permit, water shall not be pumped or otherwise removed from the site.

25) The operator shall require all trucks and excavation equipment to have

muffler systems that meet or exceed then current industry standards for noise abatement.

26) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076, Wisconsin Administrative Code.

27) Dane County and the Town shall be listed as additional named insureds on the operator's 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.

28) At their own initiative or at the applicant's request, the town board and zoning committee may set further reasonable restrictions on a mineral extraction operation , or prohibit any mineral extraction accessory use.

29) Additional conditions for particular circumstances. Where any of the following circumstances apply, the zoning committee and town board shall also impose the following conditions on any approved conditional use permit for mineral extraction: **Blasting Schedule:** Blasting shall occur between sunrise and sunset, as required by SPS 307. The zoning committee and town board may set further daily limits on hours when blasting may occur, to minimize impact on neighboring properties. Schedules for blasting need not conform to hours of operation for the overall mineral extraction project. **Notice of Blasting Events:** Prior to any blasting event, notice shall be provided to nearby residents as described in SPS 307, Wisconsin Administrative Code. In addition, operators will honor the requests of residents within 500' of the mineral extraction site to either receive or stop receiving such notices at any time. **Other standards:** All blasting on the site must conform with all requirements of SPS 307, Wisconsin Administrative Code, as amended from time to time, or its successor administrative code regulations. **Fly Rock:** Fly rock shall be contained within the permitted mineral extraction area. **Fuel storage:** All fuel storage must comply with ATCP 93, Wisconsin Administrative Code, including provisions for secondary spill containment. **Mineral extraction at or near groundwater:** All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands at least 3 feet above the highest water table elevation to prevent against groundwater contamination from leaks or spills. **Disturbance of monuments:** In the event that a mineral extraction operation will destroy an existing Public Land Survey Monument, witness monuments must be established in safe locations and a new Monument Record filed by a Professional Surveyor, prior to excavation and disturbance of the existing monument.

30) Operations shall cease no later than five (5) years from the date of CUP approval. The expiration of the conditional use permit may be extended subject to Condition 16 above.

31) The haul route will be Oak Park Road South to USH 12 except for local deliveries that are north of the quarry on Oak Park Road.

32) Hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 1:00 p.m. on Saturdays. No operations of any kind shall take place on Sundays or the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day.

33) No blasting can take place until the operator has received a blasting license from the town of Deerfield. A copy of the license and/or approval from the town of Deerfield must be provided to Dane County Zoning.

34) The following limits shall not be exceeded during blasting events, as measured by a seismograph placed at St. Paul's Liberty Lutheran Church: PPV of .20 in./sec.; PPV of .15 in./sec. when Hz. is less than 14; and air blast of 123 dB(L).

Reports of each blast will be submitted to the Dane County Zoning Administrator within three (3) working days, and the Town will notify the County of any violations therein.

35) The seismograph at St. Paul's Liberty Lutheran Church shall be placed by a third party agreed to by the church and the quarry, and will be paid for the quarry. A copy of the agreement will be forwarded to the Town Clerk. In the event that a third party cannot be agreed upon, then the blaster shall place two seismographs at the church. The seismograph data recorded by the operator will include Peak Particle Velocities (PPV) and the corresponding frequencies and the maximum airblast in decibel (dB).

36) The operator shall contact St. Paul's Liberty Lutheran Church and the Town Clerk and the cemetery association by email 2 days in advance of blasting to verify that the church and/or cemetery will not be in use for Church services, weddings, or funerals during the proposed blasting date and time. Blasting will not take place during the week-long summer school, and the church will notify the quarry and the Town Clerk when summer school will take place. There will be no blasting on election days.

Ayes: 2 - BOLLIGandPETERS

Noes: 1 - WEGLEITNER

Excused: 1 - KNOLL

A motion was made by WEGLEITNER, seconded by PETERS, to direct staff to enter the information presented at the meeting by the church and the applicant into the public record. Motion carried by voice vote.

Chair Bollig called for a 5-minute recess at 9:05pm.

Chair Bollig called the meeting back to order a 9:10pm.

F. Plats and Certified Survey Maps

[2018 LD-048](#) Final Plat - Redtail Ackers Subdivision
City of Middleton
Staff recommends a certification of non-objection.

A motion was made by WEGLEITNER, seconded by PETERS, that the final plat be certified with no objections. The motion carried by a voice vote, 3-0.

G. Resolutions

[2018 RES-627](#) ESTABLISHING THE DANE COUNTY 2020 CENSUS COMPLETE COUNT COMMITTEE

A motion was made by WEGLEITNER, seconded by PETERS, that this Resolution be recommended for approval. The motion carried by the following vote: 3-0

Ayes: 3 - BOLLIG,PETERSandWEGLEITNER

Excused: 1 - KNOLL

H. Ordinance Amendment

I. Items Requiring Committee Action

J. Reports to Committee

[2018](#)
[RPT-606](#) Report of approved Certified Survey Maps

[2018](#)
[RPT-605](#) Status of the decision made by the Zoning and Land Regulation Committee regarding the revocation of CUP #2175

Zoning Administrator Lane informed the Committee that a public hearing has been scheduled on May 14th for the consideration of the revocation of Conditional Use Permit #2175.

K. Other Business Authorized by Law

L. Adjourn

A motion was made by WEGLEITNER, seconded by PETERS, to adjourn the April 9, 2019 ZLR Committee meeting at 9:17pm. The motion carried unanimously.

Questions? Contact Roger Lane, Planning and Development Department, 266-4266, lane.roger@countyofdane.com