



# Dane County Planning & Development

## Mining Regulatory

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Date: July 22, 2025

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)

### Summary of concerns and violations of CUP 2582

- 1) 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.
  - This is an issue. The operations plan and phasing plan are not being followed. Large quantities of building demolition materials or *(1) solid waste* have been trucked into the site and dumped in the northwest portion of the CUP boundary. This is contrary to the approved reclamation plan and increases truck traffic.
  - The Operations Plan states *The site will be developed incrementally to minimize disturbed areas and preserve farmland.*
  - The Operations Plan states *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.*
  - The material brought in and dumped in the northwest area is not classified as general fill, but solid waste. Solid waste dumping is not allowed on this site. As per DCCO Ch. 10.004(98)(b)7. *Mineral extraction does not include solid waste(1) disposal operations.*
  - The seeding, stabilization and landscaping of the berms are inadequate. See condition # 31 for details.
  - Topsoil/dirt is being brought in from different construction sites and processed as a commodity. This needs to stop immediately. See condition #13.
  - Stormwater concerns as the site is not developed to be internally drained.
- 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.
  - No buildings have been permitted.

- 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.
  - Waiting to get comments from the DNR on the stormwater permit and fugitive dust plan.
- 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.
  - Waiting to get comments from the DNR on the stormwater permit and fugitive dust plan.
- 5) 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.
  - N/A
- 6) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
  - Compliant
- 7) Off-street parking must be provided, consistent with s. 10.102(8).
  - N/A
- 8) 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.
  - Compliant. No improvements have been determined. Speed limits have been reduced to 35 mph on certain town roads.
- 9) 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.
  - Compliant. The operator has always been willing to meet on site with county staff.
- 10) 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.
  - Compliant. Placard is posted on site.
- 11) 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.
  - Compliant. Copy of the CUP is located in the scale house.

12) 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.

- Entire CUP is currently under review.

13) 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.

- The Operations Plan states: *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.*
- A large stockpile of topsoil is located within the Phase 2 of the Operations Plan. According to the operator, the topsoil is screened, processed and sold off site. It was agreed upon that topsoil could be brought into the site, but only for reclamation purposes. This is the applicant's response to the concerns from the public that only sand and gravel shall be removed: *Requests that dirt (fill) will also be accepted into the site. The applicant requests this not only for the same environmentally friendly and standard use reason as noted above regarding asphalt and concrete reuse, but also because accepting dirt will be needed to properly reclaim the site, in addition to using the topsoil / berm material placed around the site.*
- This activity was not included as part of the operations plan. In addition, this increases truck traffic and that was a concern from the public.







- 14) 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.
- The Operations Plan states: *The existing quarry will be utilized for runoff containment support the remainder of the project. Stormwater will be collected in the quarry and discharged, as needed into the drainage swale located adjacent to Center Road according to the site's stormwater pollution prevention plan (SWPPP), before discharging to Badfish Creek.*
  - Permit SM2023-0037 was issued by Dane County Land & Water. The plan is to demonstrate that the site is internally drained and that pumping stormwater off site is allowed at times as per the DNR. Reference condition #23.
  - The southeast portion of the site has been constructed in a manner that deviates from the proposed operations plan. Jeremy Balousek and I reviewed the site last year on July 23, 2024 to review the the issues with erosion and stormwater with Kevin Hahn. A solution was to construct a berm, temporary in nature on the east end of a soybean field and dig a retention pond along the south berm to hold internal stormwater.



- On July 10, 2025, I noticed a pipe had been inserted at the bottom of the easterly portion of the berm, where water can reach a certain elevation and discharge to the driveway and the town road ditch. This is a direct violation of the approved stormwater plan and demonstrates how the approved operations plan is not being followed.



- 15) The permit period shall be fifteen (15) years from effective date.
- No comments.
- 16) 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.
  - Response to Dane County Standards and Simplified Responses: *Operations will occur incrementally to preserve farmland. When the mineral resources at the site have been depleted, the site will be reclaimed to a freshwater lake (~19 acre) surrounded by farm fields (~19 acre) as outlined in a to be approved reclamation plan for the site.*
  - As per the plan – *When the resource is fully depleted, the site will be restored for agricultural use (above water table) and fish farming pond (below water table).*
  - The approved reclamation plan illustrates the final land use as a pond, starting at elevation 920' (low) to 935' (high).
  - No reclamation has been initiated. However, a large amount of solid waste material has been brought on site and placed in the northwest corner of the CUP boundary which deviates from the approved reclamation plan.
- 17) 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.
- Compliant. The access point is paved with asphalt. However, it is the responsibility of the operator to ensure the town road is free of debris and maintain the driveway in a dust free manner daily.
- 18) 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."
- This condition seems to be an issue at times. Complaints have been received from the public that the gate has been open after the approved operating hours. The operator is currently addressing this concern.
- 19) All surface and subsurface operations shall be setback a minimum of 20' from property lines that do not abut a public right of way. Operations along the southern portion of the property shall adhere to the conditional use permit boundary (200, 300 feet) as shown on the operation plan.
- Compliant.

- 20) Excavations below the grade abutting Center Road shall be setback 30 feet from the property line.
- Compliant.
- 21) Subject to State Statute 66.0441(3)(c) *Public works projects at night or emergency repair*, hours of operation shall be 7:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 1:00 p.m. on Saturday. Hours for warm-up are 6:30 a.m. to 7:00 a.m. Monday through Friday, and 7:30 a.m. to 8:00 a.m. on Saturdays. Only maintenance of equipment (no blasting, crushing, trucking, stockpiling, etc.) is allowed on Sundays. There shall be no operations of any kind on holidays. Holidays are to include: New Year's Eve, New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas Eve, and Christmas.
- The allowed timeframes for maintenance of equipment was reviewed with the operator. The operator is currently addressing this concern.
- 22) 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.
- Compliant
- 23) Any water pumped off-site shall be in accordance with Wisconsin DNR Stormwater Discharge Permit WI-A046515-06. There shall be no dewatering of groundwater from the site for operations below the watertable.
- Waiting to hear back from the DNR on the stormwater discharge permit.
- 24) The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
- Compliant
- 25) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076, Wisconsin Administrative Code.
- This site may not be applicable as per DNR.
- 26) 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.
- Compliant
- 27) Blasting:
- a) Blasting shall limited to 10:00 a.m. to 4:00 p.m. Monday through Friday.
  - b) 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, the operator shall maintain a list of residents within ½ mile of the site who wish to be notified of blasts. Residents need to communicate with operator regarding such requests.



- c) All blasting on the site must conform to all requirements of SPS 307, Wisconsin Administrative Code, as amended from time to time, or its successor administrative code regulations.
  - d) Fly rock shall be contained within the permitted mineral extraction area.
    - Compliant
- 28) Any fuel storage on-site shall comply with ATCP 93, Wisconsin Administrative Code, including provisions for secondary spill containment. All excavation equipment 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.
- Compliant.
- 29) 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.
- N/A, no PLSS monuments are within the site.
- 30) This CUP is limited to K&D Stone only. CUP#2582 is non-transferrable to a different operator.
- Compliant
- 31) Berms and landscaping shall be established and maintained. A permanent 8-foot minimum berm shall be located along Center Road. The berm shall be planted with an EVERGREEN Tree (min 4' B&B) every 50 feet. Other operational berms shall be 8 feet tall as needed with 3:1 SIDE SLOPES.
- This condition is simple to achieve, but has become a violation. The evergreen trees planted were not 4 feet in height to start with and now are either dead or not healthy. On June 24, 2025, additional evergreen trees were planted on top of the berm. The berm is inundated with noxious weeds which is a sign the original seeding plan was not followed or monitored.
  - The northerly berm near the Spelter property shows signs of no topsoil in areas, rock debris or bare areas.
  - The Operations Plan states *To optimize stabilization and minimize the growth of invasive species, the berm will be seeded. The selected seed cover will be based upon the soil type and temperature at the time of planting. A mulch cover will be spread on the sloped areas to reduce erosion and enhance plant growth. Seeding and mulching will be conducted in alignment with the Wisconsin Department of Transportation (WisDOT) standards #630 (Seeding on Slopes) and #627 (Mulching).*









- 32) Noise Limitation shall not exceed 75 decibels at a point 100 feet away from the property line. The decibel level shall be measured in DbA for average over a 15- minute period.
- Compliant. Several readings have been monitored and there are no violations. It is encouraged the crushing and operations to be conducted within the lower portion of the quarry.
- 33) The maximum number of driveways shall be limited to one. The northerly driveway shall be removed within 2 years of the date of the conditional use permit and the site will utilize the southerly driveway as shown in the operations plan.
- Compliant. The northerly driveway is no longer in place.
- 34) Back-up alarms - The on-site traffic flow shall be designated to establish minimal backing up of vehicular traffic during normal work operations. Whenever possible, the operator shall utilize alternatives to standard backup beeps, for instance, those making a sweeping sound if approved by MSHA.
- Compliant.
- 35) A 2'x4' sign shall be placed at the exiting point of the site stating, "All loads are required to be tarped prior to leaving the site."
- This condition is impossible to enforce on public roads. It is strongly encouraged by the operator or scale attendant that all loads arriving or leaving the site should be covered. Some municipal contracts may specifically state that loads are to be covered or tarped.
- 36) A 2'x4' sign shall be placed at the entrance point of the site stating, "Speed limit 15 mph."
- Compliant.

#### **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.**

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.



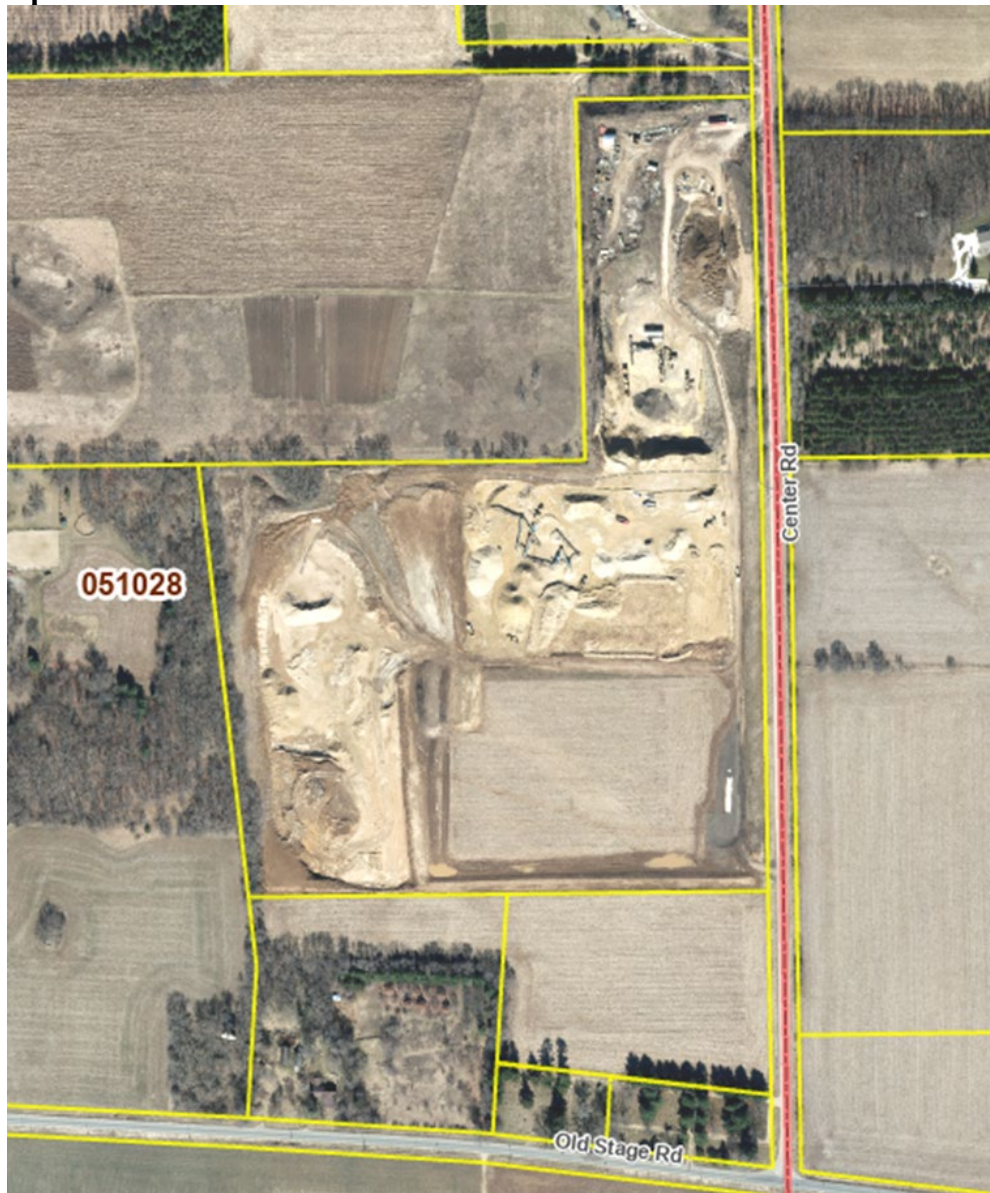
Staff feels it is appropriate to request a public hearing on CUP 2582 and discuss the concerns from the public and violations found with various conditions of the CUP. The Zoning and Land Regulation Committee may revoke the Conditional Use Permit if it is found the standards are not being met.

*(1) 10.004(141) Solid waste. Garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, operations and other domestic use and public service activities.*

**Spring 2022**

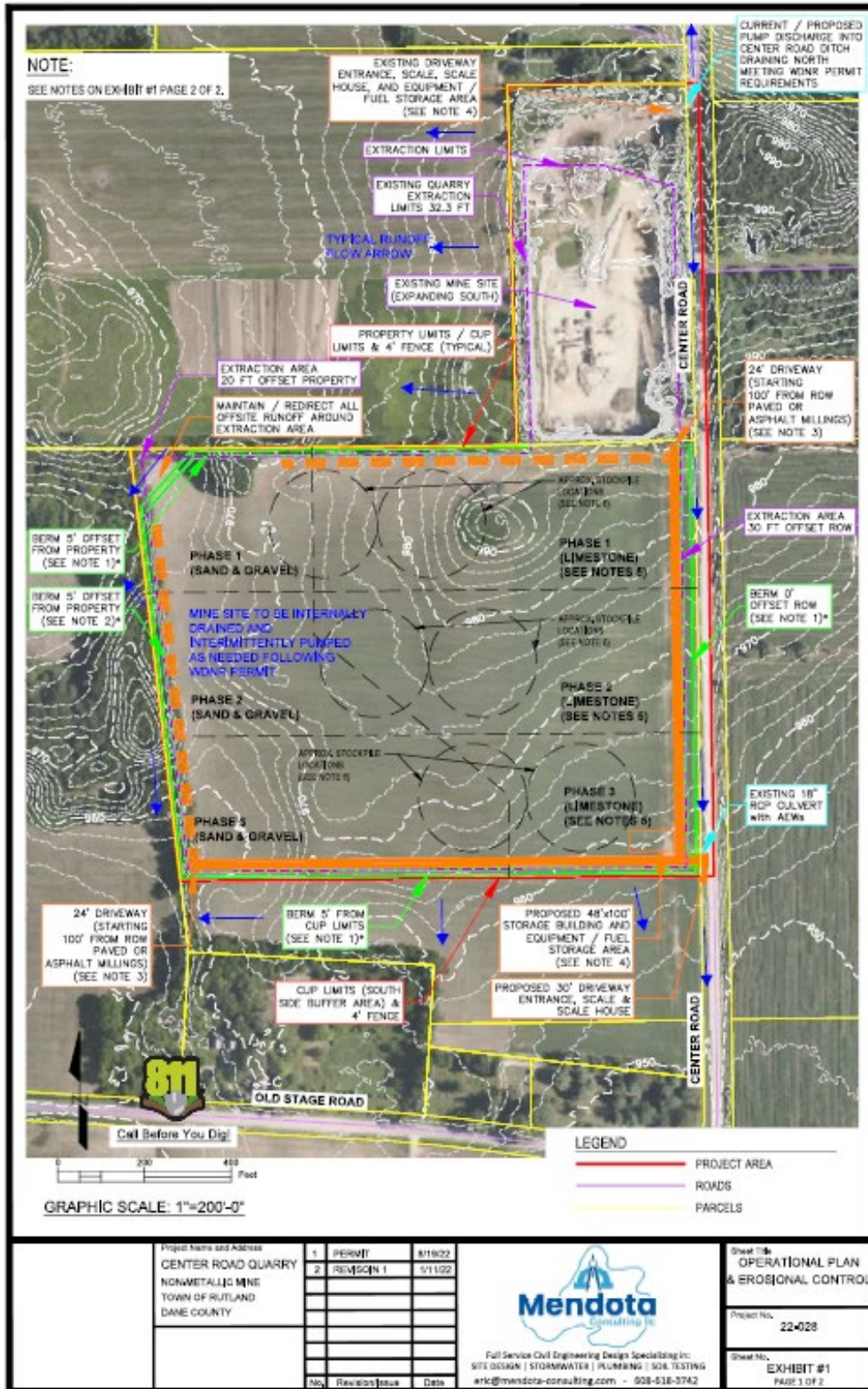


April 2024





## Operations Plan





## Reclamation Plan

