



# **FINDINGS OF FACT FOR DENIED CONDITIONAL USE PERMITS**

**If the Conditional Use Permit application is denied, please complete the following section. For each of the standards, indicate if the standard was found to be satisfied or not satisfied. Please note the following from sections 10.101 (7) (c) 2 f g and 10.101 (7) (c) 3 d e :**

*“The zoning committee or applicable town board must deny a permit if it finds that the standards for approval are not met, and must approve a permit when the zoning committee and applicable town board determine that the standards for approval are met.”*

**PLEASE INDICATE THE APPROPRIATE FINDING FOR EACH STANDARD (CHECK ONE / STANDARD)**

- |   |  |
|---|--|
| 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.   | 1. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use. | 2. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.   | 3. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.   | 4. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.   | 5. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 6. That the conditional use shall conform to all applicable regulations of the district in which it is located.   | 6. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 7. That the conditional use is consistent with the adopted town and county comprehensive plans.   | 7. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 8. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220 (1).  | 8. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |

**THIS SECTION IS RESERVED FOR FURTHER EXPLANATION OF THE FINDINGS:**

**Town of Rutland, Dane County, Wisconsin**  
**Action of the Town Board regarding the Conditional Use Permit Application of Kevin Hahn**  
**Action taken at the Town Board Meeting held on October 6, 2020**

Per Dane County Zoning Ordinance 10.101(7), The Town Board shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- General standards for approval of a conditional use under 10.101(7)(d)
- Any prescribed standards specific to the applicable zoning district. In this case, 10.220(1)(a)
- Any prescribed standards specific to the particular use under 10.103. In this case, 10.103(15)

**The Town Board met on October 6, 2020 and evaluated each of the eight general standards that must be met in order for a conditional use permit to be approved. Here are the results:**

General standard #1.

The current quarry operation does not satisfy standard #1 and, therefore, an expansion of the quarry would also not satisfy standard #1. The evidence includes in-person testimony of residents who were in attendance at the public hearing on September 28, 2020, written testimony of residents that was received by the Dane County ZLR Committee and by the Town of Rutland Clerk as well as personal observations of the Town Chairman in correlation to Dane County and Town Comprehensive Plan documents.

The quarry itself, and the proposed expansion, cause great noise, cause dust and fly rock, operate well in excess of 40 hours per week, cause truck traffic that is frequent, damaging to the roads and of great risk to pedestrians and bikers, is of an unknown lifetime meaning reclamation is not conceivable and is in direct violation of several Town of Rutland Goals and Policies.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #1.

General standard #2.

The current quarry does impair and diminish the uses, values and enjoyment of other property in the neighborhood and an expansion would continue this impairment and diminishment. Standard #2 is not satisfied. The evidence is personal testimony heard at the September 28, 2020 public hearing as well as all of the written testimony as noted above.

Further, Dane County Comprehensive Plan, page 40, discusses a 1000 foot rule. Interpreted as intended, the rule causes any mineral deposits outside of the existing 9-acre site to be out of the realm of possibility for extraction. The Town and County development approvals since 1937 have created a limit to the existing 9-acre quarry site to remain as a 9-acre quarry site.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #2.

General standard #3.

The current quarry has been in existence 83 years. Kevin Hahn estimates a remaining useful life of 25 years meaning the existing quarry will not begin a reclamation plan until after 100 years of operation. By extension, an expansion at this time would prevent current FP-35 land from being reclaimed for a very, very long time. Maybe another 100 years.

Standard number 3 requires that the conditional use will not “impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district”. This particular FP-35 land, if governed by an indefinite period of maybe as much as 100 years, most certainly “impedes the normal and orderly development” that would occur if the land was not governed by this CUP.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #3.

General standard #4.

The current quarry has a well-documented problem with water. Un-regulated and un-controlled pumping out of the quarry and into ditches with the result of flooding areas and killing trees. The applicant has failed to rectify this problem in the years he has owned the current quarry but promises that things will be better if an expansion is permitted. Also, Center Road is not a safe road for the types of vehicular traffic required of the existing quarry and of any expansion. In addition, the current quarry has a history of not properly fencing the site and of not closing gates yet the applicant vows to do better with an expansion.

The documented evidence is clear that the applicant has failed to follow through on necessary site improvements in the past and therefor the Town Board members vote that he fails to satisfy this standard.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #4.

General standard #5.

This operation uses very large trucks. The town roads are being damaged. Also, the size of the trucks, the frequency of trucks approaching each other on narrow town roads with no shoulders, uncovered loads and poor driving habits all endanger pedestrians and bikers. The quarry operator has no other way to conduct business than with large, heavy, unregulated truck traffic. An expansion of the quarry will not minimize traffic congestion and this general standard is not satisfied.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #5.

General standard #6.

The Town Board members agreed that it is a Dane County Zoning responsibility to ensure compliance by the applicant with all applicable regulations of the zoning district.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied general standard #6.

General standard #7.

The conditional use permit is not consistent with town and county comprehensive plans. This is evidenced in numerous places:

Incompatibility with the Dane County Comprehensive Plan as follows:

Dane County Comprehensive Plan

Page 31, Cemeteries

Policy #1. Ensure that existing cemeteries, public and private, are protected from development including transportation corridors.

Page 40, Mineral Resources

Supporting Objectives "C". Makes it clear that mineral extraction needs to be no nearer than 1,000 feet from non-farm development. Since non-farm development occurred, this precludes the quarry from expanding.

Incompatibility with the Town of Rutland Comprehensive Plan as follows:

Town of Rutland Comprehensive Plan

Page 2-3; Goal 2; Transportation

Objective 1. Reduce the potential for traffic accidents and provide for safe transportation throughout the Town

Objective 3. Minimize the negative impacts of future transportation projects to the greatest extent possible.

Objective 4. Reduce the amount of non-local traffic passing through residential areas.

Page 2-4; Goal 3; Pedestrian and Bicycle Travel

Objective 1. Increase opportunities for pedestrian and bicycle travel within the Town.

Objective 2. Increase pedestrian and bicycle safety.

Objective 3. Increase the number of miles of bike routes.

Page 2-6; Goal 6; Agricultural Preservation District

Objective 1. Preserve existing farm operations.

Objective 2. Permit development that enhances the growth of agriculture in the Town.

Objective 3. Preserve the rural character of the Town.

Policy 4(d) Commercial use to be limited to those uses having a minimal effect on existing nearby uses.

Policy 4(e) Commercial use, if town roads are involved, the developer must demonstrate minimal impact to neighbors. The safety of access will be a major concern.

Policy 4(f) Commercial use to be limited in size and magnitude of operation so as to protect the rural atmosphere and scenic beauty of the town.

Policy 27 Continue to review nonmetallic mining proposals on a case-by-case basis.

Page 2-8; Goal 7; Land Use

Introductory sentence: Create a pattern of development that fosters the rural character and agricultural land preservation and that minimizes potential conflicts between incompatible uses.

Policy 2 Use open space as buffers between incompatible land uses, to protect environmentally sensitive lands, or to compliment other land development

Policy 12 Require buffers between incompatible land uses to minimize potential negative effects.

Policy 16 To the extent possible, ensure that new development is not located on or near known sites containing substantial non-metallic deposits suitable for extraction

Page 2-10; Goal 10; Economic Development

Introductory sentence. Foster a local economy that is predominantly agriculturally based which is sustainable and where the economy grows, the community is enhanced, and unique and important resources are respected and protected.

Policy 2 In agricultural areas of the Town allows agricultural related commercial uses only if a rural location is required to serve farmers.

Policy 3 To limit non-agricultural commercial use to small, rural oriented businesses which provide services needed by residents of the town. Further, shall not adversely affect the traffic capacity and safety of the highway.

Page 2-11; Goal 11; Natural Environment

Policy 1 Encourage the preservation, rehabilitation and adaptive reuse of historic buildings.

Policy 2 Protect historic resources.

Policy 8 Support efforts to maintain the Graves Cemetery.

Page 3-3. Exhibit 3-1. Issues of Importance to Town Residents. Of highest importance were such issues as "Maintain Quality of Life", "Pedestrian Safety", "Farmland Loss" and "Encroachment of Incompatible Uses".

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #7.

#### General standard #8.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied standard #8.

#### FINAL RESULT

**Since the applicant failed to satisfy 6 of the 8 standards, the conditional use permit application is hereby DENIED by Unanimous vote of all 4 members of the Town Board (Loughrin, Zentner, Nedveck and Grueneberg).**

Prepared by Peter Loughrin  
Chairman, Town of Rutland  
October 6, 2020