



Room 116, City-County Building, Madison, Wisconsin 53703
Fax (608) 267-1540

DANE COUNTY PLANNING & DEVELOPMENT

Date: February 22, 2023

To: Zoning and Land Regulation Committee members

From: Roger Lane, Dane County Zoning Administrator

RE: Summary of concerns regarding CUP #2582

Cc: Todd Violante, Director of Planning and Development
Kevin Hahn, K&D Stone

*Housing &
Economic Development*
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On January 24, 2023 the ZLR Committee held a public hearing regarding CUP #2582 to allow the expansion of the existing mineral extraction operation in the Town of Rutland. There were many concerns raised and a significant amount of testimony received during the public hearing. County Staff has prepared a summary of these concerns and sent a letter to the applicant. See attached letter. The letter not only summarizes the concerns, but also provides staff's response to the particular topic. The letter was written in hopes of narrowing down the concerns to see if the proposed land use could meet the 8 standards of obtaining a conditional use permit if additional information is received.

At the public hearing, many of the concerns raised were in regards to the amount of trucking activity for the site. In efforts to provide clarity, K&D Stone has provided hauling reports between July 2022 and November 2022 to show how the site contributes to the traffic in the area. The information illustrates that hauling from the site fluctuates day by day. See attached data.

At the February 28th ZLR Committee meeting, Staff would like the Committee to review the summary of concerns and provide feedback on the contents of the letter and the need for an applicant's response. In order to provide direction to the applicant, the Committee will need to decide if the letter is adequate or if additional concerns need to be addressed.

Once all the concerns are assembled, the applicant will be directed provided additional information to adequately address the concerns in order to meet the 8 standards of obtaining a conditional use permit.



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DANE COUNTY PLANNING & DEVELOPMENT

February 8, 2023

K& D Stone
439 Center Road
Oregon, WI 53575

RE: Conditions/Concerns regarding CUP #2582

Dear Mr. Hahn,

The Dane County Zoning and Land Regulation Committee held a public hearing regarding CUP #2582 on January 24, 2023. At the meeting, the public raised concerns about the proposed non-metallic mineral extraction activity. I have summarized the concerns below.

In order to obtain a conditional use permit, the proposal must meet 8 standards as listed under the zoning ordinances. Many times, conditions must be placed on the conditional use permit to address concerns in meeting these 8 standards. The standards are listed at the end of this letter.

Please review the topics below and provide your response regarding the concerns. Staff has provide an objective view of each topic. The response to the items will be helpful for the Zoning and Land Regulation Committee in rendering a decision on the conditional use permit.

Hours of operation

Applicant: 7am to 7pm weekdays; 8am to 1pm on Saturday; no work on Sunday and holidays

Citizens: 7am to 4pm on weekdays

Porter: 7am to 5pm weekdays; blasting and trucking 8am to 4pm weekdays

Staff: It appears that the hours of operation are within the scope of normal business hours, however the applicant may need to substantiate operation until 7pm. Work on weekend is limited, applicant may need to substantiate the importance of having weekend hours. Provide additional information to support requested hours.

Berms

Applicant: 3-10 feet as needed, west berm at 8 feet until excavation is greater than 15 feet deep at which time the height may be reduced, existing trees act as buffer

Citizens: 15 feet with tree plantings

Porter: 10 feet with tree plantings

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Staff: The property slopes from the northeast corner to the southwest corner, approximately a 40-foot grade difference. The installation of berms along the roadway is common on mineral extraction sites and appears feasible on this site. The berms would be beneficial in controlling dust and improving the esthetics to the property. Plantings on the berm are common with most quarries. Due to the topography, berms along the south and west property lines would not be effective in screening but would provide a barrier to prevent runoff to other properties. Staff is suggesting that a grading plan be developed to show how the operation can be effectively screened and prevent runoff. Provide additional information regarding installation of berms and proposed plantings including species and spacing.

Operational distance

Applicant: 30 feet from road; 20 feet from other property lines

Citizens: 1,000 feet away from existing buildings and graveyard

Porter: 1,000 feet away from existing buildings and graveyard

Staff: The operations plan provides an approximate 200-300 buffer to the south property to accommodate the closest house to the property. With the buffer, the house is 450 feet away from the last phase of the quarry. There is an existing residence 500 feet away from the west property line. The location of the quarry operation appears to be reasonable distance to adjacent land uses.

It appears there has been a misinterpretation of the Town's Comprehensive plan language. The plan notes that future homes sites should be located a minimum of 1000 feet away from mineral deposits. The Zoning Ordinance lists setback requirements for quarry operations being 20 feet from property lines and 30 feet from roads. The current operation plan meets the locational requirements. Staff feel that the operational distances are adequate.

Noise Limitations

Applicant: All vehicles will be equipped with MSHA –approved backup alarms and muffler systems. Noise generation is similar to agricultural equipment.

Citizens: 65 decibels at property line

Porter: 75 decibels 100 feet away from property line; reduce back-up alarms

Staff: Quarrying activity inherently produces noise due to the operation of crushing machines, end loaders, and the loading of hauling trucks. Noise limits have been set by Towns on other quarry operations in the past. A general standard of 75 decibels Dba has been used for quarry operations in the past. The applicant will need to review operational volumes to see if this is an achievable limit. Equipment location may be needed to achieve this limit.

Back up alarms

Applicant: Investigating alternatives for truck back-up alarms. Orient one-way traffic for hauling trucks so that vehicles do not need to back up.

Citizens: require non-beeping alarms

Porter: reduce noise from back-up alarms

Staff: Mine Safety and Health Administration (MSHA) mandates that back-up alarms are required for all equipment and vehicles used in surface and sub-surface mines. Beeping alarms are a standard in the industry. MSHA is somewhat vague on the alternative noises that could be used. The applicant will need to investigate the use of alternate backup alarms with MSHA to see if equipment at this site could use alternate alarms. Additional information will need to be provided by the applicant.

The quarry operator uses third party hauling companies. It may be burdensome for third party haulers to comply with alternative alarm requirements due to hauling from other quarries.

Review of CUP

Applicant: 20 years

Citizens: Annual

Porter: Annual

Staff: It has been common practice to set a time limit on quarry operations to allow the operation to be reviewed after the activity has been in operation. Equipment, stockpiles, internal truck routing, and depth of quarry, all change over time. It may be necessary to evaluate the operation as the operation moves through its phases. In the past, the County has been setting a time limit between 5 and 25 years for mineral extraction CUPs. Given the scale of the operation, Staff is suggesting that a time limit of 15 years be placed on the conditional use permit if approved.

Road repair costs

Applicant: none

Citizens: \$25,000

Porter: \$15,000

Staff: The Town has a right to impose impact fees on development if the Town can substantiate the direct impact of the development. Per Wisconsin Statutes, the Town must provide evidence (assessment study) to show if there is an impact and to what extent (amount). In the past, there have been some quarry operations that have agreed to provide Towns compensation for Town road use. Staff feel that, to ensure that these fees are defensible and not arbitrary, they should be supported by an impact fee study and initiated by the Town. The County cannot impose impact fees or other requirements on town roads.

Driveway dust control

Applicant: pave or crush asphalt 100 feet into site

Citizens: Driveway in and out to be paved

Porter: None

Staff: The DNR requires non-metallic mineral extraction sites to have an Emission Control Plan. The plan is monitored by the DNR periodically. The operation has best management practices in place to comply with DNR standards. Using water during crushing, watering haul paths, and setting low speed limits greatly reduces the generation of dust. To address dust control, Staff suggest that conditions be placed on the site to require that the operator follow their emissions control plan and require a speed limit of 15 mph be set inside the quarry if approved.

Tarping of trucks

Applicant: None

Citizens: All trucks covered

Porter: All trucks tarped

Staff: It has been a common practice for many quarry operations to use tarps on hauling vehicles to reduce impacts on other vehicles during transportation of materials off-site. The proposed activity for this site involves the extraction of sand. The applicant should consider all materials being tarped as part of the hauling operation.

Material

Applicant: sand gravel removal; dirt, asphalt, concrete coming in

Citizens: Only sand and gravel removal

Porter: Only sand and gravel removal

Staff: Many quarry operations accept materials to be brought in for the purposes of filling in extraction areas, as well as, repurposing concrete and asphalt. The Dane County Zoning Ordinance lists the depositing of fill and repurposing of concrete/asphalt as an accessory use to mineral extraction. Clean fill material (dirt) can be used for the construction of berms and provide material for reclamation purposes. The hauling of materials into the site may increase truck traffic to the site. The applicant should substantiate the need to bring in other materials other than fill to the site, given concerns of excessive truck traffic.

Preblast Survey

Applicant: survey per SPS 307

Citizens: Conduct structural survey of all buildings within ½ mile

Porter: None

Staff: Wisconsin Administrative Code SPS 307.40 requires blasters to conduct pre-blast surveys of buildings as determined by distance/intensity ratio as listed under the code. Setting additional requirements appears to be subjective. The site has a very low housing density and the proposed blasting events are noted to be 2 to 3 times a year. Given the infrequent blasting, Staff suggest that the standard conditions as listed under the zoning ordinance be used as part of the conditions for the conditional use permit, if approved.

Quarry setback

Applicant: 30 feet from road; 20 feet from property, 180-300 feet to south property line

Citizens: 200 feet

Porter: None

Staff: The applicant is following the required standards as noted in the Dane County Zoning Ordinances. As part of the standard conditions for mineral extraction sites, a 20-foot setback from property lines and a 30-foot setback for Town Roads are required. Greater distances may be warranted for subsidence issues or sensitive environmental features. The applicant proposes a 180-300 foot buffer to the south property line due to close proximity to an existing house. Staff feels that the setbacks as proposed are adequate.

Fencing

Applicant: 4-foot wire fencing

Citizen: fencing is hazardous

Staff: The applicant is following the required standard of fencing for mineral extraction sites as noted in the Dane County Zoning Ordinances. The zoning ordinance does not state the style of fencing, only that the fencing provides a 4-foot barrier. Staff feel that the existing fencing provided, and noted in the application, is adequate deterrent for the site.

Pumping of Water

Applicant: DNR Stormwater discharge permit to remove stormwater from pit area (intermittent)

Citizen: Concerns regarding draw down of groundwater and wells in the area

Staff: The applicant has submitted a DNR Storm water discharge permit as part of the application. The permit allows for the discharge of stormwater that collects in the pit to the ground surface where it allows it to infiltrate into the soil. The floor of the quarry is approximately 30 feet above groundwater. The pumping of stormwater from one area to another area in close proximity does not deplete the ground water for surrounding wells. Due to the natural collection of storm water in a depression, Staff suggests that a condition be in place on the proposal requiring a DNR storm water discharge permit for the site, if approved.

The operations plan notes that groundwater rests at 920 feet ASL. The dolomite extraction will limit to 930 feet ASL. However, the sand deposit is proposed to be extracted to an elevation of 915 feet ASL. It is unclear if the applicant proposes to pump groundwater from the site to extract the sand deposit. The applicant should provide additional information on

how the sand will be extracted from below the water table (groundwater pumped off site). As an alternative, the applicant may choose to limit all extraction to 930 feet ASL.

Property values

Applicant: Property value study showing no significant impact on surrounding property values

Citizens: Information regarding negative impacts on property values, study showing lower property values

Staff: Information has been presented that shows property values not being affected, as well as, a loss in property values due to the quarry. The proposal is to allow the expansion of an existing quarry which has been in operation since the 1930's. Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry. Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area.

Truck Traffic

Applicant: The primary haul route will be north on Center Road to County Hwy A, to either Hwy 14 or 138 to reduce traveling on Town Roads.

Citizens: The amount of truck traffic in the neighborhood is too intense for the rural area.

Staff: Many of the concerns raised at the public hearing involved the amount of truck traffic in the area. Truck traffic is produced from this site, a larger mineral extraction site just south, and construction activities to support Stoughton, Oregon, and Madison. The application notes that the primary truck route will be north on Center Road to County Hwy A, then to State Hwys 14 or 138. It appears that the described routing may disperse traffic for the area. The application should provide additional information regarding the amount of traffic that is produced from the site.

There were many concerns raised regarding speeding trucks. Although a possible by-product of the mineral extraction activity, staff does not feel that regulating an activity off-site could fall under the scope of the CUP. There are concerns on how the enforcement of an imposed speeding condition be managed.

As mention above, proposals needs to meet all 8 standards in order to obtain a conditional use permit. As you are responding to these concerns, please make sure you take in to account the standards. Please feel free to comment on other items that may have been stated during the public hearing that are not listed in above concerns.

Regards,

Roger Lane
Dane County Zoning Administrator

8 Standards for Conditional Use Permits

Requirements and standards for conditional use permits

1. *Standards for approval.* Before approving any conditional use permit, the town board and zoning committee must find that all of the following conditions are met:

- a.** That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- b.** 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;
- c.** 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;
- d.** That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e.** 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; and
- f.** That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g.** That the conditional use is consistent with the adopted town and county comprehensive plans.
- h.** 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\(1\)](#).
 - 1.** The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.
 - 2.** The use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3.** The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 4.** The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 5.** Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

K&D Stone Truck Loads 2022:

Below is our list of jobs between July 2022 – November 2022 that required materials to be hauled out of the Center Road Quarry.

- A. UW Natatorium, Madison, Wi
- B. Windsor, Wi
- C. Footville, Wi
- D. Stoughton, Wi
- E. Monona, Wi
- F. Grass Lake, Oregon, Wi
- G. Burr Oak, Oregon, Wi
- H. Ochalla Drive, Fitchburg, Wi
- I. Advanced Concrete, Brooklyn, Wi
- J. Rutland Dunn Town Line Rd, Rutland, Wi

July 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 A - 14 loads	2
3	4	5 A - 20 loads	6 A - 18 loads	7 A - 8 loads J - 22 loads	8	9
10	11 J - 65 loads A - 4 loads B - 13 loads	12	13 B - 12 loads J - 91 loads	14 B - 24 loads J - 79 loads	15 B - 9 loads	16
17	18 B - 3 loads J - 23 loads	19	20	21	22	23
24	25	26	27	28 C - 10 loads	29 C - 2 loads	30
31						

August 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 C-22 loads	2 C-5 loads	3 C-12 loads	4 C-15 loads	5 C-6 loads	6
7	8 C-77 loads	9 C-10 loads	10 C-21 loads	11 C-13 loads D-9 loads	12 D-12 loads	13
14	15 D-5 loads	16 D-3 loads C-11 loads	17 C-4 loads	18	19 E-3 loads	20
21	22 E-3 loads	23 E-9 loads	24 E-1 loads	25 E-8 loads C-1 load J-49 loads	26 E-4 loads I-43 loads	27
28	29 E-3 loads I-26 loads J-54 loads	30 E-22 loads I-2 loads J-4 loads	31 E-8 loads			

September 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 C - 2 loads	2	3
4	5	6	7 C - 3 loads	8	9 F - 16 loads	10
11	12	13 I - 1 load	14	15	16 D - 4 loads	17
18	19 F - 1 load I - 14 loads	20 C - 4 loads D - 9 loads I - 44 loads	21 C - 2 loads D - 21 loads I - 11 loads	22 D - 48 loads I - 13 loads	23 D - 3 loads I - 8 loads	24
25	26 I - 12 loads	27 F - 12 loads I - 22 loads	28 I - 10 loads	29 F - 40 loads I - 8 loads	30 C - 3 loads F - 34 loads I - 7 loads	

October 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 C - 4 loads
2	3 F - 35 loads I - 13 loads	4 F - 23 loads I - 8 loads	5 F - 28 loads I - 29 loads	6 I - 27 loads C - 12 loads F - 20 loads	7 I - 23 loads C - 2 loads F - 14 loads	8
9	10 F - 25 loads I - 40 loads	11 I - 45 loads C - 1 load G - 3 loads	12 I - 40 loads G - 1 load D - 1 load C - 1 load	13 I - 16 loads D - 3 loads G - 2 loads	14 I - 23 loads D - 1 load G - 2 loads	15
16	17 G - 2 loads I - 11 loads	18 I - 11 loads F - 21 loads G - 1 load	19 I - 11 loads F - 22 loads G - 1 load	20 F - 14 loads I - 22 loads	21 I - 11 loads F - 11 loads H - 10 loads	22 D - 3 loads
23	24 E - 42 loads I - 12 loads D - 2 loads C - 3 loads	25 G - 13 loads I - 21 loads	26 I - 25 loads	27 I - 16 loads	28 I - 9 loads	29
30	31 F - 14 loads I - 9 loads					

November 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 F - 21 loads I - 27 loads	2 F - 12 loads I - 15 loads	3 I - 14 loads F - 11 loads G - 4 loads	4 H - 2 loads I - 21 loads	5
6	7 F - 12 loads H - 1 load	8 F - 30 loads	9 F - 21 loads	10 F - 14 loads H - 2 loads	11	12
13	14 H - 9 loads	15 H - 6 loads	16	17	18 H - 6 loads	19
20	21	22	23	24	25	26
27	28	29	30			