

Comments on the Zoning Division 2021 Report on Salvage Yards

To: Dane County Zoning and Land Regulation Committee

From: Tom Mathies, Town of Verona Supervisor

Meeting Date: August 24, 2021

Summary

Salvage yards benefit communities by facilitating end-of-life recycling of vehicles and other items. However, there are potential health and safety impacts. For example, the Groundwater Element of the Dane County Water Quality Plan (2017) states:¹

Although groundwater quality problems have not been identified at many of these sites, leakage of hazardous materials from improperly managed junkyards and salvage yards can represent a pollution threat.

...

Active local and state oversight of hazardous materials at junkyards/salvage yards should be continued.

The Dane County Zoning Division has submitted this year's report on seven salvage yards² to be considered during the Zoning and Land Regulation Committee meeting on August 24, 2021.

The salvage yards report is part of the annual inspection of salvage yards provided by the Zoning Ordinance³ 10.103(17)(c)2, in part:

If, after such public hearing, the zoning committee finds that the premises are in conformity with the provisions of this ordinance, and that the site is suitable for the conduct of such business, the committee shall grant a license, and such license shall expire on July 1 of each year. Licenses may be renewed from year to year on authorization of the committee when inspection discloses that the business is being conducted in accordance with the provisions of this ordinance.

As documented below, the salvage yards report contains inaccuracies and omits significant information. This report is insufficient to make the determinations required by the Zoning Ordinance.

I urge the Committee to require the salvage yards report to document the following:

1. Compliance with State of Wisconsin regulations.
2. Salvage yard operations with respect to approved conditional use permit (CUP) boundaries.
3. Review of each condition in all applicable CUPs.

In addition, I urge the Committee to ensure the impartiality of the report as required by the Dane County Ethics Code.⁴ Currently the report relies on different standards for different salvage yards:

- Two sites are reported to have operations within approved limits. The report does not provide this information for the other five sites.
- The report documents the presence of a town official at one site but not for the other six sites.

The report does not provide rationales for these differences.

The Zoning Division is tasked with enforcing all conditions of all CUPs. Enforcement is typically complaint-driven. The annual inspection requirement indicates that responsibility for determining compliance with salvage yard CUPs lies with the inspectors.

These comments and any errors herein are my own. The salvage yards report has not been discussed by the Town of Verona board.

State Regulations

The Zoning Code requires compliance with State regulations, 10.003(4)(a):

Regardless of any other provision of this chapter, no land shall be developed or used, and no structure erected or maintained in violation of any State or Federal regulations.

The DNR requires industrial storm water discharge permits under NR 216 Subchapter II⁵ for:

Facilities involved in the recycling of materials such as metal scrap yards, battery reclaimers, salvage yards and automobile junk yards

And for:

Facilities with bulk storage piles for coal, metallic and non-metallic minerals and ores, and scrap not otherwise covered under this subchapter

I asked the DNR for information regarding storm water permits for the seven salvage yards. The DNR reported no permit information on these three salvage yards:

Dave Toothman – Town of Oregon
4365 Old Stone Rd, Oregon WI 53575
AccessDane: <https://accessdane.countyofdane.com/Parcel/Index/051020491602>

John Mullarkey – Town of Oregon
936 Glenway Rd, Oregon WI 53575
AccessDane: <https://accessdane.countyofdane.com/Parcel/Index/050915489250>

Thayer Every – Town of Dunkirk
298 State Hwy 138, Stoughton WI 53589
AccessDane: <https://accessdane.countyofdane.com/Parcel/Index/051130485950>

The DNR reported that three salvage yards participate in a cooperative compliance program (CCP). CCP participants are required to conduct monthly inspections and maintain

documentation of these inspections on site. CCP participants are required to submit annual compliance reports to the DNR. These three salvage yards are CCP participants:

Diehl Neumaier Co – Town of Vienna
5466 Norway Grove School Rd, DeForest WI 53532
AccessDane: <https://accessdane.countyofdane.com/Parcel/Index/090922297210>
Most recent annual report date: 01/31/2017

Mount Horeb Truck Parts Inc. – Town of Perry
665 Dead End Rd, Mount Horeb WI 53572
AccessDane: <https://accessdane.countyofdane.com/050624490015>
Most recent annual report date: 11/5/2018

Rowley's Garage Inc. – Town of Verona
1748 Spring Rose Rd, Verona WI 53593
AccessDane: <https://accessdane.countyofdane.com/Parcel/Index/060831385101>
Most recent annual report date: 10/2018

The DNR reported one salvage yard that does not participate in a CCP. A non-CCP site is required to maintain annual and quarterly compliance reports on site:

Cindy's Classic Auto Parts – Town of Christiana
300 Hwy 12 & 18, Cambridge WI 53523
AccessDane: <https://accessdane.countyofdane.com/061202195612>

There are additional state regulations. For example, the DNR has requirements for refrigerant recovery⁶ and WisDOT licenses salvage dealers.⁷

CUP Boundaries



This image is a 2020 aerial view of the salvage yard at 300 Hwy 12 & 18 in the Town of Christiana. The boundaries of CUP 915 are from the Dane County Planning Viewer.

From the conditions of CUP 915:⁸

- 1). The site shall be located in a 300' x 300' area in the Northeast corner of the M-1 zoned area.
- 2). The perimeter of the area shall be screened by an 8' high solid fence and also by trees of fast-growing varieties that will achieve a height of 20'. The trees shall be planted in 1991 along the outside of the fence on the East, South and West sides. The fence and tree screening shall be diligently maintained.
- 3). All salvage or recycling items shall be contained within the fenced salvage area. Stacking of motor vehicle or equipment bodies is not permitted.

It is evident from the aerial view that the site is not in compliance with these conditions. However, the salvage yards report states:

On June 28, 2021, I conducted a site inspection of the salvage yard. No change from last year with regards to the number of salvage items. Other non-running vehicles are parked in an orderly manner along USH 12/18.

The salvage yards report does not document the lack of an 8' high solid fence or the lack of tree screening. The salvage yards report does not identify the items stored to the east.

For the non-running vehicles along USH 12/18 the report does not mention the Zoning Code requirement in 10.102(8)(g)5:

Except as provided in s. 341.266(4), Wis. Stats., a motor vehicle that is inoperable or unlicensed is considered salvage or junk and shall only be stored in a licensed salvage recycling center.

(The exception relates to car collectors. In that situation screening is required.)

These comments about CUP 915 are meant to demonstrate the inadequacy of the salvage yards report and do not imply that this is the only salvage yard operating outside of approved boundaries. Aerial views raise similar questions about compliance at other salvage yards.

CUP Conditions

As an example of CUP conditions, consider CUP 2366⁹ for the salvage yard at 298 State Hwy 138 in the Town of Dunkirk.

Condition 1 of this CUP requires "A sufficient metal gate will be constructed and installed for security and unwanted intrusion." Such a gate is not visible on this Google Earth view from June 2020:¹⁰



Condition 5 requires that “All metal inventory to be on racks or supporting structures which may include roll off containers. No metal or inventory will be stored on the ground.” The 2020 salvage yards report¹¹ included photos of salvage yards. The 2020 photo for this salvage yard appears to show inventory stored on the ground:



Condition 7 requires “The make-up of salvaged recycling material will be approximately 99% metal.” The two images above show a school bus and other vehicles as well as tires.

The 2021 salvage yards report does not document if this site is in compliance with these and other conditions. Instead the report states:

On June 28, 2021, I conducted a site inspection of the salvage yard. Some vehicles and various types of metals, dumpsters are within the site.

Again, this example is meant to demonstrate the inadequacy of the salvage yards report. This is not intended to be a complete review of this site. Numerous questions can be raised about compliance with conditions at other salvage yards.

References

- 1 Groundwater Element of the Dane County Water Quality Plan (2017)
<https://lwr.d.countyofdane.com/documents/pdfs/Plans--Studies--Reports/Plans/DCWQP-AppendixG-3-31-17-Final.pdf>
- 2 2021 "Report of Annual Review Salvage Yards" <https://dane.legistar.com/LegislationDetail.aspx?ID=5073684&GUID=73A937A8-FD2A-4146-BE89-BA5C95CAE51F>
- 3 Dane County Zoning Ordinance <https://countyofdane.com/documents/pdf/ordinances/ch010-01-31-20.pdf>
- 4 Dane County Ethics Code <https://countyofdane.com/documents/pdf/ordinances/ord009.pdf>
- 5 NR 216 Subchapter II Industrial Storm Water Discharge Permits
https://docs.legis.wisconsin.gov/code/admin_code/nr/200/216/ii
- 6 Wisconsin DNR Refrigerant Recovery Program <https://dnr.wisconsin.gov/topic/AirQuality/Refrigerants.html>
- 7 WisDOT Salvage Dealers list <https://wisconsin.gov/Pages/dmv/dlr-agents/tips-tls-dlr/buyerslicissued.aspx>
- 8 CUP 915 <https://planning.countyofdane.com/Weblink8Planning/0/doc/155894/Page1.aspx>
- 9 CUP 2366 <https://dane.legistar.com/LegislationDetail.aspx?ID=2880621&GUID=8E6D17B2-434B-48E6-9DEB-836E571F7129>
- 10 June 2020 Google Earth view of the area for CUP 2366
<https://earth.google.com/web/search/298+State+Hwy+138,+Stoughton,+WI+53589/@42.86296528,-89.23989966,275.51239747a,135.44351682d,35y,10.58356762h,59.99979421t,360r/data=CigiJgokCXaHpSwqYDRAEXWHpSwqYDTAGayv-IVEvWRAlcwkSa4B1fA>
- 11 2020 Salvage Yards Report <https://dane.legistar.com/View.ashx?M=F&ID=8666898&GUID=18A1E569-060A-43E5-8673-9327C5C5EFFF>