

Appeal 3724

Appeal of Zoning and Land Regulation Committee’s decision regarding approval of Conditional Use Permit #2582

BRIEF OF DANE COUNTY

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BEFORE THE DANE COUNTY BOARD OF ADJUSTMENT

Appeal 3724

Appeal of Zoning and Land Regulation Committee's decision regarding approval of Conditional Use Permit #2582

BRIEF OF DANE COUNTY

Rutland Citizens United, U.A. is aggrieved by a decision made by the Dane County Zoning and Land Regulation Committee to approve Conditional Use Permit #2582 to allow the expansion of an existing non-metallic mineral extraction site located west of 430 Center Road in the Town of Rutland. The appellant claims that the Zoning and Land Regulation Committee failed to follow the Dane County Zoning Ordinance when approving the conditional use permit. Specifically, failing to determine that the proposal meets the Farmland Preservation standards and failing to make adequate findings or explaining its decision. The appellant has also provided their view of how the proposal does not meet each of the standards of obtaining a conditional use permit.

Analysis

All properties under the jurisdiction of the Dane County Zoning Division are assigned a zoning district classification. The zoning districts list land uses that are permitted by right and others as a conditional use. The land uses which are listed as conditional uses warrant special consideration and review because of their unusual nature and potential impact on neighboring lands.

In 2018, the Wisconsin Statutes were amended to include requirements for counties to follow in order to make decisions on conditional use permits. The Statutes require a county to hold a public hearing and make decisions based on evidence that a reasonable person would accept in support of a conclusion. If conditions are imposed, they need to be related to the purpose of the ordinance. See attached **EXHIBIT A**.

To process a conditional use permit application, the Dane County Zoning and Land Regulation (ZLR) Committee follows the process as described under Dane County Zoning Ordinance 10.101(7). See attached **EXHIBIT B**. The process requires specific information to be submitted as part of the application; a public hearing to be held with appropriate notification; and instructions for the ZLR Committee to follow in rendering a decision.

To avoid ambiguity, the ZLR Committee has adopted Rules and Procedures to explain the actions of the ZLR Committee in order to provide clarity to specific actions. See attached **EXHIBIT C**.

As the information provided below will show, the ZLR Committee adhered to the Dane County Zoning Ordinances, statutory requirements, and their own rules & procedures in their deliberation and action on CUP 2582.

PROCESS EXPLAINED

1. A conditional use permit application was submitted by K & D Stone on November 11, 2022 to the Dane County Zoning Division which met the requirements of DCCO 10.101(7)(b). Additional information was also supplied as part of the proposed non-metallic mineral extraction operation as required under DCCO 10.103(15). A checklist noting the requirements is attached. See **EXHIBIT D**. Note: Complete application is part of the official record.
2. A Class II notice was placed in the Wisconsin State Journal to notify the public of a public hearing for Conditional Use Permit 2582 set for January 24, 2023 in accordance with DCCO 10.101(7)(c)1.a. See attached **EXHIBIT E**. The application was made available for public viewing on November 22, 2022 through the Dane County Legislative Information Center.
3. A neighborhood notice was sent to landowners within ¼ mile of the proposed site as required the Dane County Zoning and Land Regulation Committee's rules and procedures Section VI b. The notice was sent out approximately one month prior to the public hearing. See attached **EXHIBIT F**.
4. The ZLR held a public hearing for CUP 2582 on January 24, 2023 in accordance with Dane County Zoning Ordinance Section 1.101(7)(c). The ZLR Committee received both written and oral testimony from the applicant and the public. All of the information was made part of the public record and saved in the Dane County Legislative Information Center in accordance with ZLR Committee rules and procedures. See **EXHIBIT G** showing the information received. ZLR postponed action on the application due to public opposition and no town action per Committee Rules and Procedures in order for the concerns to be examined. See attached minutes of the January 24, 2023 ZLR meeting as **EXHIBIT H**.
5. On February 9, 2023, the Town of Rutland sent a letter to the Dane County Planning and Development Department that provided notice that the Town would not be taking action on CUP 2582 due to lack of quorum. A majority of the members chose to recuse themselves. See Town letter **EXHIBIT I**.
6. On February 28, 2023, ZLR held a meeting to review a summary of concerns report prepared by County Staff. See **EXHIBIT J**. ZLR found the summary being acceptable. The ZLR also accepted additional written testimony at this meeting on CUP 2582. After reviewing the summary of concerns, testimony, and response by the applicant, the ZLR directed Staff to prepare potential findings of fact and possible conditions to review. See minutes of the February 28, 2023 ZLR Committee meeting, **EXHIBIT K**.
7. On March 14, 2023, the ZLR Committee held a meeting to review the prepared findings of fact and possible conditions for CUP 2582. See **EXHIBIT L**. The ZLR Committee found the report being acceptable. After reviewing the information, the ZLR Committee made a motion to approve CUP 2582 in accordance with Dane County Zoning Ordinance Section 1.101(7)(c) . See **EXHIBIT M**.
8. Per Committee rules and procedures, "*Conditional Use Permits – Unless otherwise indicated, a **motion to approve a Conditional Use Permit**, shall mean that the Committee has made affirmative findings of fact for the standards enumerated in §10.101(7)(d), and, if applicable, the relevant standards for particular uses in §10.103, and/or the standards applicable to conditional uses in a farmland preservation zoning district in §10.220(1)(a), Dane County Code of Ordinances.*"

The ZLR Committee followed the appropriate procedures. Ample opportunity was provided to the public to express concerns under a properly noticed public hearing. The ZLR Committee reviewed a summary of concerns for the applicant to address. The ZLR Committee requested staff to prepare findings of fact and potential conditions for review. The ZLR Committee acted on CUP 2582 based on

findings of fact and reasoning that the CUP met the 8 standards of obtaining a CUP.

RESPONSE TO SPECIFIC CLAIMS

- The appellant claims that the proposal is a new mine and that there will be increased disturbance due to the approval.

RESPONSE: The application clearly states that the CUP submittal is to expand an existing quarry. There has been an existing quarry in this location since 1937. The site has also been used recently as a DOT approved borrow site. As part of the approval of CUP 2582, the Zoning and Land Regulation Committee placed a condition on the quarry limiting the operation specifically to K&D Stone to ensure that the same activity would continue at the current level (Condition 30).

- The appellant claims that the ZLR Committee failed to identify that the proposal meets the 8 standards of obtaining a conditional use permit.

RESPONSE: The ZLR Committee's motion on March 14, 2023 states, "*A motion was made by BOLLIG, seconded by RATCLIFF, to approve Conditional Use Permit #2582 with conditions in accordance with the findings of fact and being found to meet the 8 standards of obtaining a conditional use permit.*" The motion clearly states that the 8 standards have been met. In rendering their decision, the ZLR Committee used a prepared report by staff which listed findings of fact and conditions for CUP 2582. The report was prepared by staff at the direction of the ZLR Committee at a previous meeting.

- The appellant claims that the ZLR Committee failed to identify the Farmland Preservation Standard when approving the conditional use permit.

RESPONSE: As part of the 8 standards for obtaining a conditional use permit, the 8th standard (listed as h. under Dane County Zoning Ordinance section 10.101(7)(d)1.), references the standards for the Farmland Preservation District. The motion made by the Zoning and Land Regulation Committee on March 14, 2023 references all eight standards being met.

- The appellant claims that the ZLR Committee failed to make adequate findings as part of the approval of CUP #2582.

RESPONSE: At February 28, 2023 ZLR Committee meeting, the Committee directed Staff to prepare findings of fact for proposed CUP #2582. In turn, the County Staff prepared finding of fact for the ZLR Committee to use in rendering a decision. The finding of fact memo dated March 7, 2023 was presented to the ZLR Committee at their March 14, 2023 meeting and the Committee used the contents of the memo in making their motion of approval of CUP 2582.

SUMMARY

As explained above, the Zoning and Land Regulation Committee followed all of the requirements found in the Dane County Zoning Ordinance for processing a conditional use permit. A public hearing was held to receive public input. Concerns were identified as part of the process. The applicant was required to address the concerns. The applicant responded to the concerns by making adjustments to the operation and agreed to the conditions. The ZLR Committee made a motion to approve the conditional use permit informed by the professional recommendations of County Staff, which included analysis, findings of fact, reasoning, and specific conditions to address concerns and meet applicable standards.

Finding of Fact

I respectfully request that the Dane County Board of Adjustment make the following Findings of Fact:

1. K&D Stone LLC submitted a complete application for a conditional use permit for the expansion of an existing quarry in accordance with the provisions of Dane County Zoning Ordinance Section 10.101(7).
2. The Dane County Planning and Development Department assigned number DCPCUP-2022-02582 (CUP 2582) to the K&D Stone application.
3. A public hearing was scheduled before the Dane County Zoning and Land Regulation Committee for CUP 2582 on January 24, 2023.
4. A Class II notice of the public hearing was published in the Wisconsin State Journal on January 10 and 17, 2023.
5. A neighborhood notice was sent out to neighbors within ¼ mile of the 430 Center Road pursuant to Dane County Zoning and Land Regulation Committee's Rules and Procedures.
6. The Dane County Planning and Development Department prepared a staff report for the Zoning and Land Regulation Committee to assist in their review of the proposal.
7. The Dane County Zoning and Land Regulation Committee held a public hearing on January 24, 2023 to take public testimony regarding Conditional Use Permit 2582. The written testimony received was added to the Dane County Legislative Information System (Legistar) as part of the official record.
8. On January 24, 2023, the Dane County Zoning and Land Regulation Committee postponed action on Conditional Use Permit due to no town action and public opposition pursuant to Dane County Code of Ordinances Section 10.101(7) and Dane County Zoning and Land Regulation Committee's rules and procedures.
9. The Dane County Planning and Development Department drafted a summary of concerns from the information submitted as part of the public hearing in order to provide direction for the applicant and the ZLR Committee.
10. On February 9, 2023, the Town of Rutland informed the Dane County Planning and Development Department that the Town will not take action on CUP 2582 due to lack of quorum.
11. On February 28, 2023, the Dane County Zoning and Land Regulation Committee held a meeting to review the summary of concerns as drafted by County Staff. The Zoning and Land Regulation Committee accepted additional testimony from the public regarding Conditional Use Permit 2582. The Zoning and Land Regulation Committee closed the public hearing for CUP 2582. The Zoning and Land Regulation Committee directed staff to prepared potential findings of fact and potential conditions for their consideration.
12. The Dane County Planning and Development Department prepared a Staff memo dated March 7, 2023 regarding potential findings of fact and conditions for CUP 2582. The staff report contained reasoning regarding the proposal meeting the 8 standards of obtaining a CUP.
13. On March 14, 2023, the Zoning and Land Regulation Committee held a meeting to review the response by the applicant to the concerns regarding CUP 2582. The ZLR Committee reviewed the response by the applicant and the Staff memo regarding the potential findings of fact and potential conditions.
14. After reviewing the information presented at the March 14, 2023 meeting, the Zoning and Land Regulation Committee made a motion to approve CUP 2582 with conditions based on written findings of fact and finding that the proposal meets the 8 standards of obtaining a conditional use permit.

Conclusion

With the aforementioned evidence, I respectfully request that the Dane County Board of Adjustment make the following conclusions:

1. The Dane County Zoning and Land Regulation Committee followed the required process in reviewing a conditional use permit pursuant to Dane County Zoning Ordinance Section 10.101(7).
2. The Zoning and Land Regulation Committee rendered a decision regarding CUP 2582 based on the complete record, findings of fact, conditions of approval, and reasoning for the standards in obtaining a conditional use permit.
3. The Dane County Zoning and Land Regulation Committee made a reasonable decision based on factual information in the record according to the applicable process requirements.

EXHIBIT A

WISCONSIN STATUTES 59.69

(5e) CONDITIONAL USE PERMITS.

(a) In this subsection:

- 1.** “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a county, but does not include a variance.
- 2.** “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b)

1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the county zoning board, the county shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

2. The requirements and conditions described under subd. **1.** must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the county relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The county's decision to approve or deny the permit must be supported by substantial evidence.

(c) Upon receipt of a conditional use permit application, and following publication in the county of a class 2 notice under ch. 985, the county shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the county may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the county zoning board.

(e) If a county denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694 (10)

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(7) Conditional Use Permits

- (a) Purpose.** The development and execution of this ordinance is based upon the division of the county into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. Certain uses, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. With appropriate limitations on siting, development and operation, such uses may be compatible with other uses in a particular zoning district. Such uses are classified as conditional uses and are subject to the following provisions.
- (b) Application Requirements.** An application for a conditional use shall be filed with the zoning administrator on a form prescribed by the zoning administrator. Only complete applications will be accepted. The application shall be accompanied by such plans and other information as required by this section, by requirements for particular uses or as prescribed by the zoning administrator, and shall include, at a minimum, the following:
- 1. Statement.** The applicant shall provide a written statement and adequate evidence demonstrating that the proposed conditional use conforms to:
 - (a) the standards for approval described in s. 10.101(7)(d),
 - (b) any standards applicable to the particular use under s. 10.103, and
 - (c) any additional standards required in the applicable zoning district.
 - 2. Legal description.** The applicant shall provide a written legal description accurately describing the specific area on the property where the conditional use will operate and the conditional use permit will be effective. Conditional use permit areas should be the minimum size necessary to accommodate the proposed use, and need not conform to lot, zoning lot or tax parcel boundaries.
 - 3. Site plan.** All applications for a conditional use permit must be accompanied by a site plan, meeting all the standards described in s. 10.101(6).
 - 4. Operational plan.** All applications for a conditional use permit must be accompanied by an operational plan that describes, at a detail acceptable to the Zoning Administrator, the following characteristics of the operation, as applicable:
 - a. Hours of operation.
 - b. Number of employees, including both full-time equivalents and maximum number of personnel to be on the premises at any time.
 - c. Anticipated noise, odors, dust, soot, runoff or pollution and measures taken to mitigate impacts to neighboring properties.
 - d. Descriptions of any materials stored outside and any activities, processing or other operations taking place outside an enclosed building.
 - e. Compliance with county stormwater and erosion control standards under Chapter 11 or Chapter 14, Dane County Code.
 - f. Sanitary facilities, including adequate private onsite wastewater treatment systems and any manure storage or management plans approved by the Madison

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& Dane County Public Health Agency and/or the Dane County Land and Water Resources Department.

- g.** Facilities for managing and removal of trash, solid waste and recyclable materials.
 - h.** Anticipated daily traffic, types and weights of vehicles, and any provisions, intersection or road improvements or other measures proposed to accommodate increased traffic.
 - i.** A listing of hazardous, toxic or explosive materials stored on site, and any spill containment, safety or pollution prevention measures taken.
 - j.** Outdoor lighting and measures taken to mitigate light-pollution impacts to neighboring properties.
 - k.** Signage, consistent with ss. 10.800....
- 5.** Third Party Consultation. If necessary expertise is not available from county staff, public academic institutions or from appropriate regional, state or federal agencies, the committee may consult with a third party to effectively evaluate a conditional use permit application. The zoning administrator, or his or her designee, will select the consultant. The applicant for the conditional use permit shall bear all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw a pending conditional use permit application if they choose not to pay consultant fees.
- 6.** Property Owner Consent. If the applicant for any conditional use permit is not the owner of the property, the applicant must provide a signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the conditional use permit application.

(c) Approval process.

- 1.** Hearing on application.
 - a.** Upon receipt of a complete and acceptable application , statement, site plan and operational plan , the zoning committee shall hold a public hearing on each application for conditional use. The zoning committee shall establish, by rule, a regular schedule and location for public hearings. The zoning committee may prescribe or amend rules for the conduct of the hearing and preserving a publicly-accessible recording of the proceedings.
 - b.** The Department of Planning Development will publish a Class 2 notice of each public hearing, as provided in [chapter 985](#) of the Wisconsin Statutes. The Department will also provide direct notice to the Town Clerk of any towns affected by the proposed conditional use. The zoning committee shall establish policies governing notice to other parties of interest.
- 2.** Zoning Committee Action.
 - a.** The zoning committee is authorized by s. [59.69\(2\)\(bm\)](#), Wis. Stats. to grant conditional use permits.
 - b.** The zoning committee, after a public hearing, shall, within a reasonable time, grant, grant with conditions or deny any application for conditional use.

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- applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
- iv. 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.
 - v. 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.
 - vi. 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.
 - vii. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
 - viii. Off-street parking must be provided, consistent with [s. 10.102\(8\)](#).
 - ix. 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.
 - x. 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.
 - xi. 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.
 - xii. 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.
 - xiii.
 - xiv. 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

10.101(7) Administration, Enforcement and Penalties

conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation. If any use allowed by an approved conditional use permit is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

10.103(15) Special Requirements for Particular Uses

- (15) Mineral extraction.
- (a) *Application materials.* In addition to materials required for all conditional use permits, applicants must provide, in a format acceptable to the zoning administrator, the following:
1. A legal description of the land for which the permit is requested.
 - a. This may be a lot in a Certified Survey Map, a lot (and block, if any) in a subdivision, or an exact “metes and bounds” description.
 - b. The description must include the size of the CUP area in acres or square feet.
 2. Tax parcel number(s) of the lot(s) or parcel(s) where the conditional use is to be located. If the area proposed for the conditional use is a part of a larger parcel, applicant must provide the tax parcel number of the larger parcel.
 3. A written statement containing the following information:
 - a. General description of the operation.
 - b. Existing use of the land.
 - c. Existing natural features including approximate depth to groundwater.
 - d. The types and quantities of materials that would be extracted.
 - e. Proposed dates to begin extraction, end extraction and complete reclamation.
 - f. Proposed hours and days of operation.
 - g. Geologic composition and depth to the mineral deposit.
 - h. Maximum proposed pit depth.
 - i. Identify all major proposed haul routes to the nearest Class A highway or truck route. Indicate traffic flow patterns.
 - j. Proposed phasing plan, if any (recommended for larger sites).
 - k. Types, quantities, and frequency of use of equipment to extract, process, and haul.
 - l. Whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching or concrete mixing would be performed on site.
 - m. Whether excavation will occur below the water table and, if so, how ground water quality will be protected.
 - n. Any proposed temporary or permanent structures (e.g., scales, offices).
 - o. Any special measures that will be used for spill prevention and control, dust control, transportation, or environmental protection.
 - p. Proposed use after reclamation as consistent with Chapter 74.
 4. *Additional Site Plan Information.* In addition to the submittal requirements described in [10.101\(7\)\(b\)](#), applications for a mineral extraction conditional use permit shall include a Site Plan prepared by a qualified professional, drawn to a measurable scale large enough to show detail and at least 11” by 17” in size, showing the following information:
 - a. Boundaries of the permit area and of the extraction site.
 - b. Existing contour lines (not more than 10 foot intervals).

10.103(15) Special Requirements for Particular Uses

- c. All residences within 1,000 feet of the property.
 - d. Specific location of proposed extraction area, staging area, equipment storage.
 - e. Proposed location and surfacing of driveways.
 - f. Proposed phasing plan, if any (recommended for larger sites).
 - g. Proposed fencing of property, if any, and gating of driveways.
 - h. Proposed location of stockpiles.
 - i. Proposed location and type of screening berms and landscaping.
 - j. Proposed temporary and permanent structures, including scales and offices.
5. *Erosion control plan.* An erosion control plan, drawn to scale by a professional engineer, meeting all applicable state and county requirements.
6. *Reclamation plan.* A reclamation plan prepared in accordance with this ordinance, Chapter 74, Dane County Code and Chapter NR 135, Wisconsin Administrative Code.
- (b)** Conditions on mineral extraction conditional use permits. In addition to conditions required for all conditional use permits, the town board and zoning committee shall impose, at a minimum, the following conditions on any approved conditional use permit for mineral extraction.
- 1. 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.
 - 2. 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.
 - 3. 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.
 - a. 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.
 - 4. 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.

10.103(16) Special Requirements for Particular Uses

circumstances apply, the zoning committee and town board shall also impose the following conditions on any approved conditional use permit for mineral extraction:

- 1. Blasting.**
 - a. 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.
 - a. 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.
 - b. 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.
 - c. Fly rock** shall be contained within the permitted mineral extraction area.
- 2. Fuel storage.** All fuel storage must comply with ATCP 93, Wisconsin Administrative Code, including provisions for secondary spill containment.
- 3. 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.
- 4. 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.**



EXHIBIT C

RULES AND PROCEDURES OF THE DANE COUNTY ZONING AND LAND REGULATION COMMITTEE

Updated April 2020

Rules and Procedures of the Dane County Zoning and Land Regulation Committee of the Dane County Board.

These Rules and Procedures were adopted April 6, 2020 and shall replace any rules previously adopted and shall be the rules of the committee.

I. General

- a. The Zoning and Land Regulation Committee of the Dane County Board (hereinafter referred to as Committee) shall have a Chairperson, Vice Chairperson, and Secretary. These positions shall be selected by the members of the committee. The Chairperson shall run the meeting of the committee in adherence to items on the agenda with action on items and procedural matters generally managed as prescribed by Robert's Rules of Order except where these rules indicate otherwise. The Chair may deviate from Robert's Rules at any time with the concurrence of the committee.
- b. In the absence of the Chair or if the Chair chooses to relinquish, the Vice Chair shall take on the responsibilities of the Chair, likewise the Secretary may take over for the Chair or Vice Chair.
- c. The committee shall set aside these Rules and Procedures as they determine appropriate by 2/3 majority vote of those present for specific purposes.
- d. Staff from the Department of Planning and Development (hereinafter referred to as the Department and as staff) shall take minutes, prepare agendas and otherwise staff the operation of the Committee. If staff for any reason is not available at any meeting the Secretary or a designee of the Chair shall take minutes of the meeting.
- e. Meetings shall be scheduled by the Committee for a time and place as deemed appropriate and special meetings may be called by the Chair. The Committee may schedule remote call-in or video conference meetings in accordance with the procedures outlined in section VII, below. The Committee may schedule a meeting for the purpose of conducting a site visit as deemed appropriate. The purpose of these site visits is exclusively to view the site. The Committee will not accept testimony at a site inspection, and the Committee will not take any action at a site inspection.
- f. Agendas shall be prepared by staff of the Department with the following general order and guidelines.
 1. Call the meeting to order.
 2. Approval of minutes.
 3. Public comment on any item not listed elsewhere on the agenda.

4. Petitions scheduled for Public Hearing.
 5. Petitions which have been postponed from previous meetings and have recently had additional action or new information submitted by applicants, Towns, or staff.
 6. Land Division issues needing action by the committee as determined by staff.
 7. Resolutions referred to the committee.
 8. Ordinance Amendments referred to the committee.
 9. Any other items shall be listed next or listed under other business.
- g. The chair may establish a consent agenda to expedite meetings. Items on a consent agenda may be acted on with a single motion, which shall be inclusive of any town and/or staff recommended conditions. Conditional Use Permit applications are not eligible for a consent agenda. For an item to be eligible for inclusion on a consent agenda, there must be:
1. no unresolved issues by staff;
 2. no opposition received by staff or committee members prior to, or at, the public hearing;
 3. town action has been timely received and no concerns noted by the town in their approval;
 4. applicant agreement with any recommended conditions; and,
 5. no requests to *not* place the item on a consent agenda.
- h. The chair may add or delete any items to the agenda by advising staff in time to provide a legal notice. The Chair may also canvas the meeting room to inquire as to how many people are present for particular items and move those items up or down the agenda with the concurrence of the committee.
- i. The committee may designate certain meetings where certain of the above stated items do not appear.
- j. General Meeting schedule:
- The committee shall normally meet on the 2nd and 4th Tuesdays of each month. The meeting on the 4th Tuesday shall be reserved for public hearings; other items shall not be added to the agenda unless required by legal deadlines or at the discretion of the chair. Public Hearings shall be scheduled for 6:30pm, the meeting on the 2nd Tuesday shall be scheduled at 6:30pm. The chair will cancel and schedule special meetings as necessary.
- k. Zoning and Conditional Use Permit applicants shall be required to provide one copy of each document submitted for review by the committee members and staff. Documents may be

provided in a digital format deemed acceptable by the Zoning Administrator. The documents shall be submitted to the Zoning Administrator for distribution.

II. Application Procedures

a. Rezone Applications

Applicants for zoning map amendments shall provide, at a minimum, the submittal requirements specified in section 10.101(8)(b) of the zoning ordinance. The following materials and information shall be provided to staff at the time of application. The Zoning Administrator may require additional information be submitted as needed. Incomplete applications will not be accepted.

1. Application form. Zoning petitions must be submitted in a form approved by the zoning administrator, and must include, at a minimum, the following:
 - a. The name, address and other contact information for the owner(s) of all properties affected by the rezone;
 - b. The name, address and other contact information for anyone acting as the owner's agent on the application;
 - c. A written legal description accurately describing the area(s) to be rezoned. Separate descriptions shall be provided for each lot proposed. Unless waived by the Zoning Administrator, the legal description(s) shall be prepared by a registered land surveyor and include the size of the area in square feet and acres;
 - d. A scaled drawing of the proposed rezone area. The scale of the drawing should be 1" = 400 feet. The scale drawing should also include the following:
 - The size of the area to be rezoned in acres or square feet;
 - Existing and proposed Zoning Districts for the proposed rezone area;
 - Existing Zoning Districts of all neighboring properties and brief description of surrounding land uses;
 - Soil Capability Unit classifications as shown in the Soil Survey of Dane County, Wisconsin.
 - e. The town(s) in which the proposed rezone is located;
 - f. Parcel ID numbers affected by the proposed rezone;
 - g. A detailed written description of the proposed use(s) of the property to be rezoned.
 - h. Property owner consent. If the applicant is not the property owner, the applicant must provide a signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the conditional use permit application.

2. Site plan. For rezones to the HAM-R, HAM-M, LC, GC, HC, RI or MI zoning districts, the applicant must provide site plans as listed below and described in s. 10.101(6) of the zoning ordinance;
3. Draft land division materials. If a land division or subdivision is proposed as part of the rezoning, the applicant must provide a draft certified survey map or preliminary;
4. Fees. The applicant must provide payment of all applicable fees as described in Chapter 12, Dane County Code.
5. Other information. Any other information the zoning administrator, or designee, determines necessary to evaluate the nature, location or intensity of the proposed use or consistency with the Dane County Comprehensive Plan or the Dane County Farmland Preservation Plan.

b. Conditional Use Permit Applications

Applicants for Conditional Use Permits (CUP) shall provide, at a minimum, the submittal requirements specified in section 10.101(7)(b) of the zoning ordinance. The following materials and information shall be provided to staff at the time of application. The Zoning Administrator may require additional information be submitted as needed. Incomplete applications will not be accepted.

1. Application form and written statement addressing all applicable standards for approval of the CUP.
2. Written legal description.
3. Site plan meeting including, at a minimum, the requirements specified in section 10.101(6) of the county zoning code.
4. Operational plan including, at a minimum, the requirements specified in section 10.101(7)(b)4 of the county zoning code, as follows:
 - Hours of operation.
 - Number of employees, including both full-time equivalents and maximum number of personnel to be on the premises at any time.
 - Anticipated noise, odors, dust, soot, runoff or pollution and measures taken to mitigate impacts to neighboring properties.
 - Descriptions of any materials stored outside and any activities, processing or other operations taking place outside an enclosed building.
 - Compliance with county stormwater and erosion control standards under Chapter 11 or Chapter 14, Dane County Code.
 - Sanitary facilities, including adequate private onsite wastewater treatment systems and any manure storage or management plans approved by the Madison & Dane County Public Health Agency and/or the Dane County Land and Water Resources Department.
 - Facilities for managing and removal of trash, solid waste and recyclable materials.

- Anticipated daily traffic, types and weights of vehicles, and any provisions, intersection or road improvements or other measures proposed to accommodate increased traffic.
 - A listing of hazardous, toxic or explosive materials stored on site, and any spill containment, safety or pollution prevention measures taken.
 - Outdoor lighting and measures taken to mitigate light-pollution impacts to neighboring properties.
 - Signage, consistent with s. 10.800 of the county zoning ordinance.
 - Any other information as may be deemed necessary by the Zoning Administrator to evaluate operation of the proposed conditional use.
5. Property owner consent. If the applicant is not the property owner, the applicant must provide a signature(s) of the property owner(s) on the application form or a written statement from the property owner(s) granting authorization to proceed with the conditional use permit application.

c. Site Plan Requirements.

Applicants applying for a multiple-family, commercial, or manufacturing rezone or conditional use permit shall include complete site and operational plans in accordance with s. 10.101(6) of the code of ordinances. The site plan shall be drawn to an easily legible scale, shall be clearly labeled, and shall include the following, as applicable:

1. Location of subject property, tax parcel number(s), and any relevant certified survey (CSM) or plat information related to the identification of the property.
2. Scale and north arrow;
3. Date the site plan was created and/or last revised;
4. Existing subject property lot lines and dimensions;
5. Existing and proposed wastewater treatment systems and wells;
6. All buildings and all outdoor use and/or storage areas, existing and proposed, including provisions for water and sewer. Existing and proposed uses must be clearly labeled.
7. All dimensions and required setbacks, side yards and rear yards.
8. Location and width of all existing and proposed driveway entrances onto public and private roadways, and of all interior roads or driveways. Traffic flow patterns must be indicated.
9. Location and dimensions of any existing utilities, easements or rights-of-way.
10. Parking lot layout in compliance with s. 10.102(8).
11. Proposed loading/unloading areas.
12. Zoning district boundaries in the immediate area. All districts on the property and on all neighboring properties must be clearly labeled.

13. All relevant natural features, including but not limited to:
 - a. Navigable waters, including ordinary highwater marks and shoreland setbacks required under Chapter 11, Dane County Code, for all lakes, ponds, rivers, streams (including intermittent streams) and springs within 300 feet of the property;
 - b. Non-navigable water features, including drainage ditches, culverts and stormwater conveyances;
 - c. Floodplain boundaries and field-verified elevations, including floodfringe, floodway, flood storage and general floodplain districts as described in Chapter 17, Dane County Code;
 - d. Delineated wetland areas , including wetland setbacks required under Chapter 11, Dane County Code;
 - e. Natural drainage patterns;
 - f. Archaeological features; and,
 - g. Slopes over 12% grade.
14. If required by s. 10.102(12), location and type of proposed screening, landscaping, berms or buffer areas.
15. The Zoning Administrator may require, at his or her discretion, site plans to show additional detail in order to reasonably determine the location, nature and condition of any actual or proposed feature of the site, including, but not limited to contours, drainage, screening, fences, landscaping, lighting, signs, refuse dumpsters, and possible future expansion areas. The committee shall have the option of reviewing lengthy documents/reports however documents of this nature shall be summarized by Department staff.

d. Certified Survey Map and Subdivision Plat Applications

1. Certified Survey Maps:

- a. Applicants for Certified Survey Map approval shall direct a Registered Land Surveyor to prepare the map in accordance with all applicable requirements of Chapter 236 Wis. Stats, A-E7 of the Wis. Administrative Code, and Chapter 75 of the Dane County Code of Ordinances.
- b. Staff shall advise applicants of the information and materials required for a Certified Survey Map application.
- c. Per section 75.17(b) of the county land division / subdivision ordinance, the committee has delegated authority to approve Certified Survey Maps to the Department of Planning and Development Land Division Review Officer / Assistant Zoning Administrator, as of 04-12-2011. The Zoning Committee reserves for itself authority over the following situations:

- i. Variance / waiver requests.
Any CSM application where a request is made for a waiver from any applicable provision of the county land division / subdivision ordinance shall be reviewed and acted on by the Committee. Staff will provide a brief written review of any proposed waiver. If a proposed CSM is associated with a rezoning or conditional use permit petition, action on the waiver will be considered and acted on by the committee *prior* to action on the associated petition.
- ii. Re-division of existing lots.
Any CSM application *not associated* with a rezoning or conditional use permit petition that proposes to divide an existing parcel to create a new parcel, shall be reviewed and acted upon by the Zoning Committee. The purpose of this provision is to ensure compliance with town / county density standards.
- iii. Action during staff absence
In the event that staff is on vacation or otherwise unavailable to review and act on a final CSM for an extended period of time, applicants shall have the option of requesting that the Committee take action on the final CSM. Such request shall be made in writing to the Chairperson of the Committee.
- iv. Requests by staff
Staff may request that the committee take action on any CSM application.
- d. At the discretion of the Land Division Review Officer and County Surveyor, certain plat and data submission requirements or the preliminary CSM requirement in s. 75.17(2) may be waived.

2. Subdivision Plats

- a. *Pre-application consultation:* As required under s. 75.15(1), Dane County Code of Ordinances, prior to submitting an application for a subdivision plat, applicants shall first consult with staff for advice and assistance on the subdivision process. During the pre-application consultation, staff shall advise applicants of the information and materials required for a Subdivision Plat application.
- b. Applicants for Subdivision Plat approval shall direct a Registered Land Surveyor to prepare the plat in accordance with all applicable requirements of Chapter 236 Wis. Stats, A-E7 of the Wis. Administrative Code, and Chapter 75 of the Dane County Code of Ordinances.
- c. Where sensitive environmental features are observed within the area proposed to be covered by a subdivision plat, staff shall require – prior to committee consideration of a preliminary plat – the submittal of appropriate documentation to establish the actual boundaries / extent of such features. This may include, but not be limited to, formal wetland delineations, prepared in accordance with all applicable state / federal guidelines,

establishment of flood elevations for areas within a 100 year floodplain as depicted on adopted FEMA FIRM maps, delineation of Ordinary High Water Mark, navigable streams, etc. Applicants may request a site visit by the zoning administrator to determine presence of wetlands / stream navigability, etc.

- d. The Committee shall accept preliminary plat applications that satisfy the submission requirements in s. 75.15(3), and schedule such applications for consideration at a future meeting. Preliminary plats in unincorporated areas shall be presented to the committee along with draft staff recommendations with at least 2 meetings before the final deadline. The staff will provide comments and final recommendations at the meeting before the final deadline.
- e. Failure of an applicant to provide documentation or data as required by ordinance shall constitute grounds for denial of a preliminary plat.
- f. Final plats in unincorporated areas shall be reported to the committee before the committee Chair signs the plat once all conditions have been met to the satisfaction of the County Plat Review Officer. Where staff finds ambiguity regarding conformance with any conditions of approval, the Committee shall make the final determination as to whether the conditions of approval have been met. The Chair shall sign the plat at an open meeting of the Committee if all conditions have been met.

III. Conduct of Public Hearing

- a. Testimony at the Public Hearing will be recorded and shall be available to the public in the Department. Recordings shall be held for 2 years.
- b. Minutes of the Public Hearing shall only show the names of those appearing and the position they have taken on the proposal.
- c. Attendance of petitioners or their agent at the public hearing is recommended. It is not necessary for anyone to speak regarding the item at the Public Hearing in order for the committee to complete action.
- d. All members of the public who are present at the public hearing on a conditional use permit application or zoning petition may testify at the public hearing on the proposal.
- e. Registered Town officials wishing to speak at a meeting will be recognized at the meeting by the Committee Chair to address the Committee regarding the pertinent item.
- f. When individuals wish to speak, all persons wishing to speak in favor of the petition shall be heard first. All persons wishing to speak against the petition or ask questions shall be heard second. Review of Town action, staff comments and any other communication concerning the matter will be heard next. Where any comments concerning the matter have been made objecting to the petition or questions have been asked, one representative of the applicant may speak in rebuttal.
- g. All comments during the public hearing shall be directed to the Committee. No exchange between attendees is permitted. Committee members may ask questions of individuals participating in the public hearing as they speak.
- h. In accordance with Dane County Ordinance all speakers are required to fill out a Registration sheet indicating the items they are interested in, their name, their affiliation, or representations. In the case of remote meetings, staff shall maintain a list of speakers, their affiliation, representations, and their position on the applicable item(s).
- i. Individual speakers are limited to no more than five minutes speaking time.
- j. All Public Hearings are considered closed upon completion of the meeting at which the hearing has been scheduled unless otherwise indicated by the Chair.
- k. Once the Public Hearing is concluded no additional oral comments to the committee will be permitted except at future meetings where the item is listed and for the following reasons:
 1. Members of the Committee request individuals involved in the item to respond to questions or concerns.

2. The Chair determines that enough new information has been added to the discussion since the public hearing that additional time is needed. The Chair shall determine an amount of time for comments from the public with an equal amount of time being allotted to people speaking in favor and in opposition to the petition.
- l. An opponent to the conditional use permit application or zoning change petition may register as such with the Committee at the public hearing.
 1. Where an organization is the lead opponent of an action, that organization may designate one or more points of contact for further actions on the application or petition.
 2. Where multiple individuals speaking in opposition to the approval of the permit or petition, committee staff shall attempt to consolidate those individuals so that the committee has one or two primary points of contact going forward.
 - m. If there are unresolved issues or questions requiring further Committee discussion or investigation of a conditional use permit application or rezoning petition at a subsequent work meeting, the applicant, the applicant's agent, or registered opponent(s) of the proposal may supplement the record.
 1. The Committee may allow limited oral testimony from any registrant at the work meeting where the proposal is discussed.
 2. Registrants may supplement the record by submitting written testimony prior to or at the work meeting where the proposal is discussed at the committee's discretion. If a member of the committee chooses to do so, he or she shall make a motion to enter one or more documents received into the official record.

IV. Official Record

- a. The Committee acts in a quasi-judicial capacity on applications for conditional use permits and shall make its decision based solely on the record.
- b. The “record” is composed of the following sources of information:
 1. All written or documentary evidence submitted to the Committee prior to or at the public hearing and received by the Chair. This includes all materials, plans, and exhibits submitted as part of an application.
 2. Reports, maps, exhibits, or other materials submitted by staff, other county, state, or federal agencies, or designated third party consultants as part of their analysis of an application.
 3. Testimony heard by the Committee during the public hearing.
 4. The Chair shall have the discretion to exclude evidence that is redundant, immaterial or irrelevant to the application.
 5. The Committee may take official notice of the Dane County Code of Ordinances and Comprehensive Plan, town ordinances and plans, the zoning and location of the subject property and geological features or other facts that are common knowledge in the county or can be verified by reference to the public record.
 6. Materials submitted for inclusion in the record shall be no larger than 11 inches x 17 inches.
 7. Except as authorized, information in any form which is presented outside the public hearing is not part of the record. Materials may not be submitted by e-mail for inclusion in the record, except as detailed in #9, below.
 8. Once the public hearing is concluded no additional evidence or testimony will be received into the record, except as authorized by the Chair at a future meeting where the item is listed as an item of business and there is new information or good cause for the information not to be presented at the public hearing.
 9. Materials received via e-mail prior to or between meetings are not automatically entered into the record. If a member of the Committee chooses to do so, he or she may make a motion to enter one or more of the documents received into the official record. Such materials shall be included upon majority vote of committee.

V. Action Items

- a. Rezone Petitions. The Committee shall not take action on rezonings until the applicable Town has completed action on the item, except as authorized under section VII, below. This shall be the Committee policy even though the Town has exceeded its legal action period for rezonings. The Committee may consider action on such items without the Town action 60 days after the date of public hearing on an item, and after contacting the Town and advising the Town of its interest in completing action on the matter.
- b. Conditional Use Permits. The Committee shall not take action on Conditional Use Permit applications until the applicable Town has completed action on the item, except as authorized under sub. 1 and section VII, below. This shall be the Committee policy even though the Town has exceeded its legal action period for Conditional Use Permits. Unless the Town has requested a 40-day extension, the Committee may consider action on such items without the Town action 60 days after the date of public hearing on an item, and after contacting the Town and advising the Town of its interest in completing action on the matter.
 1. Conditional Use Permits for Mobile Service Support Structures (Communication Towers) must be acted on within 90 days from the date of application. The Committee may take action on such an application if the town has not taken action in such a manner that would enable compliance with the 90 day timeframe and if the applicant has not agreed to extend the timeframe for action.
- c. In general all information which is relevant to any given item must be submitted to the staff of the Department by the Thursday prior to the committee meeting at 12:00 noon in order for that information to be considered. The Department will make packets available to the committee the Friday prior to the Tuesday meetings. Information submitted after 12:00 noon the prior Thursday may not be considered or may cause the item to be deferred to a later meeting. Publicly Noticed Public Hearings will be heard regardless of other information connected to the petition.
- d. Committee agendas shall be prepared by the Department and submitted to the County Clerk's Office on the Friday prior to the Committee meeting.
- e. Items IV and V of the work session agenda shall be reserved solely for petitions with completed town action reports. Town action reports must be received by the department by 12:00 noon the prior Thursday of the scheduled work session. Items without town action and at least 60 days past the public hearing at which the item(s) were first heard, may be placed on the work session agenda at the discretion of the Committee Chair. *(Added 7-8-2008)*
- f. In order to shorten discussion, the following general rules of motion making shall apply.
 1. Unless otherwise indicated a simple **motion to postpone** shall mean that the item shall be deferred until additional information or action by another agency is received

at which time it shall routinely be placed back on the agenda as determined by staff or the Chair.

2. Conditional Rezoning - Unless otherwise indicated a **motion to approve subject to Town Conditions** shall mean the rezoning or CUP is approved or recommended subject to the intent of the Town's conditions as stated in the minutes drafted by staff and approved by the committee. Wherever practical Restrictive Covenants shall be imposed in a positive manner indicating such things as usage which are permitted.
3. Conditional Use Permits – Unless otherwise indicated, a **motion to approve a Conditional Use Permit**, shall mean that the Committee has made affirmative findings of fact for the standards enumerated in §10.101(7)(d), and, if applicable, the relevant standards for particular uses in §10.103, and/or the standards applicable to conditional uses in a farmland preservation zoning district in §10.220(1)(a), Dane County Code of Ordinances.
4. Whenever a motion is made to approve a re-zoning or CUP with a condition of a community wastewater system, the condition means that the system shall comply with the nitrate-nitrogen standard established by the federal Maximum Contaminant Level (MCL) and the Wisconsin Groundwater Enforcement Standard (ES). The federal MCL is found in §40 CFR 141.62. The Wisconsin Groundwater Enforcement Standard is found in Wisconsin Administrative Code NR 140.10.

g. Action on Rezoning Petitions and CUPs.

1. Zoning Petitions or Conditional Use Permits (CUP) shall be eligible for possible Committee action at the public hearing, if they meet the following guidelines:
 - i. No opposition from anyone at public hearing.
 - ii. No unresolved issues by staff.
 - iii. Town board action has been received and there no concerns noted by the Town in their approval.
 - iv. No committee members in opposition to the petition (must pass the committee by unanimous vote of all members in attendance and have the agreement of all committee members that it is non-controversial).
2. Combined rezone / CUP applications shall be listed as separate agenda items and considered independently of one another. If the Committee votes to approve a CUP as part of such a combined application, the CUP approval shall be contingent upon effectuation of the zoning change and, if applicable, compliance with any and all conditions of approval. If the rezoning is denied or becomes null and void, the CUP shall be disapproved.

- h. In all cases where a petition to rezone land out of a state certified farmland preservation zoning district is recommended for approval, the zoning map amendment shall include findings of the County Board that the following conditions exist as required by Wis. Stats. 91.48 (1)(a):
 - 1. The land is better suited for a use not allowed in the farmland preservation zoning district.
 - 2. The rezoning is consistent with any applicable comprehensive plan.
 - 3. The rezoning is substantially consistent with the county certified farmland preservation plan.
 - 4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- i. In all cases where a rezoning petition includes a Delayed Effective Date for recording of a plat, the committee recommendation shall include a condition requiring that a subdivision plat conforming to all applicable provisions of Chapter 236 of Wisconsin Statutes and Chapter 75, Dane County Code of Ordinances, be approved by the committee and recorded with the Dane County Register of Deeds within two (2) years of the date of rezone approval by Dane County.
- j. If no action has been taken on a petition or application within one (1) year of the public hearing at which the item is heard, the application shall be expired and considered withdrawn. However, that period of time is tolled while the petition is in litigation. The applicant shall be notified the application is withdrawn, and the Committee will not take further action on the request. If the applicant wishes to pursue the conditional use permit and/or rezoning, the applicant must complete a new application and public hearing in its entirety. *(Added 7-8-2008)*
- k. If the Committee determines that a new public hearing is required for an active petition, a fee may be assessed to cover the cost of noticing the new public hearing. Any such fee shall be assessed in accordance with the applicable provisions of Chapter 12, Dane County Code of Ordinances. *(Added 7-8-2008)*

VI. Procedural Items outside of committee meetings.

- a. The Department shall prepare a Class II notice of Public Hearing as required by Wis. Stats.
- b. Except as exempted in Section VII, below, the Department shall send a courtesy copy of a Notice of Public Hearing to all surrounding property owners within 300 feet of the affected property at least one week prior to the date of the Public Hearing.
- c. The Department shall also send the petitions to all parties of interest, (for example, Dane County Environmental Health, Dane County Highway, etc) for their review and comment. All such comments shall be forwarded to the Committee for consideration.
- d. As requested by the Committee the Department shall comment on any item appearing on the agenda or seek comments from other county departments as appropriate.
- e. Comprehensive Plan Review and Approval Process:

Process for review and approval of town comprehensive plans, including their periodic amendments or updates, should generally follow these steps:

1. The local Unit of Government should submit a preliminary version of the Plan to the Planning and Development Department for staff review.
2. The plan is reviewed by the staffs of the County Planning and Development Department and other local units of government where appropriate. The local unit makes appropriate adjustments, takes local approval action and submits copies of the plan digitally or by US mail to the County Clerk of the plan amendment.
3. The Plan is then referred to the Committee who will set a Public Hearing Date allowing for at least a 30 day review period as required by state law.
4. The Department of Planning and Development will then coordinate with the County Clerk and send required notice to all required jurisdictions for review prior to the hearing.
5. Upon completion of the Public Hearing, the Committee shall consider the matter and make a recommendation to the County Board.
6. County Board shall consider the matter and recommendations of the Committee, and other commenting agencies and take action as appropriate.

VII. Continuity of Operations and Alternative Procedures

The Committee has established the following procedures to ensure continuity of operations in the event any natural or man-made disaster, public health crisis, or other unforeseen circumstance prevents the normal conduct of committee business. The Committee shall have the option of utilizing the processes outlined below at its discretion and in accordance with open meetings law.

a. Remote Public Hearing/Meeting Process

The Committee shall follow the following process for conducting public hearings/meetings remotely via video and/or phone conference as may be necessary to continue conducting business during public emergencies, or as may be deemed appropriate by the chair.

1. Remote meeting platform. The Committee shall utilize a remote meeting platform, such as GoTo Meeting, Zoom, Webex, or similar service that provides video conferencing and call-in phone access free of charge to committee members, staff, and the public. Any such platform shall allow for screen sharing to all participants so as to enable viewing of reports, maps, charts, graphs, or other exhibits that may be pertinent to consideration of any agenda item.
2. Remote public hearing / work meeting notification. Any remote public hearing of the Committee shall be preceded by the required class 2 notice, which shall provide detailed instructions on how to access and participate in the hearing via video conference and/or phone call. Any remote work meeting of the Committee shall be preceded by posting of the meeting agenda in accordance with applicable open meetings law.

In the event of a public health or other crisis which prevents staff access to the department office and necessitates the holding of a remote public hearing, staff will work with towns to ensure that courtesy mailings can continue. If a suspension of the courtesy mailings is required, Town clerks shall be notified of the suspension.

3. Agenda. The Committee Chair shall coordinate with staff to compile a consent agenda to facilitate action on items meeting the criteria listed under Section I(g) of the Committee rules. Conditional Use Permits are not eligible for inclusion on the consent agenda.

In the case of either a remote public hearing or work meeting, the agenda shall include detailed instructions on how to access and participate in the remote hearing/meeting.

The Committee Chair shall also have the option of organizing agendas for remote meetings in a manner that facilitates public access and avoids excessive delays for applicants and members of the public interested in individual items.

4. Conduct of remote public hearings.
 - a. To the extent possible, the Committee shall follow the same procedures for conduct of a normal public hearing, outlined in Section III, above.

- b. Individuals wishing to speak in favor or opposition to any agenda item, or wishing to register in favor, opposition, or as being available for information only, shall be required to register a minimum of 30 minutes before the remote public hearing by following the guidelines listed on the agenda. Staff shall record the list of registrations in the meeting minutes.
 - c. Staff shall organize registrants by agenda item(s) and assist the Chair to ensure that each registrant is able to participate on said item(s).
 - d. Committee members and staff shall participate via video conference, unless such participation is not possible due to technical impediments, in which case participation shall be via phone call.
 - e. Anyone wishing to offer testimony on a Conditional Use Permit, including applicants and their agent(s) or supporters, opponents, or individuals available for information, shall participate via video conference, unless such participation is not possible due to technical impediments or lack of access to necessary technology or internet service.
5. Conduct of other remote meetings (“work meetings”). The Committee shall conduct remote work meetings in the same manner as normal work meetings and following the applicable rules outlined in #4 of this section. As per section III (k) of these rules, testimony or comment by applicants or members of the public is limited to situations in which committee members have questions of registrants, or where the committee chair determines that enough new information has been added to the discussion so as to warrant additional time for testimony.

b. Action Items.

- 1. Except as outlined below, the Committee shall apply the same rules and procedures for taking action on rezoning petitions and Conditional Use Permit applications as established in section V, above.
- 2. Rezone petitions. The Committee may take action on a rezoning petition if the town does not act within 30 days of the public hearing for the petition, or if the town provides written notice that it does not intend to take action on the petition for some reason. If town action has not been received within 30 days of the public hearing, and no written notice has been provided, staff shall contact the town to determine whether the town will or will not be taking action on the applicable item(s) and report the findings to the committee at the next scheduled remote meeting.
- 3. Conditional Use Permits. The Committee may take action on a Conditional Use Permit application if the town does not act within 60 days of the county public hearing and has not requested a 40 day extension, or if the town notifies the committee in writing that it will not be taking action. If town action has not been received within 60 days of the county public hearing, or 100 days in the case of an extension, staff shall contact the town to determine whether the town will or will not be taking action on the applicable item(s) and report the findings to the committee at the next scheduled remote meeting.

Conditional Use Permit - Mineral Extraction Application Checklist

EXHIBIT D

Applicant			Zoning
Plan Requirement	✓	Location in plan - page #	✓
1. Legal description - CSM and/or exact metes & bounds. Size of area requesting - acreage Parcel number(s)		Pg 34 of PDF	
2. Written statement that includes the following:			
General description of the operation.		Pg 5-12	
Existing uses of the land.		Pg 5-12	
Existing natural features including depth to groundwater.		Pg 5-12	
Types and quantities of materials that will be extracted.		Pg 5-12	
Proposed dates to begin extraction, end extraction and complete reclamation.		Pg 5-12	
Proposed hours and days of operation.		Pg 12-13	
Geologic composition and depth to the mineral deposit.		Pg 6-7	
Identify all major proposed haul routes to the nearest Class A highway or truck route. Indicate traffic flow patterns.		Pg 12	
Proposed phasing plan (recommended for larger sites)		Pg 32 of PDF	
Types, quantities and frequency of use of equipment to extract, process and haul.		Pg 8-10	
Frequency of blasting, drilling, mining, crushing, screening, washing, refueling.		Pg 10-12	
Bulk fuel storage.		Pg 56 of PDF	
Asphalt batching or concrete mixing.		N/A	
Proposed storage of recycled materials.		N/A	
Does extraction occur below the water table / protection of groundwater.		Pg 11-12	
Permanent or temporary structures.		Pg 12	
Spill prevention and or dust control.		Pg 13-15	
Proposed use after final reclamation as consistent with Ch. 74. Separate checklist for reclamation permit.		Pg 16	

This checklist is required in addition to a complete application for a conditional use permit. Application may be deemed incomplete if required information is not submitted.

MINERAL EXTRACTION OPERATIONS

Required Information

For a CUP for mineral extraction, the applicant must provide a legal description, tax parcel numbers, an erosion control plan, and a reclamation plan. In addition, to further describe the operation, the applicant must provide a written statement and operations plan as described:

A written statement containing the following information:

- ✓ 1. General description of the operation.
- ✓ 2. Existing use of the land.
- ✓ 3. Existing natural features including approximate depth to groundwater.
- ✓ 4. The types and quantities of materials that would be extracted.
- ✓ 5. Proposed dates to begin extraction, end extraction and complete reclamation.
- ✓ 6. Proposed hours and days of operation.
- ✓ 7. Geologic composition and depth to the mineral deposit.
- ✓ 8. Identify all major proposed haul routes to the nearest Class A highway or truck route. Indicate traffic flow patterns.
- ✓ 9. Proposed phasing plan, if any (recommended for larger sites)
- ✓ 10. Types, quantities, and frequency of use of equipment to extract, process, and haul.
- ✓ 11. Whether and how frequently blasting, drilling, crushing, screening, washing, refueling, fuel storage, asphalt batching or concrete mixing would be performed on site.
- ✓ 12. Whether excavation will occur below the water table and, if so, how ground water quality will be protected.
- ✓ 13. Any proposed temporary or permanent structures (e.g., scales, offices).
- ✓ 14. Any special measures that will be used for spill prevention and control, dust control, transportation, or environmental protection.
- ✓ 15. Proposed use after reclamation as consistent with Chapter 74.

A site/operations plan drawn to scale, at least 11" by 17" in size, and showing the following information:

- ✓ 1. Boundaries of the permit area and of the extraction site.
- ✓ 2. Zoning district boundaries in the immediate area. Label all zoning districts on the submit property and on all neighboring properties.
- ✓ 3. Existing contour lines (not more than 10 foot intervals).
- ✓ 4. Existing natural features including lakes, perennial/navigable streams, intermittent streams, floodplains, wetlands, drainage patterns, and archaeological features.
- ✓ 5. Existing roads, driveways, and utilities. Show width of all driveway entrances onto public and private roads.
- ✓ 6. All residences within 1,000 feet of the property.
- ✓ 7. Specific location of proposed extraction area, staging area, and equipment storage.
- ✓ 8. Proposed location and surfacing of driveways.
- ✓ 9. Proposed phasing plan, if any (recommended for larger sites).
- ✓ 10. Proposed fencing of property, if any, and gating of driveways.
- ✓ 11. Proposed location of stockpiles.
- ✓ 12. Proposed location and type of screening berms and landscaping.
- ✓ 13. Proposed temporary and permanent structures, including scales and offices.
- ✓ 14. Proposed signage, if any.

*** Proof of Publication ***

Lee Enterprises Proof of Publication Affidavit

EXHIBIT E

Retain this portion for your records.
Please do not remit payment until you receive your advertising invoice.

Mail to:

DANE CTY PLANING & DEVELOPMENT

210 MARTIN LUTHER KING JR BLVD Room 116
MADISON, WI 53703

ORDER NUMBER 141076

STATE OF WISCONSIN

} ss.

Dane County

Arlene Staff

being duly sworn, doth depose and say that he (she) is an authorized representative of Lee Enterprises, publishers of

PWSJ Wisconsin State Journal

a newspaper, at Madison, the seat of government of said State, and that an advertisement of which the annexed is a true copy, taken from said paper, was published therein on the dates listed below.

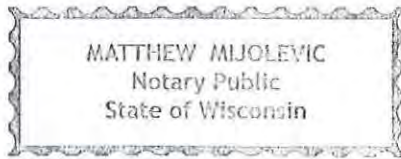
Sworn to and subscribed before me this ___ day of JAN 17 2023

(Signed) *Arlene Staff*
(Title) Principal Clerk

Notary Public, Wisconsin
JAN 14 2025

My Commission expires

Section: Legals
Category: 0100 LEGAL NOTICE
PUBLISHED ON: 01/10/2023, 01/17/2023



TOTAL AD COST: 323.10
FILED ON: 1/16/2023

*** Proof of Publication ***

NOTICE OF PUBLIC HEARING FOR ZONING CHANGES AND/OR CONDITIONAL USE PERMITS BY THE DANE COUNTY ZONING AND LAND REGULATION COMMITTEE

Notice is hereby given that the Dane County Zoning and Land Regulation Committee will hold a public hearing on the items listed below on Tuesday, January 24, 2023 at 6:30pm in room 354 of the City-County Building, 210 Martin Luther King Jr BLVD, Madison, WI. This will be a hybrid meeting. Members of the public may attend the meeting either in person at the location listed above, OR virtually by phone or computer. To attend the meeting by computer, follow this link: <https://zoom.us/j/92386102807>. To attend the meeting by phone, dial: 1-888-788-0099 and enter Webinar ID: 923 8610 2807.

All persons wishing to speak on an agenda item must pre-register for the meeting at least 30 minutes in advance of the start of the meeting. To register for the meeting, please follow this link: <https://zoom.us/j/92386102807>, or call 608-266-4266 or email plandev@countyofdane.com to obtain a registration slip. Any written testimony must be submitted within one week prior to the public hearing (January 17th) by emailing it to plandev@countyofdane.com.

1. PETITION: REZONE 11914
APPLICANT: KOLTON & ELIZABETH
URSO

LOCATION: 4056 MAHONEY ROAD,
SECTION 9, TOWN OF DUNN
CHANGE FROM: FP-35 Farmland Pres-
ervation District TO RR-2 Rural Residential
District

REASON: creating one residential lot and
a residential spot zone area

2. PETITION: REZONE 11915
APPLICANT: GREEN FIRE PROPER-
TIES LLC

LOCATION: 8864 OFFERDAHL ROAD,
SECTION 21, TOWN OF SPRINGDALE
CHANGE FROM: LC Limited Commercial
District and AT-B Agriculture Transition
Business District TO LC Limited Commer-
cial District

REASON: zoning change to allow for a
caretaker's residence

3. PETITION: REZONE 11916
APPLICANT: WILLIAM AND SUSAN
LAUFENBERG

LOCATION: EAST OF 4541 COUNTY
HIGHWAY J, SECTION 32, TOWN OF
CROSS PLAINS

CHANGE FROM: FP-35 Farmland Pres-
ervation District TO RR-16 Rural Resi-
dential District

REASON: creating one residential lot

4. PETITION: REZONE 11917
APPLICANT: MARVIN O & DIXIE L
SCHWENN

LOCATION: 7582 COUNTY HWY PD,
SECTION 8, TOWN OF VERONA
CHANGE FROM: AT-35 Agriculture Tran-
sition District TO RR-2 Rural Residential
District

REASON: separating existing residence
from farmland

5. PETITION: REZONE 11918
APPLICANT: CUMMINGS AND TURK
FARMS LLC

LOCATION: 3436 NORTH STAR RD,
SECTION 34, TOWN OF COTTAGE
GROVE

CHANGE FROM: FP-1 Farmland Pres-
ervation District TO GC General Commer-
cial District

REASON: rezoning for commercial elec-
trical contractor business

6. PETITION: REZONE 11919
APPLICANT: K&D STONE LLC
LOCATION: WEST OF 430 CENTER
ROAD, SECTION 28, TOWN OF RUT-
LAND

CHANGE FROM: FP-1 Farmland Pres-
ervation District TO FP-35 Farmland
Preservation Business District

REASON: bring existing legal non-
conforming non-metallic mineral extrac-
tion site into conformance with current
zoning ordinances

7. PETITION: REZONE 11920
APPLICANT: SCHUSTER FAMILY TR,
DAVID & RUTH

LOCATION: WEST OF 1462 STATE
HWY 19, SECTION 7, TOWN OF
MEDINA

CHANGE FROM: FP-35 Farmland Pres-
ervation District TO RR-1 Rural Resi-
dential District

REASON: creating one residential lot

8. PETITION: REZONE 11921
APPLICANT: LEAH J BOELTE (LANGE)
LOCATION: 3094 SUNNYSIDE STREET
AND 2398 FAIRVIEW STREET, SEC-
TION 18, TOWN OF PLEASANT
SPRINGS

CHANGE FROM: SFR-08 Single Family
Residential District TO MFR-08 Multi-
Family Residential District

REASON: bring existing residential devel-
opment into compliance with current
zoning ordinances

***** Proof of Publication *****

zoning ordinances
9. PETITION: CUP 02580
APPLICANT: TODD M LEKAN
LOCATION: 272 EDGERTON ROAD,
SECTION 34, TOWN OF ALBION
CUP DESCRIPTION: large animal
(horse) boarding
10. PETITION: CUP 02581
APPLICANT: GREEN FIRE PROPER-
TIES LLC
LOCATION: 8864 OFFERDAHL ROAD,
SECTION 21, TOWN OF SPRINGDALE
CUP DESCRIPTION: caretaker's resi-
dence; outdoor storage; storage of more
than 12 vehicles/equipment on the
property
11. PETITION: CUP 02582
APPLICANT: K&D STONE LLC
LOCATION: WEST OF 430 CENTER
ROAD, SECTION 28, TOWN OF RUT-
LAND
CUP DESCRIPTION: expansion of an
existing non-metallic mineral extraction
operation
WSJ: January 10 & 17, 2023 141076
WNAXLP


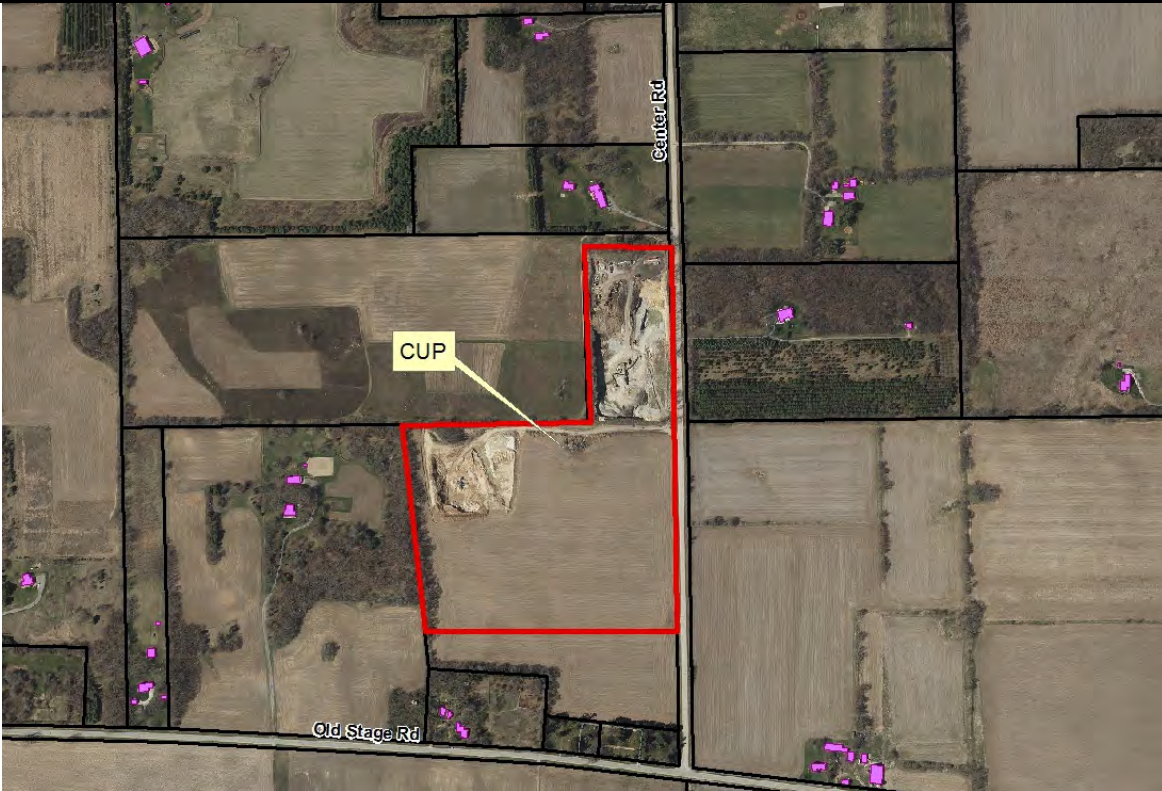
<h1 style="text-align: center;">Notice of Public Hearing</h1>  <p style="text-align: center;">Zoning and Land Regulation Committee</p>	<i>Public Hearing:</i> January 24, 2023	<i>Petition:</i> CUP 2582
	<i>Zoning Amendment:</i> None	<i>Town/sect:</i> Rutland / Section 28
	<i>Acres:</i> 37.8 <i>Survey Req. No</i>	<i>Applicant:</i> K&D Stone LLC
	<i>Reason:</i> Expansion of an existing non-metallic mineral extraction operation	<i>Location:</i> West of 430 Center Road

EXHIBIT F



The Dane County Zoning and Land Regulation (ZLR) Committee will hold a Public Hearing on **January 24, 2023** at 6:30pm regarding this proposal.

For more information on the proposal:

- Visit <https://dane.legistar.com/Legislation.aspx> and enter the Petition Number in the “Legislative text” box.

This will be a hybrid meeting. You may attend the meeting either in person OR virtually by computer or phone:

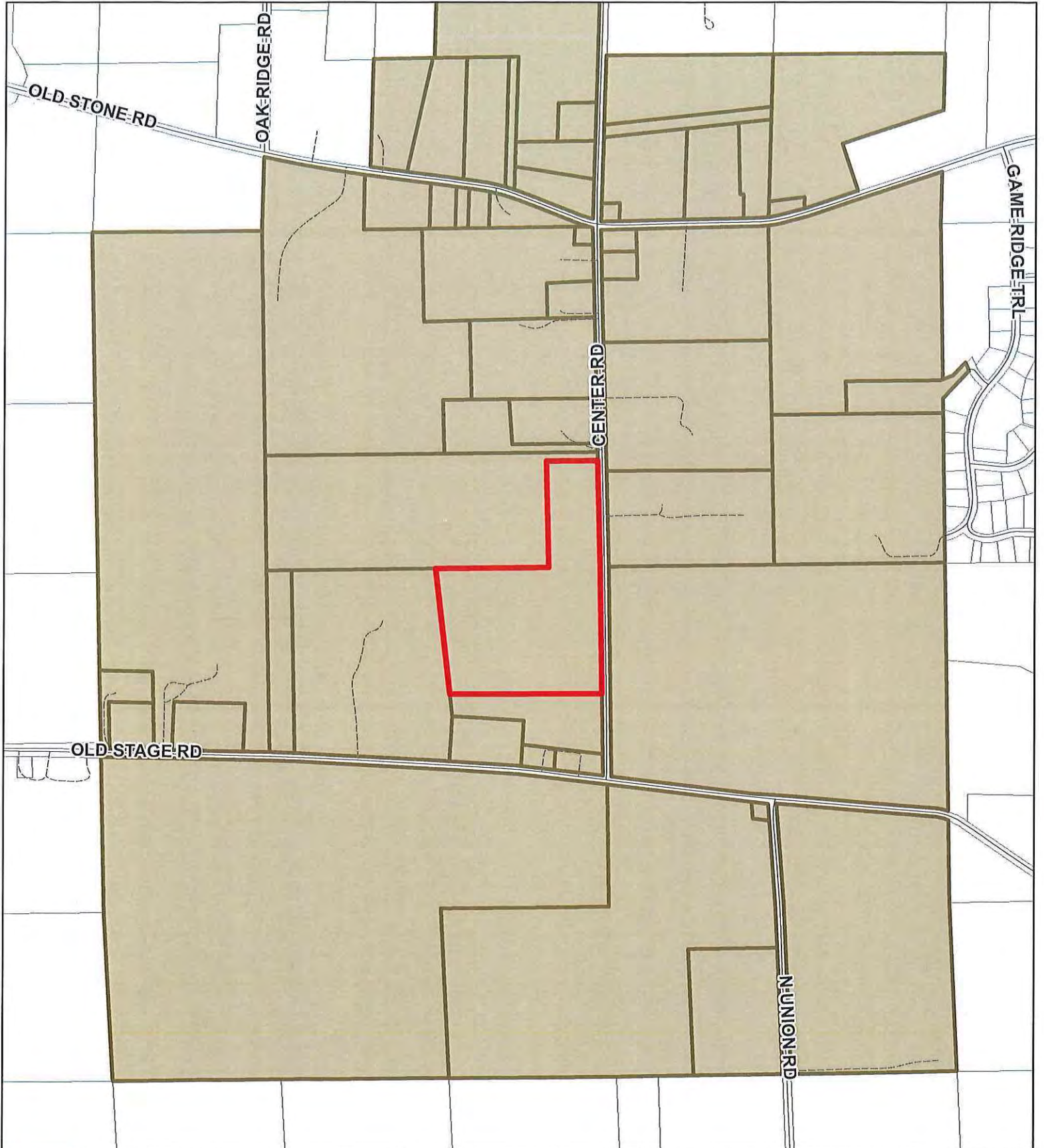
- IN PERSON at Room 354, City-County Building, 210 Martin Luther King Jr. Blvd, Madison, WI
- By COMPUTER or INTERNET (video): Visit <https://zoom.us/j/92386102807> to join and register for the meeting.
- By PHONE (voice only): Dial 1-888-788-0099 and enter Webinar ID: 923 8610 2807




If you wish to comment on the proposal:

- To SPEAK on this proposal, you must **register at least 30 minutes prior** to the meeting. Please use the meeting Zoom link, or contact staff at 608-266-4266 or plandev@countyofdane.com.
- Any WRITTEN COMMENTS must be submitted at least **one week prior** to the meeting (by January 17, 2023). Please send all written testimony to plandev@countyofdane.com.

DCPCUP-2022-02582

Public Hearing Date: 1/24/2023



-  Proposed Zoning/CUP
-  Tax Parcels within a Quarter Mile for Mineral Extraction
-  Tax Parcels



ANDREW W LAUNDRIE & PAMELA J
MARR-LAUNDRIE
4082 OLD STAGE RD
BROOKLYN WI 53521

CHRISTOPHER ZIEMBA & KATHLEEN
SHYDLOWSKI ZIEMBA
4040 OLD STONE RD
OREGON WI 53575

DARYL J RIDGELY & MARY P RIDGELY
4126 OLD STAGE RD
BROOKLYN WI 53521

DOUGLAS M PETERSON & PAMELA A
PETERSON
4028 OLD STONE RD
OREGON WI 53575

GEORGE BROS FARMS INC
4177 OLD STAGE RD
BROOKLYN WI 53521

HENRY N SPELTER & VIOLET M SPELTER
5204 AUTUMN LN
MCFARLAND WI 53558

JENNIFER HANSON & TODD HANSON
430 CENTER RD
OREGON WI 53575

JOHN H SUNDBY & ERICA L SUNDBY
3811 HAWK LN
OREGON WI 53575

KATHY M ANACKER-HANSEN
25767 JACKSON ST
MUSCODA WI 53573

LARSON TR, BONNIE J
483 CENTER RD
OREGON WI 53575

CATTELL 2003 REV TR, WADE
610 CENTER RD
STOUGHTON WI 53589

COOK REVOCABLE LIVING TRUST
4130 OLD STAGE RD
BROOKLYN WI 53521

DESK LLC
399 COUNTY HIGHWAY X
EDGERTON WI 53534

EUGSTER IRREV TR, THOMAS M
4058 OLD STAGE RD
BROOKLYN WI 53521

HARRY T CORCORAN & KIMBERLY L
CORCORAN
205 N UNION RD
BROOKLYN WI 53521

HILLESTAD REV LIVING TR, SHAWN
4120 OLD STAGE RD
BROOKLYN WI 53521

JEREMY R EPPLER & KENDRA M Z
EPPLER
3980 OLD STONE RD
OREGON WI 53575

K&D STONE LLC
439 CENTER RD
OREGON WI 53575

KEVIN W HAHN
439 CENTER RD
OREGON WI 53575

LINDSEY L WOODSTOCK
3898 OLD STONE RD
OREGON WI 53575

CHARLENE M GREENSLET
3884 OLD STONE RD
OREGON WI 53575

DANIEL S MC GUIRE & CYNDI A MC
GUIRE
3991 OLD STONE RD
OREGON WI 53575

DEVIN HAHN & GRETCHEN BUSS
3898 OLD STONE RD
OREGON WI 53575

FRANCISCO PELEGRI & REBECCA S VAN
DAN
4006 OLD STAGE RD
BROOKLYN WI 53521

HECTOR BON
140 SARATOGA CIR
OREGON WI 53575

J BIX MORGAN & BETH A HAMMER
396 GAME RIDGE TRL
OREGON WI 53575

JOEY ROATCH & LORI ROATCH
3951 OLD STONE RD
OREGON WI 53575

KATHERINE ANGELES & RUDY ANGELES
3912 OLD STONE RD
OREGON WI 53575

KNUTSON LIVING TR
4061 OLD STONE RD
OREGON WI 53575

LUCAS J ELSING & KATHERINE J ELSING
563 CENTER RD
OREGON WI 53575

MARGO G DILOCKER
4009 OLD STONE RD
OREGON WI 53575

MONA L PUTNEY
525 CENTER RD
OREGON WI 53575

ROBERT E HILL & HEATHER A HILL
487 CENTER RD
OREGON WI 53575

RODNEY J KELLERMAN & KERRI L
KELLERMAN
3868 OLD STONE RD
OREGON WI 53575

RUTLAND, TOWN OF
4177 OLD STAGE RD
BROOKLYN WI 53521

STEPHEN M HANSEN & SUSAN A
REBELLO
564 CENTER RD
OREGON WI 53575

THOMAS M MASON & REBECCA A
MASON
4015 OLD STONE RD
OREGON WI 53575

WILLIAM D NELSON
3897 OLD STAGE RD
BROOKLYN WI 53521

MARTIN MORA
3946 OLD STONE RD
OREGON WI 53575

NELSON LIVING TR, WILLIAM D
3897 OLD STAGE RD
BROOKLYN WI 53521

ROBERT M HILL & JANE M HILL
509 CENTER RD
OREGON WI 53575

ROSS L ELSING & SUSAN E ELSING
601 CENTER RD
STOUGHTON WI 53589

SANRO IRREV TR
454 CENTER RD
OREGON WI 53575

STEVEN H FOLTZ & PATRICIA A FOLTZ
4005 OLD STONE RD
OREGON WI 53575

TIMOTHY J WOOD
4000 OLD STONE RD
OREGON WI 53575

MARY LOU MACLEOD
4116 OLD STAGE RD
BROOKLYN WI 53521

RICHARD S SIMONSON & SUSAN E
SIMONSON
4039 OLD STONE RD
OREGON WI 53575

ROBIN STROEBEL-CRUZ
3927 OLD STONE RD
OREGON WI 53575

RUTLAND CEMETERY ASSN
NOT PROVIDED
NOT PROVIDED WI 99999

SCOTT A CREWS & ANN C CREWS
555 CENTER RD
OREGON WI 53575

STOUGHTON FARMS INC
4254 OLD STONE RD
OREGON WI 53575

TIMOTHY J WOOD & ROBYN S WOOD
4000 OLD STONE RD
OREGON WI 53575

https://dane.legistar.com/LegislationDetail.aspx?ID=5945309&GUID=9B25FC5A-8BF9-4A63-A3D8-11C2650E1FB9&Options=Advanced&Search=



Dane County Government Legislative Information Center

More information regarding how to use the Legislative Information Center can be found [here](#).

Resolutions and Ordinance Amendments from 2004-2013 can be found [here](#).

Board proceedings from 1900-2014 can be found [here](#).

If available, videos of meetings will generally be uploaded within 5 business days of the meeting.

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Share RSS Alerts

Details Reports

File #: 02582 Version: 1 Name: RUTLAND - K&D STONE LLC
 Type: Conditional Use Permit Status: Passed
 File created: 11/22/2022 In control: [Zoning & Land Regulation Committee](#)
 On agenda: 2/28/2023 Final action: 3/14/2023
 Title: PETITION: CUP 02582 APPLICANT: K&D STONE LLC LOCATION: WEST OF 430 CENTER ROAD, SECTION 28, TOWN OF RUTLAND CUP DESCRIPTION: expansion of an existing non-metallic mineral extraction operation

Attachments: 1. [CUP 2582 Finding of fact and suggested conditions.pdf](#), 2. [CUP 2582 Memo to ZLR.pdf](#), 3. [CUP 2582 Applicant's response to letter.pdf](#), 4. [CUP 2582 Staff Report.pdf](#), 5. [CUP 2582 Map](#), 6. [CUP 2582 App](#), 7. [CUP 2582 Neutral - Johnson.pdf](#), 8. [CUP 2582 Opposed - Proctor.pdf](#), 9. [CUP 2582 Opposed - Puttney.pdf](#), 10. [CUP 2582 Opposed - S Foltz.pdf](#), 11. [CUP 2582 Opposed - Simpson 2.pdf](#), 12. [CUP 2582 Opposed - Simpson.pdf](#), 13. [CUP 2582 Opposed - Umhoefer.pdf](#), 14. [CUP 2582 Opposed - Vanderveer.pdf](#), 15. [CUP 2582 Opposed - Weber.pdf](#), 16. [CUP 2582 Opposed - Wethal.pdf](#), 17. [CUP 2582 Opposed - Williams.pdf](#), 18. [CUP 2582 Opposed - Wood.pdf](#), 19. [CUP 2582 Opposed - Bertz](#), 20. [CUP 2582 Opposed - Cellevy](#), 21. [CUP 2582 Opposed - Dilocker](#), 22. [CUP 2582 Opposed - Georgiades](#), 23. [CUP 2582 Opposed - K Knutson](#), 24. [CUP 2582 Opposed - Knutson](#), 25. [CUP 2582 Opposed - P Foltz](#), 26. [CUP 2582 Opposed - Peterson](#), 27. [CUP 2582 Petition in opposition](#), 28. [CUP 2582 Presentation - Seffrood](#), 29. [CUP 2582 Suggested Conditions - Porter](#), 30. [CUP 2582 Suggested Conditions - Seffrood](#), 31. [CUP 2582 Support - Angeles](#), 32. [CUP 2582 Town newsletter](#), 33. [CUP 2582 Opposed - Thiel](#), 34. [CUP 2582 Opposed - Wood](#), 35. [CUP 2582 Presentation - Citizen Group](#), 36. [CUP 2582 Presentation - Larson](#), 37. [CUP 2582 Presentation - Laundrie](#), 38. [CUP 2582 Presentation - Spelter](#), 39. [Marquette County Appraisal submitted by Boerigter](#), 40. [Spelter - Homborg Deed Restriction](#), 41. [CUP 2582 Opposed - Anderson](#), 42. [CUP 2582 Opposed - Bachhuber](#), 43. [CUP 2582 Opposed - Bernino](#), 44. [CUP 2582 Opposed - Igl](#), 45. [CUP 2582 Opposed - Seibal](#), 46. [CUP 2582 Opposed - Spelter](#), 47. [CUP 2582 Opposed - Stanek](#), 48. [CUP 2582 Support - Kellerman](#), 49. [CUP 2582 Support - Uecker](#), 50. [CUP 2582 - Westberg Letter to Town](#), 51. [CUP 2582 Support - Gunby](#), 52. [CUP 2582 Petition in opposition 2](#), 53. [CUP 2582 Petition in support](#), 54. [CUP 2582 Support - Arends](#), 55. [Town land use grievance - Sprague](#), 56. [CUP 2582 Igl submittal](#), 57. [CUP 2582 Marcusser photos](#), 58. [CUP 2582 Additional testimony Feb 28](#), 59. [CUP #2582.pdf](#)

History (5) Text

5 records Group Export

Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Video
3/14/2023	1	Zoning & Land Regulation Committee	approved	Pass	Action details	Meeting details	Not available
2/28/2023	1	Zoning & Land Regulation Committee	direction for staff	Pass	Action details	Meeting details	Not available
2/28/2023	1	Zoning & Land Regulation Committee	direction for staff	Pass	Action details	Meeting details	Not available
2/28/2023	1	Zoning & Land Regulation Committee	direction for staff	Pass	Action details	Meeting details	Not available
1/24/2023	1	Zoning & Land Regulation Committee	postponed	Pass	Action details	Meeting details	Not available

[2022 OA-057](#) AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES, ESTABLISHING SETBACKS FOR COMMUNICATION TOWERS

In Support: None

Opposed: None

A motion was made by BOLLIG, seconded by KIEFER, that the Ordinance be postponed to allow time for town actions in accordance with State Statutes. The motion carried by the following vote: 3-0.

Ayes: 3 - BOLLIG, DOOLAN and KIEFER

Excused: 2 - MCGINNITY and RATCLIFF

E. Joint Public Hearing for a Conditional Use Permit

[02582](#)

PETITION: CUP 02582

APPLICANT: K&D STONE LLC

LOCATION: WEST OF 430 CENTER ROAD, SECTION 28, TOWN OF RUTLAND

CUP DESCRIPTION: expansion of an existing non-metallic mineral extraction operation

In Support: Kevin Hahn, Devin Hahn, Jessica Hahn, Mitchell Olson, Eric Christensen PE, Noah Rusch, Katelyn Marshall, Jacob Jankowski, Justine Stiefvater, Tyler Allen, Peter Stiefvater, Jessica Gunby, Keith Gunby, Cheryl Kotlowski, John Luxon, Eric Alfson, Wendy Norberg, John Christman, Brett Fankhauser, Britt Paquette-Fankhauser, Kerri Kellerman, Carl Hemb, Sue Wollin, Kate Angeles, Rudy Angeles, Ross

Opposed: Chris Ziemba, Gail Simpson, Bill Boerigter, Thomas Eugster, Sue Eugster, Kent Knutson, Bonnie Larson, Pam Marr-Laundrie, Maureen Rowe, Robyn Wood, Barbara Roe, Jodi Igl, Sharon Seffrood, Aris Georgiades, Doug Peterson, Paul Proctor, Mary Knutson, Craig Hineline, Eric Bachhuber, Grady Bachhuber, Mary Celley, Cari Sprague, Patricia Foltz, Susan Williams, Henry Spelter, Robert Marcussen, Jennifer Anderson, Tim Wood, Liz Bachhuber, Steven Foltz, Arnold Igl, Peter Vanderveer, Peter Andrisevic, Jayne Seibel, Robin Anderson, Kevin Groehler, Andrew Laundrie, Jennifer Keul-Whitman, John Whitman, Mike McCloskey, Kerry McCloskey, Arnie, Aaron Thiel, Kathy Fankhauser, Mike Johnson, William Ellis, Sarah Drew

Neither in Support nor Opposed: Mark Porter, Bob Postel, Jeff Furseth, James Dorn, Todd Hanson

A motion was made by BOLLIG, seconded by KIEFER, that the Conditional Use Permit be postponed due to no town action and public opposition. The motion carried by the following vote: 3-0.

Ayes: 3 - BOLLIG, DOOLAN and KIEFER

Excused: 2 - MCGINNITY and RATCLIFF

EXHIBIT I

February 9, 2023

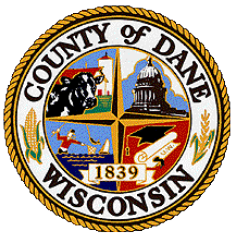
Dane County Planning & Development
210 Martin Luther King Jr. Blvd Room 116
Madison, WI 53703-3342

Re: Petition 11919 and CUP 02582

Please be advised that the Town of Rutland Planning Commission members and the members of the Rutland Town board took no action on Petition 11919 and CUP 02582 because of a lack of quorum at their respective meetings held on February 6, 2023 (Planning Commission) and February 8, 2023 (Town Board).

For the Rutland Town Board and Planning Commission,

Dawn George, Clerk



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

EXHIBIT J

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*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

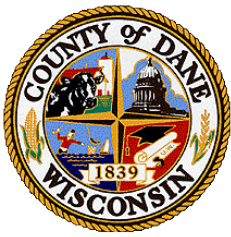
Zoning
(608)266-4266, Rm. 116

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.



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

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

*Housing &
Economic Development*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

Zoning
(608)266-4266, Rm. 116

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			

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 reasonable opportunity to correct any violations prior to revocation;
14. Horse boarding operations shall be limited to a maximum of 25 horses at any one time. The number of employees shall be limited to a maximum of 5.
15. Horse boarding and training facility operating hours shall be daylight hours, which vary seasonally.
16. The CUP is granted for Ace Equestrian, with Allison Graf as the operator. The CUP shall expire upon the sale of the property to a new owner (not including the impending sale of the land to Allison Graf).
17. Owner/Operator shall be responsible for instituting and complying with a nutrient management plan and/or animal waste disposal plan written to NR 151 standards and approved by Dane County Land Conservation.
18. Outdoor lighting shall be directed downward and away from adjacent properties and public rights-of-way, and be designed to minimize ambient light spill.
19. The parking and circulation plan shall comply with the Zoning Ordinance requirements of section 10.102(8).
20. Any business signage shall require a sign permit and shall comply with all applicable Town of Albion and Dane County Zoning Ordinance sign regulations.
21. Upon approval of the CUP, the 4 adjacent neighbors will be notified by the Town of Albion that they have the option to voluntarily test for nitrates, nitrites, coliform and e-coli. Any such testing shall be completed within 90 days of the approval of the CUP. The cost of the testing will be paid by the CUP applicant and the tests will be kept on file with the Town of Albion.
22. The owner or applicant will work with the Town of Albion on identifying and fixing the water runoff issues coming from the property's main driveway and creating issues on the town road. If services of an engineer are required, it will be at the cost of the owner or applicant. Cost of any repair shall be the sole responsibility of the applicant unless otherwise agreed to by the Town of Albion.
23. The CUP shall expire automatically if Ace Equestrian or a successor entity owned by Allison Graf ceases to do business or is no longer registered as a business in good standing with the Wisconsin DFI.

Ayes: 5 - BOLLIG,DOOLAN,KIEFER,MCGINNITYandRATCLIFF

02582

PETITION: CUP 02582

APPLICANT: K&D STONE LLC

LOCATION: WEST OF 430 CENTER ROAD, SECTION 28, TOWN OF RUTLAND

CUP DESCRIPTION: expansion of an existing non-metallic mineral extraction operation

A motion was made by KIEFER, seconded by BOLLIG, to enter the emails and letters received after the public hearing into the public record. The motion carried by the following vote: 4-0-1.

Ayes: 4 - BOLLIG,DOOLAN,KIEFERandRATCLIFF

Abstain: 1 - MCGINNITY

A motion was made by KIEFER, seconded by BOLLIG, to direct staff to prepare findings of fact and potential conditions in order to be reviewed at the March 14th ZLR Committee meeting. The motion carried by the following vote: 4-0-1.

Ayes: 4 - BOLLIG,DOOLAN,KIEFERandRATCLIFF

Abstain: 1 - MCGINNITY

A motion was made by KIEFER, seconded by RATCLIFF, to close the public record. The motion carried by the following vote: 4-0-1.

Ayes: 4 - BOLLIG,DOOLAN,KIEFERandRATCLIFF

Abstain: 1 - MCGINNITY

F. Plats and Certified Survey Maps

G. Resolutions

H. Ordinance Amendment

[2022 OA-057](#) AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES, ESTABLISHING SETBACKS FOR COMMUNICATION TOWERS

A motion was made by BOLLIG, seconded by RATCLIFF, that the Ordinance be recommended for approval. The motion carried by the following vote: 5-0.

Ayes: 5 - BOLLIG,DOOLAN,KIEFER,MCGINNITYandRATCLIFF

I. Items Requiring Committee Action

J. Reports to Committee

[2022](#)
[RPT-706](#) Report of approved Certified Survey maps

K. Other Business Authorized by Law

Chair Doolan asked to revisit the ZLR rules and procedures at the March 14th ZLR meeting in order to review the language regarding the time limit set on rezoning petitions and conditional use permit applications after the public hearing has been held.

L. Adjourn

A motion was made by RATCLIFF, seconded by BOLLIG, to adjourn the meeting at 8:56pm. The motion carried unanimously.

MEMO

To: Zoning & Land Regulation (ZLR) Committee

From: Roger Lane, Dane County Zoning Administrator

Date: March 7, 2023

Subject: Findings of Fact and suggested conditions for CUP #2582, Town of Rutland

At the February 28, 2023 Zoning and Land Regulation Committee meeting, the Committee directed Staff to prepare findings of fact and possible conditions for proposed Conditional Use Permit #2582. Staff has prepared the information as requested. See below. The suggest conditions contain limitations on the proposed non-metallic mineral extraction operation to help address the concerns. The conditions are highlighted below:

- Limitations of Operation
 - Condition 15 sets a 15 year limit on the conditional use permit.
 - Condition 30 limits the operation to K&D Stone only. The condition will ensure that the operation is kept at the activity level that is currently occurring.
 - Condition 21 sets limitations on the hours of operation to establish neighborhood expectations.
 - Condition 27 sets limitations on hours for blasting.
- Limitations on noise
 - Condition 21 prohibits operations on Sundays and holidays to establish neighborhood expectations.
 - Condition 24 sets requirements for exhaust noise from equipment.
 - Condition 31 requires berms to help reduce noise.
 - Condition 32 sets a noise limitation to 75 decibels. The condition provides limitations on excessive noise.
 - Condition 36 prohibit engine braking on-site to help reduce noise.
- Dust control
 - Condition 17 requires a paved driveway surface to reduce generation of dust.
 - Condition 25 requires compliance with DNR emissions standards.
 - Condition 30 sets requirements for berming.
 - Condition 36 sets a vehicle operational speed to reduce dust.
- Safety
 - Conditions 4, 25, 27, 28, and 29 sets requirements for compliance with industry standards.
 - Condition 18 requires the site to be gated.
 - Condition 22 requires the operation to be fenced.
 - Condition 33 sets a requirement for driveway entrance.

Finding of Fact:

1. The proposal is a continuation of an existing non-metallic mineral extraction site. The quarry has been in existence since the 1930's and was registered as a legal non-conforming land use in 1969. The site has also been used to supply sand material for the Hwy 14 DOT project. The site contains a deposit of high-quality dolomite and sand.
2. The property is zoned under the FP-35 Farmland Preservation Zoning District. The zoning district lists non-metallic mineral extraction as a land use permitted through the conditional use process.
3. The Department of Agriculture, Trade, and Consumer Protection has certified the FP-35 Zoning District to be included within the Farmland Preservation Program. Non-metallic mineral extraction is an acceptable land use within the certified zoning district. The land use is considered temporary in nature.
4. The applicant has submitted a reclamation plan for the site. The plan states that the land will be returned to agricultural use (planting/aquaculture) after the deposit is depleted. All topsoil will remain on site for reclamation purposes.
5. The Town of Rutland Comprehensive Plan shows this site within the Agricultural Preservation Planning Area. Residential density is limited to one house per 35 acres. There are 6 existing residences within 1000 feet of the CUP boundaries.
6. The Dane County Zoning Ordinance assigns conditions for all conditional use permits in order to set minimum standards for potential uses. The Zoning Ordinance also assigns specific conditions for non-metallic mineral extraction operations under Dane County Zoning Ordinance Section 10.103 to provide a standard for all operations within Dane County.
7. The Mine Safety and Health Administration (MSHA) regulates safety in mining operation. MSHA mandates specific back-up alarms to be installed on all vehicles operating in a surface of sub-surface mining site.
8. The State of Wisconsin has set standards for mine blasting under SPS 307, Wisconsin Administrative Code and is monitored by Wisconsin Safety and Professional Services.
9. The Wisconsin Department of Natural Resources has set standards for air emissions and storm water discharge for mining operations and is monitored by the State DNR.
10. A public hearing was held for the proposed land use. Concerns were raised regarding aesthetics, noise, and traffic. Conditions have been proposed to mitigate the concerns.
11. The Zoning and Land Regulation has determined that the proposal will meet the 8 standards for obtaining a conditional use permit under 10.101(7)(d) and 10.220(1) given that the list of conditions below are followed.

RECOMMENDED CONDITIONS:

Standard conditions for all conditional use permits

- 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.
- 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) 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.
- 6) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
- 7) Off-street parking must be provided, consistent with s. 10.102(8).
- 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.
- 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.
- 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.
- 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.
- 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.

Special conditions as listed under Dane County Zoning Ordinance Section 10.103

- 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.
- 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.
- 15) The permit period shall be fifteen (15) years from effective date.
- 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.
- 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.
 - 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."
 - 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.
 - 20) Excavations below the grade abutting Center Road shall be setback 30 feet from the property line.
 - 21) 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.
 - 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.
 - 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.
 - 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.
 - 25) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076, Wisconsin Administrative Code.
 - 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.
 - 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.
 - 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.
 - 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.

Conditions specific to the K&D Stone Site

- 30) This CUP is limited to K&D Stone only. CUP#2582 is non-transferrable to a different operator.
- 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.
- 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.
- 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.
- 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 back-up beeps, for instance, those making a sweeping sound if approved by MSHA.
- 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."
- 36) A 2'x4' sign shall be placed at the entrance point of the site stating, "Speed limit 15 mph."
- 37) Engine breaking is prohibited for all vehicles either entering, leaving or driving on-site.

Standards for obtaining a Conditional Use Permit

As part of the conditional use process, the Zoning and Land Regulation Committee shall make a determination whether the proposed land use meets the standards of obtaining a conditional use permit. County Staff has prepared suggested reasoning for the listed standards for review.

1. The proposal is not detrimental to public health, safety, comfort and welfare

Conditions have been proposed for the operation to place limits on the activity level, noise, dust, and safety to mitigate concerns to an acceptable level.

2. Uses, values and enjoyment of other property in neighborhood shall not be substantially impaired or diminished

The proposal is for the continuation of an existing land use. Conditions have been proposed for the operation to limit the activity to the current state.

3. Will not impede normal and orderly development of surrounding property

The proposal is in an Agricultural Preservation Development Area as designated on the Town Comprehensive Plan. Future residential is limited in the area per the Town Plan policies. After the deposit is depleted, the lands will return to agricultural production.

4. Utilities and roads

The town roads servicing this site are adequate in design and construction.

5. Ingress and egress

Conditions have been proposed to require the driveway to be relocated to a safer location.

6. Use shall conform to all applicable regulations in the zoning district

The standard conditions for conditional use permits and special conditions for non-metallic mineral extraction operations have been proposed as a requirement by ordinance.

7. The use is consistent with the Town and County Comprehensive Plans

A mineral extraction operation is identified as a land use that will occur in rural areas of the County.

8. Farmland Preservation District

Conditions have been proposed requiring a reclamation plan being in place to return the property to agricultural production once the deposit is depleted.

02582

PETITION: CUP 02582

APPLICANT: K&D STONE LLC

LOCATION: WEST OF 430 CENTER ROAD, SECTION 28, TOWN OF RUTLAND

CUP DESCRIPTION: expansion of an existing non-metallic mineral extraction operation

A motion was made by BOLLIG, seconded by RATCLIFF, to approve Conditional Use Permit #2582 with conditions in accordance with the findings of fact and being found to meet the 8 standards of obtaining a conditional use permit. The motion carried by the following vote: 4-0-1 (McGinnity)

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.

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) 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.

6) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.

7) Off-street parking must be provided, consistent with s. 10.102(8).

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.

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.

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.

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.

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.

- 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.
- 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.
- 15) The permit period shall be fifteen (15) years from effective date.
- 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.
- 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.
- 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."
- 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.
- 20) Excavations below the grade abutting Center Road shall be setback 30 feet from the property line.
- 21) 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.
- 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.
- 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.
- 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.
- 25) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076, Wisconsin Administrative Code.
- 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.

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.

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Ayes: 4 - BOLLIG,DOOLAN,KIEFERandRATCLIFF

Abstain: 1 - MCGINNITY