

MEMORANDUM

TO: Dane County Zoning & Land Regulation Committee

FROM: Attorney Mitchell Olson / K & D Stone

RE: CUP 2582 – Mineral Extraction: Permit Review

DATE: July 21, 2025

CC: Roger Lane, Zoning Administrator; Dan Everson, Land Division Review

In follow-up to the Dane County Zoning & Land Regulation Committee (“ZLR”) meeting on June 24, 2025, K&D Stone hereby submits the following supplemental narrative and documents, as requested by the Zoning Staff, relative to compliance with CUP 2582.

K&D Stone has received a Report (“Summary of Concerns and Violations of CUP 2582”) which Zoning Staff has submitted to the ZLR. (“Zoning Staff Report”) This Memo specifically responds to that Report, as well.

The following is a list of the 38 conditions in the subject Conditional Use Permit #2582, for non-metallic mineral extraction, and the Operator’s position on compliance therewith, as of July 21, 2025.

ADDRESSING ALL CUP CONDITIONS (1-38)

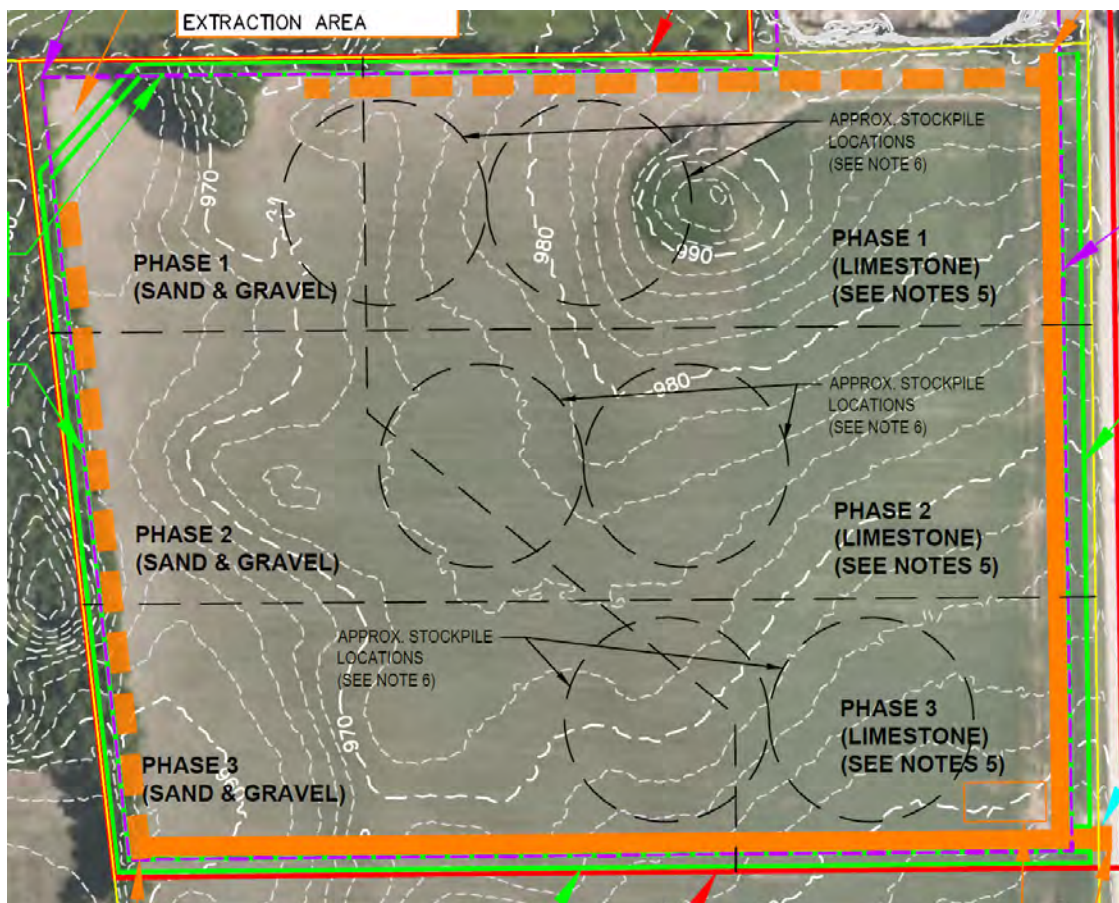
1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, phasing plan, and following conditions.

Response: There are four (4) issues to address wherein Zoning Staff reports a lack of compliance.

A. Operational / Phasing Plans

The Zoning Staff Report raises concerns about the mine's Operations Plan as to (i) developing incrementally, (ii) following phasing, and (iii) following the reclamation plan.

In response, the Operations and Phasing Plan called for development from North to South. This has occurred. The Operator is mining both sand and limestone and the Operation Plan has phases for each due to the variable demands of the aggregate market.



The demand for sand has been strong and the sand has depleted more rapidly than expected. There was less sand than expected in the north, and more in the south. Operator has had to move south to continue to mine sand. Operator cannot reasonably be expected to stop all sand extraction and sales, when sand is readily accessible, simply because there is still stone to extract in a prior phase area.

There is no instance of disconnected expansion. All operations are connected and work in concert, as typical of a quarry. All open areas are in active use for extraction, stockpiling, and movement within the quarry.

Quarrying through the phases has moved perhaps faster than originally anticipated, but that rate or movement of operations is not a violation.

Nothing about the current operations will prevent reclamation as anticipated by the Reclamation Plan. This is a fairly small site, overall, and the current level of disturbance / open areas was inevitable. [This also addresses Condition #16]

B. Acceptance of Fill and Stockpile at Northwest Corner.

The Operations Plan for this site provided: "The site will also accept general fill from offsite to aid in the reclamation of the site – materials will include but not be limited to topsoil and general fill – no trash or solid waste is accepted but a dumpster will be provided on site to manage any materials that need to be disposed of."

Per County Staff, acceptable clean fill includes "clean soil, brick, building stone, concrete or reinforced concrete not painted with lead-based paint, broken pavement, and wood not treated or painted with preservatives of lead-based paint." (Tab A - December 17, 2024 Report) Moreover, importing and dumping of clean fill is an accessory use to Mineral Extraction under Dane County Code 10.004(99)3. (Tab A)

In July 2024, there was a limited delivery of material that arrived on site which contained some prohibited material such as building materials. Mr. Dan Everson observed the materials at an inspection. He directed the removal of improper materials (including small pieces of splintered plywood and a couple pieces of aluminum) and directed the Operator to monitor every load coming on site. He commented: "I did not see anything that would constitute a violation." (Tab A)

The Operator has not taken in any more prohibited material since that time. Operator admits a mistake was made in not stopping the limited load(s) which caused concern. Operator removed and immediately disposed of all improper material at that time in July 2024. Operator has procedures in place to prevent future occurrences.

The Operator maintains a stockpile in the northwest corner of the expansion area. That pile sits on native ground. The stockpile is a combination of onsite stripping material from DOT Borrow Pit Project and new expansion quarry onsite stripping material, in addition to clean fill brought in for future reclamation. It was here that the improper loads were deposited in July 2024.

Operator maintains this stockpile for future reclamation. It should be noted that a significant amount of fill will be required to reclaim certain areas at a 3:1 slope. In the future, when other quarry areas are ready to take fill for reclamation, this stockpile will be moved and used therefor. The virgin land under the existing stockpile can then be mined further as needed.

In order to provide a level of assurance as to the nature of the existing fill material in this stockpile, Operator has dug two large holes (test pits) to inspect the contents. Photos showing the stockpile and the test pits are provided at Tab B.

Operator did not discover any improper materials in this process. Zoning Staff is welcome to inspect same.

Overall, the Operations Plan allows for stockpiles, allows for offsite material to assist with reclamation, and allows for reclamation using fill. Operator is complying with these processes. While a mistake was made in the past, the Operator is not engaged in solid waste dumping operations. Operator believes it is in current compliance. [This will address Condition #16]

C. Topsoil Processing.

The Operator believed he could receive used concrete, used asphalt, and topsoil for recycling / beneficial re-use. The text of the CUP did not specifically address recycling / beneficial re-use of topsoil, in addition to its use for reclamation. The re-sale of topsoil was assumed to be part of operations as it was included in Appendix D – Aggregate Products. Operator would welcome a discussion with Staff on how to best interpret this. In the interim, Operator has stopped all sales of topsoil and will retain all topsoil on site for future reclamation. As of the date of this Memo, Operator will be acting in compliance. [This will address Condition #13]

D. Stormwater Internal Drainage.

Inspections by Dane County Land & Water Staff and Zoning Staff detected a gap in the site's ability to drain internally at the southeast corner of the site. Based on a meeting with Zoning Staff on July 16, 2025, and the Staff Report, Operator understands the concerns and has taken immediate corrective action to cure this issue.

Specifically, starting near the gate entrance in the southeast corner of the site, Operator has created a drainage swale approximately 800 feet long running west to internally drain into the sand pit. The swale starts in the near the gate to collect all surface drainage and direct it east for approximately 800 feet. The first 400 feet is pitched at 1% slope, the remaining 400 feet will remain level to allow for some infiltration while still draining internally. The most upstream portion of the swale along the asphalt is covered in 3" clear stone. All stormwater will be internally drained under this design effective July 21, 2025, thereby creating compliance. [This will address Condition #14]

Photos depicting the new drainage way appear at Tab C.

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.

*Response: In Compliance. There are no permanent structures onsite that fit under the Commercial Building Code or Uniform Dwelling Code. There is a scale house. **Zoning Staff agrees.***

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.

*Response: In Compliance. All required permits were obtained, and the Operator is in compliance therewith. To date, copies have not been requested by Zoning Administrator. **Zoning Staff is waiting on comments from DNR.***

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.

*Response: In Compliance. Operator maintains all applicable licensing requirements, including seller's permit, scale house permit, and CDL licensing. To date, copies have not been requested by Zoning Administrator. **Zoning Staff is waiting on comments from DNR.***

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.

*Response: Not Applicable. There is no sewage disposal system onsite. A portable toilet serves this site. **Zoning Staff agrees.***

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

*Response: In Compliance. The only entrance is the Main Gate at the South end off Center Road, per Site and Operations Plan. **Zoning Staff agrees.***

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

*Response: Not Applicable. There is more than adequate parking for the employees at the site, including adjacent to the entrance gate. The site does not receive regular visitors other than trucks arriving to haul material. **Zoning Staff agrees.***

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.

*Response: Not Applicable. No road improvements have been required. **Zoning Staff indicates compliant.***

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.

*Response: In Compliance. Inspections have always been freely permitted. Operator has also invited State Mining Inspector David Vriezen to inspect the site, which occurred on 7/2/2025. His report will be provided. **Zoning Staff agrees.***

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.

*Response: In Compliance. Placard is posted on Scale House at entry to property. **Zoning Staff agrees.***

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.

Response: In Compliance. CUP is maintained in Scale House. Zoning Staff agrees.

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.

Response: Under County Review. There have never been any costs or fines assessed. Any formal written notices of violation from County Staff with the stated opportunity to cure a violation have resulted in timely compliance. Zoning Staff's Report has highlighted areas of concern addressed herein.

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 onsite for reclamation of the area. Topsoil or approved topsoil substitute must be returned to the top layer of fill resulting from reclamation.

Response: In Compliance. All topsoil is maintained onsite for future reclamation. See Response to Zoning Staff Report, I.C., above.

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.

Response: In Compliance. Operator has an approved Dane County erosion control plan. See Response to Zoning Staff Report, I.D., above.

15. The permit period shall be fifteen (15) years from effective date.

Response: In Compliance. Permit is within 15-year period. Zoning Staff has no comments.

16. Reclamation shall meet all requirements of Chapter 74 of the Dane County Code of Ordinances. In addition, all reclamation plans must meet the following standards:

- a. Final land uses after reclamation must be consistent with any applicable Town Comprehensive Plan, the Dane County Comprehensive Plan and the Dane County Farmland Preservation Plan.

Response: In Compliance. An approved Reclamation Plan is on file. This is a future requirement to be imposed when reclamation is appropriate per the mining plan and reclamation plan.

- b. Final slopes shall not be graded more than 3:1 except in a quarry operation.

Response: In Compliance. An approved Reclamation Plan is on file. This is a future requirement to be imposed when reclamation is appropriate per the mining plan and reclamation plan.

- c. The area shall be covered with topsoil and seeded to prevent erosion.

Response: In Compliance. An approved Reclamation Plan is on file. This is a future requirement to be imposed when reclamation is appropriate per the mining plan and reclamation plan.

- d. The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of Dane County.

Response: In Compliance. An approved Reclamation Plan is on file. This is a future requirement to be imposed when reclamation is appropriate per the mining plan and reclamation plan.

- e. Highwalls shall be free from falling debris, be benched at the top, and certified by a Civil Engineer to be stable.

Response: In Compliance. An approved Reclamation Plan is on file. This is a future requirement to be imposed when reclamation is appropriate per the mining plan and reclamation plan.

Overall Response: See Response to Zoning Staff Report, 1.A. and 1.B., above. A reclamation plan is not an exact science and it can ultimately be followed and implemented regardless of whether a single temporary stockpile is currently placed in the NW corner.

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.

*Response: In Compliance. The driveway is constructed appropriately. Operator waters daily (multiple times, if needed) when applicable and mechanically brooms the driveway and public road intersection to keep in a mud and dust free condition. **Zoning Staff agrees.***

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.”

*Response: In Compliance. The gate is closed and locked outside of operational hours except to allow for entry / exit as may be appropriate. Operator has established and communicated a policy to all employees to ensure compliance. **Zoning Staff acknowledges Operator is addressing this concern.***

19. All surface and subsurface operations shall be setback a minimum of 20’ from property lines that do not abut a public right of way. Operations along the Southern portion of the property shall adhere to the conditional use permit boundary (200-300 feet) as shown on the operation plan.

*Response: In Compliance. Setbacks are adhered to. **Zoning Staff agrees.***

20. Excavations below the grade abutting Center Road shall be setback 30 feet from the property line.

*Response: In Compliance. Setbacks are adhered to. **Zoning Staff agrees.***

21. Subject to State Statute 66.0441(3)(c), 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.

Response: In Compliance. Operator is currently following what appears to be the County’s reading of this term. We do wish to note that there is a fundamental source of confusion related to this term. As this condition is strictly read, a mechanic is forbidden from working to repair or maintain a piece of equipment at 7:02PM on a Monday. Working from 7:02PM to 8:00PM could conceivably have that piece of equipment available for work the next day, especially if the mechanic has traveled from out-of-town and been working on the equipment for several hours prior to 7:00PM. Yet, that same work could lawfully occur any time between 12:01AM and 11:59PM on a Sunday. Provided the site is secure, there is nothing inherent in a mechanical repair that would cause any

disturbance to any neighbors at 7:02PM. A past issue in this regard arose due to this unusual set of rules. Operator would welcome a discussion with Staff on how to best interpret this term. As of now, Operator is following Staff's instructions. Zoning Staff acknowledges Operator is addressing this concern.

22. There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 4 feet in height.

Response: In Compliance. A compliant fence is run at 4 feet high around the entire extraction area. Zoning Staff agrees.

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 water table.

Response: In Compliance. Operator is following Stormwater Discharge Permit. There has been no dewatering activity below the water table. Zoning Staff is waiting on comments from DNR.

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.

Response: In Compliance. Zoning Staff agrees.

25. The Operator shall meet DNR standards for particulate emissions as described in NR415.075 and NR 415.076, Wisconsin Administrative Code.

Response: In Compliance. Zoning Staff indicates this site may not be applicable.

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.

Response: In Compliance. Liability Insurance Policy in place at all times. The insurance agent/company annually has sent the certificate of insurance to the Town and County. Zoning Staff agrees.

27. Blasting:

- a. Blasting shall be limited to 10:00 a.m. to 4:00 p.m. Monday through Friday.

Response: In Compliance. All blasting meets CUP terms. Zoning Staff agrees.

- 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 1/2 mile of the site who wish to be notified of blasts. Residents need to communicate with the Operator regarding such requests.

Response: In Compliance. All blasting meets CUP terms. Zoning Staff agrees.

- 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.

Response: In Compliance. All blasting meets CUP terms. Zoning Staff agrees.

- d. Fly rock shall be contained within the permitted mineral extraction area.

Response: In Compliance. All blasting meets CUP terms. Zoning Staff agrees.

28. Any fuel storage onsite 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.

Response: In Compliance. Onsite fuel storage consists of two (2) 1,000-gallon mobile tanks on wheels. All fueling is done at appropriate locations, well above water table elevation. Zoning Staff agrees.

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.

Response: Not Applicable. Operator is not aware of any survey monuments at issue. Zoning Staff agrees.

30. This CUP is limited to K&D Stone only. CUP #2582 is non-transferrable to a different Operator.

Response: In Compliance. Operator has not transferred the CUP. Zoning Staff agrees.

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.

Response: In Compliance. There has been past concerns related to the vegetation on the berm on Center Road. Operator timely complied with the most recent Dane County Staff request, via email, and planted additional evergreen trees which are of the necessary size and height required. Operator has also taken steps to control noxious weeds. While the berms have not been perfect, Operator believes that they are in compliance with any applicable standards.

Moreover, in good faith, Operator is taking additional steps to restore and improve the berms with the addition of topsoil, seeding, and e-matting. This includes the Center Road berm and the berm adjacent to the Spelter parcel. Photos depicting the current berm condition as of July 21, 2025, with updated improvements, are provided at Tab D.

Operator, going forward, is committed to monitor, maintain, and assure the berm is established and healthy, and keeps a good appearance. Operator is willing to hire a professional landscape firm to assist with berm maintenance, such as for weed control / fertilization.

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.

Response: In Compliance. Zoning Staff agrees.

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.

Response: In Compliance. The North gate was closed and a berm installed in its place. Only the South entrance is in use. Zoning Staff agrees.

34. Back-up alarms. The onsite traffic flow shall be designated to establish minimum backing up of vehicular traffic during normal work operations. Whenever possible, the Operator

shall utilize alternatives to standard backup beeps, for instance, those making a sweeping sound if approved by MSHA.

Response: In Compliance. Zoning Staff agrees.

35. A 2' x 4' sign shall be placed at the existing point of the site stating: "All loads are required to be tarped prior to leaving the site."

Response: In Compliance. Zoning Staff notes this condition is unenforceable. Operator has and will continue to encourage trucks to tarp their loads.

36. A 2' x 4' sign shall be placed at the entrance point of the site stating: "Speed limit 15 mph."

Response: In Compliance. Zoning Staff agrees.

37. Engine breaking is prohibited for all vehicles either entering, leaving or driving onsite.

Response: In Compliance. Zoning Staff does not comment.

38. Upon 24-hour notice to conditional use permit Operator, operations must cease during interment at the Graves Cemetery.

Response: In Compliance. There have been three (3) known burial services since commencement of CUP operations. There was no notice to Operator prior to events 1 and 3. There was notice prior to event 2, and Operator stopped operations for that event. Operator cannot comply unless notice is provided. Zoning Staff does not comment.

CONCLUDING COMMENTS:

Since the June 24th ZLR meeting, the Operator, via counsel, made multiple written requests to set a date and time with Zoning Staff for a meeting to discuss this matter. Staff declined those requests. Staff instead demanded a statement from the Operator as to whether or not it believed it was 100% in compliance with any and all permits and laws governing its operation. Operator did not believe that was fair, and frankly, explained that Operator was consulting with its private consultant, State officials, and others to investigate whether there were any issues of concern. As a result, a meeting did not occur.

Operator's process was delayed due to his health and a hospitalization period in July.

Zoning Staff appeared on site on July 16, 2025, to conduct an inspection. Operator fully cooperated therewith.

Operator has taken steps to address all concerns and acknowledge where mistakes were made in the past.

Operator is committed to proceeding to operate in a professional and compliant manner. In furtherance thereof, Operator is willing, voluntarily, for a period of two (2) years to submit to an inspection and the issuance of a written report every six (6) months, to Zoning Staff, by a professional consultant / engineer with expertise in the non-metallic mining and reclamation field, assessing compliance with the all permit standards. Operator will agree to disclose those reports and any findings of concern to Zoning Staff. Operator will also agree to cure any issues within 30 days of such notice. Operator will assume all costs of this process.

Operator therefore respectfully requests the ZLR decline further proceedings, including a public hearing, on possible revocation. As previously discussed, such a hearing will simply revive and escalate hostilities in the neighborhood. Operator has responded to all concerns, admitted where mistakes were made, and is willing to move forward. Operator understands that future operations will be monitored closely and that strict compliance is needed.

Operator requests a chance to move forward with its operation. Operator employs 6-8 full-time workers, supplies critical aggregate resources to contractors and local governments in an area of significant economic growth, and has binding contracts that require the balance of 2025 to fulfill. Causing the loss of this CUP would have drastic impacts to many persons and businesses.

Thank you for your attention to this matter.



Dane County Planning & Development

Mining Regulatory

Date: December 17, 2024

To: Zoning & Land Regulation Committee

From: Daniel Everson, Land Division Review

Re: CUP 2582 – Mineral Extraction
Town of Rutland, Section 28
Property owner/Operator: K & D Stone (Kevin Hahn)

DCCO 10.101(7)(g) Revocation of Conditional Use Permit.

1. Application for a conditional use permit constitutes consent to inspection of the permitted premises by the zoning administrator or designee to assure permit compliance.
2. If a landowner or holder of the conditional use permit is found to be in violation of the permit conditions, the landowner or holder of the permit shall be notified in writing of the said violation(s) and given 10 days to correct the violation.
3. If the violation is not corrected within the assigned correction period, a report shall be filed with the zoning committee documenting the violation.
4. If the zoning committee finds that the conditions stipulated in the conditional use permit are not being complied with, the zoning committee, after a public hearing, may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in s. 10.101(7)(d).

10.101(7)(h)(2)(a) xii.

2. Conditions.

a. Standard conditions.

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 Zoning and Land Regulation Committee conditionally approved CUP 2582 on March 14, 2023.

On June 22, 2023, the Board of Adjustment heard appeal #3724 which was an appeal by Rutland Citizens United, U.A., Pamela J. Marr-Laundrie, and Henry Spelter appealing the decision of the Dane County Zoning and Land Regulation Committee regarding approval of conditional use permit 2582. The BOA approved conditional use permit 2582 with conditions as modified.

- *Amend condition 21 to be subject to State Statute 66.0441(3)(c).*
- *Append condition 38 to read, "Upon 24 hour notice to conditional use permit operator, operations must cease during interment at the Graves Cemetery."*

On Monday, November 19, 2024, emails were received by residents in the township of Rutland requesting that our department investigate a massive amount of garbage and construction debris being buried at the site. Concerns were raised with regards to the contamination of the groundwater and that the site was being used as a landfill. Several photos were attached showing the types of material from a neighboring property.

On November 20, 2024, I met with Kevin Hahn to go over the concerns raised and to investigate the fill material that was being placed on site. One of the first things I noticed is there were two distinct piles of broken concrete and asphalt. The asphalt is being recycled on site for the purpose of being sold for driveways and parking lots. The concrete is being recycled as well. There are several pieces that do contain rebar, but the operator has the ability to remove as much as practicable before the concrete is crushed. Both materials are not being buried and are contained within the boundaries of the site.





Further to the west there was a large pile of brush, trees and branches. The operator will be burning this pile over time. The DNR does have guidance on this type of material and wood stumps cannot be buried, but can be shredded or chipped then spread out.



The operator took me to the area where there has been recent dumping of various types of building materials. Materials were cinder blocks, clay tile, cream colored bricks, broken concrete and small pieces of asphalt. I did see small pieces of splintered plywood and a couple pieces of aluminum, maybe a window frame. I mentioned to the operator that any type of building materials that isn't allowed must be removed. Various types of stone materials is allowed, whether it is a man made or naturally made like boulders or rocks. The operator must monitor every load that comes into the site to verify the types of materials being dumped.

I did not see anything egregious that would constitute a violation. I also had conversations with Wisconsin DNR staff that oversee the reclamation program and the solid waste division at the state level to get their thoughts on this issue. These types of building materials are allowed to be used as fill within a non-metallic mining site.

NR 500.08(2)(a), *Wisconsin Adm. Code* considers clean fill to be clean soil, brick, building stone, concrete or reinforced concrete not painted with lead-based paint, broken pavement, and wood not treated or painted with preservatives or lead-based paint.





The original CUP application materials does mention that the site will accept general fill.

The site will also accept general fill from offsite to aid in the reclamation of the site – materials will include but not be limited to topsoil and general fill – no trash or solid waste is accepted but a dumpster will be provided onsite to manage any materials that need to be disposed of. Finally, note that concrete and asphalt will also be accepted to be recycled as noted in *Appendix D – Aggregate Products List*.

AGGREGATE PRODUCTS LIST

Crushed Stone:

- 3/4" Clear Crushed Limestone
- 1 1/4" Clear Crushed Limestone
- 3" Clear Crushed Limestone
- 5" Clear Crushed Limestone
- 3/4" Base Crushed Limestone
- 1 1/4" Base Crushed Limestone
- 3" Breaker Run
- Screenings
- Rip-Rap – Various Sizes

Recycled Products:

- 1 1/4" Crushed Asphalt
- 1 1/4" Crushed Concrete

Other Products:

- Bank Run Sand
- Screened Sand
- Topsoil
- Screened Topsoil
- Landscape Boulders
- Cobblestone – Various Sizes

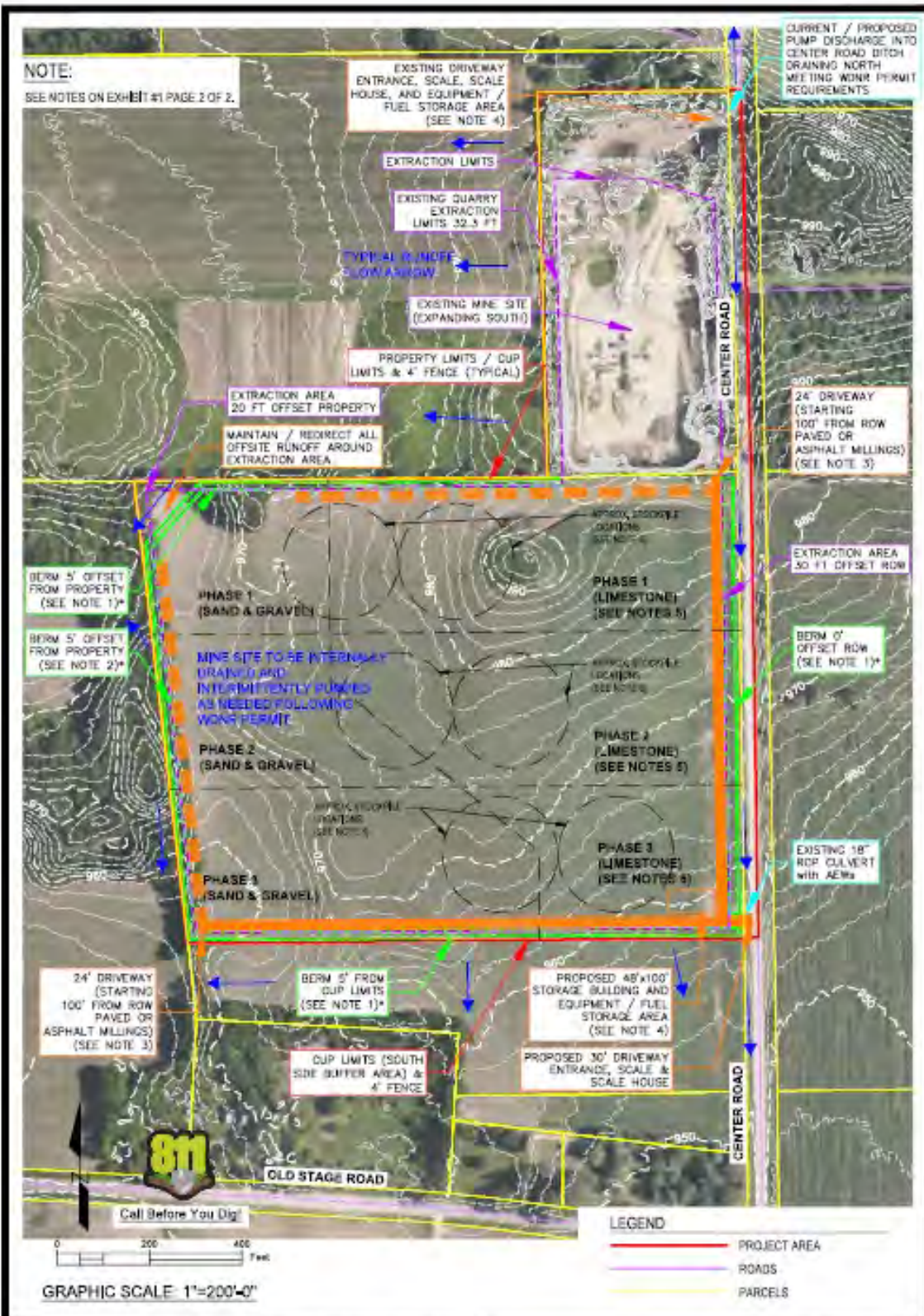
As per 10.004(99)3 *Dane County Code of Ordinances*, Importing and dumping of clean fill materials is an accessory use to Mineral extraction. In addition, under 10.004(99)2; stockpiling and processing of concrete and asphalt pavements for the purpose of recycling for reuse in asphalt or concrete mixtures or base course products is allowed as an accessory use to Mineral Extraction.

Lastly, the site in general appeared to be in compliance. No erosion control issues and the newly constructed berms seemed to be providing stormwater control. I will be following up on the landscape of the berm along Center Road next spring as the evergreen trees do not appear to be healthy.



Also, I initiated a conversation with the operator with regards to the overall strategy with the operations plan and the reclamation plan. Technically, there are no areas considered to be reclaimed and the reclamation plan can be modified over time as the initial conception is for the site is to be returned to a small lake.

However, Condition #1 of CUP 2582 states that the 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.



Project Name and Address CENTER ROAD QUARRY NON-METALLIC MINE TOWN OF RUTLAND DANE COUNTY	1	PERMIT	8/18/22
	2	REVISION 1	1/11/22
	No.	Revision/Issue	Date



Mendota
Consulting, Inc.

Full Service Civil Engineering Design Specializing In:
SITE DESIGN | STORMWATER | PLUMBING | SOIL TESTING
eric@mendotaconsulting.com • 608-618-5742

Sheet Title
**OPERATIONAL PLAN
& EROSIONAL CONTROL**

Project No.
22-028

Sheet No.
EXHIBIT #1
PAGE 1 OF 2



Spring 2022



Summer 2023



Test Pit #1



Test Pit #1



Test Pit #2



Test Pit #2



Test Pit #2



Test Pit #2





Ditch



Ditch



Ditch



Ditch





Berm



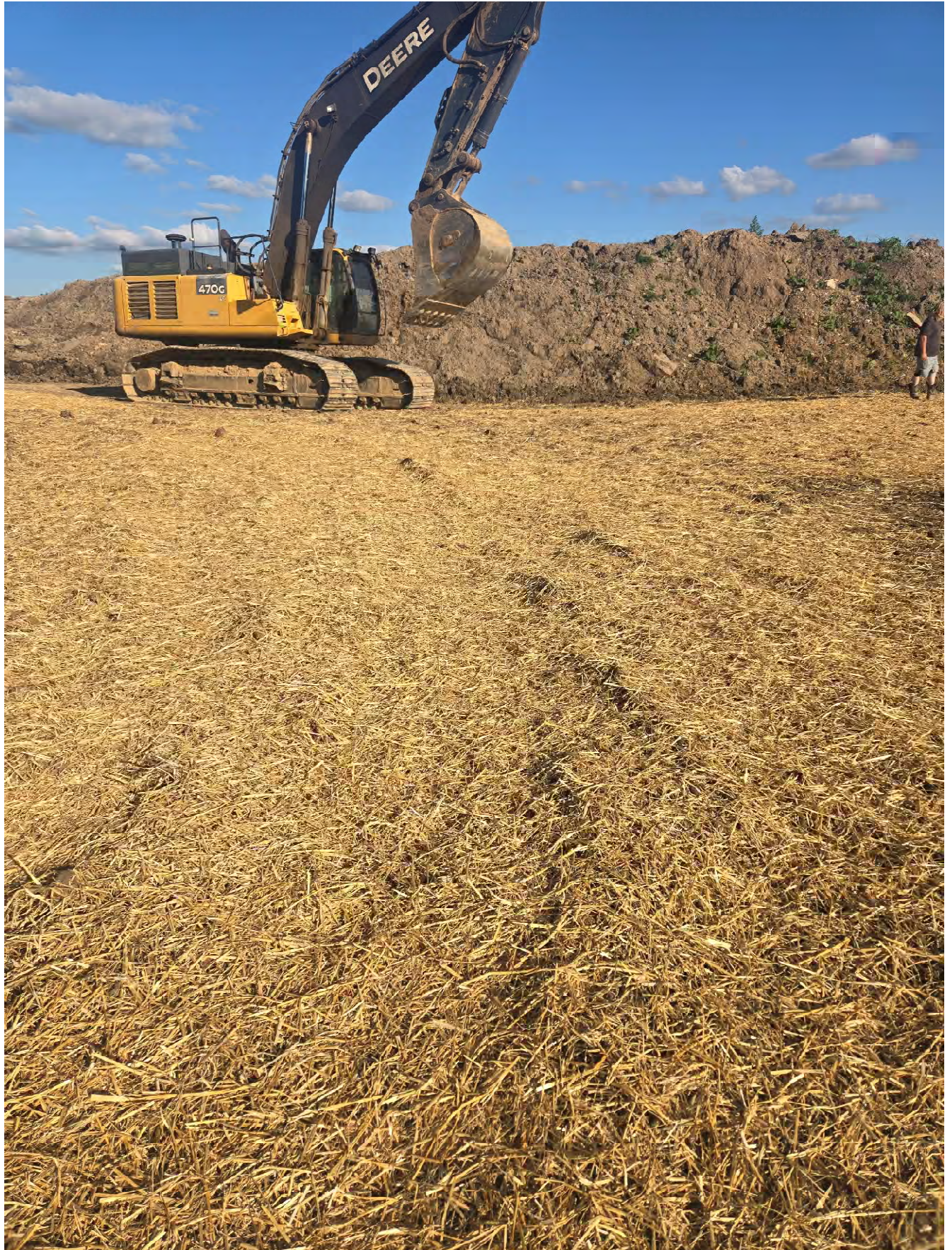
Berm by Spelter – New Topsoil added. Seeded & Mulched



Berm by Spelter – New Topsoil added. Seeded & Mulched



Berm by Spelter – New Topsoil added. Seeded & Mulched



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