

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">09/09/2014</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">REPORT AND RECOMMENDATIONS FROM THE QUARRY MONITORING COMMITTEE PERTAINING TO QUARRY MONITORING AND THE TERMS AND PROVISIONS OF PLANNED DEVELOPMENT DISTRICT NO. 23 (PAYNE & DOLAN COMPANY)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.A.</i></p>

BACKGROUND/INTRODUCTION

The Quarry Monitoring Committee, after completing a review of Planned Development District No. 23 (as set forth in Ordinance 97-1456), prepared a report recommending certain changes to that document (or to other ordinances as may be appropriate), as well as recommending that certain actions required by Planned Development District (PDD) No. 23 be completed by the quarry operator. The Committee then passed the following motion at its February 26, 2014 meeting "The Quarry Monitoring Committee has finished its review of Planned Development District No. 23 and recommends to the Plan Commission that it take the Committee's recommendations under consideration...". *A copy of that report is attached.*

The Plan Commission, at its March 20, 2014 meeting, reviewed the subject report and approved a motion to "recommend that the Planning Manager and City Attorney put together a timetable and address the letter from the DNR." No other action was taken by the Plan Commission at that time. *A copy of the DNR letter, dated January 29, 2014, is attached.*

The Quarry Monitoring Committee subsequently reviewed the action by the Plan Commission, and at its April 24, 2014 meeting, approved a motion that "the Committee's report on recommendations pertaining to Planned Development District No. 23...be forwarded to the Plan Commission and Common Council for their review and consideration."

The Plan Commission, at its August 21, 2014 meeting, again reviewed the subject report. The Plan Commission's action on this matter is presented in the following section of this Common Council Action Sheet.

Pursuant to the motions from the Quarry Monitoring Committee and the Plan Commission, this matter is now being forwarded to the Common Council for its consideration.

PLAN COMMISSION RECOMMENDATION

At its August 21, 2014 meeting, the Plan Commission reviewed the 19 recommendations set forth in the report from the Quarry Monitoring Committee. Regarding the Quarry Monitoring Committee's recommendation for limits on blasting, that the section of the PDD pertaining to the monthly reports to the Fire Department be updated to clearly identify who is responsible for the receipt and review of blast records and who is to be notified of any after-hours blasting activity, the Plan Commission moved that staff be directed to discuss, clarify, and return to the Common Council with a proposed procedure. No further action was taken by the Plan Commission on this matter. *A memo in response to the Plan Commission's motion is attached.*

ADDITIONAL INFORMATION

The following comments (pertaining to some of the Quarry Monitoring Committee's recommendations), were made at the Plan Commission's August 21, 2014 meeting and are provided here for the Council's information.

- Applicability of the 500 feet setback, as set forth in Section I. of the PDD. The Mayor has directed staff to look into this matter.

- Provision of biannual reports to the Plan Commission, as set forth in Section P. and Section Z. of the PDD. Representatives of Payne & Dolan presented their first such report to the Plan Commission at its June 19, 2014 meeting.
- Field location of the Extraction Area boundary, which boundary is set forth in Section R. of the PDD. A representative of Payne & Dolan indicated that they have recently field surveyed a portion of the Extraction Area boundary adjacent to S. 51st Street. *A copy of that information is attached.*
- Provision of annual aerial prints of the quarry to the City, as set forth in Section R. of the PDD. Payne & Dolan has now provided a copy of all such aerial prints.
- Update and obtain Common Council approval of the Quarry Reclamation Plan, as set forth in Section S. of the PDD. Staff noted they anticipate work on this matter will begin in the near future.
- Provision of signage within the quarry encouraging the use of truck tarps, pursuant to dust control practices as set forth in Section V. of the PDD. A representative of Payne & Dolan indicated that they will place such signage within the quarry in the near future.
- Installation and use of a wheel wash arrangement at the quarry's western entrance/exit, pursuant to dust control practices as set forth in Section V. of the PDD. The Mayor has directed staff to look into this matter.
- Applicability of performance standards from the previous zoning code, as set forth in Section DD. of the PDD. The Mayor has directed staff to look into this matter.
- Verification that all state and federal permits have been obtained by the quarry operator, as referenced in Section FF. of the PDD. The Mayor has directed staff to obtain copies of such permits from Payne & Dolan.
- Citizen suggestions that the City's Quarry Event Report Form (complaint form) be easier to find and fill out. The Mayor agreed, and Alderwoman Wilhelm is working with a citizen towards such improvements.

SUBSEQUENT ACTIONS

Should the Common Council wish to implement any of the Quarry Monitoring Committee's recommendations by means of changes to Planned Development District No. 23, that process is set forth in Section G.2. of PDD No. 23. In particular, the Council must direct the Plan Commission to consult with Payne & Dolan about any such changes, and then direct the Plan Commission to hold a public hearing on the matter. The Common Council could then consider any input and comments obtained from the public hearing, as well as from Payne & Dolan, prior to any decision on this matter.

Should the Common Council wish to implement any of the Quarry Monitoring Committee's recommendations through some means other than a change of PDD No. 23, the Council should direct staff accordingly.

In regard to the Plan Commission's motion that staff be directed to discuss, clarify, and return to the Common Council with a proposed procedure in regard to the receipt and review of blast records and who is to be notified of any after-hours blasting activity, the attached memo recommends that the current procedures be maintained and that a change of the PDD is not necessary.

COUNCIL ACTION REQUESTED

As the Common Council deems appropriate.



MEMORANDUM: FROM PLANNING DEPARTMENT

DATE: September 4, 2014
TO: Common Council
Mayor Steve Olson
FROM: Joel Dietl, Planning Manager
SUBJECT: Procedure for the Receipt and Review of Blast Records and After-Hours Blasting Activities Associated with the Payne & Dolan Quarry

INTRODUCTION

At its August 21, 2014 meeting, the Plan Commission reviewed the report and recommendations from the Quarry Monitoring Committee pertaining to quarry monitoring and the terms and provisions of Planned Development District No. 23.

Regarding the Quarry Monitoring Committee's recommendation for limits on blasting, that the section of the PDD pertaining to the monthly reports to the Fire Department be updated to clearly identify who is responsible for the receipt and review of blast records and who is to be notified of any after-hours blasting activity, the Plan Commission moved that staff be directed to discuss, clarify, and return to the Common Council with a proposed procedure.

Staff's proposed procedure is provided in the last section of this memorandum. A brief summary of the background and history of this subject is also provided below.

BACKGROUND/HISTORY

In regard to the Fire Department's involvement with quarry blasting, it can be noted that Section T.3. of Planned Development District No. 23 states, "Operator shall each month provide to the City Fire Department the recorded ground vibration and airblast levels of blasts conducted during the previous month." In addition, Section T.5. of PDD No. 23 states "In the event an explosive charge fails to detonate, Operator may detonate the failed charge beyond the 4:00 p.m. blasting limitation if necessary to avoid leaving undetonated explosives in the ground during evening and nighttime hours; provided, however, that Operator shall first notify the City Fire Chief or designee."

Prior to the Common Council's adoption of Planned Development District No. 23 in 1997, and for several years afterwards, the Fire Department received the blast reports, prepared monthly reports, and responded to other blasting related issues. However, shortly after the City's hiring of Aquifer Science and Technology in October of 2001 (to undertake monitoring of the quarry), the Fire Department no longer conducted such activities. In this regard, Aquifer Science and Technology's Work Plan for 2001 and subsequent years' stated that they would conduct field blast measurements, review blast records to determine compliance with the PDD, compare monitored blasts to the blast records collected by the quarries, and provide monthly reports to

the City. It can be noted that the quarries blast reports, and the consultant's reports, were sent to the Director of Administration, and that the consultant's monitoring was conducted from October 2001 through June 2005.

After the quarry monitoring contract with Aquifer Science and Technology was not renewed in 2005, the Director of Administration and then Alderman Sohns continued to receive and review the blast reports obtained from the quarry operators.

Since early 2009, at the direction of then Mayor Taylor and with the agreement of the Fire Chief, the Planning Manager has reviewed the blast records (during this time, the blast records were placed online, typically within a day or two after each subject blast, rather than sent to the Director of Administration's office on a monthly basis). In addition, the Planning Manager responds to any other blasting related issues that may arise (including any after-hours blasting), with assistance from other City staff as needed. For instance, when a particularly large blast occurred at the quarry on September 27, 2012, representatives of the Fire Department, the Police Department, and the Planning Department, all went with then Mayor Taylor to the quarry to immediately ascertain what had happened.

It can also be noted that the Planning Department in general, and the Planning Manager specifically, has also been responsible for responding to all quarry related complaints since 2009 (pursuant to direction from then Mayor Taylor), coordinating the activities of the City's quarry monitoring consultants (pursuant to the applicable contracts adopted by the Common Council), and serving as staff to the Quarry Monitoring Committee (pursuant to the Ordinance establishing the Committee).

PROPOSED PROCEDURE

Based upon the preceding information, including the City's ability to respond to issues in a timely and appropriate manner (as evidenced by the City's response to the September 27, 2012 blast) and with the agreement of the prior and current Fire Chiefs, Planning Department staff recommends that the current procedure for the receipt and review of blasting records, and response to other blasting related issues including after-hours blasting, be continued.

This would include Planning Manager review of the quarry blast records on a regular basis, and the use of and coordination with other City staff whenever needed. In this regard, it can be noted that the Planning Manager periodically updates the Mayor and the Director of Administration on significant quarry related issues, and that the Director of Administration's office, and recently the Fire Department, have access to the online blasting records.

As the Fire Department now has access to the blast records, and as the Fire Chief has agreed that the Planning Department should continue to handle most blasting related issues at the quarry, staff believes that a change of the PDD is not warranted.



August 28, 2014

PAYNE & DOLAN
INCORPORATED

Mr. Joel Dietl
Department of City Development
City of Franklin
9229 West Loomis Road
Franklin, WI 53132

Subject: Extraction Setback from 51st Street

Dear Mr. Dietl:

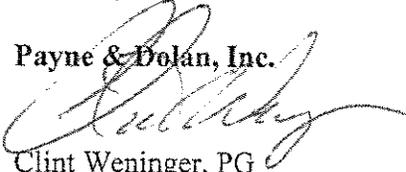
As requested, I have enclosed the measurements that were completed by Chris Kunkel of Edgewood Surveying regarding the extraction setback distance from 51st Street. The purpose of the measurements is to verify that mineral extraction has not occurred within 650 feet of the centerline of 51st Street. Four measurements were taken along the existing limestone highwall (i.e. the edge of the extraction limit). The measurements varied from 650.5 feet to 655.1 feet from the centerline of 51st Street.

Please do not hesitate to contact me in the office (262) 366-5429 or on my cell phone (262) 366-5429, if you have any additional questions and/or would like some additional information.

Thank you for your time and consideration in this matter.

Sincerely,

Payne & Dolan, Inc.


Clint Weninger, PG
Aggregate Area Manager

cc. Doug Schmidt, City of Franklin Alderman

"Equal Opportunity Employer"

Since 1926

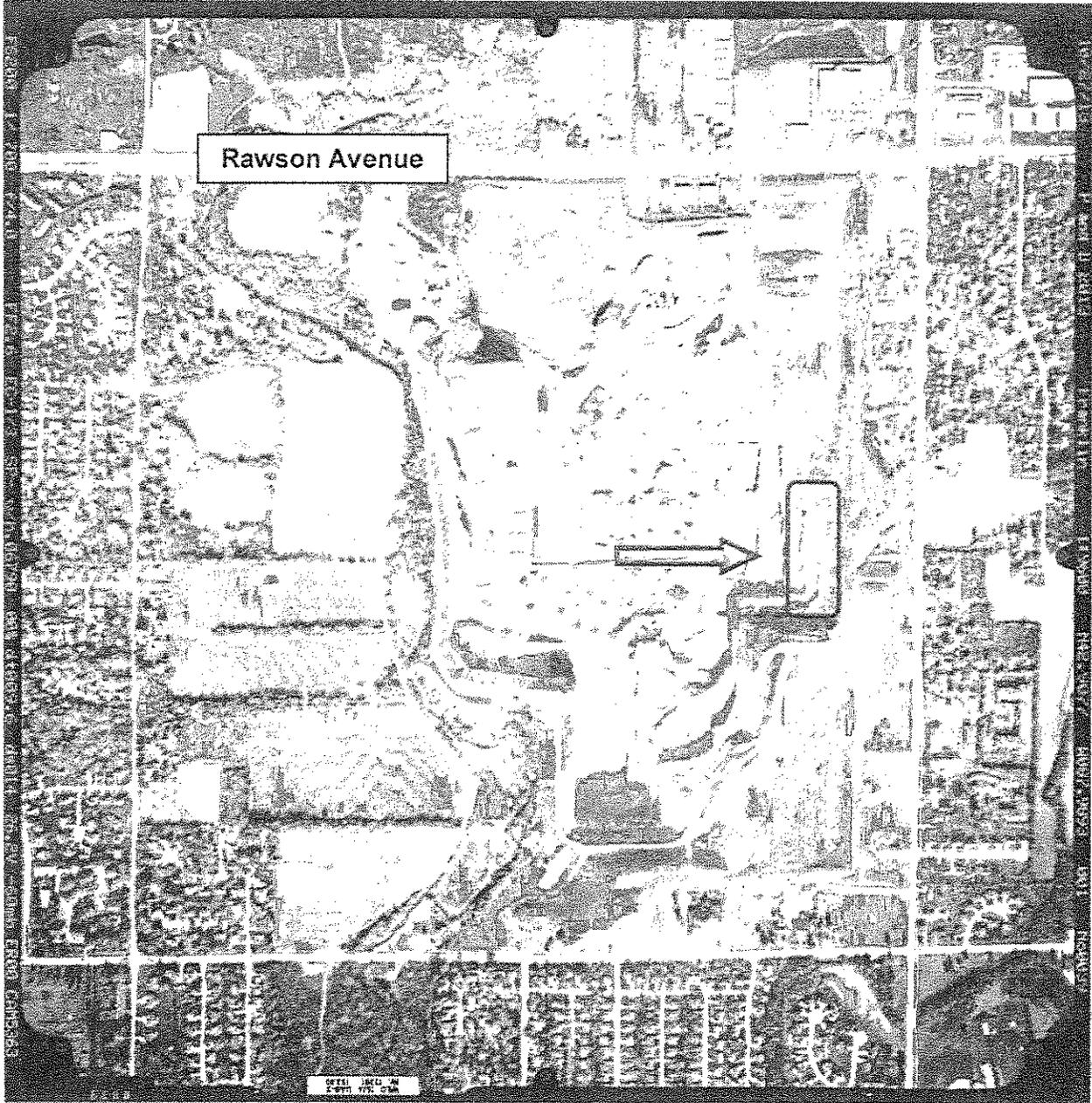
www.payneanddolan.com

Waukesha, WI 53187
P.O. Box 781
N3W23650 Badinger Road
262-524-1700 Fax: 262-524-1845

Gladstone, MI 49837
801 Clark Drive
906-428-1008 Fax: 906-428-2823

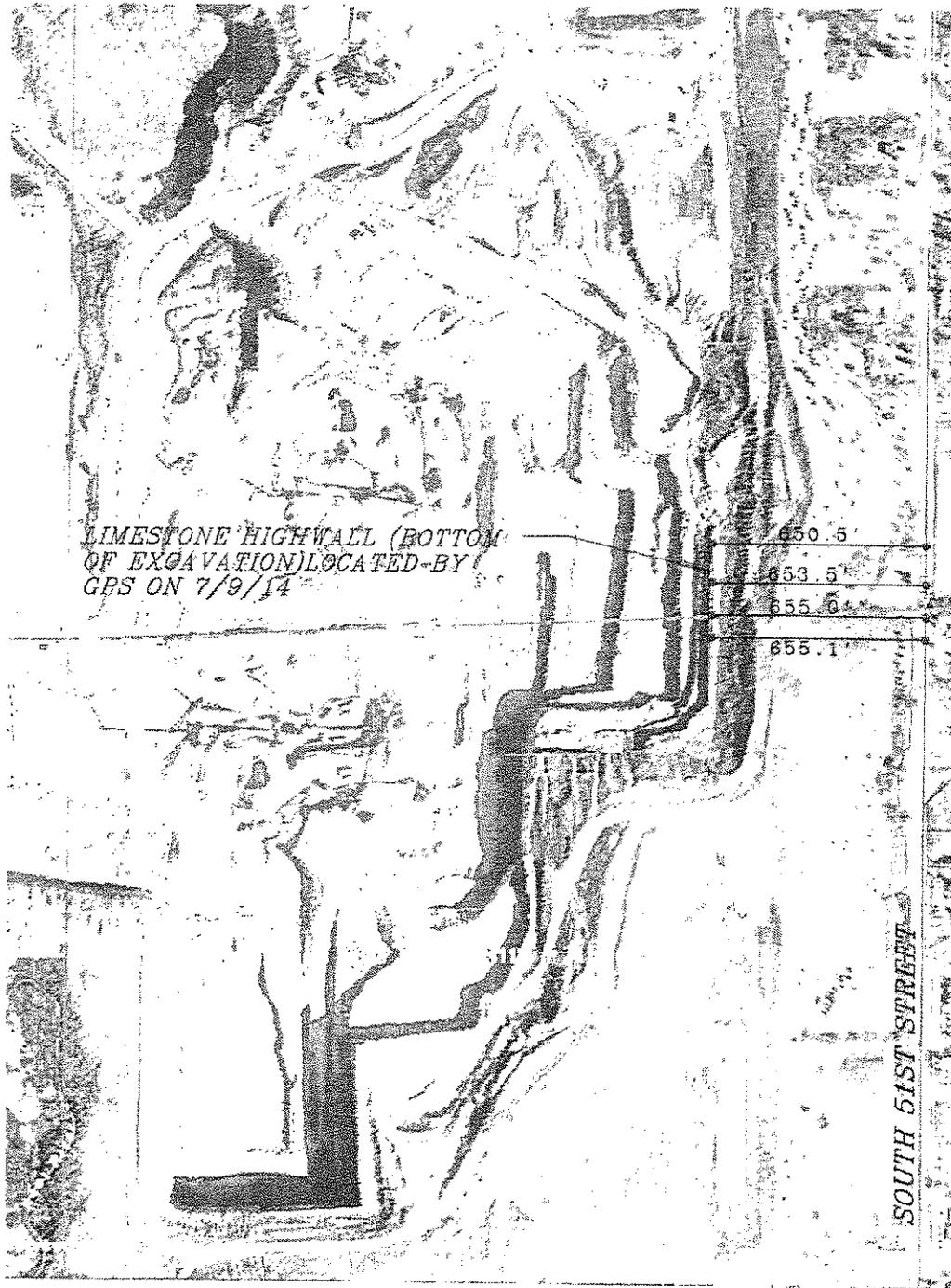
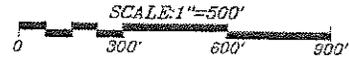
Figure 2. Location of Setback Measurements

Current Aerial Photo (Fall 2013)



PAYNE & DOLAN PROPERTY

FRANKLIN, WISCONSIN



LIMESTONE HIGHWALL (BOTTOM OF EXCAVATION) LOCATED BY GPS ON 7/9/14

CENTER LINE SOUTH 51ST STREET (ALSO SECTION LINE) MEASURED BY GPS 7/9/14

SOUTH 51ST STREET

MLW-1091

EDGEWOOD
SURVEYING

14155 BEECHWOOD TRAIL • NEW BERLIN • WISCONSIN 53151
(262)366-5749 • fax (262)787-6320
EMAIL: edgewoodsurveying@att.net
www.edgewoodsurveying.com



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of August 21, 2014

**Report and Recommendations from the Quarry Monitoring Committee Pertaining to
Quarry Monitoring and the Terms and Provisions of Planned Development District No. 23
(Payne & Dolan Company)**

RECOMMENDATION: City Development staff recommends that this matter be forwarded to the Common Council for its consideration.

Project Name:	Report and Recommendations from the Quarry Monitoring Committee Pertaining to Quarry Monitoring and the Terms and Provisions of Planned Development District No. 23
Project Address:	Approximately 6211 West Rawson Avenue
Applicant:	City of Franklin Quarry Monitoring Committee
Property Owner:	Payne & Dolan, Inc.
Current Zoning:	Planned Development District No. 23, FW Floodway District, FFO Floodplain Fringe Overlay District
2025 Comprehensive Plan:	Industrial, Residential, Commercial, Areas of Natural Resource Features
Use of Surrounding Properties:	PDD No. 24 (Vulcan Limestone Quarry) and residential lands to the east, residential to the south, natural resources, agricultural, and residential to the west, and commercial and natural resources to the north
Applicant's Action Requested:	That the Plan Commission take the Quarry Monitoring Committee's recommendations under consideration

INTRODUCTION:

At its March 20, 2014 meeting, the Plan Commission reviewed the subject matter and approved a motion to "recommend that the Planning Manager and City Attorney put together a timetable and address the letter from the DNR." No other was taken by the Plan Commission on this matter. A copy of the March 20th Plan Commission packet materials on this subject are attached.

The Quarry Monitoring Committee subsequently approved a motion at its April 24, 2014 meeting that "the Committee's report on recommendations pertaining to Planned Development District No. 23 ... be forwarded to the Plan Commission and Common Council for their review and consideration".

SUBSEQUENT ACTIONS:

The Planning Manager, the City Attorney, and Alderwoman Wilhelm met with Wisconsin Department of Natural Resources representatives on April 30, 2014 to discuss the issues raised



by the DNR. It was agreed by all those present at the meeting that the City should continue the process to revise the City's Non-Metallic Mining Reclamation Ordinance (to include the revisions requested by the DNR). Staff indicated that they hoped to prepare a draft of a revised ordinance by July of 2014. Staff has subsequently informed the DNR that additional time will be needed for this project.

The DNR also encouraged the City to: work on an updated reclamation plan (as also recommended by the Quarry Monitoring Committee and Planning Department staff); issue a new reclamation permit for the quarry; reassess the amount of the financial assurance needed for reclamation of the quarry; and consider a supplemental document to the PDD affirming that the quarry's financial assurances will be tied to the revised reclamation ordinance.

It can also be noted that two of the recommendations of the Quarry Monitoring Committee pertaining to PDD No. 23, that Payne & Dolan provide an Annual Report to the Plan Commission and that a copy of all of the PDD required annual aerial photographs of the quarry be provided to the City, has subsequently been completed.

STAFF RECOMMEDATION:

City Development staff recommends that this matter be forwarded to the Common Council for its consideration.

From: [Kristen Wilhelm](#)
To: [Maglio, Thomas J - DNR](#)
Cc: [Kristen Wilhelm](#); [Joel Dietl](#); [Portie, Thomas L - DNR](#)
Subject: Re: City of Franklin Audit Clarification
Date: Friday, February 21, 2014 3:23:55 PM

Dear Mr. Maglio,

I very much appreciate your email clarification as it relates to the quarry committee's authority (or lack thereof) as stated within your letter dated January 29, 2014.

This is most important for the proper rule-making authority; those responsible for maintaining compliance with NR 135 within the city of Franklin, to realize any such discussion was not with, or at the request of, the volunteer citizen committee members or its elected chairperson.

Thank you for your prompt attention and clarification on this matter.

Best,

Aldersperson Kristen Wilhelm
District 3, City of Franklin

On Feb 21, 2014, at 2:36 PM, Maglio, Thomas J - DNR wrote:

Alder Wilhelm-

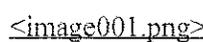
Per your request, let me provide some clarification regarding item #4 from my January 29, 2014 NR 135 Performance Review Audit for the City of Franklin.

My sentence reads: "During the audit there was some discussion about additional restrictions the quarry committee plans to insert into the re-working of the zoning ordinance."

The situation as described was my understanding at the time of the audit. I appreciate you informing me that the quarry committee does not have rulemaking authority and it has been noted.

Regarding this issue's pertinence to the audit as a whole, my concern is not about whom within the City has rulemaking power, just that whomever has that power not write any restrictions into the ordinance more restrictive than those found in Ch. 295.12 Wis. Stats.

Thank you very much, please do not hesitate to let me know if you have any questions, comments, or concerns. I look forward to working with the City of Franklin to maintain compliance with NR 135.

 **TJ Maglio**

TJ Maglio – Mining Specialist
WDNR – Waste and Materials Management
101 S. Webster Street



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of March 20, 2014

Report and Recommendations from the Quarry Monitoring Committee Pertaining to Quarry Monitoring and the Terms and Provisions of Planned Development District No. 23 (Payne & Dolan Company)

RECOMMENDATION: Staff recommends that this matter be forwarded to the Common Council for its consideration in regard to any appropriate actions and possible Planned Development District No. 23 amendment.

Project Name:	Report and Recommendations from the Quarry Monitoring Committee Pertaining to PDD No. 23
Project Address:	Approximately 6211 W. Rawson Avenue
Applicant:	City of Franklin Quarry Monitoring Committee
Property Owner:	Payne & Dolan, Inc.
Current Zoning:	Planned Development District No. 23, FW Floodway District, FFO Floodplain Fringe Overlay District
2025 Comprehensive Plan:	Industrial, Residential, Commercial, and Areas of Natural Resource Features
Use of Surrounding Properties:	PDD No. 24 (Vulcan Limestone Quarry) and residential to the east, residential to the south, natural resources, agricultural, and residential to the west, and commercial and natural resources to the north
Applicant's Action Requested:	That the Plan Commission take the Quarry Monitoring Committee's recommendations under consideration

Introduction:

Since its April 24, 2013 meeting, the Quarry Monitoring Committee has been reviewing Planned Development District No. 23 (Ordinance No. 97-1456, An Ordinance to Create Section 13.26 of the Zoning Code, Ordinance No. 221, Establishing Planned Development District No. 23 (Limestone Quarry and Mixed Use). The intent of this review was to become familiar with that document, its requirements and standards; to determine the status of its implementation; and to possibly recommend certain changes to that ordinance. The culmination of the Committee's work on this matter is set forth in the attached document entitled "Review and Recommendations by the Quarry Monitoring Committee of Planned Development District No. 23 (Limestone Quarry and Mixed Use)". Also attached is supplemental information that the Committee wished to provide to the Plan Commission. Furthermore, a copy of the PDD No. 23 ordinance is provided for the Plan Commission's use.

At its February 26, 2014 meeting, the Quarry Monitoring Committee passed a motion to recommend to the Plan Commission that it take the Committee's recommendations under consideration.

Description/Analysis

The Quarry Monitoring Committee is forwarding these recommendations to the Plan Commission for its consideration pursuant to Section G.2. of the PDD ordinance which states "The Plan Commission may propose amendments to this Ordinance to require use by the Operator of new methods, processes, procedures, facilities, practices or equipment in its quarry operations that will materially diminish adverse impacts on the community or nearby residents, provided that use of such methods, processes, procedures, facilities, practices or equipment is proven and demonstrated to be effective in the Operator's industry in reducing adverse impacts, is cost effective for such purpose and will not impose unreasonable financial burden on the Operator."

In addition to brief summaries of and comments on each section of the PDD No. 23 ordinance, the attached document identifies the Committee's 19 recommendations. These recommendations include follow-up action on certain requirements set forth in the PDD ordinance (such as the provision of biannual reports to the Plan Commission or the submittal of aerial photographs of the quarry on an annual basis), as well as potential changes to PDD No. 23 and/or other pertinent ordinances (such as revision of the City's noise regulations or requiring the use of tarps on trucks).

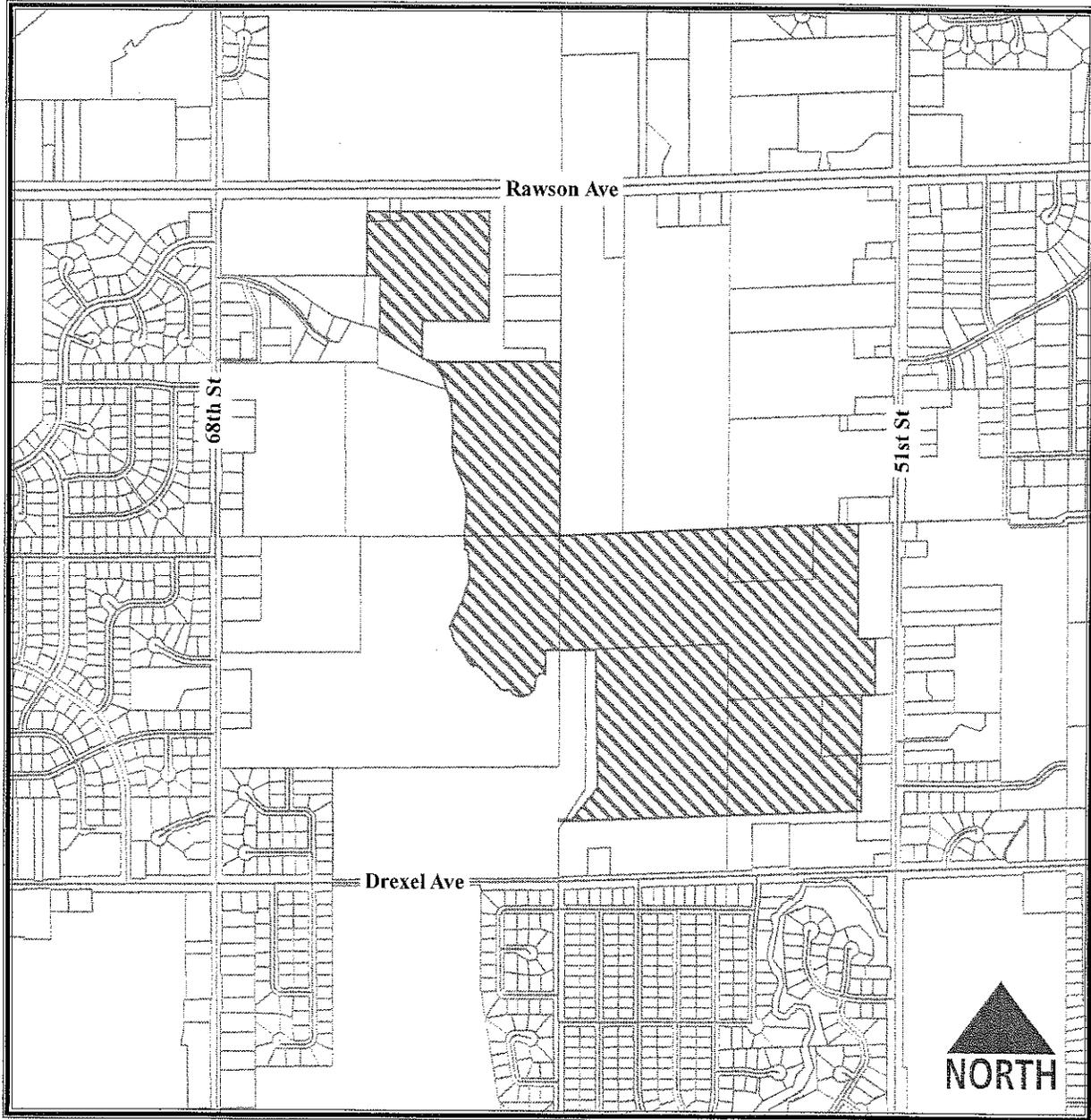
In regard to the recommendation about update and adoption of the Reclamation Plan for the quarry, it can be noted that the Quarry Monitoring Committee may soon look into this matter more thoroughly, and in response to a letter dated January 29, 2014 from the Wisconsin Department of Natural Resources in regard to the City's nonmetallic mining reclamation program, that staff may do so as well.

Conclusion

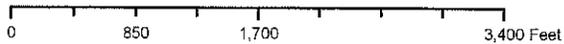
Because of the potential scope of some of the proposed recommendations, such as revision of the City's noise regulations, staff recommends that this matter be forwarded to the Common Council for its consideration in regard to any appropriate actions and possible Planned Development District No. 23 amendment.



PDD No. 23



Planning Department
(414) 425-4024



2013 Aerial Photo

This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

REVIEW AND RECOMMENDATIONS
by the Quarry Monitoring Committee
of Planned Development District No. 23
(Limestone Quarry and Mixed Use)

Notes: The following information consists of a brief summary of Planned Development District (PDD) No. 23 (pertaining to the Payne & Dolan, Inc. quarry) and includes comments and recommendations for changes identified by the Quarry Monitoring Committee based upon the Committee's review of the PDD. The Committee would also note that it believes that PDD No. 23 and its associated standards were drafted favorably toward the continued operations of the quarry use.

Recommended changes are noted with *italics and underlining*.

Introduction

The Planned Development Districts for Payne & Dolan (PDD No. 23) and Vulcan Materials (PDD No. 24) were approved by the Common Council on June 3, 1997 to provide flexible site design and mixed uses for the two operators of the quarry bounded by 51st St. on the east, 68th St. on the west, Rawson Ave. on the north and Drexel Ave. on the south. The PDD's noted that:

- The Plan Commission had recognized the existence of a limestone extraction on the property since approximately 1940.
- The quarry operators, Payne & Dolan and Vulcan Materials, voluntarily agreed to impose restrictive guidelines to mitigate potential negative impacts of extraction on a growing number of residential units in the vicinity of the quarry as set forth in PDD No. 23 and PDD No. 24 which were adopted by the Common Council on June 3, 1997.
- The PDD's were approved by the Common Council to ensure that quarry operations will satisfactorily mitigate any potential negative impacts of such uses on surrounding properties.
- The Official Zoning Map, therefore, was amended to change from R-6, M-2, M-3, C-1, FC, FFO and A-1 to PDD No. 23 and PDD No. 24.

Section A. (PDD No. 23 pages 3 – 5)

Exhibits.

As stipulated by the new PPD ordinance, the quarry operators, Payne & Dolan and Vulcan Materials, were required to submit the following exhibits:

- A. A legal description of their property
- B. A title sheet
- C. An existing zoning map
- D. A plat of the existing site
- E. An aerial photograph taken Oct. 20, 1996 showing existing conditions
- F. An overview of Planned Development highlights
- G. A 2004 operations plan
- H. A conceptual restoration plan
- I. Sections
- J. A property value guarantee agreement
- K. A list of tax key numbers of properties eligible to participate in the property value agreement.

Vulcan Materials further agreed to furnish the following exhibits in PDD No. 24:

- K. Plans for a Rawson Ave. entrance relocation and berm enhancement proposal.
- L. A resolution imposing conditions and restrictions for approval of a special use adopted Nov. 19, 1996.
- M. A zoning permit with respect to 5713 W. Rawson Ave. modified by this ordinance.
- N. A zoning permit with respect to 7151 S. 51st St. modified by this ordinance.

The development of the non-extraction area will generally conform to the location and layout of improvements shown in Exhibit 7. The City recognizes that the limestone resource is variable in terms of thickness, quality and other geologic characteristics; that the projected elevations, locations and arrangements of ramps and other mining structures are not exact and are subject to modifications as detailed mine plan development and actual mining progresses. Except where specifically stated in this ordinance, the development of the extraction area and the location and layout of operations and facilities shall be at the discretion of the operator.

Comments and Recommendations

- N/A

Section B. (PDD No. 23 pages 5 – 12)

Definitions. (No changes proposed by the Quarry Monitoring Committee)

Comments and Recommendations

- The Maintenance and Staging Operations and Facilities, defined on page 9, were relocated east of the river by the fall of 2003.
- The Office and Sales Operations and Facilities, defined on page 10, were relocated east of the river by the fall of 2003.
- It is noted that a resident has repeatedly been before the Committee stating that the term "berm" in PDD No. 23 is used incorrectly.

Section C. (PDD No. 23 pages 12 – 14)

Purposes and Uses.

Pages 12 and 13 contain the Purposes and Uses section of PDD 23 pertaining to uses both inside and outside the quarry pit.

Comments and Recommendations

- Section C.1. states in part "... for the purpose of promoting the health, safety and general welfare of the community; to secure safety from panic, fear and other dangers to persons or property; to provide for adequate and safe air and to encourage the protection of groundwater resources;..."

Section D. and Section E. (PDD No. 23 pages 14 - 15)

Compliance with Other Laws, and Financial Assurance.

Page 14 contains the Compliance with Other Laws and Financial Assurance sections of PDD 23.

Comments and Recommendations

- Section D. states in part "the Operator shall comply with all State and Federal statutes, rules, regulations, and laws ..."
- The Financial Assurance/Performance Bond in the amount of \$200,000 was approved by the Common Council on June 6, 2000 by Resolution No. 2000-5054.
- The Wisconsin Department of Natural Resources letter dated January 29, 2014, pertaining to review of the City's Nonmetallic Mining Reclamation Program, also references Financial Assurance.
- Section E.2. states in part "The type and amount of the Financial Assurance required by this Ordinance may be amended by the Common Council after Plan Commission review ..."

Section F. (PDD No. 23 page 15)

Liability Insurance/Hold Harmless.

Page 15 contains the Liability Insurance/Hold Harmless section of PDD 23.

Comments and Recommendations

- The Hold Harmless Agreement was approved by the Common Council on June 6, 2000 by Resolution No. 2000-5055.
- A copy of the Liability Insurance was reviewed by the City Attorney, and provided to the City, on June 1, 2000.

Section G. (PDD No. 23 pages 16 - 18)

Compliance, Enforcement and Penalties.

Pages 16 and 17 contain the Compliance, Enforcement and Penalties section of PDD 23.

Comments and Recommendations

- Section G.2. states the Plan Commission can propose and the Common Council can approve, subject to a public hearing, amendments to the PDD to diminish adverse impacts when the amendment can be demonstrated to be effective, cost-effective, and not an unreasonable burden upon the quarry.
- Section G.3. states that repeated and flagrant violations of the PDD which affect the public's health or safety may be subject to stricter penalties, and that repeated is defined as five or more occurrences within a calendar year.

Section H. (PDD No. 23 pages 18 - 19)

Berms and Landscaping.

Comments and Recommendations

- The berms around the quarry were built with soil material from the property. They were topped by fencing and approved by the City.
- The berm plan was approved by the Plan Commission in 1997, and amendments approved by the Plan Commission in 1998, 1999, 2007, and 2011.
- The Plan Commission approved the landscaping plan for the berms.

Section I. (PDD No. 23 pages 19 - 20)

River Area Restrictions. (Exhibit 3 Map)

Comments and Recommendations

- All C-1 Conservancy District zoning is removed from the property, upon the rezoning of the property upon the effective date of the Ordinance adoption.
- FFO Floodplain Fringe Overlay District regulations, if they interfere with quarry operations are deemed suspended for the duration of the quarry extraction operation.
- There will be no encroachment on any property within the floodway district (Root River) with new construction, however, existing buildings, haul roads, or dewatering and drainage structures may be maintained by obtaining all needed permits.
- Section I.3. states that "Prior to horizontal expansion of any existing extraction operations within 500 feet of the ordinary high water mark of the Root River, the operator shall obtain any necessary permits from the Wisconsin DNR ..."
- The Quarry Monitoring Committee notes that it is unknown if/how the 500 foot requirement still applies and recommends review of the 500' setback under all applicable rules and regulations.

Section J. (PDD No. 23 pages 20 - 21)

Storm Water Management and Water Quality Plan.

Comments and Recommendations

- The City Engineering Department reviewed and approved the Stormwater Management & Water Quality plan.
- Pursuant to Section J.3., the operator may modify the surface drainage on the property, and cooperate in the design of a joint surface drainage and dewatering system that reasonably protects the Root River with other operators.

Section K. (PDD No. 23 page 21)

Recreational Trail.

Comments and Recommendations

- A trail was included in the ordinance that would have followed the outside contour of the berms paralleling 51st Street and Drexel Avenue. It was not accepted by the City within 5 years and it expired.
- At its June 22, 2004 meeting the Common Council approved Resolution No. 2004-5718 declaring support for the construction of the Oak Leaf Trail and rescinding the trail on the east side of the quarry.

Section L. (PDD No. 23 page 21)

Crushing, Processing and Stockpiling Operations and Facilities.

All the above operations were to be relocated and moved to the floor of the Extraction Area prior to January 1, 2004, provided that portions of this Ordinance affecting the Extraction Area shall have first become effective.

Operations west of the Root River and any vehicular Root River crossings will also be eliminated following such relocation.

Comments and Recommendations

- The Quarry Monitoring Committee recommends that noise limits, such as for equipment operation, should be considered, either in the PDD or in a separate City ordinance.
- These facilities were relocated from west of the Root River to the quarry floor by the fall of 2003.

Section M. (PDD No. 23 pages 21 - 22)

Office and Sales Operations and Facilities.

The office and sales operations and facilities located outside the property were to be relocated east of the Root River on the property by January 1, 2004.

Comments and Recommendations

- These facilities were relocated from west of the Root River by the fall of 2003.

Section N. (PDD No. 23 page 22)

Maintenance and Staging Operations and Facilities.

The Maintenance and Staging Operations and Facilities located outside the property were to be relocated east of the Root River on the property by January 1, 2004. It can be moved to the Floor of the extraction area at the Operators discretion at any time.

Comments and Recommendations

- These facilities were relocated from west of the Root River by the fall of 2003.

Section O. (PDD No. 23 page 22)

Retail Topsoil Processing and Aggregates Operations and Facilities.

This operation may be moved on grade from time to time, on the property at the Operator's discretion, with prior site plan approval, or to the floor of the extraction Area.

Comments and Recommendations

- Representatives of Payne & Dolan indicate that they do not have any such operations or facilities.

Section P. (PDD No. 23 pages 22 - 23)

Asphalt Plant Operations and Facilities

If extraction activities require relocation of the Asphalt plant, the Operator shall either eliminate such operations on the property or relocate them to the floor of the extraction Area.

Comments and Recommendations

- Pursuant to Section P.2, the asphalt plant can continue without a biannual renewal of its special use. However, a biannual report to the Plan Commission shall be made. It appears that since 1999, there have been no such reports to the Plan Commission.
- The Committee recommends that the quarry operator provide the required biannual reports to the Plan Commission.
- Special Use Resolution 97-4563 was repealed and replaced with Resolution 99-4852, which terms and conditions remain in full force and effect, and which content has not been reviewed by the Committee.
- It can be noted that from review of historic maps and aerial photographs, the location of the asphalt plant have not changed since at least 1997.

Section Q. (PDD No. 23 page 23)

Concrete Ready-Mix Plant Operations and Facilities.

Comments and Recommendations

- A concrete ready-mix plant can be established on the property at any time, however, site plan approval shall be obtained from the Plan Commission. It can be noted that PDD No. 24 in addition states that a concrete plant cannot be located in any areas previously zoned M-3 Quarrying District.

Section R. (PDD No. 23 pages 23 - 25)

Extraction Area Boundaries.

Ultimate boundaries of the extraction area shall be as follows (per PDD No. 23, which was adopted by the Common Council on June 3, 1997):

- From the current centerline of 51st Street: 650 feet.
- From the current centerline Rawson Avenue (C.T.H BB): 200 feet.
- From the current centerline of 68th Street: 1350 feet except as otherwise limited by the 200 foot setback from the centerline of the Root River.
- From the centerline of the Root River: 200 feet to the east, except where and only to the extent extraction had previously taken place. There will be no extraction west of the Root River.
- From the centerline of Drexel Avenue: 850 feet.

Extraction for shoreline contouring that may be required as part of the detailed reclamation plan may take place outside the extraction area boundaries. Further, stripping operations may occur outside of the extraction area boundaries to provide a safety and access shelf outside of the extraction limits, as the overburden is sloped upward and outward from the safety and access shelf at a slope generally not steeper than 1-1/2:1.

Operator shall not have any right to apply for any future expansion.

The quarry operator shall provide two aerial prints delivered to the city of the property annually.

Comments and Recommendations

- A Restrictive Covenant acknowledging that Payne & Dolan does not have any right to apply for a future expansion of the ultimate extraction area boundary was provided to the City on June 2, 2000.

- Citizens have and continue to question the exact limits of the extraction area boundaries.
- *The Quarry Monitoring Committee recommends that the exact location of the extraction area boundary be field located and detailed as to the location from the centerline of S. 51st Street.* It should be noted that the centerline of S. 51st Street may have changed since the creation of PDD No. 23.
- From a review of the City's records, it appears that annual aerial prints have not been provided on a consistent basis.
- *The Committee recommends that the annual aerial prints be provided to the City.*

Section S. (PDD No. 23 pages 25 - 27)

Detailed Reclamation Plan.

Two years after the Effective date of this ordinance the operator shall submit a detailed reclamation plan to the city for review and approval pursuant to the City Zoning Ordinance.

Implementation of the reclamation plan shall be completed within (3) years after cessation of extraction activities.

This ordinance can be amended to add any reclamation standards established by The Wisconsin Department of Natural Resources.

Comments and Recommendations

- It appears from a review of the City's records that the Reclamation Plan was not approved by the City. It can be noted that: the Reclamation Plan was prepared jointly by Payne & Dolan and Vulcan and submitted to the City on May 10, 2002; a public hearing was held on August 21, 2003; the Plan Commission recommended denial on September 4, 2003; and the Common Council referred the Reclamation Plan back to the Plan Commission and staff on September 9, 2003. The latest information in the files indicates that the quarry operators shortly thereafter provided additional information to the City pertaining to the lake levels envisioned.
- *The Quarry Monitoring Committee recommends that the Reclamation Plan be reviewed, subjected to the required public hearings, updated as necessary, and adopted by the Common Council.*
- *The Committee also recommends during review of the Reclamation Plan, and prior to recommendation to the Common Council, review of the pertinent Wisconsin Department of Natural Resources requirements that are beneficial to the City.* See the Wisconsin Department of Natural Resources letter dated

January 29, 2014, pertaining to review of the City's Nonmetallic Mining Reclamation Program, for additional information on this subject.

- *The Committee recommends that City staff and officials should periodically review the requirements associated with the Reclamation Plan as listed in Section S.2.*
- Pursuant to Sections S.4 and S.5: no end land use proposals shall be implemented prior to the submittal of detailed plans and applicable land use and zoning approvals; and once approved by the Common Council, the Reclamation Plan shall become part of this ordinance by reference.
- Pursuant to Sections S.7 and E.2, the financial assurance (performance bond) was submitted by the quarry operators, and approved by the Common Council, on June 6, 2000. By letter dated June 14, 2013, Payne & Dolan submitted a new bond for its acquisition of the former Vulcan quarry. See the Wisconsin Department of Natural Resources letter dated January 29, 2014, pertaining to review of the City's Nonmetallic Mining Reclamation Program, for additional information on this subject.

Section T. (PDD No. 23 pages 27 - 28)

Limits on Blasting

Ground vibration shall not exceed 0.30 inches per second on at least 85% in a calendar year, measured at the residence or inhabited structure closest to the site of the blast (off site) AND not exceed the ground vibration Wisconsin Department of Industry, Labor and Human Relations in Figure 7.64 of Ch. ILHR 7, Wis. Adm. Code, or 0.65 inches per second, whichever is more restrictive, on any blast.

Airblast shall not exceed 123 dB on at least 85% of its blasts in a calendar year, measured at the residence or inhabited structure closest to the site of the blast (off site) not exceed the airblast limitation imposed by the Wisconsin Department of Industry, Labor and Human Relations in Chapter ILHR 7, Wis. Adm. Code on any blast.

Operator shall each month provide to the City Fire Department the recorded ground vibration and airblast levels of blasts conducted during the previous month.may obtain copies of the original blasting logs upon written request and upon undertaking in writing to afford appropriate trade secret protection to such documents.

....blasts ..only between 8:00 a.m. and 4:00 p.m. on Monday through Friday. NOT Saturday, Sunday, or holidays: January 1, Memorial Day, July 4, Labor Day, Thanksgiving and December 25.

... event an explosive charge fails to detonate, Operator may detonate beyond the 4:00 p.m.
....provided they notify the City Fire Chief or designee.

Hours of blasting shall not prevent preparations for blasting prior to 8:00 a.m. or after 4:00 p.m.,
subject to the other time restrictions imposed by this Ordinance.

Comments and Recommendations

- The Quarry Monitoring Committee recommends that the City's noise level ordinance and the PDD blasting limits should be reviewed in light of one another for possible changes.
- Per Sections T.1 and T.2, ground vibrations and airblasts resulting from quarry blasts shall not exceed the limits established in the PDD as measured at the nearest residence or inhabited structure to the site of the blast not owned or controlled by the quarry operator.
- Receipt and review of blast records was conducted: by the Fire Department through 2001; by the City's consultant Aquifer Science and Technology, with periodic reports to the Quarry Monitoring Committee and the Plan Commission, from 2001 through 2005; by the district Alderman and the Department of Administration from 2005 through 2009; by the Planning Department and the Department of Administration from 2009 to 2011; by the Planning Department, the Department of Administration, and the City's consultant Aquifer Science and Technology during most of 2012; and since late 2012, by the Planning Department, the Department of Administration, and the City's consultant Stantec.
- The Quarry Monitoring Committee recommends that the section of the PDD pertaining to the monthly reports to the Fire Department be updated to clearly identify who is responsible for the receipt and review of blast records and who is to be notified of any after-hours blasting activity.

Section U. (PDD No. 23 pages 28 - 29)

Other Hours of Operation.

Operations other than blasting shall be limited to the hours of 6:30 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 4:00 p.m. on Saturday; provided, however, that office activities, pumping and other dewatering activities, and reasonable maintenance activities shall be permitted at anytime.

It is understood that Operator's employees will begin arriving and preparing for operations approximately half hour before starting time and that Operator's employees will be engaged in closing activities and preparations for start-up the next day for approximately half hour after the close of operations.

No quarry-related operations shall take place on Sunday or the following holidays: January 1, Memorial Day, July 4, Labor Day, Thanksgiving and December 25, excepting pumping and other dewatering activities and reasonable maintenance activities. (These hours of operation set forth in this subsection shall NOT control operations of the Asphalt Plant Operations and Facilities, which are controlled by the approving resolutions.)

Comments and Recommendations

- N/A

Section V. (PDD No. 23 page 29)

Opacity and Air Quality

Operator shall not allow dust particles in the air from any Extraction activity or related quarry operations, at any property line.

Operator shall be exempt from meeting the maximum opacity and PM10 Standard levels at property lines adjoining another Extraction activity in a different ownership, provided that the joint contributions do not exceed the limitations at any property line where such limitations apply.

The Operator shall provide dust control for its operations at all times, in addition to the landscaped berms, using an appropriate mix, as applicable, of the following methods, among others, to achieve the standards imposed by this Ordinance: water spray (weather permitting), wheel wash (weather permitting), dust curtains on transfer points, adjustable conveyor stackers, screen covers, sweepers and paving of entrance roadway. The Operator shall maintain records of all dust control measures including the time, location of application and quantity of materials used.

Comments and Recommendations

- The Quarry Monitoring Committee recommends, after hearing citizen input, that pertinent State laws should be reviewed, and a possible City ordinance considered, to require the use of tarps on trucks. It is also recommended that legal counsel be obtained in regard to a change in City regulations as it pertains to the use of tarps on trucks.
- The Committee recommends the use of cameras to monitor dust if found to be practical and cost-effective.
- The Committee recommends the City work with the quarry so that signage be placed that encourages the use of tarps by the trucks hauling materials out of the quarry.

- The Committee recommends that Payne & Dolan also utilize a wheel wash arrangement at its western entrance/exit.

Section W. (PDD No. 23 pages 29 - 30)

Access to Property

Direct vehicular access ...single entrance/exit from Rawson Avenue, ...other adjoining right-of-way shall be prohibited; provided, however, that the Operator may continue to utilize its 68th Street access until such time as it discontinues its Quarry Related Operations west of the Root River.

Cross access between the Property and the adjoining quarry property now owned by Vulcan shall be allowed subject to private agreements or understandings of the owners.

Comments and Recommendations

- The use of 68th Street to access the quarry property was halted in 2003 when those operations west of the Root River were removed and relocated to east of the Root River.
- It can be noted that quarry representatives have indicated that they are considering changes within the quarry pit to allow internal access between the east and west portions of the pit. This could result in less truck traffic on Rawson Avenue in front of the quarry.

Section X. (PDD No. 23 page 30)

Operator Enhancements

Operator shall take reasonable steps to eliminate dust, noise and any other potentially negative impacts upon surrounding property owners, utilizing the latest cost effective technology proven and demonstrated in the *Operator's industry*, which will not impose an *unreasonable financial burden* on the Operator, for the duration of the Extraction operations on the Property.

Comments and Recommendations

- The Quarry Monitoring Committee believes that wheel washing may be a cost effective means to help prevent dust and debris from being deposited on Rawson Avenue from truck traffic, and recommends that this practice be maintained on the east side of the quarry and implemented on the west side of the quarry.

Section Y. (PDD No. 23 page 30)

New Property Rights

PDD No. 23 states that an operator may acquire from Vulcan the rights to quarry or otherwise use real property which is adjacent to the Property. In the event of such an acquisition, the terms and conditions of the planned development district zoning applicable to such property shall continue in force. The Operator shall promptly notify the City in writing of any such acquisitions of property rights, and thereafter, to the extent of such rights, the Operator shall have the responsibility of compliance with the planned development ordinance governing use of such property.

Comments and Recommendations

- By letter dated June 14, 2013, Payne & Dolan notified the City that they had acquired the Vulcan portion of the quarry and were aware that they are now responsible for maintaining the terms and conditions of PDD No. 24.

Section Z. (PDD No. 23 page 30)

Biannual Reporting.

To assist the City in the administration of this Ordinance, the Operator shall report to the Plan Commission approximately every two (2) years from and after the effective date of the portions of this Ordinance affecting the Extraction Area.

Comments and Recommendations

- It appears from a review of the City's records that this biannual reporting has never been done.
- The Quarry Monitoring Committee recommends that this reporting be undertaken.

Section AA. (PDD No. 23 pages 30 - 31)

City Monitoring and Administrative Costs.

The Operator shall be responsible to the City for all reasonable actual costs incurred by the City in the monitoring of Operator's operations hereunder and in the administration of this Ordinance and review of any plans submitted for approval under this Ordinance. Such actual costs shall be the actual salary and benefit costs incurred for the actual reasonable time spent by City employees on such monitoring, review or administrative activities, and the actual reasonable costs to the City of any independent contractors or consultants hired by the City for such monitoring, review or administrative services, less any related fees paid by the Operator, in a

total amount not to exceed \$15,000 each calendar year. Such maximum amount shall be adjusted annually by any increase or decrease in the Consumer Price Index.

No independent contractors or consultants shall be hired by the City, and no unusual monitoring or review projects shall be undertaken by the City, without good cause and without giving the Operator a reasonable opportunity to be heard. Each such invoice shall be paid within 30 days of presentation.

Comments and Recommendations

- It can be noted that the City has only assessed these costs to the quarry operators from 2001 through 2005 when the City's consultant (Aquifer Science and Technology) monitored the quarry on behalf of the City, and during 2012 and 2013, when the City consultants (Aquifer Science and Technology and Stantec) assisted the City in monitoring the quarry.
- It can be further noted that staff time and associated reasonable costs (which have not been assessed to the quarries) added to those consultant's costs accrued in 2012 and 2013 would have exceeded the annual amount of funds provided for by this section of the PDD.

Section BB. (PDD No. 23 pages 31 - 32)

Special Assessment Acknowledgment.

...undeveloped lands owned by the Operator adjacent to 51st Street are subject to a substantial special assessment for water service levied pursuant to City of Franklin Common Council Resolution No. 97-4538, ...to help alleviate ...potential impact... on property owners with wells in the vicinity of such expansion.

subsection FF ...requires the Operator to submit restrictive covenants to maintain such buffer areas as open space until any proposed development may be approved by the City, and that such requirement may substantially diminish the special benefit of the water service to the Operator, the City hereby acknowledges, for the purpose of preventing the Common Council from reconsidering or rescinding this ordinance, that acceptance of such special assessment without challenge shall necessarily vest the Operator's rights under this Ordinance, subject to the restrictions and requirements of this Ordinance. As stated in PDD No. 23, per request of the City Engineer, add the following: "The terms of this subsection S and the acknowledgment required hereunder shall also apply to any future special assessment for sanitary sewer to be installed abutting the property on South 51st Street, if any."

Comments and Recommendations

- It can be noted that a public water main was constructed in 51st Street between Drexel Avenue and Rawson Avenue in 1996 and 1997. Many but not all properties in this area have since connected to the water main. Per staff discussion with the City Engineer in 2013, the quarry operators did pay the special assessments for both the water main and the public sanitary sewer.

Section CC. (PDD No. 23 page 32)

Carrvoer Zoning Restrictions.

The M-2 General Industrial District regulations shall continue to apply to those portions of the Extraction Area previously zoned M-2 General Industrial District until the Effective Date of the portions of this Ordinance affecting the Extraction Area.

The performance standards of subsection 9.3(6) of the Zoning Code shall continue to be applicable to that part of the Non-extraction Area that was previously zoned M-2 General Industrial District, as shown on Exhibit 4, after the Effective Date of the portions of this Ordinance affecting the Non-extraction Area.

Non-quarry Operations and Facilities located on a parcel of land which is partially within and partially without the Property shall comply with all requirements of the zoning district in which they are partially located, subject to valid nonconforming use and structure rights.

Comments and Recommendations

- *The Quarry Monitoring Committee recommends that the Plan Commission verify if the applicable performance standards of the previous zoning code still applies, and determine which non-quarry operations and facilities are located partially within the PDD.*

Section DD. (PDD No. 23 page 32)

Severability.

Should any term or provisions of the Ordinance be declared invalid for any reason by a court of competent jurisdiction, such determination shall not affect the validity of the remaining terms and provisions, which shall remain in full force and effect.

Comments and Recommendations

- N/A

Section EE. (PDD No. 23 page 32)

Waiver of Nonconforming Use Rights.

Upon the effective date of the portions of this Ordinance affecting the Extraction Area, the Operator waives and relinquishes all nonconforming use rights with respect to the Quarry-Related Operations and Facilities on the Property and on any real property owned by Operator adjoining the Property which predate such effective date.

Comments and Recommendations

- By letter dated June 2, 2000, Payne & Dolan acknowledged such waiver.

Section FF. (PDD No. 23 pages 33 - 36)

Effective Date.

The provisions of this ordinance pertaining to the Non-extraction Area shall become effective upon the relocation of Payne & Dolan's Quarry Related Operations to the east of the Root River, among other conditions.

The provisions of this ordinance pertaining to the Extraction Area shall become effective upon the conditions set forth in this section of the PDD including among others:

- Relocation of the Quarry Related Operations to the east of the Root River.
- The granting or issuance of required local, state and federal permits and approvals.
- The relocation of the Crushing, Processing and Stockpiling Operations to the floor of the quarry.
- Submittal of restrictive covenants regulating all areas of land constituting the buffer area.

It can also be noted that:

- Section S contains information on the reclamation requirements.
- A brief review of City records did not find any information on any NR 103 or Section 414 or 404 permits for the quarries.
- According to city staff discussion with DNR staff in November 2011, both quarries had received approvals for one discharge pipe each to the Root River. Both of these pipes are shown on the plans submitted with the PDD in 1997.

Comments and Recommendations

- It can be noted that the quarry related operations and the crushing, processing and stockpiling operations on the west side of the Root River were relocated to the east side of the Root River by the fall of 2003.
- It can be noted that by letter dated June 2, 2000, Payne & Dolan submitted a Restrictive Covenant for the buffer area to the City.

- The Committee recommends that the buffer strips referred to in Section FF.6.b. be field located and kept on file.
- The Committee recommends that the Plan Commission verify that all required state and federal permits for the quarry have been obtained and are up-to-date.

Section GG. (PDD No. 23 page 36)

Interpretation.

All terms and conditions shall be interpreted to the benefit of the general public.

Comments and Recommendations

- N/A

Section HH. (PDD No. 23 page 36)

Noise.

The operator shall be subject to the terms and provisions of the Municipal Code pertaining to noise.

Comments and Recommendations

- It can be noted that the City's noise regulations set forth in the Municipal Code require a permit for any operations which cause sounds at a level between 70 and 79 dBA as measured at the property boundary. Any single event which cause sounds above this level requires a variance by the Common Council. The Municipal Code further identifies any noises over these sound limits as an immediate threat to health and welfare depending on a combination of sound level and duration or number or repetitions as measured at 50 feet from the source of the noise. The Municipal Code identifies the Police Department as the agency responsible for administration and enforcement.
- The Committee recommends that the City evaluate, and possibly update as appropriate, the City's noise regulations.

Section II. (PDD No. 23 page 37)

Property Value Guarantee.

The quarry operator shall mail a copy of the Property Value Guarantee Agreement to the appropriate properties and shall enter into such agreement with any such property owner who signs and returns the agreement within 90 days.

Comments and Recommendations

- Representatives of the quarry have indicated that they are not aware of any instances of such agreements. A review of the City's records also did not find any such agreements and this guarantee requirement has expired and is no longer applicable.

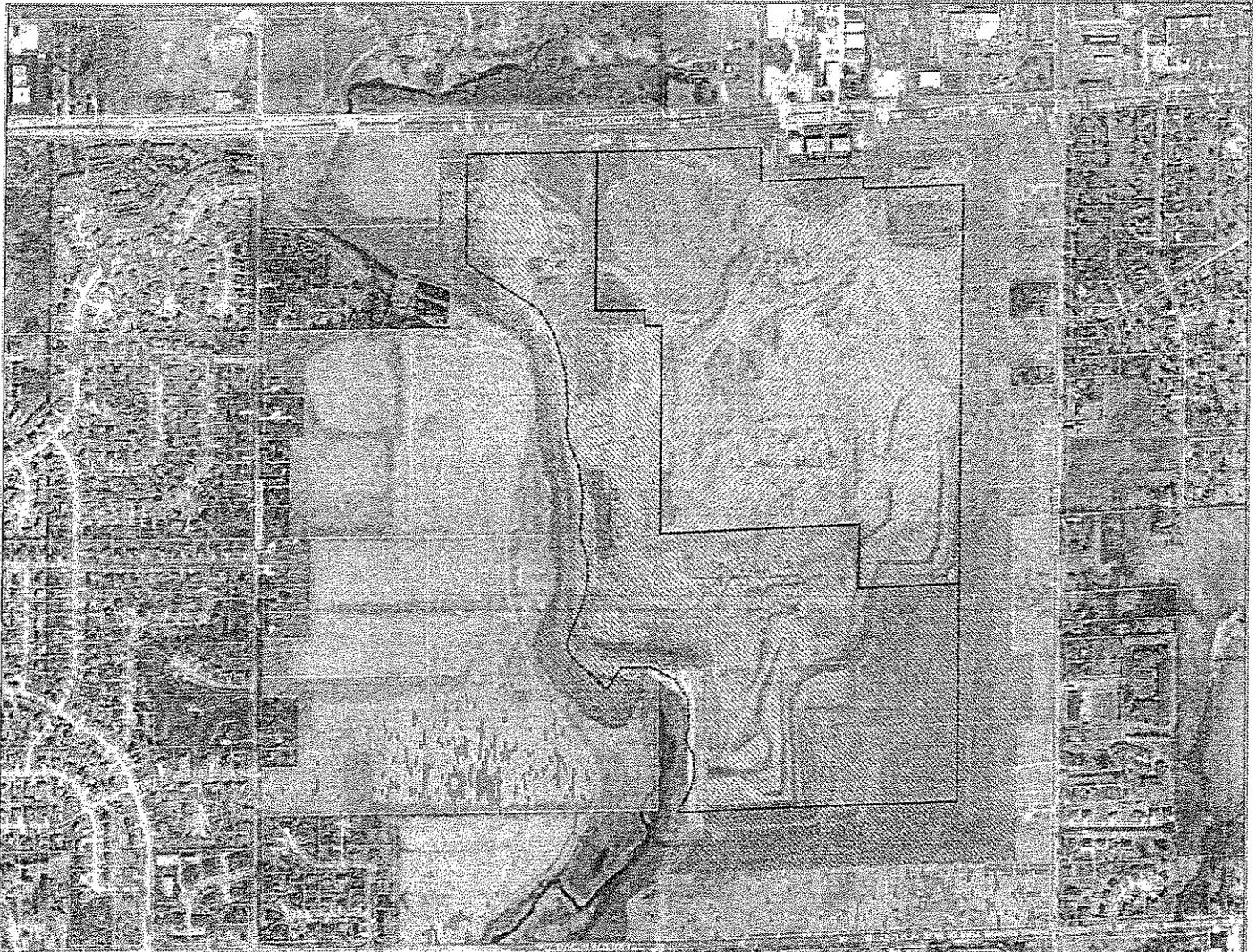
Section JJ. (PDD No. 23 page 37)

Well Protection.

This regulation substantially increases the depth required and well casing cost to redrill any failed well or to drill a new well within 1,200 feet of the quarry and assigns any such cost to the quarry operator.

Comments and Recommendations

- Representatives of the quarry have indicated that they are not aware of any instances of well problems attributable to the quarry's operations or of any instances where the quarry would be responsible for the costs to re-drill a well or drill a new well. A review of the City's records also did not find any such situations.



**Payne & Dolan Quarry
City of Franklin, WI**



Notes

1. The Payne & Dolan PDD does not extend west of the Road Right. The City's Zoning Map will set reserves accordingly.
2. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes. Refer to Ordinance Nos. 30-1446 and 30-1451 for the precise boundaries of

Legend

- Approved Extraction Area Limits
- Payne & Dolan PDD Area
- Vulcan PDD Area
- Payne & Dolan Property

By: TRM on 8/14/2013
 Project: Payne & Dolan Quarry, Downtown, Clark
 Quarry Project PDD, Vulcan PDD update 8/14/2013.mxd

possible, a recreational vehicle or camping trailer as the 2nd vehicle, and a recreational vehicle, camping trailer, or trailer carrying any vehicle for recreational use or carrying no load as the 3rd vehicle may, without a permit, be operated on a highway if the overall length of the combination of vehicles does not exceed 65 feet and, if the total weight, including any load, of all towed vehicles exceeds 3,000 pounds, one of the towed vehicles is equipped with brakes. No 3-vehicle combination may operate under this paragraph if highway or weather conditions include heavy snow, freezing rain, icy roads, high winds, limited visibility, or upon a highway that is closed or partially closed by the department due to highway conditions.

- (2) Whenever any train of agricultural vehicles is being operated under sub. (1) (b), the train shall be equipped as provided in s. 347.21 (1m) and (2). Whenever any train of agricultural vehicles is being operated under sub. (1) (d), the train shall be equipped as provided in s. 347.21 (1) and (2). The trailer hitches of a train of agricultural vehicles shall be of a positive nature so as to prevent accidental release.

History: 1977 c. 29 s. 1654 (8) (a); 1981 c. 276, 277; 1983 a. 78; 1985 a. 202, 209; 1987 a. 164; 1991 a. 14, 39, 72; 2011 a. 59 s. 2, 243.

The state may not prohibit 65-foot double-bottom trailers. *Raymond Motor Transportation, Inc. v. Rice*, 434 U.S. 429 (1978).

348.09 Projecting loads on side of vehicles.

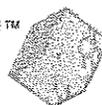
- (1) No person, without a permit therefor, may operate on a highway any motor vehicle, trailer or semitrailer carrying any load extending beyond the fender line on the left side or extending more than 6 inches beyond the fender line on the right side of the vehicle.
- (2) This section applies even though the total width of the vehicle and load does not exceed the maximum permitted under s. 348.05.

History: 1999 a. 85.

348.10 Special limitations on load.

- (1) No person, without a permit therefor, may operate on a highway any vehicle or combination of vehicles with any load thereon extending more than 3 feet beyond the front of the foremost vehicle, except as provided in s. 348.07 (2) (j), and except that a vehicle carrying another vehicle equipped with a crane or boom which extends more than 3 feet beyond the front of the foremost vehicle may be operated without permit if the total length of the vehicle or combination of vehicles, measuring from the end of the foremost projection of the load to the rear of the rearmost vehicle, does not exceed statutory length limitations.
- (2) No person shall operate a vehicle on a highway unless such vehicle is so constructed and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.
- (3) No person may operate on a highway any motor vehicle, trailer or semitrailer carrying logs unless the logs are transported within a cargo body or are securely fastened to the vehicle by chains, steel cables or other attachment devices of equivalent strength whose safety is approved by the department.

FINES
\$10.00
to
\$200.00



Product Description

Environmental Measurement Options

The Greenlight Environmental Monitoring System can be configured with any of the following real-time measurement instruments in each field monitoring station.

Aerosol

- TSI DustTrak-II, for measurement of total particulates (PM-10)
- TSI DRX, capable of simultaneous monitoring of PM-2.5, PM-4, PM-5 and PM-10
- Thermo DataRAM 4000, for measurement of total particulates (PM-10)

Volatile Organic Compounds (VOC)

- PhotoVAC 2020ComboPRO, PID Monitor (100ppb lower range)
- PhotoVAC 2020ppbPRO, PID Monitor (10 ppb lower range)
- RAE Systems: ppbRAE and UltraRAE-3000, PID (1 ppb range)
- RAE Systems MultiRAE-3000, 4-Gas meter w/ PID

Greenlight™ Real-Time Benzene Monitor

- See Separate Information Sheet for Details.

Weather

- Vaisala WXT 520, full meteorological station (temperature, humidity, wind direction, wind speed, precipitation) – typically used as a single full-service weather station for the jobsite.
- Vaisala WMT 52, wind measurement station (wind speed & direction) – added to field stations for enhanced visualization of airflow patterns across the jobsite.

Noise

- Quest Technologies SoundPro SE/DL, sound level meter

GPS

- Garmin model 18X (and most other Garmin models)

Under Development

- Vibration (Seismic), Mercury Vapor, Radiation

Don't see what you are looking for? We continuously add new instruments and specialized device interfaces to our library of measurement options for the Greenlight™ System. Just ask!

Product Description

Overview of the Greenlight™ System

The Greenlight™ Environmental Monitoring System is a comprehensive solution using wireless telemetry to relay field measurements, in real-time, to a base-station computer. The base-station houses the central database and provides a suite of proprietary software applications including graphical user displays, alarm notification, and summary reports.

Field measurement stations are located across the site or area to be monitored, each equipped with the measurement devices required for the task at hand. The heart of each field station is the GEMS-3000 Communication Server, a remote computing module coordinating the data gathering from the field instruments and transmission of the data to the central database.

The Greenlight™ System is well suited to the needs of environmental air monitoring, where both real-time response and a reliable database are critical requirements.

Key Features

- Powerful, easy-to-understand displays
- Real-time alerts and alarms
- Variety of detectors and devices
- Mobile field stations, located by GPS
- Identification of off-site emission sources
- Built-in reporting tools
- Remote alarming with PDAs and cell phones
- Scalable system fits project/site needs

Key Benefits

- Make informed decisions
- Maintain regulatory compliance
- Lower exposure to lawsuits and claims
- Reassure the public and the workforce
- Maintain a comprehensive data archive
- Control project costs in line with site needs and size
- Reduce staffing requirements through automation

GREENLIGHT™

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The Greenlight™ Environmental Monitoring System provides a suite of user applications to meet the needs of environmental monitoring. These include dynamic graphical user interface (GUI) displays, notification of alerts and alarm conditions, summary reports and a database archive.

Key Graphical Displays

- **Live Data View of environmental measurements**
 - Real-time (snapshot) values and averages
 - Tabular format, with user-specified view of the data
 - One-click access to graphical plots
- **Map View of key measurements**
 - Snapshot and averaged data superimposed on site map
 - Dynamic display of wind direction and identification of upwind measurement station
 - Contour mapping of individual environmental parameters
- **Alert Log**
 - Displays alert and alarm conditions for environmental data points, based on user-specified trigger levels

Alarm Notification

- Visible and audible at console, along with detailed alarm log display.
- Remote notification via smart-phone, cell phone and/or PDA
- Optional warning lights at field stations

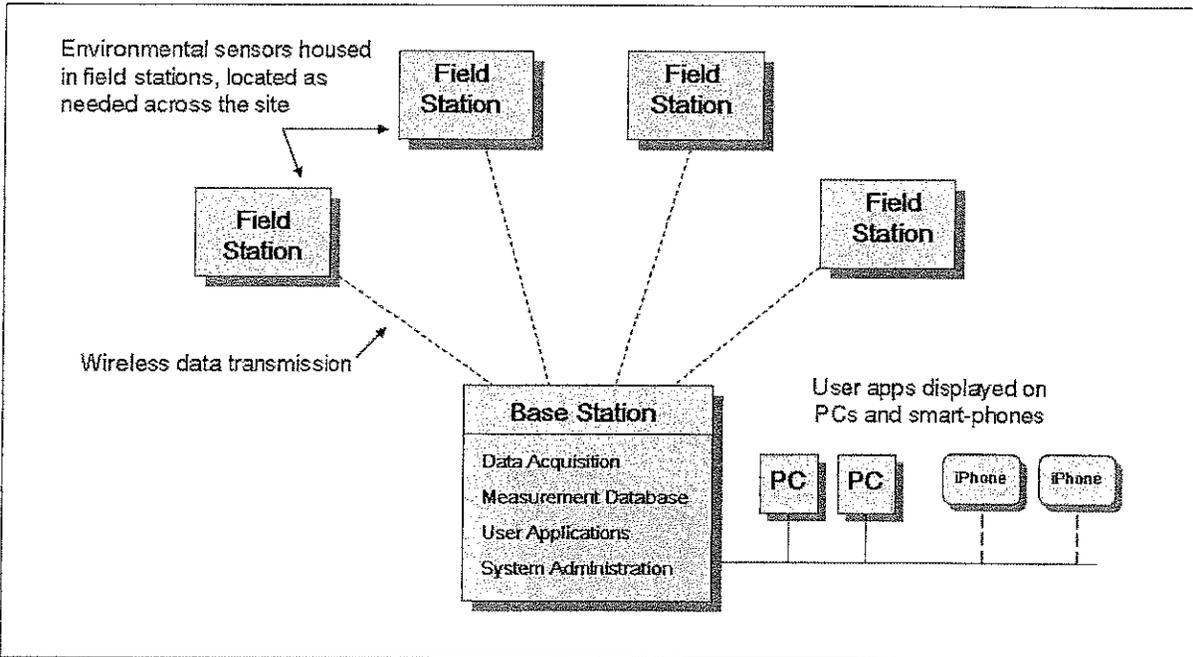
Web Server

- **User applications are served as web screens**
 - Improves system robustness by isolating the central database
 - Allows viewing of displays on PCs and smart-phones via web browsers
 - Optional distribution of displays and data across any network
 - Optional password authentication for large/extended user communities

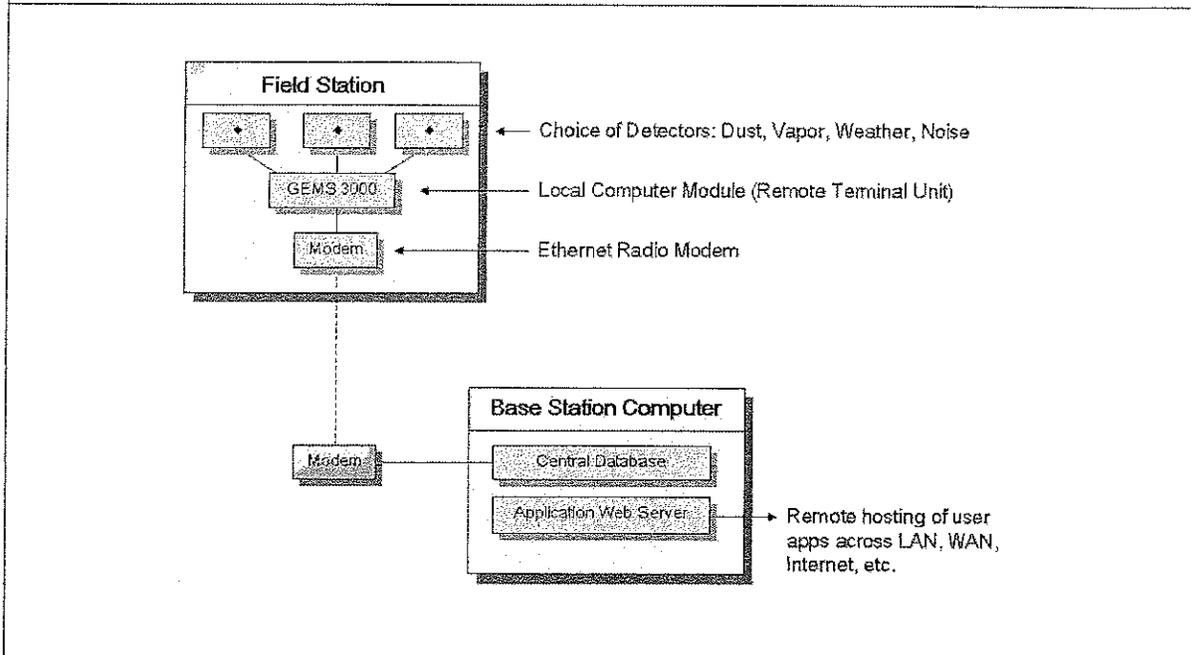
Summary Reports and Database Archive

- Historical archive of all measured data and alarms is maintained
- Standard summary reports and user-configurable options available

Product Description System Architecture



Relationship of Field Stations to the Base Station (above) and details of the Field Station (below)



Product Description

GEMS-3000™ Communication Server

The heart of each field measurement station in the Greenlight™ Environmental Monitoring System is a GEMS-3000 Communication Server. The GEMS-3000 is an embedded computing module equipped with the Microsoft XP operating system and running proprietary Greenlight™ software applications.

Multiple Device Interfaces

The GEMS-3000 has hardware connections for various types of communication interfaces, including serial, USB and Ethernet. The Greenlight solution provides a library of software interfaces created for the GEMS-3000, thus allowing customer flexibility in selecting environmental measurement options. The Greenlight product team is continuously adding new devices to the GEMS-3000 library.

Wireless Telemetry

The GEMS-3000 provides the bridge between field measurement of environmental data and transmission of the data to the Greenlight central database. Ethernet radio modems are utilized at the field stations and the base-station, creating a dedicated and secure data network. Because the GEMS-3000 has interfaces to all measurement devices in a field station, only a single radio modem is required in each station.

Database Robustness

Each GEMS-3000 retains a remote database for the measurements taken at its field station, providing robustness and data security remote from the Greenlight central database. The GEMS-3000, in conjunction with the central database, monitors the integrity of data transmission. If outages or failed transmissions occur, the GEMS-3000 will retransmit the data, as needed, until the central database is up to date and complete.

Remote Alarm Notification

The Greenlight field stations can be equipped with warning lights to notify personnel of measured alarm conditions. These lights are externally mounted on the field enclosure and controlled by the GEMS-3000 software.

Summary of Project Experience

Greenlight™ System Project Highlights

The Greenlight™ System has been successfully deployed for community and workforce monitoring applications since 2006. This list provides a brief summary of our key project experience.

Hazardous Waste Sites – Hexavalent Chromium Remediation

The Greenlight System has been utilized – and continues to be used – on several interrelated sites in Jersey City, New Jersey. The largest of these was over 30 acres in size, required four years of active remediation, and utilized a Greenlight System with 22 field stations monitoring for dust (PM-10).

Chemical Plant Demolition – Asbestos Remediation

A former process plant in upstate New York was demolished after extensive asbestos abatement had been conducted. The Greenlight System was employed for perimeter monitoring of dust (PM-10) to ensure protection of the community. The radio telemetry for this project was successfully deployed overcoming the challenge of interference from metal vessels and pipe-racks.

New Construction on Remediated Site – Asbestos and Lead

Construction of a new apartment building occurred on a small site in a congested urban area, immediately adjacent to an elementary school. Correlation of real-time dust with wind speed and direction was a key requirement and an integral part of the success of the monitoring program.

Coal Tar Site Remediation (Superfund) – Particulate and Vapors

This active project at a former manufacturing site in Northern New Jersey involves real-time monitoring of PM-10 and TVOCs, monitoring of vapor intrusion at an adjacent office building, and collection of significant confirmatory analytical samples. Baseline measurements and analysis are important to distinguish the jobsite from other nearby industry. The presence of sensitive receptors in the immediate vicinity further heightens the criticality of effective perimeter monitoring.

From: [FRED KNUEPPEL](#)
To: [Joel Dietl](#)
Cc: [FRED KNUEPPEL](#)
Subject: Here are some websites for dust monitoring,
Date: Saturday, November 09, 2013 5:01:41 AM

Hi Joel, This is the list of sites for the Quarry dust monitoring

Here are some websites for dust monitoring, as requested by the Quarry Monitoring Cmte. at tonight's meeting



<http://www.greenlightsys.com/greenlight-system/> Real time Dust event Monitoring and database-
Leasable /
real time web / Smartphone reports

<http://www.cdc.gov/niosh/mining/works/cover-sheet1765.html> Dust Control in Mineral Mining from
CDC

<http://www.epa.gov/ttnemc01/methods/method9.html> EPA Method 9 test PDF Files Opacity (Smoke
School)

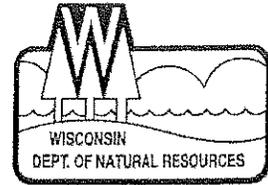
http://www.zefon.com/analytical/download/Sensidyne_Nephelometer_Datasheet.pdf Handheld real
time portable dust monitor

<http://www.zefon.com/store/dust-monitors/?qclid=CMGZ27PC2rUCFexaMgodc1QAmQ> Dust monitors
portable low cost

Take Care
Fred Knueppel
414-254-0375

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711



January 29, 2014

Mr. Joel Dietl
Planning Manager
9229 W. Loomis Road
Franklin, WI 53132

Franklin

FEB 3 2014

City Development

Subject: Nonmetallic Mining Reclamation Program Review for the City of Franklin
(RA # = 55-079-27300)

Dear Joel,

The Department is required by ch. NR 135 Wis. Adm. Code and s. 295.12 (3) Stats., to periodically conduct program review audits of all nonmetallic mining reclamation programs. Pursuant to ch. NR 135.47 (4), Wis. Adm. Code, these must be done at least once every ten years and a written compliance determination must be provided to the audited regulatory authority (RA).

The intent of the program review audit is fourfold: 1) to ensure that all NR 135 programs are being administered in a consistent manner and in accordance with s. 295.12 (3) Stats.; 2) to ensure that the uniform reclamation standards are being complied with; 3) to gather and/or verify information on program administration; and 4) to provide technical assistance and learn about any concerns you may have.

The following is a summary of the NR 135-Reclamation Program audit that I performed with you on December 10, 2013. It is based, in part, on the "*Comprehensive NR 135 Audit Checklist*."

I'd like to thank you for your cooperation during the program review.

General - Program administration and recordkeeping

We began at the City of Franklin offices on the morning of Tuesday, December 10, 2013 and reviewed the files associated with the City of Franklin NR 135 Nonmetallic Mining Reclamation program. Present at the audit were; TJ Maglio (WDNR), and Joel Dietl (City of Franklin).

City of Franklin Code, Chapter 176 covers nonmetallic mine reclamation as required by NR 135.32. The reclamation ordinance was approved by the Common Council on May 15, 2001. It can be found online at:

<http://ecode360.com/8431252>

In 2006, the department amended NR 135 to include several language changes as well as alternate fee schedules. Accordingly, regulatory authorities were also required to amend their ordinances within six months to remain in compliance with s. 295 Wis. Stats.

The City of Franklin has not as yet amended their nonmetallic mining reclamation ordinance to include the 2006 changes. As such, the ordinance and reclamation program is out of compliance with current state law. This was discussed at the audit and in subsequent emails. It was recommended that the ordinance be amended as soon as possible.

Currently, there is one nonmetallic mine site with 280 approved acres permitted under NR 135 and 238 acres actually being mined. The mine site has historically been treated as two permits however, due to split

ownership of the mine by both Payne and Dolan and Vulcan materials. Recently however, Payne and Dolan has purchased the Vulcan portion of the site and will subsequently be the sole operator in the City of Franklin.

The reclamation program has been in a state of flux in recent years. Joel informed me that historically there was a staff person taking care of the NMM program, but he had left recently and that not much had been done with the program since.

Annual reporting as required by NR 135.37 has not been completed every year. Annual reports were filed between 2008 and 2011, but none prior and the 2012 report was not filed. Administrative changes should be made to ensure that annual reporting is accomplished on time according to administrative code.

Collection and transfer of fees and reporting

The City of Franklin County Code, in Section 26, sets fees using acreage bands similar to those set in NR 135.39. Due to the unrevised ordinance however, these acreage bands are not consistent with those set forth in the 2006 revision to NR 135.

Irrespective of the intermittent annual reporting and outdated ordinance, the City of Franklin has been collecting annual fees from mine operators. Both Payne and Dolan and Vulcan have automated annual reporting and fee submittal forms that they have been submitting annually to the county. Joel provided an example of the annual reporting forms used by Payne and Dolan and historically by Vulcan.

City of Franklin has only intermittently submitted the department's share of annual fees. Fees were properly submitted in 2006, 2008, 2009, 2010, and 2012. Annual fees were not submitted in 2007 and 2011. Submission of these fees is required by NR 135.39(2)(c) and administrative changes should be made to ensure that fees are submitted annually by the March 31 deadline along with the annual report as per NR 135.37.

Response to inquiries, complaints & enforcement

Complaints regarding reclamation are seldom received in City of Franklin. When complaints do arise, they generally pertain to zoning related issues like aesthetics, noise, dust, or blasting. City of Franklin has a robust process in place to work with the complainant and operator to get any issues addressed. Joel detailed this process and provided me with a document titled "Quarry Complaint Procedures".

Permitting, reclamation plans, success criteria, modifications and alternative requirements

Due to the staff transitions, there was difficulty in locating the reclamation permit for the Payne and Dolan pit. The only reference to it found was a document detailing the transfer of "permit #NM01-004-001" from Vulcan to Payne and Dolan. This implies that at some point, a permit was issued for the site.

We discussed the possibility of re-issuing a new permit to the Payne and Dolan pit now that it is one operator in the eventuality that they cannot locate the existing permit for each site.

Because the City of Franklin will be unlikely to receive a permit for a new nonmetallic mining operation, there was little discussion of how new mining applications will be handled.

Permit Modifications were discussed, and it seems that the reclamation permit has not historically been mentioned in the context of plan modifications, the zoning process generally handles modifications to the reclamation plan. It was discussed that the reclamation permit needs to be amended at the same time as the

reclamation plan, and that reclamation should be handled by the reclamation ordinance and not the zoning ordinance.

Success criteria were discussed, and generally they are dependent on the specified post mining land use (PMLU) of the site and are approved by the City as a part of the reclamation plan.

Financial Assurance

NR 135.40 (3) provides that financial assurance (FA) shall equal as closely as possible the cost to the regulatory authority of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved plan.

The City of Franklin code in Section 14.10(3) basically echoes the language found in NR 135.40(3). However, the zoning ordinances (97-1456 and 97-1457) require in (E)(1) under "Financial Assurance" a surety in the amount of \$200,000 is required to fulfill the operators obligations until the "reclamation obligations secured by the bond are satisfied."

This is extremely unclear, as the \$200,000 amount required in the zoning ordinance doesn't agree with the requirement by Section 14 of the reclamation ordinance to provide FA in an amount that closely equals the actual cost of the reclamation to the city.

Financial assurance amounts regarding reclamation should be removed from the zoning ordinance. It is within the bounds of zoning to require owner FA for things like road damage, landscaping issues, or other operations related issues, but not reclamation costs as this is already required by the city reclamation ordinance as provided by state law.

NR 135.40(3) as well as Section 14.10(3) also requires that FA be periodically reviewed to ensure that it equals actual reclamation costs to the city. This should be done in the near future, especially since the mine is now operated by a single owner.

Site Inspections

Due to the restrictive zoning ordinances in the City, Franklin routinely inspects the site for compliance with their zoning laws. They have hired a consultant to perform these inspections. We discussed the application of the reclamation plan to the inspection protocols, especially once reclamation begins. The reclamation plan should also be considered in inspections of any berm modifications, topsoil stockpiling, or construction of visual or sound screening.

Review of Program Finances

The tracking of program finances was discussed during the performance review. Joel mentioned that due to staff departures, other than tracking of annual fees, there hadn't been too much tracking of program expenses.

Several aspects of tracking program revenue and expenses were discussed, including using percentages of total compensation packages, individual hour tracking, and the role of the Nonmetallic Advisory Committee (NMAC) in ensuring the reasonableness of program fees.

As an attachment to this findings letter, I will be including some examples of program revenue tracking.

Field Portion of program review

There were no field sites visited during the program review because there is only one operator in the City, and the Payne and Dolan pit had already been shut down for winter.

Conclusions, Required Actions, and Recommendations

Pursuant to NR 135.47 (4) and based on my observations and review of the City of Franklin NR 135 Nonmetallic Mining Reclamation Program, I find that the City of Franklin is not in compliance with the requirements in Chapter 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code.

Based on the findings of the program review of the City of Franklin County NR 135 program I am making the following requirements to bring the program back into compliance along with dates by which the actions are required:

1. Update the City's reclamation ordinance (Ch. 176 of the municipal code) to reflect the 2006 changes. This is the most important issue and as such should be addressed posthaste. Please complete or provide me a timetable for the ordinance amendment by **March 31, 2014**
2. Develop a more thorough and organized annual reporting system. Annual reports were only filed from 2008-2011. Per NR 135.37, reports are due to the department annually. This should be completed for the 2013 year and submitted electronically using the online reporting tool by **March 31, 2014**. Provisions should also be taken to ensure that future annual reports are submitted as required.
3. Ensure that the DNR's portion of the annual fees are paid as required by NR 135.39(2)c. Fees were not paid in 2007, or 2011. Fees are due to the department by **March 31, 2014** and administrative changes should be implemented to ensure that these fees get paid annually henceforth.
4. Remove all language regarding reclamation from the City's zoning ordinances covering nonmetallic mining including financial assurance amounts for reclamation. Nonmetallic mining reclamation is specifically dealt with in Ch. 176, and additional requirements are unnecessary. This can also be accomplished when the zoning ordinances are opened up (which Joel mentioned is in the works). Language requiring the site's compliance with any and all reclamation requirements should suffice. Please complete or provide me a timetable for the zoning ordinance amendments by **March 31, 2014**
5. Please keep me advised as to the status of and implementation of the above items.

It seems that there has been little attention paid to the administration of the NR 135 program in recent years. This is a great opportunity to re-engage with the program and make administrative changes that will not only maintain program compliance with state law, but also minimize the annual workload to City staff when dealing with the program. The following are recommendations that should help to maintain efficiency and reduce demands on staff time.

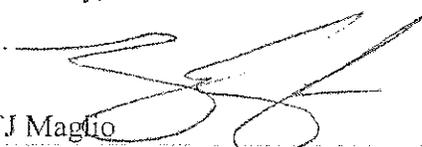
1. Consider condensing the mine from two operators into one and issuing Payne and Dolan a "new" reclamation permit. This will reduce the annual fees you pay DNR, the amount of fees the operator pays, and will reduce workload for City staff. This is also very justifiable in the context of the amendment to the reclamation ordinance. It can almost be looked at as a "fresh start" to the program now that the mine is combined.
2. Rework the zoning ordinances (97-1456 and 97-1457 of the zoning code) and combine them now that it is one site. Having multiple ordinances for the same site seems extraneous and unnecessarily

complicated now that they are owned by the same operator. Joel informed me of plans to re-open the ordinances anyway in the coming months for zoning related changes, so it would be an opportune time to clean them up and combine them.

3. Condense the amount of material required to manage the program. It may prove beneficial to start a new file with the reclamation plan, the reclamation permit you issue for the mine, financial assurance documentation, and any annual registration forms as well as your annual reports to DNR. Now that the site is one operator, doing this will likely make administration easier.
4. During the audit, there was some discussion about additional restrictions the quarry committee plans to insert into the re-working of the zoning ordinance. I recommend ensuring that any such restrictions that involve reclamation be double checked against the rules found in Ch. 295.12 Wis. Stats. In s. 295.13(2) it is explicitly stated that a Regulatory Authority cannot amend a previously existing reclamation ordinance to be more restrictive than the aforementioned rules.

Again, thank you for your time and effort provided during the DNR review of the City of Franklin's Nonmetallic Mining Reclamation Program. It has been a pleasure working with you. If you have questions or concerns or if you'd like to further discuss any of this please contact me at (608) 264-6022.

Sincerely,



TJ Maglio
Mining Specialist

cc: (electronically)

Ed Lynch - WA/5; Phil Fauble - WA/5; Tom Portle - WA/5
Frank Schultz - SER, Milwaukee

(A) Materials received from the City of Franklin

I received the following materials:

- City of Franklin NMM Reclamation Ordinance
- The City of Franklin NMM Zoning Ordinance
- Maps of the mine site
- Copies of the recent annual registration forms submitted by Payne and Dolan and Vulcan
- Quarry complaint package

(B) Materials sent to the City of Franklin

I sent the following materials:

- Examples of both the short form and long form model ordinances.
- NR 135 Program Elements guidance document.
- Newsletter discussing the background behind the 2006 revisions.
- Examples of financials from other RAs.
- WA 832 - Estimating fees to support an NMM Program.

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

ORDINANCE NO. 97- 1456

AN ORDINANCE TO CREATE SECTION 13.26 OF THE ZONING CODE,
ORDINANCE NO. 221, ESTABLISHING
PLANNED DEVELOPMENT DISTRICT NO. 23
(Limestone Quarry and Mixed Use)

AND TO REZONE A PARCEL OF LAND FROM R-6 SINGLE FAMILY RESIDENTIAL
DISTRICT, M-2 GENERAL INDUSTRIAL DISTRICT, M-3 QUARRYING
DISTRICT, FW FLOODWAY DISTRICT, FC FLOODPLAIN CONSERVANCY, FFO
FLOODPLAIN FRINGE OVERLAY DISTRICT, C-1 CONSERVANCY, AND A-1
AGRICULTURAL DISTRICT TO PLANNED DEVELOPMENT DISTRICT NO. 23, FW
FLOODWAY DISTRICT, FC FLOODPLAIN CONSERVANCY, FFO FLOODPLAIN
FRINGE OVERLAY DISTRICT.

PROPERTY LOCATION: 6211 West Rawson Avenue

WHEREAS, the Common Council of the City of Franklin (the
"City") initiated on December 3, 1996 consideration of a rezoning
of property owned by Payne & Dolan, Inc. (the "Operator"), having
corporate offices at N3 W23650 Badinger Road, Waukesha, WI 53187,
to a planned development district (limestone quarry and mixed
use); and

WHEREAS, the Common Council also initiated on December 3,
1996 consideration of a related rezoning of property located
immediately north and east of the Operator's property, owned by
Vulcan Materials Company ("Vulcan"), having regional division
offices at 747 East 22nd Street, Suite 200, Lombard, Illinois
60148, to a planned development district (limestone quarry and
mixed use); and

WHEREAS, the City Plan Commission and Common Council
extensively considered a proposed planned development rezoning of
the properties owned by Operator and Vulcan in 1995;

WHEREAS, the purpose of a planned development zoning district is to provide flexible site design and control and to accommodate different land uses within a single zoning district; and

WHEREAS, a public hearing on the proposed planned development rezoning of the Operator's property and Vulcan's property was held on February 13, 1997 before the City Plan Commission, pursuant to the requirements of Section 62.23 of the Wisconsin Statutes and of the City Zoning Code, Ordinance No. 221 and ordinances supplementary thereto and amendatory thereof; and

WHEREAS, the property of the Operator which is proposed to be rezoned from its present zoning to a planned development district (the "Property") is legally described in Exhibit 1, which is attached hereto and incorporated herein by reference; and

WHEREAS, the City Plan Commission and Common Council have found that a limestone quarry operation has been existent on the Property since at least 1940, and that the number of residential dwelling units in the vicinity of the Property has increased substantially since that time, and have further found that the quarry Operator in recent years has voluntarily imposed on itself restrictive operating guidelines to mitigate any potential negative impacts of the extraction and related quarry operations on the growing residential area in the vicinity of the Property; and

WHEREAS, the City Plan Commission has voted to amend the Comprehensive Master Plan of the City to incorporate Exhibits 6, 7 and 9 of this Ordinance as the official plan map for the Property, conditioned on adoption of this Ordinance by the Common Council; and

WHEREAS, the City Plan Commission has voted to recommend this ordinance and the proposed Planned Development District No. 23 to the Common Council; and

WHEREAS, the City Plan Commission and Common Council have found that this Ordinance No. 97-1456 (this "Ordinance") and the proposed Planned Development District No. 23 conform to and

satisfy the standards for approval of a planned development district, as stated in Section 13.3 of Ordinance No. 221; and

WHEREAS, the City Plan Commission and Common Council have found that this Ordinance and the proposed Planned Development District No. 23 impose controls and restrictions on the Operator's extraction and related quarry operations which will provide for and protect the public health, safety and welfare and will satisfactorily mitigate any potential negative impacts of such uses on surrounding properties; and

NOW, THEREFORE, the Common Council of the City of Franklin, does hereby ordain as follows:

SECTION .01 The Official Zoning Map adopted as part of Ordinance No. 221 is hereby amended as follows:

"The Zoning Districts for the Property described on Exhibit 1 are hereby changed from R-6 Single Family Residential District, M-2 General Industrial District, M-3 Quarrying District, C-1 Conservancy District, FW Floodway District, FC Floodplain Conservancy, FFO Floodplain Fringe Overlay District, and A-1 Agricultural District, to Planned Development District No. 23 (Limestone Quarry and Mixed Use). Notwithstanding the Planned Development District classification, the areas of the Property previously zoned FW Floodway District and FFO Floodplain Fringe Overlay District shall continue to be shown as such on the Official Zoning Map, subject to the regulations of section 13.26 of the City Zoning Code, Ordinance No. 221 creating and providing for Planned Development District No. 23."

SECTION .02 The City Zoning Code, Ordinance No. 221, is hereby amended to create Section 13.26 entitled "Planned Development District No. 23," which states as follows:

13.26 PLANNED DEVELOPMENT DISTRICT NO. 23

A. Exhibits

1. The exhibits described below, which are plans and other materials submitted by the Operator with respect to the proposed rezoning, are attached hereto and hereby made part of this Ordinance:
 - a. Exhibit 1: Legal description of the properties rezoned to Planned Development District No. 23.
 - b. Exhibit 2: Title Sheet, prepared by Graef, Anhalt, Schloemer & Associates, Inc., designated by the letter A in the lower right-hand corner.
 - c. Exhibit 3: Existing Zoning Map, prepared by Graef, Anhalt, Schloemer & Associates Inc., designated by the letter B in the lower right-hand corner.
 - d. Exhibit 4: Plat of Existing Site, prepared by Graef, Anhalt, Schloemer & Associates Inc., designated by the letter C in the lower right-hand corner.
 - e. Exhibit 5: October 20, 1996 aerial photograph showing existing conditions, designated by the letter D in the lower right-hand corner.
 - f. Exhibit 6: Overview of Planned Development Highlights prepared by Graef, Anhalt, Schloemer & Associates, Inc., designated by the letter E in the lower right-hand corner.
 - g. Exhibit 7: 2004 Operations Plan, prepared by Graef, Anhalt, Schloemer & Associates, Inc., designated by the letter F in the lower right-hand corner.

- h. Exhibit 8: Conceptual Restoration Plan, prepared by Graef, Anhalt, Schloemer & Associates Inc., designated by the letter G in the lower right-hand corner.
 - i. Exhibit 9: Sections, prepared by Graef, Anhalt, Schloemer & Associates, Inc., designated by the letter H in the lower right-hand corner.
 - j. Exhibit 10: Property Value Guarantee Agreement.
 - k. Exhibit 11: Property Value Guarantee Tak Key Number List of Eligible Properties.
2. The uses and operations on the Property shall conform to the regulations set forth in this Ordinance. The development of the Nonextraction Area shall be in substantial conformance with the location and layout of improvements shown on Exhibit 7, which the City recognizes are conceptual and schematic in nature. The City recognizes that the limestone resource being quarried by the Operator is variable in terms of its thickness, quality, depth of overburden and other geologic and stratigraphic characteristics, and that the projected elevations, locations and arrangements of ramps, benches and other mining structures as are generally and schematically depicted in Exhibit 7 are not exact and are subject to nonmaterial design modifications as detailed mine plan development and actual mining progresses. Except as is otherwise specifically stated in this Ordinance, the development of the Extraction Area and the location and layout of operations and facilities in the Extraction Area shall be at the discretion of the Operator.

B. Definitions. The following definitions shall apply to this Ordinance:

1. Ancillary Operations and Facilities: Operations and facilities on the Property relating to the Quarry-Related Operations and Facilities and/or to the Nonquarry Related Operations and Facilities that are necessary supporting uses not otherwise specifically referred to, such as electric power, water supply, sewerage and drainage systems and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures, equipment and features.
2. Asphalt Plant Operations and Facilities: The operations and facilities on the Property involved in combining and processing raw and/or recycled materials into an asphaltic pavement material and the selling of such product to customers, including the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment, the loading, hauling, dumping, mixing, processing, storage and stockpiling of all related accessory materials and product, and related accessory uses and facilities. The asphalt plant is currently located on grade in the area previously zoned M-3 Quarrying District, pursuant to previously issued special use permits.
3. Berm Building and Maintenance Operations and Facilities: The process of building, landscaping and maintaining berms to screen the Extraction and other Quarry-Related Operations and Facilities, including the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment, and the loading, hauling, dumping, storage, stockpiling of related accessory materials, and the planting and maintenance of landscaping, and related accessory uses and facilities.
4. City: The incorporated municipality of the City of Franklin, Milwaukee County, State of Wisconsin.

5. Concrete Ready-Mix Plant Operations and Facilities: The operations and facilities on the Property involved in the mixing and processing of component materials into a portland cement concrete mixture, and the selling of product to customers, including the use, construction, relocation, alteration, installation and maintenance of all related accessory structures and equipment, the loading, hauling, dumping, mixing, processing, storage and stockpiling of all related accessory materials and product, and related accessory uses and facilities.

6. Crushing, Processing and Stockpiling Operations and Facilities: The Operator's crushing, processing and stockpiling operations and facilities on the Property, including all crushing operations and the use, construction, installation, alteration, relocation and maintenance of all primary, secondary, tertiary, recycling and other crushers, all conveyors involved in processing operations, and all related accessory structures and equipment; all sizing, sorting, mixing, washing, beneficiating and other processing operations, and the loading, hauling, dumping, conveying, storage and stockpiling of extracted and processed material and product, and the use, construction, installation and maintenance of all related accessory structures and equipment; all product recycling operations, and all related accessory loading, hauling, dumping, conveying, sizing, mixing, sorting, washing, beneficiating and other related accessory processing, storage and stockpiling of materials and product, and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment; and related accessory uses and facilities. Operator's Crushing, Processing and Stockpiling Operations and Facilities do not include the Retail Topsoil Processing and Aggregates Operations and Facili-

ties, or the Asphalt Plant Operations and Facilities, or the Concrete Ready-Mix Plant Operations and Facilities, or the Berm Building and Maintenance Operations and Facilities, or the Stripping Operations and Facilities. Operator's crushing operations and facilities are currently located on and below grade in the area of the Property previously zoned M-3 Quarrying District and outside the Property and west of the Root River in the area zoned A-1 Agricultural District. Operator's processing operations and facilities are currently located on and below grade in the areas of the Property previously zoned M-3 Quarrying District and, west of the Root River in the area zoned A-1 Agricultural District. Operator's stockpiling operations and facilities are currently located on and below grade in the areas of the Property previously zoned M-3 Quarrying District, and west of the Root River in the area zoned A-1 Agricultural District.

7. Extraction: The process of mining and removing the limestone natural resource by any method, including drilling and blasting, excavating and other means.
8. Extraction Area: Location of the permitted Extraction activity on the Property within the setbacks established in subsection R of this Ordinance.
9. Extraction Operations and Facilities: The process of mining and removing the limestone natural resource on the Property by any method, including drilling and blasting, excavating, and other means, and the related accessory use and storage of explosives, the related accessory dewatering of the quarry, the related accessory use, storage and maintenance of equipment and materials, the related accessory loading, hauling, conveyance, dumping and storage of shot rock, and the related accessory use, construction, installation, altera-

tion, relocation and maintenance of accessory related haul roads, ramps, sumps and settling basins, catch benches, conveyors, drain pipes and channels and similar features, structures and equipment, and related accessory uses and facilities.

10. Financial Assurance: The performance bond, letter of credit, demonstration of financial responsibility by meeting net worth requirements, or a combination of any of the such forms of financial assurance, or such other reasonable forms of financial assurance as may be acceptable to the City, conditioned on the faithful performance by the Operator of reclamation requirements prescribed by this Ordinance, and provided to the City by the Operator pursuant to this Ordinance.
11. Floor of the Extraction Area: Any mined level within the Extraction Area that is at least 150 feet below the top of rock.
12. Maintenance and Staging Operations and Facilities:
The Operator's maintenance and staging operations and facilities , which are currently located on grade in the area previously zoned M-3 Quarrying District and outside the Property, in the vicinity of the Root River in the area previously zoned A-1 Agricultural District, and which will be relocated on grade East of the Root River in the vicinity of Rawson Avenue and may be relocated to the Floor of the Extraction Area at the Operator's discretion, at any time , including, without limitation, the following functions and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures, equipment and materials: equipment maintenance, equipment and materials storage, vehicle wash, scale house, product quality control, fuel island, employee locker, washroom and lunchroom, and employee parking, and related accessory uses and facilities.

13. Nonextraction Area: That part of the Property located outside of the Extraction Area.
14. Nonquarry-Related Operations and Facilities: All uses, operations and facilities on the Property, other than Quarry-Related Operations and Facilities, which are existent or approved by the City, including existing residences, recreational trail, approved wetlands mitigation, subject to approval requirements, and related accessory uses and facilities.
15. Office and Sales Operations and Facilities: The office and customer sales operations and facilities of the Operator, which are currently located outside of the Property, on grade in the area previously zoned A-1 Agricultural District, west of the Root River, which will be relocated on grade East of the Root River in the vicinity of Rawson Avenue and may be relocated to the Floor of the Extraction Area in the Operator's discretion, at any time, including the use, construction, installation, alteration, relocation and maintenance of offices of supervisory, sales and clerical personnel, the sale of product to customers, related facilities such as ticket house, scale, and wheel wash, related employee and customer parking and circulation facilities, and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment, the loading and hauling of product, and related accessory uses and facilities.
16. Operator: Payne & Dolan, Inc., its subsidiaries, successors or assigns, while an owner or operator of the Property.
17. Property: The real property owned or to be acquired by Payne & Dolan, Inc. and included within Planned Development District No. 23, which is legally described on Exhibit 1.

18. Quarry-Related Operations and Facilities: The quarry-related uses, operations and facilities on the Property include all approved uses, operations and facilities on the Property having any relationship with the Operator's limestone quarry, including, without limitation: Stripping Operations and Facilities, Berm Building and Maintenance Operations and Facilities; Extraction Operations and Facilities; Crushing, Processing and Stockpiling Operations and Facilities; Maintenance and Staging Operations and Facilities; Office and Sales Operations and Facilities; Asphalt Plant Operations and Facilities; Concrete Ready-Mix Plant Operations and Facilities; Retail Topsoil Processing and Aggregates Operations and Facilities; Reclamation Operations and Facilities; Ancillary Operations and Facilities; and related accessory uses and facilities.
19. Reclamation Operations and Facilities: The uses, operations and facilities required to make the portions of the Property outside of the quarry suitable for appropriate end-use development and to provide suitable public access to the lake formed by the filling of the quarry, and related accessory uses and facilities.
20. Retail Topsoil Processing and Aggregates Operations and Facilities: The retail topsoil processing and aggregates operations and facilities on the Property, the related accessory selling of product to customers, the related accessory loading, hauling, mixing, processing, storage and stockpiling of materials and product, and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment, and related accessory uses and facilities. These operations and facilities are currently located on grade near the southeastern corner of Vulcan's property, in the area previously zoned M-2 General Industrial

District, and are currently occupied and operated by Vulcan's tenant.

21. Stripping Operations and Facilities: The process of removing the overburden to gain access to the minable limestone, and the use, construction, installation, alteration, relocation and maintenance of all related accessory structures and equipment, and the loading, hauling, dumping, storage and stockpiling of stripped material, and related accessory uses and facilities.
22. Vulcan: Vulcan Materials Company, its subsidiaries, successors or assigns, while an owner or operator of the quarry property located immediately east and north of the Property

C. Purposes and Uses:

1. The purposes of the limestone quarry and mixed uses planned development district established by this Ordinance are to address the existence of a limestone quarry and related accessory land uses adjacent to existing and developing residential land uses and business uses and to recognize the nature of the diminishing asset use amortization over time relatively unique to mineral extraction, requiring reclamation and different future uses of quarried lands, for the purpose of promoting the health, safety and general welfare of the community; to secure safety from panic, fear and other dangers to persons or property; to provide for adequate and safe air and to encourage the protection of groundwater resources; to facilitate the adequate provision of transportation, water, parks and other public requirements; and to provide for limestone quarry or mixed use regulations, considering the character and development history of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land, which regulations will over a period of time, tend

to promote the maximum benefit to the district and to the community from coordinated area site planning, diversified location of structures and mixed compatible uses.

2. The uses authorized under this Ordinance, as defined under subsection B, above, are as follows:
 - a. The Quarry-Related Operations and Facilities on the Property are permitted subject to and in accordance with the provisions of this Ordinance.
 - b. The Nonquarry-Related Operations and Facilities on the Property are permitted subject to and in accordance with the provisions of this Ordinance.
 - c. The Ancillary Operations and Facilities are permitted subject to and in accordance with any applicable provisions of this ordinance.
 - d. The Uses permitted by this Ordinance on grade, outside the quarry pit, shall remain subject to all other applicable ordinances to the same extent as other permitted uses under the City Municipal and Zoning Codes, as amended, i.e., building permit, zoning compliance permit, site plan approval and other applicable regulations. The terms and provisions of this ordinance shall not be construed as a waiver of such other applicable ordinances. The uses permitted by this Ordinance within the quarry pit, in light of the continuing development and movement of operations and facilities, and the protected location of such operations and facilities shall not be subject to such ordinances except as is specifically required by this Ordinance. Notwithstanding any other language of this Ordinance apparently to the contrary, the operator shall not be required to apply for or obtain any such permits or approvals to continue its operations on land where it could lawfully conduct such operations prior to the date of adoption of this Ordinance or to continue using structures or

other facilities which it could lawfully use prior to such date.

D. Compliance With Other Laws.

The Operator shall comply with all State and Federal statutes, rules, regulations, orders, and laws, as amended from time to time, to the extent they are applicable to the Operator's use of the Property and its operations thereon and pertinent to the purposes of this Ordinance. The Operator shall comply with all applicable City ordinances which are not inconsistent with the provisions of this Ordinance.

E. Financial Assurance.

1. Prior to the Effective Date of the portions of this Ordinance affecting the Extraction Area, the Operator shall provide Financial Assurance to the City in the form of a performance bond in the amount of \$200,000, written by a company licensed to write such bonds in the State of Wisconsin and conditioned upon the faithful performance of the Operator's obligations under this Ordinance for which Financial Assurance is specifically required. The performance bond shall remain in effect at all times until the reclamation obligations to be secured by the bond are satisfied. The form of performance bond shall be subject to the approval of the Common Council, which approval shall not be unreasonably withheld.
2. The type and amount of the Financial Assurance required by this Ordinance may be amended by the Common Council after Plan Commission review at the time of approval of the detailed reclamation plan provided for in subsection S of this Ordinance, or in the event of a substantial change of circumstances relating to the Operator or the uses and operations contemplated hereunder, or to ensure that the purchasing power of the Financial Assurance required hereunder has not been materially diluted by the effects of inflation, so that the City shall remain secure at all times that the Operator's secured obligations will be satisfied, or upon petition of the Operator. Operator shall be given reasonable notice and an

opportunity to be heard with respect to any proposed amendment of the required Financial Assurance. Operator shall provide any such amended Financial Assurance within 30 days of its receipt from the City of written notice to do so. Any amendment to the form or amount of Financial Assurance under this Ordinance shall take into account at least the following factors, without limitation: the cost of the obligation to be secured, the time for completion of the obligation, the financial viability of the Operator, and the past performance of the Operator under this Ordinance.

F. Liability Insurance/Hold Harmless.

1. Prior to the Effective Date of the portions of this Ordinance affecting the Extraction Area, Operator shall provide to the City an agreement to defend and hold harmless the City against any claims whatsoever resulting from or arising out of any negligent or intentional and wrongful act or omission of the Operator, its employees, officers, or agents in conducting the Extraction operations on the Property which are regulated by this Ordinance, during the period that the Extraction operations are active and through the date of completion of final reclamation. Said hold harmless agreement shall be signed by the Operator and acknowledged in the presence of a notary public and shall be subject to approval by the City of Franklin Common Council.
2. Upon request of the City, Operator shall present to the City a certificate of general liability insurance coverage in the amount of \$10,000,000. Operator shall maintain such insurance in effect at all times while conducting Extraction or Reclamation activities under this Ordinance and shall obtain the designation of the City of Franklin thereunder as an also insured.

G. Compliance, Enforcement and Penalties:

1. In the event the Operator fails to comply with the provisions of this Ordinance, the City may issue a compliance order, suspension order or order directing the immediate cessation of an activity regulated under this Ordinance until the activity complies with the provisions hereof.
2. The Plan Commission may propose amendments to this Ordinance to require use by the Operator of new methods, processes, procedures, facilities, practices or equipment in its quarry operations that will materially diminish adverse impacts on the community or nearby residents, provided that use of such methods, processes, procedures, facilities, practices or equipment is proven and demonstrated to be effective in the Operator's industry in reducing adverse impacts, is cost effective for such purpose and will not impose an unreasonable financial burden on the Operator. The Plan Commission shall conduct a public hearing on any such proposed amendments, after meeting and consulting with the Operator, and shall then report any such proposed amendments with its recommendations to the Common Council. Such an amendment may be adopted by the Common Council, in accordance with the standard amendment procedure, provided that such amendment satisfies all of the requirements set out above in this subsection.
3. Failure to comply with the provisions of this Ordinance shall subject the Operator to the penalty provisions of Section 18 of the City Zoning Ordinance. In addition, in the event the Operator: (a) repeatedly and flagrantly fails to comply with any provision of this Ordinance, (b) repeatedly fails to comply with any material provision of this Ordinance, or (c) fails to comply with any provision of this Ordinance in a manner which materially and adversely affects the public health or safety, the City may serve written notice upon the Operator describing such

violation or pattern of violations in detail and requiring that such violation(s) be abated and compliance be had within 30 days from the date of such notice, or within such longer period of time as may be reasonably required under the circumstances to correct such violation(s), provided that the Operator shall have promptly taken such steps as are reasonably possible to remedy such violation upon receipt of written notice. As used herein, "repeatedly" shall mean five (5) violations of any specific provision of this Ordinance within any calendar year. If such violation continues beyond said 30 days (or such longer period of time as may be reasonable under the circumstances), the City may either:

- a. obtain injunctive relief from any court of competent jurisdiction, or
- b. the Common Council may direct the Plan Commission to hold a public hearing to consider the cause of the violations and the means of assuring future compliance. The notice of such public hearing shall state the date, time, place, and subject matter of the hearing, and shall be delivered personally to the Operator not less than fifteen (15) days prior to the hearing, mailed to neighboring property owners and residents within 200 feet of the Property and published in the official newspaper of the City as a Class 2 Notice. Within 30 days after the public hearing, the Plan Commission shall report to the Common Council its findings and recommendations. Following public hearing and after considering the Plan Commission report and recommendations, the Common Council shall take such reasonable action as it deems appropriate, including, without limitation, determining that no extraordinary action is warranted or imposing such conditions or requirements as are needed to assure compliance. In the event that the Council determines that the Operator

cannot or, under all the circumstances, will not bring its operation into satisfactory compliance, the Council may, to protect the public health, safety and welfare, order the cessation of specific aspects of the quarry use or the entire quarry use, and, in the event of complete cessation, may require final reclamation of the quarry. If the Common Council does not timely receive the recommendations and report from the Plan Commission, the Common Council may hold a hearing and act without receiving such recommendations. Any reclamation order shall take into account the status of the quarry operations at the time of such reclamation order, shall be reasonable, and shall not require Extraction of an area greater than the then existing mined area.

H. Berms and Landscaping.

1. Within two years after the Effective Date of the portions of this Ordinance affecting the Nonextraction Area, Operator shall construct the berm parallel to Drexel Avenue and complete construction and modification to the existing berm paralleling 51st Street to give it the appearance from 51st Street of a contoured berm.
2. Prior to commencement of the construction and modification of the berm paralleling 51st Street, or the construction of the berm paralleling Drexel Avenue, the Operator shall submit a detailed landscape plan relating to the modified or new externally visible areas of such berms for the review and approval of the Plan Commission. Such plans shall specify the location, species (both biological and common name) and the planting size of all landscape materials to be planted on or near the berms.
3. Prior to commencement of the construction and modification of the berm paralleling 51st Street, or the construction of the berm paralleling Drexel Avenue, the Operator shall submit, for the review and approval by the City Plan Commission, a berm

grading plan, including provisions to mitigate any potential impacts of stormwater run-off or erosion from the modified or new berms. Operator shall obtain a land disturbance permit, or any other permit required by the Engineering Department, prior to commencement of construction of the berm modifications.

4. Material needed for the new and modified berms shall be obtained from areas on the Property previously zoned M-3 Quarrying District, M-2 General Industrial District or R-6 Residential District, as shown on Exhibit 3.
5. Upon completion of the new and modified berms, Operator shall install a six (6) foot security fence, with barbed wire at the option of the Operator, to prohibit public access to the Operator's Extraction Area from the north, east, or south. Said fence shall be installed so as to connect with similar fences installed by Vulcan on its quarry site.

I. River Area Restrictions.

1. The Operator shall not encroach upon any property within the FW Floodway District, as shown on Exhibit 3, with any buildings or structures (other than existing buildings, haul roads, or dewatering and drainage structures, which may be maintained, modified or reconstructed provided that Operator obtains all required permits and approvals), or cause such property to be filled or altered other than in accordance with the FW Floodway District regulations.
2. The regulations of the FFO Floodplain Fringe Overlay District, as shown on Exhibit 3 or as it might be expanded in the future as a result of the Extraction operations, shall not interfere with any Extraction or other Quarry-Related Operations and Facilities, or the provisions of this Ordinance. To the extent that the regulations of the FFO District would otherwise interfere in any respect with the Extraction, Crushing, Processing and Stockpiling or other Quarry-Related Operations and Facilities or the provisions of this Ordinance, they shall be deemed to be suspended

until such time as such operations and the use of such facilities have been completed. By accepting this Ordinance, the Operator accepts any risk of business interruption or damage to its operations and facilities.

3. Prior to horizontal expansion of any existing Extraction operations within 500 feet of the ordinary high water mark of the Root River, the Operator shall obtain any necessary permits from the Wisconsin DNR and any other regulatory agency with authority over the Root River.
4. The rezoning of the Property on the Effective Date of this Ordinance removes all C-1 Conservancy District zoning from the Property.

J. Stormwater Management and Water Quality Plan.

1. Prior to the Operator's expansion of the Extraction operations into the area shown as M-2 General Industrial District or R-6 Residential District on Exhibit 3, Operator shall submit to the City Engineering Department for review and approval a stormwater management and water quality plan for the entire Property. It is the stated interest of the City to reasonably protect the Root River from siltation and other harmful pollution resulting from the quarry dewatering operations or drainage practices.
2. Implementation of all aspects of the stormwater management and water quality plan shall occur in accordance with applicable Wisconsin DNR regulations.
3. Subject to the foregoing approvals, the Operator may modify the surface drainage on the Property and its quarry dewatering practices to accommodate the proposed Extraction operations in that part of the Extraction Area that was previously zoned M-2 General Industrial District, and R-6 Residential District as shown on Exhibit 3. In this regard, subject to the foregoing approvals the Operator may reroute surface drainage and/or the discharge of water from the quarry dewatering operations within the Property and/or may cooperate with