

Town of Merton
Joint Public Hearing with Waukesha County & Town Board
Conditional Use Request of Halquist Stone Company, Inc & North Lake Sand & Gravel
To Seek a Renewal of Their Existing Conditional Use Permit to Continue
To Operate a Quarrying Operation.
August 4, 2021

Present: Chairman Klink, Commissioners Griffin, Jensen, Morris, & Good, Attorney Murn, Planner Haroldson, Deputy Clerk Claas, Ben Greenberg of Waukesha County Parks & Land Use, Supervisors Fleming, Herrick & Olson, and Clerk Hann.

Also Present: Tom Halquist, Curt Podd, Bob Bishop, Jack & Jeanne Ann Frederickson, Carl Ernst, Breanne Brennan, Jim Baker, Daniel Schlise, Evan Beine, Bill Halquist, Paul Turek, Chris O'Neill, Karen Buehrle, Joe & Colleen Klemm, Greg Booton, Carole Haubner, Lori Pfister, Andrew Nezworski, Pamela Queoff & Gary Payden

Public Hearing was Called to Order by Chairman Klink at 5:30 p.m. and explained the process of the public hearing.

Greenberg read the public hearing notice.

Attorney Murn stated Act 67 regarding conditional use permits was enacted in 2018 and explained it requires that the Town imposes reasonable conditions based on substantial evidence. Substantial evidence is objective facts and figures rather than personal speculation and opinions. Attorney Murn presented a document to the Commissioners and the audience briefly explaining Act 67.

Greenberg said this is a to renew the conditional use permit which had a 10-year sunset. No changes are currently being proposed for the conditional use permit, plan of operation, or the site plan. The site is about 200 acres and is both in Town jurisdiction and County's shoreland jurisdiction and is zoned Q-1 and A-2 and in County there is an environmental corridor overlay. The property has a long history of mining activities from the early 1900's. Mining activities were first regulated by the Town in 1981. In 1991 the property was rezoned in both the County and the Town from A-2 to Q-1. The rezone was subject to a number of conditions, one being to obtain a conditional use permit from the Town. At that time no shoreland areas were involved in the active mining operation. That conditional use permit was issued in 1991 and renewed in 2001. In 2003 the quarry was required to prepare a reclamation plan which is still active. Land Resources is still regulating reclamation activities and has had no issues on the history of the reclamation plan. In 2011 a renewal was applied for and the operation had expanded to county zoned lands so a conditional use permit was also required from Waukesha County at that time. Two amendments to the conditional use permit were sought at that time. One was to allow quarrying up to 100' of Kilbourne Road which previously was 200'. That conditional use permit was approved in 2011 and was issued in 2015. Some conditions of that conditional use permit were an annual review by the Town, it established noise levels of 75 decibels at the property line, the quarrying operations were permitted no closer than 200' to any residential district, no part of the quarrying operation is allowed within 200' of the base setback line, and no asphalt production or batch plant use is permitted in the conditional use permit.

Greenberg stated the request is to renew the conditional use permit based on the same terms. The quarry runs year-round with a majority of operations occurring outside winter months. Mining is proposed to a depth of approximately 30' below the water table. They have no intent to exceed the active mining zone as identified on the site plan and the reclamation plan. The operation has 4 full-time employees and 2 part-time. There are 20 to 40 truck drivers, not directly employed by North Lake Sand & Gravel. Greenberg said he did receive two calls from neighbors with concerns regarding excess noise, issues with dust and dirt being

tracked on roads, and that the permit wasn't being complied with. There is some concern about the area between Kilbourne Road and the Baker property which is zoned environmental corridor. There was some misunderstanding of where activities could and could not occur. Halquist is clear on that now and he has no intention of proceeding in that area.

Halquist stated in 2018 they had an amendment to the 2011 conditional use permit to relocate part of the plant down into the quarry. The screen tower down by the railroad tracks is now inactive. He is now working on a plan to get rid of it. Everything that happened up there was moved down into the quarry down below. It helps contain some of the noise. Every ton of stone that came out of that tower had to be stockpiled with a truck, so they were able to eliminate that from the process. June of 2019 is when activity under this amended conditional use began. Halquist said they're making no request for any changes. As far as the spot by Baker's house, they were under the impression, wrongly, that he could go within 200' of the tree line. They stopped that. He met with Baker about the noise. They filled in the spot in the berm, so he hopes that helps with the noise. They just want to continue under the plan that exists.

Klink asked about the plan to remove the metal structure. Halquist said he is waiting for pricing from three guys. Halquist said this would be a project that would have to be done in the wintertime.

The public hearing was opened for public comments and concerns.

Jim Baker – W310N8370 Kilbourne Road – distributed and summarized a booklet he created titled "The Case for Changing the North Lake Sand & Gravel Conditional Use Permit" to the Plan Commissioners, the Attorney, the Town Board, the Waukesha County Parks & Land Use Representative, and to the audience. He reviewed letters, and spoke of dust control, noise and decibel levels, and hours of operation. He wants North Lake Sand & Gravel to be a good neighbor and he wants the decibel level lowered and have a professional test the sound levels while all machines are operating. Baker would also like the conditional use to expire in 5 years with an annual review. He's also concerned about his well failing. A copy of Baker's booklet is attached with the minutes at the Town Hall.

Joe Klemm – W313N8511 Kilbourne Road – said he's here to speak for himself and his wife who has lived in the Town for 29 years. Originally, he was going to ask Halquist to go over the operation and what actually happens once that loader goes into the hill and picks up a bucket of gravel and goes over and dumps it into the sorter and it's conveyed. As it's conveyed, he wants to know how many times it drops and what happens. Other quarries that he's familiar with, they have rubber lined those areas that were intersections; that went from one conveyor to the next. If you go down and watch that operation and it's being conveyed, some of the conveyors are on an angle to another one so when it comes down onto that conveyor, it bounces off that area that's contained for it to get caught and go to the next conveyor. In other areas, they've rubber lined them. Klemm requested that Halquist explain a little bit more what the process is, how many different stones are being pounded out of there, how many other different sections have to be contained so that the noise could be kept at a lower level. The more they have areas that are crushing, the more crushers that are being worked at one time, the louder the noise gets. On some days observing the quarry, it's a lot quieter than others. Obviously, the direction of the wind makes a difference. If the wind is coming from the southeast, they can hear it a lot better than if the wind is coming from the north. When he moved to the Town in 1992, there was a meeting because North Lake Sand & Gravel wanted to put a road through the gravel pit. When they did that, they told the Town residents that in 2025 the property values would probably go up because they will be done quarrying and there will be a lake there. There would be lake properties and condos. Klemm said it's kind of funny that they're going through with this again and it's gotten worse. When they put that road through there, they made a funnel and the funnel goes right towards a residential area. There's no berm; nothing to stop the noise. He questioned if there was some kind of berm situation that could be put

up. In some quarries, the berms were put up higher, they put sound barriers in, they planted a lot of trees, they beautified the area. All he sees is North Lake Sand & Gravel taking from this community and not giving anything back. All they're asking for is to beautify the area. It's not appealing to the eye. They could do a better job of maintaining the area. He suggested they go past Halquist Stone in the Town of Lisbon off of Highway K. it's well maintained and beautified. They cut the grass, they have berms, they have plantings. It's nice looking. Most quarries have a wheel wash. Before they leave the pit, the wheels are washed off so gravel doesn't track onto the road. After they get weighed, they should be driving through the wheel wash. They come out with an open-air sweeper which puts dust up into the air. He wants them to get a street sweeper, not an open-air broom. He said all they're really asking for is for Halquist Stone to be a good neighbor. He stated he will call into the Town and they tell him to call the quarry and let them know. It's not his job to call the quarry and tell Halquist what the problem is. The quarry will listen to the Town. The Town has the control. He wants the Commissioners to consider the new process they have compared to the old. They've magnified it totally compared to what it was before. If you look at the process, they're not making the same amount of stone as they did.

Curtis Podd has a property in the Industrial Park at N78W31400 Kilbourne Road. He doesn't have any comments on the quarry operation itself, more on the by product of it. Obviously, there are a lot of dump trucks, a lot of quads running on that road now which is just to be expected and is fine. He wants to get the Town's awareness that that road is really in decrepit shape. On that stretch of Kilbourne there is multiple layers of asphalt on top of each other and they are separating, it's coming apart, and the road is fairly narrow. There is nothing as far as he can see for stormwater management, ditches, curb and gutter. The water just drains down Kilbourne Road towards Highway 83 and through Corey Oil. Podd stated it's obviously a quarrying district, but he wants to get the awareness that the Town realizes in the long-term budget or capital improvements, the Town is going to have to do some improvements to that road. It's in very poor condition.

Greg Booton – W313N8585 Kilbourne Road – said he speaks for himself and his wife, Molly Groshek. They are about a quarter of a mile down the road from Baker. He's read Baker's report and he concurs with his report and everything else. They were not notified of this meeting. Greenberg stated the County's ordinance requires notification from one half mile of the center of the operation. They did their best to locate the center of the operation and they used the GIS mapping. Haroldson said the Town's ordinance is the same. Booton stated the noise is certainly noticeable and he's sure it's over 55 decibels. Klemm is also a neighbor of his and they can't stand outside and have a conversation. He's concurring with Baker's report. He said he thinks the noise should be measured by an independent person, not the actual person or company doing it. He said he's an engineer himself and they always have to have an independent person doing it. It's more credible from an independent person. Also, the spectrum of that is very important for measuring noise. He also concurs with the dust as Klemm stated. There are days that look a lot worse than the pictures show in Baker's report. He hopes the Board will consider the conditional use permit is outdated and should be changed to reflect the current operation. Especially they should start at 7, not at 6. If they have their windows open, it's a wake-up call.

Dan Schlise – N74W32810 Reddelien Road – stated he has been a member of the community and was born here. He has hauled material out of North Lake Sand & Gravel since 1991. He doesn't agree with some of the statements especially regarding how Halquist Stone doesn't give anything back to the community. He stated he has personally done hundreds of jobs for members of this community that require material that come from out of that quarry. He's seen a number of roads rebuilt with quarry material. People keep moving out here. Every farm he worked on when he was a kid is now a subdivision. As a contractor, we need those materials out there. He's sure there are issues that the Town will work out with Halquist to make the

neighbors happier and to make life better for them, but we do need the quarry in this area just because of all of the houses being built here. Everyday there's more going up.

Karen Buehrle – N84W31131 Kilbourne Road – stated she lives across the road from the Bakers. They recently built a house and moved in last year. She hasn't bought any measurement system so she doesn't know the decibel levels are by her. She said the noise must be the acoustical parts of the land forms. They hear the quarry, but it isn't like they can't have a conversation in their backyard. They border the quarry. She wanted to make this comment because she thinks the acoustics have to be taken into account. The noise isn't just spraying everywhere. They have motorcycles going down the road, and it's not that loud. She thinks that it has to be taken into account where the sound is going, because it is not broadly spreading, so it might just be some specific areas where it might be an issue. They haven't been bothered by this noise issue. This is her and her husband, Dan's, take on the issue.

Klink stated that anybody that wants to be notified on this, write their email on the list.

Morris stated he was here for the first public hearing for the conditional use back in 1989 & 1990 and at that time it was 300 to 400 trucks a day coming and going. Halquist said the busiest day they've had in the last 2 ½ years was about 250 trucks. An average day is maybe 100 trucks. They've had maybe 6 or 8 days that had over 200 trucks. They are not crushing for at least three months of the year. Typically, they are usually down for four months. They are not outputting more material than they have in the past. Morris questioned how much stone and sand and sizes do they run now. They make #2 stone, #1 stone, pea gravel, and sand. They also make road gravel. It looks like more product, because there are, but that's because they are no longer across the street. They do take in broken concrete and broken asphalt. Morris questioned if the water coming out of the wash pond is still being monitored. Halquist answered that it is still being done. They need to monitor it for the DNR. Halquist distributed to the Commissioners the NLS&G Compliance Calendar which lists all the things they have to do for the site. Halquist stated overall they are using less water than before.

Good questioned the depth of the site and the concerns of Mr. Baker regarding their well and asked if he is going any deeper than in the past? Halquist said no. Halquist said they would be out of water before his well would be dry.

Griffin asked how often do the water trucks run. On a normal day its about 4 times. If it gets hotter, they would have to run more often.

Greenberg clarified that they relocated some of the equipment to the west side to mitigate the sound in 2018. Halquist said they wanted to pull as much truck traffic as possible over to the side to eliminate cross traffic. Greenberg questioned if Halquist has ever hired a consultant, a sound engineer, or somebody who is qualified to make recommendations on best practices in respect to sound litigation. Halquist stated he grew up in the business Greenberg stated he knows around lakes sound travels in funny way and he knows some decibel tests have been done.

Klink asked Halquist what is the average starting times with quarries. Halquist stated in most places you may start at 6. He said they have had Plans of Operations in other places where they have started at 6. He stated that they do not put a load in the crusher until 6:30 and they haven't since they started. The crushers are on, but they are not loaded until 6:30. He has electronic backup that proves he doesn't start before then. He does prefer an earlier start because most people in most communities are up and busy and starting their day. Most people want in quiet in the afternoon. If you put the start time back later, then there is sound later.

Klink stated they are not going to take any action on the conditional use permit tonight. The Town will notify the audience when this will be brought back to the Plan Commission.

The public hearing closed at 6:37 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk