

LINCOLN COUNTY
2024
SALARY/FRINGE BUDGET PROJECTION

Sent to department heads

EMPLOYEE	WAGES	LONGEVITY	TOTAL WAGE	FICA 7.65%	RETIREMENT 7.00%	HEALTH F=27912 s=11148	LIFE INS.	WORKERS COMP.	TOTAL FRINGE	TOTAL WAGE & FRINGE
REGISTER OF DEEDS										
New Hire - 20 hr/wk	\$ 18,937.00	\$ -	\$ 18,937.00	\$ 1,448.68	\$ -	\$ -	\$ -	\$ 35.98	\$ 1,484.66	\$ 20,421.66
Sarah Koss	\$ 70,216.00	\$ -	\$ 70,216.00	\$ 5,371.52	\$ 4,915.12	\$ 29,712.00	\$ 69.72	\$ 133.41	\$ 40,201.77	\$ 110,417.77
Jamie Willis-40 hr/wk	\$ 62,465.00	\$ 453.00	\$ 52,918.00	\$ 4,048.23	\$ 3,704.26	\$ 27,912.00	\$ 24.72	\$ 100.54	\$ 35,789.75	\$ 88,707.75
	\$ 141,618.00	\$ 453.00	\$ 142,071.00	\$ 10,868.43	\$ 8,619.38	\$ 57,624.00	\$ 94.44	\$ 269.93	\$ 77,476.19	\$ 219,547.19
REGISTER OF DEEDS										
Jennifer Swoboda	\$ 33,291.00	\$ -	\$ 33,291.00	\$ 2,546.76	\$ 2,330.37	\$ 11,148.00	\$ -	\$ 63.25	\$ 16,088.38	\$ 49,379.38
Sarah Koss	\$ 70,216.00	\$ -	\$ 70,216.00	\$ 5,371.52	\$ 4,915.12	\$ 29,712.00	\$ 69.72	\$ 133.41	\$ 40,201.77	\$ 110,417.77
Jamie Willis	\$ 47,533.00	\$ 453.00	\$ 47,986.00	\$ 3,670.93	\$ 3,359.02	\$ 27,912.00	\$ 24.72	\$ 91.17	\$ 35,057.84	\$ 83,043.84
	\$ 151,040.00	\$ 453.00	\$ 151,493.00	\$ 11,589.21	\$ 10,604.51	\$ 68,772.00	\$ 94.44	\$ 287.84	\$ 91,348.00	\$ 242,841.00

Below is the calculated amount of the impact if Chief Deputy position were increased from 36.25 hours/week to 40 hours/week and the Fiscal Clerk position was decreased from 36.25 hours/week to 20 hours/week.

2023 - (\$11,443) Savings

2024 - (\$23,294) Savings



Mike Huth <mike.huth@co.lincoln.wi.us>

Please Submit to Record | Land Services Meeting June 8 2023

1 message

patricia heise <patricia.ann.heise@gmail.com>
To: "mike.huth@co.lincoln.wi.us" <mike.huth@co.lincoln.wi.us>

Tue, Jun 6, 2023 at 10:17 AM

Hi, Mike,

Very nice speaking with you. Attached is our objection to Mathy's CUP application, which is coming up again at the June 8th meeting. Really appreciate your help.

Best,

Patricia Heise, Counsel
Skanawan Property Owners Association, U.A.

cc. Karry Johnson, Corporation Counsel

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 **Skanawan Land Services_SPOA_June 2023.pdf**
197K

SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.
W4676 Highway S
Irma, Wisconsin 54442

**Re: Objection to Granting of Non-Metallic Mining CUP Permits in Town of Skanawan /
Mathy Construction Co d/b/a Milestone Materials**

Members of the Lincoln County Land Services Committee:

We request that you deny any expansion or modification of existing non-metallic mining operations in the Town of Skanawan. Any such modifications further the extralegal industrialization of our town, contrary to existing zoning and practice. We believe that these activities are wholly inconsistent with surrounding land uses, significantly disrupt the enjoyment of neighboring properties, and have a profound negative impact on the community, its safety, and its infrastructure.

Conditional Use Permits

The Town of Skanawan is zoned as RL4 and planned for Rural Lands. RL4 zoning allows for small farming and sparse residential uses, and its designation as such is meant to “preserve [the] rural character and promote continued **low-intensity and open space uses** of the County not envisioned for intensive agricultural or commercial forestry use,” per Section 17.2.13 of the Lincoln County Zoning Code. Although non-metallic mining is designated as a conditional use under RL4 zoning, it is not a use by right, and those who seek to apply for this conditional use must satisfy all CUP standards. A property owner has a vested right to use his or her property for *express* uses set forth in a zoning ordinance, but **has no right to use such property for a use that requires a conditional use permit.** *Town of Rhine v. Bizell*, 311 Wis.2d 1, 39 (2008). Unlike permitted uses, which are uses that attach to the property as of right, **conditional uses are those activities property owners may engage in at the discretion of the municipality or county.** *Daniel R. Mandelker, Land Use Law § 6.39, at 6-44 (5th ed. 2003)*. These uses are occasionally allowed at the discretion of the relevant governing body due to the dubious nature of these activities, and **only when they are uses “that a community recognizes as desirable or necessary but which the community will sanction only in a controlled manner.”** *State ex rel. Skelly Oil Co. v. Common Council, City of Delafield*, 58 Wis. 2d 695, 701, 207 N. W.2d 585 1973).

Similarly, conditional uses are flexibility devices, which, when permits for them are properly granted, are meant to allow for activities that, while nonconforming within a particular zoning district, **are not “inherently inconsistent” with the surrounding land uses.** *Gail Easley, Conditional Uses: Using Discretion, Hoping for Certainty, American Planning Assoc. Zoning Practice, May 2006, at 2.* **Heavy industrial sites that span, in the aggregate, hundreds of acres in the middle of low-density residential and agricultural districts are far from consistent with surrounding land uses**, and any expansion does not constitute an appropriate conditional use.

Lincoln County Codes of Ordinances, Section 17.8.30(7) – Conditional Use Permit Standards

Chapter 17 of the Lincoln County Code of Ordinances pertains to all zoning-related matters. Section 17.8.30 and its subsections specify proper procedure for CUP review. Specifically, Section 17.8.30(7) sets out Conditional Use Permit Standards, which, before being amended in 2018, stated that “the Committee

shall find that all the following standards are or will be met” in order to approve a CUP application. The new amended ordinance section sets more ambiguous standards that must be met to receive a CUP. However, the applicable zoning ordinance, RL4, lists **non-metallic mining as a conditional use, not one permitted by right**, and any attempt to make an end-run around that fact would create a legal paradox.

It is our position that **the following ordinance requirements are not met**:

- (d) The proposed conditional use will maintain compliance with the zoning standards and the county comprehensive land use plan, including town land use plans developed by individual towns and as incorporated in the county comprehensive land use plan.

The common themes throughout the Town of Skanawan’s 2020 Comprehensive Plan are the protection of private property rights, the protection of the public health, safety, and welfare, and a collective concern regarding the myriad impacts of new and/or expanded non-metallic mining operations. **These impacts include: reduced property values, noise/dust control, road damage, traffic safety, residential water quality, and high-capacity wells.**

Several statements cite the preservation of the Town’s **rural and peaceful character**, as well as the conservation of its exceptional natural resources. Aside from low-impact, non-industrial farming and forestry, the Town of Skanawan is largely utilized for recreational activities, such as hunting, fishing, and ATV trail riding. The further introduction and **expansion of industrial activities in this area represents a complete and total departure from these goals and practices.**

The Town of Skanawan’s Comprehensive Plan also cites, repeatedly, serious concerns regarding non-metallic mining operations impacts on traffic and roadway conditions. Currently, the surfaces on Highway S between existing mining sites and Highway 51 are a shambles. With the uptick in heavy truck traffic related to increased mining, **roadway conditions have deteriorated far below what any reasonable standard.** Moreover, a pattern of unsafe traffic conditions have developed, particularly where Highway S curves. Speeding and loud engine breaking have become endemic. With any increase in mining, and thus trucking, these problems will only intensify, posing an unreasonable risk to public safety and quiet enjoyment.

The residents of Skanawan are already bearing an outsized burden for the benefit and enrichment of these mining corporations, and Skanawan’s Comprehensive Plan, and the public feedback that informed it, clearly cite the collective desire to **limit further expansion of mining operations.** The Plan clearly expresses that our weakest attributes include gravel pits, and repeatedly indicates **broad concern regarding the inherent conflict between existing gravel pits and residential development as well as concerns about potential large-scale industrial development.** It also repeatedly conveys that its most desirable attributes include its abundant forests and wildlife, and the quiet, rural setting.

- (e) The conditional use will meet all applicable standards of other divisions of this chapter, particularly any standard in Division 17.3, which is applicable to the particular conditional use being sought.

Lincoln County Code of Ordinances, Section 17.1.04, outlines the fundamental purpose of the regulation of land use regulations:

This chapter is adopted [...] for the purpose of **protecting the public health, safety**, morals, comfort, convenience and **general welfare of the residents** of Lincoln County. More specifically, this chapter is designed to **control and lessen congestion in the streets**; [...] to **promote adequate light and air**; [...] to encourage the **protection of groundwater resources**; [...] to **preserve and protect property values** [...].

The government enacts land use and zoning ordinances to avoid reckless and ad hoc land use development decisions by setting forth parameters for that development. It is the core function of the Lincoln County government and its various boards—Land Services Committee and County Board—to protect its constituents from the whims of unscrupulous commercial actors, particularly when those whims **run up directly against the interests stated and enumerated** above.

Degradation of Adjacent Property Rights, County Roads, and Traffic Safety

It is **inconsistent with the nature of conditional uses, broadly, to give mining companies carte blanche** to interrupt private activities on adjacent lands, or to exploit and degrade public infrastructure for its private gain. The unchecked expansion of mining activities is **directly at odds with principles of local control and the protection of private property and property values**. It imperils the land and conditions required for recreation and low-impact farming and forestry, and further augments mining corporations' rights far beyond what is necessary to further interests of County infrastructure development. Recent amendments to County and State law represent **an attempt to avoid the inconvenience of seeking permission and reasonable oversight from local government, to avoid respecting the legal rights of adjacent property owners, and to avoid the health and safety mandates of the communities they sit in** purely to conduct industrial activities on non-industrial and/or rural lands. It is our position that they will not hold up to legal challenges.

This specific conditional use within this specific zoning district only existed to accommodate small borrow pits throughout the County. These borrow pits, and the land they sit on, are now being used as **pretext for large-scale industrial mining in areas that are not zoned, or otherwise intended for, industrial use on that scale**. We understand and support development throughout the County, and are all committed to making sure that the County has sufficient materials for infrastructure development. But this must be weighed against other important interests. Your constituents, your neighbors, and perhaps, someday, you, **will find their property values, their legally protected property rights to quiet enjoyment, and their rights to health and safety greatly diminished**, bearing the full cost of unlimited expansion of industrial activities outside the bounds of what was intended by the original authors of these ordinances.

Nuisance

A legal nuisance is “any human activity or physical condition that is harmful to the health of another person, is indecent or offensive to the senses, or interferes with another person’s reasonable use and enjoyment of his or her property.” *Amir Tikriti, Private vs. Public Nuisance Claims Against Property Owners (2015)*, <http://www.alllaw.com/articles/nolo/personal-injury/private-public-nuisance-claims-property-owners.html>. The law grants property owners a right to the “quiet enjoyment” of their property. It follows that if one property owner interferes with another property owner’s right to the quiet enjoyment of his or her property, then the interfering property owner has committed a tort, namely the tort of nuisance. To be direct: **one party’s rights end where the other’s begin**.

There are two types of nuisance: public and private. Public nuisance encompasses activities that **“threaten the health, morals, safety, comfort, convenience, or welfare of a community.”** *West's Encyclopedia of American Law, edition 2. S.v. "Right to quiet enjoyment."* Retrieved September 8 2015 from <http://legal-dictionary.thefreedictionary.com/Right+to+quiet+enjoyment>. Pertinent examples of a public nuisance may be air and water pollution, or **“creating a condition to make travel unsafe or highly disagreeable** are examples of nuisances threatening the public convenience.” *Id.*

Private nuisance involves “an interference with a person's enjoyment and use of his land.” *Id.* Examples of private nuisance include interference “with the physical condition of the land include[ing] **vibration or blasting that damages a house**, destruction of crops, raising of a water table, or the **pollution of soil, a stream, or an underground water supply.**” Examples of nuisances interfering with the comfort, convenience, or health of an occupant are **foul odors, noxious gases, smoke, dust, [or] loud noises.**” *Id.*

In this case, the proposed conditional use is arguably bound to be both a public and private nuisance, as it will inflict several types of harm on both the community and adjacent property owners without providing the community with a social benefit significant enough to justify the nuisance. As discussed previously, patterns of unsafe road and traffic conditions have already developed along Highway S, and will only worsen with increased mining and trucking activity. We believe these existing conditions rise to the level of public nuisance.

Conclusion

We request that the Members of the Lincoln County Land Services Committee deny this CUP application, or, at the very least, adopt any and all conditions proposed by the Town of Skanawan Town Board. Private citizens are facing unprecedented challenges posed by non-metallic mining expansion state-wide. Please restrict these expansions and protect your constituents, your neighbors, and small, rural communities throughout the County. Thank you for your attention and concern.

Sincerely,



Patricia Heise
Counsel and Member, SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.

Received 6-8-23

Town Recommendation Form
Conditional Use Request, Petition for Modification of Subdivision Ord., Plat Approval
Town of Skawanaw
Lincoln County

Name of Applicant Mathy Construction Company
Request: Expansion of sand and gravel extraction operation to optimize recovery of owned sand and gravel reserves at existing Coombs South Gravel Pit.

The Town Planning Commission has made a recommendation on this date _____ to:

____ Approve the Request: by a vote of _____ For and _____ Against

Conditions: _____

____ Deny the Request: by a vote of _____ For and _____ Against

____ Delay the Request for 30 days: by a vote of _____ For and _____ Against

Comments/Reasons for any of the above recommendations: _____

The Town Board has made a recommendation on this date June 5, 2023 to:

Approve the Request: by a vote of 3 For and _____ Against

Conditions: See Attached Document

____ Deny the Request: by a vote of _____ For and _____ Against

____ Delay the Request for 30 days: by a vote of _____ For and _____ Against

Comments/Reasons for any of the above recommendations: _____

____ (Check here if:) The Town hereby waives its right to make a formal recommendation on this Request to the Lincoln County Land Services Committee.

Dated this 5th day of June, 2023.

Benjamin M. [Signature]
Town Chairman Signature

[Signature]
Town Board Supervisor Signature

[Signature]
Town Board Supervisor Signature

Town Board Supervisor Signature

TOWN OF SKANAWAN

Regarding Conditional Use Permit No. Revision 96-1075-R.

Applicant: Mathy Construction.

Based on the information supplied by the Applicant and the facts and information discussed at Town meetings, and as the record will show, the Town Board of the Town of Skanawan voted at its meeting of June 5, 2023 as follows:

“The Town recommends that the County approve the proposed CUP but only with the Town’s proposed conditions being included in the final CUP.”

Vote: 3 Ayes, 0 No.

The final conditions being recommended by the Town of Skanawan to be included in any approved Condition Use Permit for this applicant are as follows:

1. Applicant is responsible for any violations of traffic or noise or nuisance ordinances or laws and applicant shall take care to not violate any such applicable laws.
2. No exhaust or engine braking shall be allowed at any time.
3. Applicant shall have made appropriate signage for the road accessing the subject property and any other active NMMs clearly stating the prohibition in No. 3 above.
4. Town reserves the right to revoke or suspend the Town’s license in the case of violations caused through operations at the subject NMM property or on any roads or highways over which the applicant hauls materials either in or out of the property and over which the Town has jurisdiction.
5. Applicant responsible for ensuring that any debris including sand gravel, excess dust, grubbed materials are cleared on Highway S adjacent to the entrance to the Property and also along the haul route on Highway S up to and through the right and left turns located approximately 1.5 miles to the West of the property entrance. Applicant is responsible for safe and reasonable travel over the

entire haul route and in particular should avoid taking the aforementioned right and left turns by passing over the gravel shoulder. Past experience has shown that this creates a disturbance at the location and has also led to materials being ejected from hauling vehicles. Applicant will be responsible for ensuring that this corner is clear of debris at the end of each day of operation.

6. No wash plants or operations may be conducted as part of the operations of the NMM on the subject property.

7. No hot mix operations of any kind may be conducted as part of the operations of the NMM on the Subject Property.

8. A copy of the approved reclamation plan will be provided to the Town and kept on file. Applicant will not bring materials onto the Property such as fill, grade, mulch, grub debris except if those materials are needed and identified within an approved reclamation plan. Crushed concrete and crushed asphalt (i.e. bit conc.) may be brought on site in limited quantities to be used as part of preparing product for use on active road projects but only on an as needed basis and shall not be stockpiled.

9. Applicant will provide a written report to the Town with demonstrative pictures or diagrams each year for of the life of the opération on November 30 showing the current extent of the extraction operations and also the areas that have been reclaimed during the previous year.

10. Applicant shall maintain an appropriate bond to allow for proper reclamation in accordance with the reclamation plan approved for the operation.

11. Applicant shall not commence any activities on the expanded territory covered by the application until its reclamation plan has been approved by the appropriate authorities.

12. The requirements in the applicable Town and County ordinances shall apply to both the existing operation at the site and the contemplated expanded operation into the adjacent parcel to the north. The operations shall be considered a single operation under the control of the applicant and any CUP granted and approved by the County along with any conditions shall apply to the entire operation on both parcels going forward.

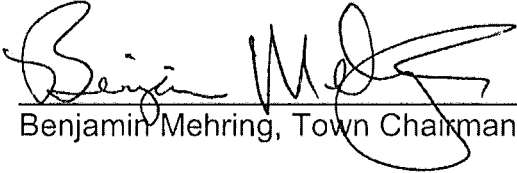
13. In addition, consistent with the purpose of the Town's NMM licensing ordinance, any operations at NMM/gravel pit operations conducted by the applicant in other areas of the Town, including at the so-called "North Pit," will hereinafter be conducted in compliance with the Town NMM licensing ordinance.

14. The Town advises applicant that it is the Town's position under applicable law that the approval of a CUP with conditions and the granting of a Town license does not waive any liability of an applicant or the owner of the subject

properties in any respect for nuisance or other injuries or negligence properly found to be caused by the operations covered by the CUP and the Town license. The Town advises applicant that it is the Town's position under applicable law that obtaining a CUP and Town license does not act to immunize the applicant from injuries caused by its actions in conducting its operations on the site except to the extent of applicable law expressly exempts the applicant from legal liability in a particular case.

Dated this 7th Day of June, 2023

Town of Skanawan



Benjamin Mehring, Town Chairman