

POLK COUNTY WISCONSIN
LAND INFORMATION COMMITTEE

In the Matter of:

the Application for a Special Exception Permit
by Kraemer Mining & Materials

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND DECISION

All members of the Land Information Committee, having held a public hearing, deliberated in open session on January 6, 2010 regarding the above-entitled matter. Members included Kim O'Connell, Chair; Craig Moriak, Secretary; Ken Sample; and Larry Voelker.

FINDINGS OF FACT

1. Kraemer Mining & Materials, (hereinafter 'Kraemer') submitted an application for a special exception permit, (hereinafter 'Application' & 'SEP') in August of 2009.
2. Kraemer's Application involved a request for a SEP to operate a trap rock quarry within the Town of Osceola, County of Polk. (Section 16/T33N/R18W).
3. The area involved in the Application is subject to the Polk County Comprehensive Land Use Ordinance, which was properly adopted pursuant to Wisconsin Statute § 59.69.
4. The land involved in the Application is zoned A-1 (Agricultural District) in the Comprehensive Land Use Ordinance.
5. Quarrying is a Special Exception Use for the land involved in the Application.
6. The location of the proposed Quarry is close to homes with wells.
7. The location of the proposed Quarry is close to the Lotus Lake area and its residents.
8. The operation of the proposed Quarry would significantly impact the traffic close to an EMS Station and the Dresser Fire Department.

9. The Committee heard expert testimony and received extensive written evidence regarding the possible impact of the proposed Quarry.
10. The objective data provided by expert witnesses, which was received during the Public Hearing, was conflicting.
11. The evidence presented by the experts opposed to the mine was more persuasive and credible than the evidence presented by the experts who spoke on behalf of Kraemer.

CONCLUSIONS OF LAW

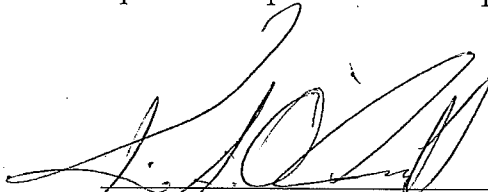
1. The Land Information Committee has jurisdiction over decisions on SEP applications involving the Comprehensive Land Use Ordinance.
2. After due and proper notice, the Land Information Committee held a public hearing consistent with the ordinance on October 21 & 22, 2009, which was continued to December 16, 2009 and subsequently concluded.
3. The Special Exception Definition in the Comprehensive Land Use Ordinance reads as follows: "Any use whereby the location of each such use shall be approved in writing by the Zoning Committee, or as otherwise provided by this ordinance, after public hearing and after reviewing the proposed site or sites. Such approval shall be consistent with the general purpose and intent of this ordinance and shall be based upon such evidence as may be presented as such public hearing tending to show the desirability or undesirability of specific proposed locations for the proposed use from the standpoint of the public interest because of such factors as (without limitation because of enumeration) smoke, dust, noxious and toxic gases and odors, noise, vibrations from operation of heavy equipment, heavy vehicular traffic and increased traffic."

4. The purpose of the Comprehensive Land Use Ordinance is to promote the public health, safety, morals and general welfare of Polk County.
5. The proposed Quarry is inconsistent with the general purpose and intent of the Comprehensive Land Use Ordinance and contrary to the public interest for a variety of reasons:
 - a. The evidence that there would be increased traffic in the area disrupting the flow of emergency services was persuasive and not adequately addressed by the Applicant.
 - b. The Quarry would cause noise issues from blasting and normal operations of the crusher; other heavy equipment; and the increased traffic.
 - c. The noise reduction efforts proposed by the Applicant would not sufficiently reduce the harmful effects of the cumulative noise factors.
 - d. The vibrations could cause structural damage to homes and other structures in the area as evidenced by Dr. Allaei's report and testimony.
 - e. Water quality for residents could be negatively impacted by the proposed Quarry.
6. Having reviewed all of the evidence and the Ordinance, it is determined that operating the proposed Quarry at the proposed site would have a negative impact on the health, safety and welfare of those who live, work and play in Polk County.


Kraemer January 20, 2010

DECISION

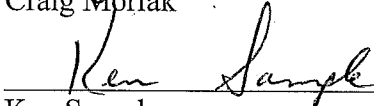
Based upon the foregoing Findings of Fact and Conclusion of Law, Kraemer's application for a Special Exception Permit to operate a quarry in the Town of Osceola is hereby denied.

 1-20-10

Kim O'Connell Date

 1-20-10

Craig Moriak Date

 1-20-10

Ken Sample Date

 1-20-10

Larry Voelker Date

Drafted by: Malia T. Malone
Assistant Corporation Counsel
Polk County

NOTICE OF RIGHTS TO APPEAL

Pursuant to Wisconsin Statute Section 59.694(7)(a) and the Polk County Board of Adjustments Ordinance, Sections 4.11 and 5.2, persons aggrieved by the decision of the Polk County Land Information Committee may appeal said decision to the Polk County Board of Adjustments. Appeals from the decision of the Polk County Land Information Committee must be filed in writing with the Polk County Board of Adjustments within thirty (30) days after the decision in writing is made and filed. The business office of the Polk County Board of Adjustments is the Land Information Office. Other requirements in filing an appeal with the Polk County Board of Adjustments are found in chapter 5 of the Polk County Board of Adjustments Procedures Ordinance, a copy of which may be obtained at the Polk County Land Information Office or viewed at <http://www.co.polk.wi.us/landinfo/pdfs/Ordinances/BOAProceduresOrdinance.pdf>.