

Town of Rock
Frac Sand Mine Impact
Assessment Committee

(FSMIAC)

September 5, 2018

What Are We Talking About?



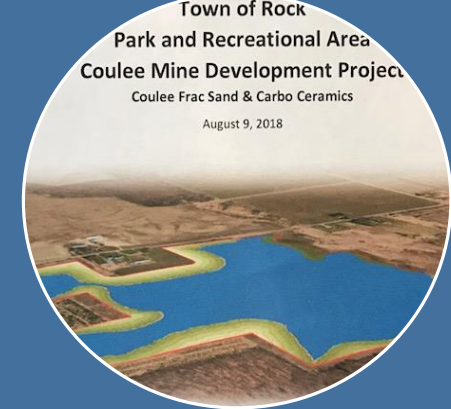
Current View

(Property Owned Carbo Ceramics, John Helgerson, & John Franseen)



Potential View

for 12 to 20 Years
(As Proposed by Coulee Frac Sand)



Potential View

Post Reclamation
(As Proposed by Coulee Frac Sand)

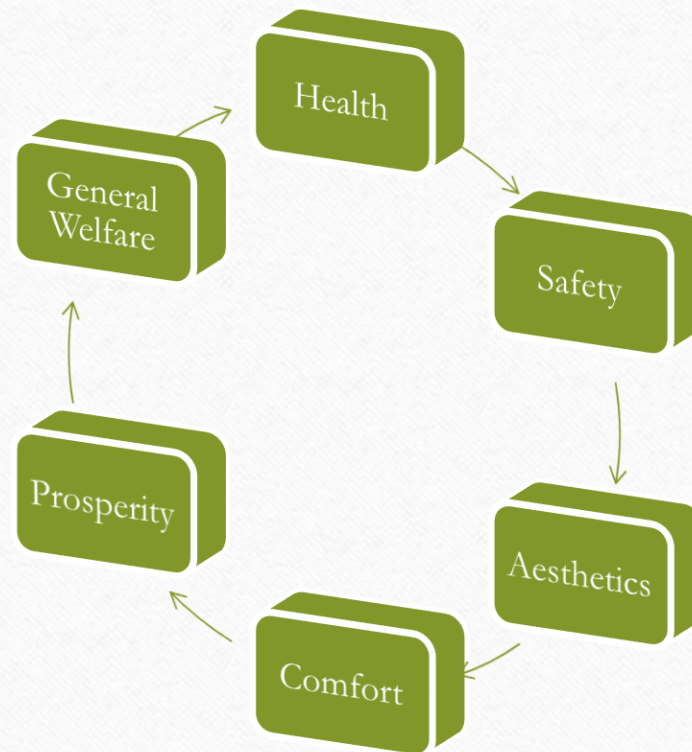


Coulee Frac Sand (CFS) Timeline

“Conditional Use Permit Application”

- **June 14, 2018** Town of Rock Board Discussed Concerns About Potential Sand Washing Plant
- **August 6, 2018** Coulee Frac Sand, LLC 1612 Nakomis Avenue La Crosse, WI 54603-1506 Drafted A Request for a Conditional Use Permit For Property Owned by Carbo Ceramics, Inc., Don Helgerson and John Franseen
- **August 9, 2018** Town of Rock Board (TRB) Received and Discussed CFS Conditional Use Permit Request
- **August 16, 2018** TRB Held First Public Informational Meeting With a Presentation by Coulee Frac Sand
- **August 21, 2018** TRB Held Public Informational Meeting and Asked CFS to Not Attend and Established an “Ad Hoc Committee”
- **August 23, 2018** CFS Requested Meeting to Tour Merrillan, WI Mine (Discussion and Public Comments)
- **August 30, 2018** CFS Requested Meeting to Provide Panel Discussion (DNR, County Land and Highway, & CFS Hydrogeologist)
- **September 5, 2018** First Formal Meeting of the Frac Sand Mining Impact Assessment Committee (FSMIAC) Note: Additional Meetings Scheduled for September 10th, 12th, & 17th.
- **September 17, 2018** Final FSMIAC Recommendations to be submitted to the Zoning Commission
- **October 8, 2018** Zoning Commission Anticipated Date to Respond to CFS Conditional Use Permit
- **October 11, 2018** The Town of Rock Board will accept or deny the Recommendation by the Zoning Commission

The Purpose of the Zoning Ordinance is to Promote



The Purpose of the Zoning Ordinance is to promote the Health, Safety, Aesthetics, Comfort, Prosperity, and General Welfare of the Town of Rock!

The Intent of The Town of Rock Zoning Ordinance

- 1.02 “...stabilize and protect the values; conserve natural resources, and preserve the agricultural character of the town of Rock.”



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Town of Rock Zoning Ordinance

“Conditional Use Permit”

- Definition: “A use of land which, while appropriate for inclusion within a given district, possesses a high likelihood of creating problems with regard to nearby parcels of land or the occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created. Conditional Use is the same as “special permit” as provided for in the Wisconsin Statutes.
- Source:
http://www.town.rock.wi.us/Ordinances/TownZoning2016_CApproved.pdf

Conditional Use Permit

- “C. Conditional Use permit.

...This permit shall be issued only after approval of the Planning Commission, after a public hearing and after provisions of Section 5 of this Ordinance have been complied with. The Town Board may attach certain conditions that shall be met as a condition of approving the permit.”(Underlined for Emphasis)

Source:

http://www.town.rock.wi.us/Ordinances/TownZoning2016_CApproved.pdf

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Zoning Ordinance

“4.09 Non-Metallic Mining Overlay District”

- “A. Purpose.

It is the purpose of this overlay District *to establish conditional regulations and performance standards for the extraction, processing, utilization and transport of non-metallic resources and products in such a manner as to ensure maximum protection to surrounding properties and the physical environment through siting of activities and structures, buffering, setbacks, visual screening, height limitations, access routing, and noise, vibration, air quality and water quality controls.*”

“...any excavation or mining activity falling under the jurisdiction of this section abide by the requirements of Wisconsin Department of Natural Resources rule NR 135, NONMETALLIC MINING RECLAMATION.”

Source: http://www.town.rock.wi.us/Ordinances/TownZoning2016_CApproved.pdf

Wisconsin Department of Natural Resources

Rule NR 135, NONMETALLIC MINING RECLAMATION

- “Subchapter I — General Provisions NR 135.01 Purpose and scope. (1) **PURPOSE.** The purpose of this chapter is to require reclamation of nonmetallic mining sites....)
- **Source:**
http://docs.legis.wisconsin.gov/code/admin_code/nr/100/135.pdf

Town of Rock

Zoning Ordinance

Section 5. Conditional Uses

- 5.03 Standards

No permit for a conditional use permit shall be granted unless the Planning Commission shall find the following conditions are present:

A. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.”

Source: http://www.town.rock.wi.us/Ordinances/TownZoning2016_CApproved.pdf

Section 5. Conditional Uses (Continued)

B. That the uses, values and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

C. That the establishment of the conditional use will not impede the normal or orderly development and improvement of the surrounding property uses permitted in the district.

5.04 Conditions and Guarantees

- B. ...the following special conditions may to permit requests that exceed a districts permitted development density or where development would take place within a secondary conservation area :
 1. The development shall be designed to promote the preservation of natural features, including significant wildlife habitat, sensitive environmental lands and scenic vistas.

Town of Rock

Concerned Citizens & Property Owners Group

- Reviewed the CFS Conditional Use Permit
- Researched Potential Impacts of Frac Sand Mining
- Reviewed Town of Rock Zoning Ordinance
- Provided Opportunities for Public Input (Lindsey Days & Facebook Page)
- Researched Similar Requests in Other Communities in WI
- Developed Specific Recommendations Based Upon the Experiences of Other Communities
- Included Efforts to Inform the Residents of the Town of Rock About the Frac Sand Mine (Personal Meeting Notices)

Town of Rock - Frac Sand Mine Impact Assessment Committee (FSMIAC)

- Formed August 21, 2018
- “...the purpose of the Ad Hoc Committee is to gather information to present to the Zoning Commission, along with considerations from the township residents in regards to the Application for Conditional use Permit that has been presented to The Town of Rock by Coulee Frac Sand LLC....” (Underlined for Emphasis) Advisory Capacity Only!
- Town of Rock Initially provided and recommended accessing copies of the Coulee Frac Sand (451 Page) Request for a Conditional Use Permit Request Application, Town of Rock Zoning Ordinance, Wisconsin Towns Association (WTA) “NonFerrous Metallic Mining Regulation Handbook May 2018”. Note: On August 30th TRB identified the WTA document above is not applicable to the Frac Sand Industry and future considerations should include reference to “2017 Wisconsin Act 67”

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“2017 Wisconsin Act 67

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- *SECTION 2. 59.69 (5e) of the statutes is created to read: 59.69 (5e) CONDITIONAL USE PERMITS. (a) In this subsection:*
 - *1. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a county, but does not include a variance. Note: According to guidance provided by the Town of Rock Board, Act 67 is also applicable for Towns.*
 - *2. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.*
 - *Source: <http://docs.legis.wisconsin.gov/2017/related/acts/67.pdf>*

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Potential Positive Outcomes of Approval of the Coulee Frac Sand Request

1. Creation of a Recreational Area
2. Additional Employment Opportunities
3. Additional Income for Town of Rock

Town of Rock Resident Concerns

1. Ground Water (Quality and Quantity)
2. Air Quality (Dust and Air Borne Contaminants)
3. Public Health and Safety
4. Hours of Operation
5. Lighting
6. Economics (Private Property Value & Township Costs)
7. Truck Traffic (Route & Noise)

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Town of Rock Concerns (Cont.)

7. Screening (Visual and Sound)

8. Quality of Life During 12 to 20 Years of Mining Operations
9. Preservation of Natural Beauty of Township
10. Coulee Frac Sand Solvency
11. Maintenance and Costs of Property Post Reclamation
12. No Apparent Local Short or Long Term Plan to Address Future Requests for Frac Sand Mining
13. No Monetary Compensation Received by Town of Rock
14. Do we want to play a role in the Fracking for Natural Gas and Oil Industries

Example

1. Ground Water (Quality and Quantity)

- *FSMIAC Recommendation & Intent*
- *References and Attachments*

Note: Local Well Description Available at

[https://prodoasext.dnr.wi.gov/inter1/watr\\$.startup](https://prodoasext.dnr.wi.gov/inter1/watr$.startup)



Comments?

Concerns?

Questions?



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Possible Recommendation #1
**To Hire an Attorney to Represent
the Town of Rock With
Experience Addressing This
Type of Industry**

Duties Should Include:

- A.** Determine the Legal Opportunities to extend the timeline for a ruling on the conditional Use permit.
- B.** Review the Conditional Use Application for Compliance with the Town of Rock Zoning Ordinance.
- C.** Review the FSMIAC Proposed Requirements for Compliance with Applicable Laws or Ordinances.

*Note: Additional and Specific FSMIAC
Recommendations Will Follow!*

Justification:

- The Wisconsin Towns Association Cannot provide Legal Representation and They Recommend Towns Acquire Such Representation
- The Town of Rock Board/Officials or Established Committees Do Not Have the Level of Legal Expertise Necessary to Address Such an Important Issue for the Residents of the Township
- The Potential Long and Short Term Consequences of Setting an Incorrect Precedence for the First Major Conditional Use Permit for this Industry Can Have Significant Effects for Everyone in the Township

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