

Pre-Council Meeting: Biesanz Nonconformity Agreement

Biesanz Quarry

- Biesanz stone and aggregate products since 1904
- Frac sand = 2011
- In location already excavated
- 40 - 50' to reach frac sand
- 30 – 40' of Jordan excavated



Biesanz Quarry: Water

- Mining in Jordan bedrock formation
- 2011 excavation elevation of approx 975'
- Public water for Goodview and Winona comes from Mt. Simon aquifer more than 500 feet below Jordan formation
- Jordan is important source of water in SW part of Winona County, but not in Biesanz area

Biesanz Quarry: Water

- Potential of groundwater contamination from excavation at Biesanz is minimal because:
 1. No chemicals are used in the extraction of frac sand.
 2. BMPs required from MPCA permit
 3. General direction of water drainage is not west/south toward Jordan groundwater resources.
 4. Not a high probability of karst landforms in the quarry area.
 5. Nearby private wells don't get water from Biesanz excavation area
 6. Letter from DNR

Biesanz Quarry: Habitat and Wetlands

Habitat

- No rare species or animal aggregations in Biesanz excavation area
- Oak forest natural community to north and east of excavation area
- Future excavation will not occur in these areas

Wetlands

- No indication of wetlands in excavation area

Biesanz Quarry: Roads and Access

- 40-120 sand trucks depending on day
- Trucks go to Minnesota City or 370 West Second Street using roads with 15,000 – 30,000 ADT (average daily traffic) capacity
- 2007 traffic levels ranges from 5,000 – 9,000 on same roads
- Roads do have capacity to handle Biesanz sand trucks
- Access = outside of City; examined by Mn/DOT signage and landscaping improvements made

Biesanz Quarry: Regulations

- Federal
 - (MSHA) Mine Safety and Health Administration
 - (OSHA) Occupational Safety and Health Administration
 - Unannounced compliance visits
 - Also, vibration = Office of Surface Mining/State Fire Marshall; explosives = Bureau of Alcohol, Tobacco, and Firearms
- State
 - Air quality permits attached to equipment brought into mine
 - MPCA General Permit
 - Limits on stormwater and wastewater discharges
 - Response procedure for spills and leaks
 - Sampling results from stormwater runoff sent to MPCA

Biesanz Quarry: Regulations

- City
 - Yearly blasting permit includes:
 - Liability Insurance \$5,000,000
 - Blasting vibration report sent to City Engineer within 24 hours
 - Yearly Community notification meetings
 - Correct zoning district (A-G) and compliant with Comp Plan
 - Performance standards:
 - Dust = Not travel beyond property lines, complete a dust control plan
 - Noise = Required to be much “quieter” at night (10 p.m. to 7 a.m.) because of adjacent residential areas

Biesanz Quarry: Nonconforming Status

- Grandfathered in 1998 as a legal Nonconformity
- Legal non-conformity = land use that existed prior to establishment of zoning code
- Non-conformities can continue and be replaced, but not expand
- Typically, expansion would trigger need for CUP

Biesanz Quarry: Nonconforming Status

- Mine is a unique land use – a diminishing asset = must expand in order to continue
- Diminishing asset characteristic applies to equipment as well
- Additional and different types of equipment are essential to operation of mine
- Biesanz has expanded without triggering a CUP

Biesanz Quarry: Nonconforming Status

- State statute: Reasonable regulations may be placed on nonconformities
- Best way to enact reasonable regulations = nonconformity agreement
 - Dealing with an existing mine
 - More straightforward than CUP
 - Best way to address diminishing asset characteristic

Nonconformity Agreement

- Agreement addresses future expansion and reclamation plans
- Agreement does not address blasting:
 - Blasting separate in City Code - Addressed through Blasting permit
 - Blasting issues being examined by Blasting Committee formed in Jan 2012
 - Committee successful in agreeing to limit blasting to Tues-Thurs. 9-5; not during lunch hour (11:45-1:15 p.m.) unless emergency
 - Other options being explored – waiting on additional blasting

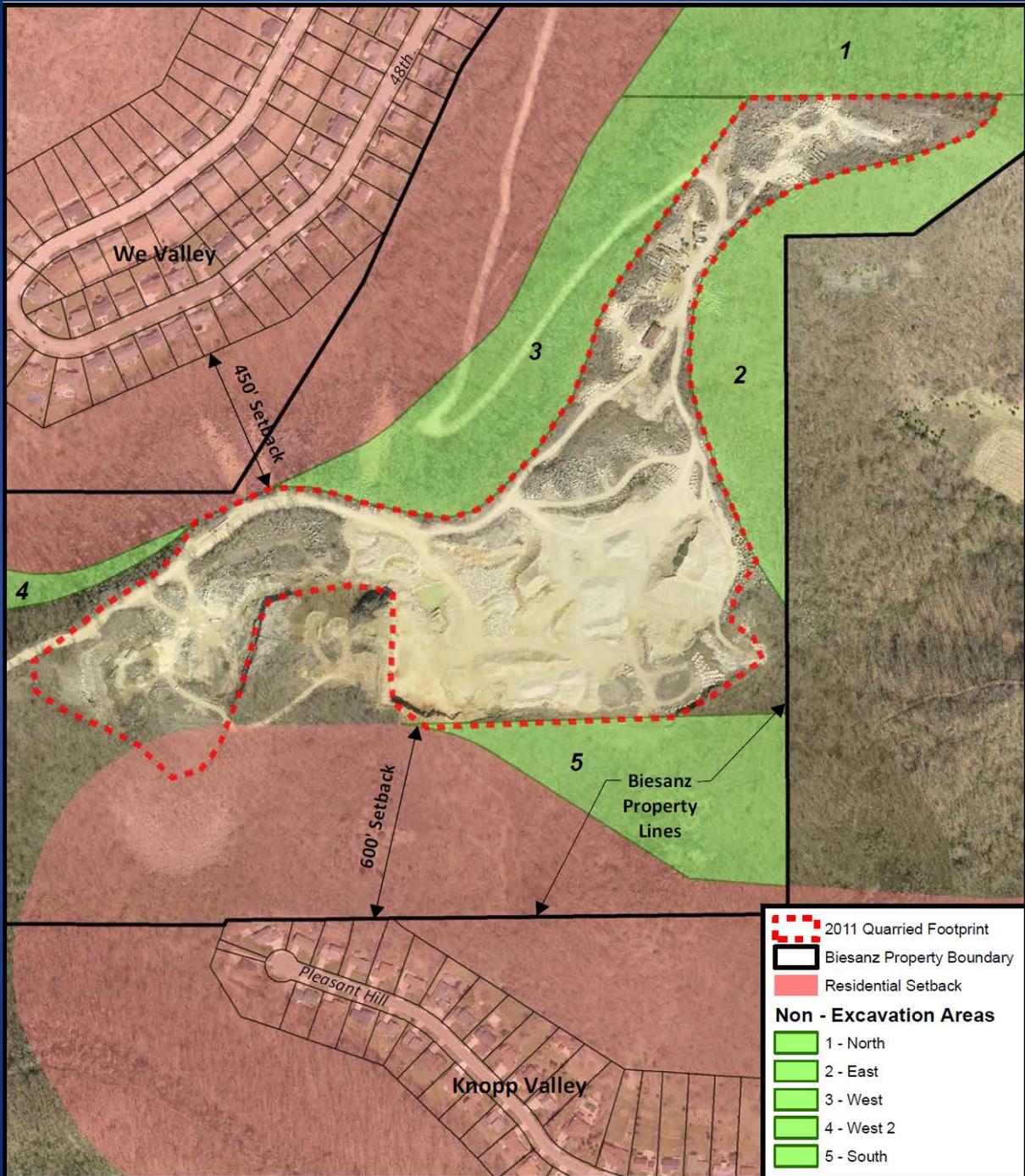
Nonconformity Agreement

- Planning Commission reviewed and approved framework for agreement on June 25, 2012
- Offered following input:
 1. Would like City Attorney to comment on nonconformity
 2. Dust control or additional dust monitoring should be considered at the quarry
 3. Dust concerns are not just from sand (e.g. unpaved roads)
 4. Biesanz has been a functioning quarry since 1904
 5. Biesanz is a regulated industry – subject to many regulations – just like other industries

Nonconformity Agreement

1. Future excavation not closer to Knopp or WE Valley than existing:
 1. Knopp Valley = 600 feet
 2. WE Valley = 450 feet

Also, Future mining shall not occur in designated areas outside setbacks
2. An EAW is required for sand excavation outside the existing (2011) footprint



Nonconformity Agreement

3. Maximum mining depth established as an elevation of 975 feet
 - Approximate elevation of 2011 excavation
4. Hours of Operation for mining and associated activities shall be:
 - 6 a.m. – 10 p.m. M-F
 - 8 a.m. – 5 p.m. Sat, Sun
 - Maximum time window – hours typically shorter
 - Noise performance standards still apply

Nonconformity Agreement

5. Equipment required to have white noise alarms or muzzling devices to address “backup beeping”
6. Trucks covered; Cleanup of spills required
7. Moisture testing of sand to ensure minimum 1.5% moisture content
8. Permits placed on file
9. Copy of fugitive dust control plan on file

Nonconformity Agreement

10. Mine plan shall be produced

- Existing and planned excavation
- Timing of planned excavation
- Depths of planned excavation

11. Reclamation plan produced

- Excavation areas filled
- Vegetation restored
- Performance bond equaling 110% estimated cost of reclamation filed to ensure completion

Nonconformity Agreement

12. Yearly updates on progress of plans

13. Changes to plans that exceed terms of agreement must be approved by Council

Conclusion

- Stipulations of agreement are in addition to existing City, State, Federal regulations
- Company concurs with agreement as presented
- Intent is to discuss agreement before bringing to regular Council meeting