

Exhibit 5



PAYNE & DOLAN
INCORPORATED
A WALBEC GROUP COMPANY

October 3, 2019

Mr. Jarmen Czuta
Racine County Public Works and Development Services
14200 Washington Avenue
Sturtevant, WI 53177

RE: Deed Restriction – Racine Quarry CUP

Dear Mr. Czuta,

Enclosed is a recorded copy of the deed restriction titled "*Declaration of Restrictive Covenants*" as required by Condition #27 of the conditional use permit approved by the Village of Caledonia on September 4th, 2018 for Payne & Dolan's Racine Quarry. This document was recorded with the Racine County Register of Deeds on September 27th, 2019.

If you have any questions and/or need additional information, please do not hesitate to contact me at (262) 366-5429.

Sincerely,

Payne & Dolan, Inc.

Clint Weninger, P.G.
Land Resources Manager

**DECLARATION OF
RESTRICTIVE COVENANTS**

Document # **2531857**
RACINE COUNTY REGISTER OF DEEDS
September 27, 2019 09:47 AM

Connie C. Madsen

CONNIE COBB MADSEN
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: \$30.00

Pages: 14

Document Title Above

Return to Name and Address Below

Clint Weninger
Payne & Dolan, Inc.

30-14

N3 W23650 Badinger Road

Waukesha, WI 53187

104042328075000
104042328074000
104042328073000
104042328071000

Parcel ID Number(s)

**DECLARATION OF
RESTRICTIVE COVENANTS**

Document Title Above

We are returning your ORIGINAL document.
It has been recorded electronically.
The recording information is shown on the
attached copy. Keep both documents
with your Real Estate records.

Return to **Name and Address** Below

Clint Weninger
Payne & Dolan, Inc.

30-14

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Waukesha, WI 53187

104042328075000
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Parcel ID Number(s)

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS, made this 11th day of September, 2019 by PAYNE AND DOLAN, INC. (hereinafter "Property Owner") ("Declaration");

RECITALS

WHEREAS, Property Owner requested a Conditional Use Permit, Nonmetallic Mining Permit and Explosives Use Permit from the Village of Caledonia to allow for the further development of an existing limestone quarry including earthmoving, blasting, crushing, sorting and sizing, stockpiling, transportation and reclamation, as well as those activities permitted in the Village's ordinances entitled "Regulation of Nonmetallic Mining" (Title 7, Chapter 11) and "Explosives and Blasting" (Title 7, Chapter 10) for property located North and East of the existing quarry at 1501 3 Mile Road, Sec. 28 and 29, T4N, R23E, Village of Caledonia, Racine County, WI; Parcel Nos: 104042328075000, 104042328074000, 104042328071000 and 104042329193000 (the "Overall Property"); and

WHEREAS, the Village Board of the Village of Caledonia approved on September 4, 2018 Resolution No. 2018-78 approving a request for a conditional use permit, nonmetallic mining permit and explosives use permit to allow for the further development of an existing limestone quarry including earthmoving, blasting, crushing, sorting and sizing, stockpiling, transportation and reclamation, as well as those activities permitted in the village's ordinances entitled "regulation of nonmetallic mining" and "explosives and blasting"; this Overall Property is located north and east of the existing quarry at 1501 3 Mile Road, Sec. 28 and 29, T4N, R23E, Village of Caledonia, Racine County, Wisconsin, a copy of such resolution is attached hereto and incorporated herein as **Exhibit A**.

WHEREAS, one of the conditions of approval required that a deed restriction be recorded with the Racine County Register of Deeds office as offered by the Property Owner that provides that no future mining-related activity, business park uses or industrial uses will take place east of the relocated Charles Street on part of Parcel Nos: 104042328075000, 104042328074000, 104042328071000 and 104042328073000 as legally described and depicted on **Exhibit B** (the "Restricted Area"). The intent of this Declaration is to ensure that future uses on the Restricted Area after implementation of the reclamation plan are compatible with residential and recreational uses. Any amendments to this Declaration shall require approval by a vote of six of the seven members of the Village Board to be effective. A copy of this Declaration and proof of recording must be submitted to the Racine County Development Services office prior to zoning permit issuance.

WHEREAS, Property Owner is the sole owner of the Restricted Area, located within the Village of Caledonia, County of Racine, State of Wisconsin, and,

WHEREAS, Property Owner has offered this Declaration to the Village and executed this Declaration voluntarily.

NOW, THEREFORE, Property Owner hereby declares and agrees that the Restricted Area shall be subject to the following restrictions, covenants, obligations, and agreements set forth in this Declaration which shall run with the Restricted Area and shall be binding upon Property Owner, and its successors, heirs, assigns, legal representatives, and transferees, including, without limitation, any owners of the Restricted Area:

1. Use Restriction. The Restricted Area described on Exhibit B shall not be used for future mining-related activity, business park uses or industrial uses. This use restriction applies regardless of the zoning on the parcels within the Restricted Area, including allowable permitted uses and allowable conditional or other uses under the Village of Caledonia Zoning Code, and regardless of the category of land designated on the Village of Caledonia 2035 Comprehensive Plan, as amended from time-to-time. The intent of this Declaration is to ensure that future uses after implementation of the reclamation plan are compatible with residential and recreational uses on adjacent and nearby parcels of land. This Declaration may be relied upon by the Village of Caledonia to deny zoning changes and proposed uses for the Restricted Area. A copy of this Declaration and proof of recording must be submitted to the Racine County Development Services and the Village of Caledonia Zoning Administrator prior to zoning permit issuance.

2. Amendment, Modification, or Termination of Covenants. Any amendment, modification, or termination of this Declaration shall require approval by a vote of six of the seven members of the Village Board to be effective or a similar vote of any successor municipal entity thereto.

3. Covenants Run with the Land. These covenants shall run with the land and shall be binding upon current and future owners, and their respective successors and assigns, from the date in which these covenants are recorded in the Office of the Register of Deeds in Racine County, Wisconsin, until amended, modified, or terminated as herein described.

4. Enforcement of Covenants. This Declaration may be enforced by the Village of Caledonia or any of the adjoining or adjacent parcel owners through proceedings at law or in equity brought against the then current owner, or its successors or assigns, in Racine County Circuit Court.

5. Severability Clause. The provisions of this Declaration shall be deemed separable, and if any term or provision of these restrictive covenants is deemed to be invalid or unenforceable, the remainder of these restrictive covenants shall not be affected and shall be valid and enforced to the fullest extent of the law.

IN WITNESS WHEREOF, Property Owner has executed this Declaration of Restrictive Covenants on the date written above.

RESOLUTION NO. 2018-78

A RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF CALEDONIA APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT, NONMETALLIC MINING PERMIT AND EXPLOSIVES USE PERMIT TO ALLOW FOR THE FURTHER DEVELOPMENT OF AN EXISTING LIMESTONE QUARRY INCLUDING EARTHMOVING, BLASTING, CRUSHING, SORTING AND SIZING, STOCKPILING, TRANSPORTATION AND RECLAMATION, AS WELL AS THOSE ACTIVITIES PERMITTED IN THE VILLAGE'S ORDINANCES ENTITLED "REGULATION OF NONMETALLIC MINING" AND "EXPLOSIVES AND BLASTING"; THIS PROPERTY IS LOCATED NORTH AND EAST OF THE EXISTING QUARRY AT 1501 3 MILE ROAD, SEC. 28 AND 29, T4N, R23E, VILLAGE OF CALEDONIA, RACINE COUNTY, WI; PAYNE & DOLAN, INC. OWNER/APPLICANT

The Village Board for the Village of Caledonia resolves as follows:

WHEREAS, Owner/Applicant requested a Conditional Use Permit, Nonmetallic Mining Permit and Explosives Use Permit to allow for the further development of an existing limestone quarry including earthmoving, blasting, crushing, sorting and sizing, stockpiling, transportation and reclamation, as well as those activities permitted in the Village's ordinances entitled "Regulation of Nonmetallic Mining" (Title 7, Chapter 11) and "Explosives and Blasting" (Title 7, Chapter 10) for property located North and East of the existing quarry at 1501 3 Mile Road, Sec. 28 and 29, T4N, R23E, Village of Caledonia, Racine County, WI; Parcel Nos: 104042328075000, 104042328074000, 104042328071000 and 104042329193000; and

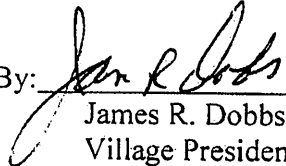
WHEREAS, the Village of Caledonia Plan Commission recommended approval of the request, subject to the conditions attached hereto as **Exhibit A**, for the following reasons as set forth in staff memorandum:

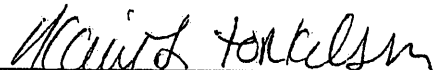
1. The proposed use is allowed by underlying zoning through the conditional use process;
2. The proposed use, with conditions, meets the standards set forth under Sec. 20-1182, adopted under Title 16 of the Village's Code of Ordinances;
3. The applicant agreed to meet all of the requirements and conditions to be imposed by the Village; and
4. For the same reasons set forth in Plan Commission Resolution No. 2018-75, and the motion related to the resolution, which are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Caledonia that the requested Conditional Use Permit, Nonmetallic Mining Permit and Explosives Use Permit set forth above, are hereby approved for the same reasons set forth above and subject to the same conditions and contingencies imposed by the Village Plan Commission.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 4th day of September, 2018.

VILLAGE OF CALEDONIA

By: 
James R. Dobbs
Village President

Attest: 
Karie L. Torkilsen
Village Clerk

770272.001 (594)

N 0°26'28" W
1.18'

L=658.04'
R=472.00'
CB=N 40°22'50" W
CL=606.03'

L=766.30'
R=548.00'
A=80°07'12"
CB=N 40°15'36" W
CL=705.37'

SW 1/4
Section 28

Charles Street
Relocated

Block 42, Shorecrest Manor

Thunderbird Drive

RESTRICTED AREA
63 acres

Erie Street

104-04-23-28-072-000

N 88°35'56" E
239.25'

S 0°26'33" E
160.00'

S 0°26'33" E
1161.77'

S 88°37'45" W
1675.51'

1163.29'

S 0°12'00" E

N 0°12'00" W
1588.39'

S 88°42'43" W
77.01'

S 0°12'00" E
126.00'

276-00-00-21-204-005

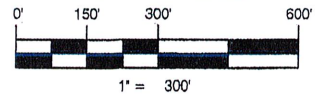
N 88°42'43" E
27.00'

Deed Restriction Description

That portion of the SW 1/4 of Section 28, T4N-R23E, Village of Caledonia, Racine County, Wisconsin described as follows:

Commencing at the 1/4 section corner common to said Sections 28 and 29; thence, along the East-West 1/4 line of said Section 28, N 88°35'56" E 48.01 feet to the easterly right-of-way line of relocated Charles Street and the point of beginning of this description; thence, continuing along said East-West 1/4 line, N 88°35'56" E 2325.87 feet to the northwest corner of the lands identified by Racine Counties tax parcel number 104-04-23-28-072-000; thence S 0°26'33" E 160.00 feet to the southwest corner of said tax parcel; thence, along the South line of said tax parcel, N 88°35'56" E 239.25 feet to the West right-of-way line of Erie Street; thence, along said West right-of-way line, S 0°26'33" E 1161.77 feet to the North right-of-way line of Thunderbird Drive; thence, along said North right-of-way line, S 88°37'45" W 1675.51 feet to the northerly elongation of the West line of Block 42 in Shorecrest Manor; thence, to and along said West line, S 0°12'00" E 1163.29 feet to the southwest corner of said Block 42; thence, along the South line of said Block 42, N 88°42'43" E 27.00 feet to the northwest corner of the lands identified by Racine Counties tax parcel number 276-00-00-21-204-005; thence, along the West line of said tax parcel, S 0°12'00" E 126.00 feet to the North right-of-way line of Three Mile Road; thence, along said North right-of-way line, S 88°42'43" W 77.01 feet to the easterly right-of-way line of relocated Charles Street; thence, along said easterly right-of-way line, N 0°12'00" W 1588.39 feet; thence, continuing along said easterly right-of-way line, on the arc of a 548.00 foot radius curve, concave to the southwest, the chord of which bears N 40°15'36" W 705.37 feet; thence, continuing along said easterly right-of-way line, on the arc of a 472.00 foot radius curve, concave to the northeast, the chord of which bears N 40°22'50" W 606.03 feet; thence, continuing along said easterly right-of-way line, N 0°26'28" W 1.18 feet, to the point of beginning.

GRAPHIC SCALE



Declaration of Restrictive Covenants

THIS PRINT IS THE PROPERTY OF PAYNE AND DOLAN, INC. AND THE CONTENTS CONTAINED HEREIN ARE CONSIDERED CONFIDENTIAL AND SHOULD NOT BE USED OUTSIDE OF THE COMPANY WITHOUT PERMISSION

Racine Quarry Project
SW 1/4 of Section 28
T4N-R23E, Village of Caledonia
Racine County, Wisconsin

Prepared by: Jacob Spees PLS 2925

Date: 9-10-19

Site #: 80360

Drawn By: JS

EXHIBIT

B

SHEET 1 OF 1



PAYNE & DOLAN
INCORPORATED
A WALBEC GROUP COMPANY