

**FRANKLIN PLANNING BOARD
PUBLIC HEARING MEETING
February 23rd, 2011**

Call to Order: 7:02 p.m.

- Pledge of Allegiance.
- Roll Call

Present: Brian Colburn, Mayor Merrifield, Brian Sullivan, Anthony Giunta, Powell Glenn, Marty Russo, Robert Sharon, Anthony Daniel, Timothy Stangroom (late) and Planning and Zoning Administrator, Richard Lewis. Absent: David Veysey, Ted Starkweather and Michael Freeman.

- ❖ Seating of Alternates in place of absent regular voting members: At this time, as there was a full board of voting members, no alternates were seated.

- Approval of Minutes: January 26th, 2011 Meeting Minutes

MOTION: Member Sharon moved and Mayor Merrifield seconded to approve the minutes of the January 26th, 2011 meeting as submitted. All were in favor of approving the minutes as amended.

New Business

- P11-02:** Todd M. Workman, Owner/Applicant; Eric C. Mitchell, Agent, requests Subdivision approval for a lot merger between lots 014-401-00 and 014-402-00 and 014-403-00 (each being vacant land located on Lake Shore Drive) into one lot and then adjust the lot lines between this new lot and lots 015-403-00 (160 Lake Shore Drive) and 032-401-00 (230 Lake Shore Drive), all of the properties are within the LP Zone (Lake Protection District) and the C Zone (Conservation District). The two lots with homes that are being reconfigured are both located in the LP Zone.

MOTION: Mayor Merrifield moved and Member Sullivan seconded to accept the application of Todd and Michael Workman for the proposed subdivision and boundary line adjustment for property on Lake Shore Drive, Application File P11-02. All were in favor and the motion passed.

Chris Hickey was present to speak for the applicant, as an Engineer. He then gave the board handouts, which he indicated would better explain the changes in the lots. He stated the first page is an existing conditions page and the second page is the proposal. He explained that all five lots are on Lake Shore Drive. Lot 14-401 is an 87 acre vacant land parcel, 14-403 is vacant land and is 82 acres, 14-402 is vacant land of 10 acres and all three of these lots have no frontage. He then added that lot 15-403 is 50 acres with a building on it and use to have the six cabins on it; and, 32-401 is 21.46 acres, has the big house and tennis courts on it and is owned by Michael Workman. Mr. Hickey stated that they would be creating three new lots, where 32-401 would maintain the house and tennis courts and the size of the lot would be reduced to 7 acres; lot 05-403 would keep the house on it and it would be reduced to just over 4 acres; and then the largest lot would be 240.44 acres and would be put into an NSDS wetlands reserve for most of the lot. The area behind lot 015-403 would be utilized for a community septic and the right of way for the Kearsage Mountain Boys and a future house to be built would be in this area.

Mr. Lewis then asked Mr. Workman to give a wetland restoration summary. Mr. Workman stated that he is cleaning up the lot lines and putting land into permanent conservation with the government. The new lot line will make it easier to monitor the conservation easement, instead of being across five lots, two lots with homes have been reduced in size and the new lot will be the conservation land. He stated that he is working on wetlands restoration with the government and the state and the Clean Water Act 319 Project. There use to be five cottages on a wetlands area that was filled. The camps have been removed and he is adding wetlands to the

area to manage stormwater, as water runs off the hill and puddles up in this area. The water is being brought from the road, away from the lake to infiltrate into the soil and not run off into the lake anymore. Water that runs off the hill, due to prior clear cutting, will be maintained higher up, so there will be less flow down toward the road frontage. The evasive species of plants are being cleaned up.

The existing road that runs to the Kearsage Mountain Boys lot and will lead to the new house lot area is being removed and replaced so that the affect on wetlands is minimized, as the old road use to run right through the middle of the wetlands. Now the roadway will reduce the wetlands replacement.

Mr. Workman stated they are looking into putting in a community septic system for lots from Apple Farm Road to North Shore Lane. He stated there could be 20-40 lots that utilize this septic and if it also encompasses North Shore Lane then the number could be closer to 60. A grant has been obtained to conduct a feasibility study to see the cost of constructing the septic and to see who will tie into this septic. Mr. Workman stated they want to make sure that the tie in will be affordable to property owners.

Public Comment: None.

Board Discussion

Mr. Lewis stated in the information that was handed out Chris Hickey shows lot 32-401 as 7 acres, and asked about the request from NRCS. Mr. Hickey stated the original plan was changed, which is shown on the plan that was distributed tonight, to clean up the lot lines and make them more square to help with monitoring. Mr. Lewis stated that the Decision will need to be changed and he will insert that he plan was revised on February 11, 2011.

MOTION: Member Sullivan moved and Mayor Merrifield seconded to approve the subdivision, referenced as P11-02, of Todd and Michael Workman to adjust five (5) lots into three (3) lots, all of which contain the required lot area and frontage, with the findings and conditions as discussed and amended by the board. All were in favor and the motion passed.

- **Proposed amendments to Section 305-18 [Nonconforming Uses, Lots and Structures] of the Franklin Zoning Ordinance.** These amendments would modify the definition for, and clarify the requirements for the development of, a nonconforming lot. These amendments would also modify and clarify the procedures and conditions under which alterations to a nonconforming structure can be made, including the establishment of a natural expansion clause for alterations.

Richard Lewis stated that he had submitted in the packet a cover memo with the proposed changes to the ordinance attached to it. Also attached was a letter from the Oliver's supporting the changes and copies of the New London case. Mr. Lewis added that this evening he put a letter of opposition on the table, dated 2-22-01 (which was a typo and should have been 2-22-11).

Public Comment

Bill Keville asked for verification on the changes and an explanation. Mr. Lewis stated the ordinance is not for new homes built, but is more for homes built prior to the Zoning which was put in place in the 1970's. The main areas of concern are around the lake, where homeowner's cannot do necessary changes to their properties without meeting the new code requirements and this means sometimes changing the building height or footprint a little bit. The purpose is to be flexible for modification of pre-existing non-conforming structures.

Mr. Keville stated that a few years ago he was informed of map changes that now make his property smaller and possibly puts his home on the abutting neighbor's property. Mr. Lewis stated that is GIS mapping changes and these changes are not regarding these. He stated they are still trying to work out the kinks in the mapping.

MOTION: Member Giunta moved and Member Sullivan seconded that the Franklin Planning Board send a positive recommendation to the City Council supporting the changes discussed at the February 23, 2011 meeting for Section 305-18 of the Zoning Ordinance. All were in favor and the motion passed.

- Discussion of zoning change for Disorderly Residence, Section 305-29.2. Recommendation to City Council to hold a public hearing, regarding approving the changes and moving this Ordinance out of the zoning section of the codes.

Richard Lewis stated that the Disorderly Residence section was added to the Zoning Ordinance in 2004. He stated that this ordinance is more a police power action than a land use and that Zoning is only for land use. He stated that he has worked with the City Manager and the Police Chief to amend the language and presented it two weeks ago to the council with language and with a recommendation to move it to its own ordinance within the code book and out of the zoning. He is looking for a positive recommendation from the Planning Board supporting the changes to the ordinance and supporting moving the ordinance out of Zoning.

MOTION: Mayor Merrifield moved and Member Giunta seconded that the Franklin Planning Board send a positive recommendation to the City Council approving the removal of the Disorderly Residence language [section 305-29.2] from the zoning ordinance and supporting the creation of a separate City Code chapter for this ordinance. All were in favor and the motion passed.

The board then took a break from 7:30-7:45 to attempt to work out the issues with the sound system.

Old Business

- **P11-01:** Richard D. Edmunds and Frank M. Edmunds, Applicants/Owners; Theodore Kupper, PE, Agent, request Site Plan approval to construct and operate a 360 ton per hour packaged asphalt manufacturing plant in an existing permitted, industrial zoned gravel pit, including a 50' x 100' maintenance building and aggregate stockpile areas, on property located on the northwest corner of NH Route 3 and Punch Brook Road, identified as Tax Map/Lot # 103-406-00, I-1 Zone (Industrial District). If the Board votes to accept application based on a motion that it meets the submission requirements, the public hearing will start immediately. If the application is not accepted the hearing will be continued to the next meeting of the Board.

At this time, Mayor Merrifield indicated that after speaking with the City Attorney, he is stepping down from this application.

Mr. Lewis then stated that Barbara Dorfschmidt, from DES, is present and he would like to have her speak about the permitting process first. Ms. Dorfschmidt stated that the process includes a public hearing, which would be conducted in the evening at City Hall. She stated they have submitted their application and the public hearing will be held in March or April. If the application is approved then a draft temporary permit will be issued for 18 months. After this time, the application will apply and obtain a State Permit to Operate which will be good for five years. She stated they look at all the pollutants, including nitrogen, sulfur and other particulate matters. She stated they take into account other boilers that generate pollutants, including the Franklin Regional Hospital. She stated the boiler for an asphalt plant lets off 180 million btu's/hour, and The Tilton Schools Boilers let off 25 million btu's/hour. She stated if they met the standards then the permit will be issued.

Asphalt fumes are classified as Regulated Toxic Air Pollutants; they will look at the mixture and evaluate the plant. Member Colburn asked if DES would only be looking at the stacks or the plant as a whole. Ms. Dorfschmidt indicated the modeling is done regarding the stack only, however they do look at the boiler and other aspects, but do not look at the trucks that are coming to and leaving the site.

Member Sharon asked how often DES would go back to the plant and check them and Ms. Dorfschmidt indicated the plant has to keep track of emissions and are required to keep records and annual report and have routine inspections done by a private company. She stated there are 40 asphalt plants in NH and no one has ever had a permit revoked. She was asked if she looks at the trucks carrying asphalt and their emissions and she stated that they do not. She was asked how often they would go back and do inspections and she was told that they verify emissions through the records and attempt to do inspections every five years.

Gary Millbury, from DES, stated that the regulations have been in place since the 70's and the state and federal regulations are updated frequently.

Ms. Dorfschmidt stated that the regulations for emissions are in place for the dryer, the boilers and the stacks. She stated there are regulations for the baghouses as well.

Public Hearing (for DES only was conducted and the public was informed that they would only have 3 minutes to speak and were asked not to repeat what someone else has said)

Bill Keville, of 675 Central Street, asked about the testing model. Ms. Dorfschmidt stated it is a computer model that data is entered into, which estimates the impacts. Emissions from the plant are added into the model.

Greg Davall stated that there is 32 points of emissions for an asphalt plant and only 1 of those points is reviewed by the state. Mr. Davall gave a handout to the board regarding Canada's DES requirements. He asked if the best average to minimize outside pollutants is configured for containment and minimizing blue smoke. Ms. Dorfschmidt stated they have the authorization to regulate and minimize the emissions. He asked if they use the best management practices for minimizing the emissions and she stated this is open to interpretation.

Gary Millbury stated that DES is only present to speak about the permitting process. He stated that they can try and answer questions, but as they have not collected all their data they cannot speculate on some aspects. He stated that the public will have the chance, after all data is collected, to speak at the DES public hearing and that they can provide information and ask questions by contacting DES directly.

Mr. Davall stated that the Board has the right to set conditions that are more stringent than DES's requirements. Mr. Millbury stated that if the state and federal standards are met regarding emissions and pollutants then the permit would be approved. Mr. Davall asked about what would trigger something to be considered a Major Source of Pollution and Mr. Millbury stated that the biomass in Berlin was above the thresholds and thus was determined to be a Major Source of Pollution. Mr. Davall stated that the board should require the best management practices as the State will not. Mr. Millbury stated that the town can set their own standards.

Mr. Tullis indicated that there are 40 plants in the state and asked what the emission requirements are or how this plant stands based on the existing plants, if it is better or worse than them. Ms. Dorfschmidt stated they are not the smallest or the biggest and plant emissions are pretty similar.

Corinna Antonis, of 652 Central Street, stated that in the 70's they could not swim in the river's due to staff infections and asked if DES takes into affect the lake and mountain effect. Ms. Dorfschmidt stated that they do. Ms. Antonis stated that only 1 in every 5 fish taken out of the river can be eaten. She then asked if Edmunds get approved if they could transfer the business and the permit to someone else if they sold the property and she was informed by Ms. Dorfschmidt that they could. Ms. Dorfschmidt stated that regarding the rivers, water is handled by a different department within DES than air quality is handled.

Bethanne Knowles, from DES, stated that the standards are specific to Asphalt plants. She stated the modeling has been updated and there are National Air Quality Standards set for each individual emission, whether it is nitrous oxide or sulfur or any other emission, they are updated frequently.

Member Giunta asked for a comparative of output emissions from the stacks as compared to fugitive emissions from the trucks. He stated that the board viewed a video of asphalt being dumped into a truck and the fugitive emissions that were emitted. She stated they did not compare particulate emissions but only volatile emissions or blue smoke. She stated in comparison to a passenger vehicle, which gets approximately 22 miles per gallon, a truck would be the equivalent of 10 of these cars per hour.

Ms. Antonis asked what the recourse was by the state if there were problems with the plant and how quickly would they react. Ms. Dorfschmidt stated the state has a hotline and you can call in your complaints, which will then be investigated. She stated that she has never seen a plant that has had an issue or has been shut down.

Betty Tobey asked if they are looking at the plant narrowly, or based on certain aspects, or if they are looking at it holistically. Ms. Dorfschmidt stated they are looking at what is going on within the site only and indicated the standards are developed to protect people, wildlife, and plant life.

At this time, there were no further questions for DES.

Chair Colburn asked Mr. Kupper to give any new information regarding the traffic patterns and driveways. Ted Kupper, Engineer from Provan and Lorber, stated that a revisions letter was received from Mike Vignale. It was indicated that with the grading and site clean-up that has been proposed that it has been indicated that all stopping site distances are now met. Per the recommendation of Mr. Vignale, an advisory speed limit of 20 miles per hour is being put in place on Punch Brook Road and signs indicating driveway ahead were also going to be put in place. He stated they now meet all requirements. Mr. Kupper stated they have met with DOT and Mr. Vignale and submitted a conceptual design to widen the throat of Punch Brook Road to Route 3 in a southerly direction. In a letter from the abutters, they will not give the Edmunds an easement, so the throat will still be widened, but the roadway will be shifted northerly, and the middle line of the road will be moved over. Edmunds owns the land to the north and will use their own land to widen the road.

Mr. Kupper then showed slides which showed the proposed widening of the throat of Punch Brook Road. He then explained how this would be amended. He stated the changes will allow for a truck to have more room to maneuver heading southerly. It was indicated that there may be the need to widen the existing right of way as well. Member Stangroom asked about the relocation of the hydrant and if this would be a problem and it was indicated that it would not be.

Member Giunta asked how the applicant would go about widening the roadway. Member Sullivan stated that there City would attend a meeting with the engineer and district engineer from DOT and a plan would be provided. If DOT is in agreement, then the City would also be involved in the work.

Attorney Chris Seufert then introduced Robert Suedeker, who was speaking on behalf of the applicant regarding fugitive emissions. He then gave handouts to the board, which included a test report, power point and emissions report. He stated he was asked to speak about the fugitive emissions and stated that he worked for an asphalt company, overseeing permitting and emission controls, for many years. He stated he has been involved with over 70 plants across the country. He stated that the biggest perpetrator for emissions is the burner, which will be a state of the art Hawke Echo Star 2, which is a new burner. He stated that this type of burner is used in California, where the Best Available Control is required. He stated that this burner is BAC approved. Mr. Suedeker stated that the baghouses control dust emissions. He stated there are two types of fugitive emissions, being open dust (from vehicles and traffic and the moving of aggregates) and Fugitive Emissions from the plant itself.

He stated that the AP-32 Federal Guidelines identify the points of emission and what they do. He stated PF is processed fugitive emissions. He stated in 1999 they took a plant and boxed in the fugitive emission points, which were run through the stack and information was sent to EPA. Based on this testing, the actual emissions were able to be determined for a plant and this was done in particulate matter and organic particulate matter. The TOC category is a total of all toxins.

Mr. Suedeker stated that a joint coalition with Asphalt Plants, Federal and State agencies and the Coalition against Asphalt plants was conducted in 1999, and all data was received and crunching of numbers was done to quantify the poundage of the toxins and emissions being released. Project emission rates are based on this testing.

The actual test results show that 100,000 tons is produced which creates 11 pounds of particulate matter. He stated that the amount of fugitives being released vs. the amount of fugitives being processed is a very small percentage. (See handout for poundage produced and toxins created.)

He stated that AP 42 was updated in 2007. He stated that when a hop bin is emptied asphalt is added to the bin to bind to dust and not have discharge. He stated that keeping traffic speeds at a minimum and putting guarding or tarps over the asphalt in the back of a truck will help with blue smoke emissions and keep dust down. It was indicated that Best Management Practices could be drawn up for the plant.

Mr. Suedeker stated that failure to put the vacuum together properly could cause emissions as the vacuum wouldn't be doing its job. Mr. Suedeker did however state that if the vacuum is not working they would know immediately. The vacuum is in a containment area, and if you drill a hole into the steel and it sucks in, then the vacuum is working and if not then it is not. The vacuum on plants such as this are checked based on a checklist, because if it is not regulated then the fuel costs and replacement costs could be pretty high.

Mr. Suedeker stated that the model that was completed, regarding poundage and toxins created, is based on the worst case scenario.

Mr. Lewis stated that the plants shut down in the winter and restart in the spring. He asked if the plant is examined prior to starting up again. Mr. Suedeker stated that it would be and maintenance is done on these plants anywhere from annually, to semi-annually and some weekly. He stated that they use a neon material and black lights to check the baghouses to make sure there are no leaks in the bags; this type of testing is also conducted by DES.

Chair Colburn asked if an Operation Maintenance Manual will be drawn up for the plant. Mr. Suedeker stated they will be utilizing Best Management Practices. Mr. Kupper stated that as part of the air quality permit, they had to put together yearly procedures for the bag houses, vacuum and each part of the plant.

Member Giunta stated a guide was shown with recommendations and asked if the applicant is willing to have these recommendations put in as part of the approval document as conditions. It was indicated they were willing to have that done.

Chair Colburn asked about tarps or curtains being put on the load out area to minimize the dust and blue smoke emissions. Mr. Suedeker stated that he has never seen a tarp or anything else under a batch system and only on a silo system. He stated this would be dangerous as you need line of sight or will risk someone getting hurt based on something happening and you not being aware because you cannot see the problem.

Member Sullivan asked if truck emissions are significant or minimal compared to the other emissions of the plant. Mr. Suedeker stated that he does not know what the emissions are for the stack pipes on trucks. Mr. Kupper stated that EPA regulates by ultra-low diesel fuel only. Mr. Suedeker stated that by adding an asphalt plant, more asphalt is not being produced; it is reducing the number of vehicles to individual plants, and cutting the travel miles which will ultimately reduce emissions within the state.

Member Giunta asked for clarification regarding the emissions out of the stack being only 1%. Mr. Suedeker stated that VOC is 10%, metals are less and HAP's are even lower, so the percentage is very low.

Eddie Duncan, from RSG, was present to speak on the noise. Member Colburn asked him to speak on the standards and how they conducted their model.

Mr. Duncan stated that the background on the property is that it is a sand and gravel facility, in an industrial zone, surrounded by other industries and on a roadway without a lot of traffic. He stated the noise levels from each of these items are the starting point. He stated that the City of Franklin does not have a quantitative noise standard, and the only noise ordinance is Section 215-2, which states:

It shall be unlawful for any person, firm or corporation to make, continue or cause to be made or continued or to allow to be continued any loud, unnecessary, unreasonable or unusual noises or any noise which either annoys, disturbs or endangers the comfort, repose, health, peace, safety, convenience, welfare and prosperity of others within the limits of the City of Franklin.

Mr. Duncan added that there are no standards on noise at the State or Federal level. He stated noise on roadways is limited; however, there are no regulations regarding commercial noise. He stated that the EPA use to have noise guidelines; however, they no longer have a noise bureau. He stated LDN means day night level, and there is a 10 decibel nighttime penalty. He stated that moderate noise during the day is 55 decibels and the overnight moderate noise level is 45 decibels.

World Health Organization produced a document in 1999, based on scientific research for annoyance, learning in schools and other levels. This document states you should 55 dba LEQ (which is an equivalent sound level or average) over a course of a day to protect against serious annoyance. The daytime standard for moderate annoyance is or guideline is 50 decibels. To protect against sleep disturbance it is 45 dba over the course of the night. In addition to this 45, they say you shouldn't exceed a maximum level of 60 decibels, which is an impulse noise that might wake you up in the middle of the night. All of these are noises as heard from outside the home.

External noises, as heard from inside the home, in the bedroom over the course of the night the level should not exceed 30 decibel to protect against sleep disturbance. This information shows that noise at 45 decibels, with an open window is reduced to 30 decibels and with a closed window this is reduced to 20 decibels. He stated the threshold that they went by, 50 dba LEQ daytime levels and a 45 dba LEQ nighttime level (averaged over the course of the night to protect against sleep disturbance), which is more stringent than EPA guidelines.

He stated they conducted sound level modeling to figure out what the existing sound levels are like at the site and then what the proposed sound levels would be like at the sight. He stated the software that was used was the CADNA A Acoustical modeling software, widely used sound modeling software, which uses the standard ISO 9613-2, that defines how sound propagates outdoors. This software takes into account the source of the sound power levels, surface reflection and absorption, atmospheric absorption, geometric divergence, meteorological conditions, Terrain and walls, barriers or berms.

See copy of the Power Point Presentation on file and submitted for the record.

To model the existing sound levels at the sight, Mr. Duncan indicated they used traffic on US 3 from NH DOT, morning and evening counts on Punch Brook Road and also included sound emissions from the existing sand and gravel operation. For the proposed project they used levels from an asphalt plant and onsite trucking as well.

The table gives the details of what sources were modeled. He stated the crushing of the gravel pit is shown at 116 dba's, but this is just the sound power levels, which doesn't mean it is going to be 116 dba's everywhere. Sound power is similar to the wattage of a light bulb, it may be 60 watts, but it will be darker in some rooms than in others.

Member Colburn stated that it was indicated that this information was received from a source library. He asked if these numbers were actually from the existing Edmunds Gravel Pit. Mr. Duncan stated that it was not, and was just information from the source library which includes an existing pit that has a crusher, screener and loader and a secondary crusher. So the level is pretty conservative of a number to determine what is current. He stated that the actual noise levels cannot be determined in the winter due to the cold. The asphalt plant that was used was from the source library is of a similar age, size and location as this plant would be. He stated that the traffic noise is

modeled in accordance with the Federal Highway Administration traffic noise model algorithm's. The traffic on US 3, they used NHDOT traffic counts, and RSG traffic counts for Punch Brook.

Mr. Duncan stated that in his power point there is a mistake and 10 trucks during the course of the night and 50 trucks operating over the course of the day. He stated the graph shows the decibels and the lines show the receiver points. He stated that based on this model, all locations met the daytime levels; and all but three locations met the nighttime levels. He stated the only difference between the day and night levels of the plant will be that there will be less truck noise on site, as the plant itself will produce the same noise day or night.

Mr. Duncan stated that the applicant has planned some mitigations which include:

1. No engine brakes will be used along Punch Brook Road or in the facility;
2. Lights will be installed for signaling drivers instead of a horn;
3. Damping material or sound barriers will be put in place to minimize noise, which will be stockpiling of aggregates;
4. A new burner is being installed, being an Echo Star 2; and,
5. Truck routes will be laid out so that the trucks do not backup before and after being loaded, to limit the emission of alarm back up noise.

He stated that all of these mitigation methods will decrease all sound, as the model was done based on an older plant that did not take these steps for noise mitigation. He stated that once the plant is open and running, they will install receivers to monitor the sound at these three locations and he believes that the levels will be below the 45 dba LEQ nighttime levels. He stated they will stockpile aggregate on the north side of the property to decrease noise levels, the site will be kept vegetative, and the name and phone number for the site supervisor will be given to the abutters in case of any problems so that the issues can be dealt with.

Member Colburn asked if the resident's at the three locations where the noise levels do not meet the night time recommendations are in the Industrial Zone. Mr. Lewis stated that they are. He stated that the Industrial Zone begins at Industrial Park Drive and continues to Punch Brook Road, encompassing all properties on the south side of Punch Brook Road.

Richard Lewis asked about the stockpiling of aggregates or berm of aggregate materials. He asked if this was extreme mitigation or if there was a balance between extreme mitigation and could be built into the plant now for noise and dust mitigation. Mr. Duncan stated that what can be done is being done. Mr. Lewis asked about the 4-6 month testing. Mr. Duncan stated that testing in 4-6 months would determine what noise is really being generated. He stated the noise levels should be lower then what they have indicated and that what have been indicated are the most extreme levels.

It was indicated that the applicant has reviewed the existing vegetation. Mr. Duncan stated that a single row of trees cannot be used as an reducer of noise but it is perceived to lessen the noise.

Member Sullivan asked about putting in a noise barrier and Mr. Duncan stated that this can be done but is not necessary.

Member Sullivan then asked for the drainage differences in outfall, based on Mike Vignale's letter, to be addressed and for the applicant to explain how this will work. Mr. Kupper stated that Mr. Sullivan is referring to #5 on the KV Partners letter. He stated the infiltration system is a galley system, with extensive manifold discharge, the pipe is .77' deep, rounded pipe, and that will discharge water to the top of the pipe and inlet it into the manifold. He stated at the bottom of the pipe there is a polisher, before the water goes into the galley's.

Public Comment

The public was asked to keep their comments to 3 minutes per person and Chair Colburn stated that all comments from the last meetings have been entered into the record. He also asked that people not repeat what someone else has said.

Jed Callen, Attorney for Abutters, was present to speak. (Please see copy of informational letter submitted by Jed Callen regarding his comments for the meeting.)

He stated that the Warner's house is not included in the information that was submitted for the noise model and their nighttime levels will be exceeded. He stated that If the noise expert intends to leave an aggregate or stockpile, why wouldn't the board recommend a sound berm or noise barrier or even more trees to be put in, which is not unusual to ask for as the regulations state that the board can require buffering or screening.

Attorney Callen stated that the intersection of Punch Brook Road is going to be changed from what was proposed and what was approved by DOT, as they originally wanted to widen the road on the south side and will now be widening on the north side. He stated this will change drainage and other items that need to be addressed.

Attorney Callen stated that in the Tidd case, Supreme Court Case, many of the facts are similar; the Supreme Court determined that the case proposal showed that traffic would be increased and they indicated it could not worsen or create a traffic hazard. He stated this case was the same in that the roadway's used were small roads, off of a State Highway, and indicated that the applicant in this case needs to widen the road and make the roadway safe. In the original case the Zoning Board approved the Special Exception, and the Supreme court indicated that they could not approve the special exception until appropriate upgrades were done. Attorney Callen stated that the board needs to see approval granted by DOT before they can grant approval. Attorney Callen wanted to know how the board could grant conditional approval, when the regulations of Section 402-5.K state that the board can require offsite improvements.

Attorney Callen stated that The EPA report should not be accepted by the board as gospel and he indicated that Mr. Davall would be submitting a minority report that goes against the information submitted in that report. Attorney Callen stated that the applicant has made promises and the board needs to make these promises conditions of the approval to protect the abutters and the City.

Regarding the aggregate area, Attorney Callen indicated that KV Partners is not in agreement that the slope will remain stable. He stated that if the slope fails then a new site plan will have to be submitted for whatever will be put in the place of the slope for aggregates. He stated the board should have a condition that if the slope does fail that all work will cease until the area is fixed.

Attorney Callen stated that an SPCC plan should be put in place as KV Partners has indicated that the liquid does flow and should be planned and prepared against any spillage.

Attorney Callen stated that the board should also address the hours of operation, the number of days of operation, and set limits on the operation.

Chair Colburn stated that other industries in this zone have three shifts and the plant operates all hours of the day. Attorney Seufert indicated that when night paving is necessary based on contracts, and then the plant would operate at night. He stated that the plant is only open from April to December, if that. He stated that if there is no job they are contracted to produce asphalt for then the plant would not operate. He stated that normal industrial operations are day and night.

Greg Davall was present to speak. He then submitted to the board Minority Report from the Multi-pollutant Emissions Reduction Analysis Foundation for Hot-Mix Asphalt Sector (See copy of the report submitted for the record.). He stated this is a counter report to the report that the applicant has submitted. He stated that without knowing the number of days the plant will operate it is hard to determine the emissions. He did however state some differences that are included in the report, to include poundage of emissions. He stated the major source of

the pollution is the burner and that the applicant has indicated that this is the best burner, which means that DES may give them the maximum number of days to operate the facility; however, the board could independently make a determination as to what the number of days that the plant can operate is. He stated the applicant cannot say for sure what the noise is going to be and a model was provided based on another plant. The applicant has not submitted to the abutters what the plant will look like.

He stated that the baghouses need to be regulated. He stated the applicant has the ability to put in a new plant and use the best available technology, but instead is putting in a 30 year old plant.

Dan Woodhams, of 317 Smith Hill Road, asked what the benefit would be and why they want to put the plant in.

Cliff Downs, of Sophie Driver, stated that who is going to maintain the site. He stated that as soon as the plant is built, they are going to sell the plant and then the City want know who is running it and the conditions may not be adhered to.

Gail Rousseau, 745 South Main Street, stated that there is quite the contrast between applications this night, with an incredible project on Webster Lake to this. She stated that the residents who will be affected by the noise, K, B and C are present this evening and are in opposition.

Nita Tomaszewski, 916 South Main Street, indicated that she is concerned about the noise and the health concerns. She stated that she just received in the mail from her health insurance provider, Blue Cross and Blue Shield, paperwork and the subject of the paperwork is "As Traffic Noise Rises, so Does Risk of Stroke in Old People, Study Finds". She distributed this paperwork to the record.

Denise Ordway, of Sophie Drive, stated that she is concerned about the traffic. She stated that they can hear the gravel pit all the time and the roadway is already dangerous and she does not want to see more congestion.

Diane Ball, A Street, stated that she is concerned about all the issues: traffic, noise and emissions. She stated she is concerned about the value of her home.

Holly Bersaw, 216 Smith Hill Road, submitted a letter. She stated that she is a mile away and she can hear the gravel pit, even though there is a substantial forest between her property and this property. She stated the board would not want a neighbor running a lawn mower in the middle of the night, even if it is not too loud as it would be annoying.

George Dzujna stated that he lives at Sterling Drive and he can hear the activities of the Industrial Park. He stated he doesn't want the noise to get louder.

Albert Morang stated that he is surprised that anyone is alive in Tilton or that they haven't been run over by a truck from Pikes. He stated if the plant is done right, there will not be the problems that have been brought forward. He stated the abutters have personal agendas. He stated that Edmunds have been here all their lives and will do everything the right way and the application should be approved.

Sam Davis, of 64 Thompson Park, was present to speak. He stated he is surprised that people are opposing this plant and the Transmission project. He stated that the money that will be added to the tax base will help support the residents so that taxes will go down and not up. He stated that it meets all the standards, is in an approved area and should be granted by the board. He stated that he has seen the work that Edmunds does and they do everything to the "T" and the board should grant this application.

Betty Tobey stated that regarding the taxes, she has spoken with the Assessor. She stated the response was that basically that they do not know until the plant is built, that when you are talking about the prospect of five part-time or 10 full time employees on a seasonal basis that there's not going to be very many taxes. She added that for the number of people that will be inundated with illness and other destructions to their lives as they are living in

now, for the purpose of one person who it sounds like is just going to walk and sell the plant afterwards to make another million.

Board Discussion

Chair Colburn asked the board, based on the given hour, to provide direction to Richard on the direction to formulate conditions, and to comment on what actions they are leaning towards so the process can begin.

Comments from the board included:

1. Possible redesign of aggregate layout and design and what will happen if the slope fails.
2. Hours of Operation, if the board is going to regulate these.
3. The lots affected by noise are in the Industrial Zone.
4. Possibly setting a decibel limit for daytime and nighttime noise.
5. If Sound Barriers are necessary.
6. Possible testing of noise 2-6 months after the plant opens to get the actual numbers and affects.
7. Possibly putting in the recommendations that were listed in the power point presentations given by the applicant this evening in as conditions of approval.
8. Widening of the roadway and DOT approval of the plan prior to beginning the work.
9. That General conditions of approval should be set and the board can through the approval documentation and makes the necessary changes at the next meeting.
10. Drainage concerns.
11. Possibly having the applicant create an Operation and Maintenance Plan for the plant, to include: Dust Control, Bag House fabric testing, erosion, noise, traffic.
12. Have Richard Lewis go through the comments that were submitted during all the meetings and create some necessary conditions of approval.
13. Widening of the roadway of Punch Brook Road and South Main Street.
14. Possible monitoring study done during 2 weeks, not at the same time, one week in spring and one in the fall.
15. Making sure that KV Partners and Brian Sullivan attend the meeting with DOT on the changes to Punch Brook Road and South Main Street.
16. Edmunds absorbing the costs of the offsite improvements. The applicant indicated they are aware and in agreement.
17. Stability of aggregate slopes.
18. SPCC plan.

Ed Duncan stated that even though the Warner property was not pin pointed on the plan, you can see where the iso-lines of decibels are located and that they are within the requirements.

There was a discussion regarding the continuation of the public hearing. Richard Lewis stated that if the public hearing is not continued then neither the applicant or the abutter's should be submitting any new information and if the board is going to allow for new information to be submitted then they need to keep this portion of the public hearing open for discussion; however, this discussion should only be on the new information submitted.

MOTION: Member Sullivan moved and Member Daniel seconded to continue the public hearing to 7:00 p.m. on Wednesday, March 23, 2011, in City Council Chambers. All were in favor and the motion passed.

Public Comment: None.

Planner's Update: None.

Adjournment

MOTION: Member Sullivan moved and Member Sharon seconded to adjourn the February 23rd, 2011 Regular Meeting of the Franklin Planning Board at 11:35 p.m. All were in favor and the motion passed. The meeting was adjourned at 11:35 p.m.

Respectfully Submitted,

**Angela M. Carey,
Planning and Zoning Office
Assistant to the Administrator**