



Town of Gorham
MAY 21, 2007
PLANNING BOARD MINUTES

LOCATION: Municipal Center Council Chambers
75 South Street, Gorham, Maine

Members Present:

SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW

Staff Present:

DEBORAH FOSSUM, Dir. of Planning & Zoning
THOMAS POIRIER, Assistant Planner
NATALIE BURNS, Esq., Town Attorney
BARBARA SKINNER, Clerk of the Board

The Chairwoman called the meeting to order at 7:00 and read the one-item agenda. The Clerk called the roll, noting that all members were present.

1. CALL TO ORDER

2. MINERAL EXTRACTION/SITE PLAN – “BRICKYARD QUARRY” AND ASPHALT PLANT – off ROUTE 237/MOSHER ROAD – By SHAW BROTHERS CONSTRUCTION, INC.

Discussion of a proposed quarry operation and hot-mix bituminous asphalt batch plant, on 125.5 acres +/-, on land of S.B. Aggregates, LLC. Zoned Industrial, Map 31/L15.

Ms. Robie gave a summary of the project to date: the formal plan application was submitted on December 6, 2006; and an initial presentation of the plan was made to the Planning Board and the public on January 8, 2007, during which time public comment was taken. Since then, the plans have been reviewed by peer reviewers, with those comments having been reviewed by Town staff and forwarded to Sebago Technics, the applicant's engineers. Ms. Robie noted that the application is not complete at this time, inasmuch as not all of the peer reviews are complete, nor are the applicant's responses complete, so it is expected that there will be further revisions. A new plan was submitted on March 29, 2007; on April 2, 2007 a public meeting was held with the Town Attorney to clarify the status of the two parts of the plan, the quarry and the asphalt plant, and it was determined that they are separate permitted uses on the same site. In addition, during that meeting with the Town Attorney, many questions were answered about the review of the project by the Planning Board. Ms. Robie said that the primary purpose of tonight's meeting is to understand the current status of the application, public comment will be taken, but this is not the official public hearing, as the application is not yet in condition to be approved or disapproved. She said there may comments from the Board that will give direction to the applicant, and it may be that the Board will be polled about waiver requests or other aspects of the application on which the Board's input will be important to the developer. Ms. Robie noted that if need be, the meeting will be continued on Tuesday, May 22, and she will give the public instructions on suggested speaking times as the evening progresses. She reminded all speakers to be sure to speak clearly into the microphone. Ms. Robie thanked all those who have submitted comments and information.

Walter Stinson, Sebago Technics, appeared on behalf of the applicant and indicated that while they understand that no final decision will be made tonight, there is significant information to be presented to the Board as a follow-on to the January 8 meeting. Mr. Stinson noted that a site walk was held on November 3, 2006, at the site. He said that the application submitted on December 6, 2006, was in conformance with the Town's ordinance and was viewed by the applicant as complete. Ms. Robie said that the application is not *completed* because it has not incorporated all of the peer reviewers' comments. Mr. Stinson said that one round of comments has been received from both the Town's traffic consultant

and noise consultant, which comments have been responded to. He said they hope to have an amended application addressing all the comments in a short period of time, and also hope that a public hearing can be scheduled for some time in the near future.

Ms. Robie advised Mr. Stinson that the Town's noise consultant cannot be at tonight's meeting until 8:00 p.m., and suggested that the noise aspects be discussed at that time. Mr. Stinson said they intend to give a brief introduction of the project for the benefit of those who have not seen it and there will be a presentation by David Dixon, air emissions consultant for the project, and they are prepared to address traffic and noise questions. He referred to the list of some 33 questions which the Board asked to be addressed and clarified, and they are prepared to answer those questions tonight.

Mr. Stinson introduced Danny Shaw, Tom Biegle, and Chris Cloutier of Shaw Brothers, David Dixon, air emissions consultant, Steve Ambrose, noise consultant, John Adams, traffic engineer, and Kylie Mason, landscape architect at Sebago Technics.

Mr. Stinson gave a brief overview of the project and the site, zoned Industrial, noting that both manufacturing and quarrying are permitted uses in the Industrial zone. He commented that structure setbacks in the Industrial zone are 50 feet front setback and 30 feet side setbacks; quarry setbacks are 100 feet from the road and 200 feet from the property, and can be less with Planning Board approval. Mr. Stinson used a slide show to demonstrate the phases of the project, with LaChance Brick retaining five acres and a building for retail use within the site. He described phase 1 as including the area of the asphalt plant, initially as a portable plant and then later on as a permanent plant. He said that the site for the asphalt plant is about 2.9 acres, will be paved, and will contain all elements of the asphalt plant operation, including the aggregate bins, the silos where the mix is stored until it is conveyed to trucks, the burner, the mixer, oil storage area and asphalt area. Phase 1 will involve constructing the pad for the asphalt plant, as well as the stormwater ponds, excavation of ledge in some 40 acres, taking a knoll down to ground level or elevation 114. He said the topography in the area starts along Route 237 at an elevation of some 100 feet, travelling westerly along the site it rises up about 65 feet, the land then slopes down to the west into a saddle where it rises up to its highest elevation of 210 feet. Phase 2 will be to continue excavation in that Phase 1 area for approximately 200 feet, with a pond of just under 30 acres in size being created upon completion of that phase. Phase 3 site will be done last and will provide natural screening from the quarrying operation in both Phases 1 and 2. Mr. Stinson pointed out an aerial overlay depicting Gateway Commons Subdivision, with the closest distance to any quarrying operation at all is approximately 1100 feet, which is all wooded, saying there would be no view of the operation from Gateway Commons. He also demonstrated a Portland Water District water line which will involve coordination with the Water District as the project moves forward.

Mr. Stinson then showed a video giving a "bird's eye" view of an asphalt plant and its various elements, including a description of the baghouse technology designed for air pollution control.

Mr. Stinson showed cross sections of the site to demonstrate the visual impact of the project, and introduced Kylie Mason, landscape architect with Sebago Technics, to discuss proposed landscaping treatment on the 20-foot berm to be built along Route 237, with the 3 silos shown. Ms. Mason talked about buffering along the berm with the use of native shrubs such as birch trees, sumac, pines, providing fast screening and good height. She discussed road frontage plantings such as red pine and white pine, the red having a very aggressive growth with a straight upright form, and the white pine which is a little slower growing to stagger growth. In between these trees will be planted river birch and sumac, which have a suckering habit and over time will fill in the area. Along the front will be Donald Wyman crabapples, a four-season tree, with junipers below, feather reed grass and rhododendrons.

Ms. Mason was followed by David Dixon, air quality expert for the applicant, who said he has over 30 years experience in the field of air quality, and owns and operates his own firm, Dirigo Environmental Consultants. Mr. Dixon began his presentation by reaffirming the conclusions he made during the January 8, 2007, appearance before the Board as follows: (1) the proposed facility will perform better than the limits in the Town's Land Use Ordinance, as the proposed baghouse air pollution control, considered the best available control technology (BACT) will result in particulate emission from the process stack of 0.04 grains per being almost 10 times lower than the Ordinance's limit of 0.3 grains per dry standard cubic foot. The Town's Ordinance also sets limits for opacity of a visible plume exiting the site, but the State's licensing requirements are much more stringent, looking at opacity at the source. He said that the best management practices for the control of fugitive dust will control the fugitive emissions to meet the appropriate standards. Secondly, Mr. Dixon said that emissions from the project will not violate the Maine or National Ambient Air Quality Standards (NAAQS), based on similar facilities, including many in Maine. He referred to the *Salisbury Air Quality Monitoring Study* which found that the impacts of a 180 ton per hour hot mix asphalt batching plant were all well below the NAAQS. Mr. Dixon said that the proposed facility will be considered a "minor" source for hazardous air pollutants based on an EPA study which concluded that no asphalt concrete manufacturing facility has to potential to emit hazardous air pollutants (HAP) approaching major source levels. In addition, the Maine Bureau of Air Quality established a prioritization of sources contributing the greatest risk of HAPs, and asphalt batching plants rated 39th overall. Finally, Mr. Dixon then discussed the requirements for the facility to secure an air emission license from the Maine DEP, with the applicant having to prove that all emissions will receive the best available control technology, an area where Maine's new source permitting program is more stringent than the federal mandate. Emissions must meet the new Federal source performance standard of 0.04 grains per dry standard cubic foot, the equipment must be reliable and capable of continuously achieving the emission reductions required, there will be opacity limits restricting the emissions of visible fugitive dust from storage piles, haul roads, and processing equipment, air pollution control equipment and process equipment will be inspected and maintained, and the site will be required to develop a plan for the best management practices for the abatement of fugitive dust. Mr. Dixon said that a copy of the air emission license application will be provided to the Planning Board/Planning Department. Mr. Dixon noted that the DEP does have the authority to control fugitive dust and anyone who operates with an air emission license will be subject to periodic inspections by the Department. He distributed a copy of the existing air emission license for the rock crusher owned and operated by Shaw Brothers to give the Board an idea of the complexity involved in securing such licenses.

Ms. Robie asked Mr. Dixon to elaborate on how dust will be controlled from the storage piles. Mr. Dixon replied that it can be wetted or covered. Danny Shaw approached the podium and replied that best management practices will involve using a water truck, and the roads will be paved and swept. He said that once the stone dust pile has been rained on, a crust will form on the stockpile and any dust will come from working the pile. Mr. Shaw said they won't know what kind of plant they will buy until they have approval for a 400 ton/hour plant, whether it will be a Chevy or a Ford or a Dodge. He said that the plant has to be licensed with the state, and the license travels with the plant. In response to a question from Mr. Parker, Mr. Dixon replied that a license has to be renewed every five years under the statute requirement of best practical treatment, which requires an updated finding that the technology is appropriate for that equipment at a given time. In this way, the Department has the opportunity to review the emissions, review the old license, and ratchet down the license if the technology has changed or improved. In response to a question from Mr. Hughes, Mr. Dixon said that the Department must be notified any time a plant is going to be relocated. Mr. Shaw said they do not plan to buy a portable plant, they would like to have a permit so that someone who owns a portable plant come into the site so they can bid on the Gorham by-pass. He said the only difference between a portable plant and a stationary plant is that a portable plant costs more because it has wheels.

Mr. Dixon continued his presentation by addressing some of the issues raised at the first hearing. He demonstrated that the difference in emissions between using natural gas instead of oil is minor, with only two pollutants, nitrogen oxides and sulfur dioxide being fewer if natural gas is burned. He demonstrated the prevailing winds through a “wind rose,” which shows frequency of wind distribution from each compass point. Meteorology data collected in Westbrook over the last five years indicates that the most frequent winds are from the west and northwest which would carry any emissions associated with this operation away from Gateway Commons. He noted that this is an annual wind rose and does not reflect seasonal differences such as the higher winds typically in the winter.

Mr. Dixon, referencing a question raised during the January meeting, indicated that exhaust emissions from mobile sources are not considered part of the license, and therefore are not tabulated in terms of the facility’s emissions inventory. He demonstrated a comparison of emissions from the proposed asphalt plant and diesel equipment working on site on a pound per hour basis, assuming 8 heavy duty diesel trucks, which for the trucks showed that carbon monoxide emissions would be double that of the asphalt plant. Particulate would be lower, nitrogen oxide would be about the same, hydrocarbons from the trucks would be lower, and sulfur dioxide would be substantially lower from the trucks due to the lower sulfur requirement now for diesel fuel.

Mr. Dixon addressed health concerns related to hazardous air emissions from asphalt batching raised by abutters and others. He referred to specific mention made of benzene, hydrogen sulfide, formaldehyde, polycyclic organic compounds, hexane, and toluene, and said that he believed much of the information used by the public came from a report by the North Carolina Air Toxics Analytical Support Team, entitled *Salisbury Air Quality Monitoring Study*, and suggested that misinterpretation of that study’s conclusions would lead to the assumption that an asphalt batching plant constitutes an unacceptable risk to public health for residents who live near one. Mr. Dixon pointed to several conclusions in the report which could have been misunderstood, such as the high level of benzene noted, where the primary contributor of 100% of the high level of benzene was a groundwater cleanup project. Similarly, the study showed that hydrogen sulfide, emitted by both an asphalt terminal and an asphalt batching plant, was 290 parts per billion for the terminal as opposed to 4.3 parts per billion for the batching plant.

In addition, many abutters noted concern for odors, as expressed in the North Carolina study, where the odor threshold was exceeded 28 times, once again attributable to the liquid asphalt terminal, and the asphalt batching plant was not in operation at all. Mr. Dixon again stated that even though there is no odor standard on the books, the DEP has a history of regulating odor concerns through the provision of the law which allows the DEP to require best practical treatment. He said there is a technology requirement that can be imposed on any odor causing source.

Mr. Dixon concurred that there is no question that there is a significant health hazard associated with exposure to silica dust. Respirable silica dust is listed as a known human carcinogen, and the Occupational Safety and Health Administration (OSHA), the National Institute of Safety and Health (NIOSH), and the Mine Safety and Health Administration (MSHA) all have regulations and guidelines to reduce exposure of workers and to monitor exposure of workers. Mr. Dixon also concurred that the level of a standard deemed protective of the health of construction workers is not an appropriate standard to be protective of the general public because the general public includes many groups of individuals far more susceptible to adverse affects, such as young children, the elderly, people with pre-existing lung conditions, etc. He noted that the EPA in 2006 reduced the fine particulate standard from 65 micrograms per cubic meter to 35 micrograms per cubic meter; that standard includes silica from quarrying, construction or re-suspension of road dust, carbon ash from combustion, sulfates and nitrates, as well as biological sources such as pollen. Mr. Dixon noted that the Maine DEP conducts ambient air monitoring for fine particulate matter around the state, three of which are located in Portland, and the data from these sites show that the 24-hour standard is being met, and the average annual standard from all sites is about

10 micrograms per cubic meter. He opined that monitoring in a rural area such as Gorham would be expected to show much lower ambient air concentrations, even if the monitor were located in close proximity to an asphalt batching plant.

In conclusion, Mr. Dixon said he believes that the emissions from this project will receive the best available control technology (BACT) and will be well controlled. The National Ambient Air Quality Standards will be met for criteria air pollutants of carbon monoxide, sulfur dioxide, nitrogen dioxide, volatile organic compounds, and particulate matter. Modeling from many sources has demonstrated that that will be not be a problem. The facility will be a minor source, both for criteria air pollutants as well as hazardous air pollutants (HAPs) and emissions of the HAPs will be very low. The facility will be required to obtain a DEP license and will not result in any unacceptable exposure. He said that Shaw Brothers has demonstrated a commitment to go beyond compliance to minimize the impact of their operation on the Town and its environment, and he urged the Board to make its decision based on good scientific information which clearly demonstrates that the proposed facility can and will meet air pollution control requirements of the DEP and the Gorham Land Use Ordinance.

Mr. Stelmack asked if monitoring specifically for silica dust would occur during the operation. Mr. Dixon said he personally would not be doing that but the company has to do that for on-site worker protection programs as part of OSHA requirements. Mr. Shaw said that it is done by MSHA, the mining arm of OSHA, and the monitoring records are available to the public. In response to Mr. Stelmack, Mr. Shaw said that the DEP will be monitoring for particulates, through what is called a stack test, done by someone in the company licensed by DEP, and DEP will also periodically do its own stack test. Mr. Shaw said there will be no other air monitoring stations on site. Mr. Dixon said EPA Method 9 is a visual method for evaluation for opacity from a stack, and is required by the license, and the company must have someone on staff who is a certified visible emission evaluator to periodically observe the dust from the various sources on a daily basis, keep a log of those observations, and show that log to the DEP. Opacity observations can take place anywhere on site. Mr. Stelmack asked where would samples be taken to be sent to a laboratory for testing; Mr. Dixon replied that samples are not sent anywhere, if the baghouse is performing the way it when the emissions were measured, then it is presumed that the emissions out the stack are achieving the level they did during the test. The monitoring will be of the control equipment to make sure it is performing the way it should., as well as tracking how much fuel is burned. Mr. Dixon said if opacity is evident, such as a visible plume, that is an indicator that the baghouse is not performing correctly and there is a problem.

Mr. Hughes confirmed with Mr. Dixon that there will be no regularly scheduled tests other than the visual monitoring and reliance is on the licensee's integrity to be sure the plant is operating properly. He asked that the remedy is if there is a problem, does the plant shut down or does it keep going until the problem is taken care of? Mr. Dixon replied that it has to be fixed in order to continue operations, or the plant is operating in violation of the terms of the air emissions license. Mr. Dixon said that DEP would find out if there was operation outside the limits of the license through its annual inspection.

Mr. Fickett confirmed that the license must be renewed every five years, and asked if a stack test is done every five years. Mr. Dixon said they do for some and not for others, and did not believe that for an asphalt batching plant a stack test is necessarily required every five years. He said that the testing schedule has been greatly reduced over the years as these plants meet the requirements well and maintain their equipment.

Mr. Zelmanow confirmed that the baghouse will not eliminate the gases that are in the air; Mr. Dixon said that some of the HAPs will be captured but by and large the gases go through the baghouse, and the by-products are the same as those of one's home furnace or an automobile.

Mr. Boyce asked if renewals of the license every five years will also demand that Best Available Control Technology at that time be implemented, or will that be grandfathered over time. Mr. Dixon replied that when the facility is initially licensed those emission rates are very low and will meet the ambient air quality standards, and there is not much further to go to reduce emissions. He said that .04 is getting very close to zero, and he cannot imagine that there are significant steps that could be taken to reduce emissions beyond where they are. The Town's Ordinance limit is 0.3 grains, and .04 is a lot less than that. Mr. Boyce asked if there is a hazard identified in the future that would require a greater degree of emission control and the standards do change, should the Board expect that the regulations will keep up on the five-year cycle, or should the Board decide to revisit the operation over time to be sure there is no demonstrated health issue. Mr. Dixon said if it were discovered that there was an emission in the exhaust that no one knew about that constitutes a potential hazard, the DEP in their process has the authority to recall an existing license and re-issue for cause. Mr. Shaw said that the State license requires them to continue to use Best Management Practices so as technologies change, they have to change with them, such as using a baghouse on asphalt plants.

Mr. Fickett asked if there are two different sets of standards for a portable versus a permanent plant. Mr. Dixon said it would be same standards for both, and for asphalt plants it was decided the fairest way to regulate on the basis of grains per dry standard cubic foot regardless of size.

Mr. Parker asked if there is a difference in the definition of "Best Practical Treatment" and "Best Management Practices," and does the word "practical" connote a financial component. Mr. Dixon replied that "Best Practical Treatment" is described in the Maine statute as the method that controls air pollution to the maximum degree considering the existing state of the art of the technology, the type of facility involved, and the economic feasibility for applying that control technology. He said there is also an economic component to "Best Available Control Technology," but "Best Practical Treatment" has its origin in the State statute and predated the Federal rule which came in the 1977 amendments to the Clean Air Act. In response to a question from Mr. Parker as to which is the more stringent, Mr. Dixon said that they are essentially the same, but "Best Available" is the best control since it has energy, economic and environmental considerations.

Mr. Parker asked Mr. Shaw if the H Pit is comparable to what this project will become. Mr. Shaw replied that the H Pit is a sand and gravel pit as well as a quarry, but the quarry project is similar to what the quarry will be in this project. Mr. Parker asked what measures are now used in the H Pit to control particulates that are not part of the batch plant. Mr. Shaw that paving is done and then that is swept almost every day; and when stone is being crushed, spray bars are used. He also said that not much dust occurs with drilling and the newer machines have dust collectors, but the employees are limited by MSHA on noise and dust.

Ms. Robie summarized her understanding that on the asphalt site, the stack will be monitored, and human observation is used to check opacity on a continuous basis. Mr. Dixon agreed. Ms. Robie said that in the quarry, the crusher will be licensed and the workers are monitored but there is no monitoring of air quality at any point in the quarry or on the perimeter of the quarry. Again, Mr. Dixon concurred. Ms. Robie asked what it would take to determine the silica dust concentration at the perimeter of the quarry to reassure people that there is no danger from dust generated by the quarry. Mr. Dixon said it would be possible to set up a monitor such as DEP has on Tukey's Bridge and Marginal Way to collect some samples. Ms. Robie said that if there is data that demonstrates what the typical silica dust concentration is at the edges of quarries of comparable size to the one that is proposed, please show it to the Board. Mr. Dixon said he would look for that data. Mr. Hughes asked staff if other quarry operations were required to provide such information in the past.

Mr. Shaw noted that the H Pit has more residences around it. He said that the crushers for which they have licenses all have 3406 Caterpillar engines and they have to keep track of all the fuel that is used, but there are no similar requirements for the dump trucks, which have the same 3406 engines. Ms. Robie said her concern is not about combustion, it is about silica dust that is generated during quarrying operations.

Mr. Stelmack and Mr. Dixon discussed again the Salisbury Report and hydrogen sulfide emissions, with Mr. Dixon pointing out that the details of that modeling showed that the terminal operation was 290 ppb and the batching plant was 4.3, a significant difference. Asphalt for this project would be delivered in a heated truck and go into a storage tank on site and then go into the drum mixer. Mr. Parker asked Mr. Dixon to provide a wind rose for the operating months of the asphalt plant.

Ten Minute Stretch Break to 9:10 p.m.

Ms. Robie asked the Board if the members wish to stop at 10:00 and continue the meeting on Tuesday, May 22. Mr. Fickett asked if the applicant's sound expert is to testify this evening; Ms. Robie replied that the Town's peer reviewer has not been completed but questions can be asked. Ms. Fossum said that the Town's sound consultant is present and available for any Planning Board questions. Mr. Parker recommended that the Board plan to terminate at 10:00 tonight inasmuch as another meeting has been scheduled for May 22. Mr. Hughes, Mr. Stelmack and Mr. Fickett concurred. Mr. Stinson said he hoped to be able to respond tonight to all 33 questions posed by the Board during its January 8th meeting.

Mr. Stinson said that during his experience over the past 20 years in Gorham in permitting the some 6 or 8 gravel and sand pits and stone quarries he has worked on, and does not recall one instance where silica dust has been an issue.

Below are the questions raised by the Board during its January 8, 2007 meeting and Mr. Stinson's answers.

1. Request for a copy of the required air emissions license(s) to be submitted to the Town.
Mr. Stinson replied that this was the basis for Mr. Dixon's distributing to the Board a copy of the existing air emission license for the rock crusher owned and operated by Shaw Brothers to give the Board an idea of the complexity involved in securing such licenses. No license application has yet been provided for this project until approval is granted, at which time the Town will receive a copy.
2. Request for information regarding height, location of asphalt plant vis-à-vis visual impact.
Mr. Stinson said this information was provided by means of the renderings provided to the Board tonight showing the location of the asphalt plant, the height of the silos, and the visual impact one might see from the road.
3. What will be the effectiveness of 20-foot berm in reducing noise?
Mr. Stinson replied that the sound study was done by Mr. Ambrose, showing that with the berm in that location it can meet both Town and State standards for noise generation.
4. How will the applicant address the noise of backup alarms and banging tailgates?
Mr. Stinson replied that with the applicant's March 28, 2007 submittal, a letter was included addressed to OSHA requesting their position on discriminating backup alarms. The applicant is prepared and willing to install new technology if that is acceptable by the regulators at OSHA. Insofar as banging tailgates are concerned, that is an operations issue and it is probably impossible to

eliminate it completely but it can be reduced by instructing and training drivers, which will be undertaken.

Ms. Robie asked if the applicant has inquired if discriminating alarms can be used on certain pieces of equipment in certain locations for certain reasons. Mr. Stinson said that question has not been asked specifically. Mr. Shaw said that the letter sent to OSHA was about the pieces of equipment as referred to by Ms. Robie. Mr. Stinson said they will follow up but cautioned that getting some type of conditional decision on a specific part of a project could be difficult. Mr. Shaw said that MSHA has given them permission for use in the quarry, but OSHA has not reached that decision yet.

5. There is a possibility of using laser activated motion detectors, request to applicant to pursue with OSHA or mining control agency.

Mr. Stinson noted that Question 5 is a follow on to Question 4.

6. Point Source Noise requirement in Ordinance is not addressed.

Mr. Stinson said that the revised noise study does address point noise sources, but he asked Mr. Stephen Ambrose, a consultant in sound, noise and vibration, to address why was the noise measurement was made 50 feet away and not closer to the source. Steve Ambrose came to the podium and said that the industry standard is for construction equipment to be typically measured at 50 feet to evaluate it as a source so that the sound waves are more representative of the source. If measuring is done at a closer point, measuring may be done of a part that is not radiating as much noise because the noisier section may be 3, 5 or 10 feet further away. Mr. Ambrose said that sources are also directional, the further away you get, the more representative the measurement is for the sound energy being radiated by that source. He said that close-in measurements are for small pieces of equipment, but a true point source cannot be measured because it is a point.

Ms. Robie asked if a burner is classified as construction equipment; Mr. Ambrose replied that it is a large source and the distance to measure would also be 50 feet, and typically measurements are made in multiple directions around a large source.

Scott Bodwell, senior project engineer with Resource Systems Engineering in Brunswick, Maine, the Town's noise peer review engineer, said, referring to the Town's Ordinance that noise may not exceed 100 decibels when measured at the source, said that Mr. Ambrose's approach is to use the industry standard of 50 feet. He said that another standard is a sound power level, considered a way to quantify a noise source at the source. But depending on which one is used, very different numbers are obtained, such as in Mr. Ambrose's study of something at 85 decibels at 50 feet would be close to a power level of 120 at the source; but what is really important is what it is at the property line or at abutting properties. Mr. Bodwell said that silencers and filters can be added to the burner so that when the noise reaches where it has an impact, what is was at the source doesn't really matter. He said that while the Ordinance can be interpreted differently, his recommendation would be to focus on what the noise impact is on neighboring properties and protected locations and noise sensitive areas. In response to Mr. Parker, Mr. Bodwell said that there is a Town boundary standard of 75 decibels. Mr. Bodwell said that the applicant is addressing the State standards, which are more stringent than those of the Town. Mr. Stelmack asked if the Board should look at 100 decibels at the source and 75 decibels at the property line. Ms. Burns replied that the applicant must demonstrate to the Board that that performance standard can be met, so the applicant will have to provide evidence about the sources as well as the boundary requirement. Ms. Burns said she believes that the boundary requirement is the more important of the two that the Board is going to be looking at because that more closely reflects the impact on the neighbors than the source does. Mr. Stinson confirmed to Mr. Stelmack that that is how the application is being presented; he said that a study can be done at the boundary lines and it can be documented by noise meters.

7. Request to see data that comprises the weighted average of noise level cited
Mr. Stinson confirmed with Mr. Ambrose that that data has been provided.
8. Request for a cross section or elevation showing the height and protection of the berm
Mr. Stinson noted that this information has been provided in the latest submission.
9. Request for cross sections of the site elevations.
Mr. Stinson said the cross sections are included in pages 11, 12, and 13 of the plans submitted to the Board, as well as another cross section being provided tonight across the site showing up to Gateway Commons.
10. Request for perspective types of views to show the geometry size and scale of both the equipment and the fixed facilities such as the storage bins.
Mr. Stinson said this information was provided tonight in the elevation and landscaping views tonight.
11. Request for information how the new pit will fit in with Shaw Brothers' overall business operation.
Mr. Stinson said obviously Shaw Brothers wants the site for an asphalt batching plant, and having a site close to the point of utilization fits into their overall business plan.
12. Issue of increased truck traffic on 237 and in the Town was cited as a concern multiple times.
Mr. Stinson said there will be no change in the number of trucks, they will be on the road whether they come from Shaw Brothers asphalt plant or whether they come from Pike or from Commercial Paving – if they are going west to Standish, they will come through Gorham. As far as trucks on Route 237 are concerned, this project, especially the quarry operation, will take some of the use away from H Pit, so those trucks will be on the road, either going to this quarry or going up to H Pit. Most of the trucks coming out of the asphalt plant will be going south on Route 237 for one mile to the intersection with Route 25, so for a one-mile section of Route 237 there will be additional truck usage. He noted that the intersection will be signalized, it has good sight distance in both directions, their studies show no capacity problems on the road, and there are no high hazard traffic locations in the immediate vicinity.

Ms. Robie asked Mr. Stinson to discuss the peer reviewer's suggestion of widening the shoulders. Mr. Stinson asked John Adams, Sebago Engineers, traffic engineer for the applicant, to comment. Mr. Adams noted that while the Town's traffic review engineer found that no turning lanes were warranted, he did suggest that they be considered; however, Mr. Adams said their studies show that all movements for the two site intersections with Route 237 should function at levels of service As and Bs, and therefore there was no need for turning lanes. Mr. Adams said that based on their study, there was no need to widen the shoulders. Mr. Stelmack said that there were no numbers to back up the peer reviewer's suggestion to widen the shoulders, it was a matter of safety. Mr. Adams said that in this relatively flat section of Route 237 that was not necessary. He said that their study did not show a large backup due to trucks turning into the site and their analysis did not foresee many vehicles stopped waiting for a truck to turn. Mr. Stelmack suggested that the Town's peer reviewer be asked to rebut that assessment.

13. Question as to when DEP permits will be sought and granted.
Mr. Stinson said their DEP application was submitted on February 13, 2007, which included an intent to comply for quarries, a variance application for an externally drained excavation, a Tier I wetlands alteration application, and a Natural Resources Protection Act application permit by rule application

for the installation of a culvert in a stream. They expect those permits perhaps within the next 4 to 6 weeks.

14. Request for staff to secure the services of a noise peer review engineer.
This has been done.
15. Request for legal opinion as to whether the internal agreement with LaChance Brick to absolve Shaw Brothers from meeting the code's noise requirements would be legal.
Mr. Stinson said he understood that the Town Attorney has advised that that easement is not legal under the terms of the local Ordinance. Mr. Stinson said they will make a final submittal and address that issue with some type of a physical barrier between this operation and the LaChance property.
16. Request for information regarding all permits required for the pit and asphalt plant.
Land use permits through DEP are required, Town's site plan permit, gravel extraction permit, air emissions license for the asphalt plant and any crushers on site. Mr. Stinson said they will look into whether they need a permit for large construction activity.

Ms. Robie asked about the calculations of the impervious surfaces, if they include only the paved area or is it also the material that isn't paved. Mr. Stinson said that all impervious areas, as defined by DEP, within the project area. He said that between 2.8 and 2.9 acres on this site have been set aside as operational area for the asphalt batching plant, so all materials within that area must be counted, but not materials outside the operating area. Mr. Boyce asked if the 2.9 acres area allow that that particular part of the operation does not require its own separate Site Location Permit because it is less than 3 acres; Mr. Stinson confirmed that understanding as correct and that they have had that discussion with DEP.

17. Request for elevation of the pit when overburden is removed vis-a-vis Gateway Commons.
That elevation was provided tonight and will also be included in the next submittal plan set.
18. Request to understand variances requested, i.e. 100 foot buffer instead of 200 feet.
Mr. Stinson said that what is shown along the westerly and northerly property lines is a request to mine within 150 feet of the property line. The Town's performance standards require that any blasting be at least 150 feet away from the property line, and the Ordinance allows the 200 foot setback for gravel extractions to be reduced down to 100 feet under the three conditions of dust, and noise and one other. He said that is the only variance being requested.

Ms. Robie noted that it is 10:00 and the meeting is therefore adjourned, to be continued until 7:00 p.m. Tuesday, May 22, 2007.

3. ADJOURNMENT

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to adjourn. Motion CARRIED, 7 ayes.

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board