



**Town of Gorham**  
**March 24, 2008**  
**PLANNING BOARD MINUTES**

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

**Members Present:**

**SUSAN ROBIE, Chairwoman**  
**DOUGLAS BOYCE, Vice Chair**  
**THOMAS FICKETT**  
**THOMAS HUGHES**  
**MICHAEL PARKER**  
**EDWARD ZELMANOW**

**Staff Present:**

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

**Members Absent:**

**Mark Stelmack**

The Chairwoman called the meeting to order at 6:00 p.m. and read the Agenda. The Clerk called the roll, noting the absence of Mark Stelmack.

Edward Zelmanow stated that he had reviewed the video recording of the March 20, 2008, meeting, at which he was not present, and said that he believes he can participate in tonight's meeting.

**1. MINERAL EXTRACTION/SITE PLAN – “BRICKYARD QUARRY” AND ASPHALT PLANT  
– off ROUTE 237/MOSHER ROAD – by SHAW BROTHERS CONSTRUCTION, INC.  
PUBLIC HEARING – (CONTINUED) –**

Request for approval of a Mineral Extraction Permit for the Brickyard Quarry, a proposed quarry operation on 125.5 acres +/-; zoned: Industrial/Suburban Residential; Map 31/Lots 12, 13, 14, & 15 and a revised Site Plan Application for a hot-mix bituminous asphalt batch plant; zoned Industrial; Map 31/Lot 15 for Shaw Brothers Construction, Inc., on land of S.B. Aggregates, LLC located on Route 237/Mosher Road.

Ms. Robie noted that at the last meeting, the applicant's engineer stated that a MDOT State/Developer Agreement is not required; however, the applicant's submission indicates that it appears under Tab 3 of the applicant's submission, as follows: "All shoulder widening and construction shall be full depth reconstruction. This work will require a state/developer agreement with full plans approved by this department." Mr. Stinson said he would not argue with that wording, and if he finds anything that overrides that language, he will come back.

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**RECLAMATION PLAN:** Ms. Robie said that there is no finding of fact with respect to the applicant's reclamation plan, so Ms. Robie summarized the requirement as follows: that no more than 15 acres of pit will be allowed to be open at any one time, and a reclamation effort has to occur before any further acreage is opened. The requirement refers to the Maine M.R.S.A. Sec. 490-Y standards for reclamation. She explained that reclamation would consist of stabilizing the quarry walls, vegetating the benches that will not be under the water line when the quarry is finished, and loaming and seeding areas not part of the quarry excavation. Mr. Shaw said that filling the completed pit with water is the ultimate reclamation, but he anticipates using temporary cover with stump grindings of rock excavation areas to meet the letter of the law, as well as a method to prevent dust. Mr. Shaw stated that he anticipates clearing more than 15 acres at a time, but the entire site will not be cleared at the same time.

**FINDING OF FACT**

The applicant has a reclamation plan on both a permanent basis for the quarry walls and benches and a temporary reclamation plan for the 15 acres of the pit that are open at any one time. In addition, the applicant is planning to cut trees and remove overburden as the pit progresses to minimize the open area rather than cutting the entire area at one time.

The Board did not identify any condition of approval relative to the reclamation plan.

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The Board then began consideration of the Special Exception Criteria requirements found in Chapter I, Section IV(E):

Ms. Robie pointed out that because there is a combined traffic study, the Board’s discussion on Special Exception #1 will include the asphalt plant as part of the review.

**Special Exception Criterion #1:**

*The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off site and on site serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage and the visibility afforded to pedestrians and the operators of motor vehicles of such roads.*

**DISCUSSION:**

Based on a concern expressed by Ms. Robie, the Board discussed potential problems with trucks queuing on the widened shoulder, thus precluding its intended use to decelerate trucks. Mr. Shaw said that the gates to the asphalt plant will be opened before trucks arrive. The majority of the Board agreed that queuing would probably occur on site, and that no condition of approval regulating truck queuing is required. Based on a figure of 400 tons of asphalt per hour, Mr. Shaw calculated that 16 trucks per hour would be required. Mr. Parker noted for the public that 800 truck trips estimate is “conservative” as the highest possible number of trucks. In response to a query from Ms. Robie, Mr. Stinson said it would be very unusual if peak hour trips were exceeded, as the numbers are based on standard engineering practices and includes 24-hour a day operations.

**Michael Parker MOVED and Thomas Hughes SECONDED a motion that the Special Exception Criteria #1 is met for phases 1, 2, and 3 of the quarry. Motion CARRIED, 6 ayes (Mark Stelmack absent). [6:50 p.m.]**

**FINDING OF FACT:**

**The applicant has submitted a detailed traffic study for the quarry and asphalt plant and estimates a combined total of 800 vehicle trips entering and leaving the site on a daily basis. The quarry will generate an estimated 200 trips and asphalt plant is estimated to generate 600 trips. The a.m. Peak Hour for the quarry falls between 7:00 a.m. and 8:00 a.m. with 20 vehicles entering and leaving the quarry portion of the site, the busiest p.m. Peak Hour is from 5:00 p.m. to 6:00 p.m. with 20 vehicles entering and leaving the quarry site. The applicant has received a Maine Department of Transportation Driveway (MDOT) Entrance Permit requiring State Route 237 shoulder widening to a minimum of 8 feet for the appropriate length of a truck’s acceleration/deceleration distance. MDOT has given the applicant preliminary plan approval but final MDOT approval is required before the applicant can construct the road widening. The applicants have shown the required Route 237 widening on sheets 3 and 4.**

**Michael Parker MOVED and Thomas Fickett SECONDED a motion to approve the Finding of Fact.**

DISCUSSION: Mr. Zelmanow suggested that the actual distance length of a truck's acceleration/deceleration distance be added to the Finding of Fact. Mr. Stinson replied to Mr. Boyce that the actual distances have not been identified to the DOT. Mr. Boyce suggested that additional language be added "as finalized per the MDOT final plan approval.

**Motion CARRIED, 6 ayes (Mark Stelmack absent).** [6:55 p.m.]

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**Special Exception Criterion #2:**

***The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply, nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition exists.***

At Mr. Parker's request, Ms. Robie read into the record the applicant's proposed response: "A stormwater management system has been designed to accept and treat all runoff from the quarry site. An Erosion and Sediment Control Plan has been prepared and the operation will be conducted pursuant to the Spill Prevention and Countermeasures Plan provided. Accordingly, the development of the proposed quarry will not cause water pollution, sedimentation, erosion, contamination of any water supply, nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results."

Mr. Parker said that earlier concerns about non-dissolved sediment which could wash out of a stormwater pond have been alleviated by applicant's addition of an absorbent boom on the upper pond. Ms. Robie noted that there should be a condition of approval requiring an easement for the stormwater pond on Lot 1. Ms. Burns said that condition was noted at the last meeting.

Ms. Robie said the Board should also consider approval of the applicant's Operations Plan Notebook with respect to spill control and sedimentation control.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion that Special Exception Criterion #2 is met for phase 1 of the quarry.**

**Motion CARRIED, 6 ayes (Mark Stelmack absent).** [7:05 p.m.]

Ms. Robie noted that the proposed used in phase 2 is different as it is dependent upon a MDEP permit to mine below the water table. Mr. Parker pointed out that by virtue of the permit that must be obtained from the MEDEP, he believes that Special Exception Criterion for phase 2 of the quarry is also met.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion that Special Exception Criterion #2 is met for phase 2 of the quarry, subject to the approval of the Maine DEP of the variance for excavation below the water table.**

DISCUSSION: Mr. Fickett asked if a condition of approval has been crafted for phase 2; Mr. Poirier read Condition of Approval #13 from the proposed conditions of approval as follows: "That prior to start mineral extraction operations within phase 2 and phase 3 of the quarry the applicant shall provide proof of Maine Department of Environmental Protection permits and variances approvals for each successive quarry phase to the Town of Gorham" Mr. Zelmanow and Ms. Burns discussed the requirement that an applicant seek a variance from the DEP to mine below the water table, without independent review by the Town of the request. In reply to a comment from Mr. Parker, Ms. Burns said that in order for the Board to deny phase 2 of the quarry, it would have to find that something other than the excavation below the water table would cause a problem.

**Motion CARRIED, 6 ayes (Mark Stelmack absent).** [7:15 p.m.]

Ms. Robie said that phase 3 requires a Tier III Wetlands Permit. Mr. Parker said that a Tier III permit lasts only 2 years, so it has not been applied for yet. Mr. Fickett confirmed that Condition of Approval #13 also covers the Tier III permit.

**Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion that Special Exception Criterion #2 is met for phase 3 of the quarry.**

- DISCUSSION: Mr. Boyce noted comments from the Town's peer reviewer, Steve Bushey of DeLuca-Hoffman, specific to issues pursuant to this Special Exception for all phases, that Mr. Bushey provided favorable commentary that all of the appropriate regulations were met.

**Motion CARRIED, 6 ayes (Mark Stelmack absent). [7:20 p.m.]**

#### **FINDING OF FACT:**

**The applicant has made provisions to provide for the control and disposal of stormwater from the project. Based on the Town and Third Party Engineers' review of the applicant's "Stormwater Management Report," prepared by Shawn Frank, P.E., Senior Engineer, Sebago Technics, Inc., the post-development peak rates of run-off for the 2, 10, and 25-year storm events are less than the pre-developed peak rates at all study points. The stormwater infrastructure will control runoff from a minimum of 95% of the site's impervious area along with providing effective channel protection and temperature control by filtering runoff at a controlled rate.**

**All proposed stormwater drainage structures are to be located on lot 1 (Asphalt Plant Lot) with the exception of a culvert under the quarry access road that flows into Stormwater Pond 2. The applicant has submitted a "Spill Prevention Control and Countermeasure Plan" (SPCC) that addresses protection for stormwater from fuel spills.**

**The applicant has provided an acceptable Erosion and Sedimentation Control Plan (Section 5, Operations Plan Notebook) that complies with the requirements of the ordinance, including Best Management Practices; and Section 6, Spill Prevention and Countermeasures Plan, and Section 9, Stormwater Pollution Prevention Plan, adequately meet the Town's requirements.**

**The applicant has received its MDEP permit (Permit Number L-23529-80-A-N) for a quarry operation and a variance for an externally drained pit from the Maine Department of Environmental Protection pursuant to the permit-by-rule provisions of the DEP for phase 1. The applicant has also received a Natural Resource Protection Act Tier I permit to alter 14,863 square feet of forested wetland and wet meadow to construct the access road and berms associated with phase 1 construction.**

**Phase 2 is contingent upon the applicant receiving the DEP variance to mine below the water table. Phase 2 will require an additional variance from MDEP to mine below the water table. Mining below the water table requires additional groundwater monitoring as part of the variance process.**

**Phase 3 will require a NRPA Tier III permit for wetland destruction; the Tier III permits are only valid for two years. The Tier III permit will require wetland compensation in the form of creating new wetlands on site or purchasing wetlands located in a DEP approved wetland bank.**

**Thomas Hughes MOVED and Douglas Boyce SECONDED a motion to approve the Finding of Fact as stated and modified.**

DISCUSSION: Mr. Parker discussed a way to establish the size of the wetlands for in the future. Ms. Burns indicated she believed there had been general agreement that the regulations governing wetlands would probably not get less strict as time goes by. Ms. Robie commented that the wetlands have been surveyed and their size is known.

Motion CARRIED, 6 ayes (Mark Stelmack absent). [7:25 p.m.]

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**Special Exception Criterion #3:**

*The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.*

Applicant's Response:

The proposed quarry will not create unhealthful conditions of smoke or other unhealthy airborne containments [sic: contaminants]. Dust can be created during the processing of the ledge into construction grade materials; accordingly, spray bars are employed on the processing equipment to assure that dust levels are maintained in accordance with regulated levels.

DISCUSSION: Mr. Zelmanow asked if there were any conditions of approval crafted to deal with this. Ms. Robie replied that there is a section, 4, on dust control in the Operations Plan Notebook. Mr. Poirier noted that Condition of Approval #21, provides: "That the applicant shall provide copies of all federal and state air emissions licenses for the rock crushers on Lot 2 (Quarry) prior to the start of production of construction material to the Town Planner, Code Enforcement Officer, and Town Engineer." Mr. Shaw said that the air emissions license includes the engines and requires spray bars. He said that the workers are monitored by MSHA (Mine Safety and Health Administration) tests for dust and noise, but now most of the workers are in air conditioned, sound suppressed cabs.

Ms. Burns replied to a query from Mr. Parker that this Criterion applies only to the quarry.

**FINDING OF FACT:**

**The applicant's quarry operation will be conducted in such a way that at a minimum the crushers will be operating behind 100' wooded buffers, and earthen berms at the limits of excavation. This will assist in mitigation of dust from the operation site to abutting properties. The crushers working within the quarry will require an air emissions license from the Air Bureau of the Maine DEP, these licenses will be provided to the Town prior to operation. In the latest version of the "Operations Plan Notebook, January 2008 and amended March 2008," the applicant identifies the procedures to control the mitigation of dust. The procedures to control dust migration are sweeping, paving, watering, using calcium chloride in accordance with State requirements, or other forms of Best Management Practices on quarry access roads and aggregate piles. The applicant is also proposing to install spray bars on rock crushers working in the quarry. The "Operations Plan Notebook, January 2008, and amended March 2008" identifies the quarry site supervisor will perform visual opacity determinations and ensure the fugitive emission do not exceed an opacity of 20% or more for more than 5 minutes in any 1-hour period. The applicant has proposed and agreed to pave 500 feet of each access road into the site, another way to assist in dust control, as stated in their Operations Plan Notebook, January 2008 and amended March 2008, section 4.**

Ms. Robie commented that if MSHA is responsible for testing the workers for exposure to dust emissions as well as noise, she believes that is convincing evidence that exposure to these dusts is low as Mr. Shaw has described in his quarry and therefore is low in the environment. Mr. Parker concurred with Ms. Robie.

**Michael Parker MOVED and Thomas Hughes SECONDED a motion that Special Exception Criterion #3 is met.**

DISCUSSION: Mr. Parker amended his motion to include all three phases of the quarry; Mr. Hughes as seconder seconded the amended motion.

**Motion as amended CARRIED, 6 ayes (Mark Stelmack absent).** [7:40 p.m.]

**Michael Parker MOVED and Edward Zelmanow SECONDED the Finding of Fact as read and modified. Motion CARRIED, 6 ayes (Mark Stelmack absent).** [7:41 p.m.]

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**Special Exception Criterion #4:**

*The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restrict access of light and air to neighboring properties.*

Ms. Robie noted that the Board will also have to consider the 100-foot support area adjacent to the quarry which will be used by the asphalt plant to determine if it will be allowed to have the same hours of operation as the asphalt plant or any increment thereof.

**Michael Parker MOVED and Thomas Fickett SECONDED a motion to postpone discussion of this Special Exception Criterion until after Criteria #5 and #6 have been addressed.**

DISCUSSION: Mr. Fickett explained that inasmuch as discussion on #4 will probably be lengthy, it would be better to take care of #5 and 6 before the break and then consider #4 after the break.

**Motion CARRIED, 5 ayes (Susan Robie abstaining, Mark Stelmack absent).** [7:42 p.m.]

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**Special Exception Criterion #5:**

*The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use.*

**FINDING OF FACT:**

**The applicant is proposing to bring under ground power to the site, public water, and natural gas from Mosher Road. The site will be served by a septic system and the applicant has submitted an HHE 200 Subsurface Wastewater Disposal System Application and shown the location of the septic system on the plans. The HHE 200 application estimates that the 12 employees on site will generate 180 gallons per day. The Operations Plan Notebook in Section 9 contains information about the applicant's spill prevention plan to deal with possible oil spills or any stored fuel on site.**

**Edward Zelmanow MOVED and Michael Parker SECONDED that Special Exception Criterion #5 is met for phases 1, 2, and 3 of the quarry. Motion CARRIED, 6 ayes (Mark Stelmack absent).** [7:44 p.m.]

**Edward Zelmanow MOVED and Michael Parker SECONDED a motion that the finding of fact as read into the record for phases 1, 2, and 3 of the quarry be approved. Motion CARRIED, 6 ayes (Mark Stelmack absent).** [7:45 p.m.]

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**Special Exception Criterion #6:**

*The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird or other wildlife habitat and, if located in a Shoreland Zone, will conserve: a) shoreland vegetation; b) visual points of access to water as viewed from public facilities; c) actual points of access to waters; and d) natural beauty.*

Ms. Robie read the applicant's response that "The proposed quarry is not located within the Shoreland Zone. No spawning grounds, fish or significant wildlife habitat have been identified on the project site." Mr. Zelmanow noted that condition of approval 27 relates to the monitoring of stormwater samples: "The applicant shall submit copies of all required visual and laboratory monitoring of stormwater samples as required by the Multi-Sector General Permit to the Town Planner, Town Engineer and Code Enforcement Officer."

**FINDING OF FACT:**

**The applicant has made provisions to provide for the control and disposal of stormwater from the project. Based on the Town & Third Party Engineers' review of the applicant's "Stormwater Management Report," prepared by Shawn Frank, P.E., Senior Project Engineer, Sebago Technics, Inc., the post-development peak rates of run-off for the 2, 10, and 25-year storm events are less than the pre-developed peak rates at all study points. The stormwater infrastructure will control runoff from a minimum of 95% of the site's impervious area along with providing effective channel protection and temperature control by filtering runoff at a controlled rate. The applicant has confirmed that there is no significant habitat in the area as listed in the DEP Registry and there are no vernal pools on the site, and DEP by virtue of the mining permit has also shown there to be no significant wildlife habitat. The applicant's proposed stormwater treatment system includes provisions for a high degree of sediment and pollutant removal, as well as thermal cooling of runoff provided by the use of underdrain gravel filters within the ponds, and there is over 1000 feet of vegetated drainage courses that runoff would travel through prior to reaching the Presumpscot River.**

**Edward Zelmanow MOVED and Michael Parker SECONDED a motion that Special Exception Criterion #6 is met for phases 1, 2, and 3 of the quarry. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:01 p.m.]**

**Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion that the findings of fact discussed herein and read into the record be approved in supporting Special Exception Criterion #6. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:02 p.m.]**

**The Board identified a condition of approval that the plan shall be amended to include a note that the applicant has determined that there are no vernal pools on the site.**

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*Stretch Break to 8:15 p.m.*

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**Special Exception Criterion #4:**

***The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restrict access of light and air to neighboring properties.***

Ms. Robie noted that this Criterion must be reviewed in light of both the quarry and the asphalt plant. She commented that the quarry does not produce odors; however, the 100-foot support area must be considered as part of the asphalt plant. Mr. Zelmanow and Ms. Burns discussed the meaning of "neighboring properties" as being something close enough to be impacted by one of the effects. Ms. Robie described the difference between odors and fumes as all odors are fumes but not all fumes are odors.

The Board discussed the question of noise, inasmuch as it has been an item of major scrutiny, with the Town's engineer and the applicant's engineer agreeing that the applicant has the will and the means to

control noise to the DEP standards which apply to the quarry, as well as to the asphalt plant being an accessory to the quarry. Ms. Robie noted that the major issue seems to be what will be done to verify and/or monitor the noise generated at the site. A discussion was held about the letter of February 19, 2008, from the Town's noise review engineer, R. Scott Bodwell, which recommended that the noise model projected by the applicant's engineer, S.E. Ambrose, needs to be verified to confirm the model projection. Mr. Poirier said he had spoken with Mark Stebbins of DEP, who indicated that DEP monitors for noise in response to complaints or if DEP hears something during a visit to the quarry. Mr. Stebbins indicated that DEP's noise equipment cannot monitor all types of tonal noise.

Ms. Robie said she would like there to be a start-up review within 60 days of operation. Mr. Shaw said that he is required to pay a certain amount to DEP per year, in part to cover monitoring for noise. This monitoring will be done in response to a complaint, regardless of what the Town does. Ms. Robie said that she does not believe that the Town should initiate testing by issuing a complaint to DEP, and it would not be appropriate to wait until DEP decides it is time to do testing. Therefore it would be more appropriate to establish a definitive time and when circumstances change to monitor noise. The Board agreed that a condition of approval should be crafted to require noise monitoring 60 days after commencement of crushing activities and again 60 days after the asphalt plant begins operation, based on the recommendation of the Town's noise consultant, R. Scott Bodwell. Ms. Robie read Mr. Bodwell's recommendation into the record as follows:

“RSE supports the Maine DEP staff in its willingness and commitment to evaluating sound levels from licensed gravel pits and quarries in accordance with requirements established by Section 375.10(H). RSE recommends that the Town of Gorham work in conjunction with Maine DEP to confirm that sound levels will be measured per Section 375.10(H) from full operation of both the quarry and asphalt plants and during representative daytime and nighttime operating periods. Measurements should be taken with instrumentation capable of supporting a determination of tonal and short duration repetitive sounds to demonstrate compliance with chapter 375.10(H). Measurement or inspection of quarry drilling and loader activity should also be conducted to confirm that best management practices are being applied at the appropriate locations and that sound levels are consistent with estimates by SE Ambrose. Further, RSE recommends that the Town of Gorham request written reports of sound level measurements and other site inspections by Maine DEP. Section H.5 of Chapter 375.10 provides a description of sound measurement report data. As development of a quarry is an ongoing process involving site and operating changes, sound level measurements should occur at periodic intervals (e.g., after initial startup, phase expansion).”

The Board discussed if subsequent noise monitoring should occur when equipment changes, and agreed that a condition of approval should be crafted on either a complaint basis, as part of DEP's monitoring of the site, or when the asphalt plant changes, with testing in both instances done in accordance with the recommendations set forth in Mr. Bodwell's letter on page 4 and Chapter 375.10(H) of DEP's rules.

Mr. Shaw answered a question from Mr. Parker that there is a noise easement with Morin Brick, and the Town would need to work with DOT to obtain a “no engine brake” ruling. The Board agreed that there should be a condition of approval that the applicant shall work with the Town to seek a “no engine brake” ruling from the DOT.

The Board and Mr. Shaw discussed the use of “Smart Alarms” on equipment operating in the quarry, with Condition of Approval #20 for the quarry as follows: “That the applicant shall ensure installation of ‘Smart Alarms’ on equipment operating within lot 2 (Quarry)” and Condition of Approval #13 for the asphalt plant: “That the applicant shall ensure installation of ‘Smart Alarms’ on equipment operating within lot 1 (Asphalt Plant).” Mr. Shaw indicated that OSHA will allow the applicant to use a Smart Alarm at the asphalt plant on the loader.



The next item in the Special Criterion to be considered by the Board was that of hours of operation, in particular for the 100-foot work area. Mr. Parker asked the applicant what is the outside number of days of 24-hour operations. Mr. Shaw replied that is it market driven, but other facilities operate perhaps 10 to 20 nights per year. He indicated he did not want a condition of approval limiting the 24-hour operation as there is no standard for hours of operation in the industrial zone, except on rock crushing. Mr. Shaw discussed the proposed asphalt plant operations, and said that the burner will start at 3:00 a.m. so that the trucks can start loading at 6:00 a.m. Ms. Robie and Mr. Shaw discussed whether the applicant would be willing to make any accommodation in operating hours on weekends; however, there was no support among the Board members to require this of the applicant.

**Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion approving the applicant's request that the hours of operation for the area of the quarry within 100 feet of the asphalt plant be consistent with the hours of the asphalt plant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:00 p.m.]**

Ms. Robie noted that the remaining items in Criterion #4 area are odors, fumes, glare, vibration and fire hazards. Mr. Parker noted that there would be truck exhaust odors associated with the quarry, but they would be no worse than traffic on Route 237. Insofar as lighting is concerned, there will be three lights located within the 100-foot area and the applicant has shown a photometric plan that demonstrates that no light will be leaving the site, and no lights will on when the plant is operating, other than security lights which need to be shown on the plan.

Mr. Fickett asked about the blasting permit; Ms. Robie replied that it is a permit to be voted upon after the final vote on the quarry. The Board and Mr. Shaw discussed the process to be used to blast in the quarry and the number of blasts proposed; the Board found that vibration will not be a nuisance.

**Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion that Special Exception Criterion #4 is met for phases 1, 2, and 3 of the quarry. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:10 p.m.]**

#### **FINDING OF FACT:**

**The proposed quarry hours of operation are 6:00 a.m. to 6:00 p.m. Monday through Friday and from 8:00 a.m. to 2:00 p.m. on Saturdays. Rock and stone crushing operations will be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday.**

**The Board voted to allow the hours of operation of the 100-foot work area to coincide with the hours of the asphalt plant.**

**The Board found that the applicant has both the will and the means to bring noise into compliance with the required standards of the Department of Environmental Protection; and, further, two conditions of approval were defined to identify verification of the model used to predict noise and to address any subsequent testing. A third condition was identified that the applicant will work with the Town to have signs installed requiring no engine brakes in the vicinity of the plant.. There is a condition of approval for the use of "Smart Alarms" for the equipment operating within certain parts of the quarry.**

**The Board found that the vibrations of modern blasting techniques will not constitute a nuisance to the neighbors. The Operations Plan Notebook (Section 7) describes the blasting protocol that leads to the conclusion that blasting will not be a nuisance to the neighbors. Further, the applicant is proposing to have three lights located on lot 2 (Quarry Lot) within the 100-foot work allowance for the asphalt**

plant. The applicant has submitted a photometric plan showing the projected light impacts, there will be no light leaving the site. The lights are needed to light aggregate storage bins as part of the asphalt plant's night pavement operations and every day operations when beginning at 3:00 a.m. Further, the applicant has stated that lights will not be on when the plant is not operating.

**Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to accept the findings of fact. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:16 p.m.]**

**The Board identified the following Conditions of Approval: That noise monitoring shall be conducted within 60 days after commencement of crushing operations and again within 60 days after commencement of the asphalt plant that there shall be no exceedences of noise levels as identified and projected in the Ambrose Report. This monitoring may be conducted by the DEP if the DEP provides such information to the Town Engineer within the required time periods. If this does not occur, then the applicant shall fund a private noise consultant to conduct the testing in accordance with the recommendations set forth on page 4 of the February 19, 2008 letter from R. Scott Bodwell, P.E., of Resource Systems Engineering. Testing shall be conducted in accordance with the requirements of Chapter 37510(H) of the Maine DEP rules.**

**Condition of Approval: That subsequent testing shall occur on a complaint basis or as part of the DEP's monitoring of the quarry. Additional testing shall occur when the asphalt plant is replaced. Results of all subsequent testing shall be provided to the Town Engineer. Testing shall be conducted in accordance with the requirements of Chapter 375.10(H) of the Maine DEP rules.**

**Condition of Approval: That the applicant shall work with the Town to seek a "no engine brake" ruling from the Maine Department of Transportation.**

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**Thomas Fickett MOVED and Douglas Boyce SECONDED a motion to extend its deliberations to consider the Site Plan Criteria for Mineral Extraction. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:16 p.m.]**

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### **Site Plan Criteria for Mineral Extraction Operation Worksheet**

Applicable Requirements of Chapter IV, Site Plan Review, , Site Plan Review, Section IX , B, C, D, F, J, M and P

- B. Access to the Site - Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of C or better prior to the development will function at a minimum at Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.

### **FINDING OF FACT:**

**Access to the Site – Access to the site is via State Route 237, also known as Mosher Road. The applicant's traffic study shows Route 237 to have adequate capacity to accommodate traffic generated by the quarry project, which is estimated to generate 200 truck trips per day.**

DISCUSSION: The Town Attorney suggested adding the words “**and will not generate 100 or more peak hour trips**” to the Finding of Fact, as there are specific standards which have to be applied if a proposal will generate 100 or more peak hour trips.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion that Requirement B of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:17 p.m.]**

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to approve the finding of fact as read and amended by the Town Attorney. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10.17 p.m.]**

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C. Access into the Site - Vehicular access into the development will provide for safe and convenient access.

- 1) Any exit driveway or proposed street will be so designed as to provide the minimum sight distance to meet the Maine Department of Transportation standards.
- 2) Points of access will be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- 3) The grade of any proposed drive or street will be a -2.0% for a minimum of five (5) feet from the existing pavement edge or to the centerline of the existing drainage swale. From the above control point, a grade of not more than -3% shall be required for a minimum of two (2) car lengths or forty (40) feet.
- 4) The intersection of any access drive or proposed street will function at a Level of Service of C following development if the project will generate an ADT (average daily trip) of one thousand (1,000) or more vehicle trips, or at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- 5) Projects generating an ADT of one thousand (1,000) or more vehicle trips will provide two (2) or more separate points of vehicular access into and out of the site.

**FINDING OF FACT:**

C. **Access into the Site** – The access to the site will occur at two locations off of Route 237. The main entrance and exit for the quarry will occur at the northern entrance with the southern entrance being used as an alternative access road into the quarry. The applicant is proposing to pave 500’ of each access road with each access road having a 65’ entrance radii to allow trucks to enter the site with a faster turning speed than would occur with a tighter radius allowed under the ordinance. This project does not meet or exceed the 1000 trips per day of some of the criteria and that sight distances are adequate.

**Thomas Hughes MOVED and Thomas Fickett SECONDED a motion that Requirement C of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:20 p.m.]**

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to accept the finding of fact as read and added to. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:22 p.m.]**

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**D. Internal Vehicular Circulation - The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.**

- 1) Nonresidential projects will provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for WB-40 vehicles.
- 2) Clear routes of access will be provided and maintained for emergency vehicles around all buildings and will be posted with appropriate signage (fire lane - no parking).
- 3) The layout and design of parking areas will provide for safe and convenient circulation of vehicles throughout the lot and will prohibit vehicles from backing out onto a street.
- 4) All roadways will be designed to harmonize with the topographic and natural features of the site. The road network will provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

Mr. Parker asked if fire lanes are signed on the plans; Shawn Frank, Sebago Technics, indicated that this is not necessary because the access drives are proposed to be 30 feet wide. Ms. Fossum commented that the Fire Chief has reviewed all the submissions that have been received and his concerns have been fully addressed. Ms. Robie asked about the OSHA requirement for a painted designated walkway for known routes of pedestrian traffic between the control house where the asphalt workers are and the scale house; Mr. Stinson replied that it is not now shown on the plan but will be.

**The Board identified a Condition of Approval that there will be a painted walkway shown on the plan in compliance with OSHA requirements between the control house and the scale house and any other locations as required by OSHA>**

**Thomas Hughes MOVED and Thomas Fickett SECONDED a motion that Requirement C of Chapter IV, Site Plan Review, Section IX, is met by the applicant, subject to a condition of approval as discussed at this meeting. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:36 p.m.]**

**FINDING OF FACT:**

**D. Internal Vehicular Circulation – The site has been designed to provide for circulation of employee vehicles, service vehicles, emergency vehicles, and visitor vehicles, and a painted walkway in compliance with OSHA requirements will be provided for employees to traverse between the control house and the scale house and any other locations OSHA so requires.**

**Douglas Boyce MOVED and Edward Zelmanow SECONDED a motion to accept the finding of fact as read and amended. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:38 p.m.]**

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**F. Storm water Management - Adequate provisions will be made for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage system and maintenance plan which will not have adverse impacts on abutting or downstream properties:**

**Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion that Requirement F of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:38 p.m.]**

**FINDING OF FACT:**

- F. Stormwater Management – The applicant has made provisions to provide for the control and disposal of stormwater from the project. Based on the Town & Third Party Engineers’ review of the applicant’s “Stormwater Management Report,” prepared by Shawn Frank, P.E., Senior Project Engineer, Sebago Technics, Inc., the post-development peak rates of run-off for the 2, 10, and 25-year storm events are less than the pre-developed peak rates at all study points. The stormwater infrastructure will control runoff from a minimum of 95% of the site’s impervious area along with providing effective channel protection and temperature control by filtering runoff at a controlled rate.**

**All proposed stormwater drainage structures are to be located on lot 1 (Asphalt Plant Lot) with the exception of a culvert under the quarry access road that flows into Stormwater Pond 2. The applicant has submitted a “Spill Prevention Control and Countermeasure Plan” (SPCC) that addresses protection for stormwater from fuel spills. Sections 5, 6 and 9 of the applicant’s Operations Plan Notebook provide for erosion control, a spill prevention and countermeasures plan, and a stormwater protection plan. The Town Engineer requested 100 year storm calculations, which were reviewed and adjustments were made to address issues. It was found that a 100-year storm will not adversely affect downstream property.**

DISCUSSION: Shawn Frank, Sebago Technics, replied to a question from Mr. Boyce that it was a calculation process with the Town Engineer to establish pre and post development conditions, and the creation of a diversion ditch on the other side of the berm to make sure as much water as possible is directed to Route 237 rather than going across abutting properties in the event of a 100-year storm.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to accept the findings of fact as read and amended. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:40 p.m.]**

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- J. Utilities - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project.**

**Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion that Requirement J of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:38 p.m.]**

Mr. Parker confirmed with Mr. Frank that there will telephone facilities on the site, so the Finding of Fact should be amended.

**FINDING OF FACT:**

- J. Utilities – The applicant is proposing to bring under ground power and telephone to the site, public water, and natural gas from Mosher Road. The site will be served by a septic system and the applicant has submitted an HHE 200 Subsurface Wastewater Disposal System Application and shown the location of the septic system on the plans. The HHE 200 application estimates that the 12 employees on site will generate 180 gallons per day.**

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to accept the finding of fact as read and modified. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:48 p.m.]**

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**M. Exterior Lighting - The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.**

- 1) All exterior lighting will be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.
- 2) Lighting shall be provided, at a minimum, in the following areas:
  - a. Entrances to facilities and recreation areas;
  - b. Street intersections;
  - c. Pedestrian crossings; and
  - d. Entrance roads.

Ms. Robie noted that the lighting requirement for the quarry involves only lighting of the bins, which is minimal. Mr. Hughes noted that Mr. Shaw said that the lights will not be on when the asphalt plant is not in operation, which should be added to the findings of fact.

**Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion that Requirement M of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:50 p.m.]**

**FINDING OF FACT:**

**M. Exterior Lighting – The applicant is proposing to have three lights located on the lot 2 (Quarry Lot) within the 100’ work allowance for the asphalt plant. The applicant has submitted a photometric plan showing the projected lighting impacts. The lights are needed to light aggregate storage bins as part of the asphalt plants night pavement operations. The lights will be extinguished when the asphalt plant is not running.**

Mr. Shaw noted that they would need to have security lights for the asphalt plant; these should be shown on the plan.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to accept the finding of fact as read and modified. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:53 p.m.]**

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**P. Landscaping - The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.**

**Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion that Requirement P of Chapter IV, Site Plan Review, Section IX, is met by the applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [10:55 p.m.]**

**FINDING OF FACT:**

**P. Landscaping – The applicant is not proposing any landscaping on lot 2. Natural wooded buffer will remain around the property line of the lot to limit the visual and auditory effects of the quarry operation.**

Mr. Parker asked about the buffer behind Morin Brick to obscure phase 3 of the quarry, or the southern half of the western boundary of the brickyard. The current Morin Brick buildings are unlikely to survive as a

buffer when the quarry is ended. After considerable discussion, the Board agreed that there should be a condition of approval that a buffer between the public right-of-way and the quarry operations shall remain in place at all times.

**FINDING OF FACT:**

**P Landscaping – The applicant is not proposing any landscaping on lot 2. Natural wooded buffer will remain around the property line of the lot to limit the visual and auditory effects of the quarry operation. In addition, there is a condition of approval that requires the applicant to maintain a buffer between the public right-of-way and the quarry operations at all times.**

**Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to accept the finding of fact as written and amended with the condition of approval.**

DISCUSSION: Mr. Parker suggested amending the motion to stipulate that the applicant begin “growing” 30-foot high trees to serve as a future buffer; the Board did not adopt his suggestion.

**Motion as originally moved CARRIED, 6 ayes (Mark Stelmack absent). [11:08 p.m.]**

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**2. SCHEDULE ADDITIONAL MEETINGS IF NEEDED**

The Board reconfirmed that the public hearing is continued to Monday, March 31, 2008, at 6:00 p.m. Ms. Robie said that the next step in the quarry review will be to review the prepared conditions of approval and findings of fact. The conditions of approval will be available for the public to review.

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**3. ADJOURNMENT**

**Thomas Fickett MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Mark Stelmack absent). [11:12 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2008