

Town of Dover
126 East Duncan Hill Road
Dover Plains, NY 12522

Town of Dover Planning Board



(845) 832-6111 ext 100

Planning Board Meeting
Monday March 15, 2010
7:00PM

- Co-CHAIR David Wylock
- Co- Chair Valerie LaRobardier
- Member John Fila
- Member Brian Kelly
- Member James Johnson
- Member Peter Muroski
- Member Michael Villano

Also, in attendance representing the Planning Board were Planning Board Attorney Victoria Polidoro, Planner Ashley Ley and Joseph Berger.

For the Applicants: John Nelson, Frank Peduto and Jon Adams for RASCO, Nina Nastasi for Tattoo Mamma, Rosemary Stack for Domain, Councilwoman O'Neill and as well as other interested Members of the Public.

Meeting Called to Order

The regular monthly meeting of the Town of Dover Planning Board was called to order by Chair Wylock at 7:08 PM and began with the Pledge of Allegiance

1. TATTOO MAMMA - 7059-04-723344

Applicant: Christina Nastasi

Property located 1465 Rt 22, Wingdale

Applicant seeks site plan Special permit for change of use for a tattoo shop and retail store in the HC district

Christina Nastasi presented for setting of escrow

Motion made by Michael Villano to set escrow for Tattoo Mamma for \$750.00 2nd by John Fila

VOTE: Co-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – AYE
MEMBER JAMES JOHNSON - absent
MEMBER MICHAEL VILLANO– AYE

Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - absent
MEMBER PETER MUROSKI - absent

Motion approved

Public Hearings:**2. RASCO MATERIALS SITE PLAN-7061-00-585063 & 7061-00-580190**

Applicant: RASCO Materials, Property Owner Howland Lake Partners, LP
 Plans Prepared by Frank Peduto of Spectra Engineering
 Property located at Wingdale Industrial Park- 2241 NYS RT 22, Wingdale
 Application for Site Plan on 3.0 acres in the M district

Co-Chair Wylock read:

PUBLIC HEARING

Project Name: "Rasco Materials"

Project Address: 2241 NYS Route 22

Applicant seeks: Site Plan

The Town of Dover Planning Board will hold a Public Hearing for Site Plan Approval on the application known as Rasco Materials on Monday March 15, 2010, at 7:00 PM at the Town of Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY 12522. The parcel is located in the M District, on NYS Route 22 in the Town of Dover. The Applicant seeks "approval to operate a receipt, storage and handling of non-hazardous petroleum contaminated soil (PCS) to use in the production of cold mix asphalt". This applicant is leasing 3 acres of an approximately 133 acres site

The property is bounded on the North by n/f Howland Lake Partners, Con Edison and Doverwood Associates, West by n/f Howland Lake Partners, Chippawalla Properties MTA and Oblong Land Conservancy, South by n/f Howland Lake Partners, & East by n/f SPS Properties, Boccarossa, McEntee and Con Edison

Motion made by John Fila to open the Public Hearing 2nd by Valerie LaRobardier

VOTE: Co-CHAIR DAVID WYLOCK – AYE

Co-CHAIR VALERIE LAROBARDIER- AYE

MEMBER JOHN FILA – AYE

MEMBER BRIAN KELLY - absent

MEMBER JAMES JOHNSON - absent

MEMBER PETER MUROSKI - absent

MEMBER MICHAEL VILLANO– AYE

Motion approved

Co-Chair Wylock-Noted- The Planning Board has not seen this presentation before so they are seeing it for the first time along with the Public viewing

Presentation by Frank Peduto

Rasco Material would like to operate a cold mix asphalt facility at this site.

They had been operating for approx 2 years under another company's name prior to that which had been doing similar operations until John Nelson president of Rasco took it over subsequent to that. That permit terminated and we needed to seek a new permit from DEC. The facility itself will take in petroleum contaminated soil a non hazardous material in NYS and will use it to create cold mix asphalt.

Description:

Cold Mix Asphalt Facility

Petroleum Contaminated Soil (PCS) is recycled to produce cold mix asphalt

Project Goals:

To Acquire NYSDEC Part 360 solid waste management permit (Completed)_

Acquire Site plan approval from Dover Planning Board (pending)

Reconvene Operations

Technology:

PCS is mixed with aggregate (stone) and cold liquid asphalt emulsion, This is not a hot operation and no water is used

Asphalt emulsion surrounds the petroleum molecules (encapsulates) rendering them unable to leach to the environment

Benefits:

- Recycling of waste material (Beneficial reuse) A Beneficial Use Determination was received granted by DEC. This is to assure how the product is used and processed
- Contaminated soil not disposed in landfills
- Less energy to produce than hot mix asphalt, and lower costing

Related Documents:

- Engineering report
 - o Noise analysis
 - o Structural assessment
- Operation & Maintenance Manual
- Contingency Plan
- Closure Plan

All of these documents were submitted to the Board

Permit Requirements:

- Tracking
- Storage Limits
- Reporting
- Quality control
 - o Testing before and after - before material is received into the plant RASCO will have received analysis of the material, that it is not hazardous and is pcs and met a certain criteria, otherwise it can not be received. Someone just can't drive up with material

Maintenance / repairs

- Secondary containment (asphalt emulsion tank)

Items scheduled for Repair:

- West wall of building A extension
- Diagonal bracing in four building A trusses
- Roof leaks in building A&B
- Four columns in building A to be protected from equipment (surround with blocks)
- Shed roof on building A extension to be removed

Major Items for Compliance

- No stockpiling or staging of unprocessed or processed materials outdoors
- Existing outdoor aggregate piles can remain until reused

Town of Dover:

- Stipulation Agreement signed providing RASCO with pre-existing use waiver
- Planning Board Site Plan approval

The Grey buildings on the plans are the only two buildings that RASCO will be using along with a small office site. Building A is the processing building, Building B is storage, the material is processed in building A and once completed it will be hauled by either front end loader or by truck driving around and back into building B. The permit requires the material be stored for 7 days, and then tested before it is allowed to be sold. If for any reason that test fails, it must back through for processing again.

Near the weigh scale there will be a new trailer brought onto the site that will house the bathroom facilities and there will be a well dug with a septic tank, weigh scale /office with bathroom.

The turn to enter the building will be widened.

The material goes through the grisly screen, onto the conveyor belt, gets dropped into the next hopper which has a vibrating screen which separates the stone, the larger stones will go to a crusher.

There will be hoses that come off the asphalt emulsion tank, the pug mill has 2-six foot helical screws and soil is constantly turned while asphalt is sprayed on it. There has to be an even distribution of the asphalt across the soil and it has to be evenly mixed. The finished batches are marked with posters and dated.

Photos of the site and structures were then shown to the Public

Chair Wylock reviewed the rules of conduct at a Public Hearing then opened the meeting to speakers

Speakers:

Sibyl Gilbert, Vice Chair of the Oblong Land Conservancy Read the following:

RE: Rasco Materials, Site Plan Approval

Dear Board Members:

Thank you for sending written notice to the Oblong Land Conservancy about this public hearing for site plan approval. As you know, Oblong owns adjacent land to the north, which is managed as a wildlife preserve and a scientific study area. We call this our "Carruth Preserve", for the generous family that donated it so that it could be conserved permanently. "Carruth" is partially in the Great Swamp, on the Swamp River.

Oblong has serious concerns about this proposal to approve a site plan for Rasco Materials to receive, store and handle "non-hazardous" petroleum product containing soil (PCS) to produce cold mix asphalt. The former operation, IT Materials, which produced the same product, subject to the same process, had a sorry history of very serious problems, which finally resulted in the termination of their permit by the NYS DEC.

Oblong's preserve, which is located just downstream on the Swamp River, could be damaged by spills of soluble contamination, and the conservation of amphibian and reptilian species, for which this preserve was created, could be irreparably harmed. These species are particularly vulnerable to low levels of petroleum contamination. Chippawalla Properties, the former Mission Camp, on the other side of the river is a remarkable wildlife reserve and recreational resource that the current owner is desirous of protecting. These are important assets that contribute to the Town of Dover.

Of greater concern to Oblong, is the potential impact of this proposal to the entire Harlem Valley. Dover has historically been the recipient of dumping from other regions, and proposals for more of the same; because Dover is a "poor" town with limited financial resources. Finally, Dover residents rebelled, organized in an effective resistance movement and fought back. Dover now has a strong protective code. However, the public, as yet, knows very little about Rasco's plan to resume the TT operation.

It is clear that Rasco Materials is poised to sell their asphalt product to the Dover Knolls Construction site as well as to the Cricket Valley Energy Center, in Dover, and to Silo Ridge in Amenia, possibly to Durst/Carvel in Pine Plains, and potential development sites in Pawling and Patterson. Most of this development takes place adjacent to the slow flowing Swamp River and the Great Swamp.

The entire Harlem Valley would therefore be the recipient of this product, as hauling the material is a major cost factor. According to the EPA Publication, "Potential Reuse of Petroleum Contaminated Soil"; "Data from tests on asphalt plant (s) ... in recycling soil are limited". Of greater concern, is the historic lack of quality control in New York and Connecticut of the quality of the incoming product and the critical nature of controlling the mix, so that the mineral particles of PCS binds with the asphalt emulsion. In addition, incoming PCS shipments with high clay fractions will not bind properly.

Oblong recognizes that Rasco has obtained a permit from NYS DEC to resume the operation conducted by TT Materials. The new permit is subject to further restrictions on the use of the product, such as limiting its use as a base material, subject to being sealed with a final coat of "clean" asphalt, and to limited uses in low traffic areas and as a patch material.

This DEC Application, # 3-1326-00144/00005, was not subjected to a coordinated review, as required by state law. The area is located in an official Critical Environmental Area (CEA). Had this coordinated review been performed, as required by law, other agencies and parties of interest would have been provided with the opportunity to share information, and DEC would have likely reconsidered the granting of the permit.

Clean aggregate products from local Harlem Valley mines are readily available. We ask why the Valley should be the disposal site for PCS imported from a region to the south, mostly from out of state? Surely there is no shortage of existing brownfields downstate, and suitable structures in blighted industrial zones where this operation would be more appropriately conducted.

Up to 60 trailer trucks destined for Rasco, are presently estimated to travel our two lane Route 22; in addition to all the other heavy construction vehicles that this highway serves. It is our families that will pay the price with more fatalities and injuries. Air quality will also be degraded.

The valley's groundwater is vulnerable to pollution: The underlying Stockbridge Formation is calcareous and water soluble. Therefore, underground cavities tend to be interconnected. Pollution therefore may not be confined to a small area. Issues with pcs

- 1. Quality control at the source: lack of adequate inspections by independent qualified staff.*
- 2. NYS DEC has been understaffed for years, and the Environmental Protection Fund Budget is currently proposed for severe cuts. CT DEP's staffing is more or less token.*
- 3. Management of sample handling at approved labs is historically questionable.*
- 4. Mixing of the product and its components is critical. The minerals must bind with the emulsion, in order to render the finished product inert.*
- 5. Final use/applications and destinations of the PCS is the most difficult to control.*

THE PA WLING EXPERIENCE

The "Wern Site" Parcel #259650, located in the Town of Pawling on the western side of Rt. 22, with frontage on Rt. 22 and the MTA tracks, a ~ acre site consisting mainly of wetlands, with hydrological direct connections to The Great Swamp, was partially filled with IT Materials PCS.

Norm Benson, Pawling's Environmental Director at the time, and former Director of Dutchess County Soil and Water Conservation District, kept meticulous and extensive records for the Town of Pawling in responses to this threat. The owner, a Robert Wern, used the IT product to partially fill his ~ acre site. Mr. Wern, when issued a stop work order by the Town of Pawling, claimed that he had not been informed that the product was not approved for fill in wetlands. By the time that the action was effectively stopped, fill to a depth of almost 20 feet of this material had been dumped on this very low value, nonconforming lot. Neighbors sent letters of complaint that it was spilling onto their properties. (See copy of old air photo, which shows extent of fill).

Visual examinations of the material indicated that it smelled of petroleum, and contained fragments of wood and other unidentifiable material, that suggested that it could have originated from a C&D Site.

Mr. Benson was most concerned that the contaminated material could, in time, pollute the primary production well for the Village of Pawling, which is located a mere 250' from this site. The Village Water System has endured recurring problems of low water supplies, and additional well explorations have not been very productive.

A copy of a tax parcel map is enclosed to illustrate the location of the production well. Copies of letters that illustrate the involvement of only a few of the agencies that responded to the Town of Pawling repeated requests for support are also attached.

AS OF TODAY, ALMOST 10 YEARS LATER, NO ACTION BY THE OWNER HAS BEEN TAKEN TO CLEAN UP THE SITE AND REMOVE THIS STUFF! (Nor has any remediation taken place)

IN CONCLUSION:

The Oblong Land Conservancy respectfully requests that the Dover Planning Board extend the public comment period, so that other members of the public, those potentially affected by this proposal will have adequate time to respond.

The issue of "grandfathering" this proposal must be subject to thorough research. If indeed this were to be the case, then it would seem that Rasco would be responsible for the clean up at the Pawling Site, and that the Town of Dover may have a legal responsibility in sharing in that responsibility.

Furthermore, it should be noted that a coordinated review is legally required in this application for a permit.

The issues that are discussed in this letter are very complicated, and they require knowledgeable independent technical support to provide competent advice to the Planning Board. The SEQRA process must be used to advantage to provide adequate time and the necessary resources to Dover to review this application. We regard it as unconscionable that so much is being imposed on the Town of Dover all at once.

And, a cleanup of the existing site should be effected as soon as possible, by Rasco, IT, or the current landlord.

If you require additional information, or have questions, please do not hesitate to contact the Oblong Land Conservancy.

*Very truly yours, vice Chair
Sibyl Gilbert*

*Cc: Town of Pawling
Village of Pawling
FrOGS
HVA
Michael D. Merriman
NYS DEC Region 3 Headquarters.*

Tonia Shoumatoff Read the following:

RE: RASCO MATERIALS SITE PLAN-7061-00-585063 & 7061-00-580190
Applicant: RASCO Materials, Property Owner Howland Lake Partners, LP
Property located at Wingdale Industrial Park, 2241 NYS RT 22, Wingdale
Application for Site Plan on 3.0 acres in the M district

Dear Mr. Wylock, Ms. LaRobardier and Planning Board Members:

The Housatonic Valley Association (HVA), founded in 1941 is the oldest non-profit watershed conservation organization in the nation, and is dedicated to preserving and protecting the natural character and environmental health of the Housatonic River and its 1,948 mile watershed, which includes the Swamp and Ten Mile River watersheds in New York. Our work in surface and groundwater protection issues is extensive.

We are most concerned about the proposed cold asphalt operation involving the storage and use of petroleum contaminated soil (PCS) at the Wingdale Industrial Park. The site is close to the Swamp River, a New York designated Critical Environmental Area (CEA) and within the corridor of important lands that HVA and local environmental organizations hope to see conserved in the future. Therefore this project is of primary interest to us.

We are particularly interested in seeing a full environmental review conducted for the project. For example:

- 1. What specific measures and plans does the applicant have to comply with Section 145-50 of the Dover Town Code? What are the plans for moving the PCS materials onto the site? Will the material be transported loose in open trucks or will it be in containers? Will the material ever be stored out in the open? - How will material that is tacked out by the trucks be managed?*
- 2. What specific measures will be taken to ensure that environmental and public safety procedures are in place to minimize risk of contaminates leaching from stored materials?*
- 3. What low impact development techniques are proposed to minimize storm water impacts?*
- 4. The underlying aquifer of the Swamp River may be tapped by the Dover Knolls development to supplement the reservoir and existing and proposed wells in times of drought. The Swamp River is a critically important resource that may need to provide drinking water to many hundreds of people. There is simply no room for error. What are the potential groundwater contaminants that may be present on-site, and what are the safeguards to prevent potential contamination?*
- 5. What measures will the applicant take to assess, quantify and clean up any contamination which may already be on the site?*
- 6. Although not a Town matter, we believe that the Department of Environmental Conservation (DEC) permit was issued prematurely and that a more thorough review should have been undertaken by the agency to account for any remnant contamination that may be present on the site.*

While HVA generally supports the re-use of brownfield site where appropriate cleanup has been successfully completed, it appears that this has not happened at this site. We urge the Planning Board to initiate a comprehensive public review of this project in order to understand the present and future environmental risks. We also request that the Board to extend the public hearing for this application to enable town residents to review and comment on this proposal.

In conclusion, we ask that this application be deferred until the applicant can answer the many questions about the environmental impact of this project and satisfy the Board and Dover residents that there will be no harm to the Swamp River and its environs.

We greatly appreciate the opportunity to comment on this important matter.

Sincerely,

*Elaine E. LaBella
Director of Land Protection*

*Tonia Shoumatoff
New York Watershed Manager*

Member of the Public - resident of Dover for the past 15years- Came to be informed, once she received a tick bite she worked to get more information about the environment. She now wants to know more about the PCS and why we would want this in our area, if it is not healthy for us and what are the long range effects to the planet earth. She now wants to stand up for the water, land and health of our people.

Mr. Peduto- Wished to try to address some of the comment just made- He wanted to mention that part of the permit requirement is that DEC assign a monitor that RASCO has to pay for to inspect the site, possibly 20-25 times per year- since this is only a 6-7 month season, there will be a lot of inspections. With respect to laboratories- all samples can only go to DOH certified labs, and need to meet their own state protocols. It need to be understood that 90-95 percent of the operation takes place indoors, there is fortunately not a lot of opportunity to allow the soil to be exposed to the environment.

The Engineering report most issued raised were addressed, and the issues are understandable- DEC had us explain the operation in minute detail With respect to the coordinated review- he was not sure how that process processes- he does know that once they went through the whole process, the final step was for notice to be published and an environmental notice bulletin was published in area newspapers, it is that time for the public to raise issues to the municipalities, no one did.

Ground water and the Swamp concerns are certainly understandable.

With respect to moving the soil- the trucks will be covered and there will be grading done so even rain water won't fall to ditches that will ultimately lead to waterways. It is quite a distance from them.

With either hot or cold mix asphalt- there is still petroleum source - this process is confirmed by the final test analysis. Even if we did everything wrong, if it fails, it will come out in the end, before it ever leaves the site. There are even limits as to the level of contamination of soil we receive. It can't be high levels. This process is well planned and has to be and will be heavily controlled.

The unfortunate situation for RASCO is that it will always be associated with TT, that operation was of the past, we know what and why it went wrong and we know how to fix it.

Speaker:

Elaine LaBella, Director of land protection for the Housatonic Valley Land Association She thanked both the Board and the applicant, for showing what the operation was in the past. She wanted to ask the Board to further consider the following points:

The samples to be taken are to go to a DOH lab, and suggest that the board also asks that as part of the regulations for solid waste management 145-50, there is a requirement of a Town monitoring process. She asks that the Board request the results from the applicant when testing sample are sent.

There are still concerns with past practices, which were seen in the slide show, she understands that the material will be coming in; in covered open trucks, on many sites

there is always spillage, she requested that the applicant give the Board very specific practices on how they will prevent material being tracked in and out of the open buildings. It's difficult to control.

DEC process does not preclude the Town oversight

The applicant mentioned controlling storm water and it will be controlled on site, where will it go, how will it be processed, if there is runoff and spillage, how will it be addressed. The material does need to be carries from A to Building B there will be spillage off the loaders which needs to be controlled.

Co-Chair Wylock-The issue of enforcement and control over the clean up of the site, Our Attorney has drafted a letter which we will discuss later. It will be a request that the Town Board address the property owner, Howland Lake Partners to clean up the site, there are abandoned vehicles and other garbage, it should not be Rasco's responsibility, but the property owners.

Engineer Berger-
Review of Plans

1. *The plans submitted show proposed canopy pad and crusher location crossed out. These should be removed from future submissions*
2. *Topography is referenced to a map prepared by another surveyor. The map should be included in the package with a seal or the surveyor should seal figure 3.*
3. *Provisions for sewage and water should be provided.*
4. ***The proposed use will bring truck delivery product very close to the ditch located near building A. Storm water treatment should be provided along the road near Building A. This may include a bio retention swale or combination of grass swale and bio-retention. The discharge points for these treatments should be provided with dense vegetation so the discharge does not flow directly into the stream/ditch.***
5. *Truck exiting Building A may need additional area then what is shown to make the turn out to the right. A turn around area should be provided if needed and the appropriate erosion control for construction provided as well.*
6. *The waivers requested should also have a reason for each waiver provided in narrative form. It is recommended that the following waivers not be allowed and information should be provided:*
 - Table showing*
 - Area of structure.....*
 - Estimated number of employees*
 - Number of Parking spaces.....*
 - Plans for disposal of construction waste.....*
 - Outdoor storage areas or a note saying no outdoor storage will be provided*
 - Lighting details*
 - Sign details*
 - Location of Septic and water supply*
 - Storm Drainage system*
 - 100 year flood plain or a note saying none exist onsite*
 - A grading plan for truck turnaround if recommended.*
 - Loading and unloading areas*
7. ***State whether any wetlands either federal or state are located on the site and if not based on what information.***
8. ***The condition of the building both structural and environmental are a concern. The building should be inspected to assure that it is structurally safe and the site should be reviewed to see if there are any environmental issues.***
 - Structural evaluation has been provided from Spectra dated 10/10/06, see comments below*

New Comments

1. *The noise study shows that the plant will meet the required noise levels for the surrounding area.*
2. *In review of the sites structural evaluation the report listed several building deficiencies observed in 2006 and gave a list of recommended improvements. Have any of these improvements been implemented? A copy of the structural report and any retrofits should be provided to Mathew Noviello prior to his site inspection.*
3. *The following are a list of comments related to the Contingency Plan dated 10/2006*
 - a. *The report lists several potential instances where adjoining neighbors may need to be contacted. A list of these properties and all current contact information should be provided. The report should indicate when the list should be updated and who is responsible for doing so.*
 - b. *A more detailed list of safety equipment that includes the quantity and locations should be included. Who is responsible for the maintenance of all protective gear, monitoring systems, and first aid equipment and when will it occur?*
 - c. *In addition to smoke detectors are carbon monoxide detectors going to be installed?*
 - d. *The plan states that the most qualified person will administer first aid prior to professional services arrival onsite. What if any employee training will be provided?*
 - e. *Tracking and final destination is to be submitted to the Town*

**Ashley Ley-
SITE PLAN:**

The Site Plan should be revised to contain the following information:

- The location of the proposed construction trailer.
- Additional detail should be provided on the proposed berm, including plantings and grading.
- Additional detail should be provided on the road widening, including any grading.
- The bulk table should be shown on the site plan.

CONTINGENCY PLAN

The contingency plan was confirmed to contain:

- Facility description and layout;
- Emergency response coordinator and chain of command;
- Emergency response procedures and implementation of the plan;
- Internal/External communication, warning system, and an evacuation plan;
- Specific incident response procedures; and
- List of local agencies.

COMMENTS

The spills section should identify NYSDEC notification requirements for petroleum and hazardous spills specifically describing what types of spills need to be reported, the time frame within which spills must be reported, and who has the responsibility for reporting a spill.

NOISE ANALYSIS

AKRF, Inc. has reviewed the Noise Analysis prepared by Spectra Engineering for compliance with the Town of Dover Noise Code (Chapter 107) and the Environmental Performance Standards (§145-40).

AKRF recognizes that the report was prepared as part of the NYSDEC permitting process, and as such references NYS DEC 6 NYCRR Part 360-1.14(p) for permitted noise limits (57 dBA from 7 AM to 10 PM, and 47 dBA from 10 PM to 7 AM for rural areas).

Chapter 107 of the Code says that the “creation of any unreasonably loud, disturbing and unnecessary noise is prohibited.” However, specific decibel limits are not prescribed in Chapter 107. The Environmental Performance Standards (§145-40) state the following:

"No person, firm or corporation shall allow the emission of sound which, as measured at the property lines, has a sound level in excess of:

*60 dBA between 7 AM and 8 PM
50 dBA between 8 PM and 7 AM"*

Furthermore, the Dover Environmental Performance Standards specify the maximum permitted steady state and impact vibration displacement limits (in inches) for a proposed use. However, the Code does not state whether these limits are enforced at the property line or the source.

COMMENTS

- The analysis procedure contained in the Spectra Report does not specifically address the Town of Dover Noise Code or the Town of Dover Environmental Performance Standards.
- The analysis procedure combines the predicted levels associated with the proposed facility and an estimation of background noise levels then compares them to 6 NYCRR Part 360-1.14(p). Our review assumes that the Dover Environmental Performance Standards and 6 NYCRR Part 360- 1.14(p) limits apply to the source only and not the cumulative of the "source plus background."
- For several receptors, the requirements of 6 NYCRR Part 360-1.14(p) are satisfied because "15 dBA of foliage attenuation" is assumed. The NYSDEC permit limits the operation of the site from March 1 through December 1, provided that the ambient temperature is 45 degrees Fahrenheit or warmer. As such, the site is permitted to operate for 4-5 months in the leaf-off season. Therefore, the Applicant should verify that the assumed foliage is evergreen. It is noted that a worst case scenario noise analysis is typically in the winter months when most trees/foliage lose their leaves and the ground is frozen so there is minimal ground absorption.
- The analysis only examines compliance to the daytime limits. Since the NYSDEC permit limits the hours of operation to 7 AM to 8 PM, and these hours correspond to Dover's Environmental Performance Standards, this is acceptable.
- The Applicant should confirm whether or not the Receptors utilized in the analysis were located at property lines or if they were located at specific noise sensitive uses/buildings. Both the Dover Environmental performance Standards and 6 NYCRR Part 360-1.14(p) state that their limits should be met at the property line.
- The Noise Analysis did not address the vibration limits specified in Town of Dover Environmental Performance Standards.

Attorney Polidoro:

With respect to the coordinated review - this needs to be clarified fro the Public. The Dover Planning board is doing a coordinated review, it was DEC that did not undertake a coordinated review. We have circulated to other involved agencies.

She agreed with Engineer Berger that the Structural report should be updated; the report submitted was done 4 years ago.

With respect to the inspections we did discuss the Town having an inspector, we don't want to step on DEC's toes, but need to make sure the site plan can be enforced if there are any problems.

There is still a lot of outstanding information; it is her recommendation to keep the Public Hearing open until all questions are answered.

With respect to the letter to the Town Board, there is a section of our code 145-57(h) "Existing Violations", at the last meeting she was asked to draft a letter to the Town Board once it was apparent that DEC was not going to require any further clean up of this site. The letter requests that the Town Board look into bringing an enforcement action against the property owners, not for the Rasco site but for the portions of the site that contains barrels, mattresses and rubbish. If the Town Board does bring an action against the property owner or if the Code Enforcement officer does find that there is a violation, it is all part of the same lot and that would hold up the processing of the RASCO application.

Mr. Peduto- On the information still outstanding, as far as the vibration, they really can't do it until the operation is actually running. If there is some type of exceedence then they would have to mitigate. If that could be a requirement for after the fact. We have no problem providing any information but with the grading plan, we couldn't get a C/O until that was submitted.

Structural we will update and compare the reports.

There is no problem with copying the Town on the Lab reports.

Grading plan with the bio-retention will be combined into one plan.

Contingency Plan, they can update that, it was approved as submitted by DEC, we can easily supplement it to address the issues raised.

Attorney Polidoro- Agreed that some things can be conditional, but the grading plan should not be conditional. It is needed in order for the Board to make their SEORA determination to determine if there will be an impact to the wetlands, based on the how the drainage and bio-retention swales will be working.

The structural report, this use as we all are aware, is not a permitted use it's only allowed as a non conforming use at this point. She would not like to go down the path of assuming the buildings are in great condition, give approval, and then find out they're going for a C/O, do a structural report and find out the building now has to come down. It then goes from pre existing to them constructing a new facility. That might have impacts down the road.

Mr. Peduto- Plans to do the structural pretty quickly.

Co-Chair Wylock-Would your client be willing to do a structural report, with our Engineer present?

A: If there is no additional expense to my Client, we have no issue with that, aside from escrow. There is no objection.

Speaker:

Mike Purcell - FrOGS- He met Mr. Nelson the other day at a "pre Public Hearing meeting" they had arranged. He (Mr. Nelson) gave them a lot of information and felt it was a good use of the pcs. He had questions about the transportation. This map does not show the entrance of the facility on RT 22 and understands there will be potentially 60 - 18 wheelers per week, are there provisions to make safe the entrance and exit onto RT 22? It's a pretty fast road with fully loaded trucks moving in and out could be quite hazardous.

Co-Chair Wylock-We circulated to DOT and they responded Mr. Adams has a copy of the letter; they will need to sign off on the entrance and permits.

Mr. Purcell- The proximity to the CEAs, when it was built, it was to process magnesium during the Second World War, and since then there were other uses.

And with the sensitivity to our water courses, there are concerns. A question for the Town and the residents is what about the fuel oil tanks that are in ground now, maybe that is something that should be looked at, they are all potential leaks. This is a beneficial use, but maybe these soils should stay closer to home.

Co-Chair Wylock-If there are no other comments, at the March 1, 2010 meeting the Board set an escrow for \$2,500.00 for an inspection fee for an outside engineer. The applicant has agreed to have that report updated with the presence of our Engineer so he

asked the Board to rescind the previous motion of March 1, and allow Spectra to update their inspection

Motion made by Valerie LaRobardier to rescind the motion of March 1, 2010 to have the applicant post a separate escrow for an alternate Engineer to conduct a structural evaluation 2nd by Michael Villano

VOTE: CO-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – AYE
MEMBER JAMES JOHNSON - absent
MEMBER MICHAEL VILLANO– AYE

CO-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - absent
MEMBER PETER MUROSKI - absent

Motion approved

There were no further comments from the Public
There were no further comments from the Board

Motion made by John Fila to continue the RASCO Public Hearing to April 5, 2010 2nd by Valerie LaRobardier

VOTE: CO-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – AYE
MEMBER JAMES JOHNSON - absent
MEMBER MICHAEL VILLANO– AYE

CO-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - absent
MEMBER PETER MUROSKI - absent

Motion approved

Discussions:

7. Domain -
Letter received 03/03, 2010

*RE: Nicolas F Domain Sand & Gravel-Erosion and Sediment Control Permit
Planning Board Resolution Dated June 1, 2009, filed with Town Clerk June 2, 2009*

Dear Members of the Planning Board:

I represent Nicolas F. Domain Sand & Gravel, Inc. This letter is to formally request a reduction in the amount of the performance guaranty established for Domain's Route 22 project. By resolution dated June 1, 2009, the Board granted Domain an erosion and sediment control permit. The resolution required Domain to file a performance guaranty in the amount of \$35,025.00 for the project (see, paragraph #1 of 6/1/09 Resolution). However, after further review, this bond amount includes all erosion and sediment controls for the entire project. It is anticipated that the control measures will be on-going as mining progresses over the 11 acre site during the next eleven years. During no single year will the cost of the erosion control measures approach the full amount of the performance guaranty established by the Board's June 2, 2009 resolution. Therefore, to keep the bond amount consistent with the actual improvements to be performed on a yearly basis, Domain requests that the performance guaranty be reduced to \$3,000.00.

On behalf of Domain, we would also request that the inspection fee escrow amount be reduced to \$500.00. An inspection fee of \$1,000.00 was established by the Board's June 1, 2009 resolution (see, paragraph #2 of 6/1/09 Resolution). It is my understanding that the Town Engineer has no objection to this reduction.

Finally, section 65-8 (H) of the Town Code provides that the erosion and sediment control permit shall not exceed one year in duration. At this time, we would also request that the Board renew

Domain's erosion and sediment control permit for the period from June 1, 2010 through June 1, 2011.

It is my understanding that Domain's requests will be addressed at the Board's March 15, 2010 meeting. Please do not hesitate to contact me if you should have any questions or if you need any further information.

Very Truly Yours,

Rosemary Stack Esq.

Attorney Polidoro- The applicant has come before the Board for an Erosion & Sediment Control Permit, The Board granted the permit last year, this was based on a cost estimate set by the Applicant's Engineer, the applicant has since sat down and realized the numbers submitted were very high they requested that the Planning Board reduce both the bond amount as well as the inspection fee. After speaking with Joe Berger he felt the revised amounts would be sufficient to meet the Towns needs.

Co-Chair Wylock - This amount was originally set by whom?

A: The Applicant's engineer.

Rosemary Stack, Esq. - The portion that is covered by the ESC was high this may be something just covered for the first year, they also request to renew the permit, so they may begin work this season.

Attorney Polidoro - There is another issue , and she has already talked to Ms.Stack about it, which is the ESC permit under our code is only good for 1 year, each year it needs to be extended and it would be up to the Board if they need a new inspection fee or if the one in place is adequate.

After speaking to Ms.Stack she indicated this may not even be necessary. They would renew the bond if needed. What the Board has before them now is a resolution revising the previous on all conditions of the previous approval re still in place, the only modifications are the amount of Bond and the inspection fee.

RESOLUTION REVISING AND EXTENDING EROSION AND SEDIMENT CONTROL PERMIT FOR DOMAIN SAND AND GRAVEL

Date: March 15, 2010

Property Address: 2441 NYS Route 22, Dover Plains

WHEREAS, on June 1, 2009, the Town of Dover Planning Board granted an erosion and sediment control permit to Nicholas F. Domain Sand & Gravel Company for site disturbances in connection with its expansion of mining operations, as shown on plans prepared by Griggs-Lang Consulting Geologists, Inc., entitled "The Nicholas F. Domain Sand & Gravel Company, Sand and Gravel Reserve Expansion", dated May 1, 2008, last revised May 1, 2009; and

WHEREAS, the erosion and sediment control permit was granted subject to 9 conditions; and

WHEREAS, the first condition of approval requires filing "with the Town Clerk a performance guaranty in the amount of \$35,025.00 in form and manner acceptable to the Town Board and Town Attorney, which shall be kept in full force and effect until a certificate of occupancy shall have been issued by the authorized official to ensure that all provisions of this chapter and of the permit have been met."; and

WHEREAS, the second condition of approval requires the payment of an inspection fee for the Planning Board’s consulting engineer in the amount of \$1,000.00 to cover inspection costs to ensure compliance with these conditions.”; and

WHEREAS, by letter dated March 2, 2010, the applicant’s attorney requested that conditions 1 and 2 of approval be revised to decrease the amount of surety required to \$3,000.00 and to decrease the inspection fee to \$500.00 to reflect the amount of disturbance performed on a yearly basis, rather than over the entire life of the project; and

WHEREAS, by letter dated 3/12/2010, the Town Engineer indicated that the reduced amounts would be sufficient to ensure conformance with the erosion and sediment control permit; and

WHEREAS, the applicant has additionally requested that the term of the permit be extended to June 1, 2011.

NOW THEREFORE BE IT RESOLVED that the Planning Board hereby revises its June 1, 2009 approval of an erosion and sediment control permit as follows:

1. In condition 1, the amount of “\$35,025.00” for the performance guarantee is reduced to “\$3,000.00”.

2. In condition 2, the amount of “\$1,000” for the inspection fee is reduced to “\$500.”

BE IT FURTHER RESOLVED, that the Planning Board hereby grants the applicant a one year extension of the erosion and sediment control permit to June 1, 2011. The applicant may request annual extensions of the permit until the expansion is complete provided that work is performed in accordance with the permit.

Moved by: Michael Villano **Seconded by:** John Fila

David Wylock	<u>Aye</u>
Valerie LaRobardier	<u>Aye</u>
John Fila	<u>Aye</u>
James Johnson	<u>absent</u>
Brian Kelly	<u>absent</u>
Peter Muroski	<u>absent</u>
Michael Villano	<u>Aye</u>

Planning Board Co-Chair

8. minutes 9/21/09, 10/05/09, 11/16/09, 12/07/09 & 03/01/2010

Since there are members absent tonight who were present at the meetings minutes need to be approved for, they will be tabled to April 5, 2010.

Minutes 03/01/10

Motion made by Valerie LaRobardier to approve the minutes of March 1, 2010 2nd by John Fila

VOTE: Co-CHAIR DAVID WYLOCK – AYE	Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER JOHN FILA – AYE	MEMBER BRIAN KELLY - absent
MEMBER JAMES JOHNSON - absent	MEMBER PETER MUROSKI - absent
MEMBER MICHAEL VILLANO– AYE	

Motion approved

Co-Chair Wylock- The Town Board will hold a Public Hearing on March 24 for the Dover Knolls FEIS as well as a zoning amendment. 145-16 D " the Town Board shall have the sole power authority to approve/ disapprove the plats for Subdivision related to projects proposed in the MC Overlay district. "

This will take authority form the board as well as for ESC permits. We did send a letter previously; do we need to send another letter? He spoke as a resident during the last hearing.

Attorney Polidoro- The last time the Planning board did respond under the Town code the Planning Board has 30 days to respond, the amendment has been changed slightly, the language did change so the Town Board did have to re circulate. It is up to the Planning Board if they want to resend their previous comments, with a cover letter or it can be updated. The 30 day period would end on or before our next meeting. The Town Clerk did note in her letter that the Planning Board would not be under that time obligation. It may end April 4, 2010 and our meeting is April 5, 2010.

Co-Chair LaRobardier- If nothing has substantially changed with the amendment, then she did not feel the Board should change their comment, why not just get it out of the way.

Member Fila- Felt that often in situations like this the comments may be different, only due to the point that if there was no response from the previous comments, the Board may wish to try a different path or approach. We made comments and they were not responded to favorably. He would like the opportunity to review it again.

Member Villano agreed to ask for an extension of deadline for comment so the Board could discuss at the next meeting.

Member Fila- What if we don't get an extension?

Attorney Polidoro- They could accept late comments but they don't have to. This is a reasonable request.

Co-Chair Wylock-Let's request and extension to April 6, and if the Board could submit their comments before the next meeting it can be reviewed April 5, 2010.

Co-Chair LaRobardier asked how many copies of the FEIS were left in the Planning Office for the Members.

Secretary- There are still 4 available copies for the members to review.

Co-Chair LaRobardier felt if the members took a copy they should really read it, the copies of the FEIS were very costly to print for the applicant at over \$300.00 per copy and it would be wrong to take it and not read it. The \$300.00 is at the applicant's expense and she reminded all that it was not required of the applicant to send in a copy to each Board member, that was only required for the DEIS, not the FEIS.

Letter to Town Board is to be submitted along with the photos from the site walk.

All Members present agreed to submit a letter to the Town Board

Motion made by John Fila to send the letter to the Town Board 2nd by Michael Villano

VOTE: CO-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – AYE
MEMBER JAMES JOHNSON - absent
MEMBER MICHAEL VILLANO– AYE

CO-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - absent
MEMBER PETER MUROSKI - absent

Motion approved

Motion made by Valerie LaRobardier to adjourn 2nd by Michael Villano

VOTE: CO-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – AYE
MEMBER JAMES JOHNSON - absent
MEMBER MICHAEL VILLANO– AYE

CO-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - absent
MEMBER PETER MUROSKI - absent

Motion approved

Respectfully submitted,

Betty-Ann Sherer

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Full Audio may be requested for a fee by completing a FOIL request form from the Dover Town Clerk

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Please call the Planning Board Office with any questions 845-832-6111 ext 100