

Town of Dover Planning Board

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



(845) 832-6111 ext 100

Planning Board Meeting
Monday June 21, 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: - Jack Nelson & Jon Adams for Rasco , Don Flood For Lavish Matt Martin from Cricket Valley, Linda French , Evelyn & Joseph Chiarito, Jill Way, Shannon Martin LaFrance, Supervisor Ryan Courtien 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 7:02 PM and began with the Pledge of Allegiance

Public Hearings:

1. **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
Continued Public Hearing

Motion made by Brian Kelly to open the Public Hearing 2nd by Michael Villano

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

Motion approved

Co-Chair Wylock - I would like to comment briefly before we start Public comment. A letter was submitted last month from the Oblong Conservancy. We were advised it was from their attorney. When

Sybil Gilbert from that group was reading that letter it became evident that Oblong did not write this letter. It was not signed by an attorney but signed by Ms. Gilbert as Vice Chairman of that group. When she was asked to provide their Attorney's name to our Attorney, there were some very uncomfortable moments, when there was silence, and then she finally admitted who the Attorney was, Shannon LaFrance.

It is important to point out for the record that Shannon LaFrance was Town Attorney when the RASCO operation was shut down in 2005 and she was our Planning Board Attorney until the end of 2007. I have had the pleasure of working with her for four years; I thought she did an excellent job. That was then and this is now. I have dealt with many Attorneys in my life time but I can never recall an instance where an attorney would ghost write a letter for a client that he or she may not represent and submit the letter on the client's letterhead and have some one sign it. It appears that this is carefully crafted she may have thought she was doing someone a favor and as we have all done favors for people, sometimes the best laid plans of mice and men as you know from John Steinbeck they go awry. Also a possible violation of the Town code of ethics as a former Town Official representing a client before a board where she had some action involved many years ago. There were several attachments included with that letter; upon reading them it's strange to find that some support the applicant's position. One of them in particular is the term, the legal definition of 'abandonment', which I had mentioned several months ago. Not to beat a dead horse in the ground, I just wanted to bring this out, I think that I could have expected more from the Oblong Conservancy than the way they handled this last month, I don't think they did themselves any favors.

Shannon LaFrance- I think I was accused of a couple of things. I got that file and wrote that letter for the Oblong Land Conservancy in 7 hours. I sent them draft and it was brought to the meeting, by one of their members. I was not trying to hide behind it. I have no conflict of interest; there was no RASCO materials application before this Planning Board when I was sitting as the Attorney. Nor did I give the Town Board any advice concerning this application. There is nothing in the State ethics code and I did look, I was very careful to look, that would prevent me from representing the Oblong Land Conservancy before you today.

It's been 3 years since I have represented you, maybe 2 years and 10 months or so. The point I'm trying to make is just because I represented this Board at one time, doesn't mean I can never come before you again. There's been apparently some allegation that I worked on an application for RASCO Material before the Planning Board, that's never been the case. This application to my knowledge was recently filed with you. In fact I didn't even comment on this application before the DEC, because frankly the resources for this Town did not allow me to do that. I want to make that very clear. Oblong Land Conservancy came in that day, that letter had been written that day and was draft form 1 hour before your meeting had started. Chris Wood put it on Oblong letterhead, just to get it in here, so you would have it in your record and not close the Public Hearing.

Co-Chair Wylock - If they had said to us we have a letter we would like to submit to the Planning Board, fine, but the way it was presented to us, we have a letter from our Attorney, that we're going to submit.

Attorney LaFrance- I was not here, I don't know what occurred, understand that I had never met Ms. Gilbert, but I understand that she was confused as to who the Attorney was because I was hired literally at the last minute. So that doesn't surprise me, I still have never met her in person. I don't like what I'm being accused of, they are false allegations and there's no truth to them what so ever. I am legitimately representing Oblong Land Conservancy before this Board, I did not have anything to do with this application that you're looking at, and in fact I still have not read the entire application because there are FOIL requests out, and we don't have the documents yet. Today we were made aware of a letter that was written to the Planning Board by the applicant's attorney, Mr. Adams. It was apparently sent last Thursday it was apparently received at the Town Hall on Friday; I received a copy of it around 3 or 4. I put together a letter for this Planning Board to address preexisting non conforming use issues that, I feel very strongly, you need to address. The legal arguments are in Oblongs favor, I am standing here on behalf of the Oblong Land Conservancy I did

have enough time to get this letter on my letterhead today, and no one is trying to hide anything. I would very much appreciate it if the Planning Board members would consider the legal arguments that are in this letter, as I said they are in Oblongs favor. It is clear based on what we've looked at that there was never any pre existing, never any legal use created for this site, therefore the use does not get the pre existing non conforming use protection afforded by the zoning law. It looks like although again we do not have all of the records that there may be an intent to impermissively extend what ever use there is at the site and there is clearly an cessation of the use, such that this use can not start up again.

I reiterate that we ask that the Planning Board consider these arguments and we also ask that we have an opportunity to get responses to all of the FOIL requests and that you hold the Public Hearing open so we can make sure that we thoroughly read Mr. Adams letter and understand what he is saying. And also be able to present facts to the Planning Board with respect to the legal arguments permit.

Co-Chair Wylock - You read that letter 3 hours before I did- I didn't read it until 6:30

Member Villano- How many FOIL requests are still open?

A: It's in this letter, but we don't have any documents from DEC Solid Waste, yet, not a single shred.

Member Villano- There aren't any from the Town, they're only from DEC?

A: I don't know the answer to that question, we have a stack of documents (she then directed her question to Jill Way) Do we have everything as of today from the Town?

A: (Jill Way) I believe we do.

Evelyn Chiarito-

Just to Clarify - I was here the night that Sybil Gilbert read the letter, it was obvious she was having problems remembering, I know she has some health problems, and actually she looked at me to get the name of Shannon. She had totally forgotten, we all have senior moments, I have them too. There was no attempt to hide anything.

Co-Chair Wylock - My only concern was the manner in which it was presented and then when she drew a blank when I asked who the Attorney was it would naturally give the impression that -

Mr. Adams- I don't really think this Board is the forum for resolving legal issues, but I do want to highlight, since a mention had been made of it, some of the issues I wrote in my recent letter of June 17. I want to give you a context of that letter since it was directed to the Board as well. This Board has made a request to the Zoning board for an interpretation of whether or not my client's use of the property is or is not a legal non conforming use.

As I have repeatedly said to this Board from day 1, that decision was made back in December 2009, when the Code Enforcement Officer, Mr. Hearn, made the determination after 4 months of investigation. And I suspect considerable consultation with the Town Attorney that in fact the use is a legal non conforming use. That issue has been brought before this Board since January, if in fact someone wanted to challenge Mr. Hearn's determination, there are procures for that challenge. But that challenge and the time for that challenge has long gone by. Under the State law and I believe under your own zoning law. If determination is made by a Zoning Enforcement Officer there is a period of review, repeal, I believe it is 60 or 62 days. Oblong has been a party to this preceding in terms of appearing from day 1. They have appeared and I believe spoke at every Public Hearing commencing with the first Public Hearing in February. Had they wanted to appeal they had the opportunity, they didn't avail themselves to that opportunity.

In law we have a concept, when an Official makes a determination and that determination is not timely appealed, that's final. You don't get a second bite of the apple. So procedurally we believe aside from the merits of the issue, which I'll address in a second, without waiving any legal position, the time for challenging Mr. Hearn's interpretation passed in February 2010.

Now, this board wrote a letter to the Zoning Board, The Zoning Board met in May, They may have even met in June, I'm not aware that the Zoning Board took any action on your letter. I would leave to you to infer why they did or did not take any action on your letter.

I'm asking you tonight, based upon some additional information we have gathered, to reconsider the request for several reasons.

First in order to go to the zoning Board you have to have what we call an "appealable document" Mr. Hearn's letter of May 5, was not an appealable. It was a very equivocal letter he expresses several different views without coming to a determination. That is not a final decision by a Town Official that's subject to appeal to the Zoning Board of Appeals.

Secondly, we have included within our letter of June 17th material gathered by the Town of Dover as part of its consideration of the adoption of a Master Plan in 1997 & 1998, that goes into considerable detail as to the histories of solid waste management facilities in the Town of Dover. One of the facilities they reviewed in some detail was TT Materials, the predecessor to our client. In that analysis they note a number of violations that TT had engaged in, for instance, improper storage of materials and so forth. At no point does the Town of Dover in its own documents elude to any issue as to whether or not TT Materials, our predecessor, was in fact an illegal use at that point in time. In fact Mr. Hearn even suggest that maybe it was a legal use because he refers to a 1992 letter from the then Planning Board Chair Mr. Taylor, in a response to an inquiry by DEC, as to another occupant at the same facility, that RASCO occupies, what is now called Mid Hudson Recycling Facility. He said point blank to DEC ' *They don't need site plan approval, because they are in existing building.*

And if somebody would take the time to look at your Zoning Book, which I have, that existed at that point in time, there is no provision for site plan review for a business that is otherwise permitted in a building that already exists. You have a very limited basis in the Zoning Law for site plan approval. If you had a change in use, in an existing building, there was absolutely no provision for site plan approval. It was not necessary and Mr. Taylor's letter in fact correctly interpreted the Zoning Law which I have in my hand which was the Zoning Law.

As a result when Mr. Hearn says he can't find anything, of course he can't find anything, it didn't exist, and it didn't exist because it wasn't necessary. So I think we should remember again, that this decision as to the legality of the use by my client was made by Mr. Hearn unequivocally and under careful review in December 2009. That decision is binding on this Board.

I would ask because of that that the Board continues, on the basis of Mr. Hearn's correct decision and final decision, and not on some subsequent unequivocal letter not coming to any real conclusion. I would suggest to you that both Mr. Taylor's letter and the material that became part of the Master Plan unequivocally establishes the legality of that use, it did not require a site plan. That was the only issue ever raised by anybody as to whether or not the TT use as legal or illegal. Was site plan approval necessary, it was not, the Town's own documents say that.

Jill Way-Supervisor of the Town of Dover in 1997 & 1998; when the Zoning Law was being re written, Appendix D which cataloged existing solid waste facilities that had DEC permits was intended to only to identify and catalog. It was never intended and does not describe whether those uses were legal or not. It simply lists them, and that was the purpose of the document, never spoke to the issue of legality.

Attorney Polidoro- As far as the appeal to the ZBA, the way I see it is that the Planning Board does not have authority to interpret the Zoning Code or to make a determination as far as whether something is a non conforming use, legal or not.

In this case the Planning Board did have a determination from Tom Hearn, that was signed, that was the Stipulation Agreement, then we have the subsequent email from Mr. Hearn in which he raised questions about the status of Rasco's non conforming use status. He indicated that the records need to be checked. Because the Planning Board can not answer this- the options are:

1- The applicant can go back to Mr. Hearn to get what you would be an 'appealable decision' which could be appealed to the Zoning Board of appeals, or

2- Refer the Applicant to the ZBA and treat the letter as a determination so he can go right to the ZBA. Either way the Planning Board has no authority to make this decision.

Member Fila- I don't think we have much latitude for comment, it seems to me that we have to wait for the Zoning Board of Appeals.

Attorney Polidoro- It's up to the applicant, if he wanted to go back to the Code Enforcement Officer and get an unequivocal statement one that is final that says either it is pre existing non conforming or it's not the Planning Board would have to accept that, That of course could be appealed through the Zoning Board of Appeals or he can treat this as a determination and have the ZBA issue a decision

Co-Chair LaRobardier- Victoria, can we find out or settle the question of the time frame because if anything can be reopened by an email, questioning ones own prior decision then couldn't Tom Hearn write an email tomorrow about something that's been in operation, that maybe he was wrong, maybe he should have thought of this maybe that should be looked up and that the business has to shut down while everything is decided. I think we should get some type of definition and some kind of ruling about what they brought up about the time frame.

Attorney Polidoro- the first determination can not be appealed anymore I guess the issue is that I don't know if Tom Hearn based the second email on information he did not have the first time around, I don't know what it was based on all I know is that it is now on the Planning Boards record.

Member Johnson- Didn't we refer this to the ZBA last month?

A: (Attorney Polidoro) We did, we referred the issue to the ZBA and I believe they are waiting for the applicant to contact them and submit an application.

Member Villano- Is his second email from May 5th a determination?

A: (Attorney Polidoro) - That's a good question; Mr. Adams says that it is not, he says it just raises a question. So if it just raises a question, then he needs to go back to Tom Hearn to get a determination.

Member Johnson- Didn't the Planning Board last month vote on sending it to the Zoning board?

A: (Attorney Polidoro) - Yes

Co-Chair LaRobardier- I thought we wanted to send it to the ZBA to interpret it for us?

A: (Attorney Polidoro) - We did

Co-Chair LaRobardier- Why can't they interpret it for us without the applicant submitting an application?

A: (Attorney Polidoro)- In the past anytime we refer a question to the ZBA it has been the process the applicant fills out an application, if we want to change that procedure, we can talk to the Zoning Board about it.

Co-Chair Wylock - That would be their procedure not ours for entertaining a case with out an application would be their decision.

Attorney Polidoro The planning board could appeal the decision and fill out an application and ask the ZBA to take it on, but that means the Planning Board would have to appear before the ZBA and make a case one way or the other.

Member Kelly- I thought last month the applicant was to file the application to the ZBA, and there was a letter to be written by you, on behalf of the Planning Board, is that correct?

Attorney Polidoro- That is correct and we did send a letter to the ZBA that just said we referred the applicant to your Board- I don't have it in front of me.

Member Kelly- So then the applicant has to file an application so he can be heard in front of the zoning Board.

A: yes that is the ZBA's procedure. I did speak with the ZBA attorney and are waiting for the application, and the applicant's attorney is aware of that

Co-Chair Wylock - Have you attempted to get on the agenda?

Mr. Adams- I don't intend at this point to file any application to the ZBA, I'm under no legal requirement to do so.

Co-Chair Wylock - I think, this is just a suggestion, the three Attorneys- Victoria, Mr. Adams & Michael Liguori, representing the ZBA, should have a conference call and work this out. I don't think it's up to us here to make a determination like that.

Member Muroski- I would suggest Mr.Hearn too.

Mr. Adams- fine

Member Johnson- The conference call is about what, we voted last month to have the applicant go in front of the ZBA, and that's what we voted on, so what's the conference call about

Co-Chair Wylock - we're spinning our wheels right now because they haven't made an applicant and it appears they don't intend to, they don't believe they have to - so I think the three attorneys should get together and resolve this

Member Johnson- If they don't think they have to we're done for now until we get a determination from the ZBA.

Co-Chair Wylock - this is why I asked to have the Attorneys get together.

Co-Chair LaRobardier- it certainly can't hurt anything for them to get together and discuss it

Attorney Polidoro- I'm happy to talk to them.

Mr. Adams- this week or next week it's fine by me.

There were no further comments from the Public

We have prepared a determination of non significance on this application; everybody has had an opportunity to read it

Attorney Polidoro- The determination is based on this going forward as a preexisting non conforming use, and if it turns out that the appropriate body decides that it is not a pre existing non conforming use, the basis of the neg dec may be void but also the applicant would not be permitted to go ahead with the application

Member Fila- If we take this action tonight, and this is not immediately resolved can it go beyond where it is, until it is resolved?

Attorney Polidoro- No

Member Fila- Is there any benefit for us typing this tonight

Attorney Polidoro- If you recall, last month we had discussed doing a conditioned negative declaration and that requires a 30 day comment period so already this would put us to the end of July, just to get over the 30 day comment period on it

Co-Chair Wylock - The earliest they could come back would be the August meeting

Member Fila- is it possible that any of the 'to be had' discussions can have an impact on what we're about to decide on?

Attorney Polidoro- If we receive a determination that it is not a pre existing non conforming use, then the use, I believe as I understand it, would be prohibited in the Town of Dover, so they couldn't make an application to go forward at the site.

Member Fila- It doesn't look like that would change any of the facts, other than that-
Attorney Polidoro -Right, it would just change the status

Co-Chair Wylock - once they are denied it's final.

Member Kelly- I think we should wait until the Attorneys meet, see if they're going to file an application with the zoning Board and in 2 weeks worry about this

Co-Chair LaRobardier- She just said there would be no harm in going ahead with it tonight

Member Kelly- Why should we go ahead with it? If we don't get a determination from the zoning board

Co-Chair LaRobardier- like she said to make the calendar work out better

Member Kelly- So it's an extra 2 weeks it's held off

Member Johnson- The applicant had a month to file an application with the Zoning Board

Co-Chair Wylock - He states he has no intention to do so if they can't work it out in their conference call; we're back at ground zero

Member Johnson- Last month after an hour we decided to send them to the ZBA for an interpretation if the applicant decides not to go for what we asked them to do, I don't see why we're entertaining anything. Our Attorney said they should go in front of the zoning board last month.

Member Fila- It just seems like things are out of order to me when you do it this way. I'm just not comfortable with it.

Member Villano- I haven't made up my mind yet

Member Muroski- I have no comments right now

Co-Chair Wylock - is there any feeling from the Board in going ahead and doing SEQRA tonight?

Member Kelly- I don't think we should go any further forward until they either submit an application, because we already referred them and voted by this Board.

Member Fila- Basically I agree with that

Planner Ley- I think it would be appropriate for the Board to make a SEQRA determination tonight. The reason being that should the ZBA or whatever appropriate body determine that this is a pre existing non conforming use it would allow the process to move forward. I don't think that there is anything in that determination that would affect the way this negative declaration is written. I don't think it would have an affect on the potential environmental impacts of this project

Member Fila- Isn't that an un-knowable? If you don't know what is going to result from these discussions.

Planner Ley- Either they are going to say it's a pre existing non conforming use or it's not.

Member Fila- It could be that it's not that plain and simple. It could be not a simple yes or no.

I don't expect there to be a simple conclusion, I don't expect that there will be a meeting of the minds on this, I think that there are too many variables, and I don't think the legal issues are clear cut, they involve a lot of who said what and when. Your conclusions are based on your recollections or your understanding of what people said. Their conclusion is based on interpretation and language, maybe its accurate, maybe it's not

Planner Ley- This document is based on the potential environmental impacts of this project it's not based on who said what in terms of whether it's pre existing non conforming or not. It has to deal with what measures they are doing on site to control environmental contamination, the presence or not presence of wetlands and other environmental features so I don't believe that making this determination at tonight's meeting would affect the decision of whether it's a pre existing non conforming use

Member Fila- Do you think its common practice to make a SEQRA determination prior to it being determined if the process can go forward?

Planner Ley- Yes it is because often for a project to move forward, you would need a variance granted and in order to have a variance granted, if you have a coordinated review the Planning Board or the Lead Agent would need to make the SEQRA determination before the other Board can make their approval

Member Fila- That's a completely different situation , that's where the SEORA process is going forward normally, that's what's expected to happen, this does not really fit that situation.

Planner Ley- It's a very similar situation, in this case the Planning Board is Lead Agency on this project, it's a co coordinated review, and you've made a referral to the ZBA.

Mr. Adams- If it would help the Board on this procedural issue we would certainly stipulate on behalf of the Applicant that we would not raise any legal issue as the Board is taking action tonight, that is to say we would not argue and we would stipulate that we would not argue that any inference could be drawn as to the issue legal and non conforming, legal or non legal use.

Co-Chair Wylock - I think that based on Ashley & Victoria's comments that if we go ahead and type this, this evening, it's not going to harm anything. And if the ZBA does meet and turns down the application and says it's not preexisting, then what we have done here is meaningless but there is no harm in getting it done in case they do come back and say yes it was preexisting and as Victoria had pointed out the 30 day waiting period for Public Comments, this is June 21, it would be July 21, we meet on the 19th it means the August 2 meeting t would come back up again and hopefully we would have this resolved.

Member Kelly- We haven't held the applicant up the applicant was supposed to file an application to the Zoning Board, we're not holding them up.

Member Johnson-Also I have never seen an applicant come in and say I'm not going to fix up the building, I don't need to go tot ARB, I don't need to fix up the site at all, we asked for months for the DEC records, and it took months to get them, and we asked them to go to the Zoning Board and they haven't put an application in so what have we really held up through this whole process? Nothing, why should we be bullied for something we asked for last month and voted on for the applicant to do -

Co-Chair Wylock- I disagree with you, I don't think we're being bullied

Member Johnson- we're being told I'm not going to go to the zoning Board and file an application

Co-Chair Wylock-that's not bullying us, that's his position

Member Johnson- then that's a great position to be in and we took the position that he is going to the ZBA

Member Kelly- This Boards position should be then we're done until they go to the ZBA

Member Fila- Why didn't you raise that issue last month when we were voting on referring you to the ZBA? You didn't object.

Mr. Adams- I don't believe I volunteered either.

Member Fila- that isn't the question, you didn't object

Mr. Adams- This Board is the one who requested the interpretation, in my mind when you request an interpretation you would be the applicant, I wouldn't be the applicant.

Member Kelly- I believe it was clearly stated that the applicant was to file the application with the ZBA.

Mr. Adams- I have to question your ability to compel me to make an application, I legally feel is not proper.

Attorney Polidoro- We can't compel the applicant to make an application but the Board can say that they are not going to review the application until it has all of the information that we need to move forward

Motion made by Brian Kelly to not move forward until they have all the information in

Co-Chair Wylock Just before we go forward- Mr. Nelson would you come forward?

Did you come before the secretary last week and inquire about filing an application with the ZBA?

Mr. Nelson- I did

Co-Chair Wylock - Was that your intent to do it then?

A: I came and picked up the form we were discussing it

Co-Chair Wylock - Was your Attorney aware of that?

A: Yes

Co-Chair Wylock - Why didn't you file an application?

A: Mr. Adams- You asking for conversations between a client and his Attorney, I don't think that's appropriate.

Co-Chair Wylock - I'm asking why he didn't file an application, he was here to do so, yet he didn't

Mr. Nelson- I've been advised not to.

Member Kelly Repeated

Motion made by Brian Kelly to not move forward until this is straightened out and it goes v to the ZBA 2nd by Jim Johnson

Co-Chair LaRobardier- It seems like we did the work of reviewing this, I don't see what the harm is in least closing that off so we don't have to bring it up again after we've all forgotten all the work we did

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

Motion Denied

Co-Chair Wylock - Has everyone had the chance to read this negative declaration, it was prepared a month ago?

Part 2 of the Long EAF was reviewed at this time resulting in the following:

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action RASCO Materials, LLC - Part 360 Permit Application

Location of Action (Include Street Address, Municipality and County)

2241 NYS Route 22, Mid-Hudson Recycling Park, Town of Dover, Dutchess County, New York

Name of Applicant/Sponsor RASCO Materials, LLC

Address 2241 NYS Route 22, P.O. Box 566

City / PO Wingdale

State NY

Zip Code 12594

Business Telephone (845) 832-3434

Name of Owner (if different) Mid-Hudson Recycling Corporation

Address 545 West 111th Street

City / PO New York

State NY

Zip Code 10025

Business Telephone _____

Description of Action:

Part 360 Permit Application - New permit for existing facility that receives non-hazardous petroleum-contaminated soil (PCS) and recycles it in cold-mix asphalt.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Other _____

2. Total acreage of project area: _____ acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	2.5 acres	2.5 acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	0.5 acres	0.5 acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site?

- a. Soil drainage: Well drained 100% of site Moderately well drained _____% of site.
 Poorly drained _____% of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? Yes No

a. What is depth to bedrock _____ (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% 100% 10- 15% _____% 15% or greater _____%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? Yes No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? Yes No

8. What is the depth of the water table? _____ (in feet)

9. Is site located over a primary, principal, or sole source aquifer? Yes No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? Yes No

17. Is the site served by existing public utilities? Yes No
- a. If YES, does sufficient capacity exist to allow connection? Yes No
- b. If YES, will improvements be necessary to allow connection? Yes No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 6177? Yes No

20. Has the site ever been used for the disposal of solid or hazardous wastes? Yes No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: 3.0 acres.
- b. Project acreage to be developed: 3.0 acres initially; 3.0 acres ultimately.
- c. Project acreage to remain undeveloped: 0.0 acres.
- d. Length of project, in miles: _____ (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. _____ %
- f. Number of off-street parking spaces existing N/A; proposed _____
- g. Maximum vehicular trips generated per hour: _____ (upon completion of project)?
- h. If residential: Number and type of housing units:
- | | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially | _____ | _____ | _____ | _____ |
| Ultimately | _____ | _____ | _____ | _____ |
- i. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; _____ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? _____ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? _____ tons/cubic yards.

3. Will disturbed areas be reclaimed Yes No N/A

a. If yes, for what intended purpose is the site being reclaimed?

- b. Will topsoil be stockpiled for reclamation? Yes No
- c. Will upper subsoil be stockpiled for reclamation? Yes No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes No

6. If single phase project: Anticipated period of construction: _____ months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated _____ (number)

b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

c. Approximate completion date of final phase: _____ month _____ year.

d. Is phase 1 functionally dependent on subsequent phases? Yes No

8. Will blasting occur during construction? Yes No

9. Number of jobs generated: during construction NA; after project is complete

10. Number of jobs eliminated by this project 0.

11. Will project require relocation of any projects or facilities? Yes No

If yes, explain:

12. Is surface liquid waste disposal involved? Yes No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? Yes No Type _____

14. Will surface area of an existing water body increase or decrease by proposal? Yes No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? Yes No

16. Will the project generate solid waste? Yes No

a. If yes, what is the amount per month? _____ tons

b. If yes, will an existing solid waste facility be used? Yes No

c. If yes, give name _____; location _____

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? Yes No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? Yes No

a. If yes, what is the anticipated rate of disposal? 1.0 tons/month.

b. If yes, what is the anticipated site life? N/A years.

18. Will project use herbicides or pesticides? Yes No

19. Will project routinely produce odors (more than one hour per day)? Yes No

20. Will project produce operating noise exceeding the local ambient noise levels? Yes No

21. Will project result in an increase in energy use? Yes No

If yes, indicate type(s)

Fuel oil and electricity

22. If water supply is from wells, indicate pumping capacity _____ gallons/minute.

23. Total anticipated water usage per day _____ gallons/day.

24. Does project involve Local, State or Federal funding? Yes No

If yes, explain:

25. Approvals Required:

	Yes	No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, Town, Village Planning Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	site Plan	
City, Town Zoning Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, County Health Department	<input type="checkbox"/>	<input type="checkbox"/>		
Other Local Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
Other Regional Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
State Agencies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DEC Part 360 Permit App.	
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>		

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? Yes No

If Yes, indicate decision required:

- | | | | |
|---|---|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input checked="" type="checkbox"/> Site plan | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan | <input type="checkbox"/> Other |

2. What is the zoning classification(s) of the site?

Industrial

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

4. What is the proposed zoning of the site?

No change proposed.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? Yes No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Industrial/Commercial

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? Yes No

9. If the proposed action is the subdivision of land, how many lots are proposed? _____

a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? Yes No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? Yes No

a. If yes, is existing capacity sufficient to handle projected demand? Yes No

12. Will the proposed action result in the generation of traffic significantly above present levels? Yes No

a. If yes, is the existing road network adequate to handle the additional traffic. Yes No

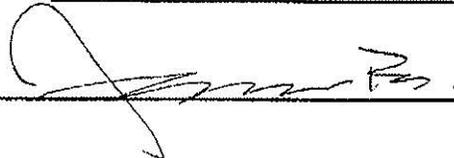
D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name John A. Nelson, RASCO Materials Date 1/11/10

Signature 

Title Managing Partner

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

The proposed project involves disturbance to an already disturbed site for the widening of a roadway and creation of bio-retention areas for stormwater management.

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO YES

• Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------	--------------------------	--------------------------	--

Impact on Water

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO YES

Examples that would apply to column 2

• Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

The property contains a significant amount of NYS jurisdictional wetlands which are associated with the Great Swamp, NYS Wetland DP-22. However, none are within the area of disturbance.

4. Will Proposed Action affect any non-protected existing or new body of water?

NO YES

Examples that would apply to column 2

• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

5. Will Proposed Action affect surface or groundwater quality or quantity?

NO YES

Examples that would apply to column 2

- | | | | |
|---|---|--|--|
| <ul style="list-style-type: none"> • Proposed Action will require a discharge permit. • Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action. • Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity. • Construction or operation causing any contamination of a water supply system. • Proposed Action will adversely affect groundwater. • Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity. • Proposed Action would use water in excess of 20,000 gallons per day. • Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions. • Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons. • Proposed Action will allow residential uses in areas without water and/or sewer services. • Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities. • Other impacts: | <ul style="list-style-type: none"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> | <ul style="list-style-type: none"> <input type="checkbox"/> | <ul style="list-style-type: none"> <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|---|--|--|

The project involves the processing and storage of Petroleum Contaminated Soils (PCS). The processing and storage of these materials is regulated by a NYSDEC Special Permit.

1	2	3	
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO YES

Examples that would apply to column 2

- | | | | |
|--|---|--|--|
| <ul style="list-style-type: none"> • Proposed Action would change flood water flows • Proposed Action may cause substantial erosion. • Proposed Action is incompatible with existing drainage patterns. • Proposed Action will allow development in a designated floodway. • Other impacts: | <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No |
|--|---|--|--|

In order to protect water quality in the wetlands, the Planning Board is requiring the applicant to install a combination grass swale and bio-retention area along the road near Building A.

IMPACT ON AIR

7. Will Proposed Action affect air quality?

NO YES

Examples that would apply to column 2

- | | | | |
|---|--|--|--|
| <ul style="list-style-type: none"> • Proposed Action will induce 1,000 or more vehicle trips in any given hour. • Proposed Action will result in the incineration of more than 1 ton of refuse per hour. • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. • Proposed Action will allow an increase in the amount of land committed to industrial use. • Proposed Action will allow an increase in the density of industrial development within existing industrial areas. • Other impacts: | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|--|--|

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?

NO YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| <ul style="list-style-type: none"> • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--------------------------|--------------------------|--|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

The project site is located in the Great Swamp CEA. However, the area proposed for disturbance has already been disturbed, and is not known to contain threatened or endangered species.

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO YES

Examples that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

NO YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO YES

Examples that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO YES

Examples that would apply to column 2

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO YES

Examples that would apply to column 2

• The permanent foreclosure of a future recreational opportunity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• A major reduction of an open space important to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO YES

List the environmental characteristics that caused the designation of the CEA.

The proposed action is located within the Great Swamp Critical Environmental Area. The Great Swamp is a large wetland complex that extends through Dutchess and Putnam counties and contains rare plants and provides habitat for threatened and endangered species of plants and animals. The proposed action will not have a significant impact on the unique characteristics of the CEA.

Examples that would apply to column 2

• Proposed Action to locate within the CEA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will result in a reduction in the quantity of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will result in a reduction in the quality of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will impact the use, function or enjoyment of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

NO YES

Examples that would apply to column 2

- | | | | | |
|--|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in major traffic problems. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

It is anticipated that the maximum number of trucks entering and exiting the site each day would be 20, or approximately 2 per hour.

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO YES

Examples that would apply to column 2

- | | | | | |
|--|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Blasting within 1,500 feet of a hospital, school or other sensitive facility. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will remove natural barriers that would act as a noise screen. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

The noise and vibrations will primarily affect the project site, off site noises would be mitigated by distance and vegetation.

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change	
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The project is the continuation of a pre-existing non-conforming use. <i>To be decided by ZBA</i>				
20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES				

If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3

RESOLUTION DETERMINING SIGNIFICANCE CONDITIONED NEGATIVE DECLARATION

RASCO MATERIALS SITE PLAN

June 21, 2010

Tax Parcel # 7061-00-580190 & 7061-00-585063

WHEREAS, Rasco Materials, LLC, the applicant, has applied to the Planning Board for site plan approval to operate a cold mix asphalt facility at a former tire and contaminated soil recycling facility located at 2241 NYS Route 22, identified as Tax Parcel Nos. 7061-00-580190 and 7061-00-585063 in the M District (“proposed action”); and

WHEREAS, while heavy industry, asphalt plants, facilities for the disposal of solid waste materials and solid waste management facilities are not permitted within the Town, the applicant, the Town Board and the Planning Board have entered into a Stipulation of Agreement dated December 1, 2009, to permit the use of the site as a cold mix asphalt plant as a preexisting non-conforming use, subject to receiving site plan approval from the Planning Board; and

WHEREAS, the applicant has received a permit and a beneficial use determination from the DEC to accept up to 500 tons daily of non-hazardous petroleum contaminated soils for handling in a cold mix asphalt process; and

WHEREAS, the applicant has submitted a site plan entitled, "Survey of Lands of Howland Lake Partners, L.P., Rasco Materials, LLC Site Plan", prepared by Spectra Engineering, dated 9/12/2005, last revised 01/28/2010, for the Board's consideration; and

WHEREAS, on January 6, 2010, the Planning Board classified the proposed action as an unlisted action and circulated its intent to serve as lead agency in a coordinated review of the project, to which no other agency has objected; and

WHEREAS, the Planning Board has reviewed the full EAF and has thoroughly analyzed the information concerning relevant areas of environmental concern both submitted by the applicant and gathered by the Board through its consultants and the public, and considered the criteria contained in 6 NYCRR 617.7; and

WHEREAS, in recognition of the potential for adverse impacts from the use of the site as a PCS processing facility, the Planning Board has imposed six SEQRA conditions on the applicant regarding the use of the site to mitigate all significant environmental impacts.

NOW THEREFORE BE IT RESOLVED, that in accordance with 6 NYCRR 617.7(d), the Planning Board hereby:

1. Adopts the attached preliminary Notice of Negative Declaration ("Notice") for the proposed action, finding that the project with the imposed SEQRA conditions will not have a significant adverse impact on the environment and that a Draft Environmental Impact Statement will not be prepared.

2. Directs the Secretary to the Planning Board to send the attached Notice to the Environmental Notice Bulletin for publication, to all involved and interested agencies, and to make all other required filings under SEQRA regulations 6 NYCRR 617.12.

BE IT FURTHER RESOLVED, that comments on the Conditioned Negative Declaration will be accepted until the close of business on July 23, 2010, after which time the Planning Board will decide whether to adopt a final Conditioned Negative Declaration.

Moved by: Valerie LaRobardier **Seconded by:** Michael Villano

David Wylock AYE

Valerie LaRobardier AYE

John Fila NAY- Had trouble with conclusion regarding toxic waster and the statement of potential impact to the Great Swamp

James Johnson NAY

Brian Kelly NAY

Peter Muroski AYE

Michael Villano AYE

Planning Board Co-Chair

Involved Agencies:

**Architectural Review Board
Dutchess County Department of Health**

**NYS Department of Environmental Conservation
NYS Department of Transportation**

Interested Agencies:

Dover Town Board

617.7

State Environmental Quality Review (SEQR)

Negative Declaration

Notice of Determination of Non-Significance

Date of Adoption: June 21, 2010

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Planning Board of the Town of Dover, as Lead Agency, has determined that the proposed action described below will not have a significant adverse impact on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Rasco Materials, LLC

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: YES
 NO

Description of Action: The applicant is seeking site plan approval to operate a cold mix asphalt facility in existing facilities at an industrial park in the Town of Dover. Rasco proposes to occupy 3 acres of the 133 acre site. Petroleum Contaminated Soil (PCS) will be processed in Building A and the finished product will be stored in Building B, as identified on the submitted site plan. The applicant has obtained a permit from the Department of Environmental Conservation to accept non-hazardous PCS at a maximum rate of 500 tons per day for handling in a cold mix asphalt process.

The site is located in the Great Swamp Critical Environmental Area and contiguous to the Great Swamp, NYS Wetland DP-22.

Location: Wingdale Industrial Park, 2241 NYS Route 22, Wingdale, Town of Dover

Reasons Supporting This Determination:

Impact on Wetlands & Surface and Groundwater Quantity and Quality

The project site is located on two of four adjacent parcels of property owned by Howland Lake Partners, LLC. The Howland Lake properties contain a significant amount of NYS jurisdictional wetlands, some of which are associated with the Great Swamp, NYS Wetland DP-22, and are located in the Great Swamp Critical Environmental Area. There are also three upland wetland areas located on the tax parcels to be used by Rasco Materials, one of which NYSDEC has determined to be state-jurisdictional. However, none of these wetlands, or wetland controlled areas, are located within the area to be occupied by Rasco. The portion of the property to be occupied by Rasco is located within an existing industrial complex, and is more than 200 feet from the nearest non-jurisdictional wetland, and more than 300 feet from the nearest state-jurisdictional controlled area.

The proposed project will result in little to no disturbance to wetlands. The applicant is proposing to reoccupy existing buildings and to utilize existing roadways on the site. Except for the widening of a portion of a drive, no additional land will be disturbed. In order to protect water quality in the wetlands, the Board is requiring the applicant to install a combination grass swale and bio-retention area along the road near Building A. This feature will treat stormwater and potential pollutants from trucks entering the site before it is discharged.

The applicant has prepared a materials handling plan to avoid PCS or leachate from entering into the surface or groundwater. No PCS will be deposited on land or outside the processing building and all processing will take place within an enclosed structure with a concrete floor and no floor drains. Windows in the structure will be covered with a heavy duty poly-plastic to prevent rainwater from entering the building and creating leachate. All transporters will be covered. Additional measures are contained in the Materials Handling Plan, which will be incorporated into the site plan.

A well and sanitary storage tank will be installed on the site to provide bathroom facilities for employees. The Dutchess County Department of Health will review and approve the proposed systems.

Impacts on Critical Environmental Areas

The proposed action is located within the Great Swamp Critical Environmental Area. The Great Swamp is a large wetland complex that extends through Dutchess and Putnam counties and contains rare plants and provides habitat for threatened and endangered species of plants and animals. The proposed action will not have a significant impact on the unique characteristics of the CEA. The applicant has proposed to reuse existing buildings, roads and truck paths to minimize the amount of site disturbance. A Materials Handling Plan has been prepared to prevent PCS from migrating from the buildings and onto the site roadways, which will prevent leachate from entering the wetland complex. Stormwater which passes through the truck path will be treated in a grass swale and bio-retention area before it is discharged.

Impact on Transportation

The proposed action will result in a small to moderate impact on traffic. The DEC has limited the amount of PCS that can be brought to the site to 500 tons per day and the amount that can be stored in the processing building and the storage building to 1000 tons each at any given time. In addition, the processing of PCS takes seven (7) days. These permit and processing limitations will limit the amount of traffic entering and leaving the site. It is anticipated that the maximum number of trucks entering and exiting the site each day would be twenty (20), or approximately two (2) per hour. This additional traffic would not have a significant impact on NYS Route 22, a state road.

Impact on Noise

The proposed action will result in a small to moderate impact on noise. The facility is located in an industrial park outside of the hamlet centers. The applicant has prepared a noise analysis which analyzed the predicted noise from the operation under four different scenarios. Noise levels at the receptors were found to be consistent with the allowable levels permitted in 6 NYCRR Part 360-1.14(p), which are more stringent than the levels allowed under the Dover Code. The applicant has demonstrated that there is sufficient vegetative cover and a mix of coniferous and deciduous trees to absorb the sound during the operating season. The NYSDEC permit limits the operation of the site to March 1 through December 1, provided that the ambient temperature is 45 degrees Fahrenheit or warmer. Therefore, Rasco materials is not permitted to operate during the winter months when the leaves are off the trees and the ground is frozen, a period of time which allows for minimal ground absorption of noise.

Impact on Public Health

The proposed action involves the processing of non-hazardous PCS to create cold mix asphalt as a final end-product. PCS, as its name suggests, contains petroleum, which if released into the environment could significantly impact water quality and wildlife and plant habitat. To minimize the potential for adverse impacts on public health from an unintended release resulting from operations at the site, the applicant has prepared a Materials Handling Plan and a Contingency Plan. These plans will be incorporated into the site plan and enforceable by the Town.

The applicant has received a permit to create cold-mix asphalt from the DEC and the safety of the end product itself is not an issue before the Planning Board.

Impact on Community Character

There will be a small impact on community character from the proposed action. The proposed use is not allowed under the current zoning law; however, the use is pre-existing non-conforming and is not being changed. The proposed operation will result in no additional adverse impacts.

Other Potential Impacts

The Planning Board has examined all other potential environmental impacts and found no evidence of any potential significant impact, including, without limitation, potential impacts on air quality, agriculture, energy consumption, endangered or threatened species, plants and animals, open space and recreation, and historic and archaeological resources.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

Comments will be accepted on the Conditioned Negative Declaration until the close of business on July 23, 2010.

For Further Information:

Contact Person: Betty-Ann Sherer, Planning Board Secretary
Address: 126 East Duncan Hill Road, Dover Plains, NY
12522
Telephone: 845-832-6111 ext 100

A Copy of this Notice Filed With:

Dover Planning Board (Lead Agency)

Town Supervisor Ryan Courtien

All other Involved Agencies

Any person who has requested a copy

Motion made by John Fila to continue this Public Hearing until August 2, 2010 2nd by Valerie LaRobardier

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

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

Motion approved

2.LAVISH- 7059-02-765531

Applicant Donald Flood- Property Owner Lavish Inc.
Plans prepared by the applicant
Property located at 1534 Rt 22 Wingdale
Application for Special Permit for a contractor’s yard on 1 acre of land in the HC district
Erosion Control Permit to remedy violation

Mr. Flood- Last time he was here, he had thought there was a contractor’s yard and a mobile home in the rear when he bought the property there were no violations to his knowledge, after he bought the property he was issued a violation for starting a contractor yard and filled illegally. Last meeting the Board had asked for information for the septic on the mobile home being abandoned, which he supplied as well as a revised survey with the mobile home removed.

Co-Chair Wylock - to Joe Berger- What is the proper procedure for abandoning a septic

A: Technically the tank should either be filled or removed and an engineer is to sign off on it, then it is filed with the Dutchess County Health Department.

Q: So did you remove the tank?

A: Yes, I’m unaware that it has to be signed off by an engineer

Engineer Berger- For sanitary code- a letter has to be sent to them stating that it has been removed and cc the Board, so it’s on the record that the tank has been removed.

Co-Chair Wylock - We can waive the hearing for the erosion control, but not site plan, since there was never a site plan, apparently the previous owner was sited for not having a site plan & special permit

Mr. Flood- I had stated before, when I bought the property there were no violations on it

Co-Chair Wylock - that you knew of

A: That were brought up

Attorney Polidoro- The reason is under our code special permits require a public hearing.

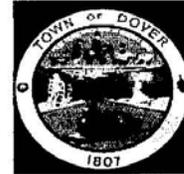
Mr. Flood- But if it were pre existing non conforming, I bought the property and a year later no I get a violation.

Attorney Polidoro- We have a letter from Tom Hearn that says it's not pre existing non conforming and that's why your here

Mr. Flood- Do you have any proof that there was any violation for the previous owner?



TOWN OF DOVER, NEW YORK
BUILDING AND ZONING DEPARTMENT
George T. Hearn, Code Enforcement
Officer



126 East Duncan Hill Road
Dover Plains, New York 12522

May 10, 2010

To: Town of Dover Planning Board

Re: Lavish Inc.
Parcel #04-7059-02-765531-00

- 1) The operation that was on this site previously had no site plan approval and there was a notice of violation & order to remedy for it, a copy is attached to this memo.
- 2) The amount of land graded / filled on this parcel in the last 1`2 months exceeds 31,800 square feet which makes it @ .74 acres, thereby exceeding the 1/2 acre threshold listed in Section 65-7 A (6) & (7). The midsection of this parcel was graded/backbladed before the manufactured home was removed and that area filled & graded.

Therefore, if you wish to waive the requirements for an erosion permit that is within your authority but it is not within the authority of this office.

George T. Hearn
Code Enforcement Officer 

OFFICE OF THE CODE ENFORCEMENT OFFICER
TOWN OF DOVER
126 E Duncan Hill Rd.
Dover Plains, NY 12522
(845) 832-6689

NOTICE OF VIOLATION & ORDER TO REMEDY VIOLATION

TO: Leslie W. Smith
1534 Route 22
Wingdale, NY 12594

PLEASE TAKE NOTICE there exists a violation of:
(X) The State Building Construction Code
(X) Zoning Laws
(X) Other Applicable Law, Ordinances or Regulations

at premises hereinafter described in fact (state character of violation):
Operation of a business without site plan approval, creating noise and fumes noxious and disturbing to neighbors.
in violation of: Sections 145-2, 145-3, 145-59 thru 145-63 and 19NYCRR Part 1221.1, Ref. BCNYS Section(s) 101.2,105.1,108.1,113.1,115.1 and any other violations which may be discovered upon inspection of the property.

(state section or paragraph of applicable law, ordinance or regulation)

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the conditions above mentioned forthwith on or before the 28th day of February, 2006.
The premises to which this ORDER TO REMEDY VIOLATION refers are situated at (street address) 1534 Route 22 in the (town, village) of Wingdale, County of Dutchess, shown on the County Tax Map as Section, Block & Lot #04-7059-02-765531-00.

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law constitute an offense punishable by fine or imprisonment or both. Fines will commence the day after the above stated date to remedy by and continue until this office is notified of the correction of the violation. The imposition of penalties shall not excuse the violation(s) nor permit it (them) to continue.

George T. Hearn 11/30/06
George T. Hearn DATE
Building Inspector/CEO

CC: Town Board
Town Attorney

Letter dated May to PB and violation letter February 28, 2006
Attorney Polidoro- Even if you contest the violation, this Board does not have any jurisdiction we have to take what the Code Enforcement Officer says as fact

Engineer Berger- Other than the septic there's no additional work being done
Planner Ley- Will there be storage bins or anything like that?
A: No

Q: No permanent structures?

A: No

Attorney Polidoro Will you have a sign - with your business name; if so you would need to go to the ARB-

A: No sign

Co-Chair Wylock - Will you be pulling machines in and out all day?

A: No, this is a satellite yard main yard is in Patterson

Motion made by Valerie LaRobardier to set the Public Hearing for July 19th 2nd by Michael Villano

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 - AYE
MEMBER MICHAEL VILLANO– AYE	

Motion approved

Mr. Flood- Other than the letter to the BOH is there anything else I need

A: Co-Chair Wylock - Not that I'm aware of

RESOLUTION CLASSIFYING THE ACTION AND REFERRING THE APPLICATION TO THE DUTCHESS COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

LAVISH SITE PLAN

June 21, 2010

Property Address: 1534 Route 22

WHEREAS, the applicant has submitted an application for special permit and site plan approval to operate a contractor’s yard, a service business, on an existing site located at 1534 Route 22, Wingdale NY in the HC District (the “site”), and for a remedial erosion and sediment control permit for grading that has already been performed on the property; and

WHEREAS, in lieu of a site plan, the applicant has submitted a survey entitled “Survey Map Prepared For Lavish, Inc.”, prepared by Bly and Houston, LLP, dated February 20, 2009, last revised May 29, 2010; and

WHEREAS, service businesses are permitted in the HC District subject to site plan and special permit approval; and

WHEREAS, the application was accompanied by a Short Environmental Assessment Form (“EAF”); and

WHEREAS, the Planning Board of the Town of Dover has performed a preliminary review of the EAF and other application materials; and

WHEREAS, in accordance with the New York State Environmental Quality Review Act (“SEQRA”), said Board is required to determine the classification of the proposed action; and

WHEREAS, construction or expansion of a primary non-residential structure or facility involving less than 4,000 sq. ft. of gross floor area and not involving a change in zoning or a use variance is a Type II action pursuant to 6 NYCRR 617.5; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby classifies the application as a Type II action under SEQRA; and

BE IT FURTHER RESOLVED, that pursuant to Section 239-m of the General Municipal Law, the Planning Board hereby authorizes and instructs the secretary to the Planning Board to refer the application to the Dutchess County Department of Planning and Development for review and comment; and

BE IT FURTHER RESOLVED, that the Planning Board authorizes and instructs the secretary to the Planning Board to refer the application to the J.H. Ketcham Hose Company for review.

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>AYE</u>
Brian Kelly	<u>AYE</u>
Peter Muroski	<u>AYE</u>
Michael Villano	<u>AYE</u>

Planning Board Co-Chair David Wylock

Mr. Flood was given his Public Hearing sign to post

3. DOVER PLAINS PLAZA- FRESHTOWN 7063-00-509295

Applicant Dove Acquisition< LLC c/o Daniel Katz
Plans Presented by Rich Rennia plans prepared by Rosenbaum Design Group
Property located @ 3081 Route 22, Dover
Application for Site Plan amendment / Special Permit
Parcel located in the HC / AQ district on 4.7 acres of land

Set escrow FreshTown

**Motion made by Valerie LaRobardier to set escrow for Dover Plains Plaza- Fresh Town for \$3,000.00
2nd by Michael Villano**

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

Motion approved

There is an Association of Towns Training session- Albany July 14, 2010 as well as other dates and locations- See the Secretary if you are interested

Minutes

June 7, 2010

Motion made by Valerie LaRobardier to accept the June 7, 2010 minutes 2nd by John Fila

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

Motion approved

Motion made by John Fila to adjourn 8:19 2nd by Valerie LaRobardier

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

Motion approved

Respectfully submitted,

Betty-Ann Sherer
PlanningARB@TownofDoverNY.US

This meeting may be viewed in full on the Town of Dover web site by going to www.townofdoverny.us
Full Audio may be requested for a fee by completing a FOIL request form from the Dover Town Clerk
This meeting may now be viewed at Cablevision Channel 22 for residents who have that provider-Please check local listings for meeting re broadcast times

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