

**Raymond Planning Board Minutes  
February 11, 2010**

**Approved 02/25/2010**

**Place:** Raymond High School; Media Center  
**Call to Order:** 7:01 p.m.

**Members Present:** Jonathan Wood, Chairman; Carolyn Matthews, Vice Chairman; Jim Kent, Secretary; Bill Hoitt, Selectmen's Ex-Officio; Gretchen Gott; Doug Vogel.

*Bill Cantwell was excused from this meeting due to work commitments.*

**Staff Present:** Walter Mitchell, Legal Counsel; Ernest Cartier Creveling, Community Development Director; Robert Price, Planning Technician.

**Pledge of Allegiance**

Jonathan Wood announced that the Planning Board is still actively seeking Alternate members.

**Approval of Minutes**

Members Sitting for Approval of Minutes: Jonathan Wood; Carolyn Matthews; Jim Kent; Bill Hoitt; Gretchen Gott; Doug Vogel.

**MOTION:** Gretchen Gott made a motion to approve the minutes of February 04, 2010 as amended. Doug Vogel seconded. The motion passed with a vote of 4-0-2, with Bill Hoitt and Carolyn Matthews abstaining.

**Public Hearing – Thibeault Quarry**

Continued from 02/04/2010; Application #2007-002 – An application for an Excavation Plan has been submitted by Thibeault Sand & Gravel, LLC, on land known as Nashua River Land Corporation, for a quarrying operation. The properties are shown on Raymond Tax Map 32, Lots 43 and 68; Map 37, Lot 2; and Map 38, Lots 12 and 13; accessed via NH State Route 27.

*Carolyn Matthews stated she must recuse herself from this hearing. Ms. Matthews left the meeting and did not return.*

Members Sitting for this Discussion: Jonathan Wood; Jim Kent; Bill Hoitt; Gretchen Gott; Doug Vogel.

*Vincent Iacozzi of Thibeault Sand & Gravel, LLC was present.*

Jonathan Wood disclosed that he personally contacted each member of the Board that is sitting on this application, and instructed them to read the contents of this week's Planning Board packet thoroughly, and also to read through the proposed condition of approval twice and make notes. Mr. Wood also noted that no discussions or other

dialog took place between himself and members of the Board regarding the content of the application. Jim Kent stated that he did not personally speak with Mr. Wood.

The Planning Board resumed reading and revising the staff-prepared conditions of approval. Community Development Director Cartier Creveling pointed out each area that had been revised since the previous meeting.

Walter Mitchell, the Board's Legal Counsel noted that the staff-prepared conditions of approval were prepared as a convenience to the Board, in light of the fact that this application is complex in terms of its detail. In no way does this presume that the application will be approved.

The Board next touched upon an item from the Excavation Regulations that it determined it would address at a later meeting:

*SECTION VII: PROHIBITED PROJECTS*

*The Board shall not grant a permit for the following projects:*

*G. Where the project cannot comply with the requirements of Sections IX, X, and XI of these regulations.*

Mr. Wood polled the Board to determine if the Board felt that this project was a prohibited project or not. The Board took the time to review each of the referenced sections and reached the following conclusions:

POLL RESULTS

Jim Kent – No

Doug Vogel – No

Gretchen Gott – Yes

Jonathan Wood - No

Bill Hoitt – Yes

The Board concluded this project does not constitute a prohibited project.

MOTION: Doug Vogel made a motion to approve Application #2007-002 as presented by Thibeault Sand & Gravel, LLC for property shown on Raymond Tax Map 32 Lots 43 & 68, Tax Map 37 Lot 2, Tax Map 38 Lots 12 & 13 accessed via NH Route 27.

The following conditions shall apply:

1. The conditions of approval designated as conditions precedent must be completed within six (6) months and confirmed by the Raymond Planning Board at a final review hearing scheduled for 7:00 p.m. on Thursday, August 12, 2010, or this approval shall become null and void.

The following are conditions precedent:

- 1.1. The applicant must obtain all required local, State and Federal permitting for the project, and provide copies of the applications, application supporting documentation and permits to the Community Development Department, to include;
  - 1.1.1. New Hampshire Department of Environmental Services Alteration of Terrain Permit. Copies of all studies, surveys, plans or other submissions required to be made to agencies as a condition of the Alteration of Terrain Permit must also be submitted to the Town of Raymond Community Development Department;
  - 1.1.2. United States Environmental Protection Agency Stormwater Pollution Prevention Plan and proof of submission to the EPA NOI (Notice of Intent) Processing Center;
  - 1.1.3. Public Service of New Hampshire site access agreement.
  
- 1.2. All fees authorized to be charged to the applicant pursuant to the Raymond Earth Excavation Regulations including, but not limited to application fees, costs of special studies, and legal and engineering review, shall be paid by the applicant;
  
- 1.3. Deeds, easements, conservation easements, condominium documents, maintenance agreements, and any other legal documentation pertinent to this project shall be reviewed and approved by Town Counsel, and where applicable, the Board of Selectmen pursuant to RSA 41:14-a;
  
- 1.4. The applicant shall address, to the satisfaction of the Town's Review Engineer, any remaining engineering/technical issues identified during final peer review. Final peer review shall be completed at the expense of the applicant. Written concurrence, from the Town's Review Engineer and the Raymond Community Development Director, with the design corrections of any identified engineering issues shall be required prior to final plan approval. Additionally, applicant shall make the following additions to the plans:
  - 1.4.1 Update abutter information on the plan and provide new copies of the plans to the Town of Raymond Community Development Department;
  - 1.4.2 Zoning district boundaries of the project parcels and within 200 feet of the property lines of the project parcels;
  - 1.4.3 The location of property lines, dimensions, bearings of existing buildings, structures, septic systems and wells within 200 feet of the outside boundary of the excavation areas;
  - 1.4.4 A plan illustrating all surface drainage patterns including wetlands and standing water;

- 1.4.5 Update Note 10 on plan to describe fully the existing and proposed access roads, including width and surface materials;
- 1.4.6 Provide a note on the plan identifying the estimated duration of the project;
- 1.4.7 Information as to the elevation of the highest annual average ground water table within or next to the proposed excavation;
- 1.4.8 Planned sequencing of excavation activities including approximate dates and areas;
- 1.4.9 Truck traffic route information and trips per day per route must be provided in Note 11;
- 1.4.10 Applicant shall provide a plan sheet listing all pertinent permits received and agency contact information, along with a table referencing all studies which were conducted and utilized throughout this application process;
- 1.4.11 All boundaries of the area proposed for reclamation and the land within 200 feet of the outside boundary of the excavation area(s);
- 1.4.12 Sheet 1, Note 8 needs to be revised to read "No portion of proposed earth and bedrock excavation is within the Aquifer Protection District. Earth and bedrock excavation shall not occur within 6 feet of the documented seasonal high water table."
- 1.4.13 The provisions of RSA 236:13 and 14 shall be adhered to by the applicant and shall be shown on the excavation plan. Access roads shall be obliterated upon depletion and/or completion of pit unless requested to be retained by the regulator;
- 1.4.14 Notes on the plan shall be updated to reflect pre-blast survey limits as defined in the NHDES Alteration of Terrain Permit;
- 1.4.15 Change references throughout all the notes on the plans that refer to the 2005 Excavation Permit that was voided by the Court, including but not limited to: Cover Sheet, Note 1; Cover Sheet, Note 7; Cover Sheet, Note 10; Cover Sheet, Note 15;
- 1.4.16 Amend Cover Sheet, Note 9 to add: "Blasting will not take place prior to 9 a.m. on authorized days of operation."
- 1.4.17 Note 6 of the Section entitled Excavation Notes on the Grading Plan shall be changed to read: "*Dust control measures will be instituted at the direction of the Planning Board or its duly authorized agent, where necessary, to protect abutting property owners from nuisance. Water is the only treatment authorized for application to the ground for dust control. Other dust control measures as approved or required by the Planning Board shall be implemented. No fugitive dust will leave the excavation site.*"

- 1.4.18 Add note to Reclamation Plan that states: "All seeding shall be accomplished in conformance with the State of New Hampshire, Department of Transportation, Standard Specifications for Road and Bridge Construction, latest edition, Section 644-Grass Seed; Sub-Sections 1.1 through 3.7.3, inclusive, or DOT Standards and Specifications. Certificates attesting to seed compliance with state and/or DOT specifications shall be mandatory."
  - 1.4.19 A note shall be added to the plan stating that no portion of the proposed earth bedrock excavation shall take place within 150 feet of an abutting property line.
  - 1.4.20 Access road leading to un-reclaimed areas shall be blocked off to restrict access (see 1,500-foot monitoring exhibit – gate should be placed immediately west of area marked as "west area of previously permitted excavation").
  - 1.4.21 Excavating equipment, as well as all other equipment (backhoes, loaders, excavators, etc.) used in conjunction with the excavation will utilize only biodegradable materials in the machines that are approved for use by the Town of Raymond. These biodegradable materials will include, but not be limited to, biodegradable hydraulic fluid and biodegradable bearing lubricants. The use of these biodegradable materials is mandatory at all times.
- 1.5. An estimate for the cost of reclamation for each phase of the project, as presented to the Town in accordance with condition 1.4.8 above, shall be provided to the Raymond Community Development Department. Additionally, estimates for reclaiming all currently un-reclaimed areas on parcels included in this approval shall be provided to the Raymond Community Development Department by the applicant. Estimates shall be reviewed and amended, as needed, by the Town's Review Engineer at the applicant's expense. A bonding schedule will be presented to the Planning Board for its consideration by the Town's Review Engineer at the final review hearing specified in Item 1 of this approval.
- 1.6. A Performance Guarantee Agreement shall be executed between the Town of Raymond and the Applicant within 30 days of the plan approval date of February 11, 2010. Failure to execute the required agreement will result in plan approval revocation.
- 1.7. Bonding & Inspection and Enforcement Escrow Account:
- 1.7.1 Reclamation Bond: A reclamation bond, renewed annually as approved by the Planning Board at its final review hearing, shall be posted with the Town of Raymond. The base amount of the

reclamation bond shall increase annually by three percent (3%) to be calculated on a cumulative, annually compounded basis.

- 1.7.2 Inspection and Enforcement Escrow Account: Applicant shall submit a base amount of \$50,000 to be placed in a non-interest bearing escrow account to be entitled "Thibeault Properties Quarry Project Inspection and Enforcement Escrow Account." This account shall be used for inspection services, as needed, by the Town and/or its designee(s) for compliance inspections and enforcement action with regard to any provision of the Raymond Earth Excavation Regulations, this approval, and applicable local, state and federal law. Applicant shall, within 10 days of receipt of a Notice of Escrow Shortage, deposit with the Town the amount required to fully fund said escrow account. At any time that the applicant does not replenish the escrow account at the request of the Town of Raymond, the Planning Board may suspend or revoke this Excavation Permit.
2. This approval is subject to the following waivers, as stipulated by Applicant and Upper Lamprey Neighbors Group (ULNG) (see attached "Stipulate to Waivers" dated February 09, 2010 and signed by Applicant February 11, 2010):
  - 2.1. Plan Scale
  - 2.2. Contour Intervals
3. Other Conditions imposed by the Planning Board:
  - 3.1. Applicant shall comply with the proposal dated March 13, 2008 from Continental Placer (attached) and with the additional processes and monitoring well installations recommended in the letter dated May 21, 2008 from Emery and Garrett Groundwater, Inc. (attached). This work shall be completed prior to the start of any quarrying activity associated with this project.
  - 3.2. Applicant shall not exceed a sound level of 65 decibels, Scale A, at any property lines of the lots included in this decision. If at any time during operations the sound level at any property line is measured by an agent of the Town of Raymond at a level exceeding 65 decibels, Scale A, from an onsite operations-related source, not to include blasting, then this excavation permit shall be eligible for revocation by the Raymond Planning Board. Initial testing shall take place at the expense of the applicant during site set-up, but before beginning of operations. Applicant shall keep a calibrated sound meter in the scale house at all times for use by the applicant and the Town of Raymond designee. Refer to Item #2 in letter from Thibeault Properties dated April 2, 2009 (attached).
  - 3.3. Applicant shall submit an engineered design of the improvements required by DES for the bridge, at which time, the design will be submitted to the Town Engineer for peer review and approval.

- 3.4. Applicant shall submit a detail of proposed signage required under Article XIV (C)(17)(A) of the Raymond Earth Excavation Regulations and illustrate proposed location(s) on the cover sheet.
- 3.5. Applicant shall provide details of the construction of the 10' x 15' fenced equipment fueling area indicated on the Cover Sheet, along with details of the 20' x 20' fenced equipment storage area also indicated on the Cover Sheet.
- 3.6. Only 5 acres of the site shall be open at any given time. Areas in excess of 5 acres will be reclaimed as work progresses in accordance with the letter from Thibeault Properties dated April 2, 2009 and with notes on the plan.
- 3.7. The Operations and Emergency Response Plan on file for the previously voided Excavation Permit applies to this application, but will be updated and submitted to the Planning Board for review and acceptance after set-up and testing, but prior to start of operations.
- 3.8. Fugitive dust control within site, which includes all lots included in this approval, shall be employed in accordance with NH Code of Administrative Rules ENV-A 2805.01 and 2803.02, as may be amended from time to time (see below); Note 6, as amended, under "Excavation Notes" on the Grading Plan; and as stated in the letter from Thibeault Properties date April 2, 2009 and the NHDES Air Resources Division Permits to be issued for this facility and location, copies of which will be provided to the Town of Raymond Community Development Department in accordance with Paragraph 1.1 of these conditions of approval.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART Env-A 2805 FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY

Env-A 2805.01 Fugitive Dust Control Within Plant Property.

(a) For a source or plant subject to this chapter, the owner or operator shall control emissions of dust from vehicular movement within the plant property boundaries. Fugitive dust control methods shall include, but shall not be limited to, paving or wetting the roadway.

(b) For a source or plant subject to this chapter, the owner or operator shall control emissions of dust from stockpiling. Fugitive dust control methods shall include, but shall not be limited to, wet suppression, windbreaks, enclosures, or soil stabilization.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1210); ss by #8218, eff 11-24-04

Env-A 2803.02 Fugitive Emission Control Systems for Sand and Gravel Sources. The owner or operator of a sand and gravel source shall not operate the source unless it is equipped with a fugitive emission control system that is operated and maintained to control the emission of particulate matter.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1210); ss by #8218, eff 11-24-04

- 3.9. In no event shall fugitive dust from operations, vehicular movement, un-reclaimed excavation, etc., leave the site, which includes all lots included in this approval. Failure to prevent fugitive dust leaving the site will result in plan approval revocation.

3.10. The applicant shall complete reclamation of the areas of prior earth excavation activities on the site, which includes all lots included in this approval, in a manner consistent with Raymond Earth Excavation Regulations, within six months of the plan approval date of February 11, 2010. Failure to reclaim will result in plan approval revocation.

4. Off site improvement fees for specific deficiencies found to have a rational nexus to this project are as follows: *(describe in detail and amount)*

4.1.

The motion was seconded by Bill Hoitt. The motion failed with a vote of 1-4-0, with Bill Hoitt voting in favor, and Jim Kent, Gretchen Gott, Doug Vogel and Jonathan Wood voting against the motion.

Next, the Planning Board members discussed their individual reasons for voting against the previous motion:

Doug Vogel

- Concerned that the application is not compatible with the Master Plan in terms of both local and regional considerations;
- Concerned with the great increase to traffic;
- Concerned with the hydrogeological risk involved with the project.

Gretchen Gott

- Concerned with the scope of the project in terms of its size and duration;
- Concerned that there is a presumed allowed use for the property by the applicant. To her, a quarry is not the only possible use of the property;
- Concerned with hydrogeological impact of the project;
- Concerned with the impact of this project on the several (4) community water systems and also the numerous private wells in the area;
- The question of the impact of blasting on liniments in this area has not been answered;
- The applicant has committed several violations on this site over the last 20 years;
- The Board has consistently requested site inspection logs be compiled and submitted, and only a marginal number of logs have been submitted;
- In regards to the Appraisal Study, no comp. data was provided on either condominiums or apartment complexes, when each of these housing types is a major group of housing being impacted;
- There are open questions on the cumulative effect of damage from repeated blasting;
- The Town's Peer Review Engineer has stated in the past that any piece of property can be developed with proper engineering, but is that development in

harmony with Town Regulations and with the Community. Ms. Gott personally does not feel the project fits that statement;

- Concerned with forcing people to have to become habituated to noise and exposed to dust.

Jim Kent

- Mr. Kent noted he, too, shares the concerns already voiced by other members of the Board in terms of compatibility with the Master Plan, hydrogeological concerns, etc.
- Noted the project is not expressly prohibited, but feels the evidence available does not conclusively suggest public safety will be ensured, specifically in regards to water assets;
- Concerned with the fact that the Alteration of Terrain Permit seems to suggest that mitigation of water quantity or quality issues, foundation or other damage issues, etc. can only take place through the State level – it appears there is no opportunity for local input. Mr. Kent is also concerned that the State process may not be as expedient as we would desire. He added that the response system is reactive rather than proactive;
- Feels that past behavior is an indicator of future behavior;

Mr. Wood asked if Mr. Hoitt would like to make any comment prior to a motion. Mr. Hoitt stated he would reserve comment until after the applicant sues the Town in Court.

MOTION: Doug Vogel made a motion to deny Application #2007-002 as presented by Thibeault Sand & Gravel, LLC for property shown on Raymond Tax Map 32 Lots 43 & 68, Tax Map 37 Lot 2, Tax Map 38 Lots 12 & 13 accessed via NH Route 27, for the following reasons:

1. Hydrogeological risk without the ability to mitigate the likelihood of detrimental consequences to the public;
2. Described length of the project is too long to determine long-term repetitive blasting and vibration damage, even with the applicant's best practice;
3. Public safety concerns for air quality, heavy traffic and other general safety concerns with reduced State and Federal support, all placed upon the Town of Raymond;

Jim Kent seconded for discussion. DISCUSSION: Gretchen Gott stated she feels it is important to recognize that a quarry is not the only possible use for this site. Walter Mitchell suggested that the Board expand the list of reasons, or at the very least make reference to additional reasons that the Board is relying on for denial. Jonathan Wood requested that Mr. Kent withdraw his second and Mr. Vogel withdraw his motion so the motion can be more clearly made. Mr. Kent withdrew his second to Mr. Vogel's motion; however Mr. Vogel did not withdraw his motion. Mr. Vogel's motion was not seconded, and therefore, failed.

MOTION: Jim Kent made a motion to deny Application #2007-002 as presented by Thibeault Sand & Gravel, LLC for property shown on Raymond Tax Map 32 Lots 43 & 68, Tax Map 37 Lot 2, Tax Map 38 Lots 12 & 13 accessed via NH Route 27, for the following reasons:

1. The project is not compatible with the Master Plan in terms of both local and regional considerations;
2. The hydrogeological risk involved with the project;
3. A quarry is not the only reasonable use for this property;
4. The impact of this project on the several (4) community water systems and also the numerous private wells in the area;
5. Open questions regarding the impact of blasting on liniments in this area;
6. Open questions on the cumulative effect of damage from repeated blasting;
7. The evidence available does not conclusively suggest public safety will be ensured, specifically in regards to water assets;
8. The Town does not have any local input for a monitoring mitigation plan. The response system is reactive rather than proactive;

The motion was seconded by Gretchen Gott. The motion passed with a vote of 4-1-0, with Jim Kent, Gretchen Gott, Doug Vogel and Jonathan Wood voting in favor, and Bill Hoitt voting against the motion.

**Other Business**

No other business was discussed.

**Adjournment**

MOTION: Doug Vogel made a motion to adjourn. Jim Kent seconded. The motion passed with a unanimous vote of 5-0-0. The meeting adjourned at 9:39 p.m.

Respectfully submitted,

Robert Price  
Planning Technician