

# TOWN OF HIGHGATE

## Development Review Board

May 12, 2016 @ 6pm

### Approved Minutes

**NOTE: All actions taken are unanimous unless otherwise stated.**

#### I. CALL TO ORDER

The meeting was called to order by chairman, Rick Trombley at 6:04pm, noting there was a quorum present.

##### Present at this meeting:

- **DRB members:** Rick Trombley, Chair; Woody Rouse; Tim Reynolds; Scott Martin; *absent – Julie Rice*
- **Staff:** Wendi Dusablon- Planning & DRB Clerk; Heidi Britch-Valenta – Zoning Administrator
- **Public / Other:** Jesse Danner; Roger Wright; Chad Degree; Hillary Shover; Mike Ladieu; Marcel Begnoche; Pete Paquette; Sam Ruggiano; Paul Bierman; Richard Fortin

#### II. PUBLIC HEARINGS

- **WRB, LLC – ROGER WRIGHT**  
Conditional Use & Site Plan Review  
Sand Pit – Lamkin Street  
Village District & Medium Density Residential District

Rick swore everyone in that would be providing testimony, noting that a quorum was present. Jesse Danner, Ruggiano Engineering, gave an overview of the proposal. The property, located on Lamkin Street, is approximately 99 acres in size and is a previously approved sand pit. The site was given ACT250 approval in 1977 and renewed in 2014. This proposal involves extracting sand down as far as 10' from a 10 acre parcel located on the east side of the pit. The material extracted will be brought to a stockpile location on the property and an existing service road will be utilized. The proposed project has received approval from the Highgate Volunteer Fire Department, AmCare Ambulance Service, Franklin County Sheriff's Office, Vermont State Police, Fish & Wildlife and the Department of Environmental Conservation. All the approval letters are included in the packet already submitted. The extraction plan will be based on limits set in the town's development regulations; 150' setback from all property lines and 50' from the top of the slope to the amphitheater area that leads to the Missisquoi River, this will be an undisturbed buffer. The extraction will take place in two phases, 5 acres at a time, extracting from the south to the north in phase 1, which will include limits of extraction and erosion control measures. As an added measure of safety, an orange safety fence will surround the entire project area at all times and will be relocated as the extraction area is moved. Any storm water run-off will be directed to the north of the pit to be infiltrated into the well-draining sandy soils. No storm water is proposed to leave the site. Also included in the plan are details and specs for the service road, which will allow the removal of material to the stockpile area. Upon completion of phase 1, the phase 1 area of 5 acres will be reclaimed. Based on the plan, the maximum allowable slopes will be 8% for the reclaimed area, as per regulations with the Agency of Agriculture. Also being proposed is to add a minimum of 4" of top soil, seed and mulch to the extracted area to return the area to its agricultural potential for future uses. Phase 2 of the extraction will take place while phase 1 is being reclaimed. The same slopes are proposed at 4-1. The designed extraction is to go 10' deep at the maximum. The coarse soils being sought are approximately 5-10' deep. The prepared plan shows a 10' depth extraction, but likely they won't need to go that deep. Only the profitable coarse soils will be removed. Upon completion of phase 2, phase 2 reclamation will begin. The same 8% slopes will be obtained. This proposal also involves extraction of material and conveyance on the existing road to the stock pile area. This will not increase truck traffic at

the site. The previously existing truck traffic will continue to be as approved in the ACT250 amendment. The stock pile area will be located in the northwestern area of the property, which is currently the location of an extraction area. Tim asked if the stockpile area soil has been stripped already – yes, it has. Water and calcium chloride will be used as needed, consistent with previous permits. Noise from the project will be minimized as much as possible by using sound dampening measurers on the equipment. The existing ridgeline on the north face has tree coverage and that will likely screen out some noise also. The proposed rate of extraction will take 6-8 months. Calculations shown on the C-1 map have used 180 days as the time table and that is 45 trucks loads per day with 20 cubic yards per truck. A total of approximately 160,000 cubic yards of material will be obtained if they extract down to 10'. Trucks will be staying in the pit, going from extraction to stockpile, which is why they are loading them to 20 yards. Scott had concerns about traffic on Lamkin Street and noise associated with extra truck traffic and use of their jake brakes. Paul Bierman is a geology professor from UVM. He looked at the site and noted that half is either heavily or partially vegetated, mostly by the river or in the amphitheater location. He noted some disturbances at the site, mostly from off road vehicle traffic. In terms of erosion potential there are two types of water concerns; water falling over the surface and water that flows into the sub-surface. Most water in this area moves in the sub-surface. Underneath the layer of sand is some finer material that does not absorb water well. His observation is that other than the off road vehicle disturbances, he does not see any erosion or gulying. What he did see was the large amphitheater area by the river. Those become inactive and active at times. We have no way to know geologically how they will behave over time. There are ways to aggravate them, by pouring surface water on them or taking trees away. This proposal to slope the project away from the river is a good plan. It is also important to maintain a vegetative buffer. His conclusion is that if the excavation is well managed and to plan, there is nothing to aggravate the slope instability at this site. Heidi had some questions about the narrow point on the road and the ravine on both sides. Mr. Bierman doesn't see an issue with trucking there, but he is not a bridge engineer. Rick had questions about the road shown and where it connects to the existing service road. He also asked how many entrances there are to the pit, and if another entrance was being used where the mobile home used to be. Roger said he uses that entrance to fuel up without having to open the gate, which he will stop doing. Scott asked about the ATV activity at the pit and if the site is secure. The ATVs access the property from other ways. The entry way is gated and the land is posted with the town. Tim asked about the original pit and the reclamation of it. Roger said it was going to be planted with corn very shortly. The wash out area on the other side near Mill Hill Road is in negotiation with the state right now. Mr. Bierman spoke to the wash out area, which happened in 2014 and happened very rapidly. These types of events usually happen during high ground water times of year, like the spring. He noted that last week when he looked at it again, it had not expanded much in two years time and was starting to vegetate. Rick asked what happened to the mobile home that used to be on the property. Mr. Wright removed it and brought it down to the Casella landfill. Mr. Ruggiano asked if that was still a buildable lot. Roger stated that he had a septic design done and wants to build a three bedroom home there. He did not want to pay taxes on the mobile home so he destroyed it. Rick also asked about the shack built out of pallets on the site. Nobody lives in it, the kids nailed the pallets together and threw a tarp on it to play in. Chad Degree asked about the sand that will eventually make its way out of the pit from the stockpile and he is concerned about that process. Mr. Ruggiano stated that after it is stockpiled the material will leave the site using the entrance / exit being used now. The extraction rate will remain the same, there are 7 years left on the ACT250 permit. There won't be any additional truck traffic on a daily basis, the goal is to have it all gone over 7 years, they have until October, 2022. Mike Ladieu asked if the gate will be secured like it used to be, so kids can't access the pit. He knows they can get in anyway, but would like it to be secured. Roger advises the drivers to lock the gate, but they don't always. Mike would like Roger to be more stern about that. Scott Martin lives on Lamkin Street and wants to make sure there aren't 45 trucks per day going through there with their jake brakes going, that would be very annoying.

Roger can only imagine seeing an increase in the fall when multiple towns are hauling sand out of there in preparation for the winter season. Mr. Ruggiano pointed out that Mr. Wright has to stay within his approved limit, which is 60 trucks per day, and he will never hit that. Scott wanted it noted on the record that his concern is about the heavy increase in truck traffic. Scott believes there are weight limits on the side streets (Cross and Decatur) so those are probably not an option, but Roger could check with Andy King. Tim has a concern about trucking over the little bridge. It was clarified that it is basically a 4' galvanized culvert. Mr. Begnoche said that they have been hauling on it all along and he wouldn't worry about the culvert. Heidi asked for clarification on what was just said, and if extraction has been going on all along in this proposed area. There are no permits currently in place to extract from this area, that is the process they are going through now. Mr. Bierman added that he had not seen any active extraction going on there. The area in question is behind Hoague Drive. There is very little top soil in that area, if any. Tim asked if they have enough top soil on site to reclaim. Mr. Ruggiano said they may have to bring some in, but they don't know yet. Heidi had more questions about the reclamation process. Tim asked about "overburden" and what it means – it is the material on top of the material that Mr. Wright really wants. He is after the more coarse material down further. The geologist concurred that a great part of the overall design is to direct storm water towards the slope, not the river, and that is why they are not starting to the north. This will not disturb the bank at Hoague Drive because they will be observing the setback. There will be no equipment used to sort or crush, it is all fine gravel in there. Hours of operation will be Monday through Friday 7am – 4:30pm and Saturdays until noon, which are the same as the existing permits. The DRB has the ability to ask for a bond on proposals such as this. Tim is concerned there isn't enough top soil for the reclamation process. Roger has a stockpile of top soil now on site, he feels there will be plenty. Rick read through the criteria from the development regulations with regard to a conditional use and site plan review. Scott thinks a site visit to the pit would be helpful. Rick asked about a time frame for this project. They still need to go through ACT250, and Geoff Greene is aware and a big concern is archeology. UVM did a study already and found nothing. There was nothing further from the public. Heidi asked about the acreage on the 1977 ACT250 permit, it was 140 acres. The current ACT250 permit does not state how many acres can be open without reclaiming. There will be no further extraction from behind the new house on Lamkin Street, just a grassy area for staging and stockpiling. There will be a site visit to the Lamkin Street property owned by WRB, LLC / Roger Wright on Tuesday, June 7, 2016 @ 4:15pm. Mr. Ruggiano will be there to show them around and point things out, everyone will meet at the gate on Lamkin Street. Motion by Rick Trombley to recess this hearing @ 7:02pm, the motion was seconded by Tim Reynolds – **APPROVED**.

- **JAMES (PETE) PAQUETTE**  
Sketch Plan Review – 5 Lot Subdivision  
Rheaume Road  
Medium Density Residential District

Rick opened this hearing @ 7:05pm and swore Mr. Paquette in, noting a quorum was present. A sketch letter was sent to Mr. Paquette on March 22, 2016. Since then a lot has been removed from the plan, making it a 5 lot subdivision now, which is why he is still at sketch plan review. Mr. Paquette will be putting 40 acres into current use and it won't be developed as part of this proposal. This 40 acre lot contains a large sugar woods, cemetery and apple orchard and he may plan to build there someday. The driveway was moved further away from the intersection and one lot has been eliminated. The first 60' will be paved off from the state highway, US Route 7. Next month he will have a septic plan. The state permit needed for the curb cut off the state road has not been put in yet. That driveway will service two lots basically. Tim asked if it was a 50' right of way – no, because it is not serving a development road. It is 16' but can be widened if developed further into the future. Tim had questions about the lot numbers on the plan. Heidi asked about any shared infrastructure, to which Mr. Paquette indicated there would be a shared septic with an easement for two of the lots. Rick read through the criteria from the development regulations for a major subdivision from sketch plan review to

move on to preliminary review. To move on to preliminary review the board needs to see 1) information regarding the management plan for any shared infrastructure, 2) tax map and deed references for all adjoining lands and across the road, 3) a letter of no concern from the fire department for emergency access, 4) state access letter of intent and 5) all building envelopes must be depicted as well as all aspects of the preliminary review as outlined in the development regulations. Mr. Paquette should also meet with Andy King regarding road standards and drainage requirements. The deadline to submit documents for the June 9<sup>th</sup> hearing is Monday, May 23<sup>rd</sup> by 4:30pm. Heidi asked Mr. Paquette about the Quarry Lane project and where that stands. There have been some water issues he is dealing with at that site. Motion by Rick to recess the hearing @ 7:29pm until Mr. Paquette is ready for a preliminary hearing. The motion was seconded by Tim Reynolds – **APPROVED**.

**III. APPROVAL OF MINUTES**

Motion by Rick Trombley to approve the minutes from April 14, 2016, as written. The motion was seconded by Tim Reynolds – **APPROVED**.

**IV. OTHER BUSINESS**

- **Decision letter for review**  
~ Tyler Place file #DRB-008-16 - Heidi will rework the section #6 under "order" and send it out to the board for review before it is sent out.
- **Misc. updates**  
~ On the record review and writing an effective decision letter were discussed and print outs were included in the DRB packets. We are currently a "de novo" board so basically if you go to court on an issue you have to start the whole scenario over again. On the record review uses the DRB decision as the basis of the case for what has already been determined. Rick believes we should move to being an "on the record" board, and Scott agrees. In an "on the record" appeal, the environmental court investigates procedural defects and whether the record and applicable bylaws support the municipal board's decision. The challenge is, that it puts a lot of responsibility on the review to flush out all the details and get it all down on paper. The DRB is a quasi-judicial board that makes a judgement on a case.  
~ The DRB protocol rules & procedure and conflict of interest policy is back in the packet as a review and reminder. Heidi reminded the group that while out in the public nothing should be discussed outside of the actual hearing. Sometimes it is difficult to walk away from someone that wants to talk about an issue. If that should happen, the conversation should be acknowledged and noted for the record at the next meeting.
- **Reorganize the DRB**  
~ Rick mentioned that the DRB should have been reorganized after town meeting. Wendi will put this on the agenda for the next meeting.

**V. UPCOMING EVENTS**

May 17	6pm	Planning Commission Mtg.
May 19	7pm	Selectboard Mtg.
May 30		MEMORIAL DAY IN HIGHGATE BBQ @ 11, Parade @ 1, Auction after
June 1	6pm	Library Trustee Mtg. @ library
June 2	7pm	Selectboard Mtg.
June 6	3pm	Finance Committee Mtg.
June 7	6pm	Parks & Rec. Mtg. @ arena
June 9	6pm	DRB Mtg.

**VI. DELIBERATIVE SESSION**

Motion by Rick Trombley to enter into deliberative session @ 8:00pm. The motion was seconded by Scott Martin – **APPROVED**.  
Motion by Rick Trombley to exit deliberative session @ 8:30pm. The motion was seconded by Tim Reynolds – **APPROVED**.

**VII. ADJOURNMENT**

Motion by Rick Trombley to adjourn the meeting @ 8:32pm. The motion was seconded by Woody Rouse – **APPROVED**.

Minutes respectfully submitted by:

\_\_\_\_\_, Planning & DRB Clerk  
Wendi Dusablon \_\_\_\_\_ Date

Minutes approved by:

\_\_\_\_\_, DRB, Chair  
Richard Trombley \_\_\_\_\_ Date