

**TOWN OF FREEPORT
Planning Department**

TO: FREEPORT STAFF REVIEW BOARD

FROM: DONNA LARSON, TOWN PLANNER

RE: STAFF REPORT

DATE: TUESDAY, MAY 2, 2017

S.B. Freeport Gravel Pit – Gay Drive - Existing Excavation Renewal

The applicant is seeking a renewal of an approval for an existing excavation operation on Gay Drive. The last approval for the use was in 2012, and the applicant is not proposing any expansions at this time. The applicant has submitted the required materials showing the proposed use for the site. There have been no changes to the plan and the same waivers are requested. The applicant still has an existing Site Location Permit from the Maine Department of Environmental Protection, which was last modified in 2011. The permit was modified to reflect the actual buffering which was less than noted in the original permit. The Town Engineer did conduct a site visit; his comments and concerns are outlined in a memo dated May 1, 2017.

As with the previous applications, there are three standards of the Ordinance that the application does not meet and waiver is required. The waivers are noted in the findings below and are applicable to Sections 509.G.1, 509.G.2, and 509.G.3.

509.G.1 Buffering - As the applicant continues with operations on the site, they will continue to try to increase buffers wherever possible as they do not meet the 150 foot required buffer in some locations. There has been no change in the existing buffers since the last renewal.

509.G.2. Groundwater - The applicant has still not met groundwater yet, but will continue to follow their DEP groundwater monitoring plan, as they assume that they will hit groundwater at some point. The applicant will be installing wells on their property as part of the monitoring plan. It is anticipated that this will be done by this summer.

509.G.3. Slope - There are some steep rock wall faces on the quarry which the applicant has stated are benched for stability. After a site inspection by the Town Engineer, it was noted that there is no benching. Going forward, as additional material is removed, the applicant needs to be adequately maintaining the benches in the steep areas.

The applicant should continue to follow the DEP Best Management Practices for Erosion Control and adequately maintain erosion control measures on the site. During the on-site visit by the Town Engineer, it was noted that erosion control measures do need to be corrected in some locations. It has been added as a condition of approval that the erosion and sedimentation control issues identified in the Engineer's May 1, 2017 memo be corrected within 14 days; subject to inspection and approval by the Town Engineer.

There have not been any recent complaints about blasting on the site, but as part of the applicant's blasting plan, they do notify residences within 500 feet when they will be doing blasting. At the last

renewal in 2012, residents raised concerns about blasting. A condition of approval was added that the applicant adheres to the pre-blast requirements of the DEP; the same condition is proposed.

Section 509.G Standards for Operation of Existing Excavations, Expansion of Existing Excavations and New Excavations. All excavations shall meet the following requirements:

1. A buffer strip of one hundred fifty (150) feet from all public rights-of-way and one hundred fifty (150) feet from all other boundaries of the property is required.

A waiver of this standard is requested. The existing operation does go in to the required setback, although the applicant has stated that no additional horizontal expansion will occur and they will try to increase buffers whenever possible. Based upon this information, the Board finds that this standard has been met.

2. Excavation shall not extend below an elevation of five (5) feet above the seasonal high ground water table as established by competent, technical data.

A waiver of this standard is requested. The excavation will go deeper in to the groundwater. The applicant has done a hydrogeologic study which makes recommendations to maintain groundwater quality. There have been no issues identified with groundwater since the last approval. The applicant intends to install the monitoring wells this spring or summer. Based upon this information, the Board finds that this standard has been met.

3. For existing excavations, the average slope of any cut bank measured from the top of the slope to the toe of the slope shall not be steeper than a horizontal to vertical ratio of 2:1. Any excavation in lawful operation at the effective date of this ordinance whose slopes are steeper than this requirement may maintain, but not increase, such non-conforming slopes.

A waiver of this standard is requested. The applicant is proposing to maintain the 3:1 slope in most areas. There are some steep rock wall faces on the quarry and for which the applicant has stated are benched for stability. After a site inspection by the Town Engineer, it was noted that there is no benching. Going forward, as additional material is removed, the applicant needs to be adequately maintaining the benches in the steep areas. Based upon this information, the Board finds that this standard has been met.

4. Excavation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 2:00 p.m. Saturday.

The applicant has agreed to adhere to these hours of operation. Based upon this information, the Board finds that this standard has been met.

5. Access to the site shall be approved by the Project Review Board and may be limited according to the particular circumstances of the proposed operation; at a minimum, a gate with a lock shall be located at each entrance.

No changes to site access are proposed. The gate and lock at the entrance will continue to be maintained. Based upon this information, the Board finds that this standard has been met.

6. Rock and stone crushing, or other processing activities, which may be permitted by the Project Review Board as an accessory use to excavation operations, shall be limited to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and may be prohibited or further restricted by the Project Review Board if it will unreasonably interfere with existing and/or future residential uses.

The applicant will adhere to these hours. Based upon this information, the Board finds that this standard has been met.

7. Erosion and sedimentation on site shall be adequately controlled, based on guidelines of the Cumberland County Soil and Water Conservation District; CCSWCD approval shall be required;

The applicant will continue to adhere to the previously submitted and approved erosion and sedimentation control plans and will follow the DEP Best Management Practices for Erosion Control. During the on-site visit by the Town Engineer, it was noted that erosion control measures do need to be corrected in some locations. It has been added as a condition of approval that the erosion and sedimentation control issued identified in the Engineer's May 1, 2017 memo be corrected within 14 days; subject to inspection and approval by the Town Engineer. Based upon this information, the Board finds that this standard has been met.

8. Sufficient topsoil shall be retained and stockpiled on the site to comply with the approved reclamation plan.

The operation is primarily used as a quarry and the applicant has been maintaining adequate reclamation grades. Based upon this information, the Board finds that this standard has been met.

9. Signs and lighting shall be designed and located to prevent public nuisance conditions or undesirable excess lighting of the neighborhood and the sky. One sign of a maximum size of 24 square feet shall be permitted at the entrance access road. If the excavation is in a residential district, the maximum size of the sign face shall be 12 square feet. The sign shall be wood with minimal down-lighting or no lighting.

No changes to signage or lighting are proposed and there have been no complaints about either since the last renewal. Based upon this information, the Board finds that this standard has been met.

10. All potentially hazardous materials (petroleum products, salt, rubbish, etc.) shall be stored on impervious surfaces in watertight containers.

No changes are proposed. The applicant will continue to follow the previously approved "Shaw Brothers Construction Inc's Freeport Pit Spill Prevention, Control, and Countermeasures Plan." Based upon this information, the Board finds that this standard has been met.

11. Noise. No operation shall exceed the noise levels required by Sec. 515.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. Based upon this information, the Board finds that this standard has been met.

12. Odorous and Toxic Matter. The requirements of Sec. 516 shall be met.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. The applicant will continue to follow the previously approved "Shaw Brothers Construction Inc's Freeport Pit Spill Prevention, Control, and Countermeasures Plan." Based upon this information, the Board finds that this standard has been met.

13. Electromagnetic Interference. The requirements of Sec. 517 shall be met.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. Based upon this information, the Board finds that this standard has been met.

14. Smoke and Particulate Matter. The requirements of Sec. 518 shall be met.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. Based upon this information, the Board finds that this standard has been met.

15. Vibrations. The requirements of Sec. 519 shall be met. Any blasting shall require Project Review Board review under Sec. 509.F.

The applicant will continue to operate under the previously approved "SB Freeport: Written Protocol for Blasting at Gay Road Quarry." There have not been any recent complaints about blasting on the site, but as part of the applicant's blasting plan, they do notify residences within 500 feet when they will be doing blasting. At the last renewal in 2012, residents raised concerns about blasting. A condition of approval was added that the applicant adheres to the pre-blast requirements of the DEP; the same condition is proposed. Based upon this information, the Board finds that this standard has been met.

16. Fire and Explosive Hazards. The requirements of Sec. 520 shall be met.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. Based upon this information, the Board finds that this standard has been met.

17. Lighting. The requirements of Sec. 521 shall be met.

The operation will continue to operate within the standards of the Ordinance, as no changes are proposed. Based upon this information, the Board finds that this standard has been met.

18. Water Quality Protection. The requirements of Sec. 522 shall be met.

The applicant will continue to follow the "Recommendations for Maintaining Groundwater Quality" as prepared by Sevee and Maher Engineers Inc. and previously approved by the Board. Based upon this information, the Board finds that this standard has been met.

19. Groundwater. The requirements of Sec. 523 shall be met.

The operation does require pumping and a hydrogeologic study has been done to look at the impacts on the groundwater. The applicant will continue to follow the previously approved "Shaw Brothers Construction Inc's Freeport Pit Spill Prevention, Control, and Countermeasures Plan." Based upon this information, the Board finds that this standard has been met.

20. Reclamation plans shall meet the requirements of Sec. 509.H.

The applicant will continue to follow their previously submitted reclamation plan, as applicable. Based upon this information, the Board finds that this standard has been met.

Proposed waivers: Be it ordered that the Freeport Staff Review Board move to approve a waiver of Section 509.G.1 to not require a buffer strip of 150 feet, as the reduced buffer is existing, there will not be any further encroachment into the buffer and the applicant has agreed to restore the required buffered as much as possible.

Be it further ordered that the Freeport Staff Review Board move to approve a waiver of Section 509.G.2 to allow excavation below an elevation of five (5) feet above the seasonal high ground water table in that the applicant has done a hydrogeologic study which makes recommendations to maintain groundwater quality and prior to encroaching into the water table, monitoring wells will be installed on the applicant's property.

Be it further ordered that the Freeport Staff Review Board move to approve a waiver of Section 509.G.3 to allow a slope with a horizontal to vertical ratio of steeper than 2:1 in that existing and future steep vertical faces on the rock quarry will be benched every 30 feet for stability.

Proposed motion: Be it ordered that the Freeport Staff Review Board move to approve the printed findings of fact and renewal of the excavation plan for SB Freeport, for the excavation operation on Gay Drive, to be built substantially as proposed, submission dated April 17, 2017, finding that it meets the standards of Section 509 of the Freeport Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by references all supporting plans submitted by the applicant and his/her representatives at Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions of approval.
- 2) Any conditions for the previous approvals are still applicable.
- 3) This approval is valid for three years. If the applicant wishes to continue the operations past that time, they must seek a renewal of the approval from the Board.
- 4) The applicant continue to adhere to the pre-blast requirements of the DEP.
- 5) The erosion and sedimentation control issues identified in the Engineer's May 1, 2017 memo be corrected within 14 days; subject to inspection and approval by the Town Engineer.
- 6) As additional stone is excavated from the site, the applicant maintain the vertical walls with benches every 30 feet.