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Town of Dover Planning Board

JUN 22 2010

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



TOWN CLERKS OFFICE
TOWN OF DOVER
(845) 832-6111 ext 100

RESOLUTION DETERMINING SIGNIFICANCE
CONDITIONED NEGATIVE DECLARATION

APPROVED

RASCO MATERIALS SITE PLAN

June 21, 2010

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

COPY

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:

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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

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TOWN OF DOVER

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

IMPOSED MITIGATION MEASURES

- 1. Installation of a tracking pad at the entrance/egress to Building A.**
- 2. The operation of the facility shall comply with the requirements of §145-40.D, "Vibration." Within three (3) months of the issuance of a Certificate of Occupancy by the Town of Dover Building Inspector and commencement of operations, the Applicant shall prepare a vibration analysis to demonstrate compliance with this provision. The vibration analysis shall be submitted to the Town of Dover Building Inspector, or his or her designee, for review and approval. A copy of the vibration analysis shall be transmitted to the Planning Board. Should the operation of the facility not comply with §145-40.D, the Applicant shall propose and implement vibration mitigation measures under the direction of the Town of Dover Building Inspector, or his or her designee.**
- 3. Installation of a berm and bio-retention areas in the area along the access drive near the railroad and between the site and the wetland location, as approved by the Town Engineer and Planning Board.**
- 4. Only clean aggregate may be stored outside. Contaminated and processed material must be stored in designated buildings.**
- 5. Vehicles that carry contaminated or processed material may not be stored outdoors unless thoroughly cleaned. Storage area locations shall be clearly indicated on the site plan and enforceable by the Town.**
- 6. Installation of a secondary containment system around the pug mill, to be used conjunction with the proposed drip pan, to prevent spilled or leaked emulsion from leaving the site.**