

QUINTON TOWNSHIP PLANNING BOARD

RESOLUTION NO.: 10-8

**RESOLUTION GRANTING AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN
APPROVAL AND CONDITION USE APPROVAL**

RE: BLOCK 35, LOTS 54, 63, 64, 66 & 67 (358 State Highway 49)

WHEREAS, an application was made to the Quinton Township Planning Board (the "Planning Board" or the "Board") by THREASTON E. WARREN, JR. and MARJORIE K. WARREN, whose address is P.O. Box 635, Salem, New Jersey 08079, for Amended Preliminary and Amended Final Site Plan Approval and Conditional Use Approval to allow for the development of a soil wash plant, a temporary storm water storage / infiltration basin, storm water sedimentation basins and related site improvements as accessory uses to the soil removal operations that were previously approved by the Planning Board involving land located at 358 N.J.S.H. Route 49, within a P-BR Zoning District, and more particularly known as Block 35, Lots 54, 63, 64, 66 & 67 on the Official Tax Map of Quinton Township (the "Property") and depicted and described in a Quinton Resource Extraction Accessory Improvement Plan consisting of 7 sheets prepared by Mark R. Brunermer, P.E. (N.J. Lic. No. 37048) of Sickels & Associates, Inc., 833 Kings Highway, Woodbury, New Jersey 08096, dated August 28, 2009 and last revised to January 20, 2010, and in other plans and materials filed with the application, all of which are incorporated by reference herein; and

WHEREAS, the Board determined that it has jurisdiction to hear the application, and that same is complete and in conformity with the Ordinance and the Municipal Land Use Law except for any matters that must be resolved as conditions of this approval; and

WHEREAS, at its March 9, 2010 meeting, the Board heard testimony and representations from the applicant, Mark Brunermer, P.E. (Applicants' Engineer), Dave Monie, P.E. (Applicants' Ground Water Hydrologist), Marvin Blethen, P.E. (Applicants' Professional/Mining Engineer), Lance Landgraf, P.P. (Applicants' Professional Planner) and Clint Allen, Esq., and provided an opportunity for interested persons to make statements or ask questions about the application; and

WHEREAS, Mark Brunermer provided testimony regarding the site plan. Brunermer specifically testified that the sand wash operation will utilize stormwater, however, well water will be used to supplement if there is not enough stormwater. Brunermer further stated that the maximum water depth of the stormwater basin will be four feet and that there are no chemicals to be used in the washing facility. Furthermore, there is no major additional lighting proposed for the facility; and

WHEREAS, Brunermer further testified that the basin is designed to hold a 100 year storm and that any overflow will go past the applicants' house and into the pond. In addition, Brunermer testified that the water in the basin will be used for the sand wash operations and will therefore not become stagnant; and

WHEREAS, Dave Monie testified that there will be two wells on the site and that the applicant cannot use more than 3 million gallons of water per month, which is acceptable New Jersey guidelines. Monie testified that it has been determined that the use of 3 million gallons of water per month will not interfere with anyone else's usage of the water and the overall cone of influence will not exceed 1,200 feet; and

WHEREAS, Mr. Monie further testified that approximately 10% of the water will be lost during the sand washing process and that the well usage will be monitored by the NJDEP; and

WHEREAS, Marvin Blethen provided testimony as a land mining engineer. Mr. Blethen provided a description of the mechanism in which the sand wash operation works and he stated that the by-product settles into berms which are scraped periodically. The by-product is then stored on site and used as part of the reclamation process; and

WHEREAS, Lance Landgraf provided testimony in which he stated that the sand wash operation is consistent with the goals of the Quinton Township Master Plan because it provides for stormwater management; and

WHEREAS, Mr. Landgraf also provided testimony regarding the 9 criteria that must be met in order to obtain conditional use approval under Ordinance §170-55.D. In particular, Mr. Landgraf stated:

1. The Applicants' Site Plans, that were previously approved by the Planning Board, depict the Applicants' proposed soil excavation areas and stormwater basins located no closer than 200 feet from any property line nor closer than 500 feet from any residential structure. The proposed soil wash plant, temporary storm water storage / infiltration basin, sedimentation basins and related improvements depicted on the Applicants' Accessory Improvement Site Plans do not impact, nor change, any site buffer zones, setbacks or separation distances depicted on Applicant's previously Approved Site Plans and comply with this Standard.
2. As determined by the Planning Board during its February 11, 2009, hearing of this matter, the proposed resource extraction operations are located on a parcel of land that is greater than 25 acres in size. The proposed soil wash plant and its related improvements do not affect the size of the parcel on which the Applicants' resource extraction operations will be conducted and comply with this Standard.
3. The Applicants' proposed resource extraction operations will continue to include on-site storage of topsoil, for site reclamation, in stabilized berms and / or piles that will protect stored topsoil from wind and water erosion.
4. The sand wash operation is remote enough that its location will prevent unauthorized entry into the resource extraction operation through access roads during non-business hours.
5. The proposed resource extraction operations (i) will continue to be accessed by way of State Highway 49, through a gated, gravel driveway; and (ii) will prohibit access to the Property via Quinton Township roads. The proposed soil wash plant and related site improvements do not change any access to the Property and comply with this Standard.
6. The soil removal operations are designed such that stormwater surface runoff will be maintained in a manner that will facilitate on-site recharge of stormwater.
7. The project will not involve excavation below the seasonal high-water table, or result in a water reservoir, pond or lake for any use.

8. The proposed extraction operations, which will not exceed 25 acres of disturbance at any one time, were previously approved by the Planning Board. The addition of the proposed soil wash plant, temporary storm water storage / infiltration basin, sedimentation basins and related improvements do not enlarge the schedule and / or alter the sequence of the previously Approved soil removal operations.
9. Site restoration for that portion of the Property, which will accommodate the soil wash plant, temporary storm water storage / infiltration basin, sedimentation basins and related improvements, is depicted on the Applicants' Accessory Improvement Restoration Plan. Specifically, the Accessory Improvement Restoration Plan addresses the proposed manner of site restoration, which includes removal and /or decommissioning of the lining material within the temporary storm water storage / infiltration basin, along with soil grading and vegetation planting, after completion of the soil extraction operations. Also, the Applicants will post a letter of credit, surety bond or other form of performance guarantee for the restoration of the wash plant area within the Property. The soil wash plant and its related site improvements do not negatively impact the site restoration plan previously approved by the Planning Board for the Property.

WHEREAS, Andrew Hogg, P.E., the Planning Board Engineer, provided a review letter dated March 9, 2010, in which he offered comments regarding the application, and proposed conditions of approval that are set forth below; and

WHEREAS, Lawrence DiVietro, Jr., P.P., P.L.S. the Planning Board Planner, provided a review letter dated March 9, 2010, in which he confirmed that the proposed development conforms to zoning requirements and fulfills the purpose of the Master Plan for the zoning district in which the property is located; and

WHEREAS, Carolyn Hollen, a member of the public, questioned how the NJDEP monitors the wells and was advised that the applicant self reports to the NJDEP; and

WHEREAS, Janet McKie, a member of the public, questioned how the wells are operated and was advised that they use electricity. She also questioned if the basin is fenced in and was advised that it is no more than two feet in height; and

WHEREAS, Mike Gibson, a member of the public, encouraged the planning board to enforce the ordinance with respect to the prohibition against reservoirs; and

WHEREAS, Joe Hanigan, a member of the public, questioned whether or not the planning board members would obtain their own experts, in addition to the engineer and planner, to review this applicant; and

WHEREAS, Rob Howell, a member of the public, stated that despite what prior experts said, the mining operations have effected his wetlands; and

WHEREAS, Francis Rapa, a member of the public, stated that he is a member of the New Jersey Conservation Foundation and advised the Planning Board that the applicant's plan will create a reservoir in violation of the Quinton Township Ordinance; and

WHEREAS, Ellen Sickler, a member of the public, stated that this operation will disturb the peace and quiet of the area and that Ordinance 170-55 (6)(7) and (9) have not be satisfied by the applicant; and

WHEREAS, Matt Blake, a member of the public, stated that he is a member of the American Littoral Society and provided details regarding the environmental impact of the applicant's plan; and

WHEREAS, Doug Brown, a member of the public, urged the Planning Board to uphold the Township Ordinance; and

WHEREAS, Jeff Sickler, a member of public, also urged the Planning Board to follow the Ordinance; and

WHEREAS, after hearing the above testimony and representations, reviewing all application materials, considering the Planning Board Engineer's review correspondence, and discussing the application with the Planning Board Engineer, Planner and Solicitor, the Board made the following findings and conclusions:

- a. The property is located in an P-BR zoning district. The applicant proposes to develop a soil wash plant, a temporary storm water storage / infiltration basin, storm water sedimentation basins and related site improvements as accessory uses to the soil removal operations that were previously approved by the Planning Board.
- b. The property consists of approximately 170.69 acres.
- c. The lots conform to applicable zoning requirements.
- d. On February 11, 2009, the Planning Board considered a remanded Application for Conditional Use Approval and Preliminary Major Site Plan Approval (Application No: 07-12 and 08-9) as Ordered by the Honorable Anne McDonnell, J.S.C., Superior Court of New Jersey, Salem County, on December 22, 2008, captioned as Threaston E. Warren, Jr., Marjorie K. Warren; and Continental Aggregate Corp., LLC vs. The Planning Board of the Township of Quinton, Docket No: SLM-L-135-08 (the "Court Order"). Thereafter, the Planning Board granted Conditional Use Approval and Preliminary Major Site Plan Approval and, on March 10, 2009, adopted a Resolution memorializing those Approvals, to allow soil removal operations and related mining activities on the Property.
- e. On August 11, 2009, the Planning Board granted Final Major Site Plan Approval and, on September 8, 2009, adopted a Resolution memorializing that Approval to allow the Applicant's proposed soil removal operations and related mining activities on the Property.
- f. The proposed soil wash plant will consist of a series of interconnected soil conveyance and screening equipment that, as an accessory use to the Applicants' soil removal operations, uses a water-based process to screen silt and clay from sand and gravel materials extracted from the Property.
- g. The Applicant proposes the use of storm water, collected within a partially lined, temporary storm water storage / infiltration basin, for the operation of the wash plant to produce the type of clean, screened sand and gravel materials necessary to meet market demands.
- h. The soil wash plant will use a stormwater re-circulation system to obtain water from, and then return water to, the Applicants' proposed stormwater basin. Specifically, stormwater will be pumped to the soil wash plant from the proposed temporary storm water storage / infiltration basin. The stormwater

used in the wash plant to remove silt and clay from the sand and gravel will flow by gravity through a series of storm water sedimentation basins, or forebay basins, on its return to the temporary storm water storage / infiltration basin.

- i. The proposed temporary storm water storage / infiltration basin will retain water, not have a positive outflow and will comply with the New Jersey Stormwater Management Best Management Practices (BMP) Manual and New Jersey Department of Environmental Protection water quality requirements by providing 80% total suspended solids removal.
- j. The soil wash plant and related improvements are proposed for development on the Block 35, Lot 67 portion of the Property.
- k. The Applicants' soil removal operations for the Block 35, Lots 54, 63, 64 and 66 portion of the Property, that previously received Conditional Use Approval, Preliminary Major Site Plan Approval and Final Major Site Plan Approval by the Planning Board are not a part of, or otherwise being amended by, this Application.
- l. The hours of operation will remain 7:00 a.m. to 5:30 p.m., Monday through Saturday.
- m. The applicant has satisfied the requirements of Township Ordinance §170-55.D.(1)-(9) for those reasons outlined by the applicant through the submissions as well as through testimony and conditional use approval is therefore appropriate.
- n. In addition, Ordinance §170-55.D(7) is satisfied because the applicants' resource extraction operation is not creating the basin. Instead, the basin is the result of the sandwash operations. §170-23 allows for the existence of a water reservoir as a permitted conditional use in the PB-R zone.
- o. The conditions of Ordinance §170-23.B.(5) are further satisfied regarding the existence of a water reservoir, because the development of the proposed soil wash plant and its related improvements, including the temporary stormwater storage / infiltration basin and sediment basins, will not involve excavation of soils to a depth within five (5) feet of the projected seasonal high water table. Also, the proposed temporary stormwater storage / infiltration basin will be constructed of earthen or geotextile materials, in a manner consistent with the current as well as proposed development of the property. The proposed site improvements remain consistent with the applicable yard setbacks for the P-BR Zoning District and are consistent with the previously approved site restoration plans. Additionally, adequate landscaping is being provided in connection with the site restoration. Lastly, the Applicants will post a performance guarantee to address the removal and / or decommissioning of the lining within the temporary stormwater storage / infiltration basin in connection with the site restoration activities on the Property.
- p. Because the Applicants' excavations will not go within five (5) feet of the projected seasonal high water table, comply with the Code yard setback and landscaping requirements, is consistent with the Master Plan and will not result in the creation of a pond or lake following completion of the site resource extraction operations, this Application complies with these Standards.

NOW, THEREFORE, BE IT RESOLVED by the Quinton Township Planning Board that for the reasons set forth above, the applicant's amended preliminary and amended final major site plan application, and conditional use application as noted above, are hereby granted subject to the following conditions:

1. The applicant must pay any and all required fees and escrow replenishment amounts that are due or may

become due to the Township within seven (7) days notice thereof.


2. The applicant must comply with all representations made through any representative during the course of its presentation to the Board and in all documents filed with the application.
3. The applicant must submit to the Planning Board Engineer revised plans in accordance with his letter dated March 9, 2010 and shall include, but not be limited to, the provision of additional grades to delineate the berm along the southern side of the stormwater basin, remove the phrase (Quonset Hut), correct the typographical error on the note numbering sequence and locate the bollards farther away from the utility poles as shown on the Stormwater Management Plan. In addition, the applicant must revise the plans in accordance with section D "Additional Technical Review Comments" as set forth on the planning board engineer's March 9, 2010 review letter.
4. The applicant must obtain approvals or letters of inapplicability from all other agencies having jurisdiction over the applicant's proposed development, including but not limited to the Salem County Planning Board, the Cumberland-Salem County Soil Conservation District, the New Jersey Department of Environmental Protection and the Salem County Board of Health, and thereafter submit copies of same to the Planning Board Engineer to confirm that all such approvals and/or non-applicability determinations have been obtained.
5. The applicant, to the satisfaction of the planning board engineer, must revise the restoration plan to show that all the wells will be abandoned.
6. The applicant, to the satisfaction of the planning board engineer, must use a lining material for the basin which is compliant with local and state rules and regulations.
7. Consistent with Quinton Township Soil Removal Code Section 170-55.E.(7)(d)(1), the applicant will be required to post a performance guarantee with the Township. The form of the performance guarantee must be submitted to the Township Solicitor for review and approval before it can be posted with the Township.
8. Consistent with Quinton Township Soil Removal Code Section 170-55.E.(7)(d)(2), the applicant will be required to post a maintenance guarantee with the Township. The form of the maintenance guarantee must be submitted to the Township Solicitor for review and approval before it can be posted with the Township.
9. Consistent with Quinton Township Soil Removal Code Section 170-55.(7)(e), the applicant is required to deposit a cash inspection fee with the Municipal Treasurer/Chief Financial Officer and, thereafter, replenish the inspection fee escrow as necessary pursuant to that statute. In addition to the aforementioned Ordinance, Quinton Township may utilize the fee for purposes of having the township engineer confirm that any and all improvements have been made in accordance with the approved plans.
10. Consistent with Quinton Township Soil Removal Code Section 170-55.M., the applicant is required to allow inspection of the premises at all reasonable business hours by the Township's Mayor, Committee members, or designated officials as lawfully authorized by the Mayor or Township Committee to inspect site improvements, enforce all conditions of this approval, and exercise the Township's rights under the performance and maintenance guarantees that are to be posted pursuant to this approval.

11. The applicant's approved amended final site plan will not be signed by the Planning Board Chairman and Secretary until the requirements set forth in **conditions 1 through 10**, above, and any other conditions so specified in the resolution memorializing final major site plan approval, have been satisfied.

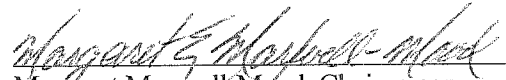
12. The applicant may not transfer any of the rights relating to the project or this approval to any other person or entity unless such transfer is accomplished in a manner consistent with Quinton Township Soil Removal Code Section 170-55.N.

The undersigned, Chairman of the Quinton Township Planning Board, hereby certifies that the above is a true copy of a resolution adopted by said Board on April 13, 2010 to memorialize action taken on March 9, 2010.

Attest:



 Bonita Bell, Secretary
 Quinton Township Planning Board



 Margaret Maxwell-Mood, Chairperson
 Quinton Township Planning Board

VOTE:
 ayes 5 _____
 nays 4 _____
 other 0 _____