

**TOWN OF RANDOLPH, VERMONT**  
**DEVELOPMENT REVIEW BOARD**  
**MEMORANDUM OF DECISION**  
(Findings of Facts, Conclusions, and Decision)

**Permit:** #Z10-31  
**Property address:** Ridge Road  
**Parcel no.:** 108072.010  
**Parcel size:** 210 acres

**Property Owner:** Sprague Farms, LLC  
1333 College Parkway, #333  
Gulf Breeze, FL 032563-2711

**Applicant:** Ridge Road Quarry, LLC  
1333 College Parkway, #333  
Gulf Breeze, FL 032563-2711

## **I. INTRODUCTION**

On May 3, 2010, **Ridge Road Quarry, LLC** (“Applicant”) and **Sprague Farms, LLC** (“Property Owner”) filed an application for a zoning permit for a project generally described as a stone quarry with stone crushing. The proposed development would take place on a 39.9 acre± portion of the parcel, plus the additional area needed to construct the access road. The application was deemed complete pursuant to the Development Review Board (“Board”) Rules of Procedure Section 301 on May 10, 2010.

Under the Randolph Zoning Regulations (RZR or “Regulations”), projects are reviewed based on the site plan, conditional use and/or any other applicable criteria of the Regulations. Before the Administrative Officer (“Administrator”) may grant a permit, the Board must find that the project complies with all applicable criteria and approve the site plan, the conditional use and/or provide any other approval, as required.

Also under the Regulations, the Board is authorized to undertake local Act 250 review of Criteria 6, 7 and 10 for all projects that require a new land use permit or an amendment to an existing land use permit under 10 VSA Chapter 151 (“Act 250”).

Decisions must be stated in the form of Findings of Facts and Conclusions of Law. In rendering this decision, the Board relied on the following:

1. Sworn testimony presented to and evidence received by the Board during the public hearings held on May 26, June 23, July 28 (including the site visit) and August 31, 2010;
2. Documents contained in this application’s file, the Regulations, Town Plan dated February 16, 2010 (“Plan”) and the Randolph municipal records.

The Board closed the public hearing on August 31, 2010. The parties were given until September 14, 2010 to submit proposed findings of fact and conclusions of law. The Board deliberated this matter on several occasions. This written decision is required pursuant to 24 VSA §1209 and is the result of those deliberations.

## II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Rural Use 3-Acre and Rural Use 5-Acre (RU3 and RU5, respectively) Districts. The entire quarry is in the RU5 District and the access road traverses the RU3 District to Ridge Road.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. "Stone crusher" is a use listed on the Chart of Permitted and Conditional Uses in the RU5 District. Conditional use approval is thus required for the stone crusher.
4. "Stone quarry" is not a use listed on the Chart of Permitted and Conditional Uses. Therefore, conditional use approval is required for the quarry pursuant to RZR §2.4.3.
5. The project requires a land use permit ("Act 250") and therefore a determination of compliance with the locally-reviewed Act 250 criteria 6, 7 and 10 is required.

On May 10, 2010, the Administrator referred the application to the Board for review and approval as determined.

## III. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA §4465. The attached Service List for this project includes the Applicant's representatives and experts, the Landowner and persons<sup>1</sup> who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were Joel Tillberg (Chair), John Becker, Trini Brassard, Sam Lincoln, Christopher Recchia<sup>2</sup>, Frank Reed, and Krista Rumrill.

## IV. PRELIMINARY ISSUES

On May 22, 2010, Philip A. Angell, Jr. filed a Motion to Dismiss Application. The basis of Mr. Angell's Motion is that the application should be dismissed because the Applicant, Ridge Road Quarry, LLC, is not the record owner of the property on which the stone quarry and stone crushing operation will take place. The Applicant filed a response on May 26, 2010. Having considered the Motion and the Response, the Board concludes that the Motion to Dismiss should be denied. RZR §1.3.10 defines "Applicant" as "Shall mean an owner, or his authorized agent." The Applicant and the Property Owner both signed the application form. The Landowner, by signing the application, has consented to its submission, and, along with the Applicant, has certified that the application materials are true and correct representations of the proposed project. Similarly, to the extent that the Board will impose conditions on this project, both the

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<sup>1</sup> By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as "interested persons" as defined in the above-referenced state statute.

<sup>2</sup> Mr. Recchia did not attend the July 28 hearing but confirmed on the record of the August 31 hearing that he fully reviewed the record of the July 28 hearing.

Applicant and Landowner, by signing the application, have agreed to be bound by those conditions. The RZR do not require that the owner sign as applicant in all situations.

## V. FINDINGS OF FACTS

*The following findings are facts that were entered into the record for this application and relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not factual.*

*Although the findings are set forth below in outline format, the findings are cumulative such that a finding stated under a particular heading may be relevant to prior or subsequent headings in which the finding is not necessarily repeated or referenced.*

### A. Scope of Project

1. The applicant has filed an application for a stone quarry with stone crushing operations as shown on Exh. # 1 as modified or supplemented by Exhs. # 9, 26 and 21. The quarry will involve the extraction of a total of approximately 428,000 cubic yards (CY) over 17 acres<sup>±3</sup> and will take place in four phases as follows:
  - Phase I – 110,000 CY over 5.6 acres
  - Phase II – 128,000 CY over 4.5 acres
  - Phase III – 160,000 CY over 3.3 acres
  - Phase IV – 30,000 CY over 3.9 acres
2. The quarry will be operated in phases, such that only one phase will be actively quarried at any time. As extraction of a particular phase is completed, the area will be stabilized and then reclaimed. The only exception is that a portion of Phase I will remain in active use for the crusher, stockpiles, and the retention pond throughout the life of the project. No more than 2 acres will be actively disturbed at any point in time; land outside of the 2 acres will be stabilized according to the stormwater pollution prevention plan approved by the State and will be reclaimed as the quarry progresses. Final reclamation of all phases will occur following the completion of Phase IV such that the entire quarried area will be available for agricultural or some other suitable use. (testimony B. Washburn and Exh. # 26)
3. Vegetative cover will be left in place until quarrying progresses to a particular portion of the active phase. Even within a phase, vegetation will be removed in a progressive fashion rather than all at once. (testimony B. Washburn)
4. The quarry is proposed to be open on weekdays only from 7:00 AM to 5:00 PM, however, some maintenance work on equipment may occasionally be required on weekends. The quarry will be closed during the winter months, typically between October 15 and April 15. The quarry will restrict trucks from leaving between 7:15 and 7:45 AM when school is open to avoid the potential for conflict with school bus routes. (application and testimony of R. Townsend and R. Tucker) The Applicant does not propose an equivalent restriction in the

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<sup>3</sup> Additional acreage is associated with the proposal including the access road and lands surrounding the area that will be excavated.

afternoon because the afternoon bus routes do not coincide with a peak traffic hour on Ridge Road, and because truck traffic will be much more diffuse in the afternoon as compared to the morning when contractors are more likely to be picking up stone to commence the work day. (testimony of D. Saladino and Exh. # 8C)

5. Access to the quarry will be controlled by a gate installed across the access road and located approximately 100 feet from Ridge Road. (Exhs. # 8A and 26). The location of the gate may ensure that trucks will not park along Ridge Road should any arrive to the site prior to the above-stated hours of operation. (testimony B. Washburn & R. Townsend)
6. The stone crushing operations will take place in the Phase I area, regardless of which phase is currently open for quarrying. (testimony of R. Townsend & B. Washburn; Exh. # 26)
7. The quarry will generate no more than 32 loaded truck trips per day (i.e. up 64 total truck trips) plus a limited number of employee trips and vendor trips. (application; testimony of R. Townsend) It is anticipated that there will be many days when far fewer than 32 loaded trucks leave the quarry and there will some days when only a few truck trips are generated. (testimony R. Tucker)

**B. Required Approvals**

8. As the project is not either a one- or two-family dwelling, site plan approval is required for the entire project. (application and RZR)
9. The “stone quarry” is not a use listed on the Chart of Permitted and Conditional Uses Section 2.4.3 allows non-enumerated use such as “stone quarry” to be reviewed under the conditional use standards. (application and RZR)
10. “Stone Crusher” is a use on the aforementioned Chart and is listed as a conditional use. Therefore conditional use approval is also required for the stone crusher. (application and RZR)
11. The Applicant requested local Act 250 review. (application)

**C. Conditional Use Review for the Rock Quarry (RZR §2.4.3 and §4.2)**

12. The minimum lot size in the RU3 and RU5 Districts are 3 and 5 acres, respectively. The subject property is 210 acres, with 118 acres on the west side of Ridge Road. Of the 118 acres, 39.9 acres is associated with project. (RZR and application)
13. The quarry itself is in the RU5 District and only the access road traverses the RU3 District. (application)
14. The only proposed structures are a job trailer, portable toilet and fencing. (RZR and application)
15. The required off-street parking shall be as set by the Board. A maximum of four employees are anticipated to be on-site. However, parking is not required for the quarry. (RZR and application)
16. In the RZR, the RU3 and RU5 Districts have the same stated purpose:

“To protect and encourage farming of all kinds, as an important part of the Town’s economic base and to provide areas for residences at a density consistent with the

capacity of the soil and topography as to furnish a potable water supply and to accommodate a private disposal system for such buildings.”

17. The area that is proposed for quarrying is not presently suitable for farming because of steep topography and uneven distribution of soil with rock outcrops appearing in places. (Exh. # 21 and testimony B. Washburn)
18. In the RZR, there are 82 permitted and conditional uses allowed in the RU5 District, including: commercial kennels, farm machinery sales and repair, correctional and penal facilities, concrete mixing plants, slaughterhouses and sawmills. (RZR)
19. Acceptable agricultural practices are exempt from zoning and include the housing of the following minimum number of animals: fifteen swine, fifty turkeys, one hundred laying hens, two hundred and fifty broilers, etc. As an exempt use, the manifestations of agriculture go unregulated. (Judicial notice of the Vermont Accepted Agricultural Practice RZR)
20. Although there are several recommendations and goals in several chapters of the Town Plan of which this proposed project could be interpreted as supporting, there is no clear and unambiguous language in the Plan that relates directly to this proposed project. (Plan and Exh. # 8B)
21. Blasting materials, including fuel and explosives, will be transported to the site as needed and will not be stored at the site. (application and testimony of R. Tucker)
22. Fuel will not be bulk-stored at the site. Fuel trucks will deliver diesel to quarry equipment as needed. (application and testimony of R. Tucker)
23. The Vermont Agency of Natural Resources (ANR) has permitted a portable toilet for use at the project. (testimony of R. Townsend)
24. The quarry operation will involve blasting which will produce vibration. The vibration will remain well within established federal limits at all of the property lines and at the neighboring residences. (application and testimony R. Tucker)
25. Each individual blast will last less than one second. Noise from the blasting operation will be maintained well within federal guidelines. (testimony R. Tucker)
26. Blasting will generally occur no more than once per week except in the startup phases where more frequent blasting might be needed to build an initial stockpile of materials and because the holes will be shallower and there will be more of them. Similarly, additional blasting might be needed in Phase IV for this same latter reason. (testimony R. Tucker)
27. The quarry floor and access road will be treated with water and calcium chloride as needed to control dust. (testimony B. Washburn and R. Tucker)
28. Stockpile materials will not produce excessive dust. (testimony R. Tucker)
29. The quarry will take access from Ridge Road. It has a posted weight limit of 24,000 pounds posted speed limit in the vicinity of the quarry of 35 to 40 miles per hour. It is paved and in need of reconstruction. (application and testimony of D. Saladino, G. Champy, P. Angell)
30. The “road capacity” of Ridge Road, a two-lane rural road, is 20,000 vehicles per day. (Exh. # 11)

31. There currently are three other quarries operating in the area – in Bethel, Chelsea and Barre - all of which take access off a town highway. (testimony of R. Tucker)
32. The average daily traffic on Ridge Road on weekdays is 1,299 vehicles. (Exh. # 11)
33. It is estimated that 90 - 95% of the traffic to and from the proposed project will be from the south. (application and testimony R. Townsend and D. Saladino)
34. A traffic study was conducted in 2010 by David Saladino and Ben Swanson of Resource Systems Group, Inc. (RSG). The study examined the intersection of Ridge Road and VT Route 66 and the intersection of the quarry access road and Ridge Road.
35. The average daily traffic on VT Route 66 is 2,500 vehicles per day. (Exh. # 8D)
36. RSG examined pre-build and post-build Level of Service (“LOS”) at the Ridge Road-VT Route 66 intersection. LOS is a qualitative measure of how much delay a vehicle will experience when travelling through an intersection. LOS is measured on a scale of A (little or no delay) through F (extreme delays). (Exh. # 8C)
37. For purposes of the LOS component of the traffic study, RSG assumed that the maximum daily quarry-related truck traffic (32 loaded trucks and 32 unloaded trucks) would be equally split between the peak AM traffic hour and the peak PM traffic hour. (Exh. # 8C) In reality, traffic will be spread throughout the day. (testimony D. Saladino)
38. The Ridge Road-VT Route 66 intersection is currently at a LOS A and that will remain the case with quarry trucks added to the traffic stream even if all of the maximum truck traffic is split between two peak hours of the day. (Exh. # 8C)
39. There are no systematic deficiencies in the Ridge Road-VT Route 66 intersection based on review of the location and available crash records. (Exh. # 8C)
40. Stopping sight distance is the distance required for a vehicle to stop before reaching a stationary object in its path. The stopping sight distances at the access road-Ridge Road intersection and at the Ridge Road-VT Route 66 intersection are adequate. (Exh. # 8C)
41. The trucks that will be used to haul stone from the quarry will range from single-axle/one-ton capacity, to single-axle/5-9 ton capacity, to tri-axle/14-18 ton capacity. An empty tri-axle truck weighs 27,000 pounds. (Exh. # 11 and testimony P. Angell)
42. The Equivalent Single Axle Load (“ESAL”) analysis is a method used by traffic professionals to assess the increased wear and tear that additional traffic will have on a road surface. The ESAL method involves a formula that converts the impact of various vehicle types into an equivalent number of standard loads. (Exh. # 15)
43. There will be a maximum increase in ESAL of 19%. This maximum increase will occur only if the quarry operates at the maximum proposed truck limit of 32 loads per days, if the maximum is reached each of the 125 possible operating days, and if no more than 1/3 of the trucks are 2-axle dump trucks. (Exh. # 15)
44. The condition of Ridge Road from VT Route 66 to Hebard Hill Road is “good/fair.” The condition of Ridge Road from Hebard Hill Road to the Brookfield town line is “poor.” (Exh. # 11)
45. The portion of Ridge Road that is in poor condition has not been fully resurfaced or reconstructed for more than 25 years. (testimony D. Saladino)

46. In order to alleviate any potential increase in wear at the intersection of the access road and Ridge Road, the Applicant is willing to participate in the reconstruction of 300 feet of Ridge Road closest to the access road (150 feet on either side of the access road) as follows:
  - a. If the project is permitted and operational when the reconstruction/resurfacing of Ridge Road occurs, the Applicant will pay for the work needed to reconstruct 300 feet of the road when the Town undertakes its work.
  - b. If the anticipated reconstruction/resurfacing of Ridge Road occurs prior to the time when the quarry is permitted and operational, the Applicant will pay for the work needed to reconstruct 300 feet of Ridge Road at such time as truck traffic has caused a significant enough deterioration of the road surface to make reconstruction/resurfacing appropriate, as determined by the Town.
47. All quarry operations, other than movement of trucks and employee vehicles, will take place within an area designated on the site plans. Most of the operational activity will take place within the actual quarry phases. The "strip" between Ridge Road and the closest part of Phase I is over 1,000 feet wide. (Exh. # 26 and Exh. # 21)
48. A berm and an acoustical fence will be constructed along the access road in order to mitigate noise impacts. Landscaping is proposed along the berm and fence. (Exh. # 21)
49. A boulder and fence is proposed to run parallel to Ridge Road. An apple and fruit orchard area is proposed to be located inside the fence. (Exh. # 21)
50. No development other than the access road, berm, fences, and landscaping described above is proposed for this "strip" between Ridge Road and the Phase I through IV quarry areas.
51. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality.
52. The subject property is in the Randolph Center Fire District. The Randolph Center Fire Department has the capacity to provide fire protection to the subject property without undue burdens. (Exh. # 8 (Albert Floyd, Randolph Center Fire District Chief))
53. The subject property takes access from a town highway. The Randolph Highway Department has the capacity to provide the proposed project with road maintenance without undue burdens provided the cost of the full-width reconstruction of Ridge Road at the entrance to the quarry for 150 feet in each direction is not borne by the Town. (Exh. # 8 (Gary Champy, Randolph Town Manager))
54. The proposed project will not add students to the local schools. (Exh. # 8 (Brent Kay, Orange Southwest Supervisory Union))
55. It is anticipated that only 5-10% of the truck traffic will travel Ridge Road north of the access road. (testimony R. Townsend)
56. The area around the quarry is a mixture of residential and agricultural uses. (application and Exh. #24)
57. The average weekday traffic on Ridge Road is 1,299 vehicles. Medium and heavy trucks make up 9.8% of this traffic. (Exh. # 11)
58. The quarry property abuts Interstate 89. (Exh. #26)

59. The proposed use will create vibration, noise, odor and dust from the blasting, stockpiling and loading of material into haul trucks and from the trucks themselves.
60. RSG conducted a noise analysis of the existing conditions which included measuring existing background noise levels along Ridge Road over a period of four days, and also conducted modeling to determine how the quarry operations will impact the existing conditions. (Exh. #8D)
61. Noise levels diminish approximately 6 dB for every doubling of distance. Traffic on roadways diminishes 3 dB to 4.5 dB per doubling of distance. Vegetation, walls, berms, buildings and atmospheric absorption will also assist in diminishing sound levels. (Exh. # 8D)
62. The quarry phases are located in excess of 900 feet from nearby residences. (Exh. # 26)
63. For homes closest to Ridge Road (50 to 100 feet from the road), the maximum existing sound levels are between 70 and 80 dBA. For homes slightly further from Ridge Road (100 to 200 feet from the road), the maximum existing sound levels are 50 to 60 dBA. (Exh. # 8D and Exh. # 12)
64. Average existing daytime sound levels at homes located near Ridge Road are between 55 and 60 dBA. Average existing daytime levels for home located farther from Ridge Road are between 45 and 50 dBA. (Exh. # 8D)
65. RSG modeled on-site operation of trucks, loaders (or excavators), a rock drill, a primary and secondary crusher, and a screener. The sound levels that RSG utilized in its model are based on actual measurements of operating equipment that RSG has measured in the past, except for truck sound levels, which were obtained from the Federal Highway Administration's REMEL modeling protocol. (Exh. # 8D (Figure A3))
66. The modeling was completed with all quarry equipment simultaneously operating at its maximum level. (Exh. # 8D) This overestimates actual impacts because all equipment will rarely be operating simultaneously. (testimony R. Tucker)
67. The maximum quarry-related noise levels at any residence are between 46 and 55 dBA for Phase I and between 48 and 55 dBA for Phase IV. (Exh. # 8D)
68. There is an ±8-acre forested area between Ridge Road and the quarry area. (Exh. # 26)
69. Truck noise along the access road will be mitigated by several measures. The access road itself is designed so that the grade is between 0% and 2% in the areas closest to Ridge Road and closest to the Abbott house. This minimizes the need for braking and acceleration. Second, the construction of the access road requires some excavation of material that will then be used to create a berm between the road and the nearest residence. (Exh. # 26)
70. Noise from a drilling rig that has noise-reducing provisions is minimal; normal conversations can take place next to it. The most pronounced noise from the drill occurs when the bit comes into contact with the rock; after that contact occurs, the noise level drops dramatically. (testimony R. Tucker) When necessary, the Applicant will use a portable barrier around the drill to further mitigate noise impacts. (Exh. # 8D).
71. The sound from the back-up beepers will be mitigated in two ways. First, the driveway leading through the stockpile area has been designed so that trucks will travel in a circular pattern thus limiting the need for backing up. (Testimony B. Washburn and Exh. #26).

Second, quarry-owned equipment will be outfitted with broadband, variable loudness, or radar-type backup alarms to the extent permissible by MSHA. (Exh. # 8D).

72. There are areas located southeast and northeast of the project area that presently has views across the tree tops of vegetation located in the quarry. The quarry view from these areas will be limited to the effects of tree removal (i.e. absence of some of the tree tops). It is not anticipated that the quarry floor or quarry operations will be visible. (Exh. # 18)
73. As Phase IV nears completion, there will be some visibility of quarry activity from the northeast. The view of quarry activity will be mitigated by leaving as much vegetation in place as possible for as long as possible. (Exh. #18 and testimony R. Townsend and B. Washburn)
74. Phase IV is anticipated to last approximately one year and will not start until at least 10 years from the initial date of quarry operation. (testimony B. Washburn)
75. Following reclamation, all Phases will be suitable for agricultural or other permitted uses. (testimony R. Townsend and B. Washburn)
76. There are no systematic deficiencies at the applicable intersections that this project will worsen. (Exh. # 8C)
77. The project will not result in a decrease in the LOS at the Ridge Road-VT Route 66 intersection. (Exh. # 8C)
78. The intersection of the access road and Ridge Road will be constructed to comply with Vermont Agency of Transportation B-71 standards. (Exh. # 8C)
79. The only proposed structures are a portable job trailer and a portable toilet, both of which are located on the site plan and comply with applicable setback and coverage limitations. (Exh. # 26 and RZR)
80. There is adequate parking on the quarry floor for employee, customer and vendor vehicles. (Exh. # 26)
81. The proposed use will not affect the utilization of renewable energy resources. (application)

**D. Conditional Use (CU) Review for the Stone Crusher**

82. The crusher will be operated in the RU5 District. (RZR and application)
83. The crusher will be operated in the Phase I area throughout the duration of the project. (Exh. # 26 and testimony of B. Washburn, R. Townsend, and R. Tucker)
84. The crusher, screener and associated generator will be brought to the site as needed. Although these pieces of equipment are not permanent structures, they will be operated in a location that meets all applicable setback requirements. (Exh. # 26, RZR and application)
85. A sufficiently-sized staging area for the crusher and related equipment is designated on the site plans. (Exh. # 26; testimony R. Tucker and B. Washburn)
86. Although there are several recommendations and goals in several chapters of the Town Plan that this proposed project could be interpreted as supporting, there is no clear and unambiguous language in the Plan that relates directly to this proposed project. (Plan and Exh. # 8B)

87. The stone crusher will generate dust. The crusher will have a water-based dust suppression system at rock transfer points. The crusher and dust suppression system are electric. Power is supplied by a generator that is brought to the site with the crusher. This suppression system will effectively control dust emissions associated with the crusher. (Testimony R. Tucker)
88. Other dust mitigation measures will include the use of water sprinkler trucks for the quarry floor access road, calcium chloride applied to the access road as needed and signage installed on the access road requiring all trucks that have covers to use them. (Application and testimony R. Tucker).
89. The crusher operation will be regulated by the State and will meet the State's air pollution standards. (Application and testimony of R. Tucker)
90. The Mine Safety and Health Administration (MSHA) regularly inspects quarry operations to test noise exposure and particulate matter (dust) exposure for workers. The quarry will be operated in strict compliance with MSHA guidelines for noise and dust. (Testimony R. Tucker)
91. No chemicals are used in the stone crushing operation. (testimony of R. Tucker)
92. The crusher will not increase the likelihood of fire, accident, unsanitary conditions, vibration, odor, or other nuisances. (testimony of R. Tucker)
93. The crusher will not itself generate traffic, except for the few times per year when it is transported to the site. When the crusher is transported to the site, it will generally remain at the site for several weeks. (testimony R. Tucker)
94. All crushing shall take place in the area designated as Phase I. The "strip" between Ridge Road and the closest part of Phase I is over 1,000 feet wide. (Exhs. # 21 and 26, and testimony B. Washburn)
95. The crusher will be shielded from Ridge Road by distance (both vertical and horizontal), topography, vegetation, and, until the end of Phase III, the quarry face itself. (testimony B. Washburn; Exh. # 26).
96. A quarry of this size would generally require several two- to three-week periods of crushing per year. (testimony of R. Tucker)
97. The crusher will not be visible from the south or south east. The views from those directions will be shielded by the vegetation that will remain in place. (Exh. # 18)
98. Limited visibility of the crusher might be possible from the north and northeast during Phase IV. (Exh. # 18) Phase IV will last for approximately one year and will not commence for at least 10 years. (testimony B. Washburn and R. Townsend)
99. RSG analyzed crusher noise as part of its noise assessment. The general details of noise analysis and quarry operations as a whole are set forth above. Crushers can generate up to an instantaneous maximum sound level of 121.3 dBA which is the level RSG used for modeling. (Exh. #8D)
100. Using the maximum sound level, RSG predicts that crusher-related sound levels at nearby residences will range from 31 dBA to 42 dBA during Phase I. Using the maximum sound level, RSG predicts that crusher-related sound levels at nearby residences will range from 41 dBA to 51 dBA during Phase IV. (Exh. # 8D)

101. The proposed use will not affect the utilization of renewable energy resources. (application)

**E. Site Plan (SP) Review for the Entire Project**

102. Mitigation of noise, dust and vibration impacts will be undertaken as set forth above.

103. It is estimated that 90 - 95% of the traffic to the proposed use will be from the south, thereby maintaining fairly consistent turning movements onto and off of the Ridge Road. (testimony R. Townsend and D. Saladino).

104. There are no highway intersections in the immediate vicinity of the access road with which the access road would conflict. (Exh. # 26)

105. Stopping sight distances at the intersection of the access road and Ridge Road are adequate. (Exh. # 8C)

106. Adequate parking is provided for within the quarry itself. A sufficient distance has been allotted between Ridge Road and the quarry gate to ensure that trucks will not park along Ridge Road. (Exh. # 26)

107. No pedestrian traffic is anticipated. (application)

108. The portable job trailer and the portable toilet will be located within the Phase 1 area and will not be visible from offsite. (Exh. # 26)

109. The loading area is within Phase I of the quarry itself, which is more than 1,100 feet to the nearest residence. (Exh. # 26)

110. The only part of this quarry that will be near a residence is the access road. Screening will help mitigate any adverse visual affect of the traffic on the access road. (Exh. # 26)

111. The berm and fence along the access road will assist in mitigating adverse visual and acoustic impact of traffic on the road. (testimony E. Duncan and R. Townsend)

112. Trees planted along the access road berm and the orchard proposed to be located northerly of the access road will provide additional visual mitigation. (testimony R. Townsend)

**VI. CONCLUSIONS OF LAW**

Based on the foregoing proposed Findings of Fact, the Board should conclude that the project described in the application referred to above and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the following criteria (*additional Board comments are italicized*):

**1. Conditional Use Criteria<sup>4</sup> – stone quarry**

A. The proposed use is consistent with the objectives of the Town Plan and the purposes of the Randolph Zoning Regulations.

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<sup>4</sup> Criteria A – D are from the Randolph Zoning Regulations. Criteria E – I are required to be reviewed pursuant to 24 VSA §4414(3).

*The purposes of the RU5 and RU 3 Districts are the same. The purposes include encouraging farming of all kinds and providing for a reasonable density of residential development. When the quarry closes, there will be an increase in the amount of land suitable for farming purposes.*

*It was contended by some that access for a use in one zoning district could not traverse through another zoning district, however no evidence was presented that demonstrated that the RZR do not allow this. In fact, there are several zoning districts in the RZR that are delineated such that they are strips along major transportation thoroughfares. If the contention were valid, it would lead to an absurd result as it would either effectively create many landlocked parcels or would render many parcels that could not be developed outside of the strip that is along such thoroughfare.*

*It should be noted that the Randolph Zoning Regulations under which this application is filed were initially adopted in 1988. Since its adoption, there have been amendments to the Regulations, most notably the amendments for the East Valley and Interchange Districts, but essentially the Regulations remain as written in 1988. During the period from 1988 to date, the Town of Randolph has written and adopted over four Town Plans, the most recent in February of this year. While zoning regulations are supposed to implement the Town Plan, there is currently little relationship between the Plan and the Regulations.*

- B. The proposed use will not cause any hazard to health or property through fire, traffic, accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances.

*Mitigating measures will not necessarily eliminate noise, vibration and other impacts, but will reduce them to levels such that they will not cause hazard to health or property.*

- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.

*A typical two-lane paved road has an upper limit design volume of 20,000 vehicles per day. Ridge Road presently experiences approximately 1,300 vehicles per day. The addition of quarry traffic will not result in an exceedance of the traditional capacity measures (design capacity, LOS, geometry, or safety).*

*Ridge Road, particularly the section from Hebard Hill Road to the Brookfield town line has not been repaved in excess of 25 years. The quarry, if operated at its maximum capacity of 32 trucks per day, and assuming that two-thirds of the trucks are the larger tri-axle type, may result in increased wear of approximately 19%. The quarry is not expected to operate at its maximum capacity every day so the impact will actually be less. In addition, the quarry life is expected to be far shorter than the span of time between the Town's last paving of the road and the upcoming paving. Between now and the time when the repaving occurs in the next few years, the addition of quarry traffic will not materially hasten the demise of the road as repaving is already past due.*

*The project will result in a maximum daily overall traffic increase of 5% and a potential truck increase of 50%. The Applicant has included and will be required to undertake measures which mitigate the impacts of the incremental increase in traffic. The incremental increase in traffic associated with the project, as tempered by the proposed mitigating measures, will not result in a volume of traffic beyond the reasonable capacity of the highways.*

- D. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- E. The proposed use will not have an undue adverse effect on the capacity of existing or planned community facilities.
- F. The proposed use will not have an undue adverse effect on the character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies of the municipal plan.

*The Town Plan does not contain specifically-stated polices that serve to define the character of the area and proscribe or prohibit land uses.*

*The current zoning does not contemplate that this area be restricted solely to residential development. There are, in fact, commercial and industrial uses that are listed as permitted in the RU5 District and therefore are allowed as of right. There are additional commercial and industrial uses that are listed as conditional uses and they are allowed provided they meet the conditional use standards. Further, the standard for this criterion is not that development cannot be out of character with the area, nor is it that development cannot have any adverse impacts, but, rather, development cannot have any undue adverse impacts on the character of the area affected.*

*The project-related activities will be noticeable off-site but their impacts will not rise to the level of being offensive to the average person and are not out of character with the Vermont countryside or the existing and allowed uses in this area as set forth in the RZR and Plan. Further, the Applicant has included and will be required to undertake reasonable steps to mitigate the adverse affects of the proposed project.*

- G. The proposed use will not have an undue adverse effect on traffic on roads and highways in the vicinity.
- H. The proposed use will not have an undue adverse effect on Bylaws and ordinances in effect.
- I. The proposed use will not have an undue adverse effect on the utilization of renewable energy sources.

## **2. Conditional Use Criteria - stone crusher**

- A. The proposed use is consistent with the objectives of the Town Plan and is consistent with the purposes of the Randolph Zoning Regulations.

*"Stone crusher" is an enumerated Conditional Use under the RZR. The use of the crusher will allow the eventual agricultural use of the quarry area as set forth above which is consistent with the purpose of the RU3/RU5 Districts. There are no objectives of the Town Plan with which the quarry is inconsistent.*

- B. The proposed use will not cause any hazard to health or property through fire, traffic, accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances if measures are taken to limit the noise and dust generated by project, and limiting the area within which the crushing may take place.

*Fuel for the crusher will be brought to the site as needed rather than stored at the site. The crusher poses no fire risk. See also discussion in item #1A above.*

- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.

*The traffic volume associated with the crusher is nominal, likely only six to eight trips per year. This will not overburden the highway.*

- D. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.

- E. The proposed use will not have an undue adverse effect on the capacity of existing or planned community facilities.

- F. The proposed use will not have an undue adverse effect on the character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies of the municipal plan.

*The Town Plan does not contain specifically-stated policies that define the character of this area and proscribe or prohibit land use.*

*The purpose statement of the zoning district and the list of allowed uses are discussed above.*

*The crusher will not have an undue adverse effect on the character of the area.*

- G. The proposed use will not result in an undue adverse affect on the traffic on roads and highways in the vicinity.

- H. The proposed use will not result in an undue adverse affect on the bylaws and ordinances in effect.

- I. The proposed use will not result in an undue adverse affect the utilization of renewable energy resources.

**3. Site Plan Criteria – entire project**

- A. The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is not contrary to any specified policy in the Town Plan.

*The Regulation is the only ordinance that applies to this project. The project complies with lot size, setback and all other provisions of the ordinance. As discussed in greater detail above and below, the project is not contrary to any specific policy in the Plan.*

- B. The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.

*In Re: Blakeman Site Plan, Docket No. 274-11-06 Vtec (Vt. Env'tl. Ct., July 30, 2007), the Court held that the appropriate and orderly development of the surrounding area is defined by the Town Plan and not the existing development in the area. The Town Plan clearly indicates that the main purpose of the RA District is to maintain and provide for working landscapes (farming and forestry) and anticipates these uses will create sounds, sights and smells that may be objectionable to residents in the District. A working landscape may, in fact, generate sights, sounds and smells that are far more objectionable than the ones that are will be generated by the quarry and which are not necessarily required to be mitigated.*

*No party presented any evidence tending to suggest either that their own parcels were developable to a greater extent than they are already developed or that this project would somehow impede further development if it were possible.*

- C. The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points.
- D. The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

**4. Act 250 Criteria<sup>5</sup> - entire project**

- A. Criterion 6 -- The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide educational services as it is not expected to add students to the local school system.
- B. Criterion 7 -- The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide municipal or governmental services.
- C. Criterion 10 -- The proposed project complies with Randolph Town Plan which was adopted in accordance with 24 VSA ch. 117 on February 26, 2010.

*As mentioned previously, in the absence of a specific policy that clearly prohibits this project, the project is in compliance with Criterion 10.*

**VII. DECISIONS<sup>6</sup>**

Based upon the foregoing Findings of Facts and Conclusions of Law, the Board approves the conditional use for the rock ledge quarry, approves the conditional use for the stone crusher and approves the site plan for the entire project as applied for in zoning permit application #Z10-31 and including the evidence and testimony entered into the record as Findings of Fact. Such approvals are granted with the following conditions:

- 1. The operation of the quarry shall be limited to between April 15 and October 15, Monday through Friday between the hours of 7 AM and 5 PM.
- 2. Maintenance of the site or equipment may take place outside of the above-stated days and hours.

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<sup>5</sup> This conclusion/decision regarding local Act 250 review is a rebuttable presumption under the provisions of 10 VSA Ch. 151 and this presumption may be overcome in proceedings under 10 VSA Ch. 151

<sup>6</sup> An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$262.50 and a notice in writing, certified mailed to the Environmental Court, giving reasons for the appeal, and a copy mailed to the Zoning Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

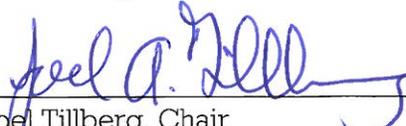
3. Loaded trucks shall not leave the quarry until 7:45 AM on days when school is in session.
4. The access road to the quarry shall be gated during non-business hours. The gate shall be placed in the location shown on Exh. # 26 to ensure that early-arriving trucks, if any, do not park on Ridge Road.
5. Signage shall be installed as follows:
  - a. At the access gate providing contact information and hours of operation;
  - b. At the access gate heading to the quarry providing instructions not to idle trucks;
  - c. Along the access road heading in to the quarry reminding trucks drivers not to utilize engine brakes;
  - d. Along the access road leaving the quarry reminding trucks drivers to utilize truck covers if the truck is equipped with them.
6. Landscaping along the access road berm/fence and along Ridge Road shall be completed according to Exh. # 26, as soon as practical following construction of the access road. Existing vegetation shall be maintained for as long as possible throughout the life of the quarry.
7. The maximum number of loaded trucks leaving the quarry shall be 32 per day.
8. Noise-reducing measures during drilling shall be used such as using drills with noise-reducing provisions or installation of a portable barrier around the drill to ensure the noise stays below a maximum quarry-related level of 55 dB.
9. Blasting shall take place only one day per week. However, during access road construction, phase I start-up and phase IV, blasting may occur as needed.
10. Owners of properties that abut the quarry who request notification shall be notified in advance of blasting. It shall be the property owner's responsibility to provide the correct contact information to the quarry operator.
11. On-site traffic within the quarry shall employ a circular truck route to minimize the need for back-up alarms.
12. Quarry-owned equipment shall be outfitted with broadband, variable loudness, or radar-type backup alarms when allowed to do by applicable State of Vermont or federal regulations.
13. Sprinkler and water trucks shall be on-site as needed when the quarry is in operation and used as needed to control the dust both in the quarry and on the access road. Calcium chloride shall be applied to the access road as needed.
14. The first 100 feet of the access road (that is, 100 feet in from Ridge Road), shall be constructed of material that minimizes the generation of dust.
15. The permittee shall reconstruct the full width of Ridge Road for 150 feet on either side of the access road as follows:
  - a. If the project is permitted and operational when the reconstruction/resurfacing of Ridge Road occurs, the permittee will pay for the work needed to reconstruct 300 feet of the road when the Town undertakes its work and the work will be done contemporaneously with the Town's work.

- b. If the reconstruction/resurfacing of Ridge Road occurs prior to the time when the quarry is permitted and operational, the permittee will pay for the work needed to reconstruct 300 feet of Ridge Road at such time as truck traffic has caused a significant enough deterioration of the road surface to make reconstruction/resurfacing appropriate.
16. Upon closure of each phase of the quarry, reclamation shall be completed in accordance with Exh. # 26 (page 5).
17. Any expansion or alteration of use shall require approval pursuant to the regulations in effect at the time of re-application.
18. In addition to the operational limitations imposed on the quarry in item #A(1), crushing operations shall be limited to four periods of no more than three weeks each during each operating season. This notwithstanding, crushing may occur more often in order to get the initial inventory stockpile and when there are natural disasters causing an increase in need.
19. All crushing operations shall be done in the area shown as Phase I on Exh. # 26 and located within that area so as to maximize noise attenuation.
20. Crushing equipment shall have operational water-type suppression systems at dust points.
21. Crushing equipment shall have noise controls where available.
22. Stockpiles shall be kept around the crusher, if possible.
23. Any expansion or alteration of the use shall require approval pursuant to the regulations in effect at the time of re-application.
24. The crushed stone quarry shall be as constructed and operated in phases and as shown on Exh. # 26.
25. To be in keeping with the fencing on the other side of road, the fencing along Ridge Road shall be split rail instead of stockade.
26. A certificate of occupancy shall be required at the closure of each phase.
27. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
28. Any modifications to the approved site plan shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.

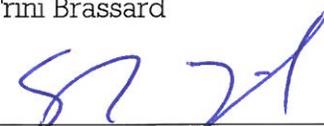
Dated at Randolph, Vermont this 12<sup>th</sup> day of October, 2010.

RANDOLPH DEVELOPMENT REVIEW BOARD

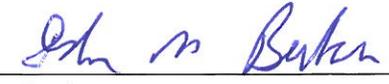
Concurring Board Members

  
\_\_\_\_\_  
Joel Tillberg, Chair

\_\_\_\_\_  
Trini Brassard

  
\_\_\_\_\_  
Samuel Lincoln

  
\_\_\_\_\_  
Christopher Recchia

  
\_\_\_\_\_  
John Becker

  
\_\_\_\_\_  
Frank Reed

  
\_\_\_\_\_  
Krista Rumrill

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Zoning Permit Application #Z10-31  
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**Bold listings indicate applicants and/or their representatives.**