

PLANNING BOARD
CITY OF SOUTH AMBOY

RESOLUTION PB- 3 -10
RESOLUTION TO APPROVE PRELIMINARY AND FINAL SITE PLAN FOR AMBOY
AGGREGATES BLOCK 162, Lot 6.02 and Block 161, LOT 25, IN THE CITY OF SOUTH
AMBOY

WHEREAS, application has been made by Amboy Aggregates (“Applicant”) to the Planning Board of the City of South Amboy (“Board”) for preliminary and final major site plan approval (Block 162, Lot 6.02 and Block 161, Lot 25 located in South Amboy); and

WHEREAS, the Planning Board held public hearings on December 22, 2008; January 28, 2009; February 25, 2009; September 30, 2009; October 27, 2009; November 12, 2009; December 15, 2009; January 21, 2010; April 29, 2010; June 23, 2010 and September 21, 2010 and has carefully considered the application as well as the testimony and exhibits presented by the Applicant, members of the public and consultants retained by the Planning Board; and

WHEREAS, the Application involves an application for preliminary and final site plan approval related to sand dredging and stockpiling; and

WHEREAS, the subject property is located in the M1 and M2 zones which permits Light Industrial Uses (M1) and Heavy Industrial Uses (M2); and

WHEREAS, pursuant to the July 12, 2004 Order of the Hon. James P. Hurley, J.S.C., the Applicant’s current use of the property for sand dredging and stockpiling is a legal, non-conforming use; and

WHEREAS, the Board has made the following findings and conclusions:

1. Applicant seeks site plan approval to allow the continued use of the subject property for sand dredging and stockpiling.

2. The application includes a request for waivers from required site plan submissions which are set forth in the report of the Board's engineering consultant, Stanley Puszczyk, P.E.

3. That the following Exhibits were submitted and considered by the Board:

- PB-1 Decision and Judgment by Court
- PB-2 Order Modifying Final Judgment dated 9/17/04
- PB-3 Order Granting Motion dated 8/4/05
- PB-4 Order Amending Order dated 8/4/05
- PB-5 Order to Appear and Pay Escrow

- A-1 List of names and addresses of property within 200 feet
- A-2 Notice of Meeting – Home News
- A-3 Utilities, public agencies notification
- A-4 Affidavit of Publication of the Meeting
- A-5 Confirmation of Property Taxes Paid
- A-6 Receipts of Certified Mail Notifications
- A-7 Outline of Properties within 200 feet
- A-8 Deed dated November 28, 1969
- A-9 Original Application dated September 1, 2005
- A-10 Application
- A-11 Minor Site Plan Completeness Form filed September 1, 2005
- A-12 August 9, 2005 Letter
- A-13 March 15, 2005 Letter from Joseph J. Maraziti, Esq.
- A-14 March 28, 2005 Letter
- A-15 April 28, 2005 Letter
- A-16 August 21, 2005 Letter
- A-17 March 20, 2006 Letter from Joseph J. Maraziti, Esq.
- A-18 Resolution No. 4-2006 dated March 22, 2006
- A-19 April 12, 2006 Letter from Andrew M. Brewer, Esq.
- A-20 April 13, 2006 Letter
- A-21 April 24, 2006 Letter to Linda Garnett
- A-22 April 26, 2006 Letter to Joseph J. Maraziti, Esq.
- A-23 November 17, 2008 Letter to Andrew M. Brewer, Esq.
- A-24 Portion of Transcript dated December 5, 2005
- A-25 Transcript dated August 29, 2008
- A-26 Amboy Aggregates preliminary minor site plan
- A-27 Map of consolidation
- A-28 Amboy Aggregates promotional video CD
- A-29 Aerial photograph
- A-30 Flier (no author)
- A-31 Amboy Aggregates' Report (by Bill Daniels, Asst. Mgr.)

A-32 Curriculum Vitae of
A-33 Report dated April 13, 2006 by H2M

37. Administrative Order
39. Early Noise Study

FM-1 Site Plan to DEP
E1 through 3-37 Photographs by Stanley Puszc

A-41.1 DEP Permit dated 12/8/2005
A-41.2 License Issued by the Bureau of Tidal Lands Management
A-41.3 Permit to Amboy Aggregates
A-42 Affidavit

C-1 Aerial Photograph dated April, 2008
C-2 to C-9 Photographs
C-10 Depiction of Stormwater drainage system
C-11 Map of City of South Amboy
C-12 Survey dated May 1969
C-13 Partial Map of C-12
C-14 Final Plat dated March 1972
C-15 Set of Photographs
C-16 French & Perrillo drawing Nov. 30, 1987
C-17 Letter January 19, 1988 to Mayor John O'Leary
C-18 Plan depicting proposed landscape screening
C-19 Topographic drawing December 1993
C-20 Inventory Map December 1994
C-21 Inventory Map January 1996
C-22 Inventory Map January 1997
C-23 Inventory Map January 1998
C-24 Inventory Map for 1998
C-25 Inventory Map for 1999
C-26 Inventory Map for 2000
C-27 Inventory Map for 2001
C-28 Inventory Map for 2002
C-29 Photograph of Vegetated Stockpile
C-30 Photograph, February 2009

A-1, 12-15-09 Amboy Aggregates Aerial Topography dated 11/25/09
A-121509-2 DEP Report dated 4/4/92
A-121509-3 Excerpt from Testimony of Angelo Valetutto
A-121509-4 Administrative Consent Order dated 11/5/88
A-121509-5 H2M Report dated 4/18/06
A-121509-6 Soil Erosion / Sediment Control Plan 8/15/08

A-121509-7 Flier (Previously marked)
A-121509-8 Middlesex County Health Inspection 11/13/06
A-121509-9 Letter from DEP to Richard Rosamilia 7/21/05

VM-1 Signed Petition
VM-2 Petition
VM-3-12 Photographs
VM-13 Excerpt – N.J. Business Magazine
VM-14 Document
VM-15 Bag of Sand
VM-16 Photograph

Bogan-1 Letter, stamped 3/6/97
Bogan-2 Letter dated 5/18/92
Bogan-3 Map 2003
Bogan-4 Map dated 7/31/69

A-1 Affidavit of Service
PB-1 Letter dated April 28, 2010
PB-2 Letter dated September 21, 2010

4. On July 12, 2004, the Hon. James P. Hurley, J.S.C. ruled that the activities undertaken by the Applicant on the subject property constituted a legal non-conforming use that could be continued subject to the submission of a complete Site Plan application and the imposition of reasonable conditions by the Board.
5. On July 12, 2004, Judge Hurley ordered, among other things, that the Applicant must file a complete application for site plan approval with this Board, which Order led to the present site plan application.
6. On August 4, 2005, Judge Hurley ordered the Applicant to file a site plan application and pay all applicable escrow amounts.
7. On September 19, 2008, Judge Hurley ordered the Applicant to appear at the Board's December, 2008 hearing and to pay all applicable escrow amounts.
8. During the hearing on December 22, 2008, Mr. Richard Rosamilia, President of the Applicant testified as to the operations undertaken by the Applicant on the subject property and the structures, buildings, machinery and equipment associated with those operations.

9. Mr. Rosamilia testified about how sand and other material is extracted from the Ambrose Channel and then off-loaded to the subject property via a system of conveyor belts and stored in piles.
10. Mr. Rosamilia made 24 handwritten revisions to Exhibit A-26 depicting equipment, structures and machinery utilized in the operations on the subject property which were not identified or included on the unrevised A-26.
11. Mr. Rosamilia's handwritten revisions to A-26 included conveyors, stockpiles, stackers, barge area, tunnels, dock with conveyor belts, a grit hopper, water processing facility, trailers, equipment maintenance facility, access points and easements.
12. Mr. Rosamilia was questioned by the Board's Engineering consultant Stanley Puszcz, P.E. about the equipment and operations at the subject property, including dust control, noise, unloading of sand, discharge of water, the conveyor belts, stability, location, height and size of stockpiles, noise and dust control efforts.
13. Mr. Rosamilia was questioned about parking and traffic circulation on the subject property, lighting, security and safety, the manner in which additional material is brought onto the subject property and mixed with the sand from the Ambrose Channel.
14. Mr. Rosamilia was questioned by John R. Lanza, Esq., Corporate Counsel for the City of South Amboy, about site conditions, the manner of offloading sand from barges onto the subject property, changes in operations over time, the use of equipment such as bulldozers and front-end loaders, typical truck traffic to and throughout the subject property, the location, size and height of berms and stockpiles.
15. Mr. Rosamilia was questioned by Bette Liebowitz about the operation of the conveyors, the noise produced by the conveyors and the sprinkler system.
16. Mr. Rosamilia was questioned by Frank Milatta about characterization of the operations at the subject property and how the activities have changed over time, monitoring of the height of stockpiles and the berm.
17. Mr. Rosamilia was questioned by George Forrer about the hours of operation and times that employees are on the subject property and dust control measures.
18. Mr. Rosamilia was questioned by Rose Marie Papaleo about the hours of operation.
19. Mr. Rosamilia was questioned by Vincent Mackiel about containment of the material on the subject property and vegetation on the berm.
20. Mr. Rosamilia was questioned by Flavia Elzinga about noise and vibrations from the operations at the subject property.

21. Mr. Rosamilia was questioned by Dennis Danielski about noise from the operations at the subject property.
22. Mr. Rosamilia was questioned by Arlene O'Brien about the use of lighting and hours of operation at the subject property.
23. Mr. Rosamilia was questioned by Board Member Cronin about changes made on the property and the current status of buildings and equipment.
24. Mr. Rosamilia was questioned by Board Member Mulvey about the sprinkler system and whether there were any procedures in place to control sand generation and migration during times of wind and non-business hours.
25. Mr. Rosamilia was questioned by Board Member Connors about the generation and migration of sand.
26. Mr. Rosamilia was questioned by Chairman Wilday about the operations at the subject property and the generation and migration of sand.
27. Following requests by the Board and the August 28, 2009 Order of Judge Hurley, the Applicant permitted the Board Engineer and counsel to visit the subject property, which visit was undertaken on September 17, 2009. Board Members visited the property on November 12, 2009.
28. The Applicant put forth the testimony of Mr. Christopher Hager, P.E. who prepared the site plans submitted as part of the Application.
29. Mr. Hager testified regarding his preparation of the site plan and the emphasis on the currently existing site conditions and addressed the report prepared by H2M dated April 24, 2006.
30. Mr. Hager was questioned by Stanley Puszcz about the Applicant's response to the report of H2M dated April 24, 2006, including dust and noise control, traffic and parking issues, stormwater management, lighting, fencing and security
31. Mr. Hager was questioned by John R. Lanza, Esq. about the stockpiles, grading and elevation and that Mr. Hager's intention was to prepare a site plan which documented existing conditions. Mr. Hager testified that he did not conduct a traffic study, a stormwater management study or environmental impact statement.
32. Mr. Rosamilia was questioned by Stanley Puszcz about photographs of the subject property taken by Mr. Puszcz and identified as Exhibits E-1 through E-37.
33. George Forrer testified as to sand and dust generated from the subject property and its impact on his property. Mr. Forrer also testified regarding lights, noise and vibrations from the subject property and its effect on him and his property. He further testified that during windy

conditions the sand generated from the subject property is visible, and that the sprinkler system utilized by the Applicant does not prevent the generation of or transport of sand and dust off site.

34. Gerald Garnett, the Superintendant of Public Works for the City of South Amboy testified regarding the location of stormwater sewers in the vicinity of the subject property and flooding and drainage problems in the vicinity of the subject property during and following periods of rain.

35. Edward Bogan, a licensed professional engineer was recognized as an expert, with no objection from the Applicant's attorney.

36. Mr. Bogan testified as to his review of records indicating the location of stormwater collection and conveyance pipes in the vicinity of the subject property. Mr. Bogan testified that records indicate that several large pipes previously traversed the subject property and drained into a brook that drained into the bay, and that aerial views and observations of the subject property indicate that the brook no longer exists.

37. Mr. Bogan testified that in his opinion the pictures indicating flooding in the vicinity of the subject site is indicative of the type of flooding that would result from a clogged stormwater system and that the flooding conditions could be corrected by reconfiguring drainage through or in the area of the previously-existing brook across the subject property.

38. Mr. Bogan testified as to what studies and measures would need to be taken in order to prevent sand and dust from migrating off-site and that the currently-existing system is not adequate for that purpose.

39. Vincent Mackiel testified regarding off-site dust, sand and air problems caused by the operations at the subject property, public health concerns raised by dust and sand migrating from the subject property, and provided exhibits which included photographs of dust caused by the operations and of the stockpiles on the subject property.

40. Nadia Elcinga testified regarding problems of noise, dust and vibration originating from the subject property and how vibrations from the Applicant's operations caused items to fall from the walls of her home and caused damage to the walls and ceiling of her home.

41. Mr. Puszczy testified as to the letter he prepared dated April 28, 2010 setting forth various categories of additional information which in his opinion should be provided by the Applicant in order for the Board to make a determination on the Application as well as any potential reasonable conditions of approval.

42. By letter dated May 26, 2010, counsel for the Applicant requested a waiver from any obligation to respond to the requests for additional information contained in the April 28, 2010 letter from Stanley Puszczy.

43. By letter dated June 18, 2010, counsel for the Board responded to the request for a waiver and indicated why the requested information was relevant to the Board's consideration of the Application.
44. By vote taken during the Board's meeting on June 23, 2010, the Board declined the request for a waiver contained in counsel's letter of May 26, 2010.
45. During the meeting on September 21, 2010, Stanley Puszcz presented the Board with suggested conditions to impose upon the Applicant which recommended conditions are set forth in Exhibit PB-2.
46. The dust control measures utilized by the Applicant were not designed by an engineer and do not control the generation of dust and airborne sand or transport of dust and airborne sand off-site.
47. There is no noise control system or procedures in place at the subject property.
48. The subject property does not contain adequately marked or signed traffic routes or parking spaces for the safe and efficient movement of vehicles into, throughout and exiting from the subject property.
49. The site plans and testimony provided by the Applicant did not provide sufficient information regarding stormwater management draining onto and towards the site as well as stormwater management originating on the site.
50. The lack of fencing and other security measures renders the subject property unsafe and potentially hazardous.
51. The operations, equipment and stockpiles on the subject property are not visually screened from the adjacent residential properties.
52. The vibrations and noise from the operations on the subject property have adverse impacts on the adjacent residential properties.

NOW, Therefore Be It Resolved by the Planning Board in the City of South Amboy in the County of Middlesex and State of New Jersey on this 27th day of October, 2010 Preliminary and Final Major Site Plan Approval is hereby granted subject to the following conditions:

1. Circulation and Parking

A circulation and parking plan shall be prepared by a certified and accredited licensed professional and presented to Stanley Puszcz, P.E. for his review and approval, with the following information provided:

- a. The required number of required parking spaces and the basis thereof.
- b. The numbered location, dimensions and surface material of the parking spaces.
- c. The means or method of delineating parking spaces.
- d. The means for safe travel between parking spaces and offices.
- e. The location of internal circulation drives having a minimum width of thirty feet (30'); the drives shall be of a suitable material and maintained to allow for emergency response access.
- f. Adequate separation between parking and internal circulation.
- g. The Circulation and Parking plan shall be submitted within 30 days of approval. The required improvements shall be installed within 180 days of approval.

2. Traffic and Queuing

A traffic management plan shall be prepared by a certified and accredited licensed professional and presented to Stanley Puszcz, P.E. for his review and approval, with the following information provided:

- a. A summary of average and peak traffic entering and leaving the site. The summary shall indicate the types of vehicles and the quantity on an hourly and daily basis.
- b. The location for queuing of vehicles while entering the site, loading and weighing out. The length of the queue shall be based on the number of vehicles and their size.
- c. The queuing lanes shall be delineated or otherwise signed to clearly separate them from circulation drives and parking areas.
- d. The Traffic and Queuing plan shall be submitted within 30 days of approval. The required improvements shall be installed within 180 days of approval.

3. Site Security

A site security plan shall be prepared by a certified and accredited licensed professional and presented to Stanley Puszcz, P.E. for his review and approval, with the following information provided:

- a. The location, dimensions and materials of all fencing and gates to secure the site perimeter (including the detention basin) from unauthorized access. Upon determination of the validity of a waiver for the waterfront, it shall be granted.
- b. A written description of the access monitoring procedures that are employed to prevent unauthorized access to the site.
- c. Signage and illumination designed and intended to augment site security.
- d. The site security plan shall be submitted within 30 days of approval. The required improvements shall be installed within 90 days of approval.

4. Stormwater Management

A Stormwater Management Plan shall be prepared by a certified and accredited licensed professional and presented to Stanley Puszcz, P.E. for his review and approval, with the following information provided:

- a. Analysis of drainage areas within the site and adjoining areas that contribute to or affect surface run-off to the site.
- b. The methodology that will be used to perform hydraulic and hydrologic calculations.
- c. A USGS map showing the site location.
- d. A drainage area map displaying existing offsite contributing areas, and the existing site drainage areas.
- e. The determination of existing off site flows from the drainage area.
- f. The capacity of the existing system including the backwater effect from tidal influence.
- g. The determination of existing on site flows.
- h. The separation of the stormwater management runoff from the industrial settling pond runoff.
- i. Infiltration calculations.
- j. As required, water quality calculations to demonstrate that the discharge meets the Water Quality requirements based on the current DEP regulations. This should include stormwater attenuation methods and calculations.
- k. If and where existing drainage facilities fail to provide the required water quality, the stormwater management plan should identify mitigation measures, repairs or improvements to achieve same.
- l. The Stormwater Management Plan shall be submitted within 45 days of approval. The required improvements shall be installed within 180 days of approval.

5. Dust Mitigation

A Dust Mitigation and Control Plan for the site and its operations shall be prepared by a certified and accredited licensed professional and presented to Stanley Puszcz, P.E. for his review and approval, with the following information provided:

- a. A detailed description of all sources of dust on the site, the manner in which dust is generated and the activities that contribute to or cause the generation of dust. The description shall accurately characterize the particulate matter and the respective threshold conditions that make such matter become air-borne.
- b. A detailed description of the methods, materials and equipment to be employed for controlling the generation of dust at each source, including best management practices. Materials can only be stored onsite in a manner that will not allow it to be taken offsite by natural forces. The plan should specifically address methods for