

**From: Town of Halifax
P.O. Box 127
Halifax, VT 05358**

**To: April Hensel, District Coordinator
100 Mineral Street, Suite 305
Springfield, VT 05156-3168**

**Re: Act 250 #2W1318, C.A. Denison Lumber Co, Inc./Ashfield Stone, LLC
Proposed Quarry**

March 8, 2015

Dear April:

The Halifax Selectboard and Planning Commission hereby submit their response to Criterion 10: Conformance with Town Plan.

Sincerely,

Robbin Gabriel
Selectboard secretary

cc: Full E-Notification Certificate of Service List #2W1318

Town of Halifax
Criteria 10
Town Response: Talking Points for Hearing March 6, 2015

Criteria 10: Conformance with the Town Plan

Selectboard/Planning Commission Approved Statement

The following motion was approved 5-2 at the joint meeting of the Selectboard and Planning Commission on Thursday February 26, 2015: *The Planning Commission and Selectboard in a joint meeting tonight allow the two representatives from those two Boards at the next Act 250 hearing to state that after careful and lengthy consideration we have analyzed how the project to the best of our understanding today conforms with the Town Plan and we have found that there are sections where it is not compliance with the Town Plan.*

Draft minutes for this meeting are on the Halifax Town Website:

<http://halifaxvermont.com/selectboard/meeting-minutes/2015-02-26-joint-selectboardplanning-commission-meeting-minutes-draft/>

Background:

Halifax Town Plan

The current and applicable Halifax Town Plan was voted upon and adopted by the voters of the Town of Halifax on March 4, 2014.

Applicant and Party Submissions

- Schedule B--Response to the 10 Criteria and Subcriteria. Applicant Submission—**Last 2 pages refer to the town plan**
- Exhibit 26—Town Plan Excerpts (Commission requested further detail; online version shows highlights for sections the applicant emphasized)
- Exhibit 31—Supplemental Town Plan Analysis

- Halifax Planning Commission—Act 250 Cover Letter & Comments (25Nov14)—**Criterion 10 on the last page: Comments 27, 28 and 29**
- Halifax Town Plan
The Town Plan as approved by the voters is here:
<http://halifaxvermont.com/reports/town-plan-re-adopted/>

In addition, the Halifax Zoning Regulations are also available from
<http://halifaxvermont.com/policies-regulations/zoning-regulations/>

Please note while the maps are separate files for both the Town Plan and Zoning, both are part of their respective documents.

Discussion: Original Planning Commission Commentary

Comment 27 and Clarification:

Comment 27: In Exhibit 31, “Supplemental Memorandum Concerning Town Plan,” applicant states that “the project is located within a Conservation District as defined in the Town Plan,” and is “consistent with the Conservation District purpose in a number of respects.” In support of this statement, applicant cites Goal #10, shown on page 59 of the Halifax Town Plan, “to encourage the continued availability and good management of lands for agriculture, forestry, and earth/mineral extraction.” This reference (Goal #10) is not a Halifax Town Plan goal; it is quoted from a list of the state of Vermont’s Planning Goals, included within the Halifax Town Plan under the subhead “Town Response to Vermont’s Planning Goals” (see Halifax Town Plan, pg. 57-59).

Correction:

In support of this statement, applicant cites Goal #10, shown on page 59 of the Halifax Town Plan, “To provide for the wise and efficient use of Vermont’s natural resources and to facilitate the appropriate extraction of earth resources and proper restoration and preservation of the aesthetic qualities of the area.” This reference (Goal #10) is not a Halifax Town Plan goal; it is quoted from a list of the state of Vermont’s Planning Goals, included within the Halifax Town Plan under the subhead “Town

Response to Vermont’s Planning Goals” (see Halifax Town Plan, pg. 57-59).

Further clarification. The goal above is NOT an *implementation measure*, as incorrectly referenced by the applicant. However, the original goal we cited in error is, in fact, our Town goal.

The Halifax Town Plan Goal #10 is “To encourage the continued availability and good management of lands for agriculture, forestry, and earth/mineral extraction.” The applicant says: on page 2 of Exhibit 31: “The project is consistent with Goal 10 in that the project is earth/mineral extraction. A specific goal of the Town Plan is to encourage earth/mineral extraction.” In fact, the conclusion by the applicant about goal 10 is incomplete. We also need to recognize that it states the continued availability and good management of the lands is important.

Further, as noted by Edwards in the above-referenced open meeting: “the state goal appears to be more encouraging of mining operations than the Halifax town’s statement.” Again, the state goal is merely a reference to state planning elements which are to be covered in a town plan; it is not an “implementation goal.”

The Halifax Town Plan states (see pg. 21, “Conservation District Recommendations,” item #1), “These lands are appropriate for low-intensity recreation, forestry, wildlife habitat, agriculture, hunting, and other open space uses. Development, which creates significant amount of traffic or noise, or which otherwise has an adverse impact on the environment, is undesirable.” The Halifax Town Plan’s recommendations for rural residential and village districts include commercial and industrial uses, but do not endorse that activity for the conservation district. (See Halifax Town Plan, pg. 22, “Rural Residential District Recommendations, item #6, and pg. 23, Village District Recommendations, item #4.)

Screen captures of the cited sections, with flags to commercial/industrial use:

Conservation District Recommendations

1. These lands are appropriate for low-intensity recreation, forestry, wildlife habitat, agriculture, hunting and other open space uses. Development, which creates significant amounts of traffic or noise, or which otherwise has an adverse impact on the environment, is undesirable.

Rural Residential District Recommendations



1. These lands are appropriate for residential uses, light commercial and light industrial uses, agriculture, forestry, hunting, and low-intensity recreational and open space uses.

Village District Recommendations

1. This area should continue to support the traditional role of the village as a focus of economic, cultural, and social activities.
2. Preserving the historic, aesthetic and rural character of West Halifax is of critical importance. New construction, alterations and reconstruction should proceed in a manner which protects and enhances the integrity of the village. Development standards and site plan review are necessary to ensure that different uses will be compatible.
3. These lands are appropriate for a mixture of residential uses, small businesses, and public and government facilities. Recommended minimum lot size for residential uses is 2 acres. The minimum road frontage should be 200 feet. To encourage a traditional village pattern, the town should consider whether lowering frontage and acreage requirements in this district would be appropriate and acceptable. The town may wish to consider expanding the district or creating another such district.

4. Commercial and industrial uses should be compatible with the existing land uses and carefully controlled to avoid strip development, unreasonable burdens on town roads and services, and other adverse impacts. Site plan review and conditional use review standards

Comment 28 and Supporting Screenshots for Clarification:

Comment 28: In Exhibit 31 applicant refers to Halifax town zoning regulations, stating, “Earth extraction is considered ‘resource industry’ under the Zoning Regulations adopted March 6, 2012.” In the Halifax Zoning Regulations, under Article 7, Definitions, earth and mineral extraction is included under the term Resource Industry. We realize there is a discrepancy here in our zoning. The town believes that “earth extraction” is different than “resource industry” and this is something we need to clarify which is why we are in the process of updating and re-writing our zoning regulations. The fact that these terms are confused in our zoning is simply an oversight and, again, one of the main reasons why we are currently updating our zoning. Do Act 250 guidelines define earth and mineral extraction as resource industry?

Screen captures:

Note the definition for resource industry, and that there is no definition listed for Earth & Mineral Extraction.

Resource Industry An activity involved in the primary processing of agricultural or forestry products, including saw mills, but excluding those activities identified in the definition of Agricultural Use. Includes earth and mineral extraction.

Conditional Use A use permitted in a particular zoning district only upon a finding by the Zoning Board of Adjustment that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in this Regulation.

Coverage That portion of a lot that is covered by buildings, structures and man-made improvements on the ground surface, such as paving, that prevent the absorption of storm water.

Development The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of any structure; any mining, excavation, landfill or the construction of ponds or other impoundments, and any change in use or extension of the use of land or structures. The following are not included in the definition of development: a) the removal of interior walls of a structure; b) the installation or replacement of windows or doors; and other alterations that would not enlarge a structure, encroach on any setback or other dimensional requirements, or be likely to change the use of a structure; c) constructing one building or structure per parcel 100 square feet in area or less; and d) landscaping or excavation or filling incidental and accessory to a lawful use of the land. Activities a through d above must comply with all setback and other provisions of these regulations. For definition in Special Flood Hazard Area see Article 8, §810.

Dwelling Unit A building or portion thereof connected together containing cooking, sanitary and sleeping facilities that constitute a separate, independent housekeeping establishment. It shall include prefabricated modular units and mobile homes but shall not include a motel, hotel, boarding house, tourist home, shelter or similar structure.

Family One or more persons occupying a single dwelling unit and living as a single household unit.

Forestry The developing, caring for or cultivating of forests, or the management and harvesting of timber.

Frontage Distance along the established division line between a lot and a public right of way. The provisions of Section 401 of this Regulation apply for development purposes.

Garage, Repair Any building, premises and/or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

Garden/Farm Supply or Nursery A retail business or commercial activity concerned with the sale of tools, small equipment, plants and related goods used in gardening or farming. Related goods are defined as only those used on the plant or in its soil to preserve the life and health of the plants sold (e.g., fungicides, peat moss and mulches).

Health Care Facility A facility or institution, whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments, that has equipment and facilities for extensive testing and provisions for extended periods of 24-hour care by full-time certified medical staff.

Interested Person For the purpose of appeals regarding decisions of the Zoning Administrator, as defined in 24 VSA § 4465(b), an interested person is: 1) a person owning title to a property or a municipality or solid waste management district affected by a bylaw who alleges that the bylaw imposes unreasonable or inappropriate restrictions on present or potential uses in the particular circumstances of the case, 2) the municipality that has a plan or bylaw at issue in

..

Also note, however, that there are separate “Earth & Mineral Extraction” and “Resource Industry” Conditional uses in the Village and the Rural Residential sections, while only “Resource Industry” appears in the Conservation District section of the Halifax Zoning

Regulations. (Next 3 screen shots):

Section 306 Village

1. *Description* The Village District contains all lands within the area described below and shown on the Halifax Zoning Map. Beginning at the southerly boundary of Sumner's Mill, so-called, at its intersection with Branch Road; thence northwesterly in a straight line to the intersection of Sprague and Reed Hill Roads; thence northerly in a straight line to the intersection of the southerly boundary of lands of Summerfeld and Collins Road; thence easterly in a straight line to the intersection of Bridge 10 and Brook Road; thence southwesterly in a straight line to the point and place of beginning.
2. *Purpose* The purpose of the Village District is to support the role of the village as the focus of many social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the community. Such development should occur at densities and uses that will maintain the traditional social and physical character of the village including its historic, agricultural, and scenic resources.
3. *Permitted Uses, V* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:

- | | |
|--------------------|---------------------|
| 1. Bed & Breakfast | 3. Personal Service |
| 2. Office | |

4. *Conditional Uses, V* The following uses require a Conditional Use Permit from the Board of Adjustment:

- | | |
|---|--|
| 1. Multi-Family Dwelling | 13. Boarding House |
| 2. Planned Unit Development | 14. Hotel/Motel |
| 3. Public Utility Facility | 15. Service Station, Repair Garage |
| 4. Public Assembly Facility | 16. Light Industry |
| 5. Lodge/Inn | 17. Funeral Home |
| 6. Resource Industry | 18. Recreation Facility |
| 7. Earth & Mineral Extraction | 19. Campground |
| 8. Office/Office Building | 20. Group Home/Child Care Facilities
exceeding minimum size (see section 504) |
| 9. Retail Uses | 21. Garden/Farm Supply or Nursery |
| 10. Bank | 22. Veterinary Office (no boarding of animals) |
| 11. Restaurant | 23. Mini-storage |
| 12. Uses listed in sec. 4413(a) 1-6
of the Act | |



Section 307 Rural Residential

1. *Description* The Rural Residential District includes all areas within the Halifax Town limits not included in the Conservation or Village Districts, as shown on the Halifax Zoning Map.
2. *Purpose* The purpose of the Rural Residential District is to provide for residential development and compatible light industrial & light commercial uses at moderate densities which are easily accessible to public roads. [insert zoning amendment 1 language here] It is anticipated that the bulk of new residential and light commercial growth will take place within this district. Special care should be taken to protect the rural-residential character of this district and to locate proposed development off of productive agricultural lands. Non-residential development proposed in the RR District shall be carefully reviewed on a case-by-case basis utilizing the standards established under Conditional Use Approval, and elsewhere throughout this Zoning Regulation including, but not limited to General Performance Standards, Landscaping Requirements, and Article 5 Special Regulations, as applicable.
3. *Permitted Uses, RR* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:

- | | |
|--------------------|---------------------|
| 1. Bed & Breakfast | 3. Personal Service |
| 2. Office | 4. Wildlife Refuge |

4. *Conditional Uses, RR* The following uses require a Conditional Use Permit from the Board of Adjustment:

- | | |
|---|---|
| 1. Multi-Family Dwelling | 14. Service Station, Repair Garage |
| 2. Planned Unit Development | 15. Light Industry |
| 3. Public Utility Facility | 16. Funeral Home |
| 4. Public Assembly Facility | 17. Indoor/Outdoor Recreation Facility |
| 5. Lodge/Inn | 18. Campground |
|  6. Resource Industry | 19. Group Home/Child Care Facilities exceeding minimum size (see section 504) |
| 7. Earth & Mineral Extraction | 20. Garden/Farm Supply or Nursery |
| 8. Office/Office Building | 21. Veterinary Clinic |
| 9. Retail Uses | 22. Commercial Animals, Kennel |
| 10. Bank | 23. Mini-Storage |
| 11. Restaurant | 24. Uses listed in Section 4413(a) (1)-(6) of the Act |
| 12. Boarding House | |
| 13. Hotel/Motel | |

Section 308 Conservation District

1. *Description* The Conservation District contains all designated lands within the area described following and shown on the Halifax Zoning Map. Beginning at the intersection of the Halifax/Guilford town line and the Green River Road, then west along the southern boundary of the Green River Road; then south along the east side of Brook Road; then east along the northern boundary of Whitneyville Road; then south along the eastern side of Old County Road towards Halifax Center; then southeasterly and northeasterly along the northern border of Jacksonville Stage Road to the Guilford/Halifax town line; then north following the Guilford/Halifax town line to the point of origin.
2. *Purpose* The purpose of the Conservation District is to protect the natural resource value of lands that are essentially undeveloped, are important upland wildlife habitat or corridors, particularly for large game animals such as deer and bear, or have high forestry value, are unsuitable for land development, or include irreplaceable, limited or significant natural, recreational, or scenic resources.
3. *Permitted Uses, C* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:
 1. Wildlife Refuge
4. *Conditional Uses, C* The following uses require a Conditional Use Permit from the Board of Adjustment:
 1. Cluster Housing
 2. Bed & Breakfast
 3. Vet. Clinic, Commercial Animals, Kennel
 4. Limited Outdoor Recreation
 5. Resource Industry
 6. Uses listed in sec. 4413(a) (1)-(6) of the Act

Comment 29: Some relevant portions of the town plan were not referenced in the applicant's response to Criterion 10's request for demonstration of project conformance. In particular, the Halifax Town Plan (pg. 5, #16) states that one of its goals is "To discourage uncoordinated or incompatible development that may jeopardize or overburden public or private investment, or damage the town's resources, rural character, and overall quality of life."

During the 2/26/2015 meeting, the minutes note: "Under Comment #29, town goals 3, 4, 5, 9, 15, and 17 should be included in addition to goal 16."

Discussion: Town Plan Sections where Proposed Project is Not in Conformance

The discussion below highlights areas which the PC/SB covered as areas where conformance of the proposed project to our Town Plan was called into question. Below are seven of the seventeen Goals for the Town Plan. Also of particular note is the Land Use section with the Land Use

Classifications and Policies and Recommendations for the Conservation District; and the Transportation Policies section. There are also concerns related to the section on Earth and Minerals in the Natural Resources Use and Conservation section.

The proposed project is in the Conservation District and is not in conformance with the Land Use section, in the Land Use Classification and in particular in the Recommendations and Policies for the Conservation District. The proposed truck traffic and route of travel is not in conformance with the general goals of the Town Plan and with Transportation Policies.

The Relevant Sections of the Halifax Town Plan

Statement of Goals – Pages 4 and 5

3. To ensure that decisions and policies made at the local, regional and state levels are implemented in harmony with the needs and concerns of the town and the financial constraints of its citizens;
4. To ensure that the health and safety of the town's residents will be met and maintained at satisfactory levels;
5. To plan and support an efficient and affordable system of public facilities and services to meet existing and future needs:
9. To preserve and enhance the community's culture, historical, architectural, recreational and scenic resources;
15. To accommodate development that will strengthen the local economy and provide employment opportunities, which will meet the needs of the town's residents:
16. To discourage uncoordinated or incompatible development that may jeopardize or overburden public or private investment, or damage the town's resources, rural character and overall quality of life.
17. To provide a safe, convenient and scenic road network capable of accommodating local traffic and pedestrians.

Land Use – Page 19 and 20

This portion of the Town Plan describes goals, land use policies and the land use classification system for the town. These goals and policies are intended to recognize the existing land use patterns, physical and geographic limitations to development, flood hazards, and to protect wetlands and shorelands. Also taken into consideration are the present and probable road systems within the town, other existing town infrastructure and the goals and policies stated in the other portions of the Plan. Public investment and infrastructure exert a major influence on where development occurs and should be compatible with maintaining the historic development patterns of the town.

...

The town should encourage activities that embrace the historic settlement patterns of the town, have a minimal impact on the finite natural and fiscal resources of the community, promote resiliency in the face of natural disaster, and which do not put the lives and possessions of property owners, and the lives of our emergency responders, at risk.

Land Use Policies – Page 20

3. Protect the health and safety of home owners as well as the natural beauty and rural character of the town by directing appropriate new development that is outside the Village District along currently maintained roads.

Land Use Classification – Page 21

The classification of Halifax lands into Conservation, Rural Residential and Village districts has been formulated to be general consistent with the maps and should be used together with them. It is the clear intent of the Town Plan that when more accurate or detailed information becomes available, it should take precedence over general descriptions or maps. Land Use classification descriptions and related Zoning Regulations should be modified when found to be inconsistent with stated Land Use policies. A brief explanation of the criteria, purposes and suggested development intensities for each land use area follows.

Conservation District – Page 22

The purpose of the Conservation District is to protect the natural resource value of land that are essentially undeveloped; lack direct access to arterial or collector roads, are important upland wildlife habitat or corridors, particularly for large game animals such as deer, moose and bear; have high forestry value; are unsuitable for land development; or include irreplaceable, limited or significant natural, recreational or scenic resources.

The Conservation District shall be used for agriculture, forestry, open space conservation, strict resource management, recreation, hunting and residential one/two-family dwellings, which may, where approved, be in the form of carefully and strictly planned residential development retaining the requisite preserved open space and density of the district.

Conservation District Recommendations – Page 22

1. These lands are appropriate for low-intensity recreation, forestry, wildlife habitat, agriculture, hunting and other open space uses. Development, which creates significant amounts of traffic or noise, or which otherwise has an adverse impact on the environment, is undesirable.

Further discussion:

Conservation District compared with Rural Residential and Village Districts

In short, it was pointed out that the town does not endorse commercial activities for the conservation District while it does endorse these activities for the Rural Residential and Village Districts.

In the Rural Residential District, the recommended uses include light industrial uses. In the Village District, the recommended used include industrial uses that are compatible with the existing uses. In the Conservation District light industrial use or industrial use are not recommended.

Natural Resource Use and Conservation Earth and Minerals – Page 37

The applicant does not mention important introductory material about the potential problems with earth and mineral extraction.

While Halifax's earth and mineral extraction operations are economically important to the town and region, they clearly

present potential land use problems which must be adequately addressed in order to protect the health, safety and welfare of the general public. By their very nature, extraction operations are often considered unsightly intrusions on the landscape. They can also have significant adverse impacts on neighboring properties through air and noise pollution and traffic congestion, and can degrade the quality and quantity of area water supplies, and wildlife habitats. Clearly, adequate planning for and review of development proposals involving earth and mineral extraction are the best defenses against such impacts.

Earth and Mineral Extraction Policies

2. Minimize noise and adverse impacts on public highways, aesthetics, surface water, air quality, adjacent properties and the character of the area.

Transportation Policies – Page 52

1. Require that the town's roads network provide convenience and service commensurate with need, which respecting the integrity of the natural environment and maintaining the rural character of Halifax.
3. Require that new development not result in an undue financial burden on the Town by necessitating highway expenditures which are in excess of those anticipated with the budget for roads, bridges and equipment.
7. The Town will resist efforts to upgrade unmaintained rights of way to a higher classification.

E-Notification CERTIFICATE OF SERVICE #2W1318

I hereby certify that I sent a copy of the foregoing Halifax Roads document on March 9, 2015, by U.S. Mail, postage prepaid, to the individuals without email addresses and by electronic mail, to the following with email addresses: All email replies should be sent to halifaxsecretary@gmail.com

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