

**DOCUMENTS UPON WHICH THE PLANNING BOARD BASED DENIAL
OF SITE PLAN AND GRAVEL EXTRACTION PERMITS TO D. GOTT &
SON FOR MAP 3, LOT 8 IN LAMOINE**

MAY 26, 2010

- EXHIBIT A** Site Plan Review Criteria Record of Findings acted upon on March 2, 2010
- EXHIBIT B** A Gott amended application filing in response to a previous Board request for a More detailed description of "Proposed Development Activity". See #5.
- EXHIBIT C** Planning Board minutes of March 2, 2010 at which a public hearing was held, the Site Plan Review and Gravel Extraction applications was accepted as complete and a Review of the criteria led to rejection of the permits.
- EXHIBIT D** Planning Board minutes of April 13, 2010 at which a final draft of "FINDINGS" was Accepted and prepared for distribution.
- EXHIBIT E** The "FINDINGS" as approved on April 13, 2010
- NOTE:** A copy of the Lamoine Comprehensive Plan must, of necessity, be included in your material for consideration.

EXHIBIT A

Lamoine Planning Board – Site Plan Review Criteria Record of Findings

Applicant	Doug Gott & Sons
Map & Lot	Map 3 Lot 8
Date Reviewed	March 2, 2010
Fee Paid	\$300

Review Standard	Votes Yes	Votes No	Reasons/Comments
1. Preserve and Enhance the Landscape	2	2	1 ABSTAIN
2. Relation of Proposed Buildings to Environment			N/A
3. Vehicular Access	5	0	
4. Parking Design Requirements			N/A
5. Off-Street Parking Requirements			N/A
6. Buffering and Screening	0	5	SEE MINUTES
7. Exterior Lighting.			N/A
8. Municipal Services			N/A
9. Surface Water	5	0	
10. Groundwater Protection	2	3	SEE MINUTES
11. Air Pollution	5	0	
12. Odor	5	0	
13. Noise	5	0	
14. Sewage Disposal.			N/A
15. Utilities/Waste Disposal/Water Supply			N/A
16. Comprehensive Plan.	0	5	SEE MINUTES
17. Stormwater Drainage.	5	0	
18. Conservation, Erosion and Sediment Control.	5	0	N/A
19. Advertising Features.			N/A
20. Financial and Technical Capacity.	3	2	BANK LETTER?

Application is

- Approved
- Approved with Conditions (list on back)
- Denied (State Reasons for denial below) *SEE MEETING MINUTES*

MARCH 2, 2010

Signed,

Chair, Lamoine Planning Board

(Planning Board to fill out one copy of this form and submit it as part of the official file of the above referenced project) – (If approved or approved with conditions, the signed copy of this form shall serve as the official permit)

- d. Location, names and widths of existing roads and rights-of-way within or adjacent to the proposed development;

Existing Access Road: Stephens Pit Access Road
Existing Roads Adjacent to Property: Lamoine Beach Road (66' Right of Way) / Memory Lane
-See Site Plan for Road Locations: Page 41

- e. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

None of the above were found on site except aquifer.
-See Agency Letters (wildlife/plants/historic features): Page 14
-See Floodplain Map: Page 10
-For Aquifer Information; see Hydrogeological Report: Under Separate Cover

- f. The location, dimensions and ground floor elevation of all existing buildings on the site.

None

- g. Topographical contours and the direction of existing surface water drainage across the site; and

-See Site Plan: Page 41

- h. If any portion of the property is in the 100-year floodplain, its elevation shall be delineated on the plan or provide a FEMA floodplain map.

Site not in 100-year floodplain.
-See Floodplain Map: Page 10

5.

Proposed Development Activity

- a. Descriptions of all proposed uses of the development including specific uses of all structure to be built, converted or expanded.

Development Activity: Primary uses will include the storage of sand, loam and gravel after the site is cleared and contoured as shown on the site plan. The finished grade elevation of the pit floor will be 110' (NGVD datum).

MINUTES OF THE LAMOINE PLANNING BOARD

March 2, 2010

Draft Copy – Subject to Change

PUBLIC HEARING

Site Plan Review & Gravel Permit Application, D. Gott & Sons, Map 3, Lot 8

Chairman G. Donaldson called the hearing to order at 6:30 pm.

Board Members Present: D. Bamman, G. Donaldson, J. Gallagher, M. Garrett, J. Holt, M. Jordan, C. Tadema-Wielandt (7:00 pm).

CEO: D. Ford

Members of the Public in Attendance: A. Blasi, C. Curtis, K. DeFusco, C. deTuede, P. Downey, D. Fickett, H. Fickett, D. Jones, C. Lippitt, J. Moore, S. Salisbury, T. Smith, V. Sprague, J. Willis, T. Willis.

A number of people rendered statements, comments and questions. Among them:

- C. deTuede read a written statement from C. Korty. Chief among her concerns are issues of highway safety, traffic congestion and a potential unsightly impact on the scenic and natural setting of the proposed pit.
- Jim Willis of Mill Road noted a growing number of dump trucks traveling Mill Road. "Would opening this pit create more traffic?" He also is concerned about the safety of bicycle riding children. Too, he noted noise and the need for more frequent window washing on account of dust raised by large trucks.
- C. Lippitt summarized the results of S. W. Cole's hydrologic examination of the pit – a study required by the Planning Board.
- V. Sprague was one of several to fear declining property values as more gravel pits infringe closer to residential sites.
- D. Jones can hear noise from loaders and tailgate closing from his home.
- C. Curtis wondered if signage could be provided near her home so traffic would slow down at a curve in the road.
- Planning Board member J. Gallagher read a statement in which he contended the lot in question represents a "unique natural community" **in the area in which it is located** – an area surrounded by actively mined pits. Clearing of this (Stephens) pit for gravel mining would, contrary to Town Ordinances, destroy a 'unique natural community'.
- J. Willis also noted the presence of endangered Trillium on the site.

There being no further comments, C. Donaldson closed the public hearing at 7:12 pm

MARCH MONTHLY MEETING OF THE PLANNING BOARD

G. Donaldson called the meeting to order at 7:15 pm.

Minutes, February 2, 2010. These listed amendments to the Minutes were offered and accepted:

- Under members present, "Jordon" should be Jordan.
- Under "Old Business – B", the apostrophes contained in the words "Stephens" and "Billings" should be omitted.
- Under "Old Business -3 b" the word "Deerwoldz" should be "Deerworldz".
- Under "old Business -3" – The sentence reading "The Board understands the permit expires in 2011 and that beyond the expiration D. Gott plans no further activity erroneously states cessation of activity on ALL FOUR of these pits will commence in 2011. In fact ONLY mining of the Deerworldz pit will cease.

The minutes were accepted as amended.

OLD BUSINESS

1. **Site Plan Review Completeness – Doug Gott & Sons, Map 3, Lot 8.** Conditions set by the Board (a statement for the record indicating the project is wholly within the aquifer and a more detailed description of proposed activity) have been met. J. Holt moved and M. Garrett seconded a motion to find the application complete. The vote was unanimous.
2. **Gravel Permit Application – Doug Gott & Sons, Map 3, Lot 8.** Conditions set by the Board (extend the map's contour lines to the Billings Pit; add the word "proposed" to the map indicating the proposed road into the pit; and state in the application that no mining will occur lower than a depth of 110 feet) having been met, G. Donaldson moved and J. Gallagher seconded a motion to find the application complete. The vote was unanimous.
3. **Action on the Site Plan Review Application.** The Board undertook a review of Site Plan review standards as required by the Ordinance. In this undertaking the Board found the following items fail to fully meet the standards.
 - a. Standard #1. "Preserve and Enhance the Landscape – Two voted the standard to have been met, two voted it had not been met and one abstained.
 - b. Standard #6 Buffering & Screening a unanimous vote held this standard is not met. The Ordinance calls for 50 feet of screening (Section 14 F 8). Once cleared to the 50 foot line separating the mining operation from three residential homes, the natural buffer – one of tall trees and relatively little under growth – is not sufficient to "screen" the operation from the abutters.
 - c. Standard #10. Groundwater Protection. 2 board members felt this standard was satisfied; 3 did not. The dissenters note the application does not contain plans to monitor water quality and, given that the flow of groundwater is toward Rt. 184, it could affect the quality and quantity of wells across the road.
 - d. Standard #16. Comprehensive Plan. Is the proposed operation compatible with the purpose and intent of Lamoine's Comprehensive Plan? No one voted affirmatively; dissent was unanimous. The rationale for the negative vote is largely contained in Planning Board member John Holt's statement, delivered during deliberations of this issue – a statement which echoes the several concerns raised by neighboring landowners during the Public Hearing. That rationale will be formally presented as "Findings" when they are formulated. S. Salisbury, representing the applicant, agreed to extend the deadline for official "Findings" until the Board's April 13, 2010 meeting.
4. **Action on the Gravel Permit.** The Board considered the review standards set forth in the Ordinance for issuance of a gravel permit. By a vote of zero in favor, four opposed and one abstention review standard #6 (Will not adversely affect surrounding properties) was deemed to fall short of the standard. The rationale is contained in b and d. above.

NEW BUSINESS

Request of Attorney Margaret Jeffrey re: subdivision lot line, Map 3, Lot 39-8. To satisfy potential insurance/mortgage/title issues, Attorney Jeffrey requested that all members of the Board sign the following statement:

“It is the position of the Town of Lamoine Planning Board that the modification created by the land swap between Lot 7 and Lot 8 of the Applewood Shores Subdivision by deed dated September 30, 2003 and recorded in Book 3760, Page 214, and deed dated October 14, 2003 and recorded in Book 3760, Page 212 does not require subdivision review and approval.”

Since the subdivision is over five years old and the land swap does not create a non conforming lot, the Code Enforcement Officer informs the Board the issue is outside the jurisdiction of the Board. Reluctant to engage in a decision beyond the scope of the Board’s authority, the Board declined to have all members sign. The Board did agree, however, that Chairman Donaldson could (and did) sign as Board spokesman.

OTHER BUSINESS

1. Chairman G. Donaldson called the Board’s attention to a Maine Model Wind Energy Facility Ordinance for the Board’s future consideration.
2. Final approval was given to proposed amendments to the Building and Land Use Ordinance concerning groundwater and home occupations. At Town meeting J. Holt is the designated “expert” on the ground water proposals (i.e. he is principally but not solely responsible for fielding questions from the floor.) C. Tadema-Wielandt will do the same for questions about proposals for home occupations.

Respectfully submitted,
Michael F. Garrett, Secretary

PENDING COMMITMENTS

April 7, 2010 – Town Meeting. Lamoine School 6:00 pm

April 13, 2010 – Monthly Board meeting – Town Hall – 7:00 pm.

MINUTES OF THE LAMOINE PLANNING BOARD

April 13, 2010

Draft Copy – Subject to Change

Chairman G. Donaldson called the meeting to order at 7:00 pm.

Board Members Present: G. Donaldson, J. Gallagher, M. Garrett, J. Holt, M. Jordan,
C. Tadema-Wielandt

CEO: D. Ford

Members of the Public in Attendance: K. DeFusco, S. Salsbury

Minutes of March 2, 2010 – The minutes were accepted as presented.

CEO Reports: Following a brief discussion of two enforcement issues (W. Pinkham on Chickadee Lane and S. Moala on Sugarbush Drive), the reports were accepted and placed on file.

OLD BUSINESS

Findings of Fact, final vote – Gravel Pit and Site Plan Review applications, Doug Gott & Sons, Inc (Map 3, Lot 8). Several amendments were made to the Findings of Fact as presented. Some were grammatical; some were factual and a significant one included adding denial of the Gravel Extraction permit as a separate heading in the formal Findings.

J. Gallagher moved and J. Holt seconded a motion to approve the amendments and insert them into a final draft. A motion to accept the amendments and the Findings as amended was unanimously passed by those Board members voting (4 – 0). M. Garrett was instructed to incorporate the amendments into a draft and send it to G. Donaldson for final approval. Once approved by G. Donaldson, he was to deliver one signed copy each to S. Salsbury and S. Marckoon. A copy of this draft should be filed as part of this meeting's minutes.

NEW BUSINESS

A communication was received from Kristen Puryear of the Maine Natural Areas Program. The program is designed to collect field information about Community identified wetlands of five or more acres. Her letter is dated March 19, 2010; the Board officially received it on April 13, 2010 and the deadline for application submission is April 16, 2010.

The Board directed M. Garrett to notify the Conservation Commission of the program for possible future application.

OTHER BUSINESS

The Selectmen have requested that members of the Planning Board meet with them at their April 29, 2010 meeting at 7:00 pm. The meeting is designed to keep an "open line" of communication between the Boards.

ORDINANCE DEVELOPMENT

1. The Board received a copy of a revised BLUO incorporating the amendments adopted at Town Meeting on April 7th. J. Holt and M. Garrett will independently look at the revised ordinance to certify the placement and content of the amendments in this new Ordinance draft.
2. In eliminating the need for Planning Board approval for certain types of Home Occupations, the Board neglected to remove the need for Planning Board approval from the Table of Land Uses. Until such time that a correction can be made, the Board decided the following:

On motion of J. Holt, seconded by J. Gallagher and voted unanimously, the Board confers on the CEO the authority to interpret and act on Home Occupation requests and questions.

The meeting adjourned at 8:06 pm

Respectfully submitted,
Michael F. Garrett, Secretary

PENDING COMMITMENTS

Thursday, April 29, 2010 – Meeting with Selectmen. Town Hall. 7:00 pm

Tuesday, May 4, 2010 – Monthly meeting. Town Hall. 7:00 pm

Lamoine Planning Board
Lamoine, Maine
April 13, 2010

FINDINGS
Map 3, Lot 8 – The “Stephens” Lot
Application for Site Plan Review Permit

On March 2, 2010, the Lamoine Planning Board unanimously denied a Site Plan Review permit sought by Doug Gott & Sons for the purpose of developing a gravel pit on the lot – Map 3, Lot 8, known as the “Stephens” lot.

Section J of the Site Plan Review Ordinance states: *“The Board shall approve the application unless the proposal does not meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Board.”*

The Board found that the application failed to meet the following three criteria:

Criterion #6. Buffering and Screening. By a unanimous vote, the Board found that the requirement for *50 feet of screening* (Section 4 F 8) was not met. Once cleared to the 50 foot line separating the mining operation from three residential homes, the natural buffer – one of tall trees and sparse undergrowth – is not sufficient to “screen” the operation from abutters.

Criterion #10. Groundwater protection. By a vote of 3-2, the Board found that the application does not adequately account for the *protection of water quality*. A majority found that, because the flow of groundwater is toward Route 184, the proposed activity could negatively affect the water quality in wells serving residences across the road (approximately 150 – 300 feet from the pit boundary).

Criterion #16. *“The development shall be in conformance with the Comprehensive Plan.”* The Board, by unanimous vote, found the following.

1. The lot in question (Map 3, Lot 8) is in a Rural/Agricultural zone. The Town’s Comprehensive Plan envisions a Rural/Agricultural Zone as having limited commercial development. (See Policies and Policy Implementation Recommendations of the Comprehensive Plan Committee – 1. Orderly Growth and Development, Paragraph G of the Comprehensive Plan.)

This vision is reaffirmed in Part 1, Section E, Purpose of the Districts, paragraph 3 of the Lamoine Building and Land Use Ordinance which reads: (The purpose of) Rural and Agricultural Zone: *“To encourage a mixture of residential, agricultural and limited commercial uses.”* While sand and gravel extraction may take place within the Rural and Agricultural Zone, any industrial use, including sand and gravel extraction, requires a determination by the Planning Board that such a use is appropriate for the site within the context of the overall purpose of the Rural and Agricultural Zone.

The Board’s issue is the extent of sand and gravel extraction in a zone where such use is to be limited and needs to coexist with residential and agricultural uses.

A review of the assessors' tax maps in the Town office reveals that three companies (Doug Gott & Sons, John Goodwin, Jr. and R.J. Jordan) currently own lots with existing gravel extraction permits comprising nearly 275 acres in the area bound broadly by portions of Mill Road, Walker Road, Lamoine Beach Road and Asa's Lane. Gott also holds extraction agreements with two other landowners to extract sand and gravel in two additional parcels totaling 54 acres. In the recent past, Gott extracted sand and gravel from a town owned lot of about 40 acres in the same area. Altogether, *nearly 370 acres* which, in effect, comprise one large lot, are or have been used for gravel extraction within the Rural/Agricultural Zone in that part of Lamoine under discussion. The Stephens Lot, which abuts three residential properties and is directly across Route 184 from several others, would add 5.6 acres to this large parcel.

The Board is of the opinion that since the purpose of the Rural and Agricultural Zone recommended in the Comprehensive Plan is to encourage residential and agricultural developments, to permit limited commercial developments and to discourage heavy industrial use, a permit to develop yet another parcel as a gravel pit in this immediate area is contrary to that expressed purpose, and thus should not be granted.

2. The Comprehensive Plan of the Town envisions Lamoine as essentially a residential community. With regard to residential developments, the Plan identifies the "village area to Blunt's Pond" as having the most suitable soils for residential housing. It also notes that a significant portion of Lamoine's sand and gravel aquifer is located in this area. The current widespread gravel extraction operations described above are located precisely in this area deemed desirable for residential development and on top of the existing sand and gravel aquifer. Both concerns are addressed in the Comprehensive Plan.
3. Additionally, Section F of the Lamoine Site Plan Review Ordinance notes that one of the purposes of the site plan review, in addition to implementing the policies contained in the Lamoine Comprehensive Plan, is to balance the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances from nuisances such as, but not limited to, noise, smoke, fumes, dust, odor, glare, traffic, storm water runoff or the pollution of ground and surface water.

At the March 2, 2010 public hearing on Gott's application to obtain a gravel permit for gravel creation from a new pit on this lot, several residents stated their complaints concerning current gravel excavation operations in the neighborhood. Complaints expressed included excavation equipment noise, gravel trucks entering the many pits on Rt. 184 as early as 5:30am, the high level of truck traffic on roads (with attendant dust, dirt and safety issues) despoiling property. They worry another operational pit still closer to their residential homes would exacerbate these conditions.

Also expressed at the public hearing was concern about the impact of extensive gravel mining operations on the value of residential property. Given that the proposed use would extend mining operations even closer to residences, visual degradation, dust, noise and high truck traffic volume will likely compromise property values of these residences. The Board agrees that these are legitimate concerns.

4. A final factor weighing in the Board's denial of the permit is the applicant's stated proposed use of the lot. In response to a specific Board request that the applicant state in detail on the application to what use the pit would be put, the applicant wrote: "once the lot is cleared and contoured as shown on the site plan (the proposed use) was the STORAGE of sand, loam and gravel." Let the record reflect the applicant has several other nearby, permitted lots in the immediate area on which to store materials.

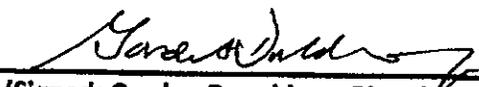
FINDINGS

Map 3, Lot 8 – The "Stephens" Lot Application for Gravel Extraction Permit

Review Standard #6 of the Gravel Ordinance, Section 8 D 6 ("will not adversely affect surrounding properties") led the Board to deny issuance of a Gravel extraction permit. (See "buffering and screening" above). In response to a motion stating the applicant met this standard, the vote was zero in favor; four opposed and one abstention. The Board's findings in this regard are:

1. Given that the proposed use would extend mining operations even closer to residences, visual degradation, dust, noise and high truck traffic volume will likely compromise a) the quality of life of abutting residential property owners and b) the property values of these residences. See above findings.
2. Inadequate buffering and screening (See Criterion #6 "Buffering and Screening" above).

By a unanimous vote of those Board members voting at the April 13, 2010 Planning Board meeting (4 – 0), these findings are hereby set forth.



4/15/10

(Signed: Gordon Donaldson, Planning Board Chair)

(Date)