



*Town of New Boston
New Boston Planning Board
P.O. Box 250
New Boston, NH 03070*

Page 1

File No. G2011-009

NOTICE OF DECISION - Conditional Approval

Planning Board, Town of New Boston

You are hereby notified that the Earth Removal Application with associated plans entitled "Excavation Plan for Middle Branch Associates", dated 7/28/11, 5 sheets altogether, including one sheet entitled "Reclamation Plan Completion Status and Proposed Topography", dated 9/20/06, most recently revised 9/26/11, and an Earth Removal Permit have received conditional approval by majority vote of the members of the New Boston Planning Board on September 27, 2011, on the motion(s):

- **IMOVE** to approve the Earth Removal Application with associated plans entitled "Excavation Plan for Middle Branch Associates", dated 7/28/11, 5 sheets altogether, including one sheet entitled "Reclamation Plan Completion Status and Proposed Topography", dated 9/20/06, most recently revised 9/26/11, and to grant an Earth Removal Permit, to include the site specific items discussed at this hearing, subject to:

CONDITION(S) PRECEDENT:

1. Submission of any outstanding fees.

The deadline for complying with the conditions precedent shall be **November 27, 2011**, the confirmation of which shall be an administrative act, not requiring further action by the Board. Should compliance not be confirmed by the deadline date, and a written request for extension is not submitted prior to that date, the applicant is hereby put on notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the approval.

CONDITIONS SUBSEQUENT AND ONGOING:

1. Prior to the granting of any permit, or to the removal of any topsoil or other overburden material from a new area within an existing excavation site, the Applicant shall submit to the Regulator an acceptable bond with sufficient surety as determined by the Regulator. The purposes of the bond are to guarantee reclamation of the area and compliance with the permit. The surety must be phased to coincide with the phasing of work, in an amount sufficient to guarantee reclamation of the applicable section, to be released as sections are completed. Prior to a new section being opened, new securities shall be posted. The surety shall not be released until the Regulator is satisfied that all conditions of the site reclamation plan have been complied with. This shall be determined at a final site walk by the Regulator and/or its designee.



*Town of New Boston
New Boston Planning Board
P.O. Box 250
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Page 2

File No. G2011-009

NOTICE OF DECISION - Conditional Approval

Planning Board, Town of New Boston

Additionally, if a bond or security is already in place, the applicant is responsible for keeping said security up-to-date and submitting riders, renewals, or other documentation to the Planning Board as proof that the bond or security is in place.

2. Amendments and Renewals

Permit holders wishing to alter the size or location of the excavation, the rate of removal or the plan for reclamation shall apply for a renewal or amendment, following the same procedures as those required for the original excavation permit.

3. The Earth Removal permit is not transferable without the prior written consent of the Regulator.

4. A copy of the Earth Removal permit shall be prominently displayed at the site or the principal access to the site.

5. Inspections

The Regulator or its designee may make periodic inspections, minimally on an annual basis, of all excavation sites, both permitted and exempt, to determine if the operations are in conformance with the New Boston Earth Removal Regulations and the approved plans.

6. Hours of operation

Start up time for all machinery associated with an Earth Removal Operation shall be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including loading and removal of material from the site shall begin no earlier than 7:00 a.m.; termination of removal of material from the site shall be no later than 5:00 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be shut down by 5:00 p.m. These operating hours shall be for Monday through Saturday.

No operation shall take place on Sundays and major Federal holidays, as follows: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and Christmas; provided, however, that access on Sundays and holidays is permitted in the event of a town-wide emergency situation requiring use of material or equipment, for example, flooding situations, ice storms, major blizzards.

7. Maximum Excavation Limit

Final excavation grade shall be not less than four feet to documented seasonal high water table, provided, however, that pursuant to RSA 155-E:11,II, an exception shall be granted if the application demonstrates to the Regulator's satisfaction that excavation below this height will not adversely affect water



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quality. The Regulator reserves the right to have an outside review of the information submitted as part of any proposal to excavate within four feet of the

Page 3

File No. G2011-009

NOTICE OF DECISION - Conditional Approval

Planning Board, Town of New Boston

documented seasonal high water table, at the Applicant's expense. Written notice of such an exception shall be recorded in the Hillsborough County Registry of Deeds at the Applicant's expense, and one copy shall be filed with the New Hampshire Department of Environmental Services.

8. Waste Disposal
No disposal of any waste material, including solid and/or hazardous waste, septage, dredge spoils, or refuse shall be undertaken on the site without appropriate State approval under RSA 149:M, or other appropriate State regulations.
9. Tree cutting
The applicable state statutes pertaining to forestry practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.
10. Stopping of Removal/Excavation Operations
If removal/excavation operations stop for more than one year with no notice thereof provided to the Regulator and said stoppage is not in accordance with the approved excavation plan or due to bad weather, the excavation permit may be revoked and the performance bond forfeited with its proceeds used for reclaiming the land in accordance with the approved reclamation plan.
11. Applicant shall submit one copy of any plans or reports that are approved by the NH DES Alteration of Terrain Bureau within 30 days of said approval.

SITE SPECIFIC PERMIT CONDITIONS:

- A. Approved routes for transportation of material

South on Middle Branch to East Colburn Road to NH Route 136.

- B. Number and type of vehicles to be used to transport material

Dump trucks, trailer dumps as needed.

- C. Equipment to be used for material removal

Front-end loaders, excavators, bulldozers, portable crusher and screener.



*Town of New Boston
New Boston Planning Board
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Page 4

File No. G2011-009

NOTICE OF DECISION - Conditional Approval

Planning Board, Town of New Boston

D. Requirements for material processing

Material will be screened or crushed at various times during the spring, summer and fall to maintain adequate stockpiles for consumer demand. The activity will typically take place at one of the existing stockpiles or at the active face of the pit.

E. Requirements for temporary stockpiling of offsite materials

Typical materials to be stockpiled would include rocks, fieldstones, crude loam, subsoil, sand, gravel, rubble, old asphalt and wood chips. Erosion control would be by silt fence or direct seeding as necessary.

F. Required plantings for reclamation

Plans show typical details for loam and seeding.

G. Other requirements

None

The Earth Removal Permit is valid until such time as the Regulator determines the Earth Removal Operation is no longer in compliance with the New Boston Earth Removal Regulations; or, until such time as the operation shall be deemed to be abandoned as defined in the Earth Removal Regulations; or, until such time as the owner informs the Regulator that they will no longer be running the Earth Removal Operation; or, until such time as the operation is depleted; or, until the completion date as determined by the Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case **September 27, 2031**, whichever first occurs.

Shannon Silver
Planning Board Assistant

Date

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