

January 13, 2016

Dear Committee Members:

Re: *Amended* Preliminary Review - Development of Regional Impact – Great Oak Realty Development, Proposed Gravel Excavation Project

Per NH RSA 36:55, a Development of Regional Impact means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters, which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

Per the Town of New Durham, on December 6, 2016 a declaration of potential regional impact was approved by the Planning Board for the Green Oak Realty Development, LLC, Excavation Permit application for a proposed Gravel Excavation Project (Tax Map #206, Lots 10 and 11) located on King's Highway in the Residential – Recreational - Agricultural Zoning District.

The Town of New Durham formally notified Strafford Regional Planning Commission (SRPC) and abutting communities of said *Development of Regional Impact* on December 13, 2016. On that date, SRPC received one (1) full sized Excavation Plan (sheets 1-5), one (1) Land Use Application (including an Excavation Permit Application, Narrative, Abutter's List and Map, and Reclamation Bond Estimate), and one (1) copy of the Draft Minutes of the New Durham Planning Board Meeting of December 6, 2016. Between December 13, 2016 and January 6, 2016, SRPC has received additional materials in the form of letters and emails from abutters to the project and their representatives.

SRPC staff has prepared the following comments on behalf of the Regional Impact Committee to guide the regional discussion for this proposed project.

*This review has been amended from its original format at the request of the Regional Impact Committee to contain additional discussion of issues raised by the Committee and members of the public at the January 10, 2017 public meeting of the Regional Impact Committee. Further discussion of these items appears in italics below as an addition to or revision of our original review.*

### Transportation – Access – Parking

**1) Will the proposed development cause an increase in motor vehicle traffic or other traffic that will impact the safety of the transportation system?**

Unknown: The existing application and site plans do not include estimates of trip generation for employees or delivery/removal of excavation materials. Traffic reports provided by the New

Hampshire Department of Transportation Bureau of Traffic indicate that in 2013 Middleton Road experienced average annual daily traffic of 1100 trips at the New Durham/Wolfeboro town line.

Additional information regarding estimated trip generation relating to the excavation and wholesaling operations is needed to accurately determine what impact this site will have on local traffic.

**2) Will the proposed development cause an increase in motor vehicle traffic or other traffic that will increase congestion on the transportation system in the adjacent town?**

Unknown: As mentioned above, the information provided as part of this application is insufficient for determining the number and type of vehicles that will access this site on a daily basis. Additional information is needed to determine the extent to which this project will increase traffic in New Durham, Wolfeboro, and Middleton.

**3) Will the proposed development create the need for infrastructure improvements?**

Unknown: The excavation site is unlikely to require pedestrian, bicycle, or transit improvements. However, additional information about the amount and type of vehicles is necessary to determine whether additional roadway improvements are needed.

**4) Will the development result in inadequate emergency access?**

Unknown: The drive access is identified on the operation plan as 20' wide, but no interior circulation plan for the stock pile area is provided. The plan also identifies that the first 50' of access to the site will be paved, but does not indicate the conditions for circulation areas of the remainder of the site that may impact the ability of emergency vehicles to access the interior of the site.

Requesting additional site plan information detailing approximate pile locations and sizes, interior circulation, and parking, loading, and equipment storage areas would help to determine whether emergency vehicles have adequate access to the site. Additional information regarding the materials (e.g. gravel, dirt, stone dust, etc.) used in interior circulation areas may be necessary to determine whether the site can be adequately served by necessary vehicles.

**5) Does the development meet minimum local parking standards or are there provisions for other modes that reduce the need for parking?**

Unknown: no parking areas for employees, loading and unloading areas, or storage areas for equipment are identified on the plans presented. The Site Plan Regulations for the Town of New Durham do not contain identified parking standards for excavation sites, but do include a provision that the closest similar use for the purposes of parking calculation shall be determined by the Planning Board. The provided use categories that appear most appropriate would either be Manufacturing, which requires provision of one space per each one and one-half employees, or one space per five hundred square feet of gross floor area, or Wholesale Distribution, requiring one space per eight hundred feet of gross floor area.

Recommend that the applicant provide additional information regarding the number of employees and any additional information needed by the Planning Board to determine the appropriate use designation for the purposes of parking provision. While the excavation activities, including blasting and crushing rock, seem to more closely resemble the manufacturing use, the project narrative submitted mentions that additional sand and gravel will be brought in from offsite for wholesale

distribution. Ultimately, some combination of manufacturing and wholesale distribution standards for the purposes of determining parking may be the most appropriate designation.

Please clarify whether the two parcels will be combined for the purposes of this excavation, or whether the Site Plan Regulations permit these two parcels to be considered as a single site for the purposes of site plan review. While the two parcels appear to be eligible for consideration as a single excavation site because they are adjacent and under single ownership, the Off-Street Parking and Loading section of the Town of New Durham Site Plan Review Regulations indicates that, among other things, “no paving, parking, driveway, loading area, or stage shall be permitted within fifty feet of any side or rear property line.” The primary stock pile area shown on existing plans is bisected by the property line between the two parcels, and as such may be in violation of these regulations.

**6) Does the plan provide for safe access within the development for all modes (ADA compliance, sidewalks, crosswalks, lighting)?**

No: The plan as submitted does not include sidewalks or crosswalks to facilitate pedestrian access. The current plans and documentation include no provisions for lighting on site. As an outdoor excavation site, issues of ADA compliance and other pedestrian facilities for access may be less applicable than for other types of development. However, the hours of operation provided extend from 7am to 6pm on Monday through Friday and will likely require artificial lighting during the winter months if hours of operation are not adjusted seasonally. Additional information regarding types of lighting used and where it will be installed would help to determine the extent to which such lighting is likely to conflict with neighboring uses.

**Conflicts with Policies, Plans, and Programs – Noise**

**7) Will the development expose persons to or generate noise levels in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies?**

No specific local noise ordinances were identified as part of this review. However, the Town of New Durham Zoning and Land Use Ordinance prohibits “any persistent use that creates a public nuisance or may be obnoxious or injurious by reason of the production or emission of...[noise and other conditions]...that are dangerous to the comfort, peace, enjoyment, health, or safety of the community”

**8) Will the development expose persons to or generate excessive ground borne vibration or ground borne noise levels?**

Yes: The proposed excavation will require periodic blasting of rock that will occur, according to the applicant, approximately 3-4 times per year. These periods of noise and vibration will be highly intermittent and likely of short duration. Additional information regarding the types of explosives to be used and the impacts of such explosives upon ground borne vibration and noise levels is necessary to determine the severity of the impact these blasting events will have on neighboring properties.

We suggest that the applicant provide additional information regarding blasting events, the area likely to be impacted by noise and vibrations, possible ways to mitigate such impacts, and what methods, if any, will be used to inform abutters of upcoming blasting events. We recommend that actions be taken during the planning process to ensure that this project will not expose persons to or generate excessive ground borne vibration or noise levels.

**9) Will the development substantially and permanently increase ambient noise levels in the project vicinity above existing levels?**

Unknown: The aforementioned blasting events are likely to increase noise levels for short term increments, but would not represent a permanent noise increase due to their intermittent nature. However, the operation of machinery onsite and increased truck and equipment traffic to and from the site could potentially be permanent increases to ambient noise levels over the duration of the excavation operations.

We recommend requesting additional information regarding amount and frequency of truck traffic to and from the site and the type of machinery to be operated onsite and frequency of operation. To what extent are such activities likely to impact ambient noise levels on surrounding properties, and how regularly will these impacts occur?

**10) Will the development substantially increase temporary or periodic ambient noise levels in the project vicinity above existing levels?**

Yes: The aforementioned blasting events are highly likely to result in substantial temporary increases in ambient noise levels. Additionally, even if the operation of machinery onsite or traffic to and from the site is likely to happen infrequently, it has the potential to be a substantial periodic increase in ambient noise levels. As requested above, additional information regarding the nature of the planned blasting events and daily operations of trucks and machinery is necessary to determine the full extent of these increases in noise levels.

**11) Is the development located within an airport zone or within two miles of an airport or airfield, where the project would expose residents or employees in the project area to excessive noise levels?**

No.

**Hazardous Materials or Substances**

**12) Will the development create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

Unknown. Potentially hazardous materials will primarily relate to the maintenance of equipment and vehicles and, according to the application, will be stored in an onsite trailer according to best management practices.

**13) Will the development create a significant hazard to the public of the environment through the reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

Information provided in the Project Narrative and Excavation Plan commits to industry best management practices for all activities related to blasting and equipment storage. Further discussion of these best practices may be beneficial to assure abutters that no hazard due to reasonably foreseeable upset and accident conditions exists.

**14) Will the development produce hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one quarter mile of an existing or proposed school?**

No. The proposed excavation site is not located within one quarter mile of an existing or proposed school.

- 15) Will the development be located on a site that is included on a list of hazardous materials sites compiled by the NH Department of Environmental Services and, as a result, would it create a significant hazard to the public or the environment?**

No. Research conducted by SRPC staff and included on the Environmental Hazards map found no prior environmental hazards on this site.

## Ecology and Resources

- 16) Will the development have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the U.S. Fish and Wildlife Service?**

Unknown. Research by SRPC staff indicates that the study area is composed of supporting landscapes as shown on the "Wildlife Protection Areas" map provided. The habitat is primarily a hemlock-hardwood-pine forest, which is a transitional forest, occurring between hardwood conifer and oak-pine forests. This habitat supports a number of species in need of conservation, but further information and study would be necessary to determine which, if any of these species would be specifically impacted by the proposed excavation site.

- 17) Will the development have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the New Hampshire Department of Fish and Game or U.S. Fish and Wildlife Service?**

See above.

- 18) Will the development have substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

No. According to the wetland determination provided by Thomas W. Varney on the Existing Conditions Plan, no wetlands were observed on this site.

- 19) Will the development interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Additional research would be necessary to determine whether the proposed development will substantially interfere with native resident or migratory wildlife.

- 20) Will the development conflict with any local policies or ordinances protecting biological resources, such as a conservation easement, tree preservation policy or ordinance?**

No local ordinances protecting biological resources have been identified.

- 21) Will the development conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?**

The proposed excavation site is designated as Supporting Natural Landscape of the Moose Mountain TNC according to “The Land Conservation Plan for New Hampshire’s Coastal Watersheds” (2006).

**22) Will the development have a substantial adverse effect on Groundwater Quality?**

Insufficient information exists to determine the full extent of possible effects on groundwater quality. The elevation of the highest annual average groundwater table within or next to the proposed excavation, as required by the excavation permit application, is not included in the application narrative or site plans provided.

*The Regional Impact Committee requested additional discussion of radon contamination after members of the public expressed concerns relating to the possibility of increased exposure to radon as a result of the proposed project. According to “Radon in Your Home”, an environmental fact sheet prepared by the New Hampshire Department of Environmental Services, radon is a naturally-occurring radioactive gas that is commonly found in bedrock and water from drilled bedrock wells. Exposure to radon has been linked to an increased risk of developing lung cancer (due to air exposure) and stomach cancer (due to exposure in water). According to NHDES, “radon is the leading environmental cause of cancer deaths in the U.S. and the leading cause of lung cancer in non-smokers.” While exposure to airborne radon is considered to be a much greater risk factor than radon in the water supply, significant levels of water-borne radon will contribute to air-borne concentrations. NHDES recommends treatment of water and mitigation of indoor air radon for private wells that have radon concentrations above 10,000 picocuries per liter (pCi/L). Water treatment may be advisable for wells with concentrations between 2,000 and 10,000 pCi/L if significant air-borne concentrations are also identified.*

**23) Will the development have a substantial adverse effect on Air Quality?**

Insufficient information exists to determine the full extent of possible effects on air quality.

*See the discussion of radon as an air- and water-borne pollutant above.*

**Hazards – Public Health and Safety**

**24) Will the development expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides or flooding?**

Unknown.

**25) Will the development result in substantial soil erosion or loss of topsoil?**

Yes. The excavation site will, by definition, result in the removal of topsoil and underlying bedrock during its period of operation. The application does provide a reclamation plan that includes provisions for replacing topsoil and seeding it to speed the recovery of vegetation, and an erosion control plan to prevent further erosion and sedimentation due to runoff.

The reclamation plan provided does not include a timetable for completion. Additionally, we recommend requesting clarification of projected current and future excavation. The Operation Plan submitted identifies three areas of “future excavation,” but does not define outlines for these areas or a timeline indicating the phasing of any future excavation and how it is expected to impact the current Reclamation Plan. The Existing Conditions Plan indicates total “future excavation” of approximately 3,000,000 cubic yards. However, the Operation Plan indicates that a single blast can excavate 7,000-

10,000 cubic yards and that 3-4 blasts will take place in a given year. Assuming 4 blasts per year of 10,000 cubic yards each, the operator would only be able to excavate approximately 160,000 cubic yards in the described 4-year timeline. Any changes to the scope or timetable of the project will require an amendment to the permit. Expansion of the project to add areas identified for “future excavation” may result in the need for an Alteration of Terrain Permit from the New Hampshire Department of Environmental Services as required by RSA 485-A:17.

**26) Will the development be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

Unknown. Additional information regarding the stability of existing soil types onsite is needed to assess the potential for risks related to soil instability.

**27) Will the development be located on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for disposal of wastewater?**

Unknown. The plans submitted do not include discussion of the production or disposal of wastewater.

## Facilities

**28) Will the development require new or expanded Fire protection facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards?**

No. The proposed excavation site abuts existing residential development and is not expected to place an additional burden on fire protection service.

**29) Will the development require new or expanded Law Enforcement facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards?**

No. The proposed excavation site is not expected to place an additional burden upon existing law enforcement.

**30) Will the development require new or expanded School facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards?**

No. The proposed excavation site will not place an additional burden on existing school facilities.

**31) Will the development require new or expanded Parks facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards?**

No. The proposed excavation site will not alter the usage of existing parks.

**32) Will the development require new or expanded Solid Waste facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards?**

Unknown. Further description of production process and disposal of any byproducts would help to clarify the extent to which this operation could impact solid waste facilities.

**33) Will the development cause an increase in new or expanded utilities, treatment facilities, storm water, water supplies, etc., that would result in a negative financial or environmental impact to the adjacent municipality?**

Unknown. The applicant has indicated that all storm water will be contained onsite and has submitted an Erosion Control Plan identifying infiltration areas and other precautions. While additional truck and equipment traffic to and from the site may have a negative financial impact upon neighboring Wolfeboro or Middleton due to increased road maintenance, additional information regarding the amount and nature of this traffic is necessary to determine the extent of this impact, if any.

### Scenic and Visual Character

**34) Will the development convert Prime Farmland to non-agricultural use?**

No.

**35) Will the development conflict with existing zoning for agricultural use?**

Yes. The existing zoning does allow for a variety of residential and agricultural uses. However, the existing conditions of the site, including topography and vegetation may make large-scale agricultural use of this property impractical.

**36) Will the development involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?**

No.

**37) Will the development have a substantial adverse effect on a scenic vista?**

No. No information designating this site as a scenic vista was found.

**38) Will the development substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?**

No. King's Highway is not considered a state scenic highway.

**39) Will the development substantially degrade the existing visual character or quality of the site and its surroundings?**

Yes. Preliminary viewshed analysis prepared by SRPC staff indicates that the proposed excavation site will be visible to a large portion of the surrounding landowners to the south and west, including in neighboring Wolfeboro. This analysis did not account for trees, buildings, and other objects.

The Town of New Durham Excavation Regulations Section IX.A.3. requires vegetation to be maintained or established in peripheral areas. Additional discussion may be necessary to determine whether the opacity of the no-cut zone is sufficient screening along King's Highway. Additional discussion of what vegetation, if any, will be maintained or established in the Stormwater Infiltration

Area will be necessary to determine whether it will adequately screen the site from abutting properties in Wolfeboro.

**40) Will the development create a new source of substantial light or glare which would adversely impact day or nighttime views in the area?**

Unknown: As referenced under the Transportation section, the existing plans do not include information regarding proposed onsite lighting, when the hours of operation indicate that such lighting may be necessary on a seasonal basis. Additional information regarding the use and placement of onsite lighting or the seasonal adjustment of operating hours to prevent a need for such lighting is requested.

**41) Will the development conflict with any applicable land use plan, policy, or regulation including, but not limited to the Master Plan or Zoning Ordinance?**

The Strafford Regional Planning Commission is authorized to act in an advisory capacity on projects that have been identified as having a regional impact by a local land use board but is not qualified to make an official determination of compliance with relevant statutes or ordinances. The following items have been identified as relevant issues for consideration but should not be construed as a determination of non-compliance or as a recommendation for such a determination. Similarly, omission of any applicable land use plan, policy, or ordinance should not be construed as a determination of compliance or as advocating for such a determination.

The proposed project may be in violation of or may require additional information to address the following provisions:

- Town of New Durham Zoning and Land Use Ordinance
  - The existing zoning of this property in the Residential-Recreational-Agricultural district would seem to prevent its use for resource excavation. Additional zoning action, if not already initiated, may be required to allow such a use on this property.
  - A Special Exception as described in Article VII *is one possible* zoning action in this case. Further discussion of the nature of the activity on the site may be necessary to classify the proposed crushing, distribution, and wholesaling operations as a Commercial or Industrial use or as some combination of the two. Both Commercial and Industrial uses have additional location criteria under Article VII that must be considered to determine whether they may be allowed on a given site, including Site Plan Review, *comparison with the “Land Use Suitability Map” and “Groundwater Favorability Map,”* and, in some cases, the provision of an impact assessment. *SRPC staff conducted additional research in an attempt to identify the current versions of the “Land Use Suitability Map” and the “Groundwater Favorability Map”. The SRPC assisted the Town of New Durham with a Master Plan update in 2005, and drafts of a “Land Use Suitability Map” from that time exist, but no final adopted map is on file with SRPC; Table 1: “Documents Table” in the Zoning and Land Use Ordinance identifies the operating “Land Use Suitability Map” as being on file in the Land Use Office and dated 1979. No “Groundwater Favorability Map” has been identified, and Table 1 does not indicate where the prevailing version of this map can be found.*
  - *If a Special Exception is not deemed to be an appropriate method of permitting this use, the Applicant could also request a variance to the provisions of the Zoning and Land Use Ordinance from the Zoning Board of Adjustment. According to the Zoning and Land Use Ordinance, the Zoning Board of Adjustment must find that such a variance will not be contrary to the public interest, that the spirit of the Zoning and Land Use Ordinance is*

*observed, that substantial justice is done, that the values of surrounding properties are not diminished, and that literal enforcement of the provisions of the ordinance would result in unnecessary hardship. RSA 674:33 reiterates these requirements and further clarifies the definition of unnecessary hardship as applying if either A) owing to special conditions of the subject property that distinguish it from others in the area, no fair and substantial relationship exists between the general purposes of the ordinance provision and specific application of that provision to the subject property, assuming the proposed use is a reasonable one, or B) if these criteria are not established, an unnecessary hardship can only exist if, owing to special conditions of the subject property, the subject property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

- The subject property has been identified as containing land within the Steep Slope Conservation District as described in Article XI, and documentation provided by the SRPC demonstrates the presence of slopes greater than 15% in large portions of this site. Attention should be paid to ensure that all proposed excavation fits within the guidelines of this district or that the appropriate conditional use permits are obtained.
  - The size of the proposed excavation suggests that it will be subject to the requirements *under Article XVII, Stormwater*, for Non-Incidental Disturbances, which include disturbances that are greater than 2,000 square feet on slopes greater than 15% and less than 25%, or disturbances that are greater than 12,000 square feet on slopes less than or equal to 15%. These requirements include a Stormwater Conditional Use Permit issued by the Planning Board or Code Enforcement Officer based upon factors identified in the Town of New Durham Stormwater Management and Erosion Control Regulations.
- Town of New Durham Site Plan Review Regulations
    - X.A. General Requirements
      - Section 2, Self-imposed Restrictions: The SRPC knows of no such restrictions that have been applied to this property. Instead, this section has been identified as a possible means by which the Applicant and the Town of New Durham can agree to additional provisions for site development so as to improve interior site design or limit the impact of this project on abutting properties.
    - X.C. Streets and Access
      - Additional information is necessary to determine the precise impact of traffic to this site. Consideration should be given to the roadway classification of King's Highway, traffic speed, sight lines from the point of access, and whether the traffic increase will result in required improvements to the right-of-way as described under Section 2, Required Improvements. Improvements that may result in the dedication of additional right-of-way should be considered prior to final site plan approval because right-of-way dedication will impact the location of required setbacks under both the Site Plan Review Regulations and Excavation Regulations.
    - X.E. Water Supply
      - Additional discussion of best management practices for preventing dust or wind erosion should take place. To the extent that such practices include wetting earth to prevent dust plumes and wind erosion, additional review may be necessary to determine the availability of an adequate water supply.
    - X.H. Lighting
      - As mentioned elsewhere, the intended hours of operation suggest the need for seasonal lighting onsite. Additional information should be provided describing plans for such lighting (or plans for altered usage that would make such lighting unnecessary).

- X.I. Off-Street Parking and Loading
  - Section 2, Required Improvements: Necessary facilities are only partially described and depicted on current site plans
  - Section 3, Design Considerations: Current plans show two separate parcels that will make up the excavation site. If these parcels are not combined the proposed operation may be in violation of provisions b and c requiring all parking and loading to be situated on the same tract or parcel as the primary use building or structure and preventing paving, parking, driveways, loading areas, or stages within fifty feet of a side or rear property line. No information is provided addressing provisions a and e requiring parking spaces to have safe and convenient access or provisions for on-site storage of snow removed from parking and loading areas.
- X.M. Landscaping
  - Section 2, Required Improvements requires the provision or maintenance of landscaped buffer zones wherever commercial or industrial property abuts residential. The proposed stormwater infiltration area and stormwater berm appear to remove any such buffer zone adjacent to the residential property in the Town of Wolfeboro.
- Town of New Durham Excavation Regulations
  - III.E. Commercial Excavation: This definition specifies that “any [excavated] material leaving the property for whatever reason is considered to be a commercial operation.” When applied to the Applicant’s Project Narrative, this provision seems to support provisions in the Zoning and Land Use Ordinance requiring zoning action before an excavation permit could be issued.
  - VI. Abandoned Excavations and X. Site Reclamation Standards: Additional information regarding the timetables for the execution of the Reclamation Plan are requested to facilitate review and continued compliance under these sections.
  - VII. Prohibited Projects: The proposed Stock Pile Area located on the southeastern portion of the site appears to encroach into the proposed No-Cut Buffer Zone, thereby eliminating or partially eliminating existing visual barriers to the excavation site and encroaching into the required setback from disapproving abutters for the excavation. The Excavation Regulations define “Excavation” as “a land area which is used, or has been used, for the commercial taking of earth, including all related slopes, access roads, areas used for temporary or permanent storage of earth, or areas used for the location of structures or machines used in the excavation process.” This definition does not appear to include the proposed Stormwater Infiltration Area or Stormwater Berm.
- *RSA 155-E. Local Regulation Excavations*
  - *Information submitted by BCM Environmental & Land Law, PLLC and presented by Amy Manzelli, Esq. at the Regional Impact Committee meeting on January 10, 2017 refers to the provisions of RSA 155-E:11, which provides that “whenever...local regulations differ from the provisions of this chapter, the provision which imposes the greater restriction or higher standard shall be controlling...”. SRPC concurs with Attorney Manzelli’s assertion that several provisions of RSA 155-E appear to impose greater restrictions or higher standards than the Town of New Durham Excavation Regulations and suggests that special attention be paid to the provisions of this chapter, including but not limited to the following items:*
    - *RSA 155-E:3 Application for Permit. Sections V and VI-a support requests elsewhere in this report for additional information regarding the level of the highest annual average groundwater table and actions to be taken by the*

*applicant on the excavation site relative to fuel and chemical handling and storage, dust control, traffic, noise control and abatement, and comprehensive site safety of unauthorized persons. Additionally, Section VI requires submission of a reclamation plan at least in compliance with RSA 155-E:5 and RSA 155-E:5-a; SRPC staff recommends that particular attention be applied to provisions of these RSAs when reviewing the proposed Reclamation Plan*

- *The Town of New Durham excavation Regulations appear to be similarly restrictive or more restrictive than provisions of RSA 155-E:4 Prohibited Projects and 155-E:4-a Minimum and Express Operational Standards. However, as mentioned elsewhere in this document, additional information regarding the maintenance or provision of vegetation, storage of lubricants or other toxic or polluting materials, and other information may be necessary to make a complete determination of compliance with these sections.*
  - *RSA 155-E:5 Minimum and Express Reclamation Standards. The Reclamation Plan submitted as part of this application may need to be supplemented with additional information to ensure full compliance with this section. The proposed plan does not explicitly address the timeline of the proposed reclamation, the elimination of any standing bodies of water, or alteration of the topography of the land so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow. Projects that require an Alteration of Terrain Permit from the New Hampshire Department of Environmental Services under the provisions of RSA 485-A:17 may have additional reclamation standards applied as part of that permitting process.*
- *RSA 485-A:17. Terrain Alteration*
    - *Information submitted by GZA GeoEnvironmental, Inc. and presented by Tracy Tarr at the Regional Impact Committee meeting on January 10, 2017 asserts that an Alteration of Terrain Permit from the New Hampshire Department of Environmental Services will be required for the proposed excavation due to the scope of the excavation area and associated stock pile areas and access drives. Upon further review of the information submitted and RSA 485-A:17, SRPC staff concurs that such a permit is likely to be required for the proposed excavation but defers to NHDES for any final determination.*

## Housing and Population Growth

**42) Will the development induce substantial growth in an area, either directly (for example, by proposing new homes or businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

N/A

**43) Will the development displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

No.

**44) Will the development displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

No.

**45) Is the development compatible with existing or planned cross border development?**

The proposed excavation site is located within the Residential – Recreational – Agricultural district of the Town of New Durham Zoning and Land Use Ordinance and is abutted to the south, east, and north by a golf course and residential development in the Residential – Recreational – Agricultural district. The site is abutted to the west by residential development in the Rural Residential district of the Town of Wolfeboro Zoning Ordinance.

Additional information is necessary to determine what, if any impacts the proposed excavation site will have upon abutting property values. Such a determination would require greater clarity regarding the impacts the proposed excavation site is likely to have upon ambient noise levels, air and water quality, and the visual character of the area. Additionally, further information regarding the timeline of this and future excavation projects is necessary to determine the duration over which these effects are likely to take place.

Please contact me should you have any questions at 994-3500 or [jburdin@strafford.org](mailto:jburdin@strafford.org).

Sincerely,

James Burdin  
Regional Planner  
Strafford Regional Planning Commission

Cc: Town of New Durham – Planning Board  
Town of Middleton – Planning Board  
Town of Wolfeboro – Director of Planning & Development  
Keith Babb, Green Oak Realty Development, LLC – Applicant  
Thomas W. Varney – Agent for the Applicant