



**TOWN OF MORRISTOWN SELECTBOARD
MEETING NOTICE & AGENDA
COMMUNITY MEETING ROOM**

On Zoom and at 43 Portland St. Morrisville, VT 05661
5:30 PM Monday, August 4, 2025

[Join Zoom Meeting](#) or by phone join via conference call (audio only): 1 (646) 558-8656 | Meeting ID: [810 342 4528](#) | Passcode 05661

The meeting will be live streamed on the Town of Morristown's website:

<https://www.morristownvt.gov/community/page/meetings-agendas-minutes> and on [Town GMATV YouTube Channel](#) when possible

I. 5:30PM - CALL SELECTBOARD MEETING TO ORDER

II. 5:31PM - AGENDA CHANGES/ADDITIONS

III. 5:33PM - COMMUNITY COMMENTS

IV. 5:43PM - APPROVE MINUTES

1. Approve minutes of 7-21-25

V. 5:45PM - NEW BUSINESS

1. Approve financing for Class A Fire Truck
2. Dedication of E-1 Firetruck to Chief Dennis DiGregorio
3. Request for Lazy Lane, Class 4 Road discontinuation on private land - Nichole & Kurt Loati
4. Appoint two representatives to the Lamoille County Planning Commission's Board of Directors
5. Appoint representative to the Lamoille County Transportation Advisory Committee (TAC)
6. Approve and sign the Resolution and Reinvestment Agreement for Downtown Designation application
7. Discussion on Public Health Concerns related to 2322 Laporte Road - rock crushing and silica dust - Kristin Fogdall & Thea Alvin

VI. 7:20PM - OLD BUSINESS

1. Elmore EMS Update

VII. 7:30PM - APPROVE WARRANTS

VIII. 7:32PM - SCHEDULE

1. Monday, August 18, 2025 - SB Meeting - 5:30PM
Tuesday, September 2, 2025 - SB Meeting - 5:30PM

IX. 7:35PM - OTHER BUSINESS

1. Executive Session - Union Contracts

X. 8:00PM - ADJOURN



**SELECTBOARD MEETING MINUTES
OF JULY 21, 2025**

Members: Don McDowell, Christopher Palermo, Laura Streets, Richard Craig, George Cormier

Absent:

ADMINISTRATION and STAFF: Brent Raymond, Town Manager; Judi Alberi, Executive Assistant

PARTICIPANTS/GUESTS: Thea Alvin, Kristin Fogdall, Robyn Alvin, Matthew Hebbert, Evelyn & Jerry Throne, Hilary Warner, Tyler Maganzini, Laura & Martin Green, Chris Espejo, Pamela Stanyon, Nancy Dunavan*

**participating via Zoom*

5:30PM - CALL SELECTBOARD MEETING TO ORDER

Don McDowell called the Selectboard Meeting to order at 5:33 PM at the Tegu Building.

5:31PM - AGENDA CHANGES/ADDITIONS

Change item 1 under New Business to Elmore EMS Update

5:33PM - COMMUNITY COMMENTS

There was concern about the area across from the airport by several residents, where the developer had just released the laboratory analysis of the rock as required by the ACT 250 Commission. According to the summary, the rock is 80% to 100% Crystalline silica and the lab report addendum shows samples at 100% silica. When silica is crushed, very fine particulates can travel deep into the lungs and cause many respiratory diseases and cancer. This is a public health matter involving the town of Morristown. 49,000 tons of rocks are planned to be crushed over several years. Three actions are requested: 1. Review the air quality controls and have the Selectboard establish acceptable limits. 2. Communicate with the Act 250 commission to hold a hearing, and 3. Schedule this topic on the August 4, 2025 Selectboard agenda.

5:40PM - APPROVE MINUTES

1. Approve minutes of 6-16-25

Motion made by Chris Palermo to approve the minutes of 6/16/25. Motion seconded by Richard Craig. Motion carried. (4/0/1) Don McDowell abstained.

2. Approve minutes of 6-26-25 - Special Meeting

Motion made by Chris Palermo to approve the minutes of 6/26/25 Special Meeting. Motion seconded by Richard Craig. Motion carried. (5/0)

3. Approve minutes of 6-26-25 - Public Hearing

Motion made by Chris Palermo to approve the minutes of 6/26/25 Public Hearing. Motion seconded by Richard Craig. Motion carried. (5/0)

5:45PM - NEW BUSINESS

1. Elmore EMS Update

Town of Elmore paid the remainder of the EMS fees for 2025. It was noted that in the Elmore Selectboard minutes, they agreed to pay for EMS services for 2026. However, there was no direct communication from Elmore. This generated concern from the Morristown Selectboard. Brent sent a letter clearly outlining the town's terms. Brent will follow up by contacting the town of Elmore. This item will be placed under old business on the next Selectboard agenda.

2. Consideration for Backyard Butchers Itinerant Vendor Application

The board discussed an application for an itinerant vendor license from Backyard Butchers, who plan to operate a food truck at Tractor Supply. Tyler Machia spoke to the Selectboard, while the regulations don't explicitly prohibit such operations, concerns were raised about enforcement challenges and potential negative impacts on local businesses. The board debated whether to approve the license, with some members expressing concerns about the company's business practices and food safety. After hearing public comments from residents expressing similar concerns, the board ultimately decided to put a hold on itinerant vendor licenses to allow time to develop a more comprehensive policy and address enforcement issues.

Motion made by Richard Craig to accept the Backyard Butchers application to do business selling meat. Motion seconded by Chris Palermo. Motion denied (0/5).

3. Appoint Chris Espejo to Morristown Conservation Commission for a 4-year term ending March 6, 2029

Motion made by Chris Palermo to approve Chris Espejo to fill an open seat on the Conservation Commission for a 4-year term ending 3/6/29. Motion seconded by Richard Craig. Motion carried (5/0).

4. Scheduling meetings to discuss potential optional tax sources: Including consideration of short-term rental tax, vacancy tax, local option tax, etc.

It was agreed to hold a special meeting to discuss the local option tax, preferably when Jeff Carr can attend. The short-term rental registry and vacancy tax will be discussed at the September 15, 2025, Selectboard meeting. Laura Streets would like to convene a committee to cover the details of taxes before the meeting, Don offered to join the committee as a second Selectboard member. Laura Streets recommended reviewing existing revenue sources such as EV Chargers, banners and Oxbow Park to generate revenue.

6:20PM - OLD BUSINESS

None

6:22PM - APPROVE WARRANTS

Motion made by Chris Palermo to approve the warrants. Motion seconded by Richard Craig. Motion carried. (5/0)

6:25PM - SCHEDULE

- Monday, August 4, 2025 - SB Meeting - 5:30PM**
Monday, August 18, 2025 - SB Meeting - 5:30PM

6:30PM - OTHER BUSINESS

- Executive Session - Legal**

Motion made by Chris Palmero, I make a finding that we go into executive session to discuss confidential attorney client communications, premature disclosure of said advice or the potential civil litigation would put the Town at a substantial disadvantage. Motion seconded by Richard Craig. Motion carried (5/0).

Motion made by Chris Palermo, I move that we enter into executive session to discuss confidential attorney client communications under the provisions of Title 1, section 313 (a) (1) (e) of the Vermont Statutes and to include Town Manager, Brent Raymond, Executive Assistant, Judi Alberi, Zoning Administrator, Tyler Machia, Assistant Town Treasurer, Mitzi Fleming, Attorney Matt Bloomer, and General Village Manager, Scott Johnstone. Motion seconded by Richard Craig. Motion carried (5/0).

Motion made by Chris Palermo to come out of executive session. Motion seconded by Richard Craig. Motion carried (5/0).

7:30PM - ADJOURN

Motion made by Richard Craig to adjourn. Motion seconded by Chris Palermo. Motion carried. (5/0)

Meeting adjourned at 8:58 pm
Submitted and filed this 7/21/25.
Bonnie McDermott, Scribe

Please note all minutes are in Draft form and are subject to approval at the next Selectboard meeting.

Date: July 29, 2025

To: Town Manager
Finance Director

From: Sara Haskins, Town Treasurer

Term: 10 years

Loan Date: August 11, 2025

RE: 2025 Class A Pumper Fire truck @ \$500,000

Bank	Interest Rate	Payment type	Estimated Payment beginning 11/20/25	Estimated Total Interest Cost	Estimated Total Payment Amount	Legal fees	Comment
M&T Bank	4.54%	Semi-Annual fixed amount	\$ 31,132.35	\$ 122,647.00	\$ 622,647.00	\$ 750.00	
Community Bank	5.16%	Semi-Annual fixed amount	\$ 31,954.58	\$ 139,091.59	\$ 639,091.59	included	
Northfield Savings Bank	5.40%	Semi-Annual fixed amount	\$ 32,428.61	\$ 148,572.20	\$ 648,572.20		
Union Bank	5.59%	Semi-Annual fixed amount	\$ 32,570.50	\$ 151,409.65	\$ 651,409.65	included	
Community National Bank	5.85%	Semi-Annual fixed amount	\$ 32,942.43	\$ 158,848.60	\$ 658,848.60	included	\$2,500 deposit account
Community National Bank	6.05%	Semi-Annual fixed amount	\$ 33,234.17	\$ 164,689.40	\$ 664,689.40	included	no deposit account
Masoma Bank	no bid						
North Country FCU	no bid						
TD Bank	no bid						



SELECTBOARD MEMORANDUM

To: Selectboard
From: Judi Alberi, Executive Assistant
Date: August 4, 2025
Subject: Dedication of E-1 Firetruck to Chief Dennis DiGregorio

Background:

Dear Members of the Morrisville Select Board,

I am writing to you today on behalf of the members of the Morrisville Fire Department. We are asking for support to dedicate our new engine truck to the current Chief, Dennis DiGregorio. Dennis has spent the last 37 years serving the Morrisville Fire Department and is still going strong to this day. According to the National Fire Protection Association, the average years of service for a volunteer fire member is only 5 years. Dennis has guided, led, and preserved through many challenges serving this community for multiple decades, soaring past the national average. He started as a junior member and over time has worked his way to where he is today. Not only has Dennis served within the department for many years, he has also been a dedicated fire warden and has taught at local fire schools to help spread his knowledge throughout the county. In addition to this, Dennis also works with the Vermont State Firefighter Association (VSFA) and the Franklin Lamoille Fire School, serving, volunteering and passing his wisdom to many throughout the state.

On May 20th, 2025, the members of the Morrisville Fire Department conducted a special meeting in regards to this dedication. Majority vote favored this dedication and we hope to move this forward as this truck is due to arrive any day now.

We are asking for permission to add the following message on the passenger side of our new engine truck:

"This truck is dedicated to Dennis DiGregorio for his years of service, leadership and dedication to the Morrisville Fire Department."

We thank you for your consideration.

Damien DiGregorio
Captain, Morrisville Fire Department
802-498-3772

Attachments:

None

Future Property Owners

From: Nichole Loati greatbiggraphicsvt@gmail.com 
Subject: Class 4 Road on Private Land
Date: December 26, 2024 at 3:05 PM
To: braymond@morristownvt.gov
Cc: Todd Thomas tthomas@morristownvt.gov



Hi Brent,

My family owns land at the end of Lazy Lane in Morrisville. The last house currently on this road is 460 Lazy Lane, owned by Mark and Dustin Loati. There is a turnaround at the base of their driveway where the town maintained road ends and plow trucks turn around.

Historically, Lazy Lane would continue on down the hill past this turnaround as a class 4 road. Back in the 90's however, the Loati's purchased more property in this area to the point where the entirety of the class 4 road is now on their private land. My husband and I are preparing to build a house in that lower section of the property and would like to request that the Selectboard agree to remove the class 4 distinction and allow us to call this our private driveway rather than a public right of way. I'm attaching a drawing to demonstrate what I'm describing to you. Please let me know if you have any questions. Thank you, The Loati Family

Nichole Loati,
Queen Bee
Great Big Graphics
Ph: 802 888 5515
www.greatbiggraphics.net

Great Big Graphics
355 Industrial Park Dr.
Morrisville, VT. 05661

Happy with your product or service? Please leave us a review on [Google](#).

Loati Lazy Lane.pdf

489 KB



June 22, 2025

To Town of Morristown Selectboard-

Brent,

Our son, Kurt Loati, and his wife, Nichole, are preparing to build a house in the lower field of our property located at the end of 460 Lazy Lane.

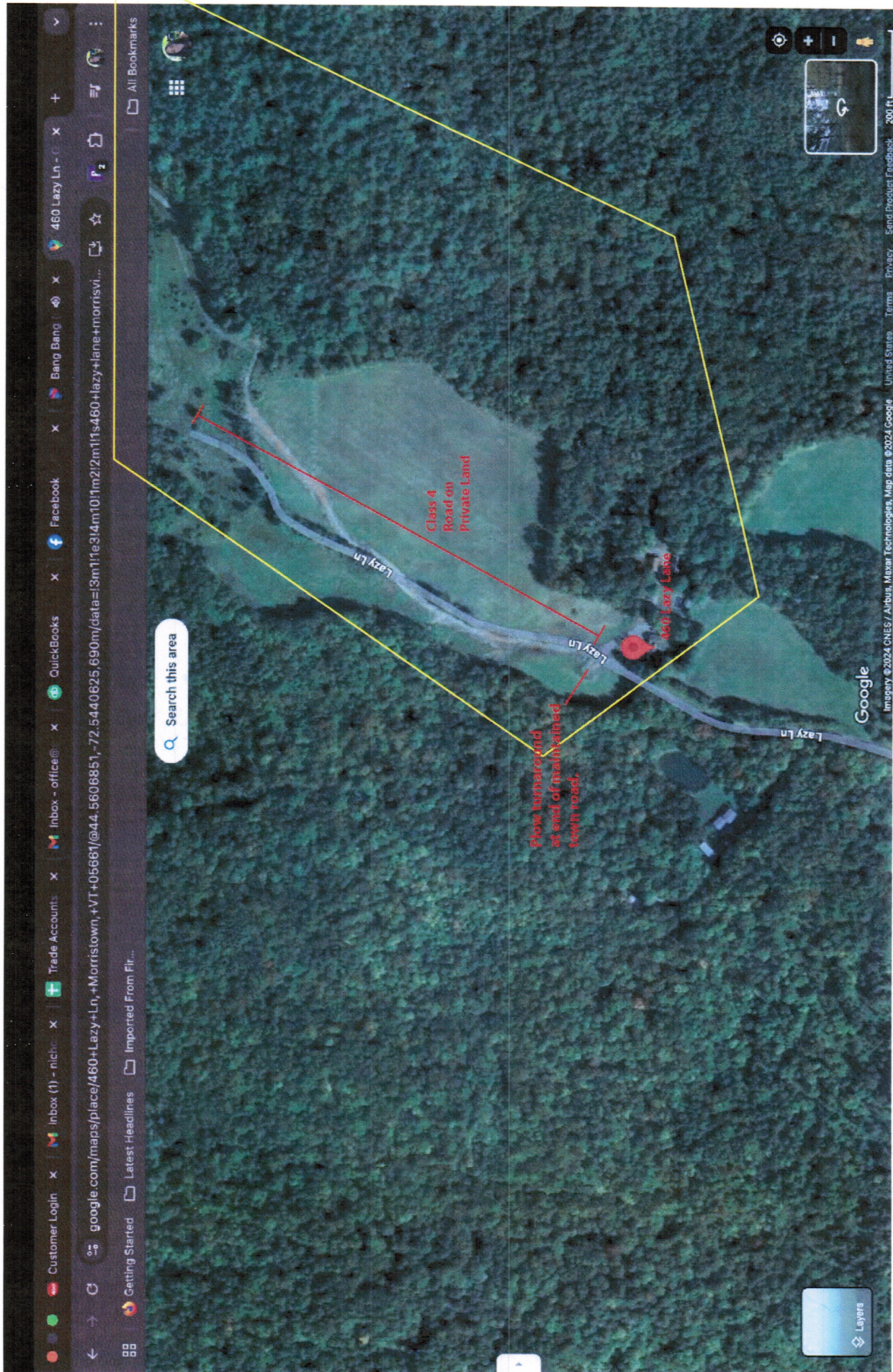
A class 4 road runs from the end of Lazy Lane through the lower field of our property. They would like to have the road designated as their private driveway.

We are the sole owners of the property that borders on all sides of this class 4 road. There is no access to the road from any other property that is not owned by us, Mark + Dustin Loati.

Please consider their request to have this road designated to a private driveway.

Thank you,
Mark Loati
Dustin A. Loati

Rt 15



Rt 12

Elmore →

**Confirmation of Municipal Appointment to
Lamoille County Planning Commission Board of Directors**

The Selectboard/Trustees of the Town/Village of Morristown hereby appoints the following individual(s) to serve as Municipal Director(s) representing this municipality on the Lamoille County Planning Commission's Board of Directors.

The Appointments are effective: July 1, 2025

Board Appointee Name: Judy Bickford

For a Term of: ☐ One Year ☐ Two Years ☐ Three Years

Mailing Address: _____

Telephone: 802-585-9470

Email Address: Bickford@vtlink.net

* Board Appointee Name: Dan McLaughlin

For a Term of: ☐ One Year ☐ Two Years ☐ Three Years

Mailing Address: _____

Telephone: 603-581-4352

Email Address: dano.m802@gmail.com

Selectboard/Trustee member signature _____ Date _____

Selectboard/Trustee member signature _____ Date _____

Selectboard/Trustee member signature _____ Date _____

Selectboard/Trustee member signature _____ Date _____

Selectboard/Trustee member signature _____ Date _____

Municipal Clerk: _____ Date _____

* Cambridge Town, Hyde Park, Stowe, and Morristown are eligible to appoint two representatives. All other municipalities may appoint one representative. Municipal appointments are based on 2020 Census population numbers.

Selectboard/Trustee meeting minutes may be substituted for signatures. If the minutes are draft, the Clerk must sign to attest to the appointment.



Lamoille County Planning Commission

PO Box 1637
52 Portland Street, Second Floor
Morrisville, Vermont 05661
www.lcpcvt.org

(802) 888-4548 • e-mail: lcpc@lcpcvt.org • fax: (802) 888-6938

Lamoille County Transportation Advisory Committee (TAC) Municipal Representative Designation

The Municipality of Morristown is designating one (1) primary representative and up to two (2) alternates to participate in the Lamoille County Transportation Advisory Committee (TAC). Each Municipality gets one (1) voting seat per meeting, which may be filled by a primary or alternate designee.

Please note: Representatives are NOT required to be a municipal staff or official. Municipal TAC Designees may be anyone who lives in the municipality being represented. TAC usually meets at least 6 times per year on the fourth Wednesday of the month, from 12:00-1:30pm via video/phone conference and/or LCPC's office when in person meetings are appropriate.

Municipalities should designate a representative who is willing and able to regularly participate in TAC meetings, and frequently share information between their municipal officials, staff, and TAC. The following municipal appointments are valid for (check one)

 1 year 2 years 3 years.

Primary Representative: Gerard Throne

Phone: 215-962-4770

Email: Jerry.Throne@outlook.com

Alternate Representative #1: Martin Green

Phone: 802-279-7893

Email: martngreen@myfairpoint.net

Alternate Representative #2: _____

Phone: _____

Email: _____

Selectboard Chair (or Manager/Administrator Signature): _____

Printed Name and Title: _____

Date: _____

Please return this form by email (alec@lcpcvt.org) or by US Mail to Lamoille County Planning Commission, Attn: Alec Jones, PO Box 1637, Morrisville, VT 05661 Direct questions to Alec at 802-851-6350



Town of Morristown Village of Morrisville Resolution

Authorizing Application for Downtown Designation under the Downtown Development Act (24 V.S.A 76A)

Whereas, the Town of Morristown and the Village of Morrisville have been engaged in a comprehensive effort to revitalize the Morristown Downtown area, and

Whereas, the Vermont Downtown Development Act (24 V.S.A. Chapter 76 A) provides benefits for communities receiving designation as so-called "Downtown Development Districts", including certain rehabilitation tax credits, priority state consideration, and other financial assistance, and

Whereas, "Application Guidelines for Downtown Designation" have been issued by the Agency of Commerce and Community Development, and

Whereas, the Town of Morristown and the Village of Morrisville wish to formally establish a Designated Downtown District by applying to certify said designation, and

Whereas, the Morristown Town Manager has delegated his legal authority as defined by 24 V.S.A. Chapter 129C and 24 V.S.A. Section 1236 to the Selectboard to sign this resolution and the Morrisville Village Board of Trustees constitute the legislative body of the Village of Morrisville as 24 App. V.S.A. Ch. 245, § 7 authorizes the Trustees to sign this resolution,

Now, Therefore, Be It Resolved:

1. The Morristown Selectboard and Morrisville Village Board of Trustees hereby adopt "Map 1" dated 2025 attached hereto as the "Morristown Downtown District".
2. The Morristown Selectboard and Morrisville Village Board of Trustees authorize the Town Manager to direct such actions as may be necessary to formally designate the Morristown Downtown District as a Vermont Designated Downtown District. This includes filing of formal applications, publication of public notice, and notification of the Lamoille County Planning Commission (LCPC) which serves as the Regional Planning Commission and the Lamoille Economic Development Corporation (LEDC) which serves as the Regional Development Corporation for the Town of Morristown.
3. In support of said application and its associated Community Reinvestment Agreement, the Morristown Selectboard and Village Board of Trustees hereby make the following certifications:

a. The Town of Morristown and Village of Morrisville meet the planning commitment requirement for Downtown Designation with the Morristown Development Review Board, which is authorized to undertake local Act 250 reviews in accordance with 24 V .S.A. §4420.

b. The Morristown Selectboard adopted a Town Plan on May 16, 2022, with further amendments on September 16, 2024. The Morrisville Village Trustees adopted a Town Plan on May 18, 2022, with further amendments on September 4, 2024. The content and process of which were approved and confirmed by resolution of the Lamoille County Planning Commission.

This resolution will become effective upon the date signed by the last party.

Morrisville Village Trustees **Affirmative Vote on** _____

Attest by Town Clerk on _____

Morristown Selectboard **Affirmative Vote on** _____

Attest by Town Clerk on _____

Downtown Morristown Community Reinvestment Agreement

WHEREAS, the Trustees and Selectboard of the Village of Morrisville and the Town of Morristown supported the creation of Morristown Alliance for Culture and Commerce (MACC); and,

WHEREAS, the Trustees and Selectboard have identified downtown Morristown as a primary focus by providing MACC with \$7,000 annually and \$587,824 since 1999 to guide efforts toward downtown revitalization and,

WHEREAS, the Trustees and Selectboard has established a municipal capital budget which is in support of community infrastructure in the downtown district (i.e. municipal offices, library, police station, highway office, sidewalk repair funding), and MACC has created a budget to support future expenditures, and,

WHEREAS, the Trustees and Selectboard has supported the efforts of River Arts, Morrisville Food Co-op, and Recreation Trail committees and MACC by providing administrative support for their downtown projects.

WHEREAS, it is to the mutual advantage and benefit of the parties that each agree to commit to the implementation of a unified, comprehensive downtown revitalization program to enhance and revitalize the Morristown Designated Downtown Area; and

WHEREAS, pursuant to 24 V.S.A. §2793, a community reinvestment agreement for the establishment of a downtown development program is required of municipalities with state designated downtown areas;

We, the undersigned municipal officials, trustees, community organizations and business owners, are committed to supporting long-term and comprehensive strategic efforts to revitalize Downtown Morristown. We are in favor of the application of the Town of Morristown for a certified Designated Downtown through the Vermont Downtown Program and we are willing and committed to participating in downtown revitalization efforts. In particular, we agree:

1. To cooperate in the execution of a comprehensive downtown revitalization strategy for Downtown Morristown, also known as the Morristown Designated Downtown Area;
2. To promote and support the mission of the designated downtown organization;
3. To participate in implementing a revitalization program with a unified mission, goals and objectives for advocacy, project planning, and execution. We support

the newly established Downtown Organization in fulfilling the goals of encouraging downtown revitalization and promoting economic vitality. Specifically, the downtown organization will:

- Bring State and Federal funding to Downtown Morristown by writing grants and exploring other funding sources in order to capitalize on all available outside resources for Town of Morristown priority projects.
- Improve Downtown Morristown's infrastructure by acting as an ally with the Town of Morristown, providing energy, input and staff time to address bicycle and pedestrian access, wayfinding, parking, lighting, streetscaping, accessibility, connectivity and other infrastructure issues that may arise.
- Address high-visibility vacancies in Downtown Morristown by leveraging available State and Federal resources.

Now, therefore, be it resolved that the Morrisville Village Trustees and the Morristown Selectboard fully approve of and support the Community Reinvestment Agreement.

Morrisville Village Trustees

Adopted date:

Morristown Selectboard

Adopted August 4, 2025

Downtown Morristown Community Reinvestment Agreement

[illegible]

Morristown Selectboard Meeting

July 21, 2025

5:30 p.m.

**Group statement regarding proposed
Stone Quarry Project and Industrial Park at 2322 Laporte Road**

My name is Kristin Fogdall. I live at 285 Jersey Way in Morrisville. Together with other concerned citizens, we are here to raise urgent questions about the negative health impacts of the proposed Stone Quarry Project at 2322 Laporte Road.

The developer just released the laboratory analysis of the rock as required by the Act 250 Commission. The developer's summary states that the rock is "80 to 100 percent crystalline silica," and the lab report addendum shows all samples at 100 percent. Silica is an OSHA regulated substance that when crushed forms very fine particulates that travel deep into the lungs and cause lung cancer, CPOD, kidney disease, and other debilitating respiratory diseases.

The developer will blast, extract, and crush 49,000 tons of aggregate per year, close to 500,000 tons total, according to their proposal. As the developer's study points out, quartz is the most common form of crystalline silica, and the quartz content of Vermont's rock is typically 30 to 80 percent. However, with a silica content of 100 percent, or even 80 to 100, this particular quarry will generate a huge amount of dust filled with pure silica particulates. This is not an average situation. It is absolutely a public health issue for everyone living downwind or simply visiting the area when the wind is blowing.

The prevailing winds blow from the site of the proposed quarry to the northeast, directly toward and over downtown Morrisville. Everyone in that area, including children attending any of the schools in town, and potentially other Town residents farther away may be forced to breathe these harmful substances. The developer has submitted weather data from the Stowe-Morrisville airport, but specific air modeling is needed to determine accurately the scope of the risk.

At this time, we respectfully request three actions by the Selectboard:

1. Review, analyze, and respond to the Applicant's Criterion 1 (Air) statement, Exhibit 137 on the Act 250 database. The Applicant claims their proposal can go forward unchanged despite these new findings. At this crucial moment, we need our Selectboard to use whatever public health counsel, expertise, and leverage it has at its disposal to establish an independent conclusion about the health and safety of Morristown residents.

2. Communicate with the Act 250 Commission that you intend to review the matter. The Commission has set next Monday, July 28, as the deadline for response to all the submittals. However, any Party can request an extension. The Selectboard is a permanent Party in this process and has the right to make that request.

3. Place this issue on the next Selectboard meeting agenda on August 4, 2025. Today is an extremely compressed forum, and the issue is quite complicated. This will allow a transparent and more complete discussion. With these grave concerns, we want to know what our Town can do to ensure the public health and safety.

Thank you for your time. We have a signed copy of this document for your records, with the names of the Parties who are involved in the Act 250 process, as well as other concerned Morristown citizens.

Morristown Citizens who are Act 250 Parties

Thea Alvin	1626 Laporte Road
Robyn Alvin	1626 Laporte Road
Tom and Cynthia Cloutier	57 Skyview Acres
Gary Cole	470 Beacon Hill
Kristin Fogdall	285 Jersey Way
Christopher Hendon	114 Meadow Drive
Shaun and Debra Miller	2013 Laporte Road
Denis Nepveu	594 Cochran Road
Helene Nilson	17 Laporte Road
Doug Owen	2311 Stagecoach Road
Brooke Scatchard	94 White Birch Road
Patrick Towne	2670 Laporte Road

Morristown Citizens

Mike and Elizabeth Bourne	655 Golf Course Road
Sean Gyllenborg	1989 Stagecoach Road
Guilbert and Sandy Leblanc	165 Beacon Hill Road
Moriah Stokes	27 Twisty Maple Drive
Kari Swierz	109 Meadow Drive
James Tisdale	147 Tamarack Hill Road

MEMORANDUM

TO: District 5 Environmental Commission

FROM: Criterion 10 Parties: Thea Alvin, Tom Cloutier, Kristin Fogdall, Denis Nepveu, Douglas Owen, and Brooke Scatchard

DATE: July 7, 2025

RE: Application 5L1614-1 filed by 2322 Laporte Road, LLC Corp, Town of Morristown
Rebuttal of Applicant's Criterion 10 (Town Plan) position, dated February 28, 2025

Introduction

This submittal is filed in accordance with the schedule set by the District Commission's Hearing Recess Orders dated April 14, 2025 and May 8, 2025. It provides the joint response of the Parties granted status under Criterion 10 (listed above) to the Applicant's Criterion 10 position dated February 28, 2025 (Exhibit 96).

As will be explained in subsequent sections, the Parties rebut the Applicant's points as follows:

1. The Town Plan language *does apply* to the Applicant's Project. The Applicant is attempting to create distinctions that do not actually exist.
2. The Applicant has failed to prove that the Stone Quarry Project fits the definition of "incidental to construction." Furthermore, the 2022 Morristown Zoning By-laws *do not resolve or support* the conclusion that this Project conforms to the Town Plan. In fact, the opposite is true.
3. The evidentiary record established by the Town of Morristown Development Review Board (DRB) decisions (Exhibits 7 and 55) *fails to establish any presumptive proof of conformance* to the Morristown Town Plan.

Noting that the Applicant assumes the burdens of production and proof with respect to Criterion 10 — and specifically noting that the Applicant's only other exhibits relevant to the Town Plan are Exhibit 1 (Schedule B at page 29) and Exhibit 56 (Rule 20 Memo to Susan Baird) — the Applicant has not demonstrated that the proposed land uses conform with the Town Plan.

Section 1: Town Plan Language

We refer the Commission to the Parties' original Criterion 10 statement, which contains a substantial argument showing how the Town Plan language is both mandatory and specific (Exhibit 92 at pages 4-6).

The Applicant is now trying to argue that the Town Plan uses the term "gravel pit" in a manner that excludes this Project from being governed by the Town Plan restrictions.

This is creative overreach. The Applicant is attempting to draw a distinction without any real difference.

- To the average person, it is clear that this section of the Town Plan is intended to address the general topic of "Gravel Resources" as indicated by the section heading. Next, the section uses both "gravel pits" and "gravel operations" without making any definition or distinction. What the Town Plan does say emphatically and with mandatory language is this: no new gravel pits are allowed outside the Special Industrial Zone. One can argue that the Town Plan is poorly worded, but its primary intention is clearly to limit extraction of gravel to a single area of Town.
- Merriam-Webster's Dictionary defines "gravel" as follows: "(2a): loose, rounded fragments of rock; (2b): a stratum or deposit of gravel." <https://www.merriam-webster.com/dictionary/gravel>
- Contrary to the Applicant's statement (Exhibit 96 at page 4), the Parties are not arguing to "categorize the Project as a gravel pit." Instead, the Parties are arguing that the scope of this extraction activity — by any name — is restricted to the Special Industry Zone by the Morristown Town Plan.
- Furthermore, the Act 250 Criterion 9E also makes no distinction between a "gravel pit" and any other type of earth extraction. Such terminology provides no reasonable distinction when it comes to evaluating any extraction project of this nature and size on the question of whether it will have "an unduly harmful impact upon the environment or surrounding land uses and development."

Before closing this section, we also refer the Commission again to the Parties' original Criterion 10 statement, which shows that the Town Plan language is also mandatory regarding protection of the Source Protection Area located adjacent to the quarry blasting area. (*Exhibit 92 at page 7.*)

Section 2: Morristown Zoning Bylaws and "incidental to construction"

Claiming (erroneously) that the Town Plan is "ambiguous," the Applicant argues "one must look to the 2023 Zoning and Subdivision Bylaws of the Village of Morrisville/Town of Morristown (the 'Bylaws') to resolve the ambiguity" (Exhibit 96 at page 5). *NOTE: the Applicant's counsel has an error here; the 2022 Zoning Bylaws were in effect when the DRB approved the Applicant's Stone Quarry Project.*

In fact, the Town Bylaws also prohibit this Project in several ways:

- **§204.5a Use Allowances** As seen on this chart, “Special Industrial” uses are not permitted in Industrial Zone 5. Additionally, a footnote on the chart states: “The Special Industry use is only allowed east of Garfield Road between the river (south) and the town line (north).” *(See page 5 of the 2022 Zoning Bylaws, which the Parties are providing as an exhibit.)*
- **§485 Extraction of Soil, Sand or Gravel** “In any zone where allowed, the removal of soil, sand or gravel for sale (except when incidental to construction of a building on the same premises) shall be permitted only by the DRB, after a plan for the rehabilitation of the site approved at a public hearing.” *(See page 26 of the 2022 Zoning Bylaws. Emphasis added.)*
- **§910 Other Definitions** In this section, the Bylaws define Special Industry as follows: “Extraction or processing of natural resources such as stone, sand, gravel, minerals, or wood. These operations are generally incompatible with other uses and require large land areas. The Special Industry use is only allowed east of Garfield Road between the river (south) and the town line (north).” *(See page 54 of the Town Bylaws. Emphasis added.)*

Contrary to refuting the Town Plan, these Bylaws actually provide an even clearer picture of the Town’s intentions and clearly forbid the proposed Project:

- In the Zoning Bylaws, Special Industry is unambiguously listed as an activity not permitted in Industrial Zone 5.
- In the Zoning Bylaws, the definition of Special Industry is clear, encompassing all kinds of earth extraction. There is zero discussion of “gravel pits” or any other terminology.

Why, then, was this project approved by the Development Review Board? The DRB did not provide a rationale for their permit decision (Exhibit 007). We can only assume they deemed the project “incidental to construction,” as the Applicant is attempting to argue.

However, this is a disingenuous argument at best. It requires a major stretch of the imagination to consider this Stone Quarry Project “incidental” for the following reasons:

- According to the Applicant’s Act 250 application (Exhibit 1 at page 5), a projected total of 350,000 cy of stone material will be extracted from the site. At the District 5 Commission hearing on March 12, 2025, the Applicant’s representative testified that 80% of this material will not be used on site, but instead will be sold commercially. The Applicant has not provided any engineering analysis specifically quantifying how much crushed stone will actually be needed for the construction of the Industrial Park infrastructure. *(Peter Smiar, 5L1614-1 Act 250 Hearing 3/12/2025 Meeting, Part 2, time signature 1:00:03 - 1:00:16 https://www.youtube.com/watch?v=anb_2uZaHjo&t=3866s)*

- This contradicts the Applicant’s claims that the Project “falls squarely” into the category of projects where “the extraction ... is performed only to the extent necessary to facilitate planned future construction.” (*Exhibit 96 at page 6. Emphasis added.*)
- Moreover, the Applicant’s testimony on March 12, 2025, emphasized the necessity of generating profit from the stone extraction: “The balance that will be sold commercially is earmarked for construction and the application [costs] ... The estimated construction cost is \$8 million as reflected in the Act 250 permit. The excess aggregate ... is earmarked as partial paydown of that cost.” (*Atty. Jim Mahoney, 5L1614-1 Act 250 Hearing 3/12/2025 Meeting, Part 2, time signature 1:00:29 - 1:01:09 https://www.youtube.com/watch?v=anb_2uZaHjo&t=3866s*)
- All three points above violate the 2022 Zoning Bylaw condition: “except when incidental to construction of a building on the same premises.”
- This is especially true when one considers that only 3 buildings will occupy the quarry site once it is closed, according to the Applicant’s testimony on March 12, 2025. With only 3 buildings at stake, it would be imminently possible to develop one of the largest industrial parks in Northern Vermont without touching the knoll at all. Instead, the Applicant is pursuing a scope for this earth extraction that goes well beyond the definition of “incidental.”
- The Merriam-Webster Dictionary defines “incidental” as follows: “(1a) being likely to ensue as a chance or minor consequence (1b) the same as ‘minor, sense 1’: inferior in importance, size, or degree: comparatively unimportant; (2) occurring merely by chance or without intention or calculation.” <https://www.merriam-webster.com/dictionary/incidental>
- The Applicant’s counsel claims that the Project will “temporarily involve the extraction of rock ... for the primary purposes of site preparation” (*Exhibit 96 at pages 1 and 2, emphasis added*). A reasonable person would not consider 10 years of quarry operation as “temporary” or “incidental.” As for “primary,” given the Applicant’s own representation that the quarry operation will proceed before any lots are developed, and considering the phasing depicted on Exhibit 10 (while noting that the Applicant has not provided a definitive phasing plan for the Projects), the Stone Quarry Project can only be considered the primary Project in the short term, and an evaluation of the impacts of that land use is paramount and a primary consideration.

Section 3: DRB Rulings - Overview

As will be explained below, the record established in this matter requires a conclusion that the DRB decisions do not establish presumptive proof of conformance under the terms of the Town of Morristown Plan dated May 2022 with respect to the operation of a commercial stone extraction and processing project.

The relevant documents are Development Review Board (DRB) decisions 2023-025 and 2024-105 (Exhibits 7 and 55) that were issued, respectively, on April 3, 2023 and June 26, 2024.

Act 250 Rule 19(I) reads as follows:

Municipal presumptions. The District Commissions shall accept determinations issued by a development review board under the provisions of section 4420 of Title 24 with respect to municipal impacts under criteria 6, educational services; 7, municipal services; and 10, conformance with the municipal plan (10 V.S.A. § 6086(a)). These decisions must include findings of fact and conclusions of law demonstrating compliance or non-compliance with the relevant criteria of Act 250. Such determinations of a development review board, either positive or negative, under the provisions of section 4420 of Title 24, shall create a rebuttable presumption only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. A development review board decision involving local Act 250 review of municipal impacts must include a notice that it constitutes a rebuttable presumption under the relevant criteria and that the presumption may be challenged in proceedings under 10 V.S.A. Chapter 151. (Emphasis added.)

While district commissions and the former Environmental Board had cause to apply the provisions of Rule 19 in multiple decisions regarding permits issued by the Department of Environmental Conservation (DEC), the Parties are not aware of any such decisions regarding municipal presumptions. Similarly, the Parties have not been able to find any decisions by the Environmental Division of the Superior Court regarding the interpretation and use of Rule 19(I). Thus, the Parties rely upon the precedents that considered the presumptive value of DEC permits for a framework in applying Rule 19 (I) in the present matter.

As will be shown in the following section, the Morristown DRB did not follow any of the requirements laid out in Rule 19 (I) when they approved the Stone Quarry Project. They inadequately followed some requirements when they approved the Industrial Park. In both cases, the DRB's insufficient execution fails to establish presumptive proof of conformance.

Section 4: Did the DRB Comply With Rule 19 (I) Which Establishes Presumptive Proof of Conformance?

The Parties' response begins with consideration of the essential procedural and notice requirements of Rule 19(I) and whether the Town of Morristown DRB decisions comply with those requirements.

Requirement 1 - "*These decisions must include findings of fact and conclusions of law demonstrating compliance or non-compliance with the relevant criteria of Act 250.*"

Findings of Fact are a clear and concise articulation of the essential aspects of an evidentiary record that are relied upon by an administrative entity or a court in rendering a decision on a pending matter. The Findings of Fact, in turn, support Conclusions of Law stated in the context of pertinent statutory and regulatory provisions, [*Argast v Environmental Board* 143 VT 84 (1983); 24 VSA 4464(b)(1):

“Decisions shall include a statement of the factual bases on which the appropriate municipal panel has made its conclusions and a statement of the conclusions.” See also, October 16, 2016 District Commission Training Manual: District Commission Decisions: Findings of Fact and Conclusions of Law]

In the present matter, the Applicant’s legal counsel asserted that that “the DRB’s determination of Town Plan compliance is entitled to a rebuttable presumption pursuant to Act 250 Rule 19(I)”. (Exhibit 96 at page 8). The Rule thus requires scrutiny of each of the two DRB decisions with respect to whether they demonstrate compliance with Criterion 10 of Act 250 regarding conformance with the Town Plan.

> Exhibit 7: April 3, 2023 DRB Decision

This was the first DRB decision for the Project, and it is the only decision that considers the Stone Quarry Project and corresponding sales.

Pages 1 through 2 provide nine statements under the heading “Findings of Fact.” None of these nine statements address any of the “relevant criteria for Act 250.” Nowhere in these nine statements is the Town Plan ever mentioned, and no attempts are made to demonstrate compliance or non-compliance with Criterion 10 of Act 250.

Pages 2 through 4 are entitled “Conclusions,” which encompasses statements #1 through 16. These statements each refer to different municipal bylaws; none of these statements make any reference to any sections or provisions in the Town Plan or Act 250.

Pages 4 through 6 of the decision are entitled “Decision.” These declare approval of the Project and provide fourteen conditions; again, there is no mention of the Town Plan or Act 250.

Based on the evidentiary record above, the first DRB decision fails to address “compliance or non-compliance with the relevant criteria of Act 250” with respect to the Stone Quarry Project. The decision fails to even mention the question. Therefore, no presumptive proof of conformance can be established for the Stone Quarry Project.

> Exhibit 55: June 26, 2024 DRB Decision

This second decision of the DRB deals with a request to subdivide 89 acres of the tract into 26 lots along with associated road and water supply infrastructure. In this decision, the stone extraction operation is mentioned once briefly as being approved in the prior DRB decision, but nowhere in Exhibit 55 are there any details about extraction, nor is there any analysis of the Stone Quarry Project in relation to the Town Plan or Act 250.

Pages 1 and 2 provide eleven statements under the heading “Findings of Fact.” Nowhere in these eleven statements are there any references to specific provisions in the Town Plan.

Pages 2 and 3 of the decision are entitled “Conclusions” and are articulated in statements #1 through 10.

Statement #1 of “Conclusions” reads:

Pursuant to 24 VSA §4420 and §660 of the Bylaws for Local Act 250 Review of Municipal Impacts, the Board is authorized to undertake local Act 250 review of municipal impacts cause by “development” and “subdivision” as such terms are defined in 10 VSA §151. This Board concludes that it will undertake such a review of the Industrial Park, and it shall not waive the right to do so pursuant to §663.3 of the Bylaws. *(Emphasis added.)*

Statement #2 “Conclusions” reads:

Pursuant to §665 of the Bylaws, in order to grant approval, this Board must conclude that the Industrial Park will not cause an unreasonable burden on the Town’s ability to provide educational services (Act 250 Criterion 6), will not cause an unreasonable burden on the Town’s ability to provide municipal or governmental services (Act 250 Criterion 7), and is in conformance with the duly adopted Municipal Plan (Act 250 Criterion 10). This Board concludes this proposed Industrial Park will not cause any burden on the ability of the Town to provide educational services, will not cause an unreasonable burden on the ability of the Town to provide municipal or governmental services, and is in conformance with the duly adopted 2022-2030 Morrisville/Morristown Town Plan.” *(Emphasis added.)*

Statements #3 through 5 each refer to different municipal bylaws; none of these statements make any reference to any sections or provisions in the Town Plan.

Statement #6 reads:

Pursuant to section 10.3 of the Bylaws, this Board must determine that the proposed subdivision is in conformance with the Town Plan. This Board concludes that the proposed Industrial Park complies with the 2022-2030 Town Plan.” *(Emphasis added.)*

Statements #7 through 10 each refer to different municipal bylaws; none of these statements make any reference to any sections or provisions in the Town Plan.

Pages 4 through 5 of the decision are entitled “Decision & Conditions of Approval.” They declare approval of the proposal and provide fourteen conditions of approval.

Based on the evidentiary record above, the second DRB decision also fails to address “compliance or non-compliance with the relevant criteria of Act 250” with respect to the Stone Quarry Project. Therefore, no presumptive proof of conformance can be established for the Stone Quarry Project.

Furthermore, both DRB decisions are inadequate and inherently flawed for purposes of establishing a presumption under the first clause of Rule 19(I) because the Findings of Fact and

Conclusions of Law are insufficient in examining the proposed Stone Quarry and Industrial Park Projects under relevant and specific provisions the Town Plan.

Requirement 2 - *“A development review board decision involving local Act 250 review of municipal impacts must include a notice that it constitutes a rebuttable presumption under the relevant criteria and that the presumption may be challenged in proceedings under 10 V.S.A. Chapter 151”*

This clause in Rule 19(I) is unequivocal in stating that a DRB decision “must” include a notice expressly stating that (1) the DRB decision constitutes a rebuttable presumption under, in the case at hand, Criterion 10 and (2) the presumption may be challenged in proceedings under 10 VSA Chapter 151. A close scrutiny of the Town of Morristown DRB 2023-025 and 2024-105 decisions does not reveal any provision or language demonstrating compliance with the “notice” clause of Rule 19(I).

Based on the facts provided above, the Town of Morristown DRB 2023-025 and 2024-105 decisions are inadequate and inherently flawed for purposes of establishing a presumption under the second clause of Rule 19(I). Neither decision complied with the explicit notice requirements that are set out in the Rule.

Finally, Act 250 Rule 19(F) states: “If the party challenges the presumption, it shall state the reasons therefore and offer evidence at a hearing to support its challenge.” The Parties understand from the content of the hearing Recess Orders dated April 14 and May 8, 2025 that the District Commission does not intend to convene a hearing pursuant to Rule 19(F). Therefore the Parties have stated above in this memorandum their reasons and relevant facts and provide an analysis as to why any presumptive value of the two DRB decisions has been rebutted.

Section 5: Motivations Are Not Relevant When Evaluating Land Use

The Applicant’s desire to justify a long term stone extraction and processing project at a location that is impermissible under both the Town Plan of Morristown and its Zoning Bylaws calls to mind a 2013 decision by the Environmental Division of the Superior Court regarding Criterion 10 of Act 250. In *In re Barefoot et al* [Vtec 46-4-12 (November 13, 2013)] the Court considered an applicant’s claim that its “reason” behind a proposed use of its property should be a factor in evaluating whether the proposed land use conforms with Act 250’s Criterion 10 and applicable town zoning bylaws. In that decision the Court held:

The purpose of zoning and planning is to regulate the physical use of land in order to minimize adverse impacts on that land, the community, and the surrounding environment. As such, we do not consider the identity of the owner/user or their motivations in establishing the use. See In re Sardi, 170 Vt. 623, 624 (2000) (noting that "permitting regulation of property based solely on the ownership rather than the use of the land . . . is

inconsistent with the authority that the Legislature has granted to municipalities"). We consider only the actual use of the land and its impacts.

The Applicant would have the District 5 Commission discount the impacts from a 10-year quarry operation because the Applicant's motivation is that the extraction and processing of 350,000 cubic yards of stone is merely "incidental" to the Applicant's motivation to establish an industrial park, and also to the Applicant's motivation to generate funds that will make the Project less costly to the Applicant. Consideration of these motivations is irrelevant and disallowed in reaching conclusions about conformance with Criterion 10 of Act 250.

Section 6: Conclusion

The Parties have never contended the Applicant's right to develop an Industrial Park in Industrial Zone 5. The Parties vehemently deny, however, that the Stone Quarry Project is permitted in Industrial Zone 5. The Stone Quarry Project is not incidental to construction of the Industrial Park, plain and simple. Our Town Plan and our Zoning Bylaws forbid its location outside the Special Industry Zone. Our Development Review Board did not establish presumptive proof of conformance with regard to the Town Plan. This project cannot be approved under Criterion 10 of Act 250.



July 7, 2025

Susan Baird
District Coordinator
District 5 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201

203781

Subject: Act 250 Application 5L1614-1
Hearing Recess Order Response
Criterion 1 (Air)

Dear Ms. Baird:

Brown and Caldwell (BC) was retained by Sunrise Development, LLC/2322 Laport Road, LLC (Sunrise or Applicant) to assist with a response to the Hearing Recess Order issued by the Act 250 District 5 Commission (Commission) on April 14, 2025. Sunrise is proposing to construct an Industrial Park on land zoned for industrial use (Project) located at 2322 Laporte Road in Morristown, Vermont (Project Site). The Project Site is located west of Morrisville-Stowe Airport on an approximately 89-acre parcel between Laporte Road and Cochran Road.

As part of the construction of the Project, it will be necessary to remove the bedrock knoll at the southern portion of the Project Site and reshape the area to provide the required land surface grades for the Industrial Park (Rock Extraction Area). This Rock Extraction Area is approximately 8.5 acres in size and is located within the southern portion of the 89-acre parcel. Sunrise is proposing to remove approximately 35,000 cubic yards per year (up to 50,000 cubic yards in a given year) over a 10-year period within the Rock Extraction Area. Assuming 1.4 tons of aggregate per cubic yard, Sunrise will extract and process 49,000 tons of aggregate per year.

Extracted rock will be converted to construction aggregates using equipment in a portable rock crushing plant (Portable Plant). Construction aggregates will be stockpiled at the Project Site and used either on site or sold and removed from the Project Site. At least one loader will be used to transport construction aggregates around the Project Site.

The Portable Plant's air emissions will be regulated by an air pollution control permit for portable rock crushing plants (Portable Permit) from the Vermont Agency of Natural Resources, Air Quality & Climate Division (Agency). In any given year, the Portable Plant is expected to operate at the Project Site for discrete time periods to process rock that has been produced by blasting and then operate at other locations in Vermont.

The Hearing Recess Order includes the following request related to Criterion 1 (Air):

“Additionally, the Applicant will conduct an air modeling study to predict how potential contaminants released during blasting, crushing and other quarry operations may disperse and mix in the atmosphere and reach nearby Parties’ properties.”

This letter is intended to provide the information requested by the Commission related to Criterion 1 (Air). This letter is broken into the following sections:

1. Comparison with other rock extraction facilities,
2. Regulatory overview,
3. Crystalline silica,
4. Meteorological data,
5. Recommended emissions control measures, and
6. Conclusions.

Comparison with other Rock Extraction Facilities

There are temporary and permanent rock extraction facilities in many communities in Vermont. The Agency issues portable permits for temporary extraction operations and stationary air permits for permanent rock extraction facilities. The proposed extraction rate for the Project is compared with six permanent facilities below. The permanent facilities are permitted to extract between five and 30 times more aggregates than the expected extraction rate for Project. The requirements for dust control for Portable Permits are similar to those for stationary permits; therefore, it is expected that the Proposed Site will need to meet approximately the same requirements as a permanent rock extraction facility.

Facility Name	Location	Allowed Rock Extraction (tons/year)
Proposed Project	Morrisville	49,000
North East Materials Group	Graniteville	250,000
Casella Construction	Clarendon	260,000
J. Hutchins, Inc.	Irasburg	450,000
Chaves Excavating ¹	Londonderry	500,000
Twin State Sand & Gravel	Hartland	700,000
F.W. Whitcomb	Colchester	1,500,000

¹ Permit is awaiting final signature by the Secretary of the Agency.

Regulatory Overview

There are State of Vermont and Federal air pollution control regulations that will apply to the Project Site. These regulations were promulgated to protect ambient (i.e., outdoor) air and will be reflected in the requirements in the Portable Permit for the Portable Plant used for the Project.

Regarding ambient air, Vermont is required by the U.S. Environmental Protection Agency (U.S. EPA) to meet the National Ambient Air Quality Standards (NAAQS). The NAAQS were promulgated by U.S. EPA to protect human health and welfare, including sensitive populations. There are NAAQS for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), particle pollution (PM) as particles 2.5 microns or less and 10 microns or less in diameter (PM_{2.5} and PM₁₀) and sulfur dioxide (SO₂). Dust from rock extraction is regulated as PM, PM_{2.5} and PM₁₀. The entire state of Vermont is designated by U.S. EPA as being in attainment (i.e., in compliance) with all of the NAAQS.

Portable permits contain legally enforceable limits including allowable equipment specifications, fuel use and aggregate production limits, combustion emissions limits, and visibility limits. Additionally, portable permits include monitoring, recordkeeping, and reporting requirements to confirm the Portable Plant emissions limits are being met and that the Portable Plant will not significantly impact air quality.

The Portable Plant will be subject to these Federal air pollution control regulations that will be cited in the Portable Permit.

- **40 CFR, Part 60, Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants).** Regulates visibility of emissions from equipment that crushes, screens and conveys aggregates. Equipment items that are subject to this regulation (e.g., jaw crusher, cone crusher, screen deck, conveyor drop points) are subject to an initial visual emissions test performed according to EPA Reference Method 9 to confirm regulatory visibility (i.e., opacity) limits will be met.
- **40 CFR, Part 60, Subpart IIII (Standards of Performance for Stationary Compression Ignition Internal Combustion Engines).** Regulates gaseous and particulate combustion byproducts from diesel engines. Diesel engines constructed after 2005 must be certified by the engine manufacturer to meet EPA emissions limits.
- **40 CFR, Part 63, Subpart ZZZZ (National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines).** Regulates gaseous combustion byproducts from burning diesel fuel. The regulation considers diesel engines which meet Subpart IIII requirements to have complied with Subpart ZZZZ. Otherwise, facilities must conduct emissions monitoring and testing to demonstrate compliance with emissions limits.

Crystalline Silica

The Agency regulates crystalline silica as a hazardous air contaminant (HAC) under chapter §5-261 of the Vermont Air Pollution Control Regulations (Regulations).

The Agency does not incorporate emissions limits for crystalline silica in portable plant permits or stationary source permits for permanent rock extraction facilities. Given that crystalline silica is potentially contained within rock extraction dust, and because wet and chemical suppression have been demonstrated as an effective means of controlling dust emissions, the Agency requires the use of wet and/or chemical suppression in portable and stationary permits to control crystalline silica.

In the air permit for North East Materials Group (#AP-14-007), the Agency provided these comments regarding the prevalence and control of crystalline silica to meet the crystalline silica Hazardous Most Emissions Rate (HMSER) in section §5-261 of the Regulations.

“Nearly every rock, sand and soil earthen material contains quartz which is the most common natural form of crystalline silica. Quartz content in Vermont’s rocks and soils typically ranges from 30 to 80 percent. Virtually any activity that involves and disturbs, earthen material can result in emissions of quartz to the ambient air. Such activities would include the drilling, blasting and crushing operations proposed by the Permittee; as well as agricultural and farming (tilling) activities, construction activities (including site work), wind erosion of exposed soils and travel on unpaved roads. Due to the potential levels of quartz in the rock that the Facility will process as well as the quantifiable and unquantifiable sources of emissions from Facility operations, the Agency must presume that potential emissions of quartz will exceed its respective Action Level unless demonstrated otherwise. Therefore, pursuant to §5-261(3) of the Regulations the Permittee must achieve HMSER to minimize emissions of quartz to the ambient air.

Since quartz is a component of the overall particulate matter emissions, the same methods used to minimize particulate emissions would also minimize quartz emissions. The Agency has determined that HMSER for quartz emissions from the Facility operations is achieved through the installation and operation of a properly designed wet suppression system on the crushing plant as well as various standard fugitive dust emission control measures, including: (1) the use of wet suppression, calcium chloride applications or other dust control measures as necessary to minimize fugitive dust from all unpaved roads and traffic areas, aggregate handling operations and storage piles, (2) the covering of all trucks owned or operated by the Permittee while operated on public roadways and transporting materials that may generate fugitive dust emissions, and (3) the use of particulate matter control measures on all operating rock drills which are owned or operated by the Permittee.”

The Agency defines HMSER as follows:

“Hazardous Most Stringent Emission Rate (HMSER)” means a rate of emissions, including a visible emissions standard, which the Secretary, on a case-by-case

basis, determines is achievable for a stationary source based on the lowest emission rate achieved in practice by such category of source. If a source demonstrates that due to economic impacts and costs, it cannot achieve the lowest emission rate achieved in practice by such source category, HMSER shall be the lowest emission rate which the Secretary determines said source is capable of achieving, HMSER may be achieved through application of pollution control equipment, production processes or techniques, equipment design, work practices, chemical substitution, or innovative pollution control techniques. In no event shall application of HMSER permit a stationary source to emit any contaminants in excess of any Federal emission standard or any emission standard in these regulations.

The Project will use the aforementioned dust control measures; therefore, it is expected to meet HMSER requirements for crystalline silica. Refer to Attachment C for recommended dust control measures.

Three samples were collected from the Project Site and sent for laboratory analysis to measure the crystalline silica content. The laboratory results indicate that the samples contained between 80 to 100 percent crystalline silica. Refer to Attachment D for the laboratory report.

Meteorological Data

Meteorological data (i.e., weather data), specifically wind speed and wind direction measured at a location such as an airport, can be used to estimate the frequency that uncontrolled emissions from an emissions source could be expected to be transported by wind moving in a specific direction. Therefore, meteorological data was used to develop an understanding of the percentage of time that emissions may be carried away from the Project Site in 36 wind directions (i.e., every 10 degrees of a 360-degree circle).

The Morrisville-Stowe State Airport (MVL) is located approximately 1,000 feet east of the center of the Proposed Extraction Area and is the site of a weather station. The weather station at MVL collects meteorological data that is processed and used by the Agency for air permitting purposes.

Meteorological data for the five-year period from 2017 to 2021 (the most recent available from the Agency) containing hourly wind speed and wind direction data (MVL Data) was obtained from the Agency and evaluated to develop an understanding of the percentage of time that winds are moving towards neighboring properties. The MVL Data includes 43,824 hours of wind and direction data.

Wind roses are commonly used in air quality studies to develop an understanding of the prevailing wind patterns. A wind rose is a graphical representation of wind speed and wind direction for a location. Therefore, a wind rose was developed using the MVL Data. Refer to Attachment A for the wind rose developed for this submittal.

The wind rose shows the percentage of time the wind will blow in 36 wind directions. The wider end of each of the wind rose “wedge” indicates the direction wind is blowing towards. **The length of each wedge corresponds to the frequency the wind blows in that direction, not the spatial extent of uncontrolled emissions (i.e., not how far the emissions**

would be carried by wind). As shown in the wind rose, wind most frequently moves towards the north and south and least frequently towards the east and west.

Attachment B shows the location of each party status residence and the estimated percentage of time that winds move from the Facility towards them. As shown, the percentages range from less than one percent to less than six percent of the time.

Recommended Emission Control Measures

Emissions control measures for rock extraction operations are addressed in U.S. EPA's "AP-42: Compilation of Air Emissions Factors from Stationary Sources." AP-42 sections 11.19.1, 11.19.2, 13.2.1, 13.2.2, 13.2.4, and 13.2.5 address emissions controls for rock extraction facilities. The emissions control measures recommended for the Project Site, coupled with natural mitigation (i.e., rain), are expected to control approximately 90% of dust emissions by rock extraction activities.

As mentioned, the Portable Permit will include emissions control requirements. Commonly required permit conditions for portable and stationary rock extraction operations have been included in Attachment C. These conditions address how wet suppression should be applied, the allowable visibility of dust emissions, how visibility/emissions testing should be performed (if necessary), where and how dust should be controlled from emissions sources other than the Portable Plant, and requirements for performing maintenance and inspections to maximize the effectiveness of the wet suppression system.

The following are also recommended and are also included in Attachment C.

1. Use a water truck that has a spray cannon or side sprayer in addition to the standard rear spray bar. The spray cannon can be used to wet storage piles, the blasting face or other elevated areas. The rear spray bar can be used to wet internal haul roads or yards where other equipment such as excavators are operating.
2. For blasting, wet down the face that will be blasted and the area below as needed.
3. Wet the pile of stone that was generated from blasting before transporting it to the primary jaw crusher as needed.
4. Pave a 100-foot section of the Project Site's main access road from its intersection with Laporte.
5. Use a high efficiency vacuum, regenerative or high efficiency street sweeper on the paved section of the access road as necessary to prevent buildup of material that may generate fugitive dust emissions. Sweeping should be performed in a manner to minimize fugitive dust air emissions and may include lightly wetting the paved surface immediately before sweeping.

Conclusions

Based on the information evaluated BC concludes:

1. Vermont and Federal air pollution control regulations will continuously apply to the Project for its duration.
2. Dust emissions, including crystalline silica, can be effectively controlled.
3. Uncontrolled emissions are expected to disperse in all directions around the Project Site but mostly to the north and south of the Project Site.
4. The Project will not cause or contribute to a violation of an ambient air quality standard and therefore not adversely impact a neighboring property by complying with Vermont and Federal air pollution regulations and adhering to the recommended emissions control measures.

Should you have any questions about this submittal, please feel free to contact me at (978) 983-2051 or jhinckley@brwncald.com.

Very truly yours,

Brown and Caldwell

A handwritten signature in blue ink, appearing to read "John Hinckley".

John Hinckley
Managing Principal

cc: Garret Hirschak (Sunrise Development); James Mahoney (Mahoney Law Office, PLLC)

Attachments (4)

1. Attachment A – Wind Rose
2. Attachment B – Wind Direction Map
3. Attachment C – Recommended Emission Control Measures
4. Attachment D – Crystalline Silica Laboratory Results

200 Brickstone Square, Suite 403
Andover, MA 01810

T: 978.794.0336

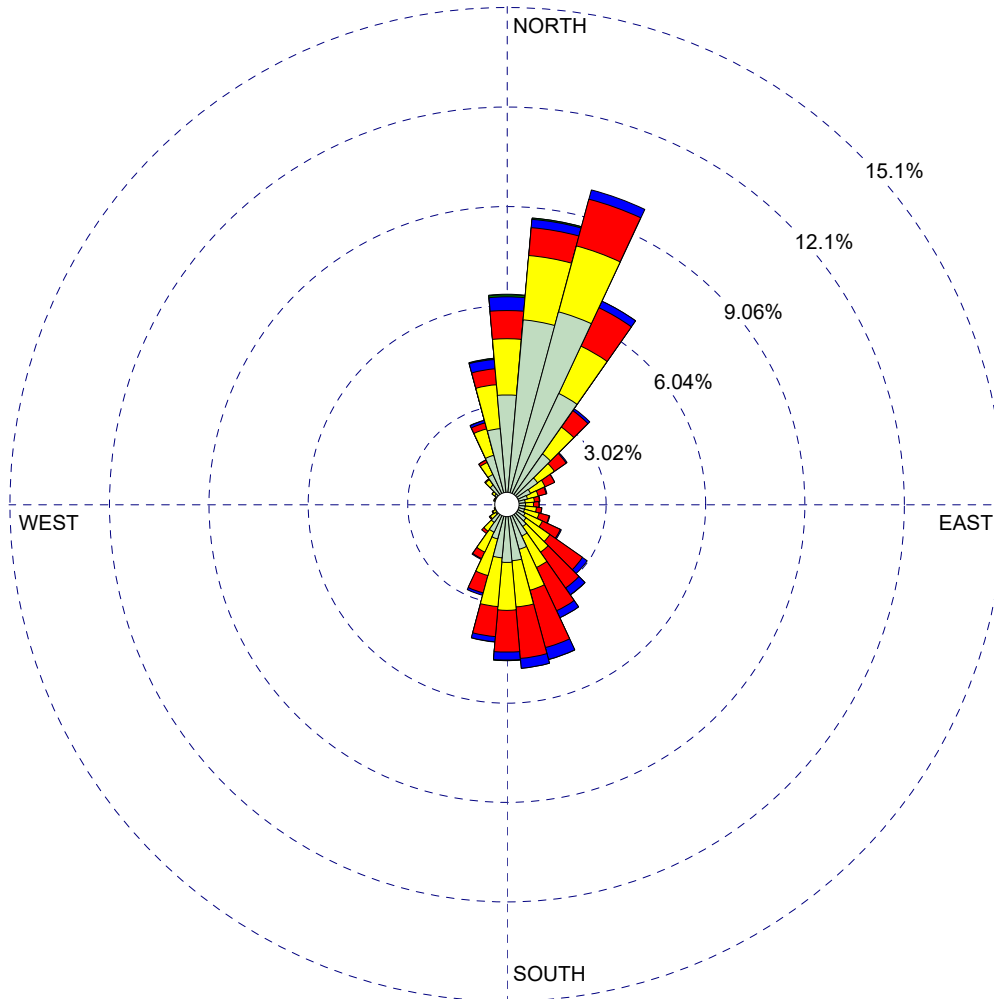
Attachment A: Wind Rose

WIND ROSE PLOT:

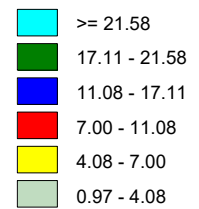
Sunrise Development Wind Rose (2011-2015)
Wind Direction and Wind Speed for 36 Wind Directions

DISPLAY:

Wind Speed
Flow Vector (blowing to)



WIND SPEED
(Knots)



Calms: 4.03%

COMMENTS:

Weather data collected at
 Morrisville-Stowe State Airport.

DATA PERIOD:

Start Date: 1/1/2017 - 00:00
End Date: 12/31/2021 - 23:59

CALM WINDS:

4.03%

TOTAL COUNT:

43312 hrs.

AVG. WIND SPEED:

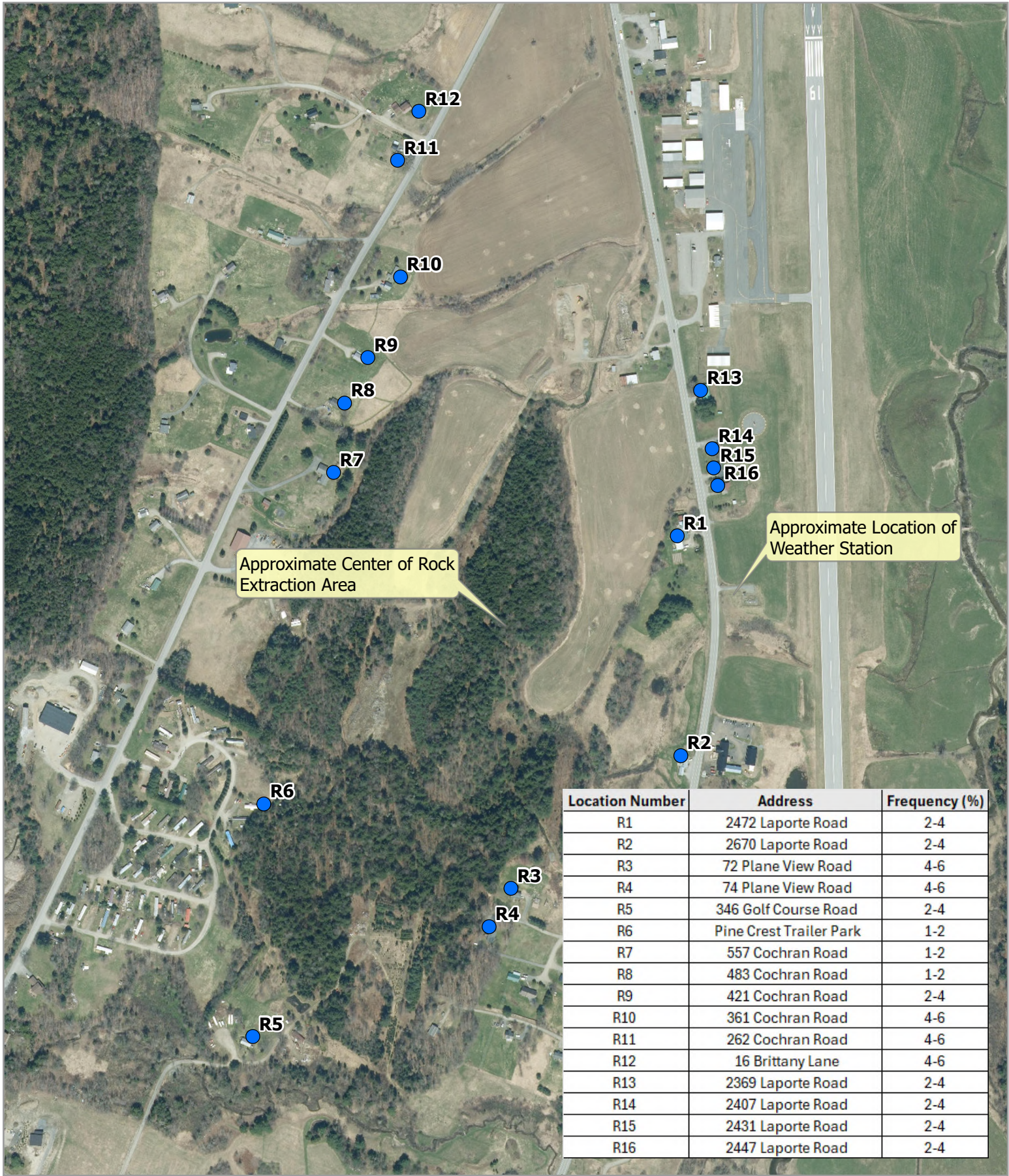
4.77 Knots

PROJECT NO.:

200 Brickstone Square, Suite 403
Andover, MA 01810

T: 978.794.0336

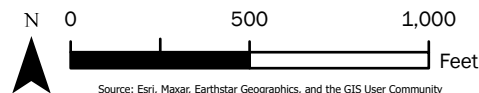
Attachment B: Wind Direction Map



Client Name:
Sunrise Development, LLC
PN: 203781
Project Name:
MSI-Airport Industrial Park

Notes:
Based on wind direction data collected from 2017-2021
at Morrisville-Stowe Airport

Spatial Reference:
Name: NAD 1983 StatePlane Vermont FIPS 4400



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Study Area Map with Wind Direction Frequencies

Date: 7/3/2025 10:28 AM

Attachment C: Recommended Emission Control Measures

State of Vermont Standard Air Permit Conditions for Rock Crushing Facilities

1. At a minimum, the Permittee shall install wet suppression particulate matter controls at the following locations, or use equivalent control measures as approved by the Agency: all crusher inlet and discharge points; all conveyor to conveyor transfer points unless the transfer point is fully enclosed sufficient to prevent emissions in excess of those allowed under this Permit; all screen deck inlet and discharge points unless the screen decks have screen deck covers or other shrouds sufficient to prevent emissions in excess of those allowed under this Permit or the screens are wash screens, and; all transfer points on conveyors leading to dry drop piles. The Permittee shall operate said controls as necessary and in a manner consistent with good air pollution control practices for minimizing emissions and shall take whatever other means are necessary to prevent visible emissions in excess of those allowed under this Permit. The emission control systems shall be maintained in good working order and wet suppression controls shall have sufficient water pressure and flow rates to achieve optimum particulate matter control efficiency. As required by this Permit herein and 40 CFR Part 60 Subpart OOO, the system shall be periodically inspected, any corrective actions taken, and records kept. When ambient temperatures do not allow the effective use of the water control system, the Permittee shall propose and utilize other equivalent control measures approved in writing by the Agency and shall take whatever other means are necessary to prevent visible emissions in excess of those allowed under this Permit.
2. Visible Emissions [Facility Wide]: Emissions of visible air contaminants from any installation at the Facility, except where otherwise noted in this Permit, shall not exceed twenty (20) percent opacity for more than a period or periods aggregating six (6) minutes in any hour and at no time shall visible emissions exceed sixty (60) percent opacity.

Any emission testing conducted to demonstrate compliance with the above emission limits shall be performed in accordance with 40 *CFR* Part 51, Appendix M, Methods 203B and 203C, respectively, or equivalent methods approved in writing by the Agency. [10 V.S.A. §§556(c) and 556a(d)] [§§5-211(2), and 5-404 of the *Regulations*]

3. Visible Emissions [Crushing Plant Equipment Manufactured on or After August 31, 1983, and Prior to April 22, 2008]: The Permittee shall not cause to be emitted from any nonmetallic mineral processing or handling operation any fugitive emissions which exhibit greater than ten (10) percent opacity except as provided in paragraphs (a) and (b) of this condition. The Permittee shall not cause to be emitted from a fabric filter dust collector, if used in lieu of or in conjunction with wet suppression, serving any nonmetallic mineral processing operation any stack emissions which exhibit greater than seven (7) percent opacity.

- a) The Permittee shall not cause to be emitted from any crusher fugitive emissions which exhibit greater than fifteen (15) percent opacity.
- b) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the above opacity standards. However, the Permittee shall take reasonable precautions at all times to control fugitive emissions from such truck dumping.

Any emission testing conducted to demonstrate compliance with the above emission limits shall be performed in accordance with 40 *CFR* Part 60, Subparts A and OOO and Appendix A, Reference Method 9. [10 V.S.A. §556(c)] [§§5-231(4) and 5-261(2) of the *Regulations*] [40 *CFR* Part 60 Subpart OOO §60.672]

4. Visible Emissions [Crushing Plant Equipment Manufactured on or After April 22, 2008]: The Permittee shall not cause to be emitted from any nonmetallic mineral processing or handling operation any fugitive emissions which exhibit greater than seven (7) percent opacity except as provided in paragraphs (a) and (b) of this condition.

- a) The Permittee shall not cause to be emitted from any crusher fugitive emissions which exhibit greater than twelve (12) percent opacity.
- b) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the above opacity standards. However, the Permittee shall take reasonable precautions at all times to control fugitive emissions from such truck dumping.

Any emission testing conducted to demonstrate compliance with the above emission limits shall be performed in accordance with 40 *CFR* Part 60, Subparts A and OOO and Appendix A, Reference Method 9. [10 V.S.A. §556(c)] [§§5-231(4) and 5-261(2) of the *Regulations*] [40 *CFR* Part 60 Subpart OOO §60.672]

5. Fugitive Particulate Matter Emissions: The Permittee shall take reasonable

precautions at all times to control and minimize emissions of fugitive particulate matter from the operations at the Facility. Reasonable precautions to be taken shall include the following measures or other equally effective measures for those operations or activities under the Permittee's control or supervision:

- a) The unpaved traffic and parking areas at the Facility shall be maintained as necessary by the application of water and/or generally accepted chemical treatments, such as calcium chloride unless otherwise restricted, which are applied at a rate and frequency to effectively limit visible dust emissions.
- b) The paved traffic and parking areas at the Facility shall be maintained as necessary to prevent buildup of material that may generate fugitive dust emissions. Sweeping shall be performed in a manner to minimize fugitive dust air emissions and may include lightly wetting the paved surface immediately before sweeping, or preferably by the use of a vacuum, regenerative, or high-efficiency sweeper.
- c) All trucks owned, operated or under the control of the Permittee/s shall be securely covered when operated on public roadways when loaded with materials that may generate fugitive dust.
- d) All rock drills operated at the Facility shall be equipped and operated with either an effective wet or dry dust control system.
- e) All unenclosed crushing and dry screening operations shall be equipped with a wet dust control (suppression) system with spray nozzles at appropriate locations and shall be operated as necessary to effectively limit visible dust emissions.
- f) Active storage piles shall be maintained as necessary by application of water and/or generally accepted chemical treatments, such as calcium chloride unless otherwise restricted, which are applied at a rate and frequency to effectively limit visible dust emissions. Inactive storage piles and exposed surfaces shall be revegetated as soon as reasonably practicable

[10 V.S.A. §§556(c) and 556a(d)] [§§5-231(4) and 5-407 of the *Regulations*]

- 6. In accordance with 40 CFR 60.674(b) as this and other provisions may be applicable, the owner or operator of any affected facility for which construction, modification, or reconstruction commenced on or after April 22, 2008, that uses wet suppression to control emissions from an affected facility must perform monthly periodic inspections to check that water is flowing to discharge spray nozzles in the wet suppression system. The owner or operator must initiate corrective action within 24 hours and complete corrective action as expediently as practical if the owner or operator finds that water is not flowing properly during an inspection of the water spray nozzles. The owner or operator must record each inspection of the water spray

nozzles, including the date of each inspection and any corrective actions taken, in the logbook required under § 60.676(b). [10 V.S.A. §§556(c)] [§§5-402 and 5-405 of the *Regulations*] [40 CFR Part 60 Subpart OOO §60.674]

Other Dust Control Measures

1. Use a water truck that has a spray cannon or side sprayer in addition to the standard rear spray bar. The spray cannon can be used to wet storage piles, the blasting face or other elevated areas. The rear spray bar can be used to wet internal haul roads or yards where other equipment such as excavators are operating.
2. For blasting, wet down the face that will be blasted and the area below as needed.
3. Wet the pile of stone that was generated from blasting before transporting it to the primary jaw crusher as needed.
4. Pave a 100-foot section of the Project Site's main access road from its intersection with Laporte.
5. Use a high efficiency vacuum, regenerative or high efficiency street sweeper on the paved section of the access road as necessary to prevent buildup of material that may generate fugitive dust emissions. Sweeping should be performed in a manner to minimize fugitive dust air emissions and may include lightly wetting the paved surface immediately before sweeping.

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Attachment D: Crystalline Silica Laboratory Results



EMSL Analytical, Inc.

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Phone: (856) 858-4800

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Phone: (802) 497-6141

EMSL Case No.: 362502489
Sample(s) Received: 6/10/2025
Date of Reporting: 6/17/2025
Date Printed: 6/17/2025
Reported By: J Hu

- Laboratory Report -

Crystalline Silica by NIOSH 7500 Mod

Project: 58621.00

Procurement of Samples and Analytical Overview:

The material for analysis (three bulk samples) arrived at EMSL Analytical (Cinnaminson, NJ) on June 10, 2025. The package arrived in satisfactory condition with no evidence of damage to the contents. The purpose of the analysis is to determine the quantity of crystalline silica in the material. The data reported herein has been obtained using the following equipment and methodologies.

Methods & Equipment: X-ray Diffraction (XRD)

Modified NIOSH 7500 – Silica, Crystalline
Modified OSHA ID-142 – Crystalline Silica, Quartz and Cristobalite

Analyzed by:

Jian Hu, Ph.D.
Seniors Laboratory Scientist

June 16, 2025

Date

Reviewed/Approved:

Eugenia Mirica, Ph.D.
Laboratory Director

June 17, 2025

Date



EMSL Analytical, Inc.

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Background and Sample Preparation:



Image of the as-received sample

Identification of the samples submitted for analysis:

Customer Sample ID	EMSL Sample ID	Sample Description	Date Sampled
VHB – Mix	362502489-0001	Bedrock	6/5/25
VHB-Quartz	362502489-0002	Bedrock	6/5/25
VHB-Phyllite	362502489-0003	Bedrock	6/5/25

Sample was pulverized manually using hammer and then mortar and pestle before analysis.



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Results and Discussion:

**Crystalline Silica Analysis of Bulk Material
Performed X-Ray Diffraction (XRD) Method Modified OSHA ID-142 & Modified
NIOSH Method 7500, Issue 4, 3/15/03**

Sample ID	Description	α -Quartz (wt%)	Reporting Limit (wt%)
VHB – Mix 362502489-0001	Bedrock	100	0.1
VHB – Quartz 362502489-0002	Bedrock	100	0.1
VHB – Phyllite 362502489-0003	Bedrock	100	0.1

Notes:

1. Reporting limit (Quartz) = 0.1 wt%



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Important Terms, Conditions, and Limitations:

Sample Retention: Samples analyzed by EMSL will be retained for 60 days after analysis date. Storage beyond this period is available for a fee with written request prior to the initial 30 day period. Samples containing hazardous/toxic substances which require special handling may be returned to the client immediately. EMSL reserves the right to charge a sample disposal or return shipping fee.

Change Orders and Cancellation: All changes in the scope of work or turnaround time requested by the client after sample acceptance must be made in writing and confirmed in writing by EMSL. If requested changes result in a change in cost the client must accept payment responsibility. In the event work is cancelled by a client, EMSL will complete work in progress and invoice for work completed to the point of cancellation notice. EMSL is not responsible for holding times that are exceeded due to such changes.

Warranty: EMSL warrants to its clients that all services provided hereunder shall be performed in accordance with established and recognized analytical testing procedures, when available. The foregoing express warranty is exclusive and is given in lieu of all other warranties, expressed or implied. EMSL disclaims any other warranties, express or implied, including a warranty of fitness for particular purpose and warranty of merchantability.

Limits of Liability: In no event shall EMSL be liable for indirect, special, consequential, or incidental damages, including, but not limited to, damages for loss of profit or goodwill regardless of the negligence (either sole or concurrent) of EMSL and whether EMSL has been informed of the possibility of such damages, arising out of or in connection with EMSL's services thereunder or the delivery, use, reliance upon or interpretation of test results by client or any third party. We accept no legal responsibility for the purposes for which the client uses the test results. EMSL will not be held responsible for the improper selection of sampling devices even if we supply the device to the user. The user of the sampling device has the sole responsibility to select the proper sampler and sampling conditions to ensure that a valid sample is taken for analysis. Any resampling performed will be at the sole discretion of EMSL, the cost of which shall be limited to the reasonable value of the original sample delivery group (SDG) samples. In no event shall EMSL be liable to a client or any third party, whether based upon theories of tort, contract or any other legal or equitable theory, in excess of the amount paid to EMSL by client thereunder.

The data and other information contained in this report, as well as any accompanying documents, represent only the samples analyzed. They are reported upon the condition that they are not to be reproduced wholly or in part for advertising or other purposes without the written approval from the laboratory.