

TOWN OF CHESTER, VERMONT DEVELOPMENT REVIEW BOARD

**IN RE: JULIAN MATERIALS, LLC (ALLSTONE)
CONDITIONAL USE APPLICATION #594**

**JULIAN MATERIALS, LLC'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

NOW COMES Julian Materials, LLC (“Julian”), by and through its attorneys, Paul Frank + Collins, P.C., and hereby submits its Proposed Findings of Fact and Conclusions of Law as follow.

I. BACKGROUND

Julian seeks zoning approval for activities at three stone quarries located in Chester, Vermont. Two are located on VT 103 (“North and South Quarries”) and one on Chandler Road (“Chandler”). The North and South Quarries are located on the same 301-acre parcel in the Conservation-Residential (“C-R”) zoning district and the existing dwelling and retail store are located in the Residential-Commercial (R-C) District. Chandler is located at 137 Chandler Road in the Residential 120 District (R120). Extraction is a conditional use in both districts. *See* Exhibit GG (Power Point Presentation) at 6-23; Exhibit D, Narrative Letter, 5/31/2023, revised 12/04/23 as Exhibit QQ (“Narrative”) at 1-7.

II. EXISTING CONDITIONS

Chandler has existing as an operating quarry since the beginning of the 20th century. *See* Exhibit P-4 at 15, Jurisdictional Opinion #2-263, at Finding of Fact ¶ 2, (June 11, 2009). It has historically been a smaller, independent operation some miles away from the South and North Quarries. In the past, it had been deemed nonconforming pre-existing development, for which a zoning permit was not required. It consists of approximately 8.7 acres, with an access road, two

existing buildings, a portable shed, and a long existing stone quarry. Some limited amount stone is mined from Chandler and it is currently pre-existing currently is the processing center for the South and North Quarries. *Id.* at 9-12. *See also* Exhibit D, Narrative at 1-5.

South and North Quarry are located on the same parcel adjacent at 3643 VT Route 103, which is subject to a conditional use permit #395 and site plan approval #328 in the fall of 2003 (collectively, "2003 Approvals"). Exhibit 33 at PP 6-7, Exhibit P-2 (Zoning Approvals). It appears that North Quarry was pre-existing and the 2003 Approvals relate to South Quarry. Notably, the 2003 Zoning Permit contains a total of 28 findings of fact between the two approvals and only 13 conditions. Currently, there are no zoning restrictions on hours of operation, the amount of extraction, the use of a rock hammer¹, or noise in general. The only operational limitations were 40 loaded truck trips per day. The zoning board at the time found, "the proposed project [a condition use] will have little or no impact on the character of the area." Exhibit P-1, at Finding of Fact ¶ 5. Exhibit GG, PowerPoint at 7.

III. PROPOSED CONDITIONS – INITIAL APPLICATION

The pending application is a response to the request of the Chester zoning administrator that Julian obtain a zoning permit for the three locations, as activities under the combined ownership had become inter-related. Most notably in this regard, processing for the South and North operations had become centrally located at the Chandler Quarry. Julian now seeks conditional use and site plan approval all three locations within the same application.

The plan for the two properties, and three operational quarries, as set forth in the current application, is to remove all stone processing from Chandler within 6 months, and revert activities

¹ A rock hammer was part of the equipment purchased with the property, so it is obvious a rock hammer has been used historically at the location.

back to previously approved limits, or grandfathered activities. The South Quarry will be operated in general accordance with the local and Act 250 approved operational limits. The North Quarry will be converted to a new use as part of reclamation and in accordance with the timeline established in Act 250 for closure by October 1, 2025. Once the processing is moved off site, the activities at Chandler will be significantly reduced in terms of noise and truck traffic. As part of the work, TCE and Julian have also implemented improved stormwater management and restorations of a wetland buffer. Julian is anticipating a Multi-Sector General Permit, which will validate the stormwater management plan that is already in place. It is expected that a limited amount of extraction will occur at Chandler, but the larger, more impactful activities will be removed. Exhibit D, Narrative Letter, 5/31/2023, revised 12/07/23 as Exhibit QQ (“Narrative”) at 1-7.

Stormwater best management practices are proposed on site to treat and clean runoff, ensuring that discharge from the site meets State mandated water quality requirements. The depressed quarry excavation area will act as a settling pond and runoff collection area. Collected water from the quarry area will be settled in the quarry and then dewatered via pump to a 15’ x 15’ dewatering/sediment filter bag as shown on the site plan. After passing through this filter bag which collects suspended solids, water will flow through a new stone lined swale with check dams before final discharge to the Great Brook. The above referenced stormwater improvements were installed in May 2023 and compliant total suspended solids (TSS) sampling (<100 mg/L) occurred during a site visit by TCE on May 25, 2023 at the discharge location.

Furthermore, a more robust containment berm (with an impervious core) will be constructed to ensure there are no uncontrolled discharges to the brook, if this can also be

approved by the State of Vermont Agency of Natural Resources given its location adjacent to the brook, flood plain, river corridor and Class 2 wetlands.

The North Quarry is current in process of closing. The application seeks approval of a change in use from historical quarry to Contractor Yard, which will be used for storage of product and equipment, trailers, pallets associated with the South Quarry. *See* New Reclamation Plan – see revised plans, Exhibits L-2 and M-2. A Contractor’s Yard is allowed as a conditional use in the district. *See* CZO at § 2.11(b). The change will reduce operational noise and traffic once construction is completed. The design will provide adequate and safe access on VT 103, and is designed to allow tractor-trailers to enter and exit as well as turnaround. The improved access will allow future activities on property including providing VTrans with an ideal staging area for Williams Bridge replacement, silviculture, and possible future extraction (which is not included in this application).

Extraction of stone in the North Quarry area is to be discontinued after reclamation and construction of an alternative use as a contractor yard for the storage of materials, equipment, and misc. operational items. The construction timeframe is to be completed on or before October 1, 2025 which coincides with the expiration date of their current land use permit. Due to the steep gradient of the existing area, the site is proposed to be lowered with a gradual slope from south to north, allowing for improved safe circulation out of the traveling roadway and portions of the site repurposed for use as a proposed contractor yard with a stable surface of crushed gravel. A new highway access closer to the State Bridge over the Williams River will further improve site access and be built in accordance with the B71 State Standards. The existing open quarry areas outside of the proposed contractor yard will be allowed to revegetate naturally and/or reclaimed in accordance with prior State permits. New stormwater conveyance and treatment measures will be

installed in accordance with state requirements. (3-9050 and MSGP Permit application pending) Exhibit D, Narrative Letter, 5/31/2023, revised 12/07/23 as Exhibit RR (“Narrative”) at 1-7; see revised site plan, Exhibits TT and UU.

During construction and reclamation, any boulders too large to handle after blasting will be periodically split using either a hydraulic hammer mounted on an excavator which will only operate on Tuesdays and Thursdays between the hours of 8 am and 3 pm and will be done within a portable waste block barrier / bunker with at least two sides and at least 12 feet tall situated to minimize sound related impacts on neighboring properties. The barriers will be moved around the site periodically and as needed. A hammer has been used historically at the site and was part of Julian purchase of the property. The additional mitigation will lower anticipated noise levels at the project property line and any offsite areas of human habitation by 7 dBs. Testimony of Eddie Duncan.

Most of the future quarrying will be concentrated at the South Quarry. The South Quarry is currently permitted under Chester zoning and Act 250. The original plan was to move all processing from Chandler to South Quarry, which would occur in a 24,000 sq. ft. building to be construction for that purpose. The building was designed to be construction on a lower floor elevation by 30 feet to improvement aesthetic provide addition noise mitigation. Constructing the building would require 18 months, so processing would remain at Chester until the processing could be moved. The operators have now decided to relocate the processing to a new location out of town.

The South Quarry is proposed to continue stone extraction within the previously approved limits for both the Town of Chester and Act 250. Stormwater runoff will be managed on-site via two new stormwater treatment ponds and additional best management practices, in accordance

with state requirements. No new impervious surfaces are proposed. (MSGP Permit application pending). The South Quarry will be phased and reclaimed in accordance with all prior State and local approvals. This application seeks to allow / clarify the use of a portable crusher with the same operational parameters in Land Use Permit 2S0775-1 (altered).

Again, any boulders too large to handle after blasting will be periodically split using either a hydraulic hammer mounted on an excavator which will only operate on Tuesdays and Thursdays between the hours of 8 am and 3 pm and will be done within a portable waste block barrier / bunker with at least two sides and at least 12 feet tall situated to minimize sound related impacts on neighboring properties. No other cutting or crushing will occur while the hammer is operating. The barriers will be moved around the site periodically and as needed. Crushing will be allowed on a limited basis of a total of 4 weeks per year. No hammering shall occur during crushing.

Other mitigation proposed at South Quarry includes improved road access; stormwater and process water management; installation of a 3-phase power to eliminate need for diesel generators and improve air pollution; new septic and water supply. Future activities, which are not part of this application, is connecting the contractor's yard with the south quarry to allow future access to the railroad for hauling aggregate and dimensional stone.

IV. ADDITIONAL/ALTERNATIVE MITIGATION.

Julian, in good faith and in consideration of comments by neighbors, has proffered greater mitigation than originally proposed. The full expanse of the additional mitigation is described in Exhibit RR, Revised Project Narrative from TCE to Mr. Bristow, 12/7/23, and Exhibits TT, UU, revised site plans. The proposal involves:

1. Chandler

- a. Eliminate stone splitting, wet saw cutting, and related processing operations from this site BY JUNE 30, 2024– relocating these operations to a new off-site processing

location outside of the Town of Chester limits. Quarrying of stone will continue at the site and blasted stone materials hauled in trucks periodically to the New Offsite Facility for processing. This facility will not be in the Town of Chester. A revised traffic impact assessment is provided at Exhibit SS.

- b. Install best management practices (BMPs) to ensure water quality requirements are met for discharge from the site in accordance with a Multi-Sector General Permit (permit pending) and an Operational Stormwater Permit for new impervious surfaces (3-9050 application pending)
- c. Limited rock hammering activities to break down extracted stone to allow for transport to a new offsite location for further processing. Hammering will occur only on Tuesdays and Thursdays between the hours of 8 am and 3 pm and will be performed within portable concrete block “bunkers” at least 12’ high with at least two sides to maximize sound reduction on the adjacent properties.

2. South Quarry

- a. The South Quarry will continue to be operated in accordance with the previous approval(s) from the Town of Chester and consistent with the grading plans approved by the Town and Act 250 under Land Use Permit 2S0775-1 (altered). Use of a limited portable crusher consistent with the approved Land Use Permit 2S0775-1 (altered). Install best management practices (BMPs) including diversion berms, two centralized stormwater settling ponds, and other practices required to ensure water quality requirements are met for discharge from the site in accordance with a Multi-Sector General Permit (application pending)
- b. Limited rock hammering activities to break down extracted stone to allow for transport to a new offsite location for further processing. Hammering will occur only on Tuesdays and Thursdays between the hours of 8 am and 3 pm and will be performed within portable concrete block “bunkers” at least 12’ high with at least two sides to maximize sound reduction on the adjacent properties.

3. North Quarry

- a. Reclaim the current quarry limits and construct a contractor yard for storage and misc. support operations, e.g. storing finished product stone pallets, extra equipment, trailers, pallets, or construction vehicles when not in use. This work will be performed no later than October 1, 2025. Note: This site will also continue to provide access to remaining lands for forestry and possible future extraction operations, and a future internal haul road to connect with South Quarry. The road and any new quarries will require additional local and State permitting.
- b. During construction and reclamation, limited rock hammering activities to break down extracted stone to allow for transport to a new offsite location for further processing. Hammering will occur only on Tuesdays and Thursdays between the hours of 8 am and

3 pm and will be performed within portable concrete block “bunkers” at least 12’ high with at least two sides to maximize sound reduction on the adjacent properties.

Essentially, the additional mitigation serves all involved: all processing is moved out of Chester, rock hammering is strictly limited to specific times and days, and all hammering will occur in a bunker or otherwise shielded location. The timeframe for moving out of Chandler is greatly reduced from 18 months to approximately 7 months, and no transition to South Quarry is required. Again, Julian’s overall plan from the outset has been to find ways to reduce the impacts on the area as much as is economically feasible.

V. SUMMARY OF ALL PROPOSED CONDITIONS

With the alternative mitigation proposed on 12/7/23, this application proposes to modify three existing stone quarries as follows:

- Relocate processing/cutting operations from the Chandler Road Quarry to a new location outside of the limits of the Town of Chester on or before June 30, 2024.
- Construct stormwater best management practices (BMPs) at the Chandler Road to ensure water quality discharge requirements are met – *these BMPs were installed in May 2023 and are currently operating with compliant discharge levels.*
- Construct new stormwater improvements to continue extraction within pre-approved limits and continue periodic crushing (per Land Use Permit 2S0775-1 (altered)).
- Reclaim the open North Quarry area and construct a contractor yard at the existing cleared site and provide future access to remaining lands on or before October 1, 2025.
- Using a hydraulic hammer mounted on an excavator to resize blasted stone which will only operate on Tuesdays and Thursdays between the hours of 8 am and 3 pm and will be done within a portable waste block barrier / bunker with at least two sides and at least 12 feet tall situated to minimize sound related impacts on neighboring properties. The barriers will be moved around the site periodically and as needed.

The proposed conditions of all three quarry sites will minimize operations at the most visible quarry areas (North and South Quarries), will lower the elevation of the South Quarry area – thus reducing offsite impacts (noise, aesthetics, etc.), and will improve water quality from

discharge at the Chandler Road Quarry. The modifications included with this application are proposed to ensure that local/state requirements are met for all three quarry sites and the operations do not unduly impact offsite properties or uses.

VI. CHARACTER OF THE AREA – ZONING AND PLANNING.

The application involves a request for condition use approval. The fundamental concerns stated at the hearing relate to the project's impacts on the character of the area, particularly related to noise impacts associated with the use of a rock hammer.

As stated above, the North and South Quarries are located in the C-R District, while Chandler is located in the R120 (3 acre) District. Extraction and contractors yard are conditional uses under the Chester Ordinance in both districts. The "C-R" District, which is described as:

2.11 Conservation-Residential (C-R) District

- a. Purpose: To conserve large parcels or tracts of land that are valuable for working landscape related uses, including forestry. In keeping with the Town Plan goals to retain rural character as well as to serve as habitat for wildlife and outdoor recreational uses, these areas are designated for very low-density development. This may be accomplished through cluster development or development for residential purposes of that land that is marginal for agricultural use.

Extraction Operations and Heavy Construction Trades as allowed as conditional uses. *Id.* At 2.11(b). This provision express allows for the Julian plan to center extraction activities at the South Quarry while change the use of the North Quarry to a contractor's yard. Note, also, that the Julian's plan will conserve a large tract of law for working landscape related uses.

Chandler, meanwhile, is in the "R120" District. The purpose of the R120 District is, "to provide lower-density residential neighborhoods with compatible home businesses and working landscape uses that are consistent with the Chester Town Plan." Uses allowed conditionally in the R120 include extraction operations, heavy construction trades, and sawmills, albeit in this case the Chandler quarry is nonconforming, but is grandfathered relative to its historical use. *Id.* At 2.11.

This is consistent with the theme repeated in the Bylaw and Town Plan of the clear policy of preserving the working landscape outside of town centers.

In that regard, the Town Plan expressly states that mining of stone, sand, and gravel, should be encouraged in all zoning districts where it is permitted. Stated in full:

Mineral Deposits – The mining or extraction of soil, sand, gravel, stone, bedrock, talc and other minerals and hydrocarbons within the Town of Chester should be encouraged within the zoning districts where these are allowed. Adequate regulations shall be established to protect the public health, safety, comfort, and welfare, to reduce negative impacts on essential wildlife habitat, and to control noise, dust, vibration, air and water pollution, and to assure the restoration of the land after mining is completed.

Chester Town Plan (“TP”) at 3.

This is consistent with the fact that at least two of the sites, Chandler and North Quarry have mined since before Chester adopted zoning. Indeed, based on the findings by the District Coordinator, excavation at Chandler dates the start of the 20th century. *See* Act 250 Jurisdictional Opinion at P-4 at 15. North Quarry is at least 60 years old, as it predates Chester zoning regulation by years. The Plan clearly states the desire “to encourage” mining in the districts where it is permitted is consistent with the area’s long reputation for stonework from the local mines. Chester’s historic stone village, which has been standing now for over 200 years, is particularly known for its unique stone buildings. These homes, schools, and churches are hewn from local granite, gneiss and mica schist. Quarrying high quality ornamental stone is as much part of Chester’s DNA as Barre granite is for Barre.

Consistent with the history of the area and the Town Plan, Allstone produces dimensional stone for a variety of architectural purposes and their products can be seen used on everything from local residential homes to college campuses. All of the various stone products including thinstone, flagstone and wall stones are produced locally in Chester and shipped to customers or other masonry suppliers. The wide range of colors, textures and “glimmerstone” appearance in the

various bedrock in this area make them both famous and highly desirable. It would be sad irony that the quarries, which are source of much of the local history, be closed because a handful of neighbors feel the nominal inconvenience of noise from rock hammering form 8 a.m. to 3 p.m. twice a week is too big a burden to bear.

To the contrary, the Chester Town Plan states a very specific policy of supporting the quarries that make up much of its history. The intent to preserve the historical development pattern of mixed-use village areas surrounded by open land, agriculture, mining, forest, and low-density residential use. Conflicts are naturally contemplated, but the clear intent of the plan is that ever-encroaching rural residential use is a very real existential threat to a working landscape. Sustaining a working landscape is a serious problem throughout Vermont, whether it is agriculture or mining, as residential uses encroach into rural areas causing conflict with historic “working landscape”-type uses. This has, for example, forced the Vermont legislature to adopt protective statutes, such as the Vermont Right to Farm law, 12 V.S.A. §§ 5751-5754, to protect the rural uses from complaints much the same as are presented here. As the Town Plan stated, neither use should prevail outright, but rather tolerance, compromises, and mitigation are the means of resolution. Moving next to a quarry and then complaining it should be shuttered for what would be consider normal activities runs counter to the Plan. Indeed, the plan highlights the desire to protection the working landscape by balancing protection of both assets through condition use review:

Granite, gravel and sand are the only local earth resource extraction operations at this time, but other resources such as soapstone and talc, as well as minerals, precious stones and metals, such as gold, are present. Mining provides jobs and is a valuable source of income for rural communities. Resources from mining make activities such as building construction, road development, and a variety of other manufacturing processes possible. There are few local sources for sand, gravel and stone for local highway and construction uses. The Town Highway Department’s current source has an estimated 4 to 5 years supply. After that, the nearest source is more than three times as far away, significantly

increasing the costs for these materials. Therefore, local production of these materials could benefit the taxpayers. However, mining and mineral extraction can also adversely affect the roads, rural landscape, essential wildlife habitat, and the peace and quiet of the rural community. Residents participating in the public outreach efforts value a working landscape, including mining, but also expressed a desire for strict regulations to protect the environment and adjacent land uses. These adverse impacts can and should be mitigated by conditional use, site plan review and performance.

TP at 43.

Chester, including its historic stone village, which has been standing now for over 200 years, is particularly known for its unique stone buildings. These homes, schools, and churches are hewn from local granite, gneiss and mica schist that not only gives them an enduring beauty but a proven protection from Vermont's harsh winters and hot summer days. Allstone produces dimensional stone for a variety of architectural purposes and their products can be seen used on everything from residential homes to college campuses. All of the various stone products including thinstone, flagstone and wall stones are produced locally in Chester and shipped to customers or other masonry suppliers. The wide range of colors, textures and "glimmerstone" appearance in the various bedrock in this area make them both famous and highly desirable.

VII. CONDITIONAL USE REVIEW

The Chester zoning bylaw sets forth both standard and specific criteria for conditional use review. These standards require that a proposed conditional use shall not have an undue adverse impact under five general land use concerns. *See also* 24 V.S.A. § 4414(3). The five general criteria set forth in the bylaw, which include:

- a. The capacity of existing or planned community facilities;
- b. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located;
- c. Traffic on roads and highways in the vicinity;

- d. Bylaws and ordinances then in effect; and the project complies with all Bylaws and ordinances in effect.
- e. Utilization of renewable energy resources.

CZO § 4.8.C.1.

All five criteria must be met. Incorporating the previous findings stated above, findings and conclusions for each of the general criteria are set forth below:

a. The capacity of existing or planned community facilities

The project has previously received approvals for extraction based on findings the projects would not cause undue adverse impacts to community facilities. No evidence is submitted to suggest approved uses have placed any significant burdens on the capacity of existing or planned community facilities.

Few, if any, additional or material demands are made on any existing or planning community facilities by the project. It will be utilizing the same infrastructure, such as the road network and utility system, it has historically used without adding any material burden.

Truck traffic to Chandler will be greatly reduced with the removal of the processing facility and changes in the North and South Quarries. See Exhibit SS Reviewed Traffic Impact Assessment. Further improvements are anticipated on the North Quarry access for the Construction Yard. Chandler will be returned to its traditional use.

Further improvements will be made to septic, water, wetland and stream protection over what historically has existed.

Conclusion of Law: Based on the forgoing, the project will not have an undue adverse impact on any existing or planning community facilities.

- b. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located.

See prior discussion of the area under zoning and the Town Plan. All three quarries are in rural areas which, under the bylaw, allow mining as a conditional use. Both properties have a very long history as locations for extraction of the dimensional stone that enables and defines the character of Chester's Historic Stone Village. The areas involved and the activities proposed make up an important part of the rural working landscape of Chester, Vermont that has existed for over 200 hundred years.

The ordinance and the Town plan both emphasize a desire to retain, protect, and promote the mining of minerals, such as stone and gravel, in the zoning districts in which they are allowed under the bylaw, as part of the traditional character of Chester, Vermont, as expressly stated in the Town Plan.

Removing stone quarries from the working landscape would diminish and adversely affect the character of the area. Chester's history and character is uniquely tied to masonry and active stone production on which the masonry is based. Without local means of stone production, the character of the area diminished greatly as the local stone house would become relics of a past that no longer exists. One is living; the other is a museum - not unlike ever increasing presence cowbarns without cows.

The Town policies include requirements that quarry uses are to be encouraged in the areas in which they are allowed. TP at 3. Also stated in the Town Plan is the recognition that mining and mineral extraction "can also adversely affect the roads, rural landscape, essential wildlife habitat, and the peace and quiet of the rural community." Rather than prohibit the activities, the land policy of the Town, following the community wishes, is to retain these assets and that

“adverse impacts *can and should be* mitigated by conditional use, site plan review and performance.” TP at 43.

In this proceeding, the primary complaint regarding the character of the area relates to noise, most specifically to the use of a rock hammer. In response, Julian produced through its noise expert RSG, two current reports from June and October 2023, along a with two legacy reports from the South Quarry permitting in September 2004. *See* Exhibits J, Allstone Quarries Noise Assessment June 2023; HH, Allstone Noise Assessment Addendum Oct 2023; KK, RSG Noise Memorandum of May 10, 2004; RSG Noise Memorandum of September 13, 2004.

Local noise limits are set in Section 4.9, Performance Standards, of the Chester Unified Development Bylaws. Section 4.9 .A. states:

Noise volume shall be limited to the specified decibel levels listed below measured at the property line. [. . .] Noise levels or frequencies which are not customary in the district or neighborhood or which represent a repeated disturbance to other shall not be permitted....

1. Noise shall not exceed 60 dB between 8:00 p.m. and 7 a.m.;
2. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

Given that the Project's operations would only occur during the day, the local standard sets a property line limit of 70 dBA. As mentioned in Section 2.0, the parcel on which the VT-103 North Quarry and the VT-103 South Quarry are located has an existing Act 250 permit series (#2S0775). Exhibits J, Allstone Quarries Noise Assessment June 2023 at § 3.1.

This permit condition recognizes that existing sound levels at the residences closest to the VT- 103 South Quarry exceed 55 dBA on a regular basis, and it limits how much additional time 55 dBA may be exceeded due to operations at the Project site. *Id.* at § 3.2. *See generally* testimony of Eddie Duncan.

Ambient sound level at neighboring homes is shown as:

TABLE 2: SUMMARY OF SOUND LEVELS (7 AM TO 5 PM) BY WEEKDAY & WEEKEND PERIODS²

MONITOR	WEEKDAY DAYTIME SOUND PRESSURE LEVELS (dBA)					WEEKEND DAYTIME SOUND PRESSURE LEVELS (dBA)				
	Leq	L90	L50	L10	Lmax Range	leq	L90	L50	L10	Lmax Range
North	65	47	S9	70	72 to 90	64	4S	S7	69	71 to 88
South	68	4S	S8	69	69 to 112	66	44	S6	68	71 to 10S
Chandler	48	32	43	SI	39 to 80	38	28	30	36	3S to 68

Id. at § 4.3.

At the North and South Quarries, weekdays are indistinguishable from the weekend from a sound level. This is due to the fact that a primary source of sound at the South Monitor was traffic noise from VT-103. Secondary sources included the flow of water in the Williams River, occasional vehicles at the Allstone office, occasional distant mechanical sounds, biogenic and geophonic sounds, and occasional aircraft flyovers. *Id.*

Sound testing indicates that mining operations, including the use of the rock hammer and related traffic, do not exceed 70 dBA at the VT-103 property line of the South Quarry. Instead, the projected maximum sound levels from regular operations range from 45-57 dBA. This could raise 3 to 10 dB higher during the use of the drill or the rock hammer, but in any case, the zoning standard of 70 dBA is not exceeded at the property line during daytime operations, except due to normal traffic along Route 103 or the passage of cars into the property. In general, the project will result in lower noise level than currently exist. *Id.*; see also Exhibit HH, Allstone Noise Assessment addendum, Oct. 2023 at § 2.2.

Mr. Duncan of RSG testified that the mitigation proposed for sheltering the rock hammer in an artificial bunker will reduce the sound of the hammer by as much as 7 dB.

² The maximum sound levels are due to train and vehicle pass byes.

The sound of the rock hammer, though different in character, is not louder than other approved equipment at the site, such as a hydraulic drill, especially given the dominant impact of traffic noise from VT 103. Noise studies produced from 2004 by RSG indicate that the sound anticipated by the project as proposed is not material greater than the historic use of the quarries. Exhibits KK and LL, RSG Reports from May 10, and September 13, 2004.

Sound levels at Chandler exceed 70 dBA from the existing operations and will also exceed 70 dBA at times under the proposed extraction and drilling. This is due to the pre-existing nonconforming use of the property where the access road runs adjacent to a portion of the property line to access the site and the extraction limits go right to the property line in some areas. The frequency at which 70 dBA is exceeded at the property line will be reduced some as the elevation of the quarry floor is reduced by continued extraction. *Id.* at §§ 5.0-5.3.

RSG undertook additional review regarding the use of the rock hammer and the limited use of rock crusher. *See* Exhibit HH, Allstone Noise Assessment addendum, Oct. 2023. Both its reports, Exhibits J and HH, show that the primary source at the property line is the highway, but that any additional impacts resulting from the quarry operations can be mitigated by the conditions listed above, which included limiting the hours of drilling and hammering; isolating the hammer in a bunker; and limiting crushing to up to 4 weeks a year.

Conclusion of Law: Based on the forgoing, the project will not have an undue adverse impact on the character of the area.

c. Traffic on roads and highways in the vicinity.

The project produced a nominal amount of truck traffic. A traffic expert has evaluated the safety and congestion associated with the project operating in 3 distinct locations and concluded traffic on roads and highways will not result in any undue adverse effects due to low volumes of

truck traffic associated with the operations. If approved, the truck traffic at Chandler Road will see a significant decrease in traffic as operations are moved to a new location out of Chester. *See* Exhibit FF, Traffic Impact Assessment, July 6, 2023 and Exhibit SS, Revised Traffic Assessment.

Similarly, the North Quarry will be reclaimed and converted into a Contractor Yard, which once completed will reduce truck traffic AND make operations safer due to improved entrance near the bridge, improved internal site circulation and allow for safer access to the remaining lands for silviculture as well as possible future uses. *Id.*

The modifications to the quarries will improve future traffic congestion and safety conditions.

The relocation of the processing to a new offsite location outside of Chester using the existing highways for transporting stone will not result in undue or adverse conditions with respect to traffic safety and congestion.

Conclusion of Law: Based on the forgoing, the project will not have an undue adverse effect on traffic in the vicinity.

- d. Bylaws and ordinances then in effect; and the project complies with all Bylaws and ordinances in effect.

Various performance and extraction-related provisions are implicated by quarry applications. Based on the review below, the project complies with this general conditional use standard. Each provision is analyzed as follows:

1. CZO § 4.9 General Performance Standards:

The following standards must be met and maintained by all uses in all districts that are subject to a permit under these Bylaws. The project complies with all applicable provisions related to:

- a. Noise
- b. Air Pollution
- c. Glare, Light Or Reflection
- d. Safety Hazards
- e. Electromagnetic Disturbances
- f. Underground Storage Tanks, Ground/Surface Water Pollution

Summary:

a. Noise – See prior discussion in SECTION VII. The DRB has reviewed the reports and testimony shown in Exhibits J, HH, KK, and LL as well as the testimony of Mr. Duncan of RSG.

Conclusion of Law: Based findings and analysis stated in SECTION VII and stated here, noise volumes associated with the project, measured at the property line, are customary and normal at the location, as quarries have existed in their current location for decades and longer. Further, noise will not exceed 60 dB between 8:00 p.m. and 7 a.m. or 70 dB during the day between 7 a.m. and 8:00 p.m.

b. Air Pollution

The existing quarries shall be operated in such a manner as to minimize impacts and prevent nuisances on neighboring properties with respect to air pollution.

Water via spray truck on internal roads shall be used to control dust when needed to limit off site emissions. Existing diesel equipment shall have proper controls for emissions.

Conclusion of Law. Based on the forgoing, the project will not result in air pollution that results in a nuisance to other landowners, businesses or residents, endanger or adversely affect public health, safety or welfare, cause damage to property or vegetation; or, be offensive or uncharacteristic of the area.

c. Glare, Light or Reflection.

Illumination from lighting fixtures or other light sources shall be shielded or of such low intensity as not to cause undue glare, reflected glare, sky glow or a nuisance to traffic or abutting properties.

Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "down shield luminaire" type where the light source is not visible from any public highway or from adjacent properties.

Only fixtures which are shielded to not expose a light source, and which do not allow light to "flood" the property, are permitted to be attached to buildings. Searchlights are not permitted. The Development Review Board may require a lighting plan under conditional use or planned unit development review procedures. Limited down shielded security lighting will be provided on buildings and operated by motion activation only.

No lighting glare or direct source will be visible from any public highways or adjacent properties.

Any lighting provided will be done in accordance with the Act 250 guidance for site lighting and "dark-sky" compliance.

The three sites generally do not operate during nighttime hours and no site lighting is needed to illuminate parking areas or driveways.

Conclusion of Law: Based on the forgoing, the project will not result in glare, light or reflection prohibited by the ordinance.

d. Safety:

No explosives are stored on site, and when used shall be done by a qualified 3rd-party contractor in accordance with an approved Blast Plan.

Fuels used for equipment shall be stored in double walled tanks, and any new or used oils must be stored in sheds or other suitable enclosures.

MSDS sheets shall be posted on site, where required.

The project as designed does not place an unreasonable burden on the Fire Dept. and adequate access and circulation is provided at each site.

Conclusion of Law: Based on the forgoing, the project will not create fire, explosive and similar safety hazards which would substantially increase the risk to an abutting property, or which would place an unreasonable burden on the Fire Department.

e. Electromagnetic Disturbances.

This project does not produce any electromagnetic disturbances, electronic emissions, or signals whatsoever.

Conclusion of Law: The project will not produce electromagnetic disturbances, so it meets the criteria.

f. Underground Storage Tanks and Subsurface Water Pollution.

The project does not involve any underground storage tanks for fuel storage, all fuel tanks are above ground and double walled with spill prevention measures in place.

Septic tanks are concrete and tested for watertightness before installation.

Both properties are subject to a Multi- Sector General Permit which requires periodic site inspections.

Conclusions of Law: Based on the forgoing, no use shall result in burying or seepage into the ground of material which endangers the health, comfort, safety or welfare of any person, or which has a tendency to cause injury or damage to property, plants or animals.

2. CZ0 § 3.9 – Extraction Operations

Consistent with § 3.9B, the Site Plans provided (Exhibits A-2 – Q2, as reviews) show existing grades, drainage patterns, buffers to adjacent parcels, the extent and magnitude of the proposed operation including project phasing, and finished grades and site restoration at the conclusion of the operation at each of the three locations of current extractions.

Conclusion of Law: The project complies with § 3.9B.

Consistent with § 3.9C.1, when the removal of materials is completed, the finished grades, as specified in the plan and approved, will be covered with not less than four (4) inches of top soil and seeded with a suitable cover crop, except when ledge rock is exposed.

Consistent with § 3.9C.2, “[any] soil, sand or gravel operation in existence at the time of adoptions of these Bylaws shall not be subject to the provisions of this section except that such operation shall not extend beyond the then existing boundaries of the parcel of land until a permit has been issued.” Accordingly:

Chandler Road Quarry Extraction – Section 3.9.C is not applicable as the extraction remains grandfathered from local permitting and not subject to current zoning requirements.

North Quarry Extraction – section 3.9.C is Not applicable and remains grandfathered from local permitting and not subject to current zoning requirements and is being proposed to change use to an approved Contractor Yard.

South Quarry Extraction changes proposed are limited since the area of extraction is not proposed to be changed and the 2003 local approvals should continue to apply. When the removal of materials is completed, the finished grades, as specified in the plan

Consistent with § 3.9C.4, no strip mining is proposed.

Consistent with § 3.9C.5, no actual quarrying or mining shall be carried on in a zone one hundred (100) feet from the highway as well as one hundred (100) feet from all abutting property

in different ownership, unless written agreement has been obtained from any abutting property owner involved.

Consistent with § 3.9C.6, raw materials rejected from permitted operations which are piled on the land shall be screened from public view and shall not impede the flow nor pollute the waters of ponds and streams; such accumulations shall be graded to stable contour and shall be restored to vegetative cover. South Quarry– See Exhibits U, X and Y.

Conclusion of Law: Based on the foregoing, the project complies with § 3.9C.

Consistent with CZO § 4.9D, In granting approval, the Development Review Board may consider and impose conditions with respect to the following factors, as it deems appropriate.

The project complies with all the relevant concerns.

1. Depth of excavation or quarrying is above the water table; South Quarry resides on a sloping hillside and can freely drain and stay above the water table (Exhibits U, X, and Y).
2. Slopes created by removal meet the applicable standard; See Exhibit X and Y South Quarry Cross Sections and Exhibit U South Quarry Site Plan.
3. Effects on surface drainage on and off-site are mitigated through new stormwater best management practices are included in Exhibit U Exhibit BB Stormwater Details and, Exhibits CC and DD – Erosion Details.
4. Adequate room is provided on site for storage of equipment and materials, *See* Exhibit U, South Quarry Site Plan.
5. Hours of operation for blasting, trucking, and processing operations. No changes proposed.
6. See prior findings of fact and conclusions of law. The project will not have adverse effects on neighboring properties due to blasting, excavation or crushing activities, or other noise, dust, or vibration; *MSHA Standards will be adhered to for all blasting, See RSG Study for Noise Impact Assessment (Exhibits J).*
7. The project will not create of nuisances or safety hazards; *The project will comply with MSHA for safety related issued. For any nuisance related to noise see Exhibit J by RSG.*

8. The project will not have an adverse or undue effects on traffic and road conditions, including potential physical damage to public highways; See Exhibit FF and SS, for Traffic Impact Assessments.
9. The rate of extraction and number and frequency of truck trips; See Exhibit FF and SS, for a Traffic Impact Assessments.
10. Temporary and permanent erosion control requirements are met. *See Exhibits CC and DD for Temporary and Permanent Erosion Control Details to be used.*
11. There will be no adverse effect on ground and surface water quality, and drinking water supplies; *n/a.*
12. Effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project; *n/a.*
13. Effect on agricultural land; and *n/a.*
14. Adequate site reclamation. *See Exhibits U, BB, CC, DD, and prior approvals.*

As stated above, the south quarry limits are not changing, nor are the basic operations, therefore, most of the criterion above are either not applicable, or there will be no new impacts under each item.

Conclusion of Law: Based on the forgoing, the project complies with CZ0 § 3.9D.

Based on the forgoing, the project, In re: Julian Material LLC Condition Use Application #594 is approved.

DATED this 2nd day of January, 2024.

JULIAN MATERIALS, LLC

BY: PAUL FRANK + COLLINS P.C.

BY: /s/ Mark G. Hall

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