

MARK HALL  
mhall@pfclaw.com

February 9, 2024

*Sent by Email: [zoning@chestervt.gov](mailto:zoning@chestervt.gov)*

Preston Bristow  
Town Planner & Zoning Administrator  
556 Elm Street  
P.O. Box 370  
Chester, VT. 05143

**Re: Appeal of Notice of Violation to Allstone Vermont and Julian Materials, LLC, 3645 VT Route 103N, LLC, 137 Chandler Road, LLC., dated January 25, 2024**

Dear Preston:

Please consider this an appeal of the above-referenced Notice of Violation pursuant to 24 V.S.A. § 4465. I have attached a copy of the Notice to ensure proper description of the alleged violation, the parties, and the properties involved, which are commonly referred to as the North and South Quarries and the Chandler Road Quarries. This response is to satisfy the notice requirements of § 7.13 of the Ordinance only, and parties request that they have the ability to present evidence and supplement the responses provided herein. *See* 24 V.S.A. § 4466.

Before addressing the individual alleged violation, I would like to mention that all three quarries will be out of operation beginning Monday, February 12, 2024 for internal reasons. The cessation will last 2-3 weeks, which I hope gives us time to get an application in. I also note extraction was halted at North Quarry prior to the issuance of the Notice of Violation. I will provide sworn statements to those points if required.

Alleged Violation 1 – Change of Use at Chandler. *See* UDB § 7.2.

137 Chandler, LLC believes it is a question of fact whether the activities are equivalent to a “change of use”. It acknowledges, of course, that it installed guillotines and wet saws at Chandler. However, it does not believe, as a matter of law and fact, processing stone at a quarry is inconsistent with activities that would traditionally occur at a quarry, so the activity arguably is not an expansion or change in use. *See* UDB § 7.2.

Irrespective of the dispute, 137 Chandler Road, LLC will seek conditional use approval possibly as legacy use for Chandler. As previously sought, a request will be made for a temporary allowance of the current processing activities until June 1, 2024, pursuant to § 3.19(C)(2) of the Ordinance. We anticipate an application being filed well before operations restart.

Alleged Violation 2 – Noise at South/North Quarry. Ordinance § 4.9

South Quarry is permitted already by Chester, and activities currently occurring do not violate the existing permit. Contrary to assertions by opponents of the quarry, it meets the applicable noise standards of the Ordinance. There are no restrictions in its zoning permit on the type of machinery used. RSG has provided testimony and evidence that the use of a hydraulic hammer meets the standards of the Ordinance and the existing permit. Allstone/3645 VT Route 103N therefore will present evidence it is not in violation of Permit #395.

Alleged Violation 3 - Surface Water Pollution. Ordinance § 4.9.

This alleged violation was cured by TCE prior to the notice of violation being issued, so this citation should be dismissed as moot. This evidence was presented to the DRB over the course of hearings on the withdrawn application that fully functioning mitigation has been installed. Chandler will resubmit that information for this proceeding.

Alleged Violation 4 – Construction or Enlargement of Buildings § 7.2.

137 Chandler, LLC admits to the enlargement and addition of a building consisting of a shed at Chandler and addition of a modular home at 3681 VT Route 103 on the Bushee lot. 3645 VT Route 103N, LLC does not believe replacing a trailer with a manufactured home of very similar size and impact is a change in use warranting a violation. While the dimensions are different, the overall size of both structures is nearly the same and in the same approximate location.

Alleged Violation 5 – Placing Fill and construction buildings in a Special Flood Hazard Area

Chandler has previously acknowledged its apparent accidental expansion into the Special Flood Hazard Area, which it has been trying to mitigate. Unfortunately, despite a monumental effort by TCE, the Agency of Natural Resources has not yet approved the Multi-Sector General Permit needed to undertake its planned mitigation, despite nearly a year of effort. TCE expects permit should be issued shortly, but ordinarily this permit would have issued in the Spring of 2024, so the circumstances are usual.

Relief Requested:

The parties to which these citations were directed request forbearance from enforcement at Chandler under alleged violations 1, 4, and 5, while they seek a conditional permit for Chandler and a permit for the manufactured home on the Bushey lot.

Chandler also requests temporary forbearance on alleged violation 5. It has been aggressively pursuing approval of a mitigation plan since early 2023, which has been subject to exceptional

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delay by the Agency of Natural Resources regarding the multi-sector general permit. This circumstance is currently outside of Chandler's control.

Violations 2 and 3 should be dismissed. Operations at South Quarry meet the applicable noise standards of its permit, so Citation 2 should be dismissed. Citation 3, regarding surface water pollution, was cured prior the issuance of the Notice of Violations, so the issue is moot.

Conclusion:

Thank you for your time and efforts in this matter, Preston. Please confirm receipt of this appeal. I will process the \$200.00 fee through the town clerk's office as you directed.

Cordially yours,

PAUL FRANK + COLLINS P.C.

*/s/ Mark G. Hall*

Mark G. Hall

MGH:jph

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