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January 25, 2024

Via Certified Mail, Return Receipt Requested and U.S. Mail

Andrew Julian
Jason Julian
Allstone Vermont
Julian Materials, LLC
3643 VT Route 103 N, LLC
137 Chandler Road, LLC
418 Meadow Street
Fairfield, CT 06824

TOWN OF CHESTER – NOTICE OF VIOLATION

Re: Notice of Violation: (1) change and expansion of a use without a permit, (2) generation of noise at levels or frequencies which represent a repeated disturbance to others, (3) surface water pollution, (4) construction or enlargement of a building or structure without a permit, and (5) placing fill and constructing buildings in regulatory Special Flood Hazard Areas without a permit.

Dear Andrew Julian and Jason Julian:

You are hereby notified that you are in violation of the Town of Chester Unified Development Bylaws ("Chester UDB"). The violations consist of (1) change and expansion of a use without a permit, (2) generation of noise at levels or frequencies which represent a repeated disturbance to others, (3) surface water pollution, (4) construction or enlargement of a building or structure without a permit, and (5) placing fill and constructing buildings in regulatory Special Flood Hazard Areas without a permit.

This Notice of Violation regards the uses and activities at the following property locations, collectively referred to as "the Properties":

- North Quarry at 4333 VT RT 103 N, owned under 3643 VT Route 103 N, LLC, town parcel #06-01-10.
- South Quarry at 3645 VT RT 103 N, owned under 3643 VT Route 103 N, LLC, town parcel #06-01-10.
- Chandler Road Quarry at 137 Chandler Road, owned under 137 Chandler Road, LLC, town parcel #22-20-21.200.

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- The so-called “Bushee Lot” at 3681 VT Route 103 N, owned under 3643 VT Route 103 N, town parcel #50-50-14.

The activities and uses at the above property locations appear to be operated jointly under the assumed business name of Allstone and the registered entity of Julian Materials, LLC. The Vermont Secretary of State’s Office lists Andrew Julian as principal of Julian Materials, LLC, and Andrew and Jason Julian as principals of 3643 VT Route 103 N, LLC, and 137 Chandler Road, LLC. The Vermont Secretary of State’s Office further lists Allstone as the assumed business name of M Julian LLC, and the principals of M Julian LLC are Andrew Julian, Jason Julian, and Maureen Julian (hereinafter collectively referred to as “Julian/Allstone”).

Prior to 2019, the North Quarry and South Quarry were owned and operated separately from the Chandler Road Quarry. After 2019, the North Quarry and South Quarry came under the same operational control as the Chandler Road Quarry, and the Chandler Road Quarry became integrated into and operated jointly with the North Quarry and South Quarry as a single unified quarry operation. Processing operations including the use of hydraulic guillotines and wet saws were established at the Chandler Road Quarry with stone extracted from the North Quarry and Allstone Quarry delivered to the Chandler Road Quarry tract for processing into dimensional stone products and returned to the Stone Store tract on Route 103 for storage and sale.

It appears that limited use of the North Quarry and the Chandler Road Quarry as separate quarries predate the adoption of Chester’s development bylaws. The South Quarry was approved, subject to conditions, by the Town of Chester’s then Zoning Board of Adjustment (Application #395) on September 29, 2003, under the representation that this new quarry would replace the less efficient and more visually intrusive North Quarry.

Zoning Permit #21-065 was issued to 137 Chandler Road, LLC for the construction of a 70-foot by 25-foot storage building on September 29, 2021. The Comments/Conditions of that permit are, “The current quarry operation is an allowed nonconforming use because it existed prior to the adoption of bylaws. Applicant represents that the purpose of the storage building is to protect equipment and not to expand or enlarge the nonconforming use.”

The Residential 120,000 (R120) District [Section 2.10] and the Conservation-Residential (C-R) District [Section 2.11] in which the North Quarry, South Quarry and Chandler Road Quarry are located require conditional use review for Extraction Operations which are defined as, “A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone, rock or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, rock quarries, and accessory operations such as the crushing, screening and temporary storage of materials excavated on-site.”

Violation #1: change and expansion of a use without a permit.

Any land development requires a permit under Section 7.2 of the Chester UDB, and land development as defined in both statute [24 V.S.A. §4303(10)] and the bylaws includes “any mining, excavation or landfill, and any *change in the use* of any building or other structure, or land, or *extensions in use of land* [emphasis added].” “Extraction Operations” and “Retail Store” specifically require conditional use review by the Development Review Board and a zoning permit issued by the Zoning

Administrator. Installing hydraulic guillotines and wet saws at the Chandler Road Quarry and consolidating the control, management, and use of the Properties for the quarrying, processing and sales of products constitutes a “change of use” and an “extension in use of land” without conditional use review by the Development Review Board and a zoning permit issued by the Zoning Administrator and is a violation of the Chester UDB Section 7.2. It also constitutes a violation of, and an unpermitted extension of, Zoning Permit #21-065. Further, the unpermitted introduction and use of rock hammers for quarrying operations at the Properties and the coordinated use of the Properties by Julian/Allstone as currently operated, constitute an unpermitted change in use on the Properties.

Violation #2: generation of noise at levels or frequencies which represent a repeated disturbance to others.

Section 4.9 of the Chester UDB states that Performance Standards must be met and maintained by all uses in all districts that are subject to a permit, and those Performance Standards include (A) Noise. Specifically, noise volume shall be limited to 70 dB during the day between 7:00 AM and 8:00 PM measured at the property line, and noise levels or frequencies which are not customary in the district or neighborhood, or which represent a repeated disturbance to others shall not be permitted. The introduction and use of hydraulic hammering at the Properties creates a level and frequency of noise that is not customary in the neighborhood, is a repeated disturbance to others, exceeds the permitted noise levels and is a violation of the Chester UDB and the approved Application #395 at the South Quarry.

Violation #3: surface water pollution

Section 4.9 of the Chester UDB states that Performance Standards must be met and maintained by all uses in all districts that are subject to a permit, and those Performance Standards include (F) Underground Storage Tanks, Ground/Surface Water Pollution. Specifically, “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.” Discharge into Great Brook (also known as Dean Brook) from the stone splitting, wet cutting, and related processing operations at the Chandler Road Quarry tract is a violation of the Chester UDB, Section 4.9.

Violation #4: construction or enlargement of a building or structure without a permit.

Any land development requires a permit under Section 7.2 of the Chester UDB, and land development as defined in both statute [24 V.S.A. §4303(10)] and the bylaws includes “the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure.” Additions have been made to a shed building at the Chandler Road quarry without a permit and a mobile home at the so-called Bushee lot at 3681 VT Route 103 North has been replaced with a larger modular home and an accessory structure constructed without a permit. Construction of these structures without a permit is a violation of the Chester UDB Section 7.2.

Violation #5: placing fill and constructing buildings in regulatory Special Flood Hazard Areas without a permit.

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A permit is required for all proposed construction or other development within Special Flood Hazard Areas under Section 2.14 of the Chester UDB, and land development as defined in both statute [24 V.S.A. §4303(10)] and the Chester UDB includes “any mining, excavating or landfill” and “the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure.” Fill has been placed within the mapped Special Flood Hazard Area on the Chandler Road quarry property and structures on the Chandler Road quarry property and the so-called Bushee lot at 3681 VT Route 103 North encroach upon mapped Special Flood Hazard Areas. Placing fill and constructing buildings within regulatory Special Flood Hazard Areas without a permit is a violation of the Chester UDB Section 2.14.

* * * * *

In conformance with 24 V.S.A. §4451, you have seven (7) days from the date of this notice to correct these violations by: (1) removing the hydraulic guillotines and wet saws from the Chandler Road Quarry; (2) discontinuing the consolidated and integrated control, management, and use of the Properties for the quarrying, processing and sales of products; (3) discontinuing the unpermitted use of hydraulic hammers at the Properties; (4) discontinuing other activities that generate noise at levels or frequencies which represent a repeated disturbance to others or exceed 70db at the boundaries of the Properties; (5) ceasing any discharge of pollutants or manufacturing runoff into Great Brook (also known as Dean Brook); (6) removing the additions to a shed building at the Chandler Road Quarry and removing the mobile home and accessory structure at the so-called Bushee lot at 3681 VT Route 103 North; (7) removing any structures that have been placed within the Special Flood Hazard Areas and any fill material that has been placed within the Special Flood Hazard Areas based on the recommendations and direction of the Vermont Agency of Natural Resources; (8) discontinuing any use of the South Quarry for quarrying operations that exceed those permitted in Approved Application #395; and (9) discontinuing quarrying operations at the North Quarry.

If you fail to correct these violations within seven days, a fine of \$200.00 for each violation may be assessed each day the violations continue. Each day the violations continue constitutes a separate offense. In default of payment of the fine, you shall be required to pay double the amount of the fine until the violation ceases. It may also be necessary to turn the matter over to the Town Attorney to institute in the name of the Town of Chester any enforcement action deemed appropriate, including seeking injunctive or other relief to prevent, restrain, correct, or abate that construction or use, or to prevent, in or about the Properties, any act, conduct, business, or use constituting a violation.

You should be aware that further action may be taken without the seven-day notice and opportunity to correct the violation if the violation of the bylaw is repeated after the seven-day notice period and within the next succeeding 12 months.

IN ACCORDANCE WITH 24 V.S.A. §4465, SHOULD YOU DISAGREE WITH THIS NOTICE OF VIOLATION, YOU MAY APPEAL TO THE CHESTER DEVELOPMENT REVIEW BOARD BY FILING YOUR NOTICE OF APPEAL WITH THE CHESTER ZONING ADMINISTRATOR OR CLERK OF THE CHESTER DRB WHICH MUST BE RECEIVED WITHIN 15 DAYS OF THE DATE OF THIS LETTER. THE APPEAL MUST INCLUDE THE APPELLANT’S NAME AND ADDRESS, A BRIEF DESCRIPTION OF THE PROPERTY

WITH RESPECT TO WHICH APPEAL IS TAKEN, A REFERENCE TO THE REGULATORY PROVISIONS APPLICABLE TO THAT APPEAL, THE RELIEF REQUESTED, AND THE ALLEGED GROUNDS FOR THE REQUESTED RELIEF. THE APPEAL, SENT TO THE ADDRESS ABOVE, MUST ALSO BE ACCOMPANIED BY AN APPEAL FEE OF \$200 PAYABLE TO THE TOWN OF CHESTER.

THE FAILURE TO FILE AN APPEAL TO THE DEVELOPMENT REVIEW BOARD WITHIN 15 DAYS OF THIS NOTICE OF VIOLATION WILL RENDER THIS NOTICE OF VIOLATION THE FINAL DECISION ON THE VIOLATIONS ADDRESSED IN THIS NOTICE PURSUANT TO 24 V.S.A. §4451.

Please feel free to contact me should you have any questions.

Signed,

A handwritten signature in black ink, appearing to be 'Preston Bristow', written over a circular stamp area.

Preston Bristow
Town Planner & Zoning Administrator

cc: Julie Hance, Town Manager
James Carroll, Esq. (via e-mail)
Mark Hall, Esq. (via e-mail)