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March 16, 2009

**RULE 408 COMMUNICATION
VIA E-MAIL AND REGULAR MAIL**

Kimberley Gaffett, First Warden
Raymond J. Torrey, Second Warden
Kenneth C. LaCoste
Dr. Peter B. Baute
Richard P. Martin
Town of New Shoreham
P.O. Box 220
BI, RI 02807

Re: Sprague Farm, Inc. – Assesor's Plat 16, Lot 62, Notice of Violation dated 8/8/08

Dear Wardens Gaffett and Torrey and Councilmen Lacoste, Baute and Martin:

As you know, on March 9, 2009 the Zoning Board of Review denied Sprague Farm's appeal of the above-captioned Notice of Violation (NOV). Sprague Farm now has the right to appeal that decision to the Superior Court and to file a Declaratory Judgment action on the issues not decided by the Zoning Board, to include whether its sand and gravel operations are lawful prior non-conforming uses.

In an effort to resolve its dispute with the Town amicably and without further litigation, Sprague proposes that the NOV be released on the following terms:

- 1) that Sprague and the Town agree that all of Sprague's activities on the property as of March 9, 2009 are lawful prior non-conforming uses, with the exception of the staging of heavy equipment, junk vehicles or unregistered vehicles not used in its sand and gravel operations, subject to the following conditions:
 - a) there shall be no crushing of materials, whether extracted from the site or hauled in from offsite, from March 1st through January 31st of each year. Crushing shall be allowed during the month of February only of each year, from 8:00 a.m. until 5:00 p.m., Monday through Saturday. Screening of material, such as sand, topsoil, gravel and fill, shall be allowed year round, from 8:00 a.m. until 5:00 p.m., Monday through Saturday. There will be no sand and gravel operations of any kind conducted onsite on Sundays. There will be

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no stockpiling or crushing of asphalt at any time. Sprague may lawfully haul in clean "borrow" materials, such as topsoil, gravel, fill and concrete, from offsite for purposes of filling the pit or for resale. Sprague may lawfully store processed gravel and recycled concrete onsite. All processed material onsite as of March 9, 2009 may remain onsite until it is sold in the normal course of business. Sprague, A. Joseph Sprague and any other owner of Sprague may store registered vehicles owned by them onsite. Sprague, A. Joseph Sprague and any other owner of Sprague may store unregistered vehicles, such as pay loaders, backhoes, bulldozers and excavators, owned by them onsite; and,

- 2) that Sprague, its successors and assigns and the heirs of A. Joseph Sprague, shall be deemed to have lawfully abandoned all such prior non-conforming uses upon the conveyance by Sprague of title to the property, or any portion thereof, to a third person, or upon any change by Sprague in use of the property, and,
- 3) that prior to the conveyance of title to the property, or any portion thereof, to a third person, or prior to any change in use of the property by Sprague, Sprague shall fill the pit to an elevation no lower than the grade upon which Sprague's Mark II Screener presently sits, and that elevation shall be recorded by benchmark by the Town. When the pit is filled the remaining angles of slopes onsite shall be no greater than the slopes on contiguous properties. When the pit is filled the entire site shall be topsoiled and seeded with grass, legume or a cover crop, such as oats, winter rye or millet; and,
- 4) that Sprague and the Town agree that Sprague is not legally bound by the agreement between the Town and Nathalie Dolan dated May 20, 1991, or any of its terms and conditions; and,
- 5) that any agreement between Sprague and the Town to release the NOV shall be recorded in the New Shoreham Land Evidence Records, shall be deemed to run with the land and shall be binding upon Sprague's successors in title.

This is a serious proposal, developed with much thought and made in good faith. However, time is of the essence and it shall remain open only until 12:00 p.m. on Friday, March 27, 2009, since Sprague must file any appeal of the Zoning Board's decision immediately thereafter.

Very truly yours,



Mark J. Hagopian

MJH

Cc: Nancy O. Dodge, Town Manager
Donald J. Packer, Esq.
Marc A. Tillson, Building Official