



City of Westbrook

DEPARTMENT OF PLANNING

2 York St. Westbrook, Maine 04092 (207) 854-9105 Fax: (866) 559-0642

WESTBROOK PLANNING BOARD TUESDAY SEPTEMBER 16, 2008, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Paul Emery (Ward 3), Cory Fleming (At Large), Scott Herrick (Alternate)

Absent: Greg Blake (At Large), Anna Wrobel (Ward 4), Michael Taylor (Alternate)

Staff: Molly Just, Richard Gouzie

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School.

1. Public Hearing – Special Exception Amendment – Special Exception – T & M Development, LLC, Extractive Industry, Methodist Road – Sebago Technics, on behalf of T&M Enterprises, LLC for the expansion of a previously approved extractive industry (A.K.A. Quarry) project generally located at 409 Small Hardy Road. Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13, Zone: Rural.

Mike White presented aspects of the Special Exception Amendment for the expansion of a previously approved extractive industry (A.K.A. Quarry) project generally located at 409 Small Hardy Road. Tax Map: 20, Lot 10 and Tax Map: 17, Lots 12 & 13, Zone: Rural.

A brief history of this project, as most of you know we came in 2006 and originally presented this project and we have since have acquired more land. That is what we are here tonight to ask for that land to be approved as part of this quarry back in 2006 we had explained that was what we proposed for the future plans that we were eventually going to add that piece of land, but we had not acquired the title and interest to that piece of land at that time. Shortly after we went through The Planning Board process we did acquire that piece of land.

As a condition of approval the last time we were here, we were required to get a DEP approval for this quarry also. After we received the initial approval from the City of Westbrook and we acquired this additional piece of land, we then submitted to DEP for the entire package. We are kind of in reverse order this time and we are coming in and has all of this approved by DEP but now I need City of Westbrook approval to add this piece.

Backing up for the Planning Board members that were not here at the time to reset the stage, on Methodist Road (shown on the map) and our existing quarry is to the right of this location shown on the map a mile in from 302. All of our traffic in and out of our new

facility will go in on the new gravel road that comes in from Methodist Road close to the existing quarry, but across the street, will cross the Small Hardy Road and ends right before Sonny Smalls house and brings us into the project site.

What we brought to you the last time was two areas of quarry, one was the upper area of quarry and one was the lower area. There have been a number of events that has happened since we were here. (Editor's Note: Mike White showed the Westbrook Windham line). None of the quarry is in Windham; it is completely in Westbrook.

The large parcel of land that is entirely in Windham we are not doing anything with. Another 35 acres of land that we own in Windham has been approved for a six lot subdivision and have built a small road in off Anderson Road. As part of that approval process, with the Town of Windham we have added a large parcel for open space which is committed too by deed restrictions to this subdivision and also provides a great buffer for the quarry. (Editor's Note: showed area on map) This has an open space easement on it that is recorded at the registry.

We have also acquired more land since the last time we were here and I would like to touch on that as it creates more buffering. (Editors Note: showed area that wants additional approval for), which is a little over eight acres of land. Since the last time we were here we purchased eleven or twelve acres (Editors Note: showed on map) and that is where the pipelines come down from Canada and meet with the other pipe lines. Up in the back is where the metering station has been for Maritimes Northeast and PNGTS, the two gas pipelines. As most of you are aware, that right on top of the hill is where they are building the new compressor station to push gas. They have built five of them, between Sable Island and Massachusetts to jack up the pressure in the pipes so the can push more gas through the pipe.

There is a substantial development to the right of me that is one of my abutters. There is also a five hundred foot CMP easement that also abuts my project.

As most of you know we have purchased most of the land from the Rapp family that has been on that land for years and years. Since we were here that last time, we have purchased all the land to the top of the green color on the map (Editor's Note: showed on map). That part of the land will never be quarried. It is not land you could do that on as it is all clay. This land will be used as buffering for the quarry. It has four pipelines that run through it. We have purchased the land that originally had an easement on. We have a right of way from CMP so we have good access to the quarry. We also have first refusal on Sonny Small's house and Sally Rapp's house. We have tried to create a good buffer around where the quarry will be. We are trying to negotiate with the owners of the parcel in the lower level to purchase there property. All of these proposed purchases will complete our land proposed acquisitions. I can not give you a time frame; it could be in two or three months, maybe never.

Trying to introduce the project after the public hearing it gives you a pretty good sense of what we have done there and what we have proposed there is that adequate for the public hearing or do you want me to continue?

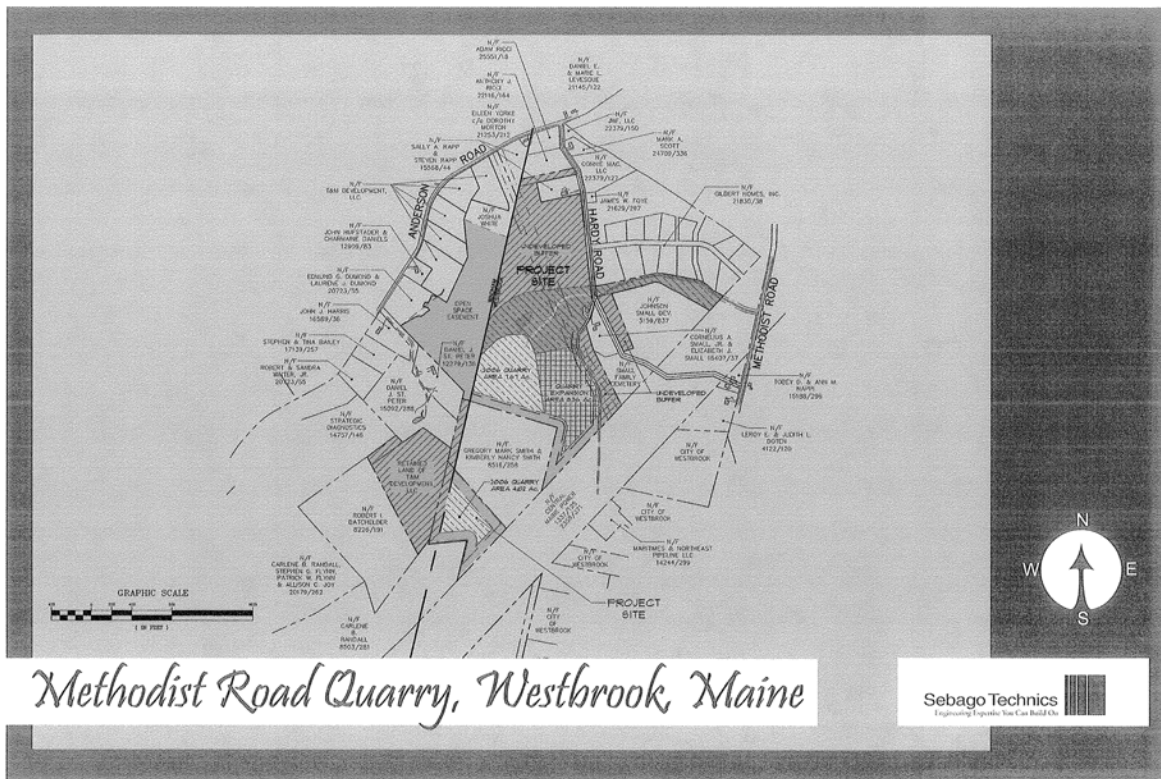
Ed Reidman that will be fine, you are restricted by a Maine DEP and as I recall you are involved with other agencies with regard to your operation that would require their approval?

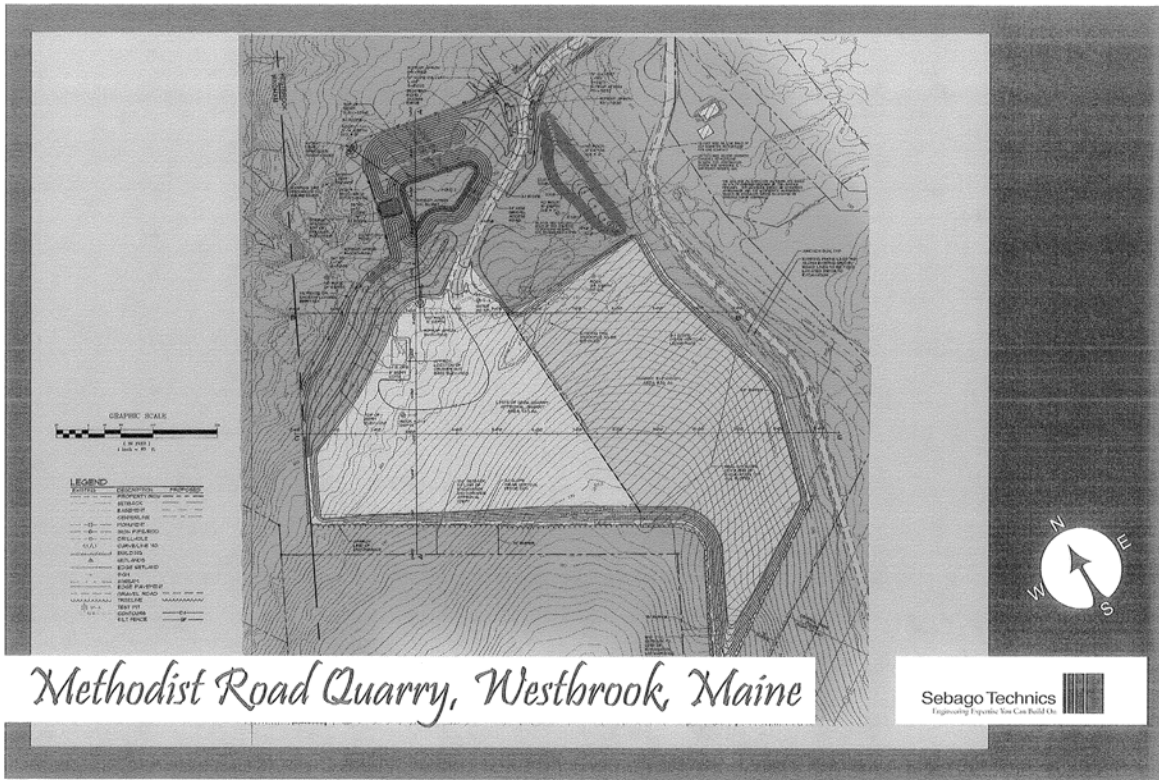
Mike White we are restricted by Maine DEP, the City of Westbrook, MSHA (mine safety) which is not really a land use entity and bureau of mines (controls for blasting), also OSHA and ATF as we have explosives.

Ed Reidman we are just part of the approval chain.

Mike White correct

Ed Reidman is their any questions at this time?





Ed Reidman any comments from the staff

Molly Just no comments

Public Hearing Opened

No comments

Public Hearing Closed

Ed Reidman asked for questions from the Board.

Paul Emery I see that the Quarry is 8.63 acres and I see that the gas lines run through the property.

Mike White a number of gas lines there that can be confusing, on this particular map, can you see the black lines from there? There are three oil pipe lines in there and one natural gas line in there and PGNTS brings natural gas down from the Montreal and then Portland pipe line owns the other three oil lines and my understanding is they are only using two and one is pumped full of nitrogen or something like that to keep it in good shape on the

inside. Then there is another pipe line that comes from Sable Island in Canada through Maine and goes straight through to Massachusetts. Those two gas lines intersect at the metering station to the lower left of my quarry site.

Paul Emery seems like the gas lines are crossing the quarry expansion request. Is there any danger or possibility of breaking and exploding pipe lines?

Mike White one would like to think not. As part of the approval process we had to contact the owners of the pipe lines. (Editors note: showed location on map). The pipelines are not within that footprint. The pipelines are to the right side of the road that leads to the metering station and further to the right of my expansion request.

Paul Emery so they are in fact outside the line of work and the area of normal operations.

Mike White this was a good question because from an engineering point of view, we went to PGTNS, Portland Pipe Line and supplied them with an engineering study and received their blessing to proceed.

2. Call to Order

Continuing Business

3. Special Exception Amendment – T & M Development, LLC, Extractive Industry, Methodist Road – Sebago Technics, on behalf of T&M Enterprises, LLC for the expansion of a previously approved extractive industry (A.K.A. Quarry) project generally located at 409 Small Hardy Road. Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13, Zone: Rural.

Ed Reidman we have item before us and we have Molly's memo dated the 10th on page 2 a proposed motion.

I have to ask a question about a section in the Land Use Ordinance, where they define an extractive industry. One of the items says "by the Planning Board shall take into consideration in the safe items and so on..." Most all of these are governed by outside agencies, but two of the things they ask are the time period and hours of operations and I do not see that in the proposed motion.

Mike White on our original proposal that was approved then says our normal hours of operation 6:00 am to 6:30 pm Monday through Friday and on Saturday there will be no processing of materials, drilling, blasting or crushing only loading and transportation. It is important to note that Saturday work is only done occasionally not the norm and there will be no Sunday operations unless there is an emergency, such as a flooding or natural disaster that requires material. During the winter months when it snows or rain events occur we may go in there and plow and sand to get ready for our ongoing operations. I would like to say that generally we do not start before 6:30 and we do not start crushing until quarter of seven or so. That is what was approved and is the current amended application for hours of operations.

Ed Reidman as you know that anything you have presented changes, you come back before this Board.

Are there any questions or comments, is there a motion?

Cory Fleming moved the Special Exception application for T&M Development, LLC on Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13 is to be **approved with conditions**:

- A. Certain Requirements Met. That the use requested meets the dimension, parking, loading, and sign requirements of this Ordinance. Otherwise, the applicant must also request an appropriate variance.
- The use meets the dimension, parking, loading and sign requirements of this Ordinance.
- B. Value. That the use requested will not significantly devalue abutting property or property across public or private way. In making its determination, the Board shall take into consideration the type of structure proposed, the topography of the area, the market value of the surrounding real estate, the availability of utilities, traffic conditions, and other relevant factors.
- The City Assessor finds that the appraisal, which was conducted in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), is well supported with market analysis. The appraisal supports the conclusion that the Special Exception standards, as they relate to value, have been met.
- C. Effects of Land Use. That the use granted will:
- (1) Maintain safe and healthful conditions,
 - The project has been engineered to mitigate noise and stormwater impacts. The existing quarry has been found to maintain safe and healthful conditions.
 - (2) Not cause water pollution, erosion, or sedimentation
 - The project, including expansion, has been permitted by the Maine Department of Environmental Protection.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - Brian Lewis, Fishery Specialist, of the Maine Department of Inland Fisheries and Wildlife (IF&W) communicated in a letter dated August 28, 2008 that, "there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project." However, IF&W did note the location of Milliken Brook and requested a 100 ft. setback from this resource.
 - Scott Lindsay, Regional Wildlife Biologist, of the Maine Department of IF&W communicated in a letter dated August 28, 2008 that there are no known essential or significant wildlife habitats, nor any documented occurrences of rare, threatened or endangered species at or adjacent to the subject property.

- (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - The plans show that shared tree cover will be retained on the northwest side of the property. It appears that the extent of grading will remove trees to the southwest property line.
 - Trees will be planted along the paved access road where it travels along the Countryside Estates residential subdivision.
 - The project will not have any impacts on visual or physical access to water bodies.
 - (5) Not burden on-site septic or off-site waste disposal,
 - The project is not installing an on-site septic system.
 - (6) Not burden existing public ways.
 - The applicant has stated that vehicles traveling to and from the site will be directed to Methodist Road. Methodist Road is able to handle the existing quarry traffic. Since this quarry will replace the existing quarry, Methodist Road will not be burdened by the relocation of quarry operations.
- D. Performance Standards. That the use granted is compatible with adjacent land uses and that it meets the following performance standards:
- (1) Landscape Environment and Enhancement. The landscape must be preserved in its natural state insofar as practicable. It must be designed so as to stabilize the slopes and buffer the site, where necessary,
 - The applicant has incorporated berms into the project to buffer the project from abutting land uses. These berms are designed to provide visual and noise mitigation. In particular, the berm at the quarry site is intended to mitigate noise from the crushing operation.
 - (2) Surface Water Drainage. Surface water drainage must not have an adverse effect on surrounding properties, downstream water quality, soil stability, or the storm drainage system,
 - The MDEP reviewed the surface water drainage system.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - The existing quarry and proposed expansion would not cause unreasonable water, air or soil pollution. The proposed site will include paved roads to reduce dust emissions.
 - The applicant has shown that the project is not situated on a mapped aquifer.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - The MDEP reviewed the erosion control and stormwater management plans.

- (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
- Douglas Sutor, Associate Information Manger of the Maine Natural Areas Program of the Maine Department of Conservation, communicated in a letter dated August 12, 2008 that, “According to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area.”
 - A letter from the Maine Historic Preservation Commission dated August, 3, 2006, states that based on the information presented the project will not have an effect on historic properties.
- (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
- The applicant has submitted a noise study conducted by SE Ambrose & Associates. The study was conducted by a certified noise specialist.
 - The noise study found that the project will comply with the noise standards established by the MDEP (55 dba) for operations at a “protected location.”
- (7) Special Features. Exposed storage areas, machinery installation, service and loading areas, and similar facilities must be set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses,
- The applicant has incorporated berms and vegetation to screen the operation from surrounding uses.
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
- Safe sight distance exists at the driveway entrance on Methodist Road.
- (9) Parking and Circulation. The layout of vehicular and pedestrian traffic patterns must provide for safe interior circulation, separation of pedestrian and vehicular traffic, and storage of plowed snow,
- The quarry site is operated by employees of the owner. The activity in the existing quarry involves heavy machinery and vehicles. Safety procedures for employees are dictated by the quarry owner. Thus, provisions for public vehicular and pedestrian traffic are not applicable to this project.
- (10) Public Services. The development must not impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities, and other public services or facilities.
- The existing and expanded quarry operation does not impose unreasonable burdens on municipal services or utility providers.

CONDITION

- 1 Approval is dependant upon, and limited to, the application dated June 28, 2008, the plans dated April 13, 2006 and amended to August 27, 2008, and supporting

documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board.

2nd by Rene Daniel

The vote was unanimous in favor 6-0

Mike White just one brief follow-up item, just so you know we do read these documents and I meant to mention this in the Public Hearing phase, during the last public hearing Dan an abutter in Windham (Editors Note: showed land that Dan owns on the map) has been notified of this meeting. I also called him to make sure that he new we were processing this amendment as he participated the last time and we communicate on occasion. He said that he was all set, and I wanted to follow-up with the Board because he was in the record from the last time. We have worked with him and will continue to do so in the future.

4. Adjourn

*Respectfully submitted by Linda Gain PECE Secretary
MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING ENGINEERING, PLANNING AND CODE ENFORCEMENT at 207-854-9105 ext. 220 and lgain@westbrook.me.us. THANK YOU*