

Central New Hampshire Regional Planning Commission

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EXCAVATION APPLICATION, SECOND REVIEW

DATE: July 26, 2018
TO: ALLENSTOWN PLANNING BOARD
FROM: MATT MONAHAN, CNHRPC
SUBJECT: ALLENSTOWN AGGREGATE #07-2018
CC: BURD ENGINEERING (via email)

The applicant, Allenstown Aggregate, submitted an application for Map 106, Lot 18, and totaling 117.24 +/- acres on land owned by the same for the purpose of renewing an existing excavation permit for an existing quarry activity and updating an associated Site Plan approval. The site is located at 169 Granite Street, within the Open Space and Farming Zone and the Groundwater Protection District.

CNHRPC initially received a set of plans for the proposed Excavation on June 16, 2018. The plan sets reviewed were entitled AMENDED SITE/EXCAVATION PLAN OVERVIEW PLAN MAP 106, LOT 18 GRANITE STREET ALLENSTOWN, NEW HAMPSHIRE PREPARED FOR: ALLENSTOWN AGGREGATE 169 GRANITE STREET ALLNESTOWN, NH 03275 and dated May 8, 2013 with a revision date of May 21, 2018 and consisted of 4 sheets as prepared by Burd Engineering.

Pursuant to the request of the Town of Allenstown Planning Board, CNHRPC reviewed the plans for compliance with the Allenstown Excavation Regulations and applicable requirements. A memorandum intended to apprise the Planning Board of submittal items required by the Allenstown Excavation Regulations that were missing from the plan as well as zoning and general planning issues that should be considered with the proposed Excavation was submitted to the Board and the Applicant on June 27, 2018. The Applicant has since submitted items and updated information in response to the June 27th review memorandum. This memorandum is intended to apprise the Planning Board of any issues that still remain.

SUBMITTAL DETAILS

CNHRPC INITIALLY reviewed the following plans and documents:

- A plan set entitled AMENDED SITE/EXCAVATION PLAN OVERVIEW PLAN MAP 106, LOT 18 GRANITE STREET ALLENSTOWN, NEW HAMPSHIRE PREPARED FOR: ALLENSTOWN AGGREGATE 169 GRANITE STREET ALLNESTOWN, NH 03275 and dated May 8, 2013 with a revision date of May 21, 2018 and consisted of 4 sheets as prepared by Burd Engineering.
- A Town of Allenstown Excavation Permit Application.
- A Town of Allenstown Excavation Permit Application Checklist.

- An abutters list.
- A copy of the NHDES Site Specific Permit, number WPS-5498-B.
- A copy of a U.S. EPA Notice of Intent (NOI).
- A copy of a U.S. EPA letter indicating submittal of the eNOI.
- A copy of a reclamation bond, number 012506O, effective 11/12/2015, issued by Berkley Insurance Company.
- A copy of a 2018 Excavation Tax Certificate issued by the NH Department of Revenue Administration.
- A copy of a Notice of Intent to Excavate from Tax Year 2018 to 2019.
- A copy of a check issued by Allenstown Aggregate payable to the State of New Hampshire in the amount of \$100, dated 4/3/2018; check number 2564.

The following items were received by CNHRPC on July 10, 2018 and were considered with this **UPDATED** review memorandum:

- A revised plan set entitled AMENDED SITE/EXCAVATION PLAN OVERVIEW PLAN MAP 106, LOT 18 GRANITE STREET ALLENSTOWN, NEW HAMPSHIRE PREPARED FOR: ALLENSTOWN AGGREGATE 169 GRANITE STREET ALLNESTOWN, NH 03275 and dated May 8, 2013 with a revision date of July 9, 2018 and consisted of 4 sheets as prepared by Burd Engineering.
- An aerial photograph/map of the site entitled SWPPP SITE PAM, ALLENSTOWN AGGREGATE LLC. ALLENSTOWN AGGREGATE FACILITY, TOWN OF ALLENSTOWN, MERRIMACK COUNTY, NH; consisting of one page, dated May 8, 2017, as prepared by Continental Placer Inc. of Albany NY.
- A plan set entitled EXCAVATION/SITE PLANS OF TAX MAPO #1, LOT # 2 GRANTIE STREET, ALLENSTOWN, NH MERRIMACK COUNTY PREPARED FOR TAMCHAR, INC. dated October 30, 1999 with a revision date of July 29, 2000 as prepared by Keyland Enterprises and consisting of 8 sheets.
- A project narrative.
- A signed fee acknowledgement form.
- An email regarding the status of the reclamation bond.

TOWN OF ALLENSTOWN EXCAVATION CHECKLIST & EXCAVATION REGULATION; AND SITE PLAN CHECKLIST AND REGULATION REQUIREMENTS

The following are advisory comments based upon the Town of Allenstown Excavation Regulations and Excavation Checklist Requirements as well as the Site Plan Regulations and Site Plan Checklist Requirements used during the consideration of materials received by CNHRPC pertaining to this proposal.

Overall Summary:

The applicant is seeking approval to renew an existing excavation permit for an existing quarry activity. Major areas of focus for the project will include:

- Major Issues:
 - A site walk was held on July 18, 2018 and there were no major areas of concern identified. The meeting minutes detail the full course of the proceedings.
 - As there is a legal agreement with the Town for the removal of the coal ash pile, the Board should take care to make sure that approval of the application does not undermine this agreement. One point in particular is that the coal ash was due to be fully removed by 2018. Though progress appears to have been made the pile still remains. As a result, the Board should defer to the Town's attorney and any

recommendations made by the Board of Selectmen on this issue. Such recommendations should be included as a condition of approval.

- Per RSA 155E and the Allenstown Excavation Regulations, the Board is charged with determining if the Operating Standards and Reclamation Standards have been met. Reviewing the Excavation and Reclamation Checklists from the application checklist itself can provide a guideline for this process and are attached.
 - This proposal includes a site plan application as well as an excavation permit. The Board should take care to note actions on both applications as the process proceeds though both applications can be acted upon together.
- Technical Review Committee Comments:
- Allenstown Police Department had no comment.
 - Allenstown Fire Department had no comment.
 - Assessing had no comment.
 - Pembroke Water Works had no comment.
 - Allenstown Sewer had no comment.
 - Planning Board Chair indicated that coal ash should have been out, per the agreement with the Town, by 2018. Any approval must ensure compliance with legal provisions to remove the coal ash.
 - Building Inspector had no comment with regard to zoning compliance (Special Exception granted in 1999) though had questions about when the coal ash would be fully removed.
 - Planner and Town Administrator asked when the coal ash piles would be out; applicant indicated 18 months and a date of 3 years was suggested to be on plan. Town Counsel has since indicated that it should be removed within one year.
- Potential Conditions of Approval (Excavation Permit and Site Plan):
- A plan note should specify that the coal slag shall be removed within one year from the date of the Planning Board's vote to conditionally approve the excavation permit.
 - The Planning Board shall have the right to inspect the site quarterly and, once the coal ash has been removed, annually, for the duration of the excavation permit.
 - Delete the last sentence of note 1 (3-year extension) on sheet 4.
 - Delete everything after "...STORED ON THIS SITE..." in note 7, under Operational notes on sheet 4.
 - Delete the note under "CONDITIONS OF APPROVAL."
 - The excavation permit shall be good for five (5) years from the day of the Planning Board's conditional approval (i.e. the date of the meeting at which the plans were conditionally approved). [If waiver is approved by the Board; if not, specify the length of time for the approval in the condition]
 - This approval does not relieve Allenstown Aggregate of the obligation to comply with the provisions of the January 2015 agreement with the Allenstown Board of Selectmen, or any element of the 2015 site plan and excavation permit approval, or the 2000 Tamchar site plan and excavation permit approval.
 - Address items, under "Other Comments" in this memorandum to address various minor plan edits.
 - Any outstanding fees with the Town shall be paid prior to the plan and the permit being signed as part of final approval.
 - Professional stamps and signatures (surveyor and wetland scientist) as well as owner signatures need to be on the final plan.
 - All waivers granted and conditions of approval need to be on the final plan.

- Notice of Decision to be recorded at the Merrimack County Registry of Deeds.
 - Final plans, as approved by the Planning Board, shall be provided to the Planning Board in a digital format (such as CAD).
 - Any other conditions sought by the Board.
- Potential Course of Action (note: actions to be taken on Site Plan and Excavation applications; reclamation and operating standards for excavation application only):
- Applicant’s presentation.
 - Planner presents concerns in this memorandum.
 - Board makes determination of regional impact (both applications).
 - Board acts on waivers (excavation application only as there are no site plan waiver requests).
 - Board acts on completeness (both applications).
 - Board opens public hearing (both applications).
 - Board closes public hearing (both applications), considers the items on the Operating Standards and Reclamation Standards (excavation application only) and votes on both applications.

Allenstown Excavation Application Requirements:

1. No issues identified at this time, subject to the review of the Planning Board.

Allenstown Excavation Checklist Requirements:

2. No issues identified at this time, subject to the review of the Planning Board.

Allenstown Excavation Regulation Requirements for Excavation and Reclamation Standards:

3. Per RSA 155E and the Allenstown Excavation Regulations, the Board is charged with determining if the Operating Standards and Reclamation Standards have been met. Reviewing the Excavation and Reclamation Checklists from the application checklist itself can provide a guideline for this process and are attached.

Waivers Requested from Excavation Regulation Items:

The applicant has requested a waiver to allow a five-year excavation permit. This appears reasonable, subject to the review of the Planning Board, given that the overall excavation plan of the quarry activity has not changed much since 2000. The issue of the legal agreement with the Town regarding the removal of the pile seems to have been addressed by incorporating the Town Attorney’s comments (1 year to remove the coal pile) in the conditions of approval.

Allenstown Site Plan Checklist Requirements:

4. No issues identified at this time, subject to the review of the Planning Board.

Allenstown Site Plan Regulation Requirements:

5. No issues identified at this time, subject to the review of the Planning Board.

Waivers Requested from the Site Plan Regulations:

The applicant has not requested any waivers at this time.

Allenstown Zoning Ordinance Requirements:

6. No issues identified at this time, subject to the review of the Planning Board.

DEVELOPMENT OF REGIONAL IMPACT

7. In accordance with RSA 36:56, the Board shall determine if the proposal is a development of regional impact:

“A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact.” That said, the proposal does not appear to have a regional impact.

OTHER COMMENTS

The following are advisory comments based upon commonly held planning principles and the discretion of the reviewer in considering the materials received in relation to this proposal.

8. As there is a legal agreement with the Town for the removal of the coal ash pile, the Board should take care to make sure that approval of the application does not undermine this agreement. As a result, the Board should defer to the Town’s attorney and any recommendations made by the Board of Selectmen on this issue. With regard to this, the following should be conditions of approval per the Town’s attorney:
 - i. The coal slag should be removed within one year.
 - ii. The last sentence in Note 1 pertaining to pile 2 on page 4 may conflict with the agreement.
 - iii. Note 7, page 4 is problematic though language to prevent the fuels and lubricants is appropriate.
 - iv. The conditions of approval note on page 4 should be revised as one of the conditions was to remove the coal slag by 2018 and this has not been completed.
9. Several minor plan revisions, including the following, could be conditions of approval:
 - v. Sheet 1 of 4:
 - i. Add the 2015 plan to the reference plan list
 - ii. Update Note 2 to reflect the new plan and the 2015 plan.
 - vi. Sheet 2 of 4:
 - i. Add Pile 12 to the list of piles.
 - vii. Sheet 3 of 4:
 - i. Add contours for piles.
10. Per an email from Joline L. Binette, attorney for Berkley Insurance Company (reclamation bond insurance company) the bond is still in effect and valid.
11. Final plans, as approved by the Planning Board, shall be provided to the Planning Board in a digital format. Such a format shall be georeferenced drawings and may be CAD, Shape Files or GDB format. They shall, in addition to those items presented to the Planning Board for approval, a calculation of the change in impervious coverage as well as depict any infrastructure (including sewer, water, and drainage).
12. Any conditions of approval and waivers granted should be listed on the final plan to be signed.
13. Both Notices of Decision should be recorded at the Merrimack County Registry of Deeds.

Given the nature of the proposal and the items submitted, the applications could be considered substantially complete.

Any item indicated in this memo as missing from the plan could be a condition of approval if the Board felt such item(s) are relevant and are not waived. If the Board chooses to invoke jurisdiction and accept this application as complete, the timelines set forth in RSA 676:4C shall apply. If the application is accepted as complete, the Planning Board can enter into a public hearing if such a hearing was properly noticed in accordance with 676:4D.