

CITY OF TORRINGTON



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To: Planning & Zoning Commission
From: Jeremy Leifert, AICP, City Planner *JL*
Date: February 14, 2024 (Rev 3)
Subject: Earth Excavation Application, Special Exception # 23-06, AJK, LLC, 637 and 659 Winsted Road to renew Earth Excavation/Quarry approval

AJK, LLC has filed a Special Exception application for a two-year renewal of the existing earth excavation operations at 637 Winsted Road, Assessor's Map 236 Block 001 Lot 010 in the IP-Industrial Park zone and 659 Winsted Road, Assessor's Map 236 Block 001 Lot 009 in the LB-Local Business zone. The applicant received original Special Exception approval May 11, 2005, from the Commission and this is their ninth request for renewal. Their current Special Exception permit was valid thru December 2023. The property is owned by AJK, LLC. In their project report, the project description states, "The project consists of excavating and processing of soil and rock with the associated equipment to ultimately create developable areas on the site." The total acreage of the property at 637 Winsted Road, where the earth excavation is taking place is 19.818 acres. The operations proposed involve the excavation and processing of soil and rock earthen material (rock quarry) including drilling and blasting, processing, crushing, screening, conveying, stockpiling, hauling material offsite, land clearing, stockpiling of overburden material and general maintenance of equipment and property. A previous approval was issued for both of these properties on December 8, 2021 under Special Exception 21-10. Earth Excavation operations are allowed by special exception under Section 3.1, subsection 13.00 in both the Industrial Park and Local Business zones. Earth Excavation operations are also required to be compliant with section 6.4.7 of the zoning regulations and are required to be renewed every two years.

Also included in the Special Exception application is property at 659 Winsted Road where materials have been stockpiled and vehicles and equipment are currently parked. A material stockpile area, weigh station scale and construction trailer was proposed and previously approved during the 2009 permit renewal on this 1.158 acre property located directly in front of the existing excavation site. The weigh station and construction trailer proposed have not been installed, and this portion of the approval has expired. The current active excavation area, including the activity at 659 Winsted Road is 12.5 acres, an increase from the 10.0 acres approved in 2019. The applicant is proposing an additional 0.6 acres of active area for earth excavation for a total of 13.1 acres. The Site Plan notes indicate that the anticipated amount to be removed from the site during this 2-year renewal period is 140,000 cubic yards. The applicant estimates 280,000 cubic yards left to be removed over 4 more years of excavation activity. Truck traffic is expected to generate 100 trips a day with a maximum of 10 trucks (20 trips) utilizing

the access road during peak use hours. A plan set has been submitted with the application titled “Site Plans for Earth Excavation Permit Renewal, Prepared for AJK, LLC, Winsted Road, 637 & 659 Winsted Road – CT Route #800, Torrington, Connecticut,” prepared by DSM, LLC, Goshen, CT. Dated October 10, 2023. 11 Sheets. A Project Report for Earth Excavation Permit Renewal dated October 10, 2023 has been prepared by DSM, LLC. Staff has previously discussed this renewal with the applicant.

In reviewing the plans and documents submitted I have the following comments:

1. Periodic tracking of mud and debris onto Winsted Road has been noted at the property entrance on Winsted Road. Anti-tracking pads near the entrance of the property should be maintained regularly, and the paved driveway and public road shall be cleaned at the end of each work day if material tracking occurs.
2. An unpermitted driveway was installed between the quarry property and the commercial automotive repair/rental property at 621 Winsted Road. These properties are distinctly different uses and approvals, regardless of their common ownership and are not related to one another. Construction entrances or exits may not connect these two properties, and I recommend that the commission require the driveway be removed and restored as a condition of approval, and that the restoration is completed no later than June 1, 2024. These issues also constitute violations of site plan approvals and DMV location approval plans for 621 Winsted Road.
3. The visual berm along Winsted Road shall be rebuilt/repared and supplemented with additional plantings to provide acceptable screening to Winsted Road. This was made a condition of the previous approval in 2021 but not completed during the most recent two-year approval period. Alternative screening may be suggested by the applicant, such as fencing.
4. There appears to be equipment stored close to Winsted Road that is not being actively used for the quarry operation, is listed for sale, or is providing off-site signage and advertising. This equipment and signage should be removed from the property as a condition of approval.
5. Sheet S2, Existing Conditions Plan, shows a fill encroachment area on the west side of the property on the Torrington Elks Lodge #372 property. A note on the plan states, “Remaining area of fill encroachment. *This area will be restored during the two year renewal time frame. Most of the fill encroachment has been removed.*” This encroachment was noted at the 2019 and 2021 renewals but has not yet been fully restored.
6. The applicant should provide a copy of an updated agreement or communication with the Elks Club regarding property access for restoration.
7. The report titled “A Focus on the Execution and Impact of Blasting Relative to the Site Grading Plans Prepared by AJK, LLC, For the Winsted Road, Torrington, Connecticut Industrial Park Site,” by Richard M. Hosley, Jr., Realty Securities Incorporated, dated January 2005, was submitted and made part of the permit renewal. The Blast Planning Worksheet, Guidelines, Blasting Activity Review, and Notifications contained in the report should continue to provide guidance to the applicant. This report was submitted with the original earth excavation application and has been referred to in each permit renewal as a condition of approval.

8. Section 6.4.2 Setbacks

An area on the south side of the excavation area was disturbed that is within 50 feet of the State of CT property prior to the 2013 renewal. A waiver from the Commission was obtained in the 2013 renewal. A note on sheet EC1 notes this waiver was obtained. Another area on the south east side also within 50 feet of the State of CT property was disturbed prior to the 2019 renewal. A note on sheet EC1 notes this waiver was obtained in the 2019 renewal. The applicant has requested a waiver per Section 6.4.2 (c) of the Zoning Regulations. A waiver request letter from the applicant dated October 10, 2023, requests a waiver and states, *“Small area in the southeast corner of the site, the rock broke back into the 50’ buffer. Per 6.4.2.c, the Commission may allow this if it would allow for better future development. The area is noted on the site plan and additional plantings are proposed on the restoration plan.”* This waiver was previously granted in the 2021 approval.

An additional encroachment is noted near the western boundary of the property where tree clearing occurred and fill was placed beyond the applicants’ property line and into Elks Pond property. The following statement is included in the October 10, 2023 project report: *“The area where fill was placed on the Elk’s property is still being removed. This area is shown along the southwest property line adjoining the Elk’s. The applicant has removed most of this fill encroachment. A small area remains. The access driveway was removed from the 50’ buffer area. The restoration of this area can be done during this 2 year renewal period. The area is noted on the site plans and on the restoration plan.”* This waiver was previously granted in the 2021 approval.

The granting of these waivers should be used sparingly and only when the applicant demonstrates the need based on section 6.4.2 of the regulations prior to the encroachments and based on sound engineering reasons. The history on these properties suggest that encroachments are occurring during the course of work on the properties and are being granted after-the-fact. The applicant is responsible for due diligence while the activities on the property are occurring to verify that the approved plans are being followed.

A description and request to approve these encroachments is included in the project report submitted by Dennis McMorrow, P.E. (DSM, LLC). I recommend that the previously granted encroachments be granted again for this application, with the cost of restoration of the encroachments to be included in the overall restoration bonding estimate. The completion of the fill removal and restoration of the Elk’s property encroachment shall be completed no later than June 1, 2024, given that the restoration should have been completed during the previous 2-year cycle under the previous conditions of approval.

I would note for the record that further encroachments into these regulated buffers may result in enforcement actions on the property. The property owner or site manager is responsible for monitoring the locations of activities and following the plans for the site.

9. Section 6.4.4 Slopes

Mr. McMorrow, in his report dated October 10, 2023 on behalf of the applicant requests a re-approval of the waivers previously approved by the Commission for the quarry to allow slopes in excess of 2:1. This identical waiver has been granted in previous renewal applications for this

quarry operation, and I recommend re-approval. These waivers are necessary to provide area for future uses on site.

10. Section 6.4.5 Restoration

The Commission will need to waive the 5 acre maximum area actively being excavated, used, or without topsoil at one time, per Section 6.4.5 E. in order to allow the 13.1 acres proposed. The Commission can approve the 13.1 acres if they determine that the 5 acre maximum does not provide sufficient space for the excavating operations. The 13.1 acre request is contained in the Project Report. The project report does not appear to address this need in engineering terms, so applicant should be prepared in the public hearing or through additional submittals and professional engineering testimony to clarify and connect the method of excavation and the need to utilize 13.1 active acres at one time. The commission may approve this request if it is necessary to the operation and the applicant can show that it is *not* possible to restore any areas of the site to maintain the current 12.5 acre approved area.

Two separate bond estimates are required to be submitted by the applicant – one for the overall site restoration, and a separate estimate to complete the restoration work on the Elks Pond restoration. An updated bond estimate needs to be prepared by the Landscape Architect/Landscape Gardener for the restoration plan and submitted for review. A bond for the new 2-year period must be submitted. Corporation Counsel will need to review the revised bond prior to acceptance. Upon review of the bond files in the Land Use Office, it appears that estimates were received for Elks Pond in 2019 and 2021, but the bonding was never submitted by the applicant to the land Use Office for this work. In addition, the overall site restoration bond amounts have not been updated or renewed in several years. The applicant should be required to provide updated estimates and new bonds to the commission prior to closing of the public hearing on this application or approval to ensure it is completed.

11. Section 6.4.6. Information

Within the submitted project report, the applicants have submitted a narrative detailing the proposed days and hours of operation. Pursuant to the existing Special Exception permits, quarry operations, including drilling, crushing and screening, are restricted to Monday through Friday only, from 7:00 a.m. – 5:30 p.m. Maintenance of equipment only will occur on Saturdays, but no drilling, blasting or processing.

Blasting is restricted to Monday – Friday only from 9:30 am – 4:30 pm. Blasting is coordinated with the school system and their bus schedules so that no blasting takes place ½ prior to or ½ hour after buses are scheduled to be in the area. A prior agreement with the Elks Club restricts six additional weekdays. An updated agreement with the Elks should be submitted for the record.

Operations are described as, “Excavation methods for the rock will include drilling, blasting and hammering. The shot rock will be transported to the crusher by front end loaders and/or off road dump trucks. Excavators will be used for the sorting of rock and loading the crushers. Loaders will be used for moving material from plants. Excavators with hydraulic hammers will be used to break oversized rocks. All blasting for the 2023 to 2025 permit will be in the area shown on the site grading plan. Blasting will occur one (1) to two (2) times a week, unless market and/or weather dictate otherwise”.

The applicant should also provide the latest copies of a stormwater plan and proof of DEEP permitting or registration for industrial stormwater for the record file prior to closing the public hearing.

12. Complaint Log

The applicants have submitted complaint logs for complaints made during the 2 year period the current special exception has been in place. Four complaints were logged during the approval period between December 2021 and January 2024. All complaints were related to dust control.

Other Staff Comments:

Economic Development: This application was not referred to the Economic Development Office for comment

Assistant City Planner: Nate Nardi-Cyrus, Assistant City Planner in an email to the City Planner dated December 27, 2023 offered the following comments:

Wetlands – There are no regulated wetlands or watercourses on or in the vicinity of the subject property that would require wetlands review for this proposal. Therefore, no wetlands permits are required prior to this application. This constitutes a favorable wetlands report for this application.

Landscaping – Trees and shrubs shown on the landscaping sheet shall be labeled on the map. The unpermitted internal road to 621 Winsted road shall be closed and arborvitae, or a similar screen tree species, shall be planted along the entire boundary with 621 Winsted Road. All proposed trees and shrubs on the landscaping sheet shall be installed by June 2023. In addition, the berm is being driven over and shall be reformed and seeded to provide adequate screening.

Lighting – No exterior lighting was observed on plans or during site visit, however, any new lighting must conform with section 5.17 of the zoning regulations. We encourage the use of products approved by the International Dark-Sky Association.

Signage – There are no new signs proposed as part of this application, however, I observed a sign attached to a storage container advertising a business not based on the site. This sign shall be removed as 5.15 of the zoning regulations prohibits off-site signage in this location. All signage, including those attached to an object or vehicle, requires a permit from the Land Use Office.

Conservation – This application was not referred to the Conservation Commission for review. It does not appear that the encroachment onto the Elk Pond property has been restored, per the last approval, and the required bond was never received for that work. Restoration work related to the encroachment shall be bonded within a month of this approval.

General – Some of the concrete blocks set around basin at the driveway access point are falling into the basin and shall be replaced, as necessary.

Architectural Review Committee: This application was not referred to ARC for review.

Torrington Area Health District: TAHD offered no comments on the plans.

Engineering: Paul Kundzins, City Engineer in a memorandum to the City Planner dated December 28, 2023, offered comments on the submitted plans related to the sediment basin and drainage near Winsted Road and general comments on the site. See attached.

Police Traffic: Police Traffic Sergeant Dustin Baldis, in an email to the City Planner dated December 14, 2023, indicated that he has no comments on this application.

Fire: Deputy Fire Marshal Phil Hearn, in an email to the City Planner dated December 27, 2023, indicated that the fire department has no comments on this application.

WPCA: Sheryl Lewis, WPCA Administrative Assistant, in an email to the City Planner dated December 13, 2023 indicated that WPCA has no comments on this application

Building: Building Official Kevin Gillette offered no comments on this application.

Conclusion:

I recommend that the Commission review the comments and conditions in this memorandum and other documents and testimony at the public hearing and consider the following questions in the application review:

1. Has the applicant provided reasonable *professional* testimony that the increase from 12.5 acres to 13.1 acres of open excavation area is necessary for the project and that there is no feasible location to restore 0.6 acres elsewhere on the property to offset the increase?
2. Has the applicant provided information that the requirements for CT DEEP's Industrial Stormwater General Permit have been met?
3. Has the applicant confirmed that the stormwater flow and sediment basin is sized properly and functioning as designed per comments by Paul Kundzins, City Engineer?
4. Has the applicant provided information on communications with the Elks on property access to complete the encroachment restoration?

If the items above are addressed satisfactorily, I recommend the commission make a finding that the application meets the general and specific conditions of special exception approval for earth excavations with the above waivers requested by the applicants.

1. Section 6.4.4 to allow slopes to exceed 2:1 slope;
2. Section 6.4.2 regarding setbacks from property boundaries, with conditions as noted above
3. Section 6.4.5 regarding 5 acre maximum open excavation areas (*pending further engineering analysis as noted above*)

I further recommend, pending positive review of the questions above, that the commission approve Special Exception 23-03 and Site Plan 1446 for earth excavation operations and accessory retail sales for a two-year period with the following conditions:

1. Per Section 6.4.5 F of the Regulations, the applicants shall provide an updated bond for the estimated costs of restoring disturbed areas, including the areas that involve sorting, crushing, refining, drilling, screening or washing operations during the 2 year period of special exception renewal. A bond in an amount acceptable to the City Planner shall be submitted in a form acceptable to Corporation Counsel.
2. The bond *estimates* for both the Elks Pond property restoration and overall site restoration shall be submitted within 30 days of this approval to the City Planner for review. The *bonds* shall be submitted within 30 days of notification to the applicant by the City Planner of the approved form and amount of the bonds.
3. Restoration of the encroachment on the Elks Pond property shall be completed no later than June 1, 2024 and confirmed by City Staff
4. Removal and restoration of the driveway to 621 Winsted Road and installation of appropriate screening shall be completed no later than June 1, 2024 and confirmed by City Staff.
5. Not more than 13.1 acres shall be actively excavated, used, or without topsoil at one time. Given the projected length of time for operations remaining by the applicant, the acreage of active open area shall be reduced and restored to less than the approved 13.1 acres in future approvals to comply with section 6.4.5.E. of the regulations which caps the active area at five acres.
6. The applicant shall follow comments of Nate Nardi-Cyrus, Assistant Planner outlined in his December 27, 2023 comments to the City Planner regarding landscaping, signage, Elks property restoration, and stormwater basin maintenance and restoration.
7. The applicant shall follow comments of City Engineer Paul Kundzins with respect to his memo of December 28, 2023, specifically regarding stormwater flow and detention and comments on the 659 Winsted Road property. Corrections to stormwater details shall be shown on the final plans for filing.
8. The unapproved driveway to 621 Winsted Road shall be removed and restored no later than June 1, 2024. The area shall be re-seeded and the vegetative screening restored to the satisfaction of Assistant City Planner Nate Nardi-Cyrus.
9. Appropriate vegetative screening or fencing along Winsted Road shall be installed no later than June 1, 2024
10. Equipment not owned by the applicant or not in operating condition shall be removed from property within 30 days of this approval. All non-compliant advertising signage shall be removed.
11. The quarries shall not operate on Sundays or on any of the following holidays: New Year's, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas.
12. Except as noted otherwise in these conditions, the quarries shall operate between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday. Except for routine maintenance, the quarry shall not operate on Saturdays.
13. No blasting is to occur on Saturdays, Sundays, or on any of the following holidays: New Year's, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas or on any six Weekdays as designated by the Torrington Elks Club. Blasting is to occur

- between the hours of 9:30 a.m. and 4:30 p.m. Applicants shall determine the schedule of the school buses that pass through the area. No blasting is to occur either a half hour before or a half hour after the time a school bus is scheduled to be in the area.
14. The applicants shall utilize the Blast Planning Worksheet, Guidelines, Blasting Activity Review and Notifications contained in a report titled, "A Focus on the Execution and Impact of Blasting Relative to the Site Grading Plans Prepared by AJK, LLC for the Winsted Road, Torrington, Connecticut Industrial Park Site" by Richard M. Hosley, Jr., Realty Securities Incorporated, dated January 2005.
 15. A blast warning shall occur before blasting.
 16. Applicants, shall notify all adjoining property owners 72 hours prior to a blast. With the property owner's approval, this notification can be reduced to 24 hours. The Mayor's office shall be notified 24 hours in advance of any blasting.
 17. Any property owner within one-half mile of the property can also request that the applicants, notify them 72 hours prior to a blast. Applicants shall honor this request. With the property owner's approval, this notification can be reduced to 24 hours.
 18. The applicants shall maintain a "Trucks Crossing" sign on Winsted Road.
 19. Applicants shall designate an individual to receive, handle and log complaints from neighbors. The record of these complaints shall be presented at, or prior to, the public hearing on the renewal of the Special Exception permit.
 20. The applicants shall maintain fugitive dust practices at all times. In the event dust can not be maintained to environmental conditions or other factors, the applicant shall cease operations until such times acceptable practices may resume.
 21. Anti-tracking installations shall be maintained at the property entrance. Tracking on the paved portion of the access drive or public street shall be cleaned at the end of each work day.
 22. The Planning and Zoning Commission finds that the proposed use, location and site plan is reasonably protective of the health, safety and welfare of the residents of the project area and the citizens of the City of Torrington for the granting of a special exception approval.
 23. A "Certificate of Special Exception" shall be filed with the City Clerk in accordance with CGS 8-3d
 24. In accordance with section 8.4.3 and 8.4.6 of the zoning regulations, the following shall be submitted to the City Planner:
 - a. Two paper copies of the full approved final plan set including the engineer's stamp and chairman's signature box on the title page.
 - b. One mylar copy of sheet S1 – Overall Site Plan for filing with the City Clerk in accordance with section 8.4.3.P of the zoning regulations. The mylar sheets shall bear a chairman's signature box, a copy of the approval letter from the commission, an engineers' seal and live ink stamp.Mylar sheets shall be filed by the applicant with the City Clerk after the signature of the Chairman and prior to the approval of zoning or grading permits to begin construction or site work.

END OF MEMO

Cc: Daniel Stoughton/Wes Clow, AJK, LLC
Dennis McMorrow, P.E.