

**AGENDA
PLANNING BOARD
AUGUST 12, 2019**

**AGENDA ITEM #5D
PUBLIC HEARINGS**

**TWIN STATE SAND &
GRAVEL CO, INC., C/O
WARREN AMES,
ELM STREET WEST
(Tax Map 116, Lots 2 & 3),
zoned IND-RA & R-3
PB2019-07-EXT**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

August 12, 2019 Meeting

Staff Memorandum – #PB2019-07-EXT – *continued from 6/10/19*

APPLICATION INFORMATION

Agenda Item: 5.D

Application ID#:
#PB2019-07-EXT

Application Type:
Request for Extension of Site Plan Approval for an Industrial Planned Unit Development

Property Location:
Elm Street West, Seminary Hill, & South Main Street, West Lebanon

Property Owner/Applicant:
Twin State Sand & Gravel Co. Inc.

Property Size:
+/-64.7 Ac. (116-2)
+/-26.5 Ac. (116-3)

Zoning District(s):
Industrial Rail Access (IND-RA)

Overlay District:
Wetlands Conservation District

HEARING NOTICE

TWIN STATE SAND & GRAVEL CO. INC., C/O WARREN AMES, ELM STREET WEST (Tax Map 116, Lots 2 & 3), zoned IND-RA: Request for an extension of time in order to obtain building permits for the Iron Horse Industrial Planned Unit Development, originally approved on April 22, 2013 (#PB2011-32-SPR), which consists of the ten (10) Industrial Sector lots within the Iron Horse Planned Business Park. #PB2019-07-EXT

APPLICATION MATERIALS AND OTHER ATTACHMENTS

- ▶ New materials (included with 8/12/19 Staff Memo for #PB2018-06-EXT):
 - Letter from Megan Carrier, Esq., of Sheehan Phinney, to City staff, dated June 11, 2019 (5 pages total)
 - Letter from Megan Carrier, Esq., of Sheehan Phinney, to City staff, July 8, 2019 (13 pages)
 - A large volume of supporting materials were attached to the July 8th letter in digital format. Hard copies of these materials can be made available for inspection upon request.
- ▶ Materials included in the 6/10/19 agenda packet, available on-line at: <https://lebanonnh.gov/AgendaCenter/ViewFile/Item/6461?fileID=13867>
 - April 22, 2013 Notice of Action approving a site plan for the Iron Horse Industrial Planned Unit Development, #PB2011-32-SPR
 - Letter dated May 10, 2019, from Megan Carrier, Esq., of Sheehan Phinney (6 pages total) (cost expenditure breakdown) (included with 6/10/19 Staff Memo for #PB2018-06-EXT)
 - Letter of support dated May 24, 2019, from Dana Key of D.R. Key Corp (included with 6/10/19 Staff Memo for #PB2018-06-EXT)
- ▶ Materials included in the 5/13/19 agenda packet, available on-line at: <https://lebanonnh.gov/AgendaCenter/ViewFile/Item/6317?fileID=13734>
 - Application form
 - Letter dated March 11, 2019, from Rodrick J. Findley, P.E., of Pathways Consulting, LLC
 - Letter dated March 25, 2019, from Megan Carrier, Esq., of Sheehan Phinney
 - TSS & G-Iron Horse Park Phasing Schedule
 - Letter dated March 25, 2019, from Daniel A. Nash, PE, of Advanced Geomatics & Design

- March 9, 2015 Notice of Action granting an extension request for the Iron Horse Industrial PUD, #PB2015-06-EXT
- March 13, 2017 Notice of Action granting an extension request for the Iron Horse Industrial PUD, #PB2017-07-EXT

OVERVIEW

A discussion of this application was included in the staff memorandum prepared for the May 13, 2019 Planning Board meeting. To summarize, the applicant is requesting a third extension for additional time to obtain building permits for the Iron Horse Industrial Planned Unit Development in accordance with the April 22, 2013 Notice of Action. In order to grant a third extension request, the Board must determine, "based on legal advice, that such extension is required in order to prevent a violation of constitutional rights." See Section 4.10.C of the Site Plan Review Regulations.

On May 13, 2019, the Planning Board found that the application was complete enough to accept jurisdiction and opened the public hearing. At its meeting on June 10, 2019, the Board continued the application to the August 12, 2019 meeting to give the applicant an opportunity to provide additional information in support of the extension request. Following the June 10th meeting, City staff (including the City Manager, Deputy City Manager, Planning Director, and the City's legal counsel) met with the applicant to discuss the project and to review the status of the outstanding conditions of approval.

Following the meeting with City staff, the applicant submitted the attached letter dated July 8, 2019 providing more information relative to its efforts made to meet the conditions of approval. Enclosed with the letter was a thumb drive containing supporting documents in digital format (copies of these are available for inspection at the Planning & Development Department, upon request). The July 8th letter and attachments were provided to the City's legal counsel for review in accordance with Section 4.10.C of the Site Plan Review Regulations. The City's legal counsel has reviewed the documents and has prepared a confidential legal memorandum, provided to the Planning Board members under separate cover.

STAFF RECOMMENDATIONS

If the Planning Board moves to approve this request, the Planning & Development Department recommends that the Planning Board approve the application with the following conditions:

1. The applicant shall comply with all conditions of the Planning Board's Notice of Action for the Twin State Sand & Gravel Co., Inc., c/o Warren Ames for the development of the Iron Horse Industrial Planned Unit development dated April 22, 2013.
2. Building Permits shall now be obtained for the project in accordance with the revised phasing schedule [*date to be determined by the Planning Board at the August 12th hearing*].

cc: Twin State Sand & Gravel Co. Inc., applicants/property owners (via e-mail)
Rod Finely, P.E., Pathways Consulting, LLC (via e-mail)
Megan Carrier, Esq., Sheehan Phinney (via e-mail)
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