

**King & Queen County
Planning Commission Minutes
May 1, 2017**

The King & Queen County Planning Commission met on Monday, May 1, 2017, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the General District Courtroom for their regular monthly meeting.

Planning Commission Members Present:

Barbara Hudgins
Milton Watkins
David Campbell
Robert Harvey
Franklin Massey

Sheila Morton
Hunter Richardson
Robert Coleman, Jr.
James Guess

Also in Attendance:

Donna E. Sprouse, Assistant Zoning Administrator
Thomas J. Swartzwelder, County Attorney

Call to Order

Chairman, Mr. Richardson called the meeting to order.

Roll Call/Determination of Quorum

Mr. Campbell took roll call and determined that a quorum was present.

**Approval of Minutes
April 3, 2017**

After brief review of the minutes, a motion was made by Mr. Watkins to accept the minutes as written, seconded by Mrs. Morton.

Voting For: Watkins, Morton, Campbell, Coleman, Guess, Harvey, Richardson, Hudgins
Voting Against: None
Abstain: Massey

Citizens Comment Period

Mr. Richardson opened the floor for citizens comment period. He noted that this is a time to speak to the Commission about items that are not on the agenda. Hearing no comments, citizens comment period was closed.

New Business

**CUP16-02 & SP16-07 – Ben P. Owen, IV & Page O. McLemore, C/o Bennett Mineral Company
(Public Hearing)**

Mr. Richardson opened the public hearing and asked Mrs. Sprouse to provide information regarding the proposal. Mrs. Sprouse noted that the Planning and Zoning Department received an application on December 28, 2016 from Wilson Engineers, LLC on behalf of Bennett Mineral Company, requesting approval of a Conditional Use and Level 3 Site Plan to operate a surface mining facility.

She stated that the subject property is located on State Route 634, Canterbury Road, in the Newtown Magisterial District, County Tax Map Parcel No. 1632-52R-145H. The property owner is Ben P. Owen, IV and Page Owen McLemore. The parcel size, according to the survey as prepared by Mitchell Land Surveying, LLC is 24.87 acres. The new proposed site is approximately 3,800 feet south of the existing mining site on Canterbury Road.

Mrs. Sprouse stated that Bennett Mineral Company is requesting approval of a conditional use and level 3 site plan to operate a surface mining facility. The mining operation will extract clay with no processing, in order to continue the production of cat litter at the Bennett Mineral Company Rose Mount Road facility.

She noted that the property is currently zoned Agricultural.

Mrs. Sprouse noted that Environmental Health Supervisor, Marc Longest, has issued a well abandonment permit for the well on the property. A standard self-contained portable toilet sanitary unit with hand sanitizer will be provided at the mine site for employee and contract dump truck driver use.

She added that per a phone conversation with Monte Waugh (804) 674-2880 x104, with the Richmond Health Department, Office of Drinking Water, the proposed mining of clay will not have an effect on the community water system for the town of Walkerton. Mr. Waugh suggested that staff contact DEQ, Water Withdrawal Office for comments as well.

An email was received April 14, 2017 from Shana Moore with the Water Withdrawal Office for DEQ and she stated that *"If the mining company doesn't go deeper than 50-60', then they are likely to only impact the surficial aquifer, which should start around 30 feet. Please note, however, that our staff geologist reviewed the area last November for a permit, and he advised that the top of the Piney Point Aquifer is expected to be around 65' in depth, below land surface. This depth can sometimes vary considerably within a ½ mile to mile, so please be advised that the mining company may wish to avoid impact to that aquifer. Impacts to the Piney Point Aquifer could affect not only any dewatering activities for the mining operations, but it may have a slight potential to minimally impact the Walkerton Water system, as one of their wells is gravel packed to a depth of 50', which means there is the potential for cross-aquifer interaction. DEQ staff believes any potential impact is small; however, we wish to note the possibility. The Walkerton Water System wells are both screen in the deeper Aquia and Potomac Aquifers."*

An updated email was received April 20, 2017 from Shana Moore with the Water Withdrawal Office for DEQ and noted the following... *"It has come to our attention that the information in our April 14 e-mail regarding the mining operation and potential impact to the Walkerton Community Water System raised a higher level of concern than intended. With further review of the geology and discussion with staff, we would like to clarify our position on the question posed. The current mining operation has been on-going since 1983. The proposed new site will be closer at 2,375 ft. to the community wells, verses 6,620 ft. for the existing area, but the separating distance is still significant. Further, we note that the community wells withdrawal from the confined aquifer system (the Potomac and Aquia aquifers) and the mining withdrawal from the water table aquifer is not expected to adversely impact the confined aquifer system or the community wells, even with the well gravel packing extending into the Piney Point aquifer as discussed our earlier e-mail. (The Piney Point aquifer is present between the water table aquifer and Aquia and Potomac aquifers.) While the points noted in our earlier e-mail are worth considering in our evaluation, we have no reason to*

believe the mining activity poses a concern to the community water system. We hope this clarifies our evaluation of the issue but please contact us with any further questions.”

Mrs. Sprouse noted that VDOT had reviewed and approved the entrance design. Prior to start of operations/construction, a VDOT entrance permit must be obtained, inspected and approved by Virginia Department of Transportation.

Mrs. Sprouse noted that According to Article 4, Permitted Uses, Table 4.1, Permitted Use Table, Surface Mining on at least 5 acres; no processing, is allowed in the Agricultural Zoning District with the approval of a conditional use permit. Special Conditions are as follows: (a) a minimum lot size of five acres shall be required. (b) A 100-foot fully vegetated buffer along the exterior perimeter of the mining site, a minimum of six feet in height at the time of planting, shall be required/established and maintained. In cases where mining is being lawfully conducted with all federal, state and local permits/approvals on more than one adjoining parcel, a vegetated buffer shall not be required between the parcels being mined. (c) There shall be no processing or manufacturing on the premises other than such activity as may be necessary to facilitate the hauling of materials, specifically, the screening, sifting, separation and washing of the extracted resource on the site of extraction by manual or mechanical means. (d) A plan shall be submitted showing the original and proposed final grades of areas to be disturbed and the means to be taken to facilitate drainage and to avoid erosion and sedimentation. (e) The area of such use shall have direct access to roads suitably paved and improved to accommodate truck traffic generated by the use.

Mrs. Sprouse stated that staff recommends approval of the level 3 site plan contingent upon obtaining all federal, state, and local approvals/permits prior to start of operation/construction. Staff also recommends approval of the proposed conditional use permit, as well as the proposed conditions, however staff does not have a recommendation on the permitted truck traffic count. The Commission must set and approve the number of trips entering and existing the property as they so deem appropriate.

Mrs. Sprouse also noted that the Planning and Zoning Department received a letter of support from Mr. Carroll Lee Walker. She noted that a copy of the letter was in their supplemental packet information.

Mr. Richardson asked if the applicant would like to speak.

Mr. David Bernhardt noted that he is the attorney for Bennett Mineral Company. He introduced engineer, Blair Wilson. He also introduced the Bennett family. He stated that they are there to answer any questions that they may have. He also noted that the Bennett family lives in the Walkerton area.

Mr. Richardson asked if there was anyone in the audience that would like to speak for the proposal. Having no one to approach the podium, he asked if anyone would like to speak against the proposal.

Mrs. Dora Chappell of 4892 Canterbury Road noted that she is speaking for her and her mother. She expressed concern of vibrations, potential damage to the water table and private well systems in the area, and concern regarding the traffic proposed. She noted that Bennett Mineral is currently mining on the north side of her mother's property and will be moving to the south side of same property. Mrs. Chappell also expressed concerns of dusty conditions around the current mine and the proposed mine.

Mrs. Arlene Taylor of 5349 Canterbury Road noted that she walks daily and has to step away from the trucks as they pass. She expressed concerns on the condition of the Canterbury Road.

Mrs. Nannie Taylor of 5325 Canterbury Road expressed concern regarding traffic and having such a large number of dump trucks on the road with school busses.

Mr. William Taylor of 5349 Canterbury Road, asked if a traffic study had been done to document the potential damage of truck traffic on nearby structures. He also expressed concern of dust in and around his home. He expressed water concerns as well. He noted that his home is only 200 feet off the road.

Ms. Peg Babyak of 4890 Canterbury Road stated that it was so nice to have the Commission listen to citizens of Walkerton and giving them the opportunity to be heard before making any decisions. She noted that there is still a bit of questions left unanswered and asked the Commission to consider their concerns and give themselves more time to make a decision and table the request. She noted that she is not against the Bennett's however, thinks the request should be further studied to minimize local impacts for those that will live with this proposal for many years on a daily basis.

Mr. Richardson asked if Mr. Wilson, Engineer for the project, would like to speak to maybe answer some of the citizens' concerns and questions.

Mr. Wilson noted that he looked into impacts of the mining project on wells and that there is no impact per geologist, Department of Environmental Quality, and Department of Health. He noted that a tip generation analysis has been provided in the Planning Commission's packet under tab 10. He added that the current mining site doesn't have a limit on the amount of trucks that can enter or exit the site on a daily basis. He noted that the proposed site would have no more than what is experienced from the current site. He noted that the proposal is for up to 90 trips entering and 90 trips exiting the site. He added that this number is a maximum number on a very infrequent occurrence. The annual average tonnage report from DMME has the trip rate averaging as 56 trips per day. He added VDOT has reviewed and studied the entrance and has approved the design. He noted that trucks will not cause a vibration that will cause structural damage to a home that is 200 feet from the road.

Mrs. Chappell asked if she could make one other comment. She noted that the vibrations from the equipment at the current site, may have caused her foundation to crack and plaster to crack in the walls.

Mr. Richardson closed the public hearing.

Mr. Richardson asked if there were any other comments from the Commission.

Mr. Richardson asked who would manage dust control on the site. Mr. Wilson noted that DMME would on a complaint basis.

Mr. Massey asked if both sites will run concurrently. Mr. Bennett noted that it would not.

Mrs. Hudgins asked what is different between the current site and the proposed site. Mr. Wilson noted that the proposed site will have a required 100' vegetated buffer, hours of operation and a set max trip count per day.

Mr. Coleman asked how the depth was determined. Mr. Wilson noted that the depth in this case is really based on where the material is and the cost effectiveness in removing it. They will only remove what existing equipment will allow for. He questioned if they really work on Saturday's up to 6 p.m.? Mr. Bennett stated no not usually. Mr. Coleman asked about reclamation. He would like to see the site reclaimed so that its appearance is appealing and not a big muddy pit in the ground. Mr. Wilson noted that is something that is under DMME and is a required part of reclamation.

Mr. Massey asked if Bennett Mineral Company could cut off any work on Saturday at the mining site at 3 p.m. rather than 6 p.m. Mr. Bennett agreed with Mr. Massey's request. A motion was made by Mr. Massey to recommend approval of CUP16-02 and SP16-07 with the following conditions...

Conditions:

1. Truck traffic shall be limited to 90 trips entering the facility and 90 trips exiting from the facility per operational day.
2. The hours of material exportation from the site shall be limited to 6:00 AM until 6:00 PM Monday through Friday. Saturday 6:00 AM until 3:00 PM.
3. Any permanent outdoor lighting will be limited to parking area illumination, and security lighting as required by the Building Code for the egress door from the mobile construction office trailer. All outdoor lighting shall comply with the Code of King and Queen County, Article 22-Outdoor Lighting.
4. No outdoor speaker or paging systems will be used on the site.
5. The new commercial entrance onto State Route 634 shall be installed and maintained according to Virginia Department of Transportation requirements.
6. Dust containment measures shall be utilized at all times and during periods of dry weather, wetting of the haul road with a discharge mechanism mounted on a water tank shall be performed as needed.
7. Storm runoff, erosion and sedimentation from the surface mining operation will be controlled according to the Virginia Department of Mines Minerals and Energy standards. Upon completion of mining of the site, the site shall be reclaimed and the site shall be replanted with vegetation suitable to the Virginia Department of Mines Minerals and Energy.
8. There shall be no encroachment into any Chesapeake Bay Preservation Area Resource Protection Areas or buffers.
9. Existing forested buffers surrounding the site shall be preserved and maintained at all times while mining and reclamation operations are being conducted.
10. 100-Foot Vegetated Transitional Buffers identified on the Plan of Development shall consist of existing forested areas to be preserved and maintained or new landscape planting installations in existing open areas. New landscape plantings for visual buffering shall consist of two (2) rows of Loblolly pine (*Pinus taeda*) with a minimum height of six (6) feet at the time of planting. Plantings shall be stagger along rows. Rows shall be spaced 20-feet apart, and plantings along rows shall be spaced at approximately 20-feet on-center. New plantings shall either be installed or the installation of the new plantings shall be guaranteed with a Performance Agreement with surety as approved by the County Attorney, prior to commencement of surface mining operations.
11. All federal, state and county approvals shall be obtained prior to any site construction activity or issuance of any required King and Queen County permits.

Mr. Massey's motion was seconded by Mrs. Morton.

Voting For: Watkins, Morton, Campbell, Coleman, Guess, Harvey, Richardson, Hudgins, Massey

Voting Against: None

Abstain: None

Old Business

Electronic Controlled Message Signs in the Agricultural District (*Set Public Hearing*)

Mr. Swartzwelder noted that the sign ordinance review had been before the Commission since August of last year. He noted that the Commission decided at that time to review signs in the Agricultural district at a later time when requesting changes to sign in the Commercial and Industrial districts. The Board asked the Commission to review the section for signs in the Agricultural district. Mr. Swartzwelder said at the last meeting of the Commission a motion was made to do something but he is not clear as to what the motion meant. He added that in order to properly advertise for a public hearing, he needed to better understand the motion.

Mr. Richardson stated that he thought that the Commission was clear in that they will hold a public hearing to consider adding electronic controlled message signs in the Agricultural district. What wasn't discussed was the size, rate, etc. Mr. Swartzwelder noted that Mr. Campbell's motion was to allow for them as they are in Commercial and Industrial districts. The Commission agreed to hold a public hearing in June.

Discuss the Final Draft of the King & Queen Comprehensive Plan

Mrs. Sprouse briefly explained the processes that the Commission and Board must take in adopting the Comprehensive Plan. Mrs. Sprouse provided State Code Sections relating to the Comprehensive Plan and briefly explained the sections that were needed.

Staff's Comments

Mrs. Sprouse noted that the Zoning and Planning Office has been really busy over the last several months. She noted that there are multiple projects coming their way. She stated that Tuckers Recreation Park is looking for a zoning text amendment, CUP, and Level 3 Site Plan approval for a campground with camp store. She noted that her office received a site plan amendment for Lee Hy Paving at the old mulch plant, formally PJ Casanave property. She also stated that Trice's mining site is coming back around as well in the near future for approved CUP and Level 3 Site Plan.

Mr. Burns stated that he misses the Commission. He noted that Keith Hodges sent out invitations to a meeting to discuss wetlands and the development of wetlands. He asked the Commission to keep their eyes and ears open for that.

Mr. Burns added that he is bummed about how he was talked about by the Commission. He noted that he would not do anything to circumvent the Planning Commission. Mr. Burns stated that he is just a phone call away and asks that the Commission call him whenever they have a question or comment. He thanked the Commission for what they do.

Mr. Swartzwelder noted that the Board of Supervisors are having a public hearing on the 6 year road plan on Monday, May 8th. Mr. Swartzwelder noted that this is the time to chime in regarding any concerns you have, for example your concerns with the road condition of Canterbury Road.

He also noted that HB2 projects with VDOT is a way for localities to compete for funding. We now have to compete to get projects done. He noted that what Donna says about HB2, listen because it's important.

Mr. Swartzwelder noted that the biggest and largest area of sand is along the Mattaponi. He said there is an estimate of 18 million dollars worth of sand within Mr. Philip Minor's mining project. He said it was wise of the Commission to realize that this is something that they need to understand and look into, as more mining projects are coming.

Mr. Swartzwelder noted that the Board is very close to closing a deal with Metro Cast to run fiber down Route 360 and up Route 721 to Caroline County. Maybe once it's done, they will possibly consider running down Route 14.

Commissioner's Comments

Mrs. Morton noted that she would like to make a recommendation regarding the Comp Plan review. She thinks that the Commission should review sections of the plan at a time over the course of a few meetings, as they have time before setting public meetings and subsequently a public hearing. The Commission agreed.

Mr. Watkins stated that he has started reading the Comprehensive Plan and there is a lot of interesting information in it and a lot of work went into this document. He thanked Mr. Burns for attending. He noted that he knows that he was critical of two Board members and now that he had the chance to speak with Mr. Burns over the weekend, he is good.

Adjournment

There being no further business, a motion was made by Mr. Watkins to adjourn the meeting. All those present ratified the motion by saying "Aye". The meeting was adjourned.

Hunter Richardson, Chairman