

**King & Queen County
Planning Commission Minutes
October 11, 2016**

The King & Queen County Planning Commission met on Tuesday, October 11, 2016, at 7:00 p.m. in the King & Queen County Courts and Administrations Building in the Court room for a joint public hearing with the Board of Supervisors.

Planning Commission Members Present:

Hunter Richardson
Milton Watkins
Sheila Morton
Robert Harvey

James Guess
Barbara Hudgins

Also in Attendance:

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

Board Members: R. F. "Rusty" Bailey, Jr., J. Lawrence Simpkins, Sherrin Alsop, Doris Morris, and James "Jim" Burns

Call to Order

Chairman, Mr. Richardson, called the meeting to order.

Roll Call/Determination of Quorum

Mrs. Sprouse took roll call and determined that a quorum was present.

Mr. Richardson then turned the meeting over to Ms. Sherrin Alsop.

New Business

**A. SP16-02, Robert J. Sears Et ALS Trustees, C/o Par 3 Development Group –
Level 3 Site Plan (Public Hearing)**

Ms. Sherrin Alsop asked Mr. Swartzwelder to provide proof of publication. Mr. Swartzwelder stated that the public hearing notice ran in the Tidewater Review and Rappahannock Times for two consecutive weeks (September 21st & September 28th).

Ms. Alsop opened the public hearing.

Ms. Alsop asked Mrs. Sprouse to please review SP16-02. Mrs. Sprouse stated that the Planning and Zoning Department received a land development application to the Planning Commission and Board of Supervisors on May 4, 2016 from Par 3 Development Group, LLC (site plans submitted on May 4, 2016 from Engineering Concepts, Inc.) requesting the

approval of a Level 3 Site Plan to allow for a retail establishment. She noted that the property is located on Lewis B. Puller Memorial Hwy. in the Buena Vista Magisterial District. The property is identified as County Tax Map Parcel No. 1623-134L-180C. The property is zoned General Business and is located within the Economic Development Corridor.

Mrs. Sprouse noted that staff recommends that the site plan request is approved, as it is a by right use in the General Business zoning district and meets the site plan requirements of the King & Queen Zoning Ordinance and Comprehensive Plan. She added that no construction will take place until all permits are obtained for construction, which includes but is not limited to: VDOT for the entrance, DEQ for stormwater and County Erosion & Sediment Control and Building/Construction permits.

Ms. Alsop opened the floor for public comment and asked if there was anyone that would like to speak regarding this manner.

Mr. Mike Lynch of Engineering Concepts, Inc. stated that he and his company were responsible for the site plan and was available to answer any questions that the Board or Commission may have. He also noted that he had with him to answer questions, a representative with Par 3 Development Group as well.

Ms. Lisa Amos of Shackelfords asked if there would be a fence or vegetation planted at the rear of her property so that she wouldn't have to see the back of the building. Mrs. Sprouse showed Ms. Amos the site plan that the developer is proposing a 10' vegetative strip around the property so that it is not so intrusive on the residential neighborhood.

Mr. Mike Redford asked what this development would do to his property values.

After hearing no further comments, Ms. Alsop closed the public comment period.

Ms. Alsop asked Mr. Richardson what was the Planning Commission's pleasure.

Mr. Richardson asked if the Commission had any questions for staff or the applicant, hearing none, Mr. Richardson stated that he would entertain a motion. A motion was made by Mrs. Morton to approve SP16-02 as submitted, seconded by Mrs. Hudgins.

Voting For: Watkins, Hudgins, Guess, Morton, Richardson, Harvey

Voting Against: None

Abstain: None

Mr. Richardson informed the Board that the Commission recommends approval of SP16-02.

Ms. Alsop asked if the Board had any comments or questions. Hearing none, a motion was made by Mrs. Morris to accept the Commission's recommendation, seconded by Mr. Burns.

Voting For: Bailey, Simpkins, Alsop, Morris, Burns

Voting Against: None

Abstain: None

**B. CUP 16-01 & SP16-01, George Fisher, Virginia Sand & Stone, LLC –
Conditional Use Permit & Level 3 Site Plan (Public Hearing)**

Ms. Sherrin Alsop asked Mr. Swartzwelder to provide proof of publication. Mr. Swartzwelder stated that the public hearing notice ran in the Tidewater Review and Rappahannock Times for two consecutive weeks (September 21st & September 28th).

Ms. Alsop opened the public hearing.

Ms. Alsop asked Mrs. Sprouse to please review CUP 16-01 & SP16-01. Mrs. Sprouse stated that the Planning and Zoning Department received a land development on August 2, 2016 from Wilson Engineers, LLC on behalf of Virginia Sand & Stone, requesting approval of a Conditional Use and Level 3 Site Plan to operate a surface mining facility.

She noted that the property is located on State Route 628, Spring Cottage Road, in the Newtown Magisterial District, County Tax Map Parcel No. 1632-78R-687. The property owner is George Fisher. The parcel size, according to the Commissioner of Revenue is 330.5 acres, however the survey as prepared by Mitchell Land Surveying, LLC has the parcel listed as approximately 310.28 acres.

Mrs. Sprouse noted Virginia Sand & Stone is requesting approval of a conditional use and level 3 site plan to operate a surface mining facility. The mining operation will extract sand from an area consisting of 122.50 acres with no processing, other than that required to facilitate the hauling of material. She added that the property is zoned Agricultural.

Mrs. Sprouse stated that Codes Compliance Officer, David McIntire, has received the application, narrative and site plan for review. The applicant has also submitted a WQIA for the proposed impact to wetlands for the proposed access road crossing. After speaking with Keith Goodwin of U.S. Army Corps of Engineers on October 3, 2016 via phone, he stated that once items mentioned during their site visit on September 22, 2016 are addressed, a Nationwide 18 permit may be issued. Mitigation is not required for impacts less than 1/10 of an acre.

Mrs. Sprouse noted that she has received VDOT approval just today, and held up the document as proof.

Mrs. Sprouse stated that 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 (5) acres shall be required; (b) no such activity shall take place within a required yard; (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; and (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, provided that staff's recommended conditions are approved as presented. She added

that the Commission must set and approve the number of trips entering and exiting the property as they so deem appropriate.

Ms. Alsop opened the floor for public comment and asked if there was anyone that would like to speak regarding this manner.

Mr. Andrew McRoberts of Sands Anderson stated that he and his client are proposing a mining site next to the existing Trice mining site on Spring Cottage Road. He stated that his client, Virginia Sand and Stone, has now reached a point where they need more material to mine and is asking to move next door to an adjoining parcel to the current mining site. Mr. McRoberts noted that he had with him tonight, Jonathan Blair Wilson with Wilson Engineering along with business principals John Dixon and Jarod Stevulak. Mr. McRoberts stated that staff was excellent to work with and asks that the Board and Commission approve the Conditional Use Permit and Site Plan in his clients favor.

Mrs. Anne Marie Voight of the Stevensville district stated that she had the opportunity to speak with the folks of Virginia Sand & Stone prior to the meeting. She noted that she is excited to see economic development in the County, however always has a concern with roadways and their ability to accommodate the traffic. Mrs. Voight asked how the condition of road that will service this operation was.

Ms. Alsop stated that she lives in the area and is aware of the road and that it is in pretty good shape.

After hearing no further comments, Ms. Alsop closed the public comment period.

Ms. Alsop asked Mr. Richardson what was the Planning Commissions pleasure.

Mr. Richardson asked if the Commission had any questions for staff or the applicant. Mr. Richardson asked Mrs. Sprouse what was the permitted number of trips on the Trice property. Mrs. Sprouse explained that the Trice property is pre-existing non-conforming and does not have a conditional use permit with conditions restricting truck traffic. Mrs. Hudgins stated that she thought 60 trips was sufficient. Mr. Watkins stated that he thought 80 trips was reasonable. Mr. Harvey stated that he hunts the area and is familiar with the property and that he has not heard anyone complaining of the truck traffic at the current mining site.

Hearing no further comments, Mr. Richardson stated that he would entertain a motion. A motion was made by Mr. Watkins to approve CUP16-01 & SP16-04 with staff's recommended conditions, with the inclusion of 80 trips entering and exiting the property, seconded by Mr. Watkins.

Voting For: Watkins, Hudgins, Guess, Morton, Richardson, Harvey

Voting Against: None

Abstain: None

Mr. Richardson informed the Board that the Commission recommends approval of CUP 16-01 and SP16-04 with staff's recommended conditions, with the inclusion of 80 trips entering and existing the property.

Ms. Alsop asked if the Board had any comments or questions. Hearing none, a motion was made by Mr. Simpkins to accept the Commission's recommendation, seconded by Mrs. Morris.

Voting For: Bailey, Simpkins, Alsop, Morris, Burns

Voting Against: None

Abstain: None

NOTE: The Adopted Conditions for the George Fisher, C/o Virginia Sand & Stone, Tax Map 1623-78R-687 are as follows:

Conditions:

- 1. Truck traffic shall be limited to 80 trips entering the facility and 80 trips exiting from the facility per operational day. There shall be no limit on the trips entering and exiting the facility within 60 days from when the Governor of Virginia has declared a State of Emergency.*
- 2. The hours of material exportation from the site shall be limited to 6:00 AM until 6:00 PM Monday through Saturday. There shall be no limitation on the days and hours of operation within 60 days from when the Governor of Virginia has declared a State of Emergency.*
- 3. Permanent outdoor lighting shall be limited to the security area lighting at the wash plant, parking area illumination, and security lighting as required by the Building Code for the egress door from the scale office. All outdoor lighting shall comply with the Code of King and Queen County, Article 22-Outdoor Lighting.*
- 4. Outdoor speaker or paging system shall be limited to communications between the scale operator and truck drivers utilizing the weigh scale. Any outdoor speaker or paging system shall comply with the provisions of the Code of King and Queen County, Article V pertaining to noise.*
- 5. The entrance on parcel 1623-78R-687, as shown on site plan dated July 26, 2016, revised September 16, 2016, prepared by Wilson Engineers, LLC onto State Route 628 shall be constructed 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 the Chesapeake Bay Preservation Area Resource Protection Area or buffer, except as required for access to the property and as approved by*

King and Queen County.

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 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 1210 stems per acre of a mixture of Loblolly pine (*Pinus taeda*), Red maple (*Acer rubrum*), Northern red oak (*Quercus rubra*) and White oak (*Quercus alba*). New plantings shall be spaced at approximately 6-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. Except, however, that existing open areas in the RPA shall not require new landscape plantings unless natural succession fails to re-establish a vegetative buffer within five (5) years from commencement of operations under this permit and bare areas remain. If, at the conclusion of five (5) years, natural succession has not re-established the buffer with emergent vegetation, then new landscape plantings as described above will be used to supplement the natural growth to re-establish those bare areas. Also except, however, that the portion of the 100-foot vegetated buffer identified on the site plan as 100' Transitional Buffer Type 2 consisting of 4.50 acres may be omitted if that portion of the proposed buffer area and the adjacent area on the adjoining property have both been approved by DMME and King & Queen County for mining, allowing those areas to be mined and reclaimed and available later to be farmed.*

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.

12. Permanent signs or witness posts shall be erected at intervals not to exceed 100-feet along the length of the 100-foot Resource Protection Area buffer located adjacent to areas of the property to be mined or disturbed prior to the commencement of construction or mining activity on the project site, and maintained throughout the time the property is mined. A minimum of one sign using verbiage approved administratively by county staff will be required every 500-feet.

13. Notwithstanding anything to the contrary in these conditions or the associated plan, all resource extraction will comply with the Conditions for such activity in Table 4.1 in Article 4 of the zoning ordinance, as it may be amended from time to time.

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