

**King & Queen County
Planning Commission Minutes
December 6, 2021**

The King & Queen County Planning Commission met on Monday, December 6, 2021, 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:

Hunter Richardson
Milton Watkins
Comer Jackson
Barbara Hudgins

Ryan Burroughs
David Campbell
Robert Coleman, Jr.

Also in Attendance:

Donna E. Sprouse, Director of Community Development
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.

Election of Officers for 2022

Mr. Richardson asked if there were any nominations for Secretary. Mr. Watkins nominated Mr. Campbell as Secretary, seconded by Mrs. Hudgins.

Voting For: Watkins, Hudgins, Coleman, Jackson, Richardson, Burroughs
Voting Against: None
Abstain: Campbell

Mr. Richardson asked if there were any nominations for Vice Chair. A nomination was made by Mr. Watkins to have Mrs. Hudgins serve as Vice-Chair, seconded by Mr. Coleman.

Voting For: Watkins, Coleman, Jackson, Richardson, Burroughs, Campbell
Voting Against: None
Abstain: Hudgins

Mr. Richardson asked if there were any nominations for Chair. A nomination was made by Mr. Watkins to have Mr. Richardson serve as Chair, seconded by Mrs. Hudgins.

Voting For: Watkins, Hudgins, Coleman, Jackson, Burroughs, Campbell
Voting Against: None
Abstain: Richardson

Approval of 2022 Meeting Schedule

The Commission reviewed the following 2022 Meeting Schedule and determined that the dates all appeared good to them. A motion was made by Mr. Coleman to accept the 2022 meeting dates as presented, seconded by Mr. Watkins. All present members signified their approval by voicing “Aye”.

Monthly Meeting Dates

- January 3, 2022
- February 7, 2022
- March 7, 2022
- April 4, 2022
- May 2, 2022
- June 6, 2022
- July 5, 2022 (*This is a Tuesday Meeting due to the Independence Day Holiday*)
- August 1, 2022
- September 6, 2022 (*This is a Tuesday Meeting due to the Labor Day Holiday*)
- October 3, 2022
- November 7, 2022
- December 5, 2022

**All meetings will be held at 6:00 p.m. in the General District Court Room unless otherwise noted.*

Board of Supervisors Representative Schedule

January & June & November – Russell Bailey

February & July & December – Doris Morris

March & August – James Lawrence Simpkins

April & September – Sherrin Alsop

May & October – James Burns

Approval of Minutes

November 1, 2021

After review of the minutes, a motion was made by Mrs. Hudgins to accept the minutes as presented, seconded by Mr. Jackson.

Voting For: Watkins, Richardson, Coleman, Hudgins, Burroughs, Campbell, Jackson

Voting Against: None

Abstain: None

Citizens Comment Period

Mr. Richardson opened the floor for citizens’ comment period.

Hearing no comments, citizens comment period was closed.

New Business

A. CUP21-04, & SP21-09, Virginia Sand & Stone Property Company I *(public hearing)*

Mr. Richardson opened the public hearing for CUP21-04 & SP21-09, for Virginia Sand & Stone Property Company I. Mr. Richardson asked Mrs. Sprouse to please provide proof of publication and review the request.

Mrs. Sprouse noted that public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks (November 17, 2021 and November 24, 2021). Adjoining property owners were notified of the public hearing via certified return receipt mail.

Mrs. Sprouse stated that Planning and Zoning Department received an application on October of 2020, with payment later received on July 12, 2021 from Wilson Engineers, LLC on behalf of Virginia Sand & Stone, requesting approval of a new Conditional Use and Level 3 Site Plan to operate a surface mining facility. The subject property is located on State Route 628, Spring Cottage Road, in the Newtown Magisterial District, County Tax Map Parcel No. 1632-78R-673. The property owner is Kay Properties, LLC, C/o Robin K. Westman.

Mrs. Sprouse noted that 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 with no processing, other than that required to facilitate the hauling of material. Of the 528.06-acre parcel, the applicant wishes to obtain a conditional use permit for 272.05 acres. Of the 272.05 acres outside of any RPA, RPA buffers, and vegetated screening buffers, the applicant proposes to actively mine 170 acres. The property is currently zoned Agricultural (A). She stated that Stormwater and Erosion and Sediment Control is regulated by Department of Mines Mineral and Energy (DMME). Some timber on the property has been cut through a permitted silvicultural operation with Virginia Department of Forestry. Any and all areas that has vegetation removed as part of the permitted silvicultural operation within the 100' RPA buffer, is required to be mitigated through a WQIA process. She added that a wetlands determination has been completed and approved by the US Army Corp of Engineers.

Mrs. Sprouse confirmed that Environmental Health Specialist, Kate Condrey, has issued a permit for a new septic system and well for the scale house/office trailer. She added that VDOT has issued approval of the site plan only as it relates to the entrance design for the proposed project. Mrs. Sprouse noted that prior to start of operations/construction, a VDOT entrance permit must be obtained, inspected and approved by Virginia Department of Transportation.

Mrs. Sprouse said 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 (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 reaffirmed as mentioned in a prior Planning Commission meeting, there is an approved mining operation (with an approved Rezoning, Conditional Use Permit and Level 3 Site Plan) from December of 2002. The 2002 approved operation is located just south of the Virginia Sand and Stone property a distance of approximately 1.4 miles, located at the intersection of Eastern View Road and

Spring Cottage Road. The site consists of approximately 267 acres (with only 5 acres zoned Industrial). Staff has attached a copy of the approved minutes from the Board of Supervisors public hearing, siting the approved conditions for CUP02-10.

She added that it is important to be aware of other facilities that currently exists and those that have been approved to operate, to better determine how all future/proposed development may impact the area in regards to noise, traffic, environmental concerns and other impacts, if any.

Mrs. Sprouse noted 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. That staff also recommends approval of the proposed conditional use permit, provided that the conditions as included are approved as presented.

She concluded by informing the Commission that they of course may recommend to the Board of Supervisors, additional conditions and/or revise any proposed conditions, as they deem appropriate.

Mr. Richardson asked if there was anyone from the public that would like to speak or comment regarding the request.

Blair Wilson, engineer retained by Virginia Sand & Stone introduced Chris Seymour and Jarod Stevulak with Virginia Sand & Stone. He also noted that Mr. McRoberts with Sands Anderson and Ms. Robin K. Westman, property owner, were both present tonight. Mr. Wilson explained that as Mrs. Sprouse had mentioned, VDOT and Virginia Department of Health both had granted approval of the entrance and septic system and well design respectively. Mr. Wilson noted that DMME is okay with permit issuance provided that Virginia Sand and Stone secures approval of the commercial entrance permit/approval from VDOT. He noted that the conditions presented are more restrictive than what was presented for the original Fisher site across the street from this proposed location. He added that conditions were included to restrict the exportation of material from the Kay property (this property) when material is being exported from the Fisher site (current site across the street). This was done because consideration was taken in regards to the concerns in the area regarding truck traffic from the mine site. Blair discussed the mitigation and vegetation plantings proposed, as to provide screening of the operation and help with noise and dust. He stated that if there are any questions, he will be glad to answer them.

Ms. Robin Westman, property owner, noted that she currently lives in Georgia and hopes to move back very soon. That her and her sisters own the property and that her father acquired the property over the years. She added that her father use to farm the property and that she thanks the Commission for their consideration. It is her understanding that once mining has been completed, the property will be reclaimed so that it may once again be farmed and have standing timber.

Mr. Jackson asked if the applicant has received any complaints from the community in regards to the holes on Rt. 628. Mr. Jarod Stevulak, with Virginia Sand & Stone noted that they have not received any formal complaints in the area and noted that the public roadway and its maintenance is under the realm of VDOT.

Mr. McRoberts, attorney for Virginia Sand & Stone, approached the podium and noted that VDOT will need to address and more and likely will soon with patchwork as weather often plays a role in to when such work may be completed. He suggested that anyone with complaints regarding the road condition or its maintenance to contact VDOT as he was sure they will address it fairly quickly.

Mr. Watkins added that he has seen VDOT patching in the area.

Mrs. Sprouse asked if the applicant would consider amending condition #1 and #4 as it relates to Virginia Governor declared state of emergency, possibly narrowing it down to such declared emergency due to a natural disaster in light of the current state of emergency we are under with Covid. The applicant agreed to amend condition #1 and #4 to add at the end of the last sentence, “due to a natural disaster”.

Mrs. Hudgins questioned the hours posted for Saturdays. She believed it was more than what was previously approved. Mr. Wilson responded that the conditions regarding the hours are the exact same hours of operation that was approved for the original Fisher site. Mrs. Sprouse noted that maybe Mrs. Hudgins was speaking of the Mt. Glenwood mine site. Mr. Wilson suggested that maybe it was the Bennett Mineral site that she was speaking of.

Mrs. Hudgins also asked if the Commission should consider a sunset for the CUP, so these do not come back at a later time when the area is more developed. Mr. McRoberts noted that he and his client would not agree to such terms because the economy may determine the feasibility of continuing to operate or needing to extend the time in which material is mined. He said that of course they would be held to the statute of limitations in regards to the 5-year time frame for site plan approval.

Mrs. Hudgins asked where does the water come from for dust management on the site. Mr. Chris Seymour with Virginia Sand & Stone noted that the water is removed from the sediment ponds and put in the water tank truck. They usually spray their roads down each morning and throughout the day as needed, as it's also required by DMME.

Hearing no further comments, Mr. Richardson closed the public hearing.

Mr. Richardson asked if any of the Commission members had any further comments or questions.

Hearing no further comments, Mr. Richardson asked if there was a motion.

A motion was made by Mr. Watkins to approve CUP21-04 and SP21-09 with the amendments to condition #1 and #4 to add at the end of the last sentence, "due to a natural disaster", seconded by Mr. Burroughs.

Voting For: Watkins, Jackson, Coleman, Hudgins, Burroughs, Richardson, Campbell

Voting Against: None

Abstain: None

Old Business

A. Consider Amendments to the Planning Commission By-Laws

Mr. Richardson went through section by section of the draft copy of the Planning Commission By-Laws and the commission agreed to make the following changes to the following sections:

4.2 Nomination of officers shall be made from the floor during the December meeting or the first meeting of each calendar year.

5.4 The Clerk shall be annually appointed by a majority of the Commission.

A motion was made by Mrs. Hudgins to approve of the By-Laws with the two changes as noted in 4.2 and 5.4, seconded by Mr. Watkins.

Voting For: Watkins, Jackson, Coleman, Hudgins, Burroughs, Richardson, Campbell

Voting Against: None

Abstain: None

Staff's Comments

Mrs. Sprouse noted that she does not have any pending applications for the Commission at this time. She informed the Commission that the solar farm final site plan has not yet been submitted, however she anticipates that happening soon. Mr. Coleman asked about the process for reviewing the final site

plan and if the water tank will still be included. Mrs. Sprouse noted that the water tank is a requirement of the both the conditions and citing agreement. She added that the final site plan process will go as any other final site plan process and go before other departments, and agencies for review/comment. It will not be approved until it has been confirmed that all conditions of the CUP have been satisfied, other departments and agencies have issued approvals and sureties, insurance data has been collected/confirmed.

Mr. Burns noted that he did not have any comments. He thanked the Commission for their work and said that if they have any questions to reach out to him any time.

Commissioner's Comments

Mr. Burroughs noted that he is on the Planning Commission because he asked Mr. Burns a question and a few months later, he was appointed to the Commission. He wished everyone a Merry Christmas.

Mr. Jackson wished everyone a happy holiday.

Mrs. Hudgins had a few comments or items to think about as food for thought. She noted that the Commission is aware of her feelings on these mining projects, but apparently we are sitting on a gold mine when it comes to the resources we have but it's not a gold mine for the County. She thinks that maybe the Commission should consider other uses. Mrs. Hudgins added that with solar farms, they now have to be zoned Industrial, mining operations are permitted in the Agricultural zoning district, maybe we should consider requiring the property for mining to be rezoned as well. She wished everyone a Merry Christmas and a Happy New Year. She also thanked Mr. Burns for attending the Planning Commission meeting.

Mr. Campbell noted that the Commission lost Mr. Herrin and he asked the Commission to take a moment of silence in remembrance of Mr. Herrin. The Commission took a moment of silence in remembers of fellow Commission member Mr. Herrin.

Mr. Richardson noted that he attending the funeral and that Mr. Herrin had an active life. Not only did he beat Covid, but he attended one of the Commission meetings after doing so to his surprise. He added that Mr. Herrin was an active member of the West Point Episcopal Church, in fact was in attendance Sunday before his passing. Mr. Richardson said that he had spoken with his oldest daughter and he introduced himself and noted that he was present on behalf of the Planning Commission. He noted that his daughter informed him that she has found all of his Planning Commission packets and material and wasn't sure what she should do with it. Mr. Richardson assured her that she didn't need to worry about any of it and may do with it as she pleases. Mr. Richmond ended by saying that Mr. Herrin will be greatly missed and that he was a good man.

Mr. Coleman said that he had a question regarding the landfill how much time does the County have to receive income from the landfill operations. Is it 10 years, 20 years, etc. Mr. Swartzwelder noted that it is all in the landfill lease, that it's not a short term lease. There are terms that allow for lease renewals and later on, the Board could decide if they wish to allow to increase the height in the future.

Mr. Watkins thanked Mrs. Sprouse for all of her hard work in preparing the Commission for our meetings.

Mr. Richardson thanked the Commission for their vote of confidence as chair once again this year.

Adjournment

Mr. Richardson noted that the next meeting is set for January 3, 2022 at 6 p.m. He noted that if that changes, Mrs. Sprouse will notify them of such. Mr. Richardson wished everyone a Merry Christmas and asked that everyone stay safe.

There being no further business, a motion was made by Mr. Watkins to adjourn the meeting. The meeting was adjourned by all present members stating "Aye".

Hunter Richardson, Chairman