



YADKIN COUNTY PLANNING BOARD

Meeting Minutes
April 11, 2022

Members Present

Dean Swaim, Chairman
Jerry Hutchens, Vice Chairman
Steve Brown
Resha Peregrino-Brimah
Teresa Swain
Sam Wagoner (Alternate)

Members Not Present

Ercel Carter (Alternate)

Staff Present:

Seth Harris, Zoning Officer
Gary Hayes, Director Inspections and EH
Cheri Cranfill, Office Manager
Brittany Anderson, Assistant Tax Administrator
Jessica Wall, Director Human Services
Robert Hagemann, Special Counsel

Guests

(see last page for names of those who signed up to speak)

Call To Order

Chairman Swaim called the April 11, 2022 Meeting to order promptly at 7:00 PM. Based on the number of people in attendance, the Board consented to moving the location of the meeting to the County Commissioners' Meeting Room. A motion was made to reconvene the meeting at 7:20PM in the Commissioners' Meeting Room. The motion was seconded and the vote was unanimous in favor of the motion.

Chairman Swaim reconvened the meeting at 7:20PM in the Commissioners' Meeting Room. He explained that the meeting would move at a very deliberate pace and that all perspectives needed to be heard by the Board. He went on to say that the Board would weigh the relevance of each concern and give those concerns the appropriate attention needed. He asked for courteousness and patience to prevail during the proceedings.

Approval of Minutes

Chairman Swaim made a motion to waive the reading and approval of prior minutes until a later date. Resha Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion.

New Business

Chairman Swaim introduced Robert Hagemann, special legal counsel. Mr. Hagemann explained that his role was to help Yadkin County through the process of considering the Three Oaks Quarry application. He added that his goal was, regardless of the outcome, to assure that the decision made was a legally defensible decision.

Chairman Swaim made a motion to continue the Jerry Bryant and Dale Rose rezoning requests until the next regularly scheduled Planning Board meeting in May. Teresa Swain seconded the motion and the vote was unanimous in favor of the motion.



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Major Subdivision 22-01: Three Oaks Quarry

Seth Harris presented the staff report.

Chairman Swaim asked if the application could be continued or tabled. Mr. Harris answered that it could be. Mr. Harris explained that the plat was for right of way approval only and that the right of way must meet NCDOT standards.

Steve Brown asked if the right of way had to be approved and the road built before final approval was given. Mr. Harris confirmed that was the case.

Teresa Swain asked what became of the right of way if it was approved but the adjacent proposed land use was not approved. She also stated that the Board was being asked to approve a right of way before the project moved on to the second phase. Mr. Harris explained that a final plat had to be submitted to the Planning Board within one year of preliminary plat approval or the preliminary approval would be null and void.

Mr. Hagemann added that he did not feel like the road would be built if the Three Oaks Quarry conditional zoning application was not approved. Mr. Harris agreed with this.

Jerry Hutchens made a motion to approve the preliminary major subdivision plat. Teresa Swain seconded the motion and the vote was 4-1 in favor of the motion.

Rezoning Case 22-02: Three Oaks Quarry

Chairman Swaim asked staff to display maps of the proposed quarry.

Mr. Harris began to describe surrounding land uses and zoning districts. Chairman Swaim asked staff to point out the properties zoned RR (Restricted Residential).

Chairman Swaim asked Robert Hagemann to explain the parallel conditional zoning application process. Mr. Hagemann emphasized the importance of open communication and that the meeting was not an evidentiary hearing. However, it was a legislative process and this meant open communication between all parties would be allowed. This included one on one conversations, letters, emails, or phone calls to the Planning Board, Planning Staff, elected County officials, the applicant, and the applicant's team. He also explained that the public hearing before the County Commissioners would not be the public's only chance to communicate with their elected officials. He added that the Board was not required to make a decision that night, and that they had 60 days to make a recommendation either to approve or deny. After that decision, the application would move to the Board of Commissioners for consideration. The Board of Commissioners would advertise for a public hearing, send letters to adjoining property owners, and post a sign on the property per state statutes. The Board of Commissioners do not face a deadline to make a decision like the Planning Board. He added that conditions could be offered up by the applicant. However, anyone could suggest conditions that would mitigate the impact



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to the surrounding community. The applicant must agree to all conditions and the rules that govern the potential use of the property can be tailored to further mitigate any impacts.

Chairman Swaim asked if the Planning Board had to consider all uses within the M11 zoning district or if the proposed rezoning would only allow for mining. Mr. Hagemann responded that general district zoning would allow for all uses, however a parallel conditional zoning district limits the use to specifically what is being requested. Chairman Swaim said that no Board of Adjustment action would be necessary for this case and Mr. Hagemann confirmed that.

Chairman Swaim asked if the case would be subject to judicial review and Mr. Hagemann confirmed that it would be. He explained that the challenge typically would be to an approved rezoning and not a denied rezoning. While the County Commissioners had broad legislative capabilities, they may not violate the State of North Carolina's constitution or the US Constitution. This judicial review could range from Superior Court to State Court of Appeals to the State Supreme Court.

Chairman Swaim asked what power the Commissioners had to ensure that conditions were adhered to. Mr. Hagemann answered that the conditions were law and if conditions were violated the County would have authority to bring an enforcement action. So in summary, any conditions have the affect and force of law that could be enforced by any lawful means.

Teresa Swain asked if ownership of the property were to change, would the conditions apply to the next owners. Mr. Hagemann explained that all conditions would be applicable to any subsequent owners.

Steve Brown asked if once the quarry had lived out its usefulness, would the conditions still apply. Mr. Hagemann answered that the zoning would still be in place and any different use of the property would have to be rezoned to something different.

Chairman Swaim asked for an explanation of spot zoning. Mr. Hagemann answered that spot zoning was a legal doctrine where courts can be skeptical of singling out a particular piece of property for differential treatment than other properties surrounding it. Spot zoning is not illegal if there is a rational basis for singling out that particular property.

Mr. Hagemann announced the rules for the public hearing, as decided by the Chairman. The applicant was allowed 30 minutes for his presentation and the public would have 3 minutes per speaker.

Tom Terrell addressed the Board next. Mr. Terrell introduced himself as the legal representation for the applicant. He wanted to clarify that answering questions from the Board would not take up their allotted time. Mr. Terrell first addressed the issue of spot zoning. He explained that several years prior the NC General Assembly required Boards to adopt statements of reasonability and public interest when approving requests. He explained that stopped many claims of spot zoning. Regarding the closure of mines, he explained that the state also had to



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issue a mining permit and that permit required a bonded reclamation plan involving oversight from the State.

Mr. Terrell began his allotted 30 minutes by offering additional conditions to be added to the record. One condition only allowed for aggregate to be mined from the property. Berms would be planted with evergreens with a minimum of 15 feet in height. Blasting could not occur during school hours and only from 3:30pm to 5:00pm. An 8 foot high fence would be built around the quarry pit. The applicant offered to dedicate all the land needed to straighten the curve on US Highway 21 and donate the aggregate needed to complete the project. The applicant offered to widen and pave and improve Lowder Road which accesses West Yadkin Elementary School. The applicant also agreed to pay 10 cents per ton of aggregate to the school system, primarily intended for West Yadkin Elementary School. A pre-construction survey of the foundation of West Yadkin Elementary School would be conducted to show that no damage was being done to the school. Mr. Terrell pointed out that the Land Use Plan stated that RA areas are intended for mineral extraction. He also stated that agricultural uses were not always peaceful operations and included applications of pesticides, manure, and similar activities that produce noise, dust, and odor. He stated that the proposed quarry would not have that kind of impact on the community. Mr. Terrell addressed the impact of blasting by relating a story from Guilford County where county employees felt no impacts from blasting activities. Mr. Terrell introduced Jack Mitchell, president of Three Oaks Quarry.

Jack Mitchell began by asking for support for the proposed quarry. He said he was drawn to this area because of economic growth and several large industries recently moving to North Carolina. He also stated the size of the tract and proximity to major transportation networks as a reason for choosing the property. Mr. Mitchell pointed out that several uses had been proposed for the property since it was initially listed for sale. It was determined that an aggregate quarry would be the highest and best use for the property. He stated that the quarry pit would consist of 12% of the property. They estimated 500,000 to 1,000,000 tons of construction aggregate per year. The mine would employ approximately 20 employees with focus on hiring people from the local employment base. The buffer area was intended to maintain the original zoning district. He then discussed a community outreach meeting held on March 23, 2022. He addressed concerns over blasting and stated that after a time blasting would average 3 to 4 blasts per month. He stated that a structural engineer would do an analysis of the school to establish a baseline so that any changes to the structure could be compared to that. He offered to pay for any repairs for damage caused by the operations proposed by Three Oaks Quarry. He anticipated the donation to West Yadkin Elementary School would range from \$50,000 to \$100,000 per year (.10 per ton of aggregate X 500,000 to 1,000,000 tons per year). Widening to Lowder Road would begin once all permits were obtained and the proposed operation was started. He reiterated that land would be donated to straighten the curve on Hwy 21 in the vicinity of Longtown Road. He offered guarantees for property values, water wells, and structural integrity on a case by case basis to neighbors. Mr. Mitchell gave a breakdown of the economic impact on Yadkin County. Mr. Mitchell introduced John Cross, CEO of TurnKey Processing Solutions.

John Cross addressed the Board next. Mr. Cross explained he worked for Vulcan Materials for 20 years before starting his own company. He stated he had designed, built, and operated various



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kinds of mineral processing operations across the country. His opinion was that the quarry would lower truck traffic and construction costs in Yadkin County. He explained the improvements in blasting over the years and how they will be measuring noise volume on all property lines. The noise volume would be approximately 65 decibels on the property lines. He expressed wanting to create a community council to provide direct feedback from the community. He speculated that blasts would occur a couple of times a month to once a week or fifty times a year. He said that multiple methods would be used to control dust on the property so as to have minimal to no impact on surrounding properties.

Resha Peregrino-Brimah asked Mr. Cross if he had overseen aggregate mines in particular. Mr. Cross answered that he had spent the majority of his career overseeing aggregate facilities. Mrs. Peregrino-Brimah then asked Mr. Cross to speak about his company's record of adhering to best management practices, its safety records, and its environmental record. Mr. Cross stated that he felt his company, and related companies, were above the industry standard in these areas. He explained that many times he was advising operations on how to consistently adhere to best management practices.

Dr. Christopher Teaf addressed the board and went over his experience in toxicology. One method of controlling impacts on air quality and dust management was making the operation below grade to limit dispersion of airborne materials. Vegetation around the operation would help limit these factors. Water misters would also help drop dust levels. Air monitors would be installed to help monitor dust levels. He explained that emissions from trucks would be similar in levels to parents dropping kids off at school every morning.

Chairman Swaim began the public comment portion of the meeting by reminding the public of the rules established previously.

Daniel Johnson addressed the Board. He handed letters to the Board members and briefly summarized each letter. He went over requirements for zoning map amendments as stated in North Carolina General Statute 160d. He felt that the Board needed to consider the zoning of the surrounding properties which mainly consist of RA and RR zoning districts. He pointed out the disparity between the RA zoning district and the proposed zoning district.

Sharon Yale, Tim Parks, Tim Weatherman, and Sam Crews, School Board members, approached the Board next. Sharon Yale spoke first. Her main concern was the students in West Yadkin Elementary School and how the mine would affect them.

Tim Parks spoke next representing the School Board. He expressed concern over expansion of Lowder Road and its effect on neighboring ball fields. He stated that school related events could go on up until 10PM. Concerns over traffic impacts were also expressed.

Tim Weatherman spoke next. He pointed out other properties owned by Yadkin County Schools that were immediately adjacent to the subject property. His estimate to replace the school was \$40 million.



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Sam Crews spoke next. He felt that the proposed mine would limit any future expansion of the school. 60 students in the afterschool program are there until 5:30PM every day.

Brad Story stated that a mine did not belong next to a school and that traffic was a major concern. He expressed concern over impacts on water and on Lake Hampton.

Edgar Miller, executive director for Yadkin Riverkeeper, spoke next. His concerns included impacts on Deep Creek, Lake Hampton and the Yadkin River. He recommended that the request be denied or delayed until the impacts on the overall public interest and environmental soundness could be determined. South Deep Creek is subject to a TMDL (Total Maximum Daily Load). He recommended that the developer be required to submit a comprehensive storm water management plan that would insure compliance with the TMDL. He recommended that the request be delayed until a mining permit was issued by the NC Department of Energy, Mineral and Land Resources.

Rodney Wagoner addressed the Board. He referred to a letter provided to the Board from Dr. Richard Spruill and read from the letter. The letter outlined the elements necessary for a detailed hydrological study. He stated that Dr. Spruill was asked to work for Three Oaks Quarry but refused, primarily based on their alleged history of failing to meet expectations.

Matthew Brown spoke next and discussed his credentials as a well driller. He went over Three Oaks plans for water usage and for mitigating impacts on groundwater levels. He did not think there was enough due diligence done to adequately discuss the impacts on groundwater in the area. He felt the answer given by Three Oaks was a myth. He didn't feel that a 2 inch hole was enough to monitor the groundwater flow on the site. He discussed well depths and water depths in the area and stated the depth of the quarry would be below these well depths. He felt that blasting for a road in the area led to 45 wells being replaced. In conclusion, he asked for due diligence to be done to gauge the groundwater impacts.

Bobby Church spoke next and went over his background and professional credentials. He summarized the traffic study supplied by the applicant and emphasized the number of trucks expected. He discussed the confusion faced at four way stop intersections. He relayed concerns over traffic congestion expressed by the Davie County superintendent regarding a quarry there with two schools in proximity. He felt that the mine would reduce the number of buyers interested in buying nearby homes. He stated that the mine would affect property values in a large radius around the mine and would potentially drop home values countywide. He pointed out that he felt home owners insurance did not cover earth movement and homes may become uninsurable.

Chairman Swaim reminded the public to keep their comments to approximately three minutes.

Melissa Money addressed the Board. She expressed concern over the tract on Three Oaks Road which was not currently slated for development. She went on to express concern over blasting and rocks from the blasting flying onto adjacent properties and the impacts of that on public welfare.



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Sarah Crater approached the Board next. She proceeded to read a letter from Stephanie Thurmond, a resident of the Snow Camp community living adjacent to a mine in Alamance County.

Joyce Long addressed the Board. She stated that Three Oaks policy of being a good neighbor was contradictory to the actions that had been taken so far. She contrasted that with the members of the community who lived and actively participated in the community. She felt the revenue brought in by the mine would not offset the loss in property value caused by the mine. She presented a letter to the Board from her father, also a nearby property owner.

Carolyn Proctor spoke next and expressed concern over the curve on Highway 21 at Longtown Road and other traffic related concerns. Health, environmental problems, and traffic were listed as reasons for not wanting the quarry. She relayed a personal story about her brother drowning at another quarry in Yadkin County and she did not want to see a repeat of that tragedy.

Roy Thomasson approached the Board and told about his connection to the community. He felt the quarry would drive people away from the area.

Teresa Messick expressed concern about the curve on US 21 at Longtown Road. She was also concerned about the effects on the environment, including wildlife and water impacts.

Chairman Swaim noted that was the end of the public speakers. He offered a period of rebuttal for the applicant.

Tom Terrell spoke for the applicant. He stated that it was not accurate to label this request as spot zoning and explained why he thought this. He addressed concerns over blasting by referring back to his example involving an animal shelter in Guilford County. He stated that three schools are located next to a Vulcan quarry in Davie County, and one was constructed there after the mine was completed. He stated that there would be less turbidity (water cloudiness caused primarily by sediment) caused by the quarry than by an agricultural use. He agreed to generate a storm water plan as a condition and to provide it to the Yadkin Riverkeeper. He clarified that Dr. Spruill was not retained for work by Three Oaks Quarry because of a conflict of interest. He explained that the traffic study was backed up by data using methods approved by NCDOT. He felt that the comments about impacts on property values was not based on any appraisal standards. He said the vacant tract mentioned by Ms. Money was intended to stay the way it was and it was not a part of the request. He was involved with the Snow Camp quarry and state agencies verified that the claims of neighbors were unwarranted. He felt that blasts were non-events and would not have a significant emotional impact on children. He felt that the Mining Act of 1971 addressed many of the safety concerns surrounding outside access to working or vacant mines.

Joe Wilson with Kimley Horn approached the Board next. He pointed out that US Highways were constructed to allow for the delivery of goods and services and that Highway 21 was a US Highway and not a secondary residential street. He stated that it was the responsibility of NCDOT to address any safety concerns about the road. He added that the road was only operating



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at a 14% capacity at the time based on data provided by the traffic study. He felt there was nothing different in respect to traffic in this area that was different than anywhere else the community was growing.

Chairman Swaim asked if there was any data that could measure the impact of the increased number of large vehicles versus impacts of increased passenger vehicles. Mr. Wilson answered that heavy vehicle factors were used in the study. The study did not show enough delays at the intersections to require a turn lane.

Chairman Swaim asked what time the study was conducted. Mr. Wilson explained that 24 hour turning movement counts were used and the 15 minute periods that constituted the peak AM hour and the peak PM hour were used. These busiest times were based on actual traffic counts collected by video camera. The type of vehicle and the movement action were documented.

Mrs. Peregrino-Brimah asked if any more safety precautions were needed at intersections based on the data collected. Mr. Wilson stated that there were only six accidents noted within a three year period (not including two more within the weeks after the data was collected). He felt that truck drivers were more trained than regular drivers.

Jeffrey Straw spoke to the Board about blasting. He worked for a vibration and acoustics consulting firm and was a trained seismologist. He used seismographs to measure the effects of blasting on structures. Mrs. Peregrino-Brimah asked if the effects of blasts were measured over a period of time as opposed to isolated incidents. Mr. Straw stated that the Bureau of Mines conducted studies over decades and intentionally tried to damage the foundation without any substantial damage to foundations. Mr. Straw stated that mining in the western states where the mines were miles from the nearest neighbors did occasionally produce fly rock. He added that geology was not guess work and the operators would know what level of blasting to do at each level. Using seismographs, the operators could determine how far vibrations would travel and how to prevent damage to surrounding structures.

Rich Kirkland with Kirkland appraisals spoke next. He did impact analysis comparing homes near quarries to those not near quarries. Home sales near six different quarries in Wake County were compared. He consistently found no impact on property values in that area. A group sales analysis was also done and showed no impact on property values. He clarified that this was general data and not specific to the Three Oaks site.

Chairman Swaim asked if there were any studies done in more rural areas. Mrs. Peregrino-Brimah asked if there were similar results in more rural areas. Mr. Kirkland answered yes, but it was more difficult to do paired sales analysis in rural areas. Mrs. Peregrino-Brimah pointed out that as variables increased between comparable properties, the accuracy of the comparison declined. Mr. Kirkland agreed.

Tom Terrell noted that Mr. Kirkland was the last speaker for the applicant.



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Chairman Swaim asked if there was expansion potential for the project. Tom Terrell answered no and that any expansion of a mining permit issued by the state involved restarting the approval process. Chairman Swaim asked if an environmental impact study had been conducted. Mr. Terrell stated that it had been done even though it was not required. Chairman Swaim asked about how far above ambient noise levels would the mining operation be. Mr. Terrell answered that the sound of the operation equipment at the property boundary would be around 65 decibels or just above normal human speaking volume. John Cross added that technology had improved and operators were cognizant of controlling sounds generated by the operation. Mr. Terrell added that berms on the south side would be 18 feet high with a base of 60 feet to 100 feet.

Sam Wagoner asked how far outside the project area would the groundwater level be impacted. Mark Stephens answered that preliminary investigations were done and more data was needed to determine that. He added that the state had requirements that wells could not be affected beyond the project area. Mr. Stephens said the applicant was currently in the middle of studying the impacts.

Mr. Terrell added that hydrologic studies were hampered by the sabotaging of water monitoring wells located on the subject property.

Steve Brown wanted to hear about the impacts on wildlife and potential impacts on Lake Hampton. Cathy Litscher addressed this. She stated that no threatened or endangered species had been observed on the property. Dr. Christopher Teaf stated that Lake Hampton was 3 miles at closest point to quarry center. He stated that because of distances and provisions located on site, there were no expected impacts on Lake Hampton. He noted that no chemicals were used in the process and that there would be sediment ponds on site to capture sediments. Mr. Wagoner asked if Dr. Teaf was aware of any sediment capture systems that had failed. Dr. Teaf answered that he was not aware of any that were related to quarry operations. Mr. Brown asked if any monitoring was done of sediment transport and Dr. Teaf answered that a monitoring plan would be put into place.

Seth Harris spoke and stated that staff had requested various reports from the applicant to verify potential impacts of the proposed use and had not received them at the time of the meeting. Staff requested additional time to review the reports once received and requested that the Planning Board not make any recommendation.

Mr. Terrell stated that many of the reports could be made available immediately. He added that some of the information was proprietary, however the reports could be made available quickly. Chairman Swaim said that staff would also need time to review those reports once received.

Steve Brown stated that he felt it was wise to postpone any decision and to take up the matter at the next regularly scheduled meeting.

West Caudle addressed the Board and stated that the citizens of Yadkin County have to depend on officials and the courthouse to make the right decision for them.



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Mr. Terrell reiterated that only aggregate mining would be allowed.

Chairman Swaim asked the board if they wanted to table the issue until the next monthly meeting. Mr. Brown made a motion to table the request, Mrs. Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion.

Adjournment

Chairman Swaim then asked for a motion for adjournment. Teresa Swain made the motion and it was seconded and the vote was unanimous in favor of the motion. The meeting was adjourned at approximately 10:30PM.

Respectfully Submitted,
Seth Harris, Zoning Officer

Dean Swaim, Chairman

Approved on _____