



YADKIN COUNTY PLANNING BOARD

Meeting Minutes
May 9, 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
Michael Harvey, Planner
Gary Hayes, Director Inspections and
Environmental Health
Cheri Cranfill, Office Manager
Brittany Anderson, Assistant Tax Administrator
Chris McDaniel, Cybersecurity Specialist

Call To Order

Chairman Swaim called the May 9, 2022 Meeting to order promptly at 7:00 PM.

Public Comment

Chairman Swaim gave those present who wished to speak about things not on the agenda a chance to speak. No one came forward for public comment.

Approval of Minutes

Chairman Swaim noted a correction to be made to the date on the minutes presented. There being no further comments or corrections to the minutes, Jerry Hutchens made a motion to approve the December 12, 2021 minutes as corrected. Resha Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion.

Old Business

Parallel Conditional Rezoning Request 22-02: Three Oaks Quarry

Chairman Swaim gave a brief recap of the agenda item. He noted that questions were asked of the applicant at the last meeting and that the applicant was present to provide answers to those questions. The supporting documentation was made available on the Yadkin County website for those that were interested in seeing it.

Chairman Swaim pointed out the complexity and technical nature of the documents and noted the staff report for the meeting was over 45 pages. He said the Board and staff needed time to review the documents and that there would be no vote made that night concerning this request.



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Chairman Swaim introduced Daniel Johnson as an attorney representing some of the concerned citizens surrounding the subject property. Mr. Johnson's time was limited at the first meeting and Chairman Swaim felt that giving him more time to speak was appropriate.

Chairman Swaim asked Seth Harris to bring the Board up to speed on the zoning request. Mr. Harris reviewed what a parallel conditional zoning district was. Mr. Harris reminded the Board that the request was subject to conditions and those conditions had to be mutually agreed upon by the applicant and the Boards reviewing the request. Mr. Harris briefly went over some of the documents. Jerry Hutchens noted that the buffer around the project area had been increased.

Chairman Swaim asked how long staff felt like it would take to process the additional information provided by the applicant. Mr. Harris answered that due to the extensiveness and technical nature of the material provided, he did not have a timeline for complete review of the documents.

Chairman Swaim opened the floor to Daniel Johnson whom introduced himself as an attorney from Wilkes County who represented a group of concerned citizens. Mr. Johnson began by referring to NC General Statute 160D and the definition of spot zoning. He went on to make an argument claiming the rezoning request should be considered spot zoning. He contrasted the proposed use with surrounding zoning districts. He also reiterated how he felt the requested use was incompatible with the 2011 Yadkin County Land Use Plan. He brought up a recent rezoning case considered by the Board, being located on Falcon Road, where the Board decided that an industrial use was not compatible with the surround residential uses. He gave a summary of all the concerns of surrounding property owners. He cited a court of appeals case (Budd V. Davie County) where the court found the operation of a mine did not offset the harm to neighbors.

Chairman Swaim offered Tom Terrell a chance to offer a rebuttal. Mr. Terrell's opinion was that the request did not constitute a case of spot zoning. He added that it could also not be considered spot zoning based on plans and policies adopted by Yadkin County. He said that the land use plan stated that mines and other large open uses of land went into rural areas. He used the example of a middle school in Davie County being built across the road from a pre-existing mine. He pointed out that in 2017 Davie County built a high school next to the middle school, making a conscious decision to locate the school in proximity to the mine.

Chairman Swaim moved on to asking the applicant to provide answers to questions. The first question from Chairman Swaim was asking for an explanation concerning the resistivity imaging for groundwater well siting report.

Mark Stevens addressed this question. He explained the process for the resistivity study. The data from that study was used to determine the fracture zones in the granite rock. Determining the location of fracture zones was the first step in the hydrogeologic investigation of the property to determine what groundwater impacts could be expected and how to mitigate. That data was also used to determine the location of monitoring wells and long term pumping wells



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used to determine overall impact on groundwater. The Division of Energy, Mineral & Land Resources would review that proposed plan through the state mining permit process.

Chairman Swaim also asked about the definition of directional aquifer drawdown. Mr. Stevens explained that the drop in aquifer levels was determined by the location of fractures. The drawdown on the aquifer was determined by which direction the fractures ran in relation to the surface.

Steve Brown asked if the wells would be moved because they were affecting the water table. Mr. Stevens answered that they would not be moved during the testing itself. He explained that modeling data from test wells would be used to determine effects on the aquifer once the mine was operational and using water. The state would review these studies and would not approve the mining permit if it effected wells in the area. If impacts were found, options were available to mitigate the impacts on surrounding wells.

Resha Peregrino-Brimah asked what mitigation measures could be used to lessen impacts on the aquifer and surrounding wells. Mr. Stevens answered that the pump for the well could be set at a lower depth or the well could be dug deeper to intersect different fracture zones.

Chairman Swaim asked about a permit called the national pollutant discharge elimination system permit. Mr. Stevens answered that the federal government created a program to prevent discharge of water pollutants into surface water. That responsibility had been delegated to the state and covered runoff from the mine (ie discharge from sediment ponds). He explained that South Deep Creek was listed as impaired due to turbidity and the goal was to not increase the turbidity of that stream. He added that the discharge from sediment ponds would be monitored for compliance with state regulations. Steve Brown asked who did the collection and analyzing. Mr. Stevens answered that should be contracted to an independent sampling and analysis company.

Chairman Swaim asked the applicant to address concerns about types of traffic during certain periods of time. Mr. Terrell introduced Amy Massey to answer this question.

Amy Massey explained that the traffic study conducted followed all national and state standards and was approved by NCDOT and county staff. She explained that NCDOT standards required that studies be conducted between the peak hours of 7AM to 9AM and 4PM to 6PM. The peak hour within those timeframes was then chosen and studied. Based on concerns raised by citizens, and additional traffic study was conducted in March to determine the exact peak times for the study area. The results of that study indicated that the NCDOT standards did represent the peak times for traffic at the proposed site entrance. The peak time was 7:15AM to 8:15AM and 4:30PM to 5:30PM. Chairman Swaim asked how many additional vehicles from the proposed mine were projected to be on the road at that time. Mrs. Massey answered that a maximum of 312 daily trips projected per day once the mine had reached full production capacity. The increase in volume for peak hours was 35 trips in the morning and 26 afternoon trips.



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Mr. Brown asked about the travel path for vehicles leaving the project. Mrs. Massey answered that the projection was for 60% of the traffic to travel south on Highway 21 and 40% would travel north on Highway 21. Mr. Brown asked about the times picked for the traffic study. Mrs. Massey answered that the second study showed that the peak hours actually matched the NCDOT standard and that incorporated all types of traffic on the road including school traffic. Mr. Wagoner asked about the location of the second study. Mrs. Massey said the count was based on the site access point.

Chairman Swaim asked for additional questions from the Board and staff. Mr. Harris pointed out that one question brought up at the last meeting was the property value analysis. Mr. Terrell introduced Richard Kirkland to address that concern.

Richard Kirkland explained that he was analyzing data from Forsyth and Davie Counties to make a comparable analysis. Mr. Brown asked if a conclusion had been reached concerning impacts on surrounding property values. Mr. Kirkland explained that a conclusion had been reached but he was looking for additional data to address local concerns.

Teresa Swain asked about projected water usages based on rainfall and how a projection could be made based on something variable like rainfall. Mark Stevens answered that rainfall could not be predicted. He answered that rainfall collected would be used for dust control and in processing the aggregate. He added that the only other water use on the property would be used for potable water sites such as the restroom in the office.

Jerry Hutchens asked what the life expectancy of the quarry was and what would happen once the mine reached that point. John Cross answered that the life expectancy was 40 years and that a reclamation plan had to be filled with the state outlining what would be done with the mine with that point. Some examples given for potential usage including a water storage facility, a fishing pond, or filling the quarry back in. Mark Stevens added that the state had specific requirements for reclamation of the mine property.

Chairman Swaim pointed out that the operations plan provided by the applicant stated that water usage from wells was projected to be 250 gallons per minute. He asked if Mr. Stevens was confident in achieving that projection. Mr. Stevens answered that was a high projection but that it could be achieved but may possibly require two wells per facility.

Mr. Terrell asked for Mr. Kirkland to approach the Board and discuss his methodology. Mr. Kirkland said a paired data analysis was used in the studies that were conducted in Wake County. However data was obtained from other rural counties that he felt supported his hypothesis that quarries do not have an impact on surrounding property values.

Mr. Harris shared some questions that were raised by staff and the related answers those questions. The first question was concerning developing the operation in phases, meaning would the scope and intensity of the use progress over a period of time. Phasing was not proposed for the project.



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Questions about historic sites on the property were denoted on the site plan and questioned by staff. The NC State Historic Preservation Office determined that there were no significant historic sites located on the property that would be affected by the project.

Mr. Terrell mentioned the need for a responsible conversation with County authorities concerning the reclamation plan and how the County could be involved with that. Chairman Swaim asked if the results of those discussions could be included as conditions. Mr. Harris answered they could be as long as the applicant was agreeable with them. Mr. Terrell added that the state would also have to approve any reclamation plans.

Chairman Swaim asked the applicant for a definition of aggregate. John Cross answered that aggregate was a mixture of various rock materials that was used in construction.

Mrs. Perigrino-Brimah asked about how many mines were operated by the applicant and what their track record was for implementation of required conditions. Mr. Terrell answered that the experts present represented various companies that had worked on numerous mines. He then deferred to Jack Mitchell. Jack Mitchell explained that he was involved in the development of four frack sand sites in Wisconsin and Texas. He explained that the development of these sites was outsourced to Turnkey Process Solutions, represented by John Cross. He said that he was working on one quarry in South Carolina and one in Tennessee. But currently he was not involved in the operation of any other aggregate mines. He added that he was more involved in the real estate and investment side of the development process.

Mrs. Peregrino-Brimah asked again about the adherence to best practices by these various mines that had been developed by Mr. Mitchell and Turnkey Process Solutions. John Cross explained his background in mining development. He talked about creating a community council and how that helped address concerns from the community. He stated that the information being asked for could not be quantified necessarily. But he could get feedback from neighbors living around previously developed sites. He added that conditions placed on the property also insured that the project would adhere to those best management practices covered by Board imposed conditions. Mrs. Peregrino-Brimah asked if the best management practices exceeded those required by the state. Mr. Cross answered that they almost always did. Mrs. Peregrino-Brimah asked specifically about any violations issued by the various states where mines were operated. Mr. Cross answered that he didn't immediately have that data available, but he could obtain it and provide it to the Board. Mr. Cross added that he felt the mine would reduce overall truck traffic in the County.

Mrs. Resha-Peregrino asked if the jobs provided would be filled by Yadkin County residents. Mr. Cross answered that Yadkin County residents had been considered for positions that would become available if the project was proposed.

Jack Mitchell presented economic impact data. Twenty people would be employed directly at the quarry. Indirect, direct, induced jobs would amount to 37 to 62 jobs. He added that the salaries would be higher than the average salary in Yadkin County. 1.6 million dollars in total taxes would be generated with between \$460,000 and \$800,000 going directly to Yadkin



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County. His opinion was this would lead to a 26% tax revenue increase for Yadkin County. He stated that the quarry wanted to be good neighbors and had demonstrated that by increasing buffers and setbacks from property lines.

Chairman Swaim reiterated that it was never the intention of the Board to reach a decision that night and asked for a motion to table the request until the June 13th Planning Board meeting. Teresa Swain made a motion to table the request until the next regular meeting. Mrs. Peregrino-Brimah asked for a clarification of what additional information the Board was waiting on. Mr. Harris answered that the Board was waiting on staff's analysis of the reports and studies submitted by the applicant. Jerry Hutchens seconded the motion and the vote was unanimous in favor of the motion.

Jack Mitchell apologized for mistakenly referring to staff member Michael Harvey instead of attorney Daniel Johnson in a previous statement.

Rezoning Case 22-03: Jerry Bryant – Ireland Road

Steve Brown requested that he be recused from the Board for this rezoning request. Chairman Swaim made a motion to recuse Steve Brown. Mrs. Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion. Chairman Swaim then made a motion that alternate Sam Wagoner be activated as a voting member of the Board for this rezoning request. Mrs. Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion.

Seth Harris presented the staff report. He explained that a provision was added to the Zoning Ordinance which limited the number of times property could be divided in the RA district within a ten year period. Teresa Swain asked for a clarification on number of divisions allowed in the RR district.

Jerry Bryant approached the Board first. Mr. Bryant gave some background on his involvement with the property and the timeline of events that led up to his rezoning request. (This timeline including a notice of violation can be found in the Yadkin County Register of Deeds at Deed Book 1323 Page 339). Mr. Bryant felt that the divisions would help the tax base of the county.

Justin Somers approached the Board next. He wanted to clarify that his comments regarding this request were not reflective of the opinions of Yadkin County or North Carolina Farm Bureau. He felt that the intent of the previous property owners was that it would not be divided and that they did not want a housing development on it. He also felt that the purchase of the property was misleading at best and that there had been a lot of misinformation and lies.

Keith Nelson addressed the Board. He felt that once the property was rezoned it would become a housing development and that would not fit into the neighborhood.



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Michelle Mullis approached the Board next. She said that the previous property owner did not wish for the property to be developed as a subdivision. She felt that the transaction had been done in a wrong way and that she could not support the rezoning request.

Jared Bryant addressed the Board. He explained that Jerry Bryant had been in business since 1995. He felt that all of the houses to be built would be approximately \$20,000 and approximately 50 jobs would be created in relation to this.

Justin Somers explained that a subdivision typically led to a net loss of tax revenue due to the cost of community services provided.

Luanne Nelson addressed the Board. She expressed a need for homes in the Yadkin County area and the proposed development would address the need for affordable housing.

Deborah Moser addressed the Board next. She explained that she had recruited nurses for jobs in the area and helped them find housing in the area.

Chairman Swaim brought the public discussion to a close and began Board deliberations. Staff reminded the Board that all the uses allowed in the Zoning Ordinance had to be considered, not just the one the applicant was proposing. Mrs. Peregrino-Brimah verified that any proposed major subdivision would have to be reviewed before approval. Mr. Harris answered that it would.

Michael Harvey explained to the Board the five protocols that should be considered during deliberations. Chairman Swaim reviewed those five policies.

Chairman Swaim pointed out that the nearest similar zoning district was further away than other similar rezoning requests. Mr. Harvey reiterated that the five policies must be considered in determining consistency with the 2011 Land Use Plan. Discussion of the five policies and how they related to the case commenced and are summarized in the consistency statement.

Chairman Swaim asked if there was a maximum number of times a request for rezoning could be submitted. Mr. Harris answered that if the request was denied, the applicant could reapply within one year.

Sam Wagoner made a motion to deny the request and to send a statement saying the request was not consistent with the Land Use Plan be submitted to the County Commissioners. Teresa Swain 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. Resha Peregrino-Brimah seconded the motion and the vote was unanimous in favor of the motion. The meeting was adjourned at approximately 9:45PM.



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Respectfully Submitted,
Seth Harris, Zoning Officer

Dean Swaim, Chairman

Approved on _____