



Cabarrus County Government

AGENDA

Cabarrus County Planning and Zoning Commission Meeting
May 19, 2011 – 7:00 p.m.
Board of Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval April 2011 Minutes
3. Approval of Findings of Fact for Petition-CUSE20011-00004 – WSACC, Conditional Use Permit
4. New Business – Planning Board Function:
 - A. Zoning Atlas Amendment - Petition RZON2011-00002 – Request to rezone property located 7450 Poplar Tent Road (PIN#4690-36-3816) from Limited Industrial (LI) to General Industrial (GI) Conditional Use
5. **Directors Report**
Second reading of the Planning and Zoning Commission Rules and Procedures to change the meeting day.

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Mr. Todd Berg, Chair, called the meeting to order at 7:00 p.m. Members present, in addition to the Chair, were: Ms. Mary Blakeney, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Ms. Emily Knudson, Mr. Tommy Porter, Mr. Richard Price and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were, Mr. Jonathan Marshall, Commerce Director, Ms. Susie Morris, Planning and Zoning Manager, Ms. Colleen Nelson, Senior Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Approval of April 21, 2011 Minutes

Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Tommy Porter to **APPROVE** the April 21, 2011 meeting. The vote was unanimous.

Approval of the Findings of Fact for Petition CUSE20011-00004 WSACC, Conditional Use

Mr. Tommy Porter, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** the Findings of Fact for Petition CUSE20011-00004 WSACC, Conditional Use. The vote was unanimous.

New Business – Planning Board Function

The Chair introduced Petition RZON2011-00002, Zoning Atlas Amendment – request to rezone property located at 7450 Poplar Tent Road from Limited Industrial (LI) to General Industrial (GI) Conditional Use.

The Chair swore in Ms. Susie Morris, Ms. Colleen Nelson, Mr. Alex Rankin, Mr. David Ford and Mr. Ryan Lowder.

Ms. Colleen Nelson, Senior Planner, introduced Zoning Atlas Amendment Petition RZON-2011-00002. The applicant is Vulcan Materials, Agent for the Owner, Five Cousins, LLC. The parcel is 30 acres, located at 7450 Poplar Tent Road, Concord, NC. (PIN #4690363816) The existing zoning is Limited Industrial (LI) and the proposed Zoning is General Industrial (GI) Conditional Use.

She said the rezoning is requested as a means to bring the current use into compliance with the County zoning and the surrounding Concord zoning. The site is

currently occupied by two legally non-conforming asphalt plants. The proposed rezoning limits the property to the existing use of the asphalt plant and proposes adding a concrete plant as a permitted use. The property is surrounded by the City of Concord on all sides except for one little corner which is County owned (she showed the area on the map that is owned by the County). She said for the most part it is surrounded by I-1, I-2, or C2 or County LI.

The adjacent land uses include heavy industrial quarry operations, vacant properties, a fire station, a truck terminal, and the Concord Regional Airport.

She said agency review comments were:

NCDOT does not require a traffic impact assessment at this time; a driveway permit is required. They must coordinate with NCDOT regarding pavement structure on Goodman Road, to determine what measures will be necessary to strengthen the pavement structure. The City of Concord and City of Kannapolis are pursuing an agreement to extend the Goodman Road corridor, therefore an 80' minimum right of way is being proposed.

Erosion control permits and Stormwater permits are required for any project that disturbs more than one acre. The application shows the project area is +/- 5.93 acres. The application for Erosion control permits or Stormwater permits have not been submitted.

The City of Concord has approved the property for temporary water service without annexation; however, no contract has been signed and no utility fees paid.

Ms. Nelson said this is a conditional use rezoning, two actions are required; one is for the rezoning and the other is for the conditional use permit.

The proposed zoning is consistent with the Western Area Plan designation of Industrial. The current use on the property is a legal non-conforming use. The proposed zoning designation of General Industrial will bring the current use on the subject property (asphalt plant) into compliance with the Cabarrus County Zoning Ordinance.

Should the Board of Adjustment grant approval of the rezoning and consider issuing the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

1. Site plan review and approval required subsequent to Board of Adjustment approval to ensure compliance with applicable development requirements and conditions. (Zoning)
2. Granting order, stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property. (Zoning)
3. Applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting and shall comply with applicable terms of permits, including recordation of documents as required. (Zoning)

4. Expansion of project, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
5. Applicant shall provide copies of all required state, local, and federal permits for the permanent project file prior to zoning permitting. (Zoning)
6. Applicant shall provide a copy of executed utility contract for temporary utility service with the City of Concord and receipt for fees paid prior to zoning permitting. (Zoning)
7. Applicant shall coordinate with NCDOT regarding the pavement structure on Goodman Road to determine what measures will be necessary to strengthen the pavement structure. (NCDOT)
8. A driveway permit will be required. (NCDOT)
9. Site plan must be revised and submitted prior to the zoning site plan review process. These revisions are to include the following provisions outlined in the Cabarrus County Zoning Ordinance. (Zoning)
 - a. Parking calculations must be included on the plan. These calculations must be in accordance with those outlined in Chapter 10, Table 10-6: Off-street vehicular parking space requirements. (Zoning)
 - b. Impermeability ratio must be calculated and noted to include the entire property in accordance with those outlined in Chapter 5 Section 5.9: Non-residential development standards. (Zoning)
 - c. Landscaping calculations must be calculated and noted, as per Chapter 9 of the Cabarrus County Zoning Ordinance. (Zoning)
 - d. Site plan must include the proposed 80' ROW for Goodman Road and include any changes to landscaping in regards to the proposed widening. (City of Concord)

The Chair opened the public hearing.

Mr. Alex Rankin, P.O. Box 268, Concord, NC, CESI (Concord Engineering Surveying Inc.), addressed the Board. We are the professional engineering firm that prepared the application and the preliminary site development plan. This property is adjacent to the Vulcan Quarry. He said the two legal, but noncompliant, asphalt plants currently on the property are supplied materials by Vulcan. The purpose of this rezoning is to install a batch concrete plant which will be used to supply most all of the concrete for the widening of Interstate 85.

He said the unique thing about this project is, it will eliminate a significant amount of traffic on Poplar Tent Road and other roads that would otherwise occur if this plant went somewhere else. He said the rezoning brings the property into compliance and the conditions that staff has requested are no problem because they are conditions that have to be met with specific site plans to get a building permit to put the plant up anyway; so none of those are an issue.

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Mr. David Ford, Area Manager, Vulcan Materials Company, 11020 David Taylor Drive, Charlotte, NC, addressed the Board. We mine aggregates, more specifically granite for highway and building construction. We have been at this location since 1987, which meant someone in our organization in the early 80's thought Cabarrus and Concord was going to be a special place and is why they located here. It is on 350 acres and they currently have 30 employees.

More specifically, the 30 acre parcel is under a long term lease with the Harris family out of Burlington. He stated the history of this parcel; Blythe construction moved there in 1988 with some road projects and later APAC, (which is now Blythe Development) located an asphalt plant there in 1993.

He said there are a number of benefits of having asphalt and concrete plants on our site:

1. They are located in and behind our berm which is a natural sound and noise barrier from adjoining businesses.
2. All the aggregate is hauled internally. Asphalt is 95% rock, so all of their raw material is hauled internally between us and them. It is a benefit not only to public safety, but is also a cost savings. It lowers cost for all the asphalt being consumed in Cabarrus County and Concord.
3. It would bring two existing asphalt plants into compliance and also allow for a concrete plant which is specifically for two projects; the larger one being the I-85 widening which was awarded to Lane Construction.

Mr. Ryan Lowder, Lane Construction, 25619 Austin Road, Albemarle, NC, addressed the Board. He said the main reason they want to put their plant inside of Vulcan's Quarry is to reduce traffic. They are going to haul roughly 265,000 cubic yards of concrete to the pavement structures on both the I-85 widening and the I-485 interchange; that is approximately 26,000 truckloads of concrete.

If we set this plant offsite, we would have to haul 26,000 truckloads of aggregate and sands. He said 95% is going to be aggregate and comes from Vulcan, so it makes sense to have it within the quarry.

They want it put off of Goodman Road, because they have obtained an access through the property adjacent to Vulcan, to access the right of way of I-85 and will be crossing over there and making an access bridge to get into the median of the interstate. (He showed an overview of the I-85 widening, and the access road they plan to put in) He said they are putting the bridge in solely for accessing the median of I-85 and the shoulders. They plan to haul all of their concrete directly up onto the ramp and down into the median to pave the road. Once the road is paved, we will take the median ramp out and they plan to make ramps to come down the side to access the main line; to pour that.

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He showed a rough site plan showing the Vulcan Quarry and the two asphalt plants. He said they are planning to go between the two and come out of the existing driveway that Blythe Development is using, turn left and go up to the first grassy pasture and make an access road through that out to the interstate. He showed pictures of the interstate before the bridge is built and the steps on how they build it and how they are going to access all of their traffic through there.

Mr. Lowder said out of the 26,000 loads of concrete that is coming out of Vulcan's Quarry, 80% will come across the access bridge. He said the rest will have to go outside on to Poplar Tent. They will pave the median, they will tear out the ramp and come back in and pour it in. He said by using the access route, it will cut back on the use of trucks on the road and it mainly increases the safety in the area and reduces the wear and tear on Poplar Tent Road.

Mr. Fesperman asked what the completion timeline was.

Mr. Lowder believes I-85 is supposed to be complete in October 2013. On the interchange job, they are supposed to have I-85 opened up October 2013, but the whole project will not be complete until June 2014. It is a 2 ½ to 3 year project and is a lot of work in a short amount of time.

Mr. Berg asked what will happen to the concrete plant when the work is done.

Mr. Lowder said it is a mobile plant and we will be break it down and send it to the next big concrete paving job that they get.

Mr. Shoemaker asked if there was an interval of time that they would have to use Poplar Tent Road.

Mr. Lowder said yes, we will have to supply some concrete down to the interchange job. He said it can't all come down the median; it is two separate projects. The concrete pavement that has to be poured for the interchange job will have to come down Poplar Tent. He said they are also replacing the Poplar Tent Bridge.

Mr. Ensley said the temporary access bridge is at mile marker 53, he lives off Exit 54. He asked how close it is going to come.

Mr. Lowder said it is between Poplar Tent and Coddle Creek.

The Chair closed the Public Hearing.

The Chair asked Mr. Rankin if he acknowledged that he was familiar with the conditions that staff has suggested and if the applicant is okay with them as well.

Mr. Rankin said yes.

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Mr. Shoemaker thinks it is a very useful process and a good way to apply the concrete and the aggregate. He thinks that the Vulcan addition and making the asphalt plan legal or useful is a step in the right direction. He thinks it will help them meet their timeline and he does not see any reason to deny.

The Chair reminded the Board that this will require two separate votes, one regarding the rezoning and a one regarding the conditional use plans.

Mr. Larry Ensley would like to commend the applicant on the presentation. He said it looks like it is minimizing all traffic impact and he wanted to commend them for that.

There being no further discussion Mr. Larry Ensley **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **APPROVE** Petition RZON2011-00002, Request to rezone property located on 7450 Poplar Tent Road from Limited Industrial (LI) to General Industrial (GI) Conditional Use, with the nine conditions recommended by staff. The vote was unanimous.

Consistency Statement – The proposed rezoning is consistent with the Western Area Plan and is reasonable and in the public interest. There being no further discussion, it was the consensus of the Board to **APPROVE** the Consistency Statement.

There being no further discussion, Mr. Tommy Porter, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** Petition, RZON20011-00002 (Conditional Use) with the nine conditions recommended by staff. The vote was unanimous.

(See findings of fact on page 7)

**FINDINGS OF FACT
CONDITIONAL USE PERMIT APPLICATION
APPLICANT: VULCAN MATERIALS COMPANY
GOODMAN ROAD
RZON 2011-00002**

FINDINGS OF FACT

1. The use as proposed is not detrimental to the public health, safety or general welfare.
 - a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*
 - b) *The proposed use adds no new additional burden to the property that would affect the public adversely.*
2. The use as proposed is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc.
 - a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*
 - b) *All such facilities, which are not specifically required for this additional use, are located nearby.*
3. The use as proposed will not violate neighborhood character nor adversely affect surrounding land uses.
 - a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*
 - b) *The proposed use consistent with the uses immediately adjacent to the property.*
4. The use as proposed will comply with the general plans for the physical development of the County as embodied in the Zoning Ordinance or in the area development plans that have been adopted.
 - a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*
 - b) *The proposed use is consistent with the uses immediately adjacent to the property.*

Directors Report

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board. She said the first order of business is the second reading to amend the Planning and Zoning Commission Rules and Procedures, to change the meeting day to the second Tuesday of each month at 7:00 p.m. She said the part about the alternate day for the meeting has been deleted. If there is a holiday or something like that we will accommodate as best as we can. The deadline for applicants would be the second Tuesday of the month.

She said as of right now, no cases have submitted for the June meeting. If any text amendments become ready there will be a meeting in June, if not the meeting will be cancelled and we will let you know for sure.

There being no further discussion, Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** the amendment to the Planning and Zoning Commission Rules and Procedures, to change the meeting day of the Commission to the Second Tuesday of each month at 7:00 p.m. based on the proposed amendment as written. The vote was unanimous.

Ms. Morris asked the Board of Commissioners to make a plea on Monday night for applications for the two Planning and Zoning Commission positions that will open in August. She has one application for the Kannapolis position, but she is not positive if that application is still active or if it has expired. She asked the Board to encourage anyone they may know who may be interested and who lives in the Eastern Area or in the Kannapolis Area to submit an application.

We are at the point where we are not that busy with rezonings; though you all have had a steady stream. She said with the text amendment project, and the rewrite, that will be a good project. She asked if there were any more volunteers to be on the text review committee, Mr. Divine, Mr. Shoemaker and Mr. Ensley have already said they would be willing to help out. (There were no other volunteers).

Ms. Morris said there are some things related to planning and zoning that are being talked about in the legislature. One has to do with farms and those not being annexed in. They are still talking about the moratorium on annexation. She said Concord received special legislation in 2010; they call it their donut-hole legislation. She said they can and they are moving forward with the pockets that are completely surrounded by the City of Concord; they will be effective in 2012. She believes that Concord feels that their legislation stands. The local legislation in session law stands prior to the other legislation that is happening.

She said the Vulcan property is one of those pockets, and in June it will be considered by the City of Concord for annexation. They will set the hearing in July, it will be considered and voted on and then it will be effective in 2012. She said as long that moves forward anything else that happens on this property probably would end up going through the City of Concord. If you hear anyone talking about this big annexation that

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Concord is doing, that is what it is. She said it is not a large section of the City or of the County; it is kind of pieces and parts that are surrounded by the City limits.

The Chair asked when the hand off would be. He said obviously, there are a lot of conditions and a lot of stuff that they need to come back with. He asked if the county would still continue to follow it and finish it.

Ms. Morris said yes, we would continue to process the application. At this point the effective date of annexation is July 2012, so we would still have jurisdiction over it. She said another parcel that is included in the annexation is the Overcash parcel off of Ivy Cline Road; the other concrete plant. They are trying to fill in some of those gaps. She said Harrisburg and Kannapolis were also added onto that legislation, and at this point she does not know if they are planning to move forward with any action on that or not.

Ms. Morris informed the Board that the new County website will go live tomorrow, May 20, 2011. She said the Board's contact information will be on the website. She introduced Mr. Jonathan Marshall, Commerce Director.

Mr. Richard Koch, County Attorney informed the Board that Mr. Ben Small has appealed his Variance to Superior Court. He said there has been no word on the APFO appeal.

There being no further discussion, Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Tommy Porter to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 7:45 p.m.

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APPROVED BY:

Todd Berg, Chairman

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager