

FILED

2020 JAN 17 PM 1:22



**Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting**

December 18, 2019

6:00 p.m.

Benton County Circuit Court Building
Division 1 Courtroom
102 Northeast A Street
Bentonville, AR 72712

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 p.m. by the Planning Board Chair, Mr. Tucker.

Roll Call: Bob Bracy, Ron Homeyer, Terry Maienschein, Stephen Torrez, Ashley Tucker and Rick Williams were present. Sean Collyge was absent.

Staff present: Taylor Reamer – Director of Planning, Tracy Backs – County Planner, and Joshua Bryant – JP Planning Board Liaison

Public Present: 81 people signed the Sign In sheet

Disposition of Minutes: December 4, 2019

Mr. Williams motioned to approve the December 4, 2019, Planning Board Meeting minutes. The motion was seconded by Mr. Homeyer.

Motion approved: 6 – 0

General Public Comment: None

Mr. Maienschein motioned to amend the December 18, 2019, agenda to move the Hall Setback Variance, case no. 19-252, to before the Covington Quarry Site Plan Review, case no. 18-252. Mr. Williams seconded the motion.

Motion approved: 6 - 0

New Business:

- I. Hall Setback Variance, case no. 19-252, 23644 Raines Road, Siloam Springs; 18-15701-000

Representative: Delbert Hall, 23644 Raines Road, Siloam Springs

Staff gave a presentation on the Hall Setback Variance, case no. 19-252, 23644 Raines Road, Siloam Springs; 18-15701-000

Mr. Hall has nothing more to add.

2020 256

FILED

2020 JAN 17 PM 1:23

Board comments: None.

Public comments: None

Mr. Williams motioned to approve the Hall Setback Variance. Mr. Homeyer seconded the motion.

Motion approved: 6 - 0

Old Business:

- I. Covington Quarry Group Site Plan Review, case no. 18-252, 1425 North Old Wire Road, Lowell; 18-04070-001

Representative: Tim Sorey, Sand Creek Engineering, Ken Booth, Sand Creek Engineering.

Also, Mark Hodge, PA of Barber Law Firm, representing Anchor Stone and Stephen Wood, PA, representing the property owners, the Covington's

Staff gave a presentation on the Covington Quarry Group Site Plan Review, case no. 18-252, 1425 North Old Wire Road, Lowell; 18-04070-001

Mr. Sorey: Furnished reports to the Benton County Planning Board in answer to all the previous questions, concerns and the items requested of the applicant. There are multiple experts in attendance representing the various reports that were provided to the Planning Board (see below).

Mike Homan, Terracon, regarding soil borings

Josh Elson, Terracon, regarding karst topography

Derek Blackshare, Blackshare Environmental Solutions, regarding sound/noise study

Tim Hill, ATOKA, environmental consulting, regarding the aquifer/water quality study

John Bowling, White Industrial Seismology, Inc., regarding blasting

Ernie Peters, Peters & Associates, Inc., regarding the traffic engineering study

Mike Berryman, Anchor Stone, Regional Manager, quarry operations

The efforts of Sand Creek Engineering to provide an alternative access to the quarry versus using Old Wire Road.

Board comments:

Mr. Bracy: inquired as to noise and air pollution. Regarding noise, Mr. Bracy is most concerned with the type of noise versus the noise decibels. The noise of constant machinery would become an annoying type of interference. What are the applicant's plans to mitigate the type of noise cause from machinery?

2020 257

FILED

2020 JAN 17 PM 1:25

BERRYMAN
QUALITY CONTROL
DITCH CREEK

Mr. Blackshare: In the noise 'world', you regulate by decibels. Nuisance noise has a different source and different frequencies. In noise measurement, you measure frequency based on audible noise. The only noise regulations that exist are at decibel levels.

Mr. Bracy: Regarding air pollution, how is the dust that will be emitted in the performance of crushing rock, be mitigated at the site and air borne?

Mr. Berryman: Dust mitigation is done with water misting on the conveyors above the crushers.

Mr. Bracy: Would the water misting turn the rock dust into a hard substance, like cement?

Mr. Sorey: There are specialized screens made not to bind up the mesh of the screens.

Mr. Bracy expressed concerns regarding dust emitted from the dump trucks hauling rock to various sites.

Mr. Sorey: That would be more for the local and state authorities regarding load weights, etc.

Mr. Bracy: So, you don't feel that that is the responsibility of those who generate the product and how it is transported? I assume any public trucker could transport material from this site.

Mr. Sorey: Right.

Mr. Bracy: And you say, that is the responsibility of the transporter?

Mr. Sorey: Yes. Once the material leaves the site on a truck, the responsibility of Anchor Stone is over. Loads on trucks are dampened.

Mr. Bracy: Trash haulers are responsible for all the trash that ends up on the highway from the transport of trash. Trash haulers will come out and pick up this trash.

Mr. Sorey: Anchor Stone makes the material, sells the material and loads trucks that are privately owned by various people. Those trucks are not owned by Anchor Stone. The regulations that apply to any other hauler should/do apply to this situation as well.

Mr. Williams: Questions/comments regarding the area aquifers.

Mr. Hill: (licensed professional geologist for the state of Arkansas); 217 Scenic Drive, Hot Springs, AR

There are major aquifers that cover regional areas. Across the state, ground water is everywhere. There are both local and regional aquifers. What we are dealing with here, regarding the proposed quarry, is a local aquifer servicing

FILED

2020 JAN 17 PM 1:23

BEES, J. L. JR.
COUNTY CLERK
CENTRAL RECORDS

domestic wells. We are not dealing with one of the six major regional aquifers. The six major aquifers have their own set of protections that you would not find commonly for local aquifers.

Mr. Williams: Is the monitoring continuous of these aquifers?

Mr. Hill: Correct. If you were working in an area installing wells near a major aquifer, you would have additional monitoring requirements by the state.

Mr. Tucker: Is your statement that you are not required to install a permanent well at this location for aquifer monitoring?

Mr. Hill: Aquifer monitoring would not be required by the state for quarry operations.

Mr. Tucker: And there are basically two levels of aquifer here: the shallow and the deep. We have both. Could you describe how the water flows between this site and the surrounding areas? Is it emitting from this site or is it emitting somewhere else and traveling through this site?

Mr. Hill: Rain water is a recharge from the hill tops and the water stabilizes at the water table at some depth below the surface and then flows to drainage areas. Based on drilling penetration rates, I would estimate a fracture zone of being a couple of inches. We incurred that at about a depth of 81'. We drove right through the center on top of the hill at the project area. We also encountered another fracture zone at about 3" and that was about 4-1/2 gallons a minute, for a total of 5 gallons a minute. We continued drilling at about 180' below the surface. The elevation at the top of the hill was 1,230' and at 180' below that we entered a black shale through to about 300'. We did not find any type of production zones at all. There is a local water table near this, based on the local area wells, at 125' to 150' below the hilltop of the proposed quarry area.

Mr. Tucker: That seems to match the level of the upper. If you were to estimate the type of nexus between the limestone quarry and the well, what is the most likely path of contamination? Would it be from the limestone operations or would it be some other type of contamination that could possibly enter that well?

Mr. Hill: Typically, limestone does not have a contaminant impact. If limestone operations got into an aquifer, you would have to de-water that aquifer to keep the pits dry. That might have impacts on other users of that same aquifer. But it will not generate contaminants like acid rain on a coal mine, for example. If there was an aquifer there at the site, we would have encountered it during mining. We could increase the pH, becoming a little alkaline. This would have no domestic impact on water quality. Because this site will not be encountering ground water during mining, you will not have to de-water the pits. They will have to de-water the rain water so they can mine but they won't be de-watering aquifers for mining because they won't encounter one.

4
2020 259

2020 0505

FILED

2020 JAN 17 PM 1:23

BETTY HARRIS
COUNTY CLERK
CENTERS COUNTY, AR

Mr. Tucker: Okay, that's what I wanted to know.

Mr. Bracy: Will the quarry/pit be reclaimed and if so, how? My experience is that the pits are not filled but, instead, becoming deep bodies of water or would become a dump in order to fill the hole. I've heard rumors of a golf course going in.

Mr. Sorey: The reclamation process is part of the permitting process through ADEQ. The phases of this mining operation allow for progression to the next phase. For instance, they would be allowed to move to phase 2 after mining phase 1; however, they could not move to phase 3 if phase 1 wasn't reclaimed. The reclamation plan has to be approved through ADEQ. They don't have to have the reclamation plan on the front end and there is no Arkansas regulation that demands that. What has been specified for their reclamation is to have topsoil and seeded. That is the minimum requirement of ADEQ as far as a reclamation plan. There can be other uses that would be presented to ADEQ at that time. There is no intention of turning this into a golf course. We have already obtained the permit through ADEQ. We are not proposing to rebuild the hole. We have to handle the reclamation as the permit allows. If there is some economical advantage and reason to refill the hole or do something with the hole other than what has already been given to ADEQ. The only reclamation plan that has to be asked for is through ADEQ.

Mr. Tucker: To take that one step further, that reclamation plan possibly would have to come back before the Board as well because it would be a change in use. Just so everyone is clear, you have lived next to an open mine for 115 years. That's, in part, why we are not discussing the use. It's been there for 115 years.

Mr. Sorey: Yes, any type of development will come before this body in the future and will have to go through the approval process.

Mr. Tucker: Regarding the permits that have already been obtained, two of those permits require notice and observation of the site. I don't have any indication that those government agencies provided that. Do you have any of those notices? Specifically, the mining permit was to require a public viewing of the site. I don't have a record of that. It's possible that the State issued it on-line or through the *Arkansas Democrat Gazette*.

Mr. Sorey: I don't know that I do. I would have to ask Ken Booth if he does.

Mr. Booth indicates to Mr. Sorey that they have that information in their files.

Mr. Sorey: I am not sure if Mr. Reamer has that; but we can provide it.

Mr. Tucker: Does the route to Old Wire Road, does provide access to the metal building fabrication facility to the northwest?

Mr. Sorey: That metal building facility has semi-trucks going to it that come up and down Old Wire Road. Part of this proposed access road is in an easement

FILED

2020 JAN 17 PM 1:23

agreement with them to cross the corner of their property, providing access directly out to the highway.

Mr. Tucker: So, it would change the access to that industrial facility?

Mr. Sorey: Yes.

Mr. Tucker: Is that planned to be paved?

Mr. Sorey: Everything that is on private property, will be paved. We had a meeting last week with the County Judge and the Benton County Road Department to go over that route and allow for them to give us comments/questions. That was one reason why Ernie Peters' report came in so late because questions arose about stop signs, etc. Basically, in that conversation, there wasn't a requirement that was asked of us to pave Dogwood or Cross Hollow or pave across Old Wire Road. My client is fine with providing paving everything that is a private road.

In the situation of trucks producing dust, what we have is a very different situation that what has been occurring on Old Wire Road due to the fact that you have short distances, stop signs and you don't have the ability to get up to speed to create those types of dust problems on a dirt road. So, I don't know that there will be a requirement to pave Dogwood or Cross Hollow from either of those private drives. We are not opposed to it. But if this Board asked us to do it or the County Road Department asked us to do it, I need someone to request that. We are not planning on paving Old Wire Road due to the concerns of the historical nature and the sensitivity of Old Wire Road.

Mr. Tucker: The road between Old Wire Road and your site is a private drive, not intended to be made public.

Mr. Sorey: Correct. It will be gated at a certain level with hopes of developing that land in the future. The gates will provide access to and from the quarry.

Mr. Ernie Peters comes to the podium.

Mr. Tucker: The four-way stop on Old Wire Road, is that something in your opinion that would be approved, recommended or is there some mechanism that would trip the number of trips that would require a four-way stop?

Mr. Peters: It is my recommendation that the intersection of Dogwood and Old Wire Road be a four-way stop for safety reasons with the concurrence of the Benton County Road Department. They would be the authority that would install and maintain the stop signs and they have to be in agreement of that. The reason I recommend that is that due to the vegetation, curvature of the road and the road alignment of Old Wire Road, the sight distance is limited at the Dogwood intersection. To mitigate that, requiring vehicles to stop, allows for safe passage of vehicles without having to worry about there being a clear line of sight for the vehicles approaching the intersection.

FILED

2020 JAN 17 PM 1:23

Mr. Tucker: How far is it between the adjacent streets? Are you separated enough from the adjacent street that the stop sign would be permissible under the County regulations?

Mr. Peters: Yes, I don't think that is a problem. The distance is fairly short. We are talking about less than a tenth of a mile. Traffic would cross Old Wire Road and then get on the private haul road that departs Dogwood, west of Old Wire Road.

Mr. Tucker: Thank you. My last question is about your historic analysis. Can the person who did the historical analysis give a brief summary of it? Specifically, regarding the historic nature of the site and the potential for historic artifacts on the northern road. Would we expect them to be the same?

Mr. Sorey: There was an archeological analysis done by the property owner back in 2018. The new analysis was done, I believe, by the Cherokee Nation. It was done primarily for Old Wire Road. There is a comment in the analysis that they (Cherokee Nation) were not allowed access onto the site but no one ever asked for access onto the site. We have right of way that was evaluated in their report. Which, other than our crossing at Cross Hollow and Dogwood, we are not going to be on Old Wire Road. So, all the in and out truck traffic will use the private drive, the short section on Cross Hollow and the short section on Dogwood.

Mr. Bowling comes to the podium.

Mr. Tucker: Could you talk about the potential for chlorate contamination from the chemicals used in blasting to either cause permanent damage to the site or to potentially leak into the aquifer?

Mr. Bowling: *He speaks of the chemicals associated with explosives used in blasting.* The producer of the blasting product would have to answer that question. We could get this information from the provider.

Mr. Tucker: Is it something that could be monitored?

Mr. Bowling: As soon as we know who the company is going to be and the materials that will be used in blasting, we could definitely provide the precautions that would be put into place to make sure it is not released into the environment. We could also discuss, if there are releases, what are they and what are the remedies.

Mr. Sorey: Mr. Tucker, are you asking more if it would contaminate are wells and aquifers?

Mr. Tucker: Chlorate contamination prohibits future residential use, or use as daycare, school, medical, etc. For a long-term reclamation standpoint, I think this is something important to understand and to be able to know that it is not going to create a situation in the future where the site could not be reclaimed and would limit

FILED

2020 JAN 17 PM 1:20

the ability to use the site in the future. What about propagation of the blasting debris into adjoining properties?

Mr. Bowling: Typically, in a quarry operation, you drill a series of bore holes in a spaced-out pattern. The powder company will come in and load those holes to a specific amount of explosive. When the explosive is detonated in that confined hole, the vast majority of it is a very quick chemical reaction which produces heat and pressure. The pressure is what fractures the rock. The vast majority of the energy is used just around that bore hole. There is some residual energy left that is being spread out down into the earth and across the earth in an ever-increasing area. The vibration level has to decrease in distance.

Mr. Tucker: Is there one area that would potentially have a higher impact just because of the type of geological features between the site and that particular residence or adjoining property?

Mr. Bowling: A typical quarry blast only lasts a second or two. There's just not enough energy there to produce a long-term affect. Amplitude decreases. It's not enough to affect structures but the structures will respond. A building will return to its original position after a blast wave passes by. Expansion and contraction of a building throughout the day is comparable. The blaster will take nearby structures into account when they design a blast shot so that the blast produces the rock pile for the crusher but not cause any detrimental affects to the nearby structures. Those that do blasting have licenses that need to be maintained. Blasting is a strict liability profession. They follow the rule of the law.

Mr. Bracy motioned that public comment be reopened. Mr. Torrez seconded the motion.

Mr. Williams: Requested that comments pertain strictly to the new information that has been added at this meeting by the applicant, not to rehash what was discussed previously.

Motion approved by a procedural show of hands: 6 – 0

Public Comment:

Dan Stevens, 13595 Frisco Church Road, Lowell
Focus of comments: air pollution from rock quarries and health issues as a result of living near a quarry; dust creation

Jade Edster, 987 North Davis Street, Pea Ridge
Focus of comments: hauling by private contractors taking proper routes

Ellen Turner, 102 Ruth Lane, Rogers
Focus of comments: location of schools near the quarry; dust, blasting, truck traffic; karst geology, ground water, wells, aquifers; missing is missing in reports provided to the Planning Board

FILED

2020 JAN 17 PM 1:23

STATE OF ARKANSAS
COUNTY OF SEVEN
RECORDED

Kathy Saldivar, 800 Grandy Place, Lowell

Focus of comments: seven schools within a 10-mile radius of the quarry; poor air quality as a result of the quarry operations

Jana Della Rosa, Arkansas State Representative for a large portion of Lowell (not where the quarry is located but very close to it)

54095 Pleasant Way, Rogers

Focus of comments: number of citizens who have contacted her regarding this issue; nearby uncontained dumps closed in late 1970's/early 1980's

Bethany Rosenbaum, 414 North Old Wire Road, Lowell

Focus of comments: archeological survey study (2006 and 2008), historical significance of entire area, not just the roadway; incompatibility of land uses in the area; efforts of area citizens opposed to the quarry

Karen Davis, Community Development Director, Lowell

Focus of comments: quarry property is in Lowell's planning area; request for denial of application within the Lowell planning area; problems with truck traffic

Hillary Hagan Jones, 12590 Cross Hollow Road, Rogers

Focus of comments: Quarry would negatively affect their spring and water used for livestock

Jon Comstock, 22 Ravenshoe Road, Rogers (candidate for District 96)

Focus of comments: incompatible land use; outcry of area citizens against the quarry; affect to water quality

David Beeman, 1415 Concord Street, Lowell

Focus of comments: property values; water wells; air quality

Daniel Husband, 413 Bluff Drive, Lowell

Focus of comments: land use compatibility; nuisance noise

Marin Miller, 1110 Honeysuckle Street, Lowell

Focus of comments: affect of area aquifers; new road plan for the quarry; affecting historical area; truck traffic; land use compatibility

Anthony Kaserouski (spelling?) 606 Concord Street, Lowell

Focus of comments: who has responsibility of the checks and balances of quarry operations? financial, emotional, physical costs of the quarry to the community; risk vs. reward of the quarry to the community

Scott Dilley, 800 Pennington Street, Lowell

Focus of comments: control of the trucks, driven by independent contractors, after they are loaded; safety on the roads; dust

Steven Edster, 987 North Davis Street, Pea Ridge

Focus of comments: water well protection

2020 264

FILE

2020 JAN 17 PM 1:23

Michael Saldivar, 800 Grandy Place, Lowell
Focus of comments: land use incompatibility

Sandra Edster, 1111 North Old Wire Road, Lowell
Focus of comments: history of lime mining in the area; dust

Scarlett Wilson, Cross Hollow Road, Rogers
Focus of comments: emotional and spiritual attachment to land

Public Comment Closed

Mr. Tucker: Regarding the comment by the city of Lowell, the law states that the Benton County Planning Board is obligated to uphold the laws that are set forth by the Benton County Quorum Court. We can not adhere to the laws of the City of Lowell. The Benton County Planning Board's jurisdiction cover this parcel of land; therefore, this application will be heard under the jurisdiction of the County of Benton. The City of Lowell does not have territorial jurisdiction at this time.

Additionally, our regulation does not allow us to do a benefit analysis. We do not have zoning; therefore, there is no benefit analysis. It is only, do they meet both the written and spirit of the ordinances of Benton County?

Mr. Wood (PA for David Covington) comes to the podium.

Mr. Wood: Represented Mr. Covington in 2006 regarding the red dirt mine. Comments heard tonight are similar to those heard thirteen years ago (i.e. noise, pollution, traffic, safety, water wells, historical significance of the area, property values). In the past thirteen years, Mr. Covington has received three informal complaints about the red dirt mine, two about dust on the roads and trucks appearing at the red dirt mine before 7 a.m. (on a Facebook post). When the Covington's learning about these situations, they set about to correct them. The speculations back in 2006, proved to be just hysteria. In 2008, Benton County entered into a consent judgement with Mr. Covington's company. Benton County agreed to permit the industrial use of the property back in 2008. Mr. Covington has scrupulously complied to the terms of that consent judgment because: (1) if you don't comply with a consent decree, the Judge can hold you in Contempt of Court; (2) Mr. Covington has been doing business in Benton County for 40 years. His family has been building up Benton County (i.e. streets, subdivisions, shopping developments).

When Mr. Covington does something, he does it right. He doesn't want his reputation affected by things that are done in his name. In 2002, Mr. Covington paid for a sign that was erected at the intersection of Cross Hollow and Old Wire Road. He has been a good steward of those 135 acres. That property has been used to mine limestone longer than anyone in this room has been alive. Discussion of a community called, 'Limedale,' between Lowell and Monte Ne on a 1909 map of Benton County. Lime powder (200,000 – 200-pound barrels) was shipped out of Limedale each year. 75 employees worked there. Mr. Covington has been a good steward of the current red dirt mine.

FILED

2020 JAN 17 PM 1:23

STONY HOLLOW
CORPORATE CENTER
BENTON COUNTY

Mr. Hodge (PA, Barber Law Firm, representing Anchor Stone) comes to the podium

Mr. Hodge: As Mr. Tucker pointed out, there is not a benefit analysis that is built into the regulations that the Benton County Planning Board is charged with enforcing. During the period of the consent decree (2006 – 2008) there was public debate voiced to the Benton County Planning Board at that time. In 2014, the Benton County Quorum Court adopted the new Planning and Development Regulations. In those regulations, if you look at the industrial uses, one of the industrial uses is a 'rock quarry.' Throughout the various land uses mentioned in the Regulations there are special criteria attached to certain types of uses. If you look at the section that includes 'extraction use' (i.e. a quarry) there is no special criteria attached to that. Extractions are discussed on page 6-19 of the Benton County Planning and Development Regulations. So, the Quorum Court chose not to put any special criteria on that.

In Section 7 (see page 7-1) of the Regulations, there are 'special uses' that are set out (i.e. liquor store, shooting ranges, adult-oriented businesses, wind energy facilities, mobile home parks, etc.) There are some special criteria attached to those uses. Since the consent decree was entered in 2008, this property has been for mining use. So, the property has already been allowed to be 'heavy-use industrial.' According to the Regulations, mining is one of the uses that is allowed under industrial uses.

Section 4.7 sets out the various actions that the Benton County Planning Board can take as related to an industrial use project (i.e. noise mitigation, dust control, buffer zones, screening, etc.). This property was deemed 'heavy-use industrial' in 2008 and it is remaining heavy use industrial. It is just the use that will be changing to a rock quarry. The heavy-use industrial was set out in the consent decree. We are not asking for that to be changed at all.

Mr. Sorey: Discussion of new information: two other quarries and the distance proximity of those to known landfills as well as to Beaver Lake. *Mr. Sorey distributed a spreadsheet he had prepared.* These are two much larger quarry sites. One is located in the Sonora area and another in the Avoca area. Spreadsheet indicates: (1) distance between quarry and the landfill; (2) distance from quarry to Beaver Lake; (3) distance from landfill to Beaver Lake. Information provided also discusses the four locations of older landfills near Cross Hollow there appeared in a provided letter.

Mr. Bracy: Creeks and tributaries go from the quarry directly into Beaver Lake.

Mr. Sorey: So, we are worried about discharge from the quarry site, material getting moved by the water....

Mr. Bracy: We can't validate that and that is the responsibility of the Army Corps of Engineers to do that. The Corps has not made a judgement on where the silt is coming from. They can't define specifically where it comes up stream. You are aware that there are silt formations that are getting deeper over the years in the Lake?

FILED

2020 JAN 17 PM 1:24

Mr. Sorey: Absolutely. I took measurements off of Google Earth imagery. We have addressed on-site water flow from this property. We have talked at length at previous meetings that this site captures water. With the ADEQ permit, we must not allow any of the flow off this site that might get into those tributaries. Or, are you concerned about materials being transferred to the Lake through aquifers?

Mr. Bracy: My concern is the surface water.

Mr. Sorey: We are holding surface water to utilize in controlling dust and the operations of the quarry that require water. Discussion of letter from the Benton-Washington County Water Authority regarding the floodplain channel.

Mr. Homan (Terracon - regarding soil borings) comes to the podium.

Mr. Homan: We were asked to explore the site to ascertain as to whether there were any major karst features. I do not know the professional who reviewed our report whose name was brought up this evening. It is normal practice to peer review reports. This reviewer has not contacted us regarding our report. We walked the site looking for karst features. We drilled borings and our report shows supporting photographs. The report shows that the rock is solid rock.

Mr. Elson (Terracon -regarding karst topography) adds additional comments regarding area karst.

Mr. Elson: We are on the Springfield Plateau here and karst features could be anyway. This study was to determine if there were any caves, sink holes, etc. on this property and none were found.

Mr. Tucker: You list several anomalies (i.e. voids). What do you purport that those voids are filled with?

Mr. Elson: We cored through different anomalies and confirmed that it is solid rock.

Mr. Homan: Further explained what karst is (i.e. Mammoth Cave).

Mr. Torrez: Has Terracon every been challenged on any of their reports? Any past law suits? Has anyone ever requested another independent study?

Mr. Homan: Not with me, specifically. A request for another independent study has happened.

Mr. Torrez: I would imagine that an attorney (for the citizens opposed to this quarry) may challenge this report.

Mr. Hill (ATOKA, environmental consulting, regarding the aquifer/water quality study) came to the podium.

FILED

2020 JAN 17 PM 1:24

ATLANTA, GA
COUNTY CLERK
JENNIFER W. HARRIS

Mr. Hill (hydrogeologist): If you will take precipitation out of the equation, the quarry will be dry. Further discussion of the geologic make up of the area. Discussion regarding silicosis which comes from quartz silica, not limestone (calcium carbonate). Discussion of 'presentation 1' geological cross section diagrams of the quarry area shown on the screen.

Mr. Sorey: So, to summarize what you are saying, Mr. Hill, the activity on this site at 80' feet is not going to adversely affect the springs that are shown on the adjacent property.

Mr. Hill: Further discussion of the existence of shale, limestone, fractures and springs at various depths.

10 Minute Recess

Mr. Sorey: Regarding the intersection of Old Wire Road and Cross Hollow/Dogwood, the sight distance issue that is causing Mr. Peters to recommend stop signs, is not that there exist bad sight distances. But there is vegetation that grows along the sides of Old Wire Road the doesn't give the actual recommended sight distance for trucks trying to cross that intersection at the speed that is posted for Old Wire Road. To my knowledge, there is no speed limit sign on the unpaved section of Old Wire Road. It is our recommend to do a four-way stop there. That is an issue for the County Judge and County Road Department based on Mr. Peters' recommendations.

Mr. Sorey read a document regarding silica dust/sand and lung disease. Since the red dirt operation, there was been one complaint filed regarding dust. If this project adheres to the Benton County Regulations, it should be allowed to proceed according to off setting the impacts. We have already determined from a previous finding that we have an industrial use at this property. I think the plans and reports before you have gone far above and in excess of the regulations that are written.

Mr. Bowling comes to the podium to discuss issues specifically regarding Anchor Stone.

Mr. Bowling: Our company has measured the ground vibration from Anchor Stone plants for many years. Their Tulsa plant has subdivision right up against the quarry. I don't know of a single instance where that quarry has exceeded state guidelines. This is the same for the Joplin and Jane, Missouri, quarries. Anchor Stone produces aggregate for building materials (driveways, foundations, and roads). Our company monitors the blast operations. Personally, I don't see any reason why they couldn't continue operating along the same line.

Mr. Hodge comes to the podium.

Mr. Hodge: The Planning Board knows their Regulations which encourage commercial and industrial land development. Discussion of 'heavy industrial use' as found in the Benton County Planning and Development Regulations.

13
2020 268

FILED

2020 JAN 17 PM 1:24

The quarry's state permits (already approved) can be viewed by the Planning Board and by the public.

Mr. Blackshare, (Blackshare Environmental Solutions), comes to the podium:

Mr. Blackshare: (blasting will be done once a month) Discussion of the noise information (intensity, frequency, duration) found in the Benton County Planning and Development Regulations (section 4.7, page 4-13). All those factors were considered in our report.

Mr. Tucker: What was the total intensity at the property line?

Mr. Blackshare: 28.9 at property boundary to the north, 46.6 at the south boundary.

Mr. Tucker: Is that crusher noise or ambient?

Mr. Blackshare: That is ambient at the location.

Mr. Tucker: What is the total noise with the crusher operation?

Mr. Blackshare: The crusher was mapped onto this location at property boundary: 54 decibels.

Mr. Bracy: Requested clarity regarding the truck route.

Mr. Sorey: Provided additional comments regarding the route from the quarry site to the new highway. That is why we are in front of the Planning Board with a different route, getting away from Old Wire Road. Meetings with the Benton County Road Department went very well.

Mr. Tucker: Requested further explanation of the well plan of action if area wells become either contaminated or a rendered unusable due to some unforeseen problem. What is the timeline here and what happens in the meantime?

Mr. Sorey: We provided the Planning Board with an action plan on that issue. We are happy to revise this plan as the Board sees necessary. That is our first 'go' at trying to come up with a plan like that. If in the off chance that a well is put out of service by Anchor Stone's cause, that has to have a process of being evaluated. So far, Anchor Stone has not had to replace any wells. We spent two months trying to get a well dug. I can not provide a time frame on drilling a new well. We have provided what you have asked for; that is, how it will be addressed at the time, evaluated with money set aside to handle that cost.

Mr. Tucker: Regarding well inspection, the land owners would have to cooperate with that. The follow up from the initial inspection needs a time frame.

Mr. Sorey: We can add a timeframe to that. I would be happy for that to be on the list of outstanding items yet to accomplish.

Mr. Booth comes to the podium.

FILED

2020 JAN 17 PM 1:24

PLANNING BOARD
BENTON COUNTY
2020 JAN 17 1:24 PM

Mr. Booth: There's no reason why we can't bring in temporary water used for domestic purposes. That is an option. Anchor Stone agrees that that's an option that seems feasible. We made an initial proposal. If the Planning Board can look at it and give us some feedback. Maybe there are some other ideas out there.

Mr. Sorey: Going through the process to determine that the water well collapse or contamination is Anchor Stone's fault, is another issue. There has to be a base line taken before you can determine that.

Mr. Tucker: Yes, and that would be consistent with a 'super fund' strategy. The thing that I feel is missing is regarding item 3 on the proposal. Item 3 needs to happen PDQ but there is some reasonableness to how fast people can...

Item 3: The investigative professional shall review and note any issues in comparison with the initial report, provide a report of findings and an opinion of cost to Planning Staff, the property owner and the Anchor Stone Company.

I am saying that that needs to be done within 14 days.

Mr. Sorey: I think that is reasonable.

Mr. Tucker: And that should be the maximum. And then item 4:

Upon determination that the issue was the result of the actions of at the quarry operation, Anchor Stone representatives and Benton County Planning Staff will meet with the land owner to discuss the course of action and remedy.

I think the temporary water would begin at that point. The temporary solution until the permanent solution is found, begins at that point. It's your problem to fix. The money in item 7, covers that 21-day window. Item 4 says its Anchor Stone's problem. That money goes backwards and forwards.

Mr. Comstock may have been the one to bring this up, \$25,000 is probably not enough to cover two wells. \$25,000 is a fairly small amount within the window of propagation that was in that circle. I don't know if there needs to be a cash bond.

Mr. Sorey: You have cash there for several wells.

Mr. Tucker: But that doesn't include temporary water.

Mr. Sorey: I understand. That money has to be continuously replaced.

Mr. Tucker: That needs to say that the funds are 'evergreened' because right now it is not clear that it is evergreened. Our biggest issue with extraction uses is, so far, this is the one that is doing limestone. We have not approved this type of extraction use. We have approved two or three mines, none of which were limestone. The other extraction uses don't present the same concerns. One of them, out west, did some pretty significant road improvements. Another one was a continuation of a previous use that had succeeded for some period.

2020 1 270

FILED

2020 JAN 17 PM 1:24

DEPT. OF REVENUE
CITY OF BENTON

Mr. Sorey: I am wondering how many wells have been lost around the APAC quarry, the Rogers Group quarry and all the other quarries in Benton County. I haven't researched that. I think if it's a problem that is everybody's greatest fear, we would know that it is a problem. We have a mechanism in place that I am happy to revise, respond to your concerns and make it a document that has time frames.

Mr. Bracy: I had this investigated by a well digger who I know has been digging wells for more than 30 years in this area in existing mines and your proposed mine, and he hasn't had any wells fail for the benefit of the public.

Mr. Sorey: I have a client here that wants to do the right thing and provide that. You've asked for it. It's a legitimate concern. Ultimately, it just ties up a little money in doing what they are doing. If there are considerations you want to add to it, I'm happy to do that.

Mr. Tucker: There's one more comment that we saw repeated over and over again and that is the character of the area. The first use is the use that determines the character of the area. The unfortunate characteristic is if you move in next to it that the previous use isn't the one that is violating the chart, it's the second use. That's very unfortunate because, if it was a subdivision and in front of us, we would have said the same thing. It's an incompatible use. It's not a subdivision but individual uses that have sprung up. This is extremely common in Benton County and it's becoming more and more common all over the United States. The courts deal with it. We deal with it. The unfortunate matter is that we have to go by our Regulations. We don't have zoning; we have land use. The primary use of this site is, and historically has been, surface mineral reclamation. And surface mineral reclamation, in our ordinance, is simply surface mineral reclamation. It doesn't matter if it's chewing gum or uranium, it's surface mineral reclamation. The requirements in our ordinance for surface mineral reclamation are fairly limited. We have to go by our ordinance. While the public sentiment is heartfelt and deeply felt among us because we believe the same thing that you believe. We have to go by our ordinance. I believe that that is something that we have discussed and will probably continue to discuss with the Quorum Court. As our county grows and these things become more and more of an issue, absent of a zoning map, we will always have conflicts like this. Mr. Sorey, you have sat before something like this before.

Mr. Sorey: Yes, the rumor is that I voted for it; and I did. It still didn't pass. We are blessed to live in an area of northwest Arkansas that is growing. The roads, the construction all that is now going on, demands this product. We have limited access to this product. This is good, hard limestone that meets specifications for road construction and other construction activities. This is a limited resource. Our intention is to have a vote tonight. We do not want to have this project tabled.

Mr. Torrez: In Section 6-19, it talks about hazardous material, disposal plan, a detailed narrative on how each material will be used, how the used material will be disposed of, etc. When your product leaves the site, I believe that your response was when a third party takes the product away....

There have only been three complaints over many years. I've seen a lot of filled trucks that are littering or creating cracks in windshields. While it is aggravating, I don't know that I would take time out of my day to look up the company, call them

FILED

2020 JAN 17 PM 1:24

2020 JAN 17 PM 1:24
2020 JAN 17 PM 1:24
2020 JAN 17 PM 1:24

up for them just to give me the run around saying they aren't responsible. It's just a hazard of the road. How do you respond to this issue?

Mr. Sorey: We have this situation now. There are dump trucks traveling all over northwest Arkansas serving a variety of organizations. Regarding the 63+ loads per day, Anchor Stone would love to sell that much material on a regular basis. So, on average if we have 69 loads of red dirt or limestone, what percentage is that of the dump trucks that are on the road today? The place to regulate this is not with an individual operation, but at a broader level of County or State. Either all trucks are covered or they are not. You change the design requirements of those trucks. For example, the timber industry has been ruthless on timber haulers. They get stopped all the time. If they are not perfect, they are paying hefty fines and will lose their ability to haul. That's how you are going to fix the problem. You're not going to fix the problem by dealing with an individual location. It's not realistic. The only that we could do as an individual operation, it to put signage up and to make sure the trucks going in/out have a good screen and cover. It's good business. I think we have gone above and beyond the minimum requirements and provided in excess of any other buffering, screening, etc. requirements.

Mr. Tucker: Regarding Sharp's Quarry, there was check list signage to check the rails, wheels, and do certain things to the trucks. Is that a plan? Is that what you do?

Mr. Sorey: I don't know how Anchor's operation is.

Mr. Berryman: There are safety signs required by MSHA for use to train individually or have a checklist. As far as covering their load when they leave the quarry, we don't have that but we could do that. I would encourage it, for sure.

Mr. Sorey: If you want to make that a stipulation, you have a developer here that is willing to do that but we need to apply that same standard across the board.

Mr. Tucker: So, the standard is, any truck made after maybe 1985 or 1980 something, has to be tarped. I am not sure how many trucks from the '80's are on the road still. I see one every now and then.

Mr. Sorey: Okay. Right.

Mr. Tucker: It depends on the truck size. The smaller trucks don't have to be tarped.

Mr. Sorey: That's really about the only way I see trying to answer your question.

Mr. Torrez: I am just trying to be better than we were yesterday.

Mr. Sorey: I agree wholeheartedly. The ninth outstanding item would be that there be signage on site that requires that the trucks be tarped. You can't add it by law if the law doesn't require it.

Mr. Bracy: This is a very difficult, unique situation. It is not like the rock quarry that is over on Highway 49, or the rock quarries that are near the Lake. I told the liberty

2020 01 17 272

JAN 17 PM 1:24

to research the water wells. Make sure the home owner or rancher gets 10,000 gallons delivered the next morning. The issue is not a quarry. There's been a quarry there for a long time. The issue on the table that we have to look at today, is what is being asked. In our regulation, a mine is a mine. Benton County, unfortunately, doesn't have a lot of regulation to this; but we will grow. We also have in the Regulations, a requirement and a due diligence to help the County grow with industry mingled and among the residential and agricultural parts of this state. This is an agricultural state growing up to be industrial. The Regulations say, *industry to be compatible with the neighborhood*. I feel this quarry will impact more residential than some of the other quarries do. It's hard to mitigate the noise, dust and dirt. You have a clientele that does not confine the product within the vehicle. It will escape that vehicle for long distances until it gets to the destination. This was rejected before I became a member of this Board by another group. It was petitioned to the Appeal Board. The Appeal Board is above us. Any applicant can go to them. We have had that situation a few times since I've been with this Board. The Appeal Board also declined the applicant. It was being petitioned to be a rock quarry again. Somewhere in the legal aspect with the judge, they agree on that it would be a dirt pit. So, they compromised.

Mr. Sorey: The original request was to be a red dirt pit. The Consent Decree didn't prohibit them to ask to be a rock quarry.

Mr. Bracy: This request has been brought back to this Board now in 2019 when a lot of other things have occurred in time in this neighborhood. We are being asked to look at a significantly different product than was there before.

Additionally, we are being asked to approve something that is even beyond my life time. We are asked to do something that is carte blanche that is going to affect our community's growth and also the owner. The owner has a right to be able to do what he would like to do on his property within reason. How much does the Planning Board have a say in how we help the community grow? The scientist and engineers here can't guarantee the questions that the Planning Board has asked. We have to help control the growth. It is in the Planning & Development Regulations that we have been charged with the commission to find a way to mingle industry so that this county can grow and still be an agricultural/residential area so that we support both ends of the story.

Mr. Tucker: So, Mr. Bracy, is your concern more of scale or use?

Mr. Bracy: The scale, use and the long-term affect of what is being requested.

Mr. Tucker: I would agree with you. My biggest concern isn't the use, because the use is already established, it's the adjustment in scale from 35 – 50 trucks per day to adding another 20 percent to that. My concern is the expansion of scale more than the use.

Mr. Sorey: Yes, we are talking about 25 – 50 years. It's hard for us to give absolutes and you know that from your experience.

Mr. Tucker: The question is twofold: jurisdiction and the potential that there would be a 'taking' if we exercised some authority other than what we have. The County

FILED

2020 JAN 17 PM 1:24

BENTON COUNTY
CLERK OF COURTS
JENNIFER L. BROWN

has jurisdiction. Lowell does not have jurisdiction and did not claim jurisdiction. So, this is the body that has jurisdiction. If the Planning Board votes no, the applicant could continue to operation under the current Consent Decree. So, it would not be a taking. If we were to approve it, and in for example, 24 months, the applicant has had 24 – 48 complaints, what would be the position of the Planning Board at that point? Would that constitute a taking if the operation was to be shut down? That's why I wish Mr. George Spence were here.

Mr. Torrez: Let's say we approve this application and in 24 months the growth in Benton County is exponential and more than anyone would ever have thought and the applicant wishes to do 80 truck trips per day. I do appreciate growth.

Mr. Bracy: Does that mean in two years we will go through this process again?

Mr. Tucker: No.

Mr. Bracy: If we find an extreme violation, the decision tonight will be null and void?

Mr. Sorey: The reclamation is incremental reclamation. This is the only area quarry operation that has been permitted under the three phase reclamation requirements. We are dealing with a lot of firsts in quarry operation. We are talking long range past my and your life times. This is still a much smaller operation that what we see in Avoca, for example. We don't have the amount of land that they do. There is a time horizon that this would hit. If we varied from an approved plan, we will have to be back before this Board. This quarry has a limited operation in material available. Anchor Stone has another operation in Missouri that supplies rock down into this area.

Mr. Bracy: You are asking this Board to make a decision that's going to affect this unique quarry, this unique neighborhood that will be a lifetime of change. It's a small community and a small quarry compared to other area quarries which makes this request very, very unique. If you were out on Highway 49, you probably wouldn't hear half the stipulations you are going to have to do. Fifty years is a long time to release the owner. We have an obligation to see that heavy industry migrates into the community group.

Mr. Sorey: I think we are hard pressed in the County to find a location that doesn't have a community that is going to be interested, that isn't sensitive in some ways. Note that there is a bond placed for the reclamation of each area of this quarry.

Mr. Homeyer: Regarding the roads, you are paving your private drive and you are paving your entrance out to Cross Hollow. What did you say you were doing between the new entrance on Cross Hollow and the private drive intersection with Dogwood? Are you leaving that gravel?

Mr. Sorey: In the meeting with the County Judge and the County Road Department, I asked for what their request was, paved or dirt. I got no response. I think from their standpoint, it would be easier to maintain a dirt/gravel road than a paved road. If they pave it, they would want some level of commitment for maintenance from Anchor Stone and the property owner which is fine. They are looking for this Board to put a requirement. I have made the request, through Mr. Peters' report, that for

2020¹⁹ 274

FILED

2020 JAN 17 PM 1:24

PLANNING BOARD
BENTON COUNTY

traffic safety we put stops on all four corners. We can't make the Benton County Road Department do that. I think the Benton County Road Department and the County Judge were talking about stopping Cross Hollow and stopping Dogwood but not stopping Old Wire Road. I think, because of the site distance, it is better for everybody, to have a four-way stop there that slows everybody down to resolve the safety issue. Quite frankly, I need you to tell me what you want.

Mr. Homeyer: That's what I thought. That's why I brought it back up.

Mr. Sorey: From Mr. Peters' report, the traffic numbers went up because we want to be overly conservative. The back in numbers from what Anchor Stone wants to sell in a year, related to trucks. That's a real average from more than nine years with the red dirt pit that are actually loads that went out. If you keep speeds down low, the County may want to leave it dirt for ease of maintenance reasons. The original report from Mr. Peters indicated the Old Wire could handle that amount of traffic. I don't think it's a matter of that section of road not being able to handle it. The issue to me is the safety factor at the intersection and what the Planning Board and the Road Department want the road to be.

Additionally, there is an offset to that intersection. The same property owner owns both corners that need to be eaten into in order to line up that intersection. We have discussed that with the County Judge and the Road Department. We are happy to dedicate that right of way off that intersection to make that a true cross intersection rather than having it offset. But, again, I am asking this body or the County Road Department to tell me to straighten up the intersection and to tell me to pave it or not to pave it.

Mr. Tucker: There is a question as to can the Planning Board do that. The answer is yes, that can be a stipulation of the approval.

Mr. Williams: Requested clarity on the phases and the reclamation process.

Mr. Sorey: It's an estimated five years on phase 1. They will move to phase 2 and start quarrying; but they can't move to phase 3 until phase 1 is reclaimed. Reclamation is defined within the ADEQ permit. If there was another proposal on the table regarding the reclamation, we would have to resubmit that to ADEQ. What was approved was topsoil and reseeding.

Mr. Bracy: In a hole, 80' deep?

Mr. Sorey: Yes. We are not filling in the hole. We are adding topsoil and growing grass in the bottom of the hole. ADEQ does not require the phase to be growing vegetation.

Mr. Bracy: So, it will be a lake one day.

Mr. Williams: Your supply and demand will dictate how much traffic flow you have because of your operating hours and what you are pulling out?

Mr. Sorey: That's correct.

2020 20 275

FILED

2020 JAN 17 PM 1:24

ETHEL M. HARRIS
CLERK
JAN 17 2020

Mr. Williams: Therefore, that's kind of an invalid comment. If demand is increasing, you still can only mine so much. You have a window of when you can operate and what you operate.

Mr. Sorey: That's correct.

Mr. Williams: We have a pretty well-defined time frame of phases and area phases. You can dictate whomever hauls has to use the provisions of the private drive at least to Highway 265. If they work for you, from the point of pulling the truck to Highway 265, you have to take this route.

Mr. Sorey: That will be signed on the roadway. The 'No Trucks' sign on Dogwood is as you start entering Lowell. The reason the Consent Decree talked about no traffic on Dogwood or Cross Hollow is the fact that we didn't want them going out that way. It was to be utilized on Old Wire Road. We don't want to be on Old Wire Road anymore and we are not going out those other two ways.

Mr. Williams: You also have five agencies, city, county, state, that would dictate regulations once they get on a public thoroughfare. With the revisions that we talked about and hashed over and over, I make a motion for approval with those stipulations, well defined, well executed with follow up through the phased process.

Mr. Reamer: To clarify, we have stipulations 1 – 7 currently on the screen and published in the report. Item 8 is a well-defined timeline for the well plan as well as a temporary water provision in that well action plan. Item 9 is the signage on site, to cover the trucks, checking the trucks for safety concerns. Item 10 is the road realignment and/or four-way stop signs and/or paving of Cross Hollow on the east to approach to Old Wire Road on the east and/or the approach on the west for Dogwood. It would be up to the Planning Board to determine which of the recommendations to implement for this particular project.

Mr. Williams: The two access points for the private drive are gated.

Mr. Tucker: Yes, that's already in the plan.

Mr. Sorey: And they will be signed as 'Private.'

Mr. Reamer: Regarding the road recommendations from the Board, would still need to be approved by the County Judge.

Mr. Tucker: Correct.

Mr. Sorey: Did I understand right that you want the section from the enter/exit on Cross Hollow and Dogwood paved?

Mr. Reamer: All three road recommendations. It is still up to the Road Department and the County Judge to make the final approval.

Mr. Sorey: Okay.

2020²¹ 276

FILE

2020 JAN 17 PM 1:24

Mr. Homeyer second the motion.

Motion approved: 4 – 2 (Mr. Bracy and Mr. Torrez voted against the motion.)

Mr. Bracy: Reason for voting no: the significant change from what is currently occurring on site and the length of time of the request.

Mr. Torrez: Reason for voting no: Feels some of the due diligence was skewed and that the Planning Board was not given enough proper information. And the fact that the use is changing so much (much more intense) from what the use currently is.

TECHNICAL ADVISORY COMMITTEE

- 1. Call to Order
- 2. Old Business / Ongoing Applications: None
- 3. New Business: None
- 4. Other Business: None
- 5. Staff Updates - Administrative Approvals:

- I. Curran Minor Subdivision, case no. 19-245, 15854 Abbey Lane, Rogers; 15-04201-002
- II. Seth Minor Subdivision, case no. 19-258, 10310 Cedar Rock Road, Garfield; 18-01673-000
- III. Andrews Minor Subdivision (2), case no. 19-262, 18450 Shankles Road, Gentry; 18-14754-000


6. Discussion Item: None

Meeting Adjourned: 10:45 p.m.

Next Meeting: January 15, 2020

APPROVED THIS 15th DAY OF January, 2020.

ATTEST:


PLANNING DIRECTOR

APPROVED:


PLANNING BOARD CHAIR or
PLANNING BOARD VICE CHAIR