

CASE SUMMARY

APPLICATION TYPE: USE ON REVIEW

KNOXVILLE-KNOX COUNTY

M P C
METROPOLITAN
P L A N N I N G
C O M M I S S I O N

T E N N E S S E E

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File Number: 5-A-18-UR **Related File Number:**
Application Filed: 3/20/2018 **Date of Revision:**
Applicant: BLUE WATER INDUSTRIES, LLC

PROPERTY INFORMATION

General Location: South side of Thorn Grove Pike, west side of Fawver Ln.
Other Parcel Info.:
Tax ID Number: 97 063, 064, 071, 072, 073 OTHER: 074 **Jurisdiction:** County
Size of Tract: 25.8 acres
Accessibility: Access is via E. Governor John Sevier Highway, a three lane major arterial street with 50' of pavement width within a 115' right-of-way.

GENERAL LAND USE INFORMATION

Existing Land Use: Rural Residential & Vacant
Surrounding Land Use:
Proposed Use: Expansion of existing Mining and Mineral Extraction operation **Density:**
Sector Plan: East County **Sector Plan Designation:** AG (Agricultural)
Growth Policy Plan: Planned Growth Area & Rural
Neighborhood Context:

ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

Street:
Location:
Proposed Street Name:
Department-Utility Report:
Reason:

ZONING INFORMATION (where applicable)

Current Zoning: A (Agricultural), I (Industrial) & F (Floodway)
Former Zoning:
Requested Zoning:
Previous Requests:
Extension of Zone:
History of Zoning: None noted.

PLAN INFORMATION (where applicable)

Current Plan Category:
Requested Plan Category:

SUBDIVISION INFORMATION (where applicable)

Subdivision Name:

No. of Lots Proposed:

No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

OTHER INFORMATION (where applicable)

Other Bus./Ord. Amend.:

MPC ACTION AND DISPOSITION

Planner In Charge:

Mike Reynolds

Staff Recomm. (Abbr.):

APPROVE the request of 'Phase 1' only for expansion of the existing surface mining and mineral extraction operation as shown on the development plan and described in the Mining Plan of Operations (Amendment 1), subject to 15 conditions.

Staff Recomm. (Full):

1. Phase 2 of the future mining area, located on CLT Map 097, Parcels 071, 072, 073 & 074, shall not be considered for approval by the Planning Commission until the revegetation plan has been completed according to Attachment A (Mine Plan of Operations Revegetation Plan) of the Mining Plan of Operations (Amendment 1). This includes revegetating the external banks of the rock overburden berms along roadways, proposed landscaping at the intersection of E. Governor John Sevier Hwy and Asbury Rd. (see Attachment A), and all landscape screening required by Article 4, Section 4.10.11 (see Exhibit B for screening guideline).
2. Phase 1, 2, & 3 rock overburden berms can be created as part of the Phase 1 mining expansion but shall only be allowed after the required landscape screening of Article 4, Section 4.10.11 is installed. All berms shall be in conformance with the requirements of Article 4, Section 4.50 and the conditions of this use-on-review.
3. No landscape screening required by Article 4, Section 4.10.11 shall be removed unless replaced in-kind or to otherwise meet these screening standards. The placement of the landscape screening and rock berms should take into account any potential utilities and access that may need to be provided around the external boundary of the property so the screening does not need to be disturbed.
4. Meeting the required 100-foot setback for the deposition of overburden or spoil bank (rock berm), or stockpile in the A (Agricultural) zone, and obtaining approval from the Board of Zoning Appeals to reduce this setback for the existing rock berms along E. Governor John Sevier Hwy., Asbury Rd., and Thorn Grove Pike to no less than the existing condition.
5. No new or existing berm shall exceed the building height restrictions of the State of Tennessee Scenic Highway System Act of 1971 (TCA 54-17-115) as measured from E. Governor John Sevier Hwy. Existing berms that exceed this height restriction may remain at the height shown on the 'Plan of Operations Map North' (Drawing Date: 2/14/2018, Revised: 4/20/2018) but cannot be increased in height. TCA 54-17-115 is attached as Exhibit A.
6. No new berm shall exceed 35 feet in height within 500 feet of a residential dwelling that is not owned by the mine owner, with exception of the Phase 1 berm at the corner of Thorn Grove Pike and Burkbrooks Ln. shall be allowed to taper the height from the existing berm so long as the berm does not exceed 35 feet in height within 100 feet of Burkbrooks Ln.
7. Meeting all of the performance standards as contained in Article 4, Section 4.10 and Section 4.50 of the Knox County Zoning Ordinance.
8. Meeting all other applicable requirements of the Knox County Zoning Ordinance.
9. Meeting all requirements of the Knox County Health Department.
10. Meeting all requirements of the Knox County Department of Engineering and Public Works.
11. Meeting all applicable requirements and obtaining all required permits dealing with water and air quality from the appropriate governmental agency.
12. All traffic involved in the sales and distribution of the stone produced on this site will be limited to using the existing driveways on the west side of E. Gov. John Sevier Hwy.
13. Posting of the required bond with Knox County or the State of Tennessee.
14. A revised site plan reflecting the conditions of approval must be submitted to MPC staff prior to issuance of grading permits.
15. Approval of this application by the Knox County Board of Commissioners.

With the conditions noted above, this request meets the requirements for approval in the I (Industrial) & A (Agricultural) zoning districts, as well as other criteria for approval of a use on review.

Comments:

This proposal is to expand the existing Blue Water Industries (formally Aggregates USA, LLC) quarry operation by approximately 25.8 acres by extending the quarry operations to Fawver Ln. to the east and Burkbrooks Ln. to the northeast. If approved, the quarry site will have a total permit area of 325 acres, increased from approximately 299 acres. At this time, staff is only recommending approval of

the Phase 1 mining expansion until the revegetation of the rock berms is complete. Once the rock berms are revegetated, the Planning Commission may consider a new application for expansion of the current mining operations.

The area surrounding the Blue Water Industries mining operation has been primarily zoned agricultural since Knox County first adopted zoning regulations in the 1940's. There was also some commercial zoning at major intersections and industrial zoning where quarries were already established to the north and northwest. Most of the residential properties and homes along Thorn Grove Pike, Burkbrooks Ln. (formally Fallon Ln.), and Fawver Ln. existed in the 1950's according to the oldest zoning map and aerial photography available. The residential along Thorn Grove Pike is likely older than the 1950's. When the older quarries were operational, most of the nearby residential uses had been purchased and incorporated into the larger property owned by the mining operation or became part of a larger industrial park. Most of the older quarries are no longer active but they provide a wide natural buffer to other uses. Blue Water Industries, under the former name of Aggregates USA, has recently purchased several residential properties between Burkbrooks Ln. and Fawver Ln., and continue to pursue property acquisition in this area.

In 1977, the subject mining operation received approval to expand northeast of Gov. John Sevier Hwy, where it had previously only been on the west side of the road. In 2003 this mining area was expanded and the Plan of Operations, which was approved as part of the use-on-review, states that the rock overburden (berm) walls will have a height up to 30' and a base up to 200' wide. The rock berm is currently up to 100' tall and with a base width of more than 350' along Thorn Grove Pike, well over the previously approved amount, and visible from a great distance. A natural vegetative buffer was left undisturbed between the rock berms and adjacent roadways to provide a visual screen. In 2017, a power line that runs through the mining facility was moved at the request of the mining operator to the outside of the rock berms. To accommodate this move, the vegetative screen along Thorn Grove Pk. and Gov. John Sevier Hwy. was removed, exposing views of the entire rock berms to nearby uses and Gov. John Sevier Hwy., which is designated as a Scenic Highway by the State of Tennessee.

In order to protect the community from further visual blight and residential areas from the mining operation, staff is recommending that only Phase 1 of the mining area be approved and any further expansion not be considered until the property's revegetation plan for the rock berms is complete. In addition, staff is recommending that no new rock berm have a height over 35' within 1000' of Gov. John Sevier Hwy. or 500' of residence not owned by Blue Water Industries. No existing berm within these areas shall increase in height if already more than 35'. According to the attached Plan of Operations, the Phase 1 mining expansion is to be implemented over the next 5 years. Phase 2 is to be implemented over the next 5 - 10 years. The staff recommendation does allow for rock berms in the Phase 2 area to be completed during Phase 1, however, only after the required landscape screening is installed along roads and adjacent residential properties.

The proposed revegetation plan for the rock berms uses the Tennessee Department of Environment and Conservation (TDEC) rules for the vegetation of surface coal mining sites (Chapter 0400-42-07-.04). According to the TDEC regulations, the objective is to "provide a self-regenerating cover on the disturbed area as soon as possible and to minimize erosion". These rules include plant species that should be able to handle this type of growing environment, including ground cover, trees and shrubs. Some of the plant species recommended are non-native and invasive. The applicant is encouraged to contact local organizations that have experience in native plants, such as the French Broad Preservation Association and Seven Islands State Park, to ensure the success of the vegetation and low maintenance.

Staff is also concerned about the visual impact of the proposed berms along the top of the bluff over the French Broad River. The new East Tennessee State Veterans Cemetery is located immediately to the south of river. The current quarry operation is not visible from the cemetery because of the vegetated bluff and there are no rock berms on this side of quarry. By creating rock berms along the bluff, the quarry operation will become much more visible from the cemetery. This portion of the property is primarily zoned Industrial and mining operations are a permitted use within that zone as long as they meet the Standards for mining and mineral extraction (Art. 4, Sec. 4.50) of the Knox County Zoning Ordinance. The rock berms are allowed to be located here but the mining operator is encouraged to consider alternative locations for the rock overburden since these do not perform the same function as the other berms, such as to block noise or provide a visual screen.

EFFECT OF THE PROPOSAL ON THE SUBJECT PROPERTY, SURROUNDING PROPERTY AND THE COMMUNITY AS A WHOLE

1. The proposed mining and mineral extraction operation will have minimal impact on local services since all utilities are in place to serve this development.
2. The proposed use is consistent with the commercial and industrial uses found in the area.
3. With the proposed conditions, the visual impact of the mining operation will be minimized by vegetating the existing rock berm walls and minimizing the height of new berms near residential

dwellings and Gov. John Sevier Hwy.

CONFORMITY OF THE PROPOSAL TO CRITERIA ESTABLISHED BY THE KNOX COUNTY ZONING ORDINANCE

1. The proposed mining operation expansion meets the standards for development within the I (Industrial) and A (Agricultural) zones and all other requirements of the Zoning Ordinance.
2. The proposed mining operation is consistent with the general standards for uses permitted on review: The proposed development is consistent with the adopted plans and policies of the General Plan and Sector Plan. The use is in harmony with the general purpose and intent of the Zoning Ordinance. The use is compatible with the character of the neighborhood where it is proposed. The use will not significantly injure the value of adjacent property. The use will not draw additional traffic through residential areas.

CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS

1. The East County Sector Plan identifies this property for HIM (Mining) and AG (Agricultural) uses. A mining operation is a permitted use Industrial zone and a use permitted on review in the Agricultural zone. The proposed development is consistent with the Sector Plan.
2. Access will be via the existing driveway from E. Governor John Sevier Highway. The expanded quarry is not expected to generate any additional traffic beyond what is now traveling to and from the site.

Action: Approved as Modified

Meeting Date: 6/14/2018

Details of Action:

1. Phase 2 of the future mining area, located on CLT Map 097, Parcels 071, 072, 073 & 074, shall not be considered for approval by the Planning Commission until the revegetation plan has been completed according to Attachment A (Mine Plan of Operations Revegetation Plan) of the Mining Plan of Operations (Amendment 1). This includes revegetating the external banks of the rock overburden berms along roadways, proposed landscaping at the intersection of E. Governor John Sevier Hwy and Asbury Rd. (see Attachment A), and all landscape screening required by Article 4, Section 4.10.11 (see Exhibit B for screening guideline).
2. Phase 1 rock overburden berms can be created as part of the Phase 1 mining expansion but shall only be allowed after the required landscape screening of Article 4, Section 4.10.11 is installed. All berms shall be in conformance with the requirements of Article 4, Section 4.50 and the conditions of this use-on-review.
3. No landscape screening required by Article 4, Section 4.10.11 shall be removed unless replaced in-kind or to otherwise meet these screening standards. The placement of the landscape screening and rock berms should take into account any potential utilities and access that may need to be provided around the external boundary of the property so the screening does not need to be disturbed.
4. Meeting the required 100-foot setback for the deposition of overburden or spoil bank (rock berm), or stockpile in the A (Agricultural) zone, and obtaining approval from the Board of Zoning Appeals to reduce this setback for the existing rock berms along E. Governor John Sevier Hwy., Asbury Rd., and Thorn Grove Pike to no less than the existing condition.
5. No new or existing berm shall exceed the building height restrictions of the State of Tennessee Scenic Highway System Act of 1971 (TCA 54-17-115) as measured from E. Governor John Sevier Hwy. Existing berms that exceed this height restriction may remain at the height shown on the 'Plan of Operations Map North' (Drawing Date: 2/14/2018, Revised: 4/20/2018) but cannot be increased in height. TCA 54-17-115 is attached as Exhibit A.
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7. Meeting all of the performance standards as contained in Article 4, Section 4.10 and Section 4.50 of the Knox County Zoning Ordinance.
8. Meeting all other applicable requirements of the Knox County Zoning Ordinance.
9. Meeting all requirements of the Knox County Health Department.
10. Meeting all requirements of the Knox County Department of Engineering and Public Works.
11. Meeting all applicable requirements and obtaining all required permits dealing with water and air quality from the appropriate governmental agency.
12. All traffic involved in the sales and distribution of the stone produced on this site will be limited to using the existing driveways on the west side of E. Gov. John Sevier Hwy.
13. Posting of the required bond with Knox County or the State of Tennessee.
14. A revised site plan reflecting the conditions of approval must be submitted to MPC staff prior to issuance of grading permits.
15. Approval of this application by the Knox County Board of Commissioners.
16. Utilizing native plantings only for the revegetation of the rock berms.

With the conditions noted above, this request meets the requirements for approval in the I (Industrial) & A (Agricultural) zoning districts, as well as other criteria for approval of a use on review.

Summary of Action: APPROVE the request of 'Phase 1' only for expansion of the existing surface mining and mineral extraction operation as shown on the development plan and described in the Mining Plan of Operations (Amendment 1), subject to 16 conditions (See attached Report of Disposition for staff recommended conditions and conditions as amended by Planning Commission)

Date of Approval: 6/14/2018 **Date of Denial:** **Postponements:** 5/10/2018

Date of Withdrawal: **Withdrawn prior to publication?:** **Action Appealed?:**

LEGISLATIVE ACTION AND DISPOSITION

Legislative Body: Knox County Commission

Date of Legislative Action: 7/23/2018

Date of Legislative Action, Second Reading: 8/27/2018

Ordinance Number:

Other Ordinance Number References:

Disposition of Case: Postponed

Disposition of Case, Second Reading: Approved

If "Other":

If "Other":

Amendments:

Amendments:

Date of Legislative Appeal:

Effective Date of Ordinance: