

MINUTES

ADAMS COUNTY PLANNING & ZONING COMMISSION

Regular Meeting

January 20, 2020, Adams County Courthouse

7:00 p.m.

Members Present: Al Becker, Royce Bauer, Kip Kamerdula, Dennis Nau, Mark Peterson, Joe Warner; Julie Burkhardt by phone

Members Absent/Excused: none

Others Present: P&Z Administrator Wendy Green; Road & Bridge Supervisor Kraig Spelman

Public Present: James Branstetter, Lyle Sall, Mike Bolopue, Shelly & David Obermeyer, Mike & Lori Young, Jeffrey & Anne Briggs, Jess Mooney, Kyle Kerby, Claus White, Jr., Nick Seubert, Ed Robinson, Jim Newcomb

Call to Order: Chairman Dennis Nau called the meeting to order at 7:00 p.m.

Review Agenda: Julie Burkhardt moved to approve the agenda as presented; seconded; passed.

Approval of Minutes: Al Becker moved to accept the minutes of the December 9, 2019 regular meeting as presented; seconded; passed.

Public Hearing: J.I. Morgan Application for Variance. Chairman Nau opened the public hearing at 7:03. Administrator provided copies of the Variance standards and criteria as well as public hearing procedure from the Zoning Ordinance to the Commission and members of the public. Chairman asked if any commissioners wished to recuse themselves due to conflict of interest; there were none. Chairman instructed the public on appropriate conduct and content of comments during the hearing. The Administrator read the staff report [see public file]. Jim Newcomb corrected an error, pointing out that Jim and Lorraine Newcomb's written comments were listed among those opposed when in fact they are in support of the application. Administrator noted the error and corrected the staff report. Admin. read the timeline of the process from when Morgan CUP was issued in 1993 [see file].

Claus White, Jr., VP of J.I. Morgan, Inc., presented the applicant's statement:

- Request is to expand an existing quarry that has been permitted since 1993 and operating since 1994.
- Growth in the county and surrounding area has increased demand for rock, gravel and asphalt materials.
- This location is logical for a quarry, as it is situated off a major highway and within ½-mile of two other active rock pits and the county landfill transfer site.
- The one-mile buffer enacted with the 2006 Zoning Ordinance limits opportunities to develop new rock pits in the north end of Adams County where growth is occurring.
- Morgan was not aware of neighbors' concerns, as the company had not received complaints.

- This pit is one of the few in this vicinity with rock that meets state and federal specifications.
- Morgan can accommodate most of the six items requested by residents of Van Dorn and Whispering Pines subdivisions except the prohibition of the hot mix asphalt plant (HMA).
- The portable HMA has operated on this site in six of the last 26 years for a total of 91 days, based on market demand. When HMA is present, it operates for short periods of time, typically less than two weeks at one time.
- Operating hours of the HMA can be adjusted to some extent but are dictated by contract terms with state and federal highway agencies. More road construction is being done at night to minimize inconvenience and safety issues to the traveling public. Weather can influence when HMA operates.
- It may not be possible to notify neighbors a week before blasting, but a notice at least 24-hours in advance would be possible.
- Limiting quarry hours, dust abatement, setting structures and equipment at least 200 feet from Van Dorn property boundary, and using directional lighting are reasonable conditions. In response to questions from Commission, White said he does not expect the volume of rock quarried or the level of activity to increase above current levels with the expansion of the footprint. Expansion would extend the life of the quarry. The nearest pit with rock that meets state and federal specifications, he believes, is the Seubert Rock Flat pit near Little Ski Hill. In 2018, eighteen workdays at the Morgan pit included nighttime hauling.

Public comments in support:

Nick Seubert, VP of Valley Paving [copy of the letter he read is in the file]:

- His company has tested rock throughout Adams County since the 1970s. The Morgan pit is the only one in the Meadows area with rock that meets state and federal specifications.
- This rock formation requires less explosive energy to excavate, so there is less seismic activity than in some quarries.
- Seubert/Valley Paving operates the HMA that has been used at this pit in 1999, 2005, 2007, 2012, 2018, and 2019.
- Air quality from HMAs is regulated by EPA. Valley Paving's HMA was tested on this site in September 2019 and found to be well within tolerance for emissions.
- Most of what is seen emanating from the HMA stack is steam from drying the rock at high temperatures.
- Goose Creek grade is one recent example of a contract that required nighttime HMA operation and paving.

Jim Newcomb, 31 Pleasant Acres, McCall:

- This pit is a valuable asset to Adams and Valley counties and the State. Hauling rock and asphalt from more distant sources will increase costs to taxpayers.
- The location on Highway 95 offers quick access, including in times of emergency.
- The quarry provides jobs to local contractors as well as rock for local roads and construction.

Kyle Kerby, J.I. Morgan

- The company is not aware of receiving any complaints from neighbors about the issues that have come to light during this public process.
- Morgan employs about 35 people and pays approximately \$20 thousand/year in state taxes on the rock quarried in this pit. Valley Paving also pays use fees and taxes for transit. The rock business is a diversification of Morgan's historic logging business.

(Comments in support, continued)

Ed Robinson, Knife River Corporation

- Knife River attempted to open another pit in the Meadows Valley several years ago and was denied by the county due to some public opposition. It is getting difficult to find suitable locations for rock pits.
- Trucking rock over greater distances increases costs to taxpayers and other users.
- This area has a need for this rock source. Adams County cannot subsist on a tourism-only economy.

Neutral Comments

Jess Mooney, New Meadows

- Has lived in the area since 1975 and bought rock from both Morgan and Bolopue pits.

Comments Opposed

Jeffrey Briggs, 2952 Whispering Pines Road, New Meadows

- Has favorable opinion of J.I. Morgan as reputable company that has a high rating with the Better Business Bureau.
- Briggs read a letter signed by thirteen (13) landowners asserting that this pit does not conform with county code. Signatories state they could withdraw opposition to the application if all of the following conditions are met:

Approval of Conditional Use Permit will contain the following in writing -

1 – The agreed to Conditions (a-f); all applicable to both the expansion and original parcels/sites,

2 – And CUP approval will be rescinded, and Permit revoked in the case of non-compliance.

- a. Asphalt production is prohibited on both parcels.
 - b. Operations Hours (max) = 7 to 7 pm weekdays; closed weekends & Holidays; exception by BOC emergency.
 - c. Notice of Blasting will be sent to residences within a mile & posted at pit entrance, at least a week in advance.
 - d. All structures & equipment will be set back at least 200' from all adjacent residential property boundaries.
 - e. Use of flood lights at night is prohibited.
 - f. Consistent dust abatement at the pit, extraction & crushing equipment & haul road, per Idaho regulations.
- Briggs said asphalt production is incompatible with residential neighborhoods. Both Van Dorn and Whispering Pines subdivisions were rezoned R-1 Rural Residential by Adams County.
 - Noting that Claus White stated at an earlier hearing that approximately one million tons of rock has been taken from this quarry, Briggs said the quarry could continue to be economically viable without allowing use of an HMA.
 - Briggs has had conversations with White about how to achieve “peaceful coexistence.” Those who signed the letter will drop opposition to the application if all conditions apply to both the existing pit and the expansion. Otherwise, they see legal action as their only recourse.
- Anne Briggs, 2952 Whispering Pines Road, New Meadows
- Read from the Adams County Zoning Ordinance regarding granting of variance, emphasizing that “no uses will be allowed in a zone in which such use is prohibited” and Section 1-5, “non-conforming uses shall not be enlarged or expanded.”

- Cited the Givens Pursley “Idaho Land Use Handbook” (2019) and court cases finding that non-conforming uses have a right to continue without expansion, but there is no inherent right to expand or enlarge such uses and grandfathered rights could be lost. “Eventually, non-conforming use is to be eliminated.”
- She stated her opposition is restricted to production of asphalt; she is not opposed to the rock pit. She finds the HMA to be inordinately noisy and the lights, noise and air pollution reduce her enjoyment of her property.
- She read a letter from David and Carrie Westby stating their opposition to the HMA that negatively affects their quality of life; they find the asphalt plant intolerable [letter had been submitted in writing and is on file].

Mike Young, 3744 Van Dorn Drive, New Meadows

- Developed his lot as a recreational site for his family to enjoy. When he purchased the lot, his realtor with Crawford Olson informed him the quarry operated every two-three years. The level of activity has increased dramatically with no advance notice to property owners.
- Trailers used for employee housing were positioned close to the property line, making him and his family feel as if they were being spied on by Peeping Toms.
- The lights, noise, dust and asphalt fumes are unbearable. He visited the pit and asked an employee to have a company representative contact him but got no response from J.I. Morgan.

Lori Young, 3744 Van Dorn Drive, New Meadows

- The noise gets so bad, she said they can’t even hold a conversation on their property.
- She does not have a problem with the quarry, but the noise from the HMA is horrific.

David Obermeyer, 3759 Van Dorn, New Meadows

- The land near the rock pits should never have been rezoned residential by Adams County.
- He is concerned about the effects of blasting on his uncased domestic well.
- He does not view the application as an expansion. It should be considered a new rock pit that must conform to county code requiring a one-mile buffer from residences. Allowing this pit to expand would essentially nullify the buffer, not simply reduce it to a half-mile, for example.
- When they bought property near the pit, they expected it would eventually close. This application, if approved, would extend the life of the quarry.
- He supports the list of conditions submitted in the group letter to the BOCC.

Shelly Obermeyer, 3759 Van Dorn, New Meadows

- Has water quality concerns with their domestic well so close to the rock pit. She contacted Idaho Department of Water Resources. Rob Whitney (?) (name inaudible on recording) suggested that the operators of the quarry assume responsibility if anything goes wrong with neighbors’ domestic wells as a result of blasting.
- She believes this application should be viewed as a new rock pit, not an extension.
- She could support the application if HMA were prohibited.

Administrator Green clarified that the county has treated this as a new application for expansion of an existing rock pit in order to provide due process to affected parties. This is not an extension or transfer of an existing permit from one parcel to another without public input and county review.

Chairman Nau closed the public hearing at 8:30 and the Commission deliberated on the application, evidence and public comment. The Commission concluded the applicant has demonstrated that this use meets the criteria for a Variance under Section 4-3: This is a unique situation in which the pre-existing

use has become non-conforming due to a change in county ordinance and changes to surrounding land uses, not as a result of actions of the applicant. This site has been used as a rock pit for more than twenty years under a Conditional Use Permit issued by Adams County; neither the applicant nor the County has record of receiving complaints from neighboring landowners during that time. Expanding the footprint is not expected to increase the level of activity in the quarry but will extend its duration. A rock pit is not incompatible with surrounding land uses that include two other active rock pits and a landfill transfer site within one-half mile of the Morgan quarry. Impacts to neighbors can be mitigated by placing conditions on the operation. The rock quarry and asphalt production represent a valuable asset to taxpayers of Adams County. Therefore, the Planning & Zoning Commission, by a vote of seven (7) in favor and none opposed, recommends the Board approve this application with the following conditions: 1) Hours of quarry operation will be 7:00 a.m. to 9:00 p.m. Monday-Friday and 7:00 a.m. to 5:00 p.m. Saturdays, with no operations on federal holidays, except in times of emergency as declared by Adams Board of County Commissioners; these operating hours would not apply to a portable hot mix asphalt plant that may, from time to time, be required to operate at night in order to meet contractual requirements of state and federal highway agencies; 2) When operating at night, floodlights will be directed downward on the work area to minimize lighting neighboring properties; 3) Operator will perform dust abatement on crusher, pit floor and haul roads adequate to meet Idaho Department of Environmental Quality opacity standards; 4) All structures and equipment used in the quarry operation will be set back at least two hundred (200) feet from the Van Dorn Subdivision property boundary; 5) J.I. Morgan will notify neighbors through a single point of contact at least twenty-four (24) hours prior to blasting.

Old Business: The Administrator gave a brief update on the responses to the community survey.

New Business: Administrator Green showed the rock pit mapping project that is in progress. When completed, it will show the location all permitted and known pre-existing rock quarries in the county with information on landowner name, when the pit was permitted, a summary of permit conditions, and whether a one-mile buffer exists between the pit and the nearest residence.

Due to the length of the hearing and the lateness of the hour, other agenda items were deferred to the February meeting.

Upcoming Meetings:

Next Regular Meeting: February 17, 2020 at 7:00 p.m.

Public hearing on Owen Beachy Conditional Use Permit application, 7:05

Adjournment

Meeting adjourned at 9: 15 p.m.


Chairman

2/17/2020
Date