

QUEEN ANNE'S COUNTY PLANNING COMMISSION MINUTES
March 8, 2018

The Queen Anne's County Planning Commission met on Thursday, March 8, 2018, at 8:45 A.M. The following members were present: Jeffrey Reiss, Tom Leigh, Robert Priest, David Douglas, Tom Jackson, and Sheila Tolliver

Also present were Michael Wisnosky, Director Department of Planning and Zoning; Holly Tompkins, Development Review Principal Planner; John Shelton, Clerk; Christopher F. Drummond, Esquire; and Sharon H. Brinster, Esquire.

1. Public Comment – No comments received

2. Meeting Minutes Review – Upon motion made by Commissioner Tolliver, seconded by Commissioner Jackson and passed by voice vote, the February 8, 2017 Planning Commission Minutes were approved as presented.

3. Extension Requests –

(A) Walter Properties, LLC (Perry's Retreat) – Major Subdivision #05-14-05-0006-C – Mr. Kevin Shearen, DMS & Associates, said they are in the process of seeking approval of an amended subdivision plan, but wish to retain the existing conditionally approved plan. He said they expect to be done in 6 months but are requesting a 1-year extension. Mr. Mike Burlbaugh, Elm Street, said the clearing into the buffer in Gibson's Grant was not intentional as it was created as a working area to make the living shoreline. He committed to re-planting the area.

Upon review and further consideration, the following motion was made by Commissioner Leigh, seconded by Commissioner Douglas, and passed by unanimous voice vote:

RESOLVED, that at the request of **Walter Properties, LLC (Perry's Retreat)**, the conditionally approved Major Subdivision, Department of Planning and Zoning **File #05-14-05-0006-C**, shall be and is hereby extended through and including the date of the regularly scheduled Planning Commission meeting on **September 13, 2018**.

(B) Kent Narrows Hospitality, Inc. (Holiday Inn Express) Major Site Plan #05-10-02-0005-C – Mr. Tom Davis, DMS & Associates, said the Site Plan was approved without conditions, and the previous extension was requested due to corporate required improvements to the existing hotel. He said they had asked for a 2-year extension but were only granted 1 year, and they are now requesting another year.

Mr. Jim DiDanato stated that he is held to corporate standards and we needed to wait and see what those would be. He said he now needs to determine if the Site Plan improvements are even feasible anymore.

Upon review and further consideration, the following motion was made by Commissioner Douglas, seconded by Commissioner Jackson, amended by Commissioner Priest, seconded by Commissioner Douglas and passed by unanimous voice vote;

RESOLVED, that at the request of **Kent Narrows Hospitality, Inc. (Holiday Inn Express)**, the approved Major Site Plan, Department of Planning and Zoning File **#05-10-02-0005-C**, shall be and is hereby extended through and including the date of the regularly scheduled Planning Commission meeting on **March 14, 2018**.

4. UPDATES: Legislation and Legal Matters

(A) Mr. Michael Wisnosky, Planning and Zoning Director, informed the Planning Commission that there are many bills regarding Land Use being proposed during the Maryland Legislative Session, but they are all currently in flux, and he will provide details to the Commission next month.

5. Citizen Sponsored Text & Map Amendments – Ms. Helen Spinelli, Principal Planner, introduced a Text Amendment #18-02 to add expansion of Mini Warehouses to the permitted uses in the Town Center Zoning District, and Map Amendment #18-03 requesting a change in the Zoning District to Suburban Industrial, on a parcel located State Street in Stevensville. No action was taken.

6. Miscellaneous Staff Items – Director Wisnosky provided the following information;

(A) Construction Values: description of his March 6 memo regarding a breakout of Construction Values, adding that the values indicated are the best guess estimates of the owner/developer,

(B) Maryland State Department of Planning Meetings: MSDP gave detailed Power Point on goals and visions of the State Plan to approximately 30 people who attended the meeting. He said the concerns raised by the public were broad brush in nature, such as traffic, growth, and the environment.

(C) Four Seasons: the alleged siltation pond breach is the purview of Maryland Department of the Environment. Mr. Christopher Drummond stated that the claim that work was done within the window when it was not allowed was found to be untrue upon investigation. He added that they are operating within their permits.

(D) General Discussion: Director Wisnosky and Planning Commissioners had a general discussion on the status of many projects throughout the County. He said he would provide the Planning Commission with his ongoing list of development and projects

The Planning Commission took a short break at 9:45 A.M. and reconvened at 10:05 A.M.

7. Conditional Use – Byler Materials, LLC (CU#17070010) - Mr. Stephen Meehan, Esq. said they were sidetracked last month by discharge issue and went on to introduce Mr. Mark Williams, Earth Data, Inc., who said they have collected and analyzed water samples for the site for several years. He said samples were taken on February 1, 2018 and the results of all samples were that the water was colorless, odorless, and the PH levels were in compliance with MDE. He said the same sampling procedure was done again on February 21, 2018 with the same results. He attributed the “blue water” to the scattering of light from the sand in the water, and not copper sulfate. He added that the water did not appear colored coming out of the pipes.

Mr. Meehan entered a letter dated March 7, 2018 from Earth Data into the record.

Mr. Ed Larrimore, Maryland Department of the Environment Mining Program said he was on site last week and a co-worker was there earlier for a sample. He said the field report notes blue/green discoloration downstream and added that that color is not totally uncommon on the Eastern Shore. He added that it would be ineffective to treat the large pond with algaecide when there is no requirement to regulate algae. Lastly, he said Byler is authorized to discharge without notification to MDE and is currently fully compliant with no stop work orders.

Mr. Meehan went on to introduce a letter from Johnathon Ferdinand at Vibra-tech providing results of truck loading operation noise.

Chairman Reiss asked if there were members of the public who wished to comment, at which time the following comments were received:

(A) Mr. Jay Falstad, Executive Director Queen Anne's Conservation Association, said they raised questions regarding water quality after receiving complaint from a citizen. He said he flew a certified drone around the site and provided photos. He pointed out what he called a visible oil sheen on the water surface coming from the dredge. He added that he has sent the images to the Attorney Generals Office for Environmental Crimes.

(B) Mr. Dale Walls, adjacent landowner, reiterated his complaint regarding noise and dirty roads. He said he can hear the equipment running while inside his house.

The following motion was made by Commissioner Tolliver, seconded by Commissioner Leigh and failed with Commissioners Tolliver and Leigh in favor, Commissioners Reiss and Jackson opposed, and Commissioners Priest and Douglas abstaining;

RESOLVED, that the Planning Commission, regarding the request by Byler Materials, LLC for a favorable recommendation to the Board of Appeals for a Major Extraction Phase 3 operation for an additional 48 acres totaling 100 acres of sand and gravel mining on the East side of MD 313 along Merrick Corner Road and Ingleside

Road, and as more particularly described in **Department of Planning and Zoning / Board of Appeals file # CU-17070010**, hereby tables consideration of the request pending receipt of information from the Department of the Environment concerning the possible petroleum leak.

Upon further consideration, the following motion was made by Commissioner Douglas, seconded by Commissioner Tolliver, amended by Commissioners Toliver and Leigh both accepted by Commissioner Douglas, and passed by unanimous voice vote:

RESOLVED, that the Planning Commission, regarding the request by Byler Materials, LLC for a favorable recommendation to the Board of Appeals for a Major Extraction Phase 3 operation for an additional 48 acres totaling 100 acres of sand and gravel mining on the East side of MD 313 along Merrick Corner Road and Ingleside Road, and as more particularly described in **Department of Planning & Zoning / Board of Appeals file # CU-17070010**, hereby forwards a favorable recommendation to the Board of Appeals with the following conditions; (1) the sound attenuation berm is expanded with native evergreens to minimize noise, (2) the report / study by the Maryland Department of the Environment regarding oil leakage from the dredge is received, and (3) change the hours of operation for equipment for dredging and loading to Monday through Friday from 7:00 A.M. to 5:00 P.M. with additional mining (but no trucks) from 5:00 P.M. to 8:00 P.M.

8.Minor Site Plan – Autobell Carwash (#04-18-01-0004-C) – Mr. Stan Kosick, Senior Planner, presented the highlights of the request by Autobell Carwash for Minor Site Plan approval to repurpose an existing commercial structure into a one-bay, commercial car wash with necessary parking and drive aisle stacking on 1.997 acres of land on South Piney Road, in Chester.

Mr. Tom Davis, DMS & Associates, described the parking, traffic flow, architecture, and stormwater management.

Mr. Johathon Grass, Autobell Carwash, described the company based in Charlotte, NC, and the local operation and need for employees.

Chairman Reiss asked if there were members of the public who wished to comment, at which time Mr. Jim Turlington, adjacent landowner said he was in favor of the proposed project.

Chairman Reiss asked if there were members of the public who wished to comment, at which time Mr. Jim Turlington, adjacent landowner said he was in favor of the proposed project.

Upon review and further consideration, the following motion was made by Commissioner Tolliver, seconded by Commissioner Priest and passed by voice vote:

RESOLVED, that the Planning Commission, regarding the request by Autobell Carwash for Minor Site Plan approval to repurpose an existing commercial structure into a one-bay, commercial car wash with necessary parking and drive aisle stacking on 1.997 acres of land on South Piney Road, in Chester, and as more particularly described in **Department of Planning & Zoning file Minor Site Plan #04-18-01-0004-C**, hereby finds that the Minor Site Plan is in conformity with the Comprehensive and Community Plans and is an adaptive use which is commended, and hereby grants approval with the following conditions; (1) the site will be revised and the structure remodeled in a substantially consistent manner with the architectural drawings and elevations as review by the Planning Commission, (2) the forest conservation fee-in-lieu (\$531.43) is submitted, (3) any remaining edits and/or documents required by the Department of Public Works and/or the Department of Planning & Zoning be reviewed and submitted, (4) all required estimates, bonds, sureties, review and inspection fees must be submitted to the Department of Public Works and the Department of Planning & Zoning as appropriate, (5) the Adequate Public Facilities Ordinance exemption must be granted/approved, and (6) all required signatures must be obtained.

9. Public Comment – None.

There being no further business to come before the Planning Commission, the meeting was adjourned at 12:05 P.M.

RESPECTFULLY SUBMITTED,



Tom Leigh, Secretary 4/12/18



March 7, 2018

Mr. Stephen Meehan, Attorney at Law
332 Cannon Street
Chestertown, Maryland 21620

VibraTechinc.com
109 E. First Street
Hazleton, PA 18201
Phone 570.455.5861
Fax 570.455.0626

**RE: Measured Truck Loading Noise Level
Supplement to November 12, 2017 Report
Byler Materials, LLC
1120 Merrick Corner Road
Ingleside, Md. 21644**

Dear Mr. Meehan:

As requested, Vibra-Tech Engineers, Inc. has measured truck loading operation noise levels for the Byler Materials Sand and Gravel facility located at 1120 Merrick Corner Road, Ingleside, Md. Noise levels from the operation of the loader with backup alarm and from customer trucks being loaded with sand and gravel were measured on March 1, 2018.

As per Vibra-Tech's previous report with regard to noise levels from this facility dated November 12, 2017, and based on actual noise readings from the Ellicott Dragon Series 670 dredge operating on site, along with noise measurements from the plant and loader, Vibra-Tech's analysis indicated compliance to the day time maximum noise limit of 65 dBA at all property line locations and potential dredge locations.

The purpose of this supplemental testing was to determine if truck loading noise between 0600 and 0700 would meet the night time maximum noise level limit of 55 dBA as specified by the Maryland Noise Criteria.

Noise from the truck loading operation was measured at a distance of approximately 2500 feet at the Byler Materials property line at point 17A and immediately adjacent to Parcel 27, the Walls residence. See Table 1 below and the Sound Exhibit marked as Appendix A. Based on this data, the calculated noise level from truck loading operation was determined for the closest noise receptor point 5 along Merrick Corner Road.

All noise data was collected using a Larson Davis Model 824 Sound Level Meter. This meter meets the ANSI S1.4-1971 standard cited in the Maryland Noise Criteria that was provided to Vibra-Tech prior to this testing. The meter has a current manufacturer's calibration certification. The meter was also field calibrated both before and after all testing.

The Maryland Noise Criteria cites daytime and nighttime maximum allowable noise level limits (dBA) for industrial, commercial, and residential receiving land use categories. The proposed start time for truck loading operations will be during night time hours thus the night time residential noise level limit of 55 dBA will be applied to all noise level data for this report. See table 2 below.

Table 1. Noise receptor points, distance from truck loading operation, and maximum noise level

Noise Receptor Point	Distance from Noise	Lmax dBA
5	825	53-55
17A	2500	40-43

Table 2. Maximum Allowable Noise Level (dBA) For Receiving Land Use Categories

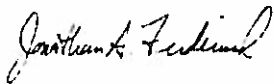
Max dBA	Industrial	Commercial	Residential
Day Limit	75	67	65
Night Limit	75	62	55

Conclusion

Based on the results of the sound level measurements, noise levels from truck loading operation at receptor locations adjacent to the loading operation, were found to be below 55 dBA. This noise level limit is the most restrictive limit set fourth in the Maryland Noise Criteria for night time hours.

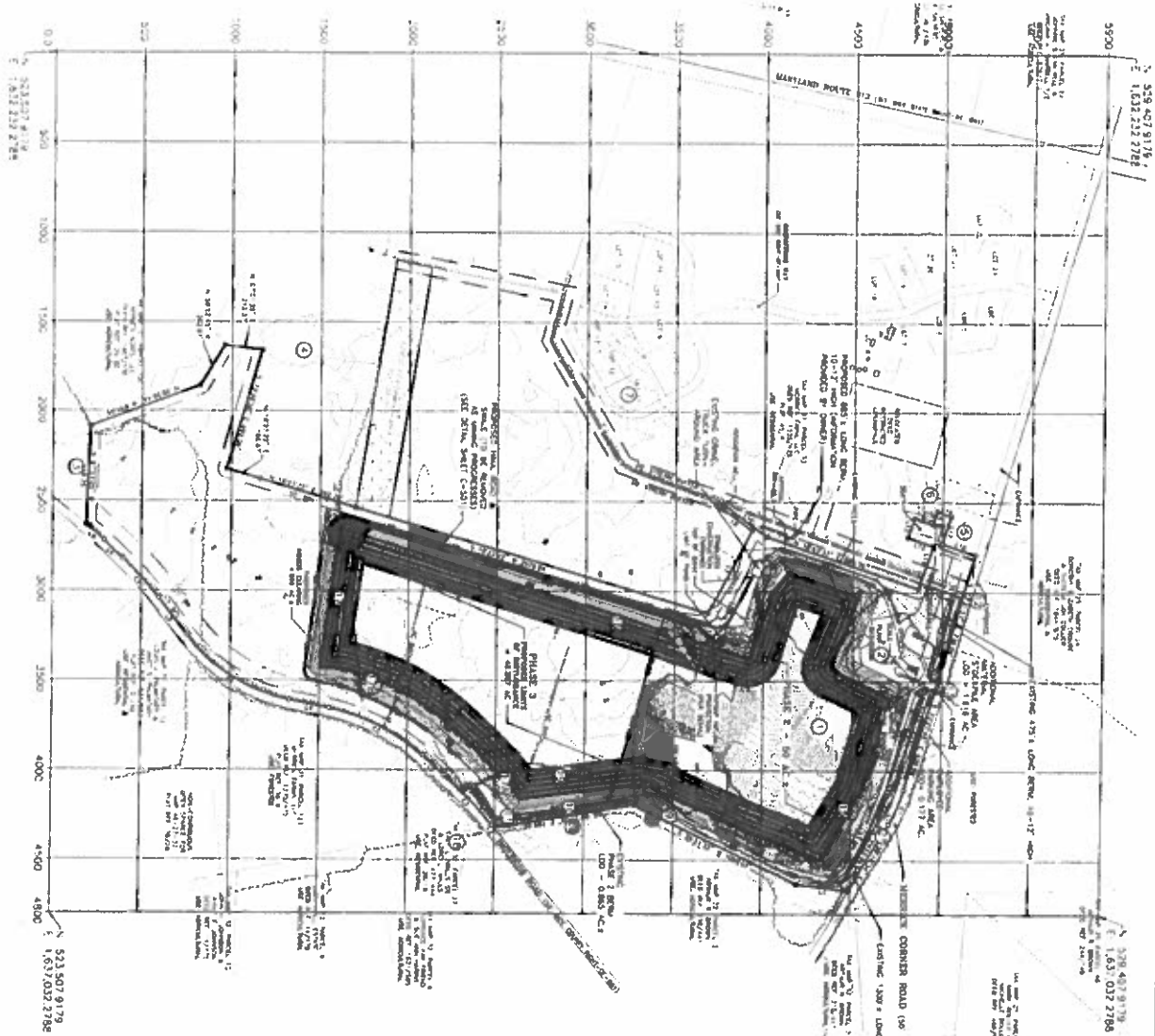
In general, sound levels attenuate or decrease by approximately 6 dB per doubling of distance from a noise source to a receptor. Outdoor noise levels at locations further from the measurement points used in this study would be lower than what has been reported.

Respectfully submitted,
VIBRA-TECH ENGINEERS, INC.



Jonathan A. Ferdinand
 Sound and Vibration Specialist

Appendix A



LEGEND

PROPERTY LINE	---
EXISTING ROAD CENTERLINE	---
EXISTING EASEL CENTERLINE	---
PROPOSED ROAD CENTERLINE	---
PROPOSED EASEL CENTERLINE	---
PROPOSED TREE LINE	---
THE CENTER OF MASSAGE BATH	---
SOUND EXHIBIT POINT	⊙

SOUND EXHIBIT SIGHTING POINTS

POINT NO.	EASTING	NORTHING	ELEVATION
1	1277	447	61.4
2	3248	4318	64.0
3	3348	4840	69.3
4	2318	127	62.0
5	1681	1400	64.0
6	3248	312	71.0
7	1421	3278	65.0
8	4298	3787	64.0
9	4257	3444	63.0
10	4318	2820	64.0
11	4280	2117	64.0
12	3544	5300	-
13	3380	3044	69.0
14	4494	4494	69.0
15	3178	3178	68.5
16	1408	1408	63.0
17	1671	3257	64.0
18	3257	1798	64.0
19	4488	2288	63.0
20	4318	2788	64.0
21	4281	481	61.5



LAND ENGINEERING, LLC
 101 [Address] [City], [State] [Zip]
 [Phone] [Fax]

SOUND EXHIBIT

FOR
BYLER MATERIALS, LLC

DATE: [Date]
 DRAWN BY: [Name]
 CHECKED BY: [Name]

AS NOTED

March 7, 2018

Mr. Stephen Z. Meehan
Law Offices of Stephen Z. Meehan
208 High Street, Ste. 200
Chestertown, Maryland 21617

Re: Copper and/or Aluminum Sulfate Water Quality Sampling at the Merrick Farm LLC
Sand and Gravel Pit- Ingleside, Queen Anne's County, Maryland; Earth Data File 4690-D

Dear Mr. Meehan:

In response to a request from Mr. Jonathan Byler, Earth Data recently conducted some research into copper and/or aluminum sulfate in surface water samples. The request was in response to comments and questions raised at a February 2018 meeting.

BACKGROUND

Earth Data performs periodic inspection and discharge water sampling during pumping events at the Merrick Sand & Gravel facility in accordance with Maryland Department of the Environment (MDE) General Discharge permit 15MM8036; MDG498036. Earth Data measures and reports field pH and temperature, and collects and transports samples to a laboratory for analysis of Total Suspended Solids (TSS) and Settleable Solids (SS).

Samples are presently collected from an approximate 8-inch diameter discharge pipe that free-flows into a ditch. Earth Data field technicians collect 1-litre grab samples from the discharge stream and transfer those samples into containers provided by the lab.

Earth Data was at the site to collect discharge samples on February 1, 2018 in response to an MDE compliance request; samples were also collected on February 21, 2018. During both sampling events the water samples collected from the discharge point were colorless, odorless and generally clear. During the February 1 sampling event a sample was also collected from near the pump intake location in the pond and checked for field pH. That water sample was also reported to be colorless, odorless and generally clear.

The question was asked at a recent meeting if copper sulfate or ammonium sulfate was causing the water in the mining pond to appear to be green/blue in color. MDE does not require sampling for either of these compounds and therefore Earth Data does not test for either. However, during all recent sampling there are no indications that either copper sulfate or ammonium sulfate are present in the water.

RESULTS AND CONCLUSION

Research indicates that copper sulfate (CuSO_4) is most commonly used as an algaecide. It is typically a blue crystal when solid. It is soluble in water and a CuSO_4 solution is blue.¹ It is not naturally found in groundwater. Copper Sulfate pentahydrate is commonly used in algaecides, which is typically a colorless liquid. Common algaecides are SeClear[®] and Pool Time MaxBlue[®]. SeClear[®] is a colorless liquid and MaxBlue[®] is a blue liquid.^{2,3} When added to water, the algaecides do not change the color of the water to green blue; rather, algaecides remove the algae that are causing the water to look green/blue.⁴

Ammonium sulfate is most commonly used as a fertilizer. It is a colorless liquid.⁵ When applied to fields, ammonium sulfate quickly breaks down into the ammonium ion and the sulfate ion.⁶ Surface water runoff into water would be NH_4 and SO_4 due to the lower pH of the pond.⁷ NH_4 and SO_4 are both colorless when solubilized. If SO_4 is present the water would have a foul-smelling odor,⁸ which has never been observed at the Merrick site. When ammonium sulfate is added directly to water, it quickly solubilizes and becomes a salt and does not affect the color of the water. Therefore, runoff from nearby farms using ammonium sulfate as fertilizer, if any, is likely not the cause of the color of the water.

There are no data to suggest that either copper sulfate or ammonium sulfate are being used, or have ever been used, at the Merrick Farm operation. It is Earth Data's opinion that the most likely cause for the appearance of the green/blue water in the mining pond is the optical illusion resulting from the absorption and scattering of light and presence of light-colored sand at the bottom of the pit. This is similar to effects that can be seen in the Caribbean Sea and the Mediterranean Sea.⁹

Please let us know if we can provide any additional information or assistance in this matter.

Sincerely,



Mark A. Williams
President

MAW/cak

References

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