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April 6, 2015

Case Manager
Louisville Metro Planning & Design Services
444 South Fifth Street
Louisville, Kentucky 40202

Re: Modified Conditional Use Permit in B-115-05 (and potentially B-15-84) relating to RDDP in 9-62-82; 13905 and 13909 Aiken Road, our clients = Natural Products, LLC (Applicant) & Otte Family Limited Partnership (property owner)

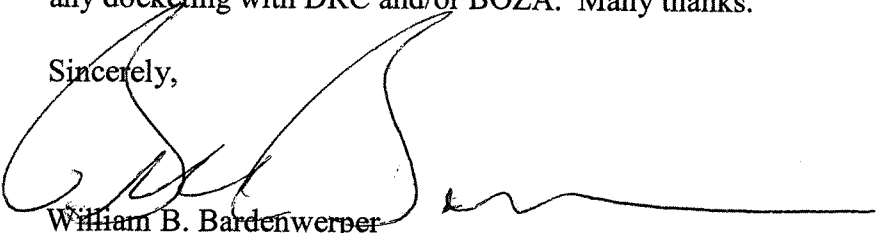
Dear Case Manager:

We are herewith submitting the necessary applications to revise the previously approved Detailed District Development Plan (RDDDP) and to modify the referenced Conditional Use Permit(s) (CUP(s)). All of this is for purposes of submitting an RDDDP and Modified CUP for development of portions of this site ultimately no longer subject to inorganic fill operations and not used for continuing organic recycling and wholesale nursery operations.

In order to complete filing and reclamation for purposes of the RDDDP and Modified CUP, trucking of inorganic fill material is anticipated to occur off the public street access from Old Henry Road. That is in part due to the fact that access through the Rogers Group quarry site will be limited, and ultimately terminated, for these purposes in the near term once the Rogers Group's obligations to State agencies as respects quarry reclamation are fully satisfied.

We look forward to discussing this matter with you in further detail, as necessary, in advance of any docketing with DRC and/or BOZA. Many thanks.

Sincerely,


William B. Bardenwerper

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APR 06 2015

PLANNING &
DESIGN SERVICES

Cc: Frank Otte
Tee Ray & Craig Arnold, Natural Products
Kevin Young, Jeff Sisler & Ann Richard, LDD

15 DEWPLM057
15 CUM 1019

LOUISVILLE METRO BOARD

DOCKET NUMBERS B-15-84

Public Hearing Date: July 18, 2005

Owners:

Otte Family Ltd. Partnership
by Frank Otte

Applicants:

Wood Environmental Products, LLC

Agent:

Bill Bardenwerper

Subject of Request:

An application for a Modification of a Conditional Use Permit for a quarry to allow a revision in the reclamation operation in a M-3 zoning district and to allow the nursery on excavated ground.

Premises Affected:

On property known as 13905 and 13909 Aiken Road and being in Louisville Metro.

Existing Use and Zoning:

Nursery & Quarry;
M-3, Suburban Workplace

Surrounding Land Uses and Zoning:

North----Vacant Parcels; M-3, C-1, Suburban Workplace

South----Single Family Residences; R-4, Neighborhood

East-----Vacant Parcels, Single Family Residences; CM, R-4, Neighborhood

West-----Vacant Parcel, I-265; M-2, Suburban Workplace

Related cases:

B-15-84 On March 19, 1984, the Louisville & Jefferson County Board of Zoning Adjustment approved a Conditional Use request for a rock quarry.

LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT STAFF REPORT

JULY 18, 2005

DOCKET NO. B-15-84 (CONTINUED)

This is an application for a Modification of a Conditional Use Permit to allow a earth filling operation as a revision of the reclamation of the quarry located in a M-3 zoning district. The overall site is approximately 159 acres and located between Aiken and Old Henry roads just east of the Snyder Freeway. The applicant intends to accept some inorganic fill material, but none will be combustible material. The operation will occur 50 feet and 70 feet below the grade of the surrounding properties and will have at least a 50 foot buffer along the property lines shared with residential properties. The applicant states that the site to be filled will be at least 120 feet from any property zoned residential.

The applicant's justification is attached.

STAFF ANALYSIS:

Chapter 4.2.21 Earth Excavation, Filling, and Refuse Disposal Operations, Major Excavation, Filling, and Refuse Disposal Operations, Major may be allowed in R-R, R-1, M-2, and M-3 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements. Earth Filling lists prerequisites for filing, general standards, and requirements. The following need to be addressed by the applicant:

4.2.21. Earth Excavation, Filling, & Refuse Disposal Operations

D. Information to be Filed:

1.e. Sequence of Operations-Locations where excavations and filling operations will commence and the procedural sequence of operations.

1.g Volumes-The volumes of materials to be excavated and filled for each location on the site where operations are to take place.

E. General Standards:

#11 States that all filling operations and final approval shall be in strict conformity with the regulations of the Board of Health, Air Pollution Control District, Kentucky Department for Environmental Protection and the Public Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to issuance of any Conditional Use Permit.

COMPREHENSIVE PLAN

The property is within a Suburban Workplace that is characterized by predominantly industrial and offices uses where the buildings are set back from the street in a landscaped setting.

LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT STAFF REPORT

JULY 18, 2005

DOCKET NO. B-15-84 (CONTINUED)

The following guidelines of the Comprehensive Plan appear to be applicable to this request (See **Staff Report Appendix** for full text).

Guideline 3. Compatibility

The intents include to allow a mixture of land uses, but at the same time preserve the character of the existing neighborhood.

- | | | |
|-------------|--|---------------------------------|
| 3.1 | Compatibility | Apparent Compliance |
| 3.3 | Residential Compatibility | Apparent Compliance |
| | The proposed fill will take place at the floor of the quarry and will not be visible. | |
| 3.6 | Traffic | Apparent Compliance |
| | The proposal has received Preliminary Development Plan approval stamp from Metro Transportation. | |
| 3.7 | Noise | Applicant to Address |
| | The operation will be on the floor of the quarry which should lessen the impact the fill might have on the residential properties. | |
| 3.8 | Lighting | Apparent Compliance |
| | No additional lighting is proposed. | |
| 3.9 | Visual Impact | Apparent Compliance |
| | The fill area will not be visible to someone standing along Aiken Road or Old Henry Road. | |
| 3.22 | Buffers | Board Needs to Determine |
| | The applicant is requesting to use the existing buffer at the top of grade for the buffering. | |

Guideline 10. Flooding Stormwater

- | | | |
|--------------|--|----------------------------|
| 10.11 | Stormwater Runoff | Apparent Compliance |
| | Site plan has preliminary stamp approval from MSD. | |

LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT STAFF REPORT

JULY 18, 2005

DOCKET NO. B-15-84 (CONTINUED)

The other modification involves the clarification as to whether the nursery operation is allowed on the excavated area. Again, the location will be at the bottom of the quarry and will not be visible from Aiken or Old Henry roads.

The applicant feels that since the quarry operation has now moved entirely underground, having a nursery operation on excavated property makes sense. Previously, the two operations could not safely co-exist.

The Board must determine if the proposal is in conformance with the Comprehensive Plan.

It is suggested that, if the Modifications of the Conditional Use Permit are approved, the following conditions be met:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon), the listed requirements for a fill operation, and any conditions imposed or waived by the Board. No further development shall occur on the site without prior review and approval by the Board.
2. Required agency approvals shall be filed, before transmittal occurs.

DRAFT ANALYSIS

Therefore, staff is recommending approval if the noted listed requirements are waived/resolved, and the noise and buffer concerns are mitigated, based upon the site inspection, the submitted application, site plan, and staff's review with the above noted conditions.

MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
JULY 18, 2005

DOCKET NO. B-115-05

Owners: Otte Family Ltd. Partnership

Applicants: Wood Environmental Products, LLC

Agent: Bill Bardenwerper

Subject: An application for a Conditional Use Permit to allow an outdoor recycling facility in a M-3 zoning district.

Premises affected: On properties known as 13905 and 13909 Aiken Road and being in Louisville Metro.

Appearances for Applicant:

Bill Bardenwerper, Bardenwerper, Talbott & Roberts, PLLC, 8311 Shelbyville Road, Louisville, Kentucky 40222, whom submitted a booklet with exhibits, a copy of proposed conditions of approval and a CD of the presentation.

Robert Dunaway, Dunaway Engineering, 3404 Stony Spring Circle, Louisville, Kentucky 40220.

Tee Ray, Bob Ray Tree Company, 8129 Old LaGrange Road, Louisville, Kentucky 40222.

Missy Legel, Dunaway Engineering, 3404 Stony Spring Circle, Louisville, Kentucky 40220.

Appearances-Interested Party:

Jim Kennedy, 13901 Old Henry Road, Louisville, Kentucky

Appearances Against Applicant:

No one.

On June 20, 2005, Wood Environmental Products, filed an application for a Conditional Use Permit to allow an outdoor recycling facility in a M-3 zoning district.

On July 18, 2005, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT

JULY 18, 2005

DOCKET NO. B-115-05

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

A video of the site and surrounding area was shown.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning and Design Services Office.

The recording of this hearing will be found on the CD of the July 18, 2005 proceedings.

After a discussion of the case by the members of the Board in open business session, on a motion by Member Rhodes, seconded by Member Anderson, the following resolution was adopted:

WHEREAS, the Board finds, from the file of this case, the staff report, and the evidence and testimony submitted at the public hearing that an outdoor recycling facility is proposed; and

WHEREAS, the Board finds that the applicant is requesting a Conditional Use Permit to allow an outdoor recycling facility in a M-3 zoning district; that the overall site is approximately 159 acres and located between Aiken and Old Henry Roads just east of the Snyder Freeway; that the outdoor recycling facility will take place at the bottom of the quarry; and

WHEREAS, the Board finds that the property is within a Suburban Workplace Form District; that the mulching operation will be more than 200 feet from any property line; that there is no additional lighting proposed; that the operation will take place on the floor of the existing quarry; that it will not be visible from Aiken Road or Old Henry Road; and

WHEREAS, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives of the Comprehensive Plan, as it has received preliminary approval from the Louisville Metro Public Works Department and Louisville and Jefferson County Metropolitan Sewer District;

MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
JULY 18, 2005

DOCKET NO. B-115-05

NOW, THEREFORE, BE IT RESOLVED, that the Conditional Use Permit is hereby **APPROVED ON CONDITION**.

BE IT FURTHER RESOLVED, that the Board does hereby **WAIVE**, Chapter 4.2.46; Items C and E.4,c.

The conditions are as follows:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. All listed requirements shall either be met or waived by the Board.
- * 3. Truck deliveries of wood product for the wood recycling operation may only access the property via the Snyder Freeway underpass through the quarry entrance off Old Henry Road on the opposite side of the Snyder Freeway.
4. The only permitted materials to be recycled pursuant to this Board approval shall be wood products, which involves trees that may be cut, ground and mulched. All wood products that enters the site shall ultimately be removed from the site. None of the wood products shall be utilized for filling the site.
5. All applicable provisions of the conditional use permits regulation, the subject of this application, shall apply, except as, in related Docket No. B-15-84 or in this approval, if any, waived.
6. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor recycling without further review and approval by the Board.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
JULY 18, 2005**

DOCKET NO. B-115-05

The vote was as follows:

YES: Members Rhodes, Anderson, Queenan, Francis, Stewart and Crowder.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Grisanti.

ABSTAINING: No one.

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

DOCKET NO. B-15-84

Applicant: Martin Marietta Corporation by John P. Frawley

Owners: Frank G. Otte, Margaret H. Otte and Clarence Otte
Nursery Gardens, Inc. by Frank G. Otte, President

Subject: An application for a Conditional Use Permit for a
rock quarry.

Premises affected: On property located on the northwest side of Aiken Road 1320 feet more or less northeast of the Louisville and Nashville Railroad right-of-way and 5600 feet more or less southwest of Aiken Road at its intersection with Factory Lane, fronting on the northwest side of Aiken Road 776 feet more or less and extending northwestwardly at varying widths, the greatest of which is 2519 feet more or less, to a maximum depth of 3500 feet more or less to the right-of-way of relocated Old Henry Road east of the Jefferson Freeway, fronting on the south side of relocated Old Henry Road for 652 feet more or less, containing 159 acres more or less, and being in the unincorporated area of Jefferson County.

Appearances For Applicant:

Frank Haddad, Attorney, 529 Kentucky Home Life Building, Louisville, Kentucky who submitted 10 slides of the site and surrounding area including one slide from Docket No. 9-62-82, an aerial photograph of the site, a petition containing 7 signatures in support, and a rendering of the proposal with respect to its relationship to the adjoining residences.

John Carroll, Attorney, 235 South Fifth Street, Louisville, Kentucky.

David Daugherty, 3717 Taylorsville Road, Louisville, Kentucky.

Leo C. Oak, Geologist, Martin Marietta Corp., 6340 Castleplace Drive, Indianapolis, Indiana.

Howard L. Pugh, Safety Engineer, Martin Marietta Corp., 6340 Castleplace Drive, Indianapolis, Indiana.

Douglas Gale, Area Product Manager, Martin Marietta Corp., 10172 Linn Station Road, Louisville, Kentucky.

William H. Powell, Director of Engineering of Aggregate Division, Martin Marietta Corp., 2710 Wycliffe Road, Raleigh, North Carolina.

Stephen Windsor, Staff Scientist, Martin Marietta Corp., 1450 South Rolling Road, Baltimore, Maryland.

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

Docket No. B-15-84 (continued)

Charles Theodore Koebel, Ph. D., 2069 Douglas Boulevard, Louisville, Kentucky.

Frank Otte, 12001 Shelbyville Road, Louisville, Kentucky.

E. M. Allen, The Murray Co., Box 2340, Anchorage, Kentucky.

Appearances Against Applicant:

None.

On February 13, 1984, Martin Marietta Corporation by John P. Frawley applied for a Conditional Use Permit for a rock quarry.

On March 19, 1984, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and proposed construction was presented to each Board member.

A staff member read the staff report. See Addendum for staff report in full.

A map and an aerial photograph of the site and surrounding area were shown.

Betty Green, Court Reporter, recorded the testimony given in the public hearing.

After the public hearing and a further discussion of the case by the members of the Board in open executive session, on a motion by Member Ochsenbein, seconded by Member Deutsch, the following resolution was unanimously adopted:

WHEREAS, the Board finds that the finished grade elevations are properly shown on the development plan and the ultimate depth and the finished grade elevations are proposed to be the same, therefore, no additional information is needed on the development plan regarding the ultimate depth elevations, and

WHEREAS, the Board finds that the information provided on the development plan regarding the owners of the site and all adjoining property owners is sufficient and no additional information is needed, and

WHEREAS, the Board finds that no sanitary toilet facilities are needed on this site as sanitary toilet facilities currently exist on the site of the existing quarry to the west, and the proposal is an extension of the existing quarry, and

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

Docket No. B-15-84 (continued)

WHEREAS, the Board finds that a watchman is currently stationed on the site of the existing quarry to the west and access to the site of the proposal will be through the existing quarry as no new access points are proposed for the extension, and

WHEREAS, the Board finds that the proposed excavation less than 50 feet from the property line along the southwest side property line adjacent to the existing quarry near the tunnel passway under the Jefferson Freeway and at the northwest corner of the site will not adversely affect the surrounding area, and

WHEREAS, the Board finds that the finished grade of the quarry will not have an adverse effect on the surrounding area as a 50 foot buffer strip of undisturbed land will surround the quarry along the boundaries of the Conditional Use Permit site, the topsoil will be contoured to meet the top of the rock ledge around the quarry, and the rock ledge itself will be a stair-stepped configuration of 15 foot risers and runners to the floor of the quarry, and

WHEREAS, the Board finds that the 5 and 10 year limitations of the operation under item d., (1), (d), vii. are excessively restrictive for an operation extracting continually needed materials if the quarry is conducted in a safe and reasonable manner consistent with the listed requirements and conditions of the Permit, and

WHEREAS, the Board finds from the evidence and testimony submitted at the public hearing that the applicant shall employ best management practices in order to minimize erosion and sedimentation during and after site preparation, therefore, the proposal will not violate Environment Guideline E-8 which is concerned with the control of erosion and sedimentation, and

WHEREAS, the Board finds from the evidence and testimony submitted at the public hearing that blasting, when properly conducted, produces very little dust, the measures proposed by the applicant for the control of dust on the site will adequately protect the surrounding area, and the applicant shall at all times comply with all requirements of the Air Pollution Control District for the control of dust, therefore, the proposal will not violate Environment Guideline E-15 which is concerned with dust control, and

WHEREAS, the Board finds from the evidence and testimony submitted at the public hearing that the operation will be surrounded by a 50 foot buffer strip with a 370 foot wide buffer zone, including a 100 foot wide strip containing extensive screening and buffering, between the actual quarry site and the single family residences immediately adjoining the property to the southeast, any blasting on

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

Docket No. B-15-84 (continued)

the site shall be conducted in compliance with the binding elements attached to the change in zoning on the subject property under Docket No. 9-62-82 and shall be limited to Monday through Friday and the applicant shall make every possible effort to conduct any blasting on the site at the time of approximately 11:00 A. M. so as to minimize disturbances to surrounding residential uses, the quarry operation will be conducted predominately below ground level of adjoining properties and any noise, vibration or visual nuisance from the quarry operation will not have an adverse effect on the surrounding residential uses as sound dissipates upwards and as the proposed buffer strips will virtually eliminate any view of the site from surrounding residences, truck traffic will not increase in the area as no new access points to the site and no additional product lines are proposed, therefore, the proposal will not violate Residential Guideline R-1 and Industrial Guidelines I-4, I-6, I-7, and I-8 which are concerned with the protection of neighborhoods, with the design of industrial development, with taking all measures necessary to prevent industrial uses from causing nuisances to surrounding developments, with locating industries which are potentially offensive away from residential areas, and with expanding industries which are adjacent to non-industrial development in a manner that meets the needs of the industry and protects surrounding development from nuisances, and

WHEREAS, the Board finds that a rock quarry operation is not an appropriate use for an industrial subdivision, therefore, the proposal will not violate Industrial Guideline I-1 which is concerned with locating, to the extent possible, industries in industrial subdivisions, and

WHEREAS, the Board finds that the proposal is in conformance with the Comprehensive Plan because it complies with all other applicable guidelines, principles and objectives of the Comprehensive Plan, and

WHEREAS, the Board finds that the conditions attached to the permit will ensure compatibility with the surrounding neighborhood, and

WHEREAS, the Board finds that the proposal will not adversely affect the public health, safety and the general welfare, as it has received preliminary development plan approval from the Jefferson County Public Works Cabinet, Transportation Engineering and Water Management Engineering Sections, and preliminary development plan review from the Jefferson County Fire Safety Officer, the proposal will be an expansion of an existing rock quarry, the proposed expansion is due to the exhaustion of rock reserves at the existing quarry and not to increased production or additional product lines,

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

Docket No. B-15-84 (continued)

the blasting restrictions suggested by the applicant and attached as a binding element to the change in zoning on the subject property under Docket No. 9-62-82 will adequately protect the surrounding area and the blasting which has previously been done on the existing quarry site to the west has not had an adverse effect on the surrounding area, the site shall be extensively landscaped and buffered in order to protect the surrounding residences, and as dust, erosion and sedimentation must be controlled at all times on the site in order to comply with all requirements of the Water Management Engineer and the Air Pollution Control District,

NOW, THEREFORE, BE IT RESOLVED, that this application be and is hereby APPROVED ON CONDITION.

BE IT FURTHER RESOLVED, that the Board does hereby WAIVE Section IV, D., 27., item b., (3), (b); item b., (9); item c., (1); item d., (1), (d), iv., v., and vii.

The conditions are as follows:

1. The quarry operation shall be conducted in strict compliance with all portions of the approved development plans.
2. The operation shall be conducted in compliance with all binding elements attached to the approval of change in zoning Docket No. 9-62-82, especially Binding Element No. 1.
3. The applicant shall submit to the Board for review and approval a reclamation plan for any areas to be refilled and for those earthen areas laid bare of vegetation by the operation. This reclamation plan shall be submitted to the Board and approved prior to the commencement of any excavation on the site. The reclamation plan shall follow the operational sequencing approved by the Board.
4. Prior to the commencement of any excavation on the site, the applicant shall submit to the Board the appropriate guarantee required by Section IV, D., 27., e. of the Zoning District Regulations in the amount of \$159,000.

BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 19, 1984

Docket No. B-15-84 (continued)

5. A screening/landscaping plan for the proposed 100 feet wide landscaped buffer strip near the single family residences to the southeast shall be submitted to the staff of the Board and approved within 60 days of the Board's final action on this case. The screening/landscaping plan shall be implemented in accordance with the directions of the Board. The screening/landscaping shall be properly maintained at all times.
6. Each 5 year cell progression of the rock quarry operation shall undergo an adequately timed review by the Board in open executive session prior to commencement of any excavation in each cell.