

4-B-09-UR-cor-Hale2

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July 7, 2009

VIA HAND DELIVERY

Mr. Dan Kelly
Director of Development Services
400 Main Street, Suite 403
City/County Building
Knoxville, Tennessee 37902

*In re: Amended Use on Review Application of Vulcan Lands, Inc.
MPC No. 4-B-09-UR*



Dear Dan:

Based on discussions between representatives of the Buttermilk, Graybeal, Everett, Pittman, and Yarnell Communities ("Community") and representatives of Vulcan Lands, Inc ("Vulcan"), they have agreed to the following additional conditions in connection with Amended Use on Review Application (4-B-09-UR) related to the 105 acres of property Vulcan owns that lies southwest of Graybeal Road and which adjoins the currently permitted area for its quarry operation, that area referred to herein as the New Area ("New Area") which additional conditions have been noted in text form on the attached exhibits marked as Exhibit 1 Supplemental and Exhibit 2 Supplemental:

1 Vulcan will construct berms as noted on Exhibit 1 Supplemental in the New Area along Buttermilk Road and Graybeal Road. The berms will be constructed in accordance with Knox County Zoning Regulations as recommended by the staff of the MPC. The toe of the berm will be no less than 100 feet from the rights of way of Buttermilk Road and Graybeal Road. Because of the Hickory Creek flood plain, the berm will terminate as shown on Exhibit 1 Supplemental. At this point, the end of the berm will be no less than 500 feet from the common property corner between Vulcan and its adjacent property owner, which is more than the 200-foot distance requested by the Community.

2. Vulcan shall construct the berms in stages, as depicted on Exhibit 1 Supplemental. The berms designated as "Initial Berms" shall be constructed to a height of not less than 20 feet and an approximate width of 150 feet within nine months (pending normal construction delays, such as inclement weather) of the granting of the Use on Review Application. Within three months after building the first phase of the Initial Berms they shall be planted with indigenous biodiverse trees and plants (no monocultures) on the outer slope, as indicated herein. Over time, Vulcan will raise the height of the Initial Berms as needed to handle the overburden created from the quarrying operations. The "Secondary Berms" as designated on Exhibit 1 Supplemental lie along Graybeal Road across from property owned or controlled by Vulcan. The Secondary Berms shall be constructed in a first phase to a height of not less than 20 feet and an approximate width of 150 feet before Vulcan mines rock within the New Area. When the first stage of construction of the Secondary Berms is completed, Vulcan will landscape the outer slope of the berms within six months with indigenous biodiverse trees and plants (no monocultures).

As with the Initial Berms, the Secondary Berms may be raised in elevation over time as the need to dispose of overburden arises. However, the outside toe of the berm shall remain at least 100 feet from the rights-of-way. During construction of the Initial and Secondary berms, Vulcan will allow natural vegetation to grow within the 100-foot offset from Buttermilk and Graybeal roads.

Regarding the berms in the 11-H-96-UR application, as well as the Initial Berms and Secondary Berms, referenced in this application, the following vegetation plan will be followed. Hardwood trees will be planted along the outside toe of the berm. These hardwoods shall be spaced on about 40-foot centers. The outer slopes shall be planted with hardwoods at a density of no fewer than 16 trees per acre, which measure shall amend the measure set forth on Exhibit 1 Supplemental. Native vegetation will be allowed to grow on the berm's outer slope. At completion, Leyland Cypress trees will be planted along the berms' crest on about 10-foot centers.

3. Vulcan, as it has in the past will be governed and will operate its quarry operation in accordance with the Tennessee Blasting Standards Act, T.C.A. 68-105-102 (the "Act"). Continuous monitoring has been conducted and will continue to be conducted by a third party independent firm at the structure uncontrolled by Vulcan that is nearest to the blasting activity. Vulcan shall increase its monitoring of seismic activity and air blast response at four additional off-site locations that initially will be sited generally to the west, east, south and north of its quarry operation at the locations noted on Exhibit 2 Supplemental. Because the impact of blasting activity on off-site areas can be influenced by subsurface geological conditions, the sites of these four additional monitoring locations may be moved by Vulcan, within the Community, from time to time in order to collect data about the blasting activity for Vulcan to better manage its blasting activities. However, the number of seismograph locations will not be reduced without concurrence from the Community. All collected monitoring data will be made available to the Community on a calendar, quarterly basis, upon request by those in the Community.

4 Vulcan's blasting activity will be governed by and will meet the standards set forth in the Act. Based on the results of blasting between 2005 through April 2009, the seismographic readings have been well within the standards set forth in the Act, and Vulcan will endeavor to operate its blasting activities going forward at less than 10 inch per second, which is half of the standard allowed by the Act.

5. Vulcan will offer to conduct standard engineering surveys of structures along Buttermilk Road that are within 1,000 feet of the northern most property line of the New Area that is adjacent to Buttermilk Road and Graybeal Road. The parcels with structures that Vulcan will offer the owners to survey are:

- tax map 129, parcel 07604;
- tax map 129, parcel 076;
- tax map 129, parcel 07602;
- tax map 129, parcel 07603;
- tax map 129, parcel 075;
- tax map 129, parcel 07601;
- tax map 129, parcel 07401;
- tax map 129, parcel 074;
- tax map 129, parcel 073;
- tax map 129, parcel 072;
- tax map 129, parcel 07201;
- tax map 129, parcel 071;
- tax map 129, parcel 086;
- tax map 129, parcel 085;
- tax map 129, parcel 084;
- tax map 129, parcel 083;
- tax map 129, parcel 082;
- tax map 129, parcel 08101;

tax map 129, parcel 08102;

tax map 129, parcel 081;

tax map 129, parcel 08103; and

tax map 141, parcel 042.

Vulcan will conduct a community meeting before the surveys are done for those within this area who are willing to authorize such surveys. Presentations will be made on pre-blast survey procedures, and on the procedures and type of blasting and mining Vulcan does at the Dixie Lee Quarry. Vulcan will only survey those identified property owners indicating a willingness to engage in the program.

6 Vulcan will conduct its operations in accordance with Knox County Department of Air Quality Management Regulations which are incorporated into Knox County Zoning Ordinances by way of § 4 10, which are protective to its employees and adjoining neighbors.

7 Vulcan will conduct its operations in accordance with the noise requirements of Knox County as required by the Knox County Zoning Ordinance which contains specific requirements at § 4 10 1. Vulcan will also investigate and implement use of alternative safety devices in place of the backup sounding buzzers on their earth moving and excavation equipment. An alternative will be selected that will reduce the noise compared to the buzzers.

8. On a case by case basis, Vulcan will install landscaping that with maturity will serve as shields or blinds on adjacent properties in the Community for up to four (4) residences in consultation with the landowners. The residential properties on which such landscaping blinds will be installed will be selected by the Community's representatives Kirkpatrick, Williams and Bryant and will only be installed with the agreement of the landowners.

Very truly yours,



Thomas M. Hale
KRAMER RAYSON LLP

Mr. Dan Kelly
July 7, 2009
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cc via e-mail: Dr. Keith Kirkpatrick
Mr. Jack Lambert
Mr. Ken Haislip