

**SUMNER COUNTY ZONING BOARD OF APPEALS**  
**REVISED MINUTES**  
**6:00 P.M.**  
**JULY 14, 2011**

SUMNER COUNTY ADMINISTRATION BUILDING  
COMMITTEE MEETING ROOM # 112  
355 N. BELVEDERE DRIVE  
GALLATIN, TN 37066

**MEMBERS PRESENT:**  
MARK MCKEE JR., CHAIRMAN  
BRUCE RAINEY, VICE-CHAIRMAN  
SANDY WEBSTER  
DON DICKERSON  
MARSH RAGLAND, ALTERNATE MEMBER

**MEMBERS ABSENT:**  
JAMES COLE

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**STAFF:**  
GARY L. HAMMOCK, DIRECTOR OF CONSTRUCTION AND DEVELOPMENT  
ANTHONY HOLT, COUNTY EXECUTIVE  
RODNEY JOYNER, COUNTY PLANNER  
LEAH MAY DENNEN, LAW DIRECTOR  
LISA DUNAGAN-DIORIO, ADMINISTRATIVE ASSISTANT

**Motion to approve the June minutes by Ms. Webster, seconded by Mr. Dickerson. Motion passed unanimously.**

1. **Frank and Donna Kirkbride** were requesting a conditional use permit to operate a winery in a proposed 2,500 square foot building. They are also requesting permission for two (2) signs (on Tax Map 31, Parcel 79 and Tax Map 41, Parcel 29.07 which is a vacant parcel), and for a dust free parking variance. The winery will be owner operated.  
The winery will be open to the public on a periodic basis or by appointment.  
Subject property is located at 318 Corinth Road, Portland, Tn., is on tax map 31, parcel 79, contains 92.5 acres, and is zoned agricultural.

FYI: Tax Map 31, Parcel 79, which was in 1990 Tax Map 41, Parcel 8 is served by a 20 foot easement. There was a easement variance granted on November 6, 1990 (a copy of these ZBA minutes are enclosed in your packet)

This was advertised in the Gallatin News Examiner on June 29, 2011. The adjoining property owners were notified by certified mail.

Mr. and Mrs. Kirkbride came forward to explain their request and to answer any questions.

Staff passed around pictures that were taken at subject property today.

I am representing my wife, Kay Parker whose mother's property adjoins this land. (FYI: He never gave his name) She is a widow and is concerned about the increased amount of traffic that this would generate and so are several others present tonight. He questioned the fact that they would be able to build the proposed 2,500 square foot building without the existing easement being enlarged.

Chairman McKee asked if he was planning on selling the wine that they make at this location.  
Mr. Kirkbride concurred.

Mr. Kirkbride stated that we are only going to be open seasonally, which would be approximately once every quarter, which would mean one deliver truck every so often.

Mike Akins, 1<sup>st</sup> District County Commissioner, stated he had received a few calls in opposition to this winery such as increased traffic and tractor trailers.

Moe Taylor, 1<sup>st</sup> District County Commissioner, stated he too had received calls in opposition to this winery. They were concerned about the narrow road and increased traffic.

Chairman McKee closed the public hearing.

Mr. Rainey questioned the four parking spaces which would mean this is to be a very small operation.  
Mr. Kirkbride responded to Mr. Rainey by saying absolutely.

Mr. Kirkbride stated that there has not been any problems with tractor trailers in the past.

Mr. Rainey asked if this is approved could you create a place off the road for the tractor trailer to pull in and park.

Mr. Kirkbride responded to Mr. Rainey's question by stating that this is a possibility that I can do this.

Mr. Rainey asked if he understood if he was approved that he would have to come back before this body every two years for re-approval.

Mr. Kirkbride responded to Mr. Rainey's statement that he understood this and that the staff made this very clear.

There was discussion.

Mr. Rainey stated that the county has promoted agricultural growth and small agri businesses and we have approved several of these conditionally.

**Motion by Mr. Rainey to approve this conditional use for a period of one (1) year, a maximum opening of one (1) day per quarter and that the requestor build a pull off adequate to support a semi-truck(should he have that), also include a dust free variance and for one (1) sign, seconded by Mr. Dickerson. Motion passed unanimously.**

**Mr. Kirkbride stated there are many, many more steps that he has to go thru for licensing and I may not be opening for a couple years.**

**Mr. Rainey suggested that when you get this winery ready to open you need to come back before this board.**

2. **WESTERN FARM PRODUCTS CO., LLC QUARRY** was requesting a conditional use permit to operate a quarry with accessory asphalt and concrete plants and rock crushing facilities. This is not a zone change. They are also requesting a freestanding, unlighted stone sign (5 feet x 7 feet). They are also requesting to have 120 to 135 employees. The days and hours of operation will be Monday thru Friday, 6:30 a.m. until 5:00 p.m.; Saturdays from 6:30 a.m. until 12:00 p.m., (Saturday will be for shipping only). Subject property is located at 375 Corum Hill Road, Castalian Springs, Tn., on Tax Map 129, parcel 56.00, and Tax Map 110, Parcels 18.02, 18.03, And 18.08, contains 356 acres and is zoned R1A. This was advertised in the Gallatin News Examiner on June 29, 2011. The adjoining property owners were notified by certified mail.

Mr. Tom White, Attorney, came forward to represent the applicant, Western Farm Products, Co., LLC Quarry. Mr. Tom White stated that Mr. George Dean also is representing this applicant in this case. He stated that he and Mr. Dean agree on the Land Use, Sumner County Zoning Ordinance and the 2035 Land Use Plan. He explained that they had a town hall meeting on June 20, 2011. This board knows that quarries are lawful uses in Tennessee, as well as, Sumner County. The county has a land use classification which is in the record by agreement. If you look at the use classification system document under Agricultural, Resources Production and Extractive Activities it lists Mining and Quarrying. It is important that the members of this board consider Tenn. Code Ann.§ 13-3-304. "If the legislative body adopts the general regional plan in the form of... a resolution by the county, then any land use decisions thereafter made by ...board of zoning appeals when the board of zoning appeals is exercising its powers on matters other than variances, must be consistent with the general regional plan." Therefore any decision this board makes must be consistent with your Land Use Plan. Where the area is located for the proposed operation is in the most part rural-agricultural area. All of the proposed buildings will be in the rural agricultural area and in our opinion would mandate that this board approve this. Under your county zoning ordinance there is not a base zoning requirement for a quarry operation. The client in this case has agreed that they will perform a pre-blast survey within all structures located within a 1,000 feet of the quarry and on all nearby historical properties at their expense. He stated that based on the 2010 census, the Castalian Springs area of Sumner County is populated at a density of approximately 58 people per square mile, an extremely low population concentration, and it is appropriate to locate these types of activities where population is sparse. They anticipate an investment of approximately \$15 million and expect that this operation to employ approximately 120 to 135 employees with a \$5 million payroll. Mr. White also made mention of a letter from GNRC giving advice as to things to consider when the ZBA members are reviewing this application. Mr. White presented for the record a packet with 7 exhibits, such as a letter to Chairman McKee briefly setting forth the reasons why his client complies with all the provisions of the ordinance, use classification system, Tenn. Code Ann. 13-3-304, letter from Norris Culvert stating the proposed operation is consistent with the plan, opinion letter from GNRC, letter from Robert Murphy concerning analysis and review of the proposed rock quarry site, letter from Andrew Buckner regarding archaeology files, synopsis of Andrew Saatkamp's education and experience, minutes from the Sumner County Commission regarding adoption of the 2035 Comp plan, letter from Everette Lowe concerning property values affected by a rock quarry, and resolution signed by Chairman of Sumner County Planning Commission of approval of the 2035 comp plan by the planning commission, etc.

John Gordon came forward to speak on behalf of this request and gave a power point on the Sumner County Site layout, existing conditions, and closure plan of the proposed rock quarry in Castalian Springs, Tn. At the beginning of his power point was site pictures of their rock quarry in 1975, 1987, 1999, and 2010 in Hermitage, Tn., which reflects growth of Summit Medical center and subdivisions around this particular quarry.

Wade Hutchison, President, VCE, Inc., came forward to state that his company had been retained to work with the blasting for this particular blasting operation. He stated that he has thirty five years working in the blasting industry. Mr. Hutchison provided the members a packet of his experiences and qualifications. Mr. Hutchison stated that they plan to provide a pre-blast survey of the designated structures and historical homes.

Everett Lowe, Broker Commonwealth Properties, with forty years experience, came forward to give his opinion as to whether the proposed application would negatively affect the property values in the surrounding vicinity. He stated that based on his familiarity with residential development patterns, quarry operations and their land use impacts in his opinion the proposed use permitted on appeal will not adversely affect other property in the area and will not impair the reasonable long term use of those properties.

Bob Murphy, President of RPM Transportation Consultants, stated that he was asked by Mr. Tom White to review the traffic impact of this project. According to TDOT in 2010 Highway 25 east of the site has an annual average daily traffic volume of 6,512 vehicles per day. The daily traffic volume is well under capacity levels for a two-lane highway such as Highway 25. He also discussed roadway improvements to Highway 25 in the vicinity of the site. Based on my reviews and analyses, the proposed roadway improvements that are planned will adequately mitigate the traffic impacts of the proposed quarry. He also stated that safe and efficient access will be provided by the access plan that is proposed for this project.

This concluded the presentation for the applicant.

Thus the side against the quarry began their presentations.

David Amonette, Attorney, representing Save Castalian Springs, came forward to enter for the record a certified copy of the Sumner County Zoning Resolution, the 2035 Comprehensive Plan, and Sumner County Zoning map. Mr. Amonette came forward to explain the reasons why this board should deny this request. This decision will affect one of the most precious areas that we have in this county. Mr. Amonette explained that Mr. White ignored the county's zoning law. The property where they want to put this quarry is zoned R1A. There are very specific uses allowed for R1A, some are allowed under appeal, and the rest of them are prohibited. It is not that complicated when you think about it. Mr. Amonette explained that mining and quarry are not uses permitted with conditions under appeal in the R1A district.

Kevin Williams, Attorney, and a property owner in the area came forward to speak against this quarry and to show a power point regarding quarries, perception and scale which reflects lies, darn lies, and statistics. This power point showed how properties will be negatively affected by the proposed quarry. Mr. Williams stated that he had a letter from Ted Jones, Director of Facilities and Operations with Summit Medical Center reflecting that the hospital had to schedule surgery around quarry blast times at the nearby rock quarry which is owned by Vulcan Materials Company know as Hermitage Quarry.

Scott Haynes, Attorney, came forward to speak for Joe Haynes and wife Barbara Haynes in opposition to this request. Mr. Haynes entered for the record a binder containing such items as the Certified copies of the Sumner County Zoning Resolution, 2035 Comp Plan, Zoning Map, articles from the zoning resolution, letters and resolutions on Historical Significance/importance of the area, a lot of various other documents. Mr. Haynes stated that the area is low-density residential zoning well separated from activities not compatible with residential neighborhoods.

Mr. Haynes asked Mr. Bill Lockwood to come forward to state his expertise. Mr. Lockwood came forward to state that he was a registered landscape architect and has been providing permitting assistance for public and private development in Davidson County for more than 30 years.

Mr. Haynes asked Mr. Lockwood if he was familiar with rock quarries. Mr. Lockwood responded that he was familiar with Rock quarries. Mr. Haynes also asked Mr. Lockwood if there would be an increase in traffic. Mr. Lockwood responded that yes there would be an increase in traffic. Mr. Haynes and Mr. Lockwood discussed the uses permitted on appeal in the R1A zoning. Mr. Haynes asked Mr. Lockwood if a rock quarry, asphalt plant, cement plant, or rock crushing facility are uses permitted or uses permitted on appeal in an R1A district or are these compatible with a residential zone. Mr. Lockwood responded that a rock quarry, asphalt plant, cement plant nor a rock crushing facility are not a use permitted or a use permitted on appeal in the R1A district, nor are these compatible with a residential zone.

Mr. Haynes asked Mr. Lockwood questions for about 15 minutes regarding rock quarries. Some of the many questions Mr. Haynes asked Mr. Lockwood were pertaining to the 2035 Comprehensive Plan where it shows that the area where the proposed quarry will be located is Historical Village Center. Mr. Haynes asked Mr. Lockwood if a rock quarry, asphalt plant, cement plant, or rock crushing facility, would be uses consistent with a select Historic Village Center designated area or in a Rural designated area in the 2035 Comprehensive Plan. Mr. Lockwood replied that a rock quarry, asphalt plant, cement plant or rock crushing facility would not be consistent with a select Historic Village Center or in a rural designated area of the 2035 Comprehensive Plan.

Mr. Lockwood read parts of a letter from Rachael Ivie, State Planner, which in summary stated that the Sumner County BZA does not have the authority to approve the location of a rock quarry in a residential R1A zoning district given that is not a use permitted on appeal. Since this property does not have the correct zoning to allow a rock quarry, only the county legislative body has the authority to rezone the property or amend the Zoning Resolution to allow development of a rock quarry.

Mr. Lockwood stated that he did concur with Ms. Ivie's letter.

Mark L. Burton, University of Tennessee, director of Transportation and Economics, gave his expert opinion of the economic impact that would be on the area. The notion that this proposed quarry will provide any sort of meaningful, measurable economic improvement in Sumner County is silly. From an economic well being standpoint this project does not offer the county anything to be considered.

Martha Akins, Director of the Tennessee Historical Commission said historical sites could be directly affected by the proposed quarry. These historical structures are not designed to withstand blasting, you can have a rock quarry or you can have tourism founded on a cradle of history, but you can not have both. The State of Tennessee is presently investing approximately Six Million Dollars for Wynnewood's restoration following the 2008 tornado.

Chairman McKee opened the floor for the public hearing.

Anthony Holt, County Executive, came forward to state his opposition to this quarry. Mr. Holt stated his three primary reasons he was against the quarry. He stated that he was elected the care taker of this county and he has received many calls and not one call has been in favor of the rock quarry, this area is designated Historic Village in the 2035 Comprehensive Plan. And this would be devastating to this county to allow this rock quarry.

David Satterfield, County Commissioner of this district came forward to speak against this rock quarry. He presented some pictures that he had made of the park in Castalian Springs and stated how much money has been spent on the park. He stated that there is not another area in this county that compares to Castalian Springs, Tn.

Steve Graves, County Commissioner of this district came forward to speak against this rock quarry. He spoke about the affects the blasting would have on this area, such as structures, health, water, and roads. He also spoke about the affects this quarry would have on the property values.

Paul Goode, County Commissioner from Hendersonville, came forward to speak against this rock quarry. He stated that Ms. Debra Maggart, State Representative, is out of town but would like to make note of the letter she wrote in opposition to this quarry and that it should be denied. He stated that he was the Commissioner that brought the 2035 Comp plan to the floor on September 2010. Mr. Goode stated that the land use plan is crystal clear in protecting the historic sites and it very specifically points out Castalian Springs. These people in Castalian Springs have had enough devastation when the tornado went through this area and they did rebuild certain things, but they can not build back after a rock quarry. Please do not put these people through a living hell.

Walter Durham, State Historian, came forward to speak against this request and described the historical value of this area. You can find another place for a rock quarry, but you can not find another Castalian Springs, Tn.

Baker Ring, County Commissioner, 5<sup>th</sup> district, came forward to speak in opposition to this request. He stated that a rock quarry is not consistent with what is necessary with this area, not consistent with the 2035 Comp plan, and is not safe for this community.

State Representative Mike McDonald agreed with Ms. Akins stating that no one should be allowed to disrupt the historical nature of the area. He stated that we worked very hard after the 2008 tornado to make sure we got the money to restore Wynnewood, we do not need a rock quarry near Wynnewood, Hawthorne or any of our historical treasures in Castalian Springs. He stated that he would do anything possible to make sure this (proposed quarry) does not happen. He asked the board to turn down this request for this rock quarry.

Patrick McIntyre, Director of the Tn. Historic Commission, came forward to speak in opposition to this request. He spoke about the historic resources in the Castalian Springs, Tn. area. He asked that this request be denied. He stated that three of the seventeen historic homes that are located in the state of Tennessee are located in Castalian Springs, Tn. This speaks to the extraordinary value of this area. He read a resolution from the Historical Commission which states that they respectfully ask that this request for a rock quarry be denied. This resolution was submitted as part of the record.

Bill Puryear, Bledsoe Lick Association representative, came forward to speak against this request. He spoke about the historic value of Castalian Springs, Tn. He asked that this request be denied.

Dr. Kevin Smith, MTSU archeological professor, came forward to speak against this request. This is a crown jewel of Sumner County, and there is not another place like Castalian Springs, Tn. He spoke of his concern for Castalian Springs if the rock quarry is allowed.

Rich Hendrix, Site Director of Wynnewood, came forward to express his concern and gave all of his thoughts on why this request for a rock quarry should not be allowed and asked that this request be denied. He gave a brief chronological history of Castalian Springs. He also spoke about the preservation of Castalian Springs, Tn. for future generations.

Tom Neal, head hornet, of Castalian Springs, Tn. came forward to speak against this request. He spoke about the reasons he felt that this request should be denied. He also provided for the record a petition consisting of approximately 962 names against the rock quarry being allowed in Castalian Springs, Tn. He stated a rock is a rock is a rock. He stated he felt this quarry would not provide a single job, because there is no demand. He also stated that there was no demand for a rock quarry in this area. He ended by saying God Bless America and Sumner County.

Thomas Patton, Engineer came forward to speak against this quarry. He told several stories of the repercussions of living next to a rock quarry. He asked that this request be denied.

Christy Henry came forward to state being in an environment with lots of dust, and particulate matter will very likely cause him significant difficulties with his moderate asthma. Ms. Henry stated that if this quarry is permitted that her son can not go outside due to his asthma. She asked that this request be denied.

Susan Gaidos came forward to tell about her bad experiences of her family living near a quarry that Hoover owned off Donelson Pike. She stated that her family's well was damaged so badly that drinking water had to be carried in as long as her mother lived there. Her father had emphysema and could not leave the house because of the quarry dust. The courts never stopped Hoover. Hoover can not repair your wells nor can they never replace your peace of mind.

Phillip Griffin came forward to express his opposition to this quarry. He asked if you would like this to be your final resting place.

Phyllis Hovoden came forward to submit a remonstrance petition, with 24 signatures concurring with the petition, for the record. Also included is exhibit A which is some pertinent sections of the Sumner County Zoning Resolution, exhibit B being section of the T.C.A. laws, exhibit C being letter to Rodney Joyner from Tom, White Supreme Court rulings, Constitution of the State of Tennessee, as well as other documents.

Judy Gilmore, a resident for forty years of Castalian Springs came forward to state her opposition to this request and her reasons.

David Amonette stated that he would bring to a close the public comments that are against the proposed quarry. He also submitted a letter from Dr. Spencer for the record referring to Ms. Gaido's son's health. Mr. Amonette stated that it was time to turn the meeting over to Mr. Tom White. In closing, Mr. Amonette asked that the members refer to Tab # 11 which was a proposed motion for this body. He asked that the board deny this request.

Mr. Tom White came forward to make his last request for the rock quarry to be approved. He stated that the property is clearly zoned R1A. He then stated that the Sumner County Zoning ordinance clearly does not have a requirement base zoning for a mining and quarry operation. What you need to consider is that you have a land use classification documents which recognizes under Agricultural, Resources Production and Extractive Activities mining and quarrying. I am asking you to consider the fact that this is indicated in your land use classification document. This property is located in a rural agricultural area.

Mr. Tom White stated that on the 2035 General Plan, it clearly suggests that the bulk of this property stays agricultural. That means that a mining and quarry activity is appropriate for that use. You do not have anything in your zoning ordinance that allows or disallows a mining and quarry operation. He stated that they did not choose who to notify by mailings of the proposed quarry, the staff gave him a list of adjoining property owners and this is who they notified. He also stated that he had a town hall meeting which was not required and they were not under any obligation to have. We have not tried to run and hide. Mr. White went on to say that he respected everyone that is here tonight and their opinion. Mr. White stated that Wynnewood is located approximately 4,200 feet away and per a blasting expert there would not be any historic homes in this area that would be affected by the blasting. Mr. White entered for the record a letter from Dr. Charles Morton addressed to Chairman McKee in support of this application and stating that he they felt that this rock quarry would not increase any medical difficulties. He also made reference of a letter in your packet from Andrew Buchner, Archeologist, stated as a result of his search there are no previously recorded archaeological sites within 357 acres of the proposed quarry tract. Mr. White stated that your decision tonight must be consistent with the Tennessee Code, §13-3-304 which nobody denies, in order to be consistent with the use you have to consider, is a mining and quarry operation consistent or not consistent with a rural and agricultural designation. That is what your 2035 plan designates for this area. Your land use classification which clearly recognizes mining and quarry under agricultural use designations.

Chairman McKee closed the public hearing.

Mr. Rainey disclosed to the public and this body that he had worked with and knows attorneys and experts on both sides of the issue, but he felt that he can vote his conscience.

Mr. Rainey stated he felt that we have two primary points to deliberate. The first one is, is this request in keeping with the zoning resolution, that gives us any jurisdiction at all, is it keeping with the zoning resolution and is it keeping with the 2035 comp plan.

Mr. Rainey said he has a list of questions and deficiencies and technical questions before he could actually vote on approval of this site.

Mr. Rainey stated that he felt our deliberation needs to be, is this request in keeping with a use that we can grant on appeal in a R1A district.

Bruce Rainey stated that while a mining quarry may be considered in some instances an agricultural business, the other businesses presented in Hoover's site plans were industrial uses.

Motion by Mr. Rainey that the request as submitted which includes quarrying, processing of the non-metallic minerals, asphalted cement plants and cement and concrete plants be denied, seconded by Mr. Dickerson. Motion passed unanimously.

A complete transcription of this hearing along with the exhibits filed at that time are attached herewith and made a part of the record of the proceedings. (Due to the size of the attachment, it will be brought to the meeting and housed in the Sumner County Construction and Development Department.)

**Other business:**  
None

**Meeting adjourned at 9:05 P.M.**

