

schneider, marchant

From: Lohr, Amy
Sent: Monday, March 29, 2010 2:54 PM
To: Ferrall, Diane; Fuller, Brian
Cc: Novak, Mark; schneider, marchant; Glass, Susan
Subject: RE: trail connection along Goose Creek (Parcel 61/29)
Attachments: image001.jpg

I agree with Diane's assessment. Marchant and I worked on a draft condition for Loudoun Water which clearly states that the conditions of SPEX 1971-0005 become null and void once the Loudoun Water storage use commences. However, being able to establish the trail on 61/29 doesn't get you too far given the constraints with the existing recorded easement to the south on both sides of the Creek. My advice is to figure out what side of the Creek you want the trail on and we'll help you conclude what type of legislative action would be needed to accomplish that, and we should make it a formal determination so that we aren't repeating this mental exercise years from now!

From: Ferrall, Diane
Sent: Thursday, March 25, 2010 9:30 AM
To: Fuller, Brian
Cc: Novak, Mark; schneider, marchant; Lohr, Amy; Glass, Susan
Subject: RE: trail connection along Goose Creek (Parcel 61/29)

Hey Brian,

You're welcome – glad to clarify. *No*, this all *does* preclude pursuit of a SPEX condition to allow public access / trails at this time because:

- (a) The "use" before the Board now is a "water storage" SPEX request per Sec.3-1004(CC) that has already had its duly advertised Planning Commission public hearing.
- (b) The existing "use" on the site that is encumbered by the no public access/easement is a "quarry" per SPEX-1971-0005 that would now be evaluated under the new Sec.3-1004(J)/3-1007&3-1008 regulations.
- (c) SPEX uses have to be advertised prior to public hearing per Sec.6-1300, and we'd have to start over with Luck Stone's consent to revisit the "quarry" use sending new letters of notification, newspaper ads, etc.

An analogy would be asking the IOC to hold up the Olympic ice skating teams just before their event to allow for the swim teams to concurrently compete so that they could both be judged by their various rules. It could be done, but we didn't properly prepare for it to happen that way. I regret not having an opportunity to see the draft conditions until after half time.

That being said, I'll defer to Amy, Marchant and Ron Brown if I've missed something here. Thank you for your patience.

Diane



Diane B. Ferrall, AICP
Loudoun B&D Zoning Administration
Proffer / Condition Management

From: Fuller, Brian
Sent: Wednesday, March 24, 2010 4:50 PM
To: Ferrall, Diane; Glass, Susan
Cc: Novak, Mark; schneider, marchant; Lohr, Amy
Subject: RE: trail connection along Goose Creek (Parcel 61/29)

Thanks everyone. May I safely assume that none of this would preclude us from pursuing Condition and/or Proffer language at this time committing to a trail once all quarrying operations have been completed?

Brian

From: Ferrall, Diane
Sent: Tuesday, March 23, 2010 2:59 PM
To: Glass, Susan
Cc: Novak, Mark; schneider, marchant; Fuller, Brian; Lohr, Amy
Subject: RE: trail connection along Goose Creek (Parcel 61/29)

Looking further at the existing SPEX condition trail issue, it seems:

Agreed, the only remedy at this point would be initiation of a SPEX request application to amend SPEX-1971-0005 and revisit the condition that prohibits public access within the required easement along the Goose Creek, *not* that I am recommending this.

There already is an existing no-public access / easement on both the north and south side of the quarry's other Goose Creek frontage that was established after SPEX-1990-0019 was approved per its 14th condition together with the 6th SPEX-1971-0005 condition (attached see Exhibit B of OSLE TIF).

So the linear trail would be limited to Parcel 29 if it alone was addressed by a new SPEX at this time to revisit the condition. In order to get the linear trail further along the creek before the quarry ceases then would require that both of the above existing SPEX approval conditions be revisited followed by reversing the existing easements to allow public access through the VOF / Goose Creek Advisory Committee.

I regret not being aware of this situation earlier on.

Diane



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This email is for reconnaissance purposes only and is not an official determination and is not a complete analysis of the referenced applications.

From: Fuller, Brian
Sent: Tuesday, March 23, 2010 11:23 AM
To: Lohr, Amy; Novak, Mark
Cc: Ferrall, Diane; schneider, marchant
Subject: RE: trail connection along Goose Creek (Parcel 61/29)

Amy,

Mark and I have discussed this issue a little further, and I think we understand what you're saying. However, our trail plan has a 25-50 year timeline, and we realize that a good majority of the trail system is going to take time to establish. Also, we want to be sensitive of pedestrian interaction on an active mining site, and it may not be appropriate to develop trails in that immediate area until all quarrying activities have been completed. However, that doesn't mean we don't want to fight for Conditions of Approval today!

Is the Water Storage Facility going to be considered a long-term lease with Luck Stone? Is it intended that Luck Stone will "always" retain ownership of the property? Is it possible to incorporate a trail condition for SPEX 2009-0020 that would commence once the conditions of SPEX 1971-0005 have expired, whenever that is, 2017 or later? PRCS is up for discussing all options, and frankly, we're going to have to revisit this issue with SPEX 2009-0027, ZMAP 2009-0003 and ZMAP 2009-0004, still currently under review. Thanks,

Brian

From: Lohr, Amy
Sent: Tuesday, March 16, 2010 9:10 AM
To: Novak, Mark; Fuller, Brian
Cc: Ferrall, Diane; schneider, marchant
Subject: trail connection along Goose Creek (Parcel 61/29)

Mark and Brian,

In reviewing SPEX 2009-0020, Loudoun Water-Water Storage Facility, it has come to Zoning's attention that an existing condition of approval for SPEX 1971-0005 prohibits public access along the Goose Creek. Specifically, the condition states, "The Applicant shall dedicate a scenic easement with no right of public access along Goose Creek." While this doesn't impact Loudoun Water's ability to process SPEX 2009-0020, it may impact PRCS' ability to pursue a trail connection with the property owner, Luck Stone. The current remedy would be a special exception to remove this condition. However, once SPEX 2009-0020 commences, expected around 2017, the conditions of SPEX 1971-0005 will no longer apply. So, basically, if PRCS wants to establish a trail connection before quarry operations cease on the site, there will be this issue of "no public access along Goose Creek."

In conversations with Luck Stone, they are not aware of any document establishing the required easement. However, it is an approved condition that was imposed by the BZA.

Happy to discuss further at your convenience.

Amy Lohr