



H&K GROUP, INC.
A Family of Companies
DIVERSIFIED STRENGTH... FROM THE GROUND UP!
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February 15, 2024

SENT VIA OVERNIGHT MAIL

Union Township
1445 East Main Street
Douglassville, PA 19518

Attn: Board of Supervisors

Re: Petition for Zoning Change Amendment
Birdsboro Quarry | H&K Group, Inc.
T.M.P. #88534300280563, #88534300296662, and #88534300483952
Union Township, Berks County

Dear Supervisors:

On the behalf of H&K Group, Inc., please find enclosed the following listed items in support of a Petition to Amend Zoning Ordinance and Map to allow for an expansion of the Birdsboro Quarry:

- Petition to Amend Zoning Ordinance and Map, dated 2/15/2024 (6 Copies)
 - Check# 001057968, in the amount of \$1,000.00 payable to the "Union Township" (Filing Fee)
- Exhibit A: Site Plan, dated 2/15/2024, Sheet 1 of 1 (6 Copies)

H&K Group, Inc. respectfully requests that the Supervisors of Union Township consider amending the Township's Zoning Ordinance and Map to contain portions of T.M.P. #88534300296662 and portions of T.M.P. #88534300280563 and the entirety of T.M.P. #88534300483952 within the Q/L – Quarry/Landfill Zoning District as set forth in the accompanying Petition to Amend Zoning Ordinance and Map. Portions of T.M.P. #88534300296662 and portions of T.M.P. #88534300280563 and the entirety of T.M.P. #88534300483952 are currently zoned SR - Suburban Residential.

Should have any questions concerning this application or require additional information, please do not hesitate to contact me at direct at (610) 222-3515. Thank you in advance for your attention to this matter.

Sincerely,

H&K GROUP, INC.

Scott S. Drumbore, P.E.
Director, Engineering & Environmental Services

SSD/eds
ENCLOSURES

cc: File: B-105M/6000-3005
Nate Fox, Esq., electronically and via Overnight Mail

UNION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

By: Nate D. Fox, Esquire
Attorney I.D. No. 307744
2003 S. Easton Road; Suite 304
Doylestown, PA 18901
(215) 606-0178

*Attorneys for Petitioner,
H&K Group, Inc.*

IN RE: H&K GROUP, INC.	:	UNION TOWNSHIP
	:	
PROPOSED MAP AMENDMENT	:	
TO THE Q/L ZONING DISTRICT	:	BERKS COUNTY,
<i>Petitioner.</i>	:	PENNSYLVANIA
	:	

**PETITION FOR ZONING ORDINANCE AMENDMENT
TO THE UNION TOWNSHIP ZONING ORDINANCE & MAP**

Petitioner, H&K Group, Inc. (“Petitioner”), by and through its undersigned counsel, Obermayer Rebmann Maxwell & Hippel, LLP, petitions Union Township to amend the Union Township Zoning Ordinance (“Zoning Ordinance”) and Union Township Zoning Map (“Zoning Map”) to expand the Quarry/Landfill Zoning District and in support thereof, avers as follows:

1. Petitioner is the owner of Tax Parcel Nos. 88534300280563 and 88534300296662 (“Properties”), which are partially within the Q/L – Quarry/Landfill District and partially within the SR – Suburban Residential Zoning District of Union Township.
2. The Properties together with the portions of the same parcel lying within adjacent Robeson Township comprise an existing quarry facility, known as Birdsboro Materials (“Existing Quarry”), and has frontages along Hopewell Street and Chestnut Street within the Township.
3. The Existing Quarry has a history of mining operations going back to the 1920s, prior to its acquisition by Petitioner. Petitioner has been operating the Existing Quarry since 1999 under PADEP Large Non-Coal Surface Mine Permit (SMP) #06970302.

4. Tax Parcel No. 88534300483952 (“Additional Parcel”) is adjacent to the Properties and is owned by Petitioner, but is not currently included in the Q/L – Quarry Landfill Zoning District.

5. Petitioner proposes the Township amend the Zoning Ordinance and Zoning Map to include further portions of the Properties and Additional Parcel (“Area to be Rezoned”).

6. Petitioner requires the expansion of the Existing Quarry within the Area to be Rezoned in order to continue servicing the general needs of its customers and clients.

7. A proposed plan of the expansion of the Existing Quarry including the Area to be Rezoned is included as Exhibit “A”.

8. The purpose of the Quarry/Landfill District pursuant to § 200-61 is “...to provide an area for a generalization of heavy industrial land uses which services and provides for the basic needs of the surrounding residential communities of the Township. The Quarry/Landfill District is located and centralized in an area which will adequately accommodate industrial growth, provided that each existing and proposed land use does not affect the public health, safety, and general welfare of the adjacent residential areas.”

9. The Existing Quarry largely extracts a type of rock commonly known as Diabase, which is extremely hard and is suitable for use in hot-mix asphalt, ready-mix concrete, drainage operations, and general construction including but not limited to railroad bedding.

10. The materials produced by the Existing Quarry maintain certifications by the Pennsylvania, New Jersey, New York, and Delaware Departments of Transportation, as well as the Maryland State Highway Administration.

11. If adopted, this will allow the reasonable expansion of the Existing Quarry, which will allow the continued servicing of existing construction projects in the local area and region, which is constituent with the purpose of the Quarry/Landfill Zoning District.

12. The expansion of the Existing Quarry will comply with the non-preempted sections of §§ 200-60 through 68, and 128 of the Zoning Ordinance, as follows with Petitioner's narrative explanation of its compliance with the relevant corresponding sections of the Zoning Ordinance in italics below:

Article XI: Quarry/Landfill District

§ 200-60: Purpose.

The rezoning of the Area to be Rezoned, as depicted on Exhibit A, is keeping with the spirit of the ordinance to: "provide an area for a generalization of heavy industrial land uses which services and provides for the basic needs of the surrounding residential communities of the Township. The Quarry/Landfill District is located and centralized in an area which will adequately accommodate industrial growth, provided that each existing and proposed land use does not affect the public health, safety, and general welfare of the adjacent residential areas." The Area to be Rezoned is located immediately adjacent to the Township's existing Q/L Zoning District and adjacent to the Existing Quarry which is an existing non-coal surface mining operation. The rezoning will accommodate continued industrial growth within the Township by increasing the expected lifespan of the existing quarry operation. Construction materials produced by the Existing Quarry now and in the future will support the basic needs of the residential communities of the

Township by providing construction aggregate needed for their future growth and ongoing facility maintenance.

§ 200-61: Uses permitted by right.

Petitioner's intended use of the Area to be Rezoned will be for non-coal surface mining, which is permitted by right per §200-61.G. of the Zoning Ordinance.

§ 200-62: Area and yard regulations for permitted uses.

As demonstrated on Exhibit A, Petitioner intends to comply with, and in some instances, provide more than the minimum requirements for area and yard regulations within the Area to be Rezoned.

§ 200-63: Land development plan.

Land development plans are not required for activities governed by the Non-Coal Surface Mining Act at 52 P.S. § 3301 et seq., and Petitioner will comply with the non-preempted requirements of the Zoning Ordinance. Pending rezoning of the Area to be Rezoned, Petitioner intends to file an application with Pennsylvania Department of Environmental Protection ("PADEP") to expand its existing non-coal surface mine permit to include Area to be Rezoned.

§ 200-64: Supplementary regulations.

Petitioner's intended activities are governed by the Non-Coal Surface Mining Act at 52 P.S. § 3301 et seq., and Petitioner will comply with the non-preempted requirements of the Zoning Ordinance. Pending rezoning of the Area to be Rezoned, Petitioner intends to file an application with PADEP to expand its existing non-coal surface mine permit to include the areas Area to be Rezoned.

§ 200-65: Uses permitted by conditional use.

Not applicable, as Petitioner is proposing to pursue a permitted use of the Area to be Rezoned.

§ 200-66: Area, yard and height regulations for conditional uses.

Not applicable, as Petitioner is proposing to pursue a permitted use of the Area to be Rezoned.

§ 200-67: Land development plan.

Not applicable, as Petitioner is proposing to pursue a permitted use of the Area to be Rezoned.

§ 200-68: Supplementary regulations.

Not applicable, as Petitioner is proposing to pursue a permitted use of the Area to be Rezoned.

...

§ 200-128. Quarrying and mining operations.

Quarrying and mining operations are permitted by right in the Quarry/Landfill Zoning District. In addition, quarry and mining uses are subject to all conditions and standards specified below:

A. The minimum lot size shall be 10 acres.

As demonstrated on Exhibit A, all properties proposed for rezoning within the Area to be Rezoned, exceed the minimum lot size requirement.

B. Stone removal, sale of stone products or the manufacturing of concrete or asphalt shall not be conducted within 25 feet of any property line, within 25 feet of any street right-of-way, within 25 feet of any residential zoning district,

and/or within 400 feet of any preexisting occupied residential dwelling unit, unless the quarry can provide the Township with written waivers from property owners permitting the quarry to conduct quarrying and/or mining activities within less than 400 feet of any preexisting occupied residential dwelling.

Petitioner's proposed operational setbacks have been depicted on . Petitioner intends to comply with, and in certain areas exceed, the minimum setback requirements.

C. Except for gated access for fire, police, or maintenance (of utilities fencing, trees and berms only), there shall be no entrance or exit to a state or Township road for quarry or related activities permitted within the Township of Union. In order to protect against indiscriminate and unauthorized activities, the site prior to use as a noncoal surface mine shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations. Such barricade, fence, or gate shall be at least six feet high and shall be kept in good repair.

Petitioner will ensure that vehicular access from public roads onto the subject properties proposed for rezoning will be provided through the Existing Quarry. No new driveway entrances are proposed along any public road within Union Township. Traffic into and out of the existing quarry operation will continue to be provided via the existing driveway entrance along Hay Creek Road in neighboring Robeson Township.

D. No site activity shall be permitted on Sundays or legal holidays. All operations shall be permitted only between the hours of 5:30 a.m. and 10:00 p.m. Monday through Friday; and 5:30 a.m. to 12:00 noon on Saturdays. No vehicles shall be staged or parked at the entrance and/or access road of the site prior to 5:00 a.m.

Petitioner intends to comply with the hours outlined above. Petitioner requests that 'legal holidays' be defined and limited to the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. As previously stated, no site entrance is proposed within Union Township, therefore vehicle staging or parking along public road within Union Township is not possible.

E. Truck access shall be designed to minimize traffic hazards and inconveniences. All interior roads shall be maintained and constructed by the operator. Trucks leaving the site shall not deposit accumulating amounts of mining products, dirt, mud or other such substances on public roads.

As previously stated, no site entrance is proposed within Union Township. Internal roads within the operation will be maintained and constructed by Petitioner in accordance with applicable PADEP and Mine Safety and Health Administration (MSHA) regulations.

F. Measures shall be provided to control dust and debris as provided by DEP regulations. The entire area shall be kept clean and orderly as provided by DEP regulations.

Petitioner agrees to provide dust control measures necessary to prevent fugitive dust emissions from the operation in accordance with applicable PADEP

regulations. An example of dust suppression measures currently employed would be the routine wetting of internal haul roads with water to reduce dust. Dust control will continue to be monitored and enforced by PADEP during its routine inspections of the mining operation.

G. A chain-link fence with a height of six feet shall be erected along all property lines of the mine operator. The fence shall contain, at all entrances, gates which are locked except during operating hours. Warning signs shall be placed on the fence at intervals of no more than 100 feet. Evergreens shall be planted as a vegetative screen on the outer slope of any berm erected by the quarry. The selected evergreens shall have a minimum height of six feet and shall be staggered on ten-foot centers.

Portions of the subject properties will be left undisturbed due to buffering and setback requirements associated with Petitioner's mining activities. Petitioner proposes to construct a 6-foot chain link fence around the limits of the area where mining activities are occurring rather than the property lines. The final location of the fence will be reviewed with the Township prior to installation and prior to mining activities commencing within the subject properties. Tree planting on berms, if warranted, will be reviewed with the Township in the future to determine the spacing and density.

H. Blasting shall be permitted between the hours of 10:00 a.m. and 4:00 p.m. Monday through Friday. Prior notice of all blasting operations shall be given to the Township and within two hours but not later than 30 minutes to

the occupants of all properties within a radius of 1,500 feet of the location of blasting who have previously requested such notice in writing.

Petitioner agrees to conduct all blast events within the hours specified above. Prior notice of each blast event shall be given to the Township and to all residents that have previously requested to be notified in advance of all blast events related to the Existing Quarry.

I. No substances which can harm persons, animals, vegetation, or other form of property shall be dispersed beyond the property lines of the quarrying or mining operation.

Petitioner will not disperse any substance beyond its property lines that would cause harm to persons, animals, or vegetation.

J. All requirements of federal, state and municipal statutes, ordinances and regulations pertaining to the operation of quarrying and mining operations shall be complied with. A copy of all submissions, permits and licenses to or from DEP and BSM shall be filed with the Township.

Petitioner agrees to comply with all applicable federal, state, and municipal statutes, ordinances, and regulations pertaining to quarrying and mining operations. Pending rezoning of the Area to be Rezoned, Petitioner intends to file an application with PADEP to expand its existing non-coal surface mine permit and NPDES discharge permit to include the Area to be Rezoned. Petitioner agrees to provide the Township with copies of all future PADEP submissions, permits, and licenses.

K. Groundwater monitoring wells. The landowner shall install groundwater monitoring wells at a distance of approximately every 1,200 feet along the perimeter of the area to be quarried, except that where the limits of the area to be quarried coincide with the boundary of another municipality said wells shall be located as proximate to the zoning district boundary as reasonably possible. The landowner shall sample said monitoring wells at least once each quarter, having prior to that time given to the appropriate Township a minimum of 48 hours' notice of the time of sampling in order to permit a designated official of the Township to be present at the time of said sampling. Results of said sampling shall be supplied to the Township promptly upon receipt and, upon request, to Robeson Township. Should the landowner affect by surface mining activities a public or private water supply by contamination or interruption, the landowner shall restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply and shall file with DEP proof of insurance or bond, sufficient under DEP rules and regulations, to affect such restoration or replacement. The term "water supply" shall include any existing or currently planned source of water or facility or system for the supply of water for human consumption or for agricultural, industrial or other uses. Said wells shall be placed, utilizing the landowner's forces, within one year after commencement of mining activities upon the Union site. Precise location of said wells shall be established following consultation with the Township's Engineer.

Petitioner agrees to install additional perimeter monitoring wells as stipulated above at such time when Petitioner applies to include the Area to be Rezoned within its PADEP non-coal surface mining permit. Final location of the wells will also need to be coordinated with PADEP since the Department will have jurisdiction and oversight over the future mining permit and its associated permanent surface and groundwater monitoring program. Petitioner will provide the Township advance notification of future sampling events and copies of sample analytical data upon future request. As the Township is already likely aware, corrective actions for water loss, diminution, interruption, and contamination is the responsibility of PADEP. Petitioner will promptly respond to all such future claims of water loss, diminution, interruption, and contamination within the local area surrounding the operation. If Petitioner is found to be at fault for any such claim, Petitioner will take prompt actions to remedy the fault in a manner that is to be mutually agreed to between the Petitioner, the water supply owner, Union Township and PADEP. Petitioner agrees to bear the sole cost to remedy any water supply affected by its mining activities.

13. Pursuant to section 609 of the Pennsylvania Municipalities Planning Code, Petitioner requests that this Petition be forwarded to the Union Township Planning Commission and the Berks County Planning Commission so that they can have opportunity to review and comment on the proposed zoning and map amendment, and upon review a public hearing be scheduled.

[THIS SPACE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

WHEREFORE, Petitioner respectfully requests that Union Township amend the Union Township Zoning Ordinance and Zoning Map to expand the Quarry/Landfill Zoning District to include the Area to be Rezoned.

Respectfully submitted,

**OBERMAYER REBMANN
MAXWELL & HIPPEL LLP**

A handwritten signature in blue ink, appearing to read 'N.D. Fox', is positioned above the signature line.

By: _____

NATE D. FOX, ESQUIRE
*Attorney for Petitioner,
H&K Group, Inc.*

Date: February 15, 2024

EXHIBIT “A”
Quarry Expansion Site Plan

