

*City of Alexandria, Virginia*WS

11-6-06

## MEMORANDUM

DATE: NOVEMBER 3, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THRU: JAMES K. HARTMANN, CITY MANAGER *J*

FROM: RICH JOSEPHSON, ACTING DIRECTOR, PLANNING AND ZONING *RS*  
RICH BAIER, DIRECTOR, TRANSPORTATION AND ENVIRONMENTAL  
SERVICES *Baiere*

SUBJECT: VIRGINIA PAVING, SUP#2005-0042

At the hearing on October 14, 2006, the City Council deferred consideration of SUP#2005-0042 for Virginia Paving in order to provide time for staff to address specific concerns and conditions raised at the public hearing. Some of the concerns expressed at the hearing included: enforcement, hours of operation, the number of days for nighttime production, potential long-term impacts, particulate matter, the level of output, and the need for comments from the Health Department and Alexandria Public Schools. Some Council members referenced specific conditions that they considered to be in need of revision, including Conditions #1 (production limit), #4 (number of nighttime shifts), #5 (allowable nighttime work), #27 (suspension of operations for public nuisance/health issues), #59 (quarterly compliance report from applicant), and #74 (hours of operation). Many of these concerns are discussed in the attached responses to specific questions received from Council members since the hearing.

This memo also provides a discussion of the impact of approval on future zoning decisions, and additional detail on the enforcement strategy that was discussed in the memo to Council dated October 13, 2006, and was of particular concern to Council. The memo also discusses what can be regulated through the existing SUP, and provides an overview of community benefits proposed as part of the proposed SUP.

**IMPACT OF APPROVAL ON FUTURE ZONING DECISIONS**

One of the issues of concern has been what impacts the granting of the Virginia Paving Special Use Permit will have on the future zoning and use of the Virginia Paving property. We expect the Eisenhower West Plan to be completed in the next 24 months. It is very important that City Council preserve its flexibility to determine the long-term use of the Virginia Paving property.

The City Attorney has concluded that approving the special use permit for Virginia Paving, without a condition which limits the duration of the SUP's validity, will likely restrict the City's future ability to rezone the property for more compatible uses, and to make the new zoning effective at the time that anticipated redevelopment of the surrounding area occurs.

The City Attorney advises that, in order to minimize the risks or impacts of approving this SUP on City Council's discretion to make future planning and zoning decisions in this area of the City, Council should include a condition in this SUP which unequivocally limits the duration of the permit's validity. Such a condition can either terminate the SUP automatically as of a date certain, or reserve to City Council the authority to terminate the SUP at a specified future date, in the event Council reasonably determines that continuation of the use is incompatible with the new Eisenhower West Small Area Plan.

Absent such a condition, the City Attorney advises that Council could defer action on this SUP until such time as the planning process has been completed, or until it at least has progressed to the extent that Council can reasonably determine that approval of the SUP, and continuation of the use, will not be incompatible with the new small area plan for Eisenhower West. Staff does not recommend deferring action on this SUP, since it would result in continuing with the conditions in the 1960 SUP without the environmental benefits of the proposed SUP.

(For more detail, see response to question #2 in attached staff responses).

## **ENFORCEMENT**

Policies for the City's SUP enforcement program have undergone significant changes over the past couple of years, which can be attributed in part to the Virginia Paving case. In the past, enforcement of SUPs was generally complaint driven. Because there were no complaints related specifically to the SUP conditions at Virginia Paving, staff was not aware of the violations regarding traffic and stormwater settling basins that existed at the plant, both under the prior owner, Newton Asphalt, and the current owner, Virginia Paving, which has owned the plant since approximately 2000. The community has been very concerned about enforcement of a new SUP given this history.

In 2005, the Department of Planning and Zoning (P&Z) implemented new enforcement procedures for SUPs, which includes inspections of all properties with SUPs every three years, so that any potential violations can be caught without having to be specifically reported by a complaint. Enforcement procedures and penalties for violations of the zoning ordinance, including SUPs, are outlined in Section 11-200 of the zoning ordinance, and will be discussed later in this memo. In addition to this new policy, the proposed SUP conditions identify a comprehensive enforcement strategy specific to Virginia Paving that goes beyond the new standard three-year review.

## ***ENFORCEMENT MANAGEMENT***

Enforcement of the SUP will be coordinated by P&Z, although enforcement of most of the conditions will require review by T&ES. As discussed in the October 13, 2006 memo to Council, additional T&ES staff resources will be required to supplement existing staff. One new T&ES inspector will be needed in order to verify compliance with the conditions on a timely basis and in accordance with the SUP.

The fiscal impact of the enforcement effort, including a new staff position, is estimated at \$126,000 per year for the first two years and includes initial start up and equipment costs. Cost in subsequent years will depend on the number of scheduled inspections and complaints. Staff recommends recovering these costs from Virginia Paving on a quarterly or annual basis based on actual costs incurred by the City. **If Council concurs, this should be added as an SUP condition.**

## ***ENFORCEMENT CONDITIONS IN PROPOSED SUP***

The conditions of the proposed SUP for Virginia Paving go beyond the now standard enforcement procedures in three ways: (i) more frequent inspections; (ii) stricter penalties for violations of conditions, including additional opportunities for City Council review, and loss of nighttime paving privilege for violations of specific conditions; and (iii) a reporting, monitoring and community outreach responsibility for the applicant.

### **Inspections**

To ensure on-going compliance, staff has recommended conditions that require more frequent inspections of the plant. Condition #60 requires an inspection for compliance with the SUP two times within the first year after approval, and annually thereafter. The plant inspections will be conducted jointly by the Departments of Planning and Zoning and Transportation and Environmental Services, Code Enforcement, the Health Department, and the City's outside consultants who are air-quality experts. Violations found on these inspections may result in a review of the SUP by City Council, as discussed later in this document. Inspections also will be conducted to ensure implementation of date-specific improvements.

Staff will also inspect the premises, if warranted, in response to complaints. Code Enforcement has a 24-hour Nuisance Hotline for citizens with complaints, and appropriate enforcement personnel will respond accordingly. In addition, with the new enforcement staff position initially assigned to the Virginia Paving SUP enforcement, that person will be monitoring Virginia Paving's operation on a regular basis, including regular unannounced inspections during the day and night.

To ensure that all enforcement-related personnel are aware of the various conditions of the SUP, staff will prepare a compliance checklist that will familiarize staff with the conditions that include limitations on various operations, including odors, noise and hours. Staff will prepare a second comprehensive air pollution inspection form for conditions related to air-quality, which will be utilized by Environmental Quality staff in conjunction with outside consultants in SUP enforcement.

### **Penalties for Violations**

The zoning ordinance identifies the procedures for enforcement of its regulations, and penalties for violations, including for SUPs. Beyond standard enforcement procedures outlined in the ordinance, SUPs often will have additional enforcement measures as conditions, including the now standard one-year review condition. In response to community concerns regarding SUP enforcement at Virginia Paving, staff has recommended a comprehensive penalty structure based on existing zoning ordinance procedures, future opportunities for City Council to review the SUP, as well as added penalties for violations of those conditions that are vital to achieving the goal of improved environmental quality.

### **Zoning Ordinance**

Section 11-207(A)(10) of the zoning ordinance identifies violation of a SUP condition as a class five civil violation, for which the penalty is \$50 for the first violation, \$100 for a subsequent violation of the same requirement, and \$500 for a third violation within any one 12-month period. The fine can be assessed on a daily basis after the initial 10 day notification period.

For failure to comply with the conditions of the SUP, Section 11-506(A) of the zoning ordinance states that after notice and public hearing, the City Council may revoke or suspend any Special Use Permit approved by it. Staff may refer the SUP to City Council for revocation, and will do so if there are continued and persistent violations.

### **City Council Review**

Condition #60 provides an opportunity for a future review of the SUP by City Council if:

- (a) There have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community;
- (b) The Planning and Zoning director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions; or
- (c) The director has determined that there are problems with the operation of the use and that new or revised conditions are needed.

This condition provides the opportunity for the case to be brought back to City Council for review if a violation is observed and confirmed as part of the interdepartmental inspection process. During the review, unforeseen issues may be addressed and additional conditions may be considered by City Council. This specific opportunity for City Council to review and potentially revise the SUP is in addition to the ability for City Council to, at any time, consider revocation or suspension of the SUP for failure to comply with the conditions of the SUP, as outlined in Section 11-506(A) of the zoning ordinance. The SUP condition includes a requirement that the surrounding community

be notified of the annual review inspection. Staff will prepare a report for Council regarding its findings for the annual review, regardless of whether the SUP is docketed for hearing.

#### **Penalty for Violation of Specific Conditions of Proposed SUP**

In addition to those penalties outlined in the zoning ordinance and in the review condition, the proposed SUP includes added penalties for noncompliance with specific conditions of the SUP. Staff identified those conditions that are most critical in improving the environment, reducing the impact of the plant on the neighboring properties, and require the most investment by Virginia Paving. These conditions include #11 (Blue Smoke Control system), #12 (low-NOx burners), #13 (tank vent condensers), #14 (Fugitive Emissions Control Systems) and #17 (increase height of drum dryer exhaust systems to 20 meters). Condition #61 of the proposed SUP requires that violation of any of these conditions, without prior advance notice of a reasonable basis for delay, requires Virginia Paving to immediately cease all operations involving the night-time exit and entrance of vehicles from the site, and within 30 days, staff will docket the case for review and potential action by City Council on the next available Council docket.

#### **Suspension of Operations if Public Nuisance or Health Problem**

Condition #27 requires that if the plant were found to be creating a public nuisance or public health problem as determined by the City, the plant must suspend all operations until satisfactory corrections are made in accordance with further recommendation of the Director of Transportation and Environmental Services in consultation with the Director of Alexandria Health Department. This condition is also in the existing SUP #931. Based upon the evidence and information available to date, the City Attorney has concluded that the existing operation would not be considered to be an actionable public nuisance or rise to the level of an actionable public health problem.

#### **Reporting**

In addition to staff-initiated inspections specified in the SUP, the applicant will be responsible for reporting information to staff on a regular basis. Condition #58 requires that Virginia Paving maintain daily production and site activity information and provide it to the City on a monthly basis. Condition #59 requires Virginia Paving to provide the City a Quarterly Report that provides the status of all projects required by the SUP. In addition, the records that are required by the conditions will be submitted along with this quarterly report, and after all the capital projects are installed, the BMP reporting requirements will be made annually.

#### **Testing and Monitoring**

In order to assess the efficacy of the proposed air-quality improvements and to ensure the plant's on-going compliance with air quality standards, staff has recommended on-going testing and monitoring. Condition #25 requires that Virginia Paving conduct stack tests for PM2.5, PM10, NOx, SOx, and CO emissions. Two tests are required by 2009, and thereafter the tests must be conducted at least once every five years. The results of the stack tests are to be submitted to the City within 90 days of when the tests are conducted.

In addition, Condition #28(a) requires that the City continue operating the PM10 monitor at Samuel Tucker Elementary School until three years of valid data have been collected. The City is required to determine the 98th percentile of these data, per the NAAQS, and then multiply that value by 75%, to impute a 98th percentile value for PM2.5. The condition insures that Virginia Paving will be required to demonstrate that it is not causing any exceedances of any new or modified National Ambient Air Quality Standards and is addressing the newly adopted standard for PM2.5 ahead of EPA's scheduled 2015 enforcement date for the new standard.

### **Community Outreach**

A critical element of monitoring operations at Virginia Paving is ensuring on-going dialogue with the community. Condition #62 requires that the applicant designate an employee to monitor compliance with all conditions of the SUP. Condition #63 requires a community relations function, with two meetings each year to be scheduled with the community to discuss operations and to attempt to resolve any problems, conflicts or issues identified by the community related to the plant's operations. The meetings are required to be held with representatives from the surrounding residential communities and notice of the meetings is required to be given to these communities as well as to the Department of Planning and Zoning and Transportation and Environmental Services. In addition, Condition #41 requires that Virginia Paving establish a 24-hour hotline, available for residents to call to register any complaints.

### ***CODE ENFORCEMENT***

In addition to enforcement procedures outlined in the ordinance, the Code Enforcement Bureau has procedures in place to enforce codes related to public safety and welfare, and nuisance issues. For nuisance issues, citizens can contact the 24-hour Nuisance Hotline (703-836-0041). Hotline staff will assist in determining whether an immediate investigation is required by on-duty police, fire or code personnel, or whether the investigation will be referred to Code staff the next regular business day. Code staff will determine the appropriate city agency for follow-up on all referrals.

### **ALTERNATIVE TO SUP APPROVAL**

If Council **denies or defers** the SUP request or proposes SUP conditions that result in the applicant deciding to withdraw its application:

- The plant will continue to operate with the existing SUP conditions from the original 1960 permit.
  - Trucks would be prohibited from entering or leaving the plant after dark, in inclement weather, or on Sundays or holidays.
  - The plant would be allowed to *operate* during nighttime hours if it does not involve trucks coming or going; permitted nighttime work includes heating and mixing of asphalt and other non-vehicular operations at the plant.
  - The plant would be required to install settling basins.

- If the plant were found to be creating a public nuisance or public health problem as determined by the City, the plant must suspend all operations until satisfactory corrections are made. *Based upon the evidence and information available to date, the City Attorney has concluded that the existing operation would not be considered to be an actionable public nuisance or rise to the level of an actionable public health problem.*
- The additional environmental benefits conferred by the more stringent and more up-to-date conditions, which afford the City a greater opportunity to regulate the plant and address concerns of area residents would **not** be achieved.
- There would be no production caps except the 1,500,000 tons annual limit set forth in the State Operating Permit.
- There is little incentive for the plant to install and no ability for the City to require the additional pollution control equipment and practices set forth in the proposed agreed conditions.
- The City would have less access to production data and other records that would help investigate community complaints or concerns.
- The City would have less ability to regulate odors.
- The City would either pay more for its paving by using another asphalt supplier who is able to produce and deliver at night.

### **COMMUNITY BENEFITS**

As discussed in the staff report, the environmental controls that would be required as part of the proposed SUP will greatly exceed existing controls on the plant. Staff worked with the applicant and community on crafting conditions that would specifically address community concerns of air quality, odors, noise and other issues. Besides the environmental benefits that the proposed conditions include, there are still other requirements in the proposed SUP that would benefit the community. The applicant will be required to install significant landscaping enhancements on and around the site that will better screen operations, and provide stream restoration (Conditions #64-#67). In addition, the applicant has agreed to grant the City an option for a public access easement for continuation of a multi-use trail on Virginia Paving property along the property line (Condition #69). The trail along Backlick Run was identified by the Open Space Steering Committee as a critical link to trails in adjacent Fairfax County, and is part of the City of Alexandria's Bicycle Trail Master Plan. Finally, the enforcement strategy outlined in the proposed SUP greatly exceeds that which is currently possible under existing zoning regulations and the 1960 SUP, bringing greater assurance that the City will ensure compliance with the proposed conditions.

Attached for your reference are the responses to questions raised by Council, memos from the Alexandria Health Director, the Alexandria Superintendent of Schools, the Counsel for Virginia Paving Company, and Rich Baier and Richard Josephson on Virginia Paving SUP Enforcement, and the staff report.

Staff:

Richard Josephson, Acting Director, Planning and Zoning;  
Rich Baier, Director, Transportation and Environmental Services;  
William Skrabak, Division Chief, Division of Environmental Quality;  
Lalit Sharma, Program Supervisor, Division of Environmental Quality;  
Christopher Spera, Assistant City Attorney;  
Aimee Vosper, Landscape Architect Supervisor, Recreation, Parks and Cultural Activities;  
Laura Durham, Open Space Coordinator, Recreation, Parks and Cultural Activities; and  
Valerie Peterson, Urban Planner III, Department of Planning and Zoning.

**NOVEMBER 3, 2006**

**ATTACHMENT 1: RESPONSES TO QUESTIONS FROM COUNCIL MEMBERS  
ABOUT THE VIRGINIA PAVING SPECIAL USE PERMIT**

Subsequent to the City Council hearing on October 14, 2006, staff received specific questions from Council members on various issues. Those questions are identified below, followed by staff's responses.

**1. Discuss the issue of odor at Virginia Paving.**

Based on complaints from residents, the City staff has, during the course of review of this SUP, through inspection and other investigations identified various operations and sources at the Virginia Paving Plant that are potential sources of odors. On occasion the staff has noticed odors in the area, followed them and traced their origin to the operations at Virginia Paving and/or U.S. Filter. The odors emanating from the Virginia Paving facility have the typical asphalt characteristics, while those emanating from U.S. Filter have typical oil characteristics. Based on this, and working with Virginia Paving, the City has outlined several conditions to address odor control in Virginia Paving's proposed SUP for odor control. The City has been consulting with U.S. Filter, which operates on Virginia Paving's property, regarding their odor control measures and received a commitment from them to address their odor sources. The City staff has prepared the following matrix of odor sources and proposed controls for both Virginia Paving and U.S. Filter. (See table on next page).

Odor Source		Odor Control Measure	Proposed SUP Condition No.	Proposed Compliance Date
VA Paving Asphalt Cement Storage Tanks		Vent Condensers, Steel Wool Filters or equivalent control*	13	Sep 30, 2006
VA Paving Asphalt Plant No. 1	Asphalt product	Low-odor anti-strip additive or equivalent approach*	6	Effective Immediately
	Product silo	Blue Smoke Control	11	Dec 31, 2006
	Product conveyor & loadout	Fugitive Emission Control System (vented to Blue Smoke Control)	14	Sep 30, 2007
VA Paving Asphalt Plant No. 2	Asphalt product	Low-odor anti-strip additive or equivalent approach*	6	Not specified
	Product silo	Fugitive Emission Control System (vented to drum dryer)	11	Jul 30, 2007
	Product conveyor & loadout	Fugitive Emission Control System (vented to drum dryer)	14	Jun 30, 2008
Product Trucks		Low-odor anti-strip additive or equivalent approach*	6	Effective Immediately
		Covered trucks	None <sup>&amp;</sup>	Current <sup>&amp;</sup>
U.S. Filter <sup>#</sup> (located on Virginia Paving property)	RFO Loading	Use vapor recovery to prevent discharge to atmosphere	N/A <sup>#</sup>	Dec 31, 2006
	RFO Storage Tanks	Installed pressure loaded vapor conservation valves	N/A <sup>#</sup>	Aug 2006
	Vibrating Screen Area	Upgrade to air-tight design and route to vapor recovery system	N/A <sup>#</sup>	Jan 31, 2007
	Biofilter Area	Enhance current bio-filter by installing effective cover and route exhaust through a carbon bed	N/A <sup>#</sup>	Feb 28, 2007
Plantwide		City Ordinance – Control odor and prevent it from leaving property or becoming a nuisance to neighboring properties	3	Perpetual

\* Any alternate equivalent control method must be approved by the City prior to its use.

& Use of truck covers is a standard practice in the asphalt industry. Covers help control odor and maintain the desired product temperature during delivery.

# The City staff has been working with U.S. Filter regarding these control measures and received commitments for these controls. N/A = Not applicable.

The City, because of the condition prohibiting odors off the property in the proposed SUP, has the right to require additional controls in the future if the proposed controls in the SUP are found to be insufficient to eliminate odor from the Virginia Paving facility. The City staff will continue to conduct qualitative surveys in the area, monitor complaints to estimate the effectiveness of the odor control measures in the future.

Also see response to question #19.

2. **What is the impact of approving the special use permit for Virginia Paving on any future zoning decisions for the property as we study this area in the future? How does it relate to the length of time this use can be there? Are there things that Council needs to do to minimize the risks or impacts to the City?**

The City Attorney has concluded that approving the special use permit for Virginia Paving, without a condition which limits the duration of the SUP's validity, will likely restrict the City's future ability to rezone the property for more compatible uses, and to make the new zoning effective in a timely fashion commensurate with the anticipated redevelopment of the surrounding area.

Under the Alexandria Zoning Ordinance, in the event the Virginia Paving site were to be rezoned to a zone which does not permit the current use, the existing plant would become a nonconforming use as defined by Zoning Ordinance Section 12-201. As such, it would be allowed to continue to operate for a period of time, although the use must eventually be abated. Under the general rule, once a use becomes a nonconforming use, the nonconforming use must be discontinued within seven years after the City provides notice of nonconformity to the owner of the property (See Zoning Ordinance Section 12-214(A)). During this seven-year abatement period, the property owner may apply for a special use permit to continue the use for a longer period of time, provided the nonconforming use serves the nearby neighborhood and is compatible with other uses in the nearby neighborhood (See Zoning Ordinance Section 12-214(A)(2) and (3)). Alternatively a property owner may petition City Council to extend the seven-year abatement period if the property owner believes it cannot make a fair and reasonable return on its investment in the property within the seven-year period provided by the ordinance (See Zoning Ordinance Section 12-214(A)(5)). These nonconforming use abatement provisions derive from the City's Charter authority.

However, in reliance upon an approved SUP which is not limited in duration, and upon the expenditures made to bring the use into compliance with the new SUP, Virginia Paving can be expected to argue that it has a "vested right" under Va. Code Section 15.2-2307 such that any rezoning would not be applicable for the remaining life of this use. If successful, this argument would trump the City's abatement authority, and allow the plant to continue operation so long as physically able. In the alternative, Virginia paving can be expected to argue that, under the controlling law, an extension of the seven-year abatement period is required to allow recoupment of

the recent investment made in upgrading the plant, and that the useful life of the improvements is longer than seven years. A reviewing court is likely to consider either or both of these arguments sympathetically, in the event this SUP is approved without a durational limit, and such action is then followed by a zoning amendment which requires the use to cease operation. In summary, the City's arguments for abating an obsolete or obsolescent plant would be considerably more persuasive than the arguments for abating a plant which has been recently modernized at the City's behest.

Thus, the City Attorney advises that, in order to minimize the risks or impacts of approving this SUP on City Council's discretion to make future planning and zoning decisions in this area of the City, Council should include in this SUP a condition which unequivocally limits the duration of the permit's validity. Such a condition can either terminate the SUP automatically as of a date certain, or reserve to City Council the authority to terminate the SUP at a specified future date, in the event Council reasonably determines that continuation of the use is incompatible with the new land use plan. Absent such a condition, Council could defer action on this SUP until such time as the planning process has been completed, or has at least progressed to the extent that Council can reasonably determine that approval of the SUP, and continuation of the use, will not be incompatible with the new land use plan. Staff does not recommend deferring action on this SUP.

**3. According to Virginia Paving, what are its annual nighttime and daytime production rates from 2001 to the present?**

Information obtained from Virginia Paving indicates that they produce about 20% of their annual production for transportation from their facility at night. Hopefully the applicant can provide some kind of actual breakdown. However, it is important to remember that the existing SUP allows the plant to produce asphalt at night, but not to have night-time vehicular traffic in and out of the plant. Accordingly, the plant could be in production starting at 2:00 a.m. to make asphalt for pick up by trucks at daybreak at 6:00 a.m. without violating the 1960 SUP. It would be useful to know what has been the historical asphalt production from the plant that was shipped out of the plant at night.

Response Provided by Virginia Paving

Virginia Paving has production records for their ownership years and back to 1995, which was provided previously. Virginia Paving has not provided any other production information prior to this and it does not separate daytime and night time production.

Year	Production (Tons of Asphalt)	Notes
2005	761,203	Va. Paving Co.
2004	907,684	Va. Paving Co.
2003	719,160	Va. Paving Co.
2002	650,143	Va. Paving Co.
2001	847,000	Va. Paving Co.(April 2001) Includes Newton Asphalt
2000	521,981	Newton Asphalt
1999	655,188	Newton Asphalt
1998	554,014	Newton Asphalt
1997	690,752	Newton Asphalt
1996	497,807	Newton Asphalt
1995	579,225	Newton Asphalt

4. **Graph the daily (daytime and nighttime) seasonal production rates from 2001 to the present.**

See response to question #3.

5. **Per Vice Mayor Macdonald's conversation with Maureen Barrett: Ask Aero Engineering to try to model the maximum seasonal (spring, summer, fall, winter) "day-time" and annual "day-time" concentration levels of the criteria pollutants and other major hazardous chemicals at Tucker Elementary, etc, using actual production data.**

*Input variables: Use the maximum annual "day-time" production level for the years that VA Paving has operated the plant (above.) If this data is not available assume that yearly production levels do not exceed 600,000 tons per year. Use actual maximum reported seasonal "day-time" production rates to predict the maximum daily concentrations of the pollutants of concern. If the concentrations of PM 2.5 exceed 35 ug/cubic meter at sites where people may be exposed to the asphalt "fumes," adjust the production levels and run the model again. What is the maximum safe "day-time" production level? Can it be determined?*

*How much additional pollution is likely to be generated by night-time paving operations? Use the maximum reported yearly and daily "night-time" production levels.*

*To the extent possible, predict what the maximum and minimum "hourly" concentrations of key pollutants might be.*

Response: Vice Mayor Macdonald asked City staff and consultants several questions via e-mail on October 23, 2006. The above three questions reflect Vice Mayor's primary concerns pertaining to the modeling analysis conducted by the City to date for the Virginia Paving facility. To discuss this concern, the City staff and consultants met with Vice Mayor Macdonald on October 26, 2006.

The response to these three questions is based on discussions with the Vice Mayor on October 26, 2006. Vice Mayor Macdonald requested the City staff to address daily PM-2.5 impacts that would be expected based on reasonable actual daily production levels and assuming that the air quality improvements and pollution controls required by the proposed SUP are implemented. In particular, Vice Mayor Macdonald wanted to find out if the facility's daily impacts at, say 5,000 tons per day, would show compliance with the newly promulgated 24-hour PM-2.5 standard of  $35 \mu\text{g}/\text{m}^3$ . While the facility's actual production is dependent upon demand, we obtained recent data from the facility that showed that production levels ranged from approximately 4,000 to 5,000 tons per day, about half of which occurred at night.

In its modeling analysis, the City had analyzed the proposed SUP scenario assuming 10,000 tons per day production, including both daytime and nighttime production. Therefore at 5,000 tons per day, the impacts are expected to be less. For emissions that are directly dependent upon production rates, such as the drum mixer dryers, product silos, and asphalt delivery trucks, the impacts would be reduced by half. However, other emissions, such as from aggregate handling, are not entirely tied to the asphalt production schedule because these sources are dependent on several other factors including the railroad delivery schedule. Using the modeling results for the proposed SUP scenario, we estimate that the maximum modeled 24-hour average PM-2.5 impacts from the Virginia Paving facility for a 5,000 tons per day production rate would be in the range of 12 to  $14 \mu\text{g}/\text{m}^3$ , including other nearby sources. When added to a monitored background concentration of  $35.3 \mu\text{g}/\text{m}^3$ , the total impact would be in the range of 47 to  $49 \mu\text{g}/\text{m}^3$ . These impacts are in compliance with the current PM-2.5 standard of  $65 \mu\text{g}/\text{m}^3$ . Please note that although EPA has promulgated a new standard of  $35 \mu\text{g}/\text{m}^3$ , the standard is not effective until Virginia DEQ has adopted it in their State Implementation Plan (SIP) and EPA has approved the SIP. That process will take several years (currently planned to be in 2015) and is similar to the process for adopting the current PM-2.5 standard of  $65 \mu\text{g}/\text{m}^3$ , for which states are required to submit their SIPs to EPA by April 2008. Please also note that the monitored background value used in the modeling analysis is above the new standard of  $35 \mu\text{g}/\text{m}^3$  and therefore any modeled impact would show exceedance of the standard. This monitored background, however, represents the 98<sup>th</sup> percentile over three years of data (2002 through 2004). A majority of the time, the monitored background concentration is smaller than this value. The City used the value of  $35.3 \mu\text{g}/\text{m}^3$  in its analysis because the modeling was designed to address worst case impacts in accordance with EPA and Virginia DEQ guidelines.

With respect to the annual impacts of PM-2.5, the City staff explained, and Vice Mayor Macdonald agreed, that the modeling conducted to date provides sufficient

confidence that impacts at actual annual production would be less than the various modeled annual production levels. The City has modeled three annual production levels to date, i.e., 1,200,000 tons day/night production, 900,000 day/night production, and about 700,000 tons daytime-only production. At all of these production levels, the annual PM-2.5 impact from the Virginia Paving facility was about 1.0  $\mu\text{g}/\text{m}^3$  or less, i.e., the level at which these annual impacts are considered insignificant under EPA and Virginia DEQ regulations.

6. **How much additional pollution is likely to be generated by night-time paving operations? Use the maximum reported yearly and daily “night-time” production levels.**

See response to question #5.

7. **What’s the worst time of year and day to produce asphalt? Why?**

While there is some variability within various sources at the facility, e.g., stacks versus fugitive sources, the highest impacts are generally found to occur during the months of October through April. This is based on the conservative modeling that assumed emissions to occur throughout the year. In reality, Virginia Paving’s production occurs mostly during warmer months, and therefore, the actual impacts are expected to be less than those predicted by the model. On a daily basis, the highest impacts are generally found to occur between midnight and 8:00 am, with some exceptions. Again, this is based on the conservative assumption that the production can occur at any time during the day. Please note that under the current 1960 SUP, Virginia Paving can start daily production in the early morning hours and store it in silos prior to delivery at sunrise. Therefore, the highest short-term impacts under the 1960 SUP can also be expected to occur in the early morning hours.

8. **To the extent possible, predict what the maximum and minimum “hourly” concentrations of key pollutants might be.**

See response to question #5.

9. **What chemicals are found in “blue smoke” and the odors it creates? How effective are these filters?**

Blue Smoke emissions typically occur during silo filling and truck loadout operations. The predominant constituent of Blue Smoke is hydrocarbons, categorized as total organic compounds. The condensation of these hydrocarbons forms small droplets that appear as “Blue Smoke.” A significant portion of these hydrocarbons is aromatic creating the characteristic asphalt odor. Since the Blue Smoke is released as droplets, it is regulated as particulate matter emissions. Therefore, use of filters is the best emissions control method. The manufacturer of the six-stage filtration device claims an efficiency of 99% control. Under the proposed SUP, Virginia Paving will be

required to demonstrate the control efficiency of this device after installation. Because of the high control efficiency of this device, the City expects a significant reduction in odor from these operations at the facility. Please note that Virginia Paving will install this device on Plant 1, i.e., the larger of the two asphalt plants at the facility. For Plant 2, Virginia Paving plans to collect Blue Smoke and duct it to the drum dryer burner. Since Blue Smoke is primarily hydrocarbons which will readily combust, this is also an effective control method and will contribute to odor reduction.

**10. What can we do to verify that the plant is not releasing harmful amounts of key pollutants? Conduct yearly stack tests? Run the models again?**

Vice Mayor Macdonald asked what the City can do to verify that the facility is not releasing harmful amounts of key pollutants. In the October 26, 2006 meeting with the Vice Mayor, the City staff explained the various provisions in the proposed SUP designed to prevent pollution from the facility. In addition, the proposed SUP requires Virginia Paving to perform stack testing to verify its emission levels. At the present time, the City does not expect any further modeling that will be required for verification purposes because actual emissions measured from these stack tests are expected to be less than the emissions modeled to date. However, stack tests are required according to the schedule laid out in the proposed SUP conditions. Furthermore, the City has initiated particulate matter monitoring at a location near Tucker Elementary School that will be used to verify ambient levels of PM-10 and estimate PM-2.5 concentrations. Based on three years of monitoring at this location, Virginia Paving will be required to address any PM-2.5 concentrations that are found to exceed NAAQS.

**11. Why were there no comments from both the Health Department and the School System included in the staff's recommendation for the SUP request?**

The SUP application, subsequent supporting documents, and staff report were all routed to the Health Department for comment. The comment from the Health Department on the application was that they did not have comments. Staff contacted the principals and PTA president regarding the application and community meeting. Dr. Konigsberg and Superintendent Perry will be at Council's November 6 worksession to respond to questions.

**12. What do we know about U.S. Filter's relationship with Virginia Paving? Do they operate under the same current SUP? If not, should they have a separate SUP and what is their product/service?**

U.S. Filter is an unaffiliated tenant operating as an oil recycling facility on a portion of the Virginia Paving site. There is no common ownership between the companies, although Virginia Paving purchases some of the recycled oil that US Filter produces for use in heating its asphalt dryer drums. From a zoning perspective, US Filter's operation is a grandfathered use that did not require an SUP when it commenced

operations as a tenant on the site under prior ownership of the site (Newton Asphalt). Co-location of oil recycling facilities and asphalt plants is a use recommended/approved by the federal EPA because it provides a nearby user of the recycled oil.

City Council approved a SUP for two office trailers at US Filter on May 18, 1991. The SUP applies only to the location of office trailers on the site, and not to U.S. Filter's operations. Staff is not aware of violations to this SUP.

The modeling performed by the City for evaluating the emissions did incorporate U.S. Filter as one of the interacting sources. Additionally, the City staff has investigated the odors in the area surrounding Cameron Station and has traced the source of odors to the Virginia Paving and the U.S. Filter facilities. For this reason, the City concluded that it is best to control odors at the source. The proposed SUP contains several provisions to control the various odor sources at the Virginia Paving facility. Additionally, the City has been working with U.S. Filter regarding control of their odorous emissions and has received commitment from US filter to address their odor sources. The odor matrix presented above under response to question #1 shows the various proposed odor controls.

Upon implementation of these measures, the City will continue to conduct surveys in the future on a regular basis and continue to respond to citizen complaints. Additionally, Virginia Paving will be required to establish a telephone hotline and to address all complaints received at that hotline. The City, because of the condition prohibiting odors off the property in the proposed SUP, has the right to require additional controls in the future if the proposed controls in the SUP are found to be insufficient to eliminate odor from the Virginia Paving facility. The City staff will continue to conduct qualitative surveys in the area, monitor complaints to estimate the effectiveness of the odor control measures in the future.

**13. Has a study/survey of neighborhood odors been undertaken? If not, why not?**

See response to question #1.

**14. It was alleged by a Virginia Paving employee that the company has been engaged in night work for more than 20 years. Is this, indeed, a fact and were they ever cited accordingly?**

Staff is not aware of when the plant began having night-time traffic in and out of the plant. Since the City's SUP enforcement process was historically complaint-driven and there was never a complaint regarding this practice, the City was never called upon to enforce the condition of the SUP regarding night-time vehicular traffic. When staff became aware of the violation, it alerted Virginia Paving, which subsequently filed the SUP amendment.

**15. What measurements will be in place for "oil containment?"**

Virginia Paving has a VPDES General Stormwater Permit from Virginia Department of Environmental Quality, which requires development and implementation of a Stormwater Pollution Prevention Plan. This plan addresses operational practices that addresses pollution concerns. This permit also has requirements of periodic sampling and testing of Stormwater discharges.

Additionally, the 1960 SUP as well as terms of the proposed SUP requires Virginia Paving to install a Stormwater treatment system. The stormwater treatment system that has been approved as part of the plot plan is a perlite media filter. Such a filter is targeted to address oil and grease as well as sediments. The design of the proposed filter chambers will also act as containments for any accidental spills of oils or discharges.

Virginia Paving is also subject to the requirements of the City's Fire Code (permits and inspections) with respect to storage and containment of the petroleum products, and currently meets those requirements.

- 16. The 1960 SUP required that “catch basins” be installed. Has this been verified to see if their installation is in place? If not in place, what should be required?**

Staff believes that catch basins were at one time in place on the property, but were likely at some point covered over with recycled asphalt. The plant has submitted a new storm water treatment and control plan that goes far beyond the catch basin approach that was the best practice available in the 1960's.

Additionally, the 1960 SUP as well as terms of the proposed SUP requires Virginia Paving to install a stormwater treatment system. The stormwater treatment system that has been approved as part of the plot plan is a “perlite” media filter. Such a filter is targeted to address oil and grease as well as sediments. The design of the proposed filter chambers will also act as containments for any accidental spills of oils or discharges.

- 17. Should Virginia Paving withdraw its request for a new SUP, what other steps should be required for the health, safety and welfare of the community?**

Based upon the information available at this time, the Office of the City Attorney does not believe that the plant, operating under the 1960 SUP, presents a case of public nuisance.

- 18. What will be the daily volume of trucks in and out of the plant –at 600 K tons; at 900 K tons; and at 1.5 M tons?**

Although there may be community issues associated with night traffic, the level of service and movement of trucks and SOV associated with Virginia Paving night truck

traffic is beneficial to the City when compared to the trucks being on the roadway during the day.

Response Provided by Virginia Paving

Considering that VPC will operate approximately 261 days per year (365 total days – 104 weekend days), and that each truckload of asphalt weighs approximately 18 tons:

600 K tons/year = 127 trucks/day

900 K tons/year = 192 trucks/day

1.5 M tons/year = 319 trucks/day

All of the figures are calculated based on averages and approximations.

**19. Address what methods are available for the measurement of noxious odors like those from Virginia Paving. How will we be able to measure progress in reducing these odors?**

Analysis of odor impacts is a qualitative process. Perception of odor is subject to two thresholds, i.e., a detection threshold at which the odor is first detected and a recognition threshold at which the type of odor can be identified. While odorous emissions can be readily identified at the source, odor detection in the atmosphere is subjective and largely depends on an individual's sense of smell. However, the City staff has investigated the odors in the area surrounding Cameron Station and has traced the source of odors to the Virginia Paving and the U.S. Filter facilities. For this reason, the City concluded that it is best to control odors at the source. The proposed SUP contains several provisions to control the various odor sources at the Virginia Paving facility. Additionally, the City has been working with U.S. Filter regarding control of their odorous emissions. The odor matrix presented above under response to Question No. 1 shows the various proposed odor controls.

Upon implementation of these measures, the City will continue to conduct surveys in the future on a regular basis and continue to respond to citizen complaints. Additionally, Virginia Paving will be required to establish a telephone hotline and to address all complaints received at that hotline. The City, because of the condition prohibiting odors off the property in the proposed SUP, has the right to require additional controls in the future if the proposed controls in the SUP are found to be insufficient to eliminate odor from the Virginia Paving facility. The City staff will continue to conduct qualitative surveys in the area, monitor complaints to estimate the effectiveness of the odor control measures in the future.

**20. What is the Health Department's analysis of Virginia Paving's application? This analysis should include consideration of the following assessment:**

*Northern Virginia's air is not healthy.*

*The American Lung Association last week gave failing marks to Fairfax County, Arlington County, Loudoun County and the City of Alexandria for air quality. The air*

*in Fairfax County is among the most polluted in the nation, leaving 250,000 people with cardiovascular disease and 76,000 citizens with asthma at risk of heart disease, lung cancer, asthma attacks and a shortened life span, according to the new report. Thousands of people die right here each year who would live longer if the air were cleaner. These include "sensitive groups," young children, senior citizens, the increasing number of people with asthma.*

<http://www.connectionnewspapers.com/article.asp?article=65255&paper=59&cat=131>

*Here is the study they're referring to:*

[http://lungaction.org/reports/SOTA06\\_stateozone.html?geo\\_area\\_id=51](http://lungaction.org/reports/SOTA06_stateozone.html?geo_area_id=51)

See attached memo from the Alexandria Health Department.

- 21. Does the U.S. Filter oil recycling facility located on Virginia Paving Company's Courtney Avenue plant ("US Filter") have an SUP and, if so, what provisions in the SUP relate to environmental or safety issues?**

See response to question #12.

- 22. Has US Filter ever violated its SUP and, if so, for what reason(s) and when?**

See response to question #12.

- 23. At the recent public hearing, people from Summers Grove and City staff said that the organic filters used by US Filter to produce recycled oil emit foul natural gas odors. What steps has the City taken to ensure US Filter takes reasonable steps to mitigate the odor caused by them during the production of recycled oil?**

The City staff has been working with US Filter regarding possible odor control measures. As a result of these consultations, U.S. Filter has proposed several measures designed to control odorous emissions from their operations. These measures are listed in the odor control matrix presented above under response to question #1.

- 24. What toxins are released into the air and water by US Filter. What steps has the City taken to assure that the toxins released by US Filter do not exceed current or proposed EPA PM2.5 standards, or other federal, state or local water or air quality standards?**

The primary air pollutants from the U.S. Filter facility are organic compounds. However, there are a small amount of PM-2.5 emissions resulting from fuel combustion. These emissions were included in the modeling analysis conducted by the City. The predicted impacts were shown to be in compliance with the current PM-2.5 NAAQS. With respect to the proposed PM-2.5 NAAQS, please see response above to questions #5.

U.S. Filter has no stormwater discharges, it being a zero discharge facility. The facility collects stormwater on site and uses it in the cooling tower.

**25. Did VA Paving exceed permitted annual tonnage limits in 2004 and, if so, what action was taken by VA DEQ?**

Prior to the issuance of the Feb 17, 2005 State Operating Permit (SOP), the Virginia Paving facility was limited to an annual production of 840,000 tons of asphalt, based on a rolling twelve-month total. During its review of the facility in 2004, the City staff noticed the possibility that Virginia Paving may have exceeded its production limit and brought it to the attention of the Virginia DEQ. Virginia DEQ noted the same in their inspection report (10/21/04) and Virginia Paving applied to Virginia DEQ for an SOP modification. Subsequently, Virginia Paving performed stack tests that formed the basis on which Virginia DEQ issued the new SOP in February 2005 with a new limit of 1.5 million tons of asphalt. The stack tests showed emission factors that were smaller than AP-42 factors. There was no enforcement action taken by Virginia DEQ.

**26. Did Newton Asphalt ever approach City staff in 1998 alerting them to the fact that they intended to replace a small batch plant with a new more efficient counter rotating drum plant and, if so, would this have required an amendment to the SUP?**

Newton Asphalt did not approach City staff in 1998 regarding the replacement of a small batch plant. However, staff was aware of the upgrade because of the documents filed with the State, and determined that an amendment to the SUP was not required.

**27. Provide the dates when any changes were made to the dryer mixers. A change for purposes of this question means a change in capacity (tons per hour) or type (e.g. batch, parallel flow, counter flow).**

Response Provided by Virginia Paving

As far as VPC is aware, through contacts with Mr. Miller of Newton Asphalt and from the one employee that was working at the plant during that timeframe, prior to 1978, there were at least four plants on the site. In 1979, Newton Asphalt ordered what is now Plant 1 to replace two other plants that existed on the site. Consequently, that installation resulted in no enlargement, extension or increase in intensity of this facility because this was merely a consolidation of two other plants based upon technological advancements. At some point between 1980 when Plant 1 was installed and the mid-1990's, two of the other plants were removed from the site. In the mid-1990's, Plant 2 replaced the original batch plant with the current counterflow drum dryer plant that exists today, however, the conveyer system remained. Although the current Plant 2 has the capacity to produce more mix per hour than the original batch plant, the conveyer system cannot handle any more mix than the

original batch plant produced. Any replacement of a parallel flow drum dryer with a counterflow drum dryer was not an "enlargement, extension or increase in intensity" of the plant. It is merely an improvement based upon technological advances that improve the emissions levels from the site itself.

- 28. Provide the annual nighttime production tonnage totals for the period from 2001 through and including 2006. For purposes of this question, nighttime production means asphalt delivered to a truck during nighttime hours (e.g., production prohibited under the current SUP).**

See response to question #3.

- 29. At the recent public hearing it was stated by Dr. Laura Green that what the daytime photograph Of VA Paving provided to each City Council member showed was "steam." According to Cambridge Environmental's studies, what besides steam is coming from the stacks?**

Other than steam, the emissions from the drum dryer stacks include products of combustion, particulate matter from the aggregate being dried, and organic emissions from asphalt. The products of combustion include criteria pollutants such as sulfur dioxide, nitrogen oxides, carbon monoxide, particulate matter, and volatile organic compounds. Some of the particulate matter and organic compound emissions are classified as hazardous air pollutants (HAPs) under EPA and Virginia DEQ regulations, such as trace metals and PAHs. The City's analysis included calculating emissions of all criteria pollutants and several HAPs from the facility and modeling these emissions to estimate compliance with NAAQS and Virginia's SAAC guidelines for HAPs.

- 30. Based on the study by Maureen Barrett of Aero Engineering, does the area of exceedance for current annual PM2.5 standards include Boothe Park and/or Tucker Elementary School?**

The modeling analysis showed that the area of exceedance for the annual PM-2.5 impacts extends a short distance into Boothe Park, but does not extend to the Tucker Elementary School. The modeling is based on the 1.2 M tons of production on an annual basis. The modeling analysis was also based on the use of a conservative monitored background concentration that was very close to the annual PM-2.5 standard of  $15 \mu\text{g}/\text{m}^3$ . The estimated contribution from the Virginia Paving facility to these impacts is about  $1.0 \mu\text{g}/\text{m}^3$ , i.e., the level at which modeled impacts are considered to be insignificant.

- 31. Assuming all upgrades contemplated by the new SUP provisions are installed and work as planned, what would be the highest annual production level that would result in complete compliance with all current and proposed National Ambient Air Quality Standards, including those for annual and 24-hour PM2.5 and for 3-hour SO2?**

Assuming that all measures in the proposed SUP are implemented and based on the conservative modeling analysis performed by the City, the predicted impacts at the proposed annual limit of 1.2 million tons of asphalt are in compliance with the current NAAQS. The short term impacts modeled by the City are based on the daily production limit of 10,000 tons per day and an hourly production limit of 1,000 tons/hour. These impacts were also shown to be in compliance with the NAAQS. With the respect to the new 24hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>, this standard will be effective in 2015 after Virginia DEQ has adopted it in their State Implementation Plan (SIP) and EPA has approved the SIP. Given that the monitored background value used in the modeling analysis of 35.3 µg/m<sup>3</sup> is above the new standard, any modeled impact would show exceedance of the standard. Given this non-attainment situation, it is expected that by 2015, Virginia DEQ will adopt other measures within its SIP to achieve overall air quality improvements within the region.

- 32. How many times have the bags in the baghouse been torn or otherwise broken and, therefore, not operating properly? How long a period were they not working for each noted incident?**

The City is not aware of torn or malfunctioning baghouse. Also see response to Question 33. Additionally refer to Virginia Paving response to this question.

- 33. What are the levels of toxins emitted if a bag in the baghouse were to break and would these emissions exceed National Ambient Air Quality Standards. Please include levels of dioxin, SO<sub>2</sub>, formaldehyde, PM<sub>2.5</sub>, PM<sub>10</sub>, CO, NO<sub>2</sub>, VOCs, lead, acrolein, butadiene, benzene, acetaldehyde and quinone?**

Virginia Paving's State Operating Permit (SOP) requires that the baghouse be working effectively when the plant is operating. The plant is required to be shut down in the event of a malfunction, such as a torn bag. Therefore, continued operation of the plant with a malfunctioning baghouse is a hypothetical scenario for which the City did not assess emissions. For the short duration during which the plant is being shut down, the City does not believe that the level of pollution will be sufficient to cause health concerns.

- 34. Has VA Paving obtained a new Stationary Source Permit to Modify and Operate from VA DEQ since the one they disclosed to City staff dated February 17, 2005 and, if so, why hasn't this been provided to City staff and City Council?**

VA Paving initiated some of the operational and physical changes as discussions progressed with the City staff regarding subject SUP. Facilities that have a State Operating Permit may be required to obtain amendments to their permit from the state because of any operational or physical changes at the facility. Such a permit amendment was requested by VA Paving on April 4, 2006, and an amended permit was issued by VADEQ on July 20, 2006. VA Paving has recently shared the permit

with the City Staff. The amended permit has the same annual throughput limit as their previous State Operating Permit i.e. 1.5 M tons/year.

- 35. Has the City undertaken a nuisance study of neighborhood odors? If so, what were the findings? If not, why was such a study not undertaken prior to Council's consideration of the SUP in question?**

See response to question #1.

- 36. What is the professional opinion of the City's Health Department with respect to the health impacts of the VA Paving plant and its proposed intensification?**

See attached memo from the Alexandria Health Department.

- 37. Why was the Alexandria Public School Schools silent on VA Paving's SUP? Were teachers and or administrators instructed or otherwise encouraged not to speak? Has the SUP application and proposed intensification been communicated to Tucker Elementary staff and parents of Tucker children?**

See attached memo from the Alexandria Public Schools.

- 38. What is VA Paving's relationship with U.S. Filter? To what extent is U.S. Filter contributing to odor and other nuisances experienced by Cameron Station residents and visitors? Should U.S. Filter, along with VA Paving, be subject to enhanced SUP regulation?**

See response to questions #12 and #1.

- 39. The 1960 SUP required that "catch basins" be installed? Have they? If not, why not?**

See response to question #16.

- 40. Is Virginia Paving compliant with "oil containment" requirements? If not, why not and when will they be?**

See response to question #15.

- 41. What will be the daily volume of trips in and out of the plant at 600K, 900K and 1.5M tons?**

See response to question #18.

- 42. Please provide a summary of important provisions (such as hours of work, production limits and other controlling factors other than emission levels) of VDEQ permits for Newton Asphalt and VA Paving over time.**

The Virginia Paving's existing and previous two state operating permits from VDEQ does not have any limitation on number of hours of work allowed per day. The current permit dated July 2006, and the earlier permit dated February 2005, has a throughput limit of 1.5 M tons/year and whereas the March 2004, and October 2003 permit had a throughput limit of 840,000 tons/year.

43. **From available City, VDEQ, and other sources, please determine the size (in hourly ton capacity) of the various plants that have occupied the site since 1960.**

The existing plants together are rated at 1000 tons/hr (600 t/hr for plant 1 and 400 t/hr for Plant 2) and the units were rated similarly in the previous state operating permits on file since 2003. City has requested historic data from VA paving.

44. **What additional conditions/controls does staff propose to recommend to address emission factors during the transition period between current operations and completed installation of new control equipment/techniques?**

The proposed SUP conditions limit the production to 900,000 tons/year until all proposed controls are installed.



**ALEXANDRIA HEALTH DEPARTMENT**

4480 King Street  
Alexandria, VA 22302  
www.alexhealth.com

CITY MANAGER'S OFFICE  
ALEXANDRIA, VA

2006 NOV -2 P 2:32



**Charles Konigsberg, Jr., MD, MPH**  
Health Director

Telephone: 703-838-4400  
Fax: 703-838-4038

DATE: NOVEMBER 1, 2006  
TO: JAMES HARTMANN, CITY MANAGER  
FROM: CHARLES KONIGSBERG, JR., MD, MPH, DIRECTOR  
ALEXANDRIA HEALTH DEPARTMENT  
SUBJ: HEALTH DEPARTMENT REVIEW OF VIRGINIA PAVING S.U.P.

In September 2006, the Alexandria Health Department (AHD) reviewed the proposed Special Use Permit (SUP) for Virginia Paving, indicating we had no comment. Based on our review of the SUP, there did not appear to be any significant potential health issues related to the Virginia Paving proposal. The proposal, even under worst-case scenarios, substantially met NAAQS standards. Implementation of the proposed SUP, by all accounts, would improve air quality. Since the Health Department's outdoor air quality staff was transferred to the Department of Transportation and Environmental Services in July 2000, the Health Department has primarily relied on the expertise of the T&ES staff with respect to outdoor air quality issues.

In response to City Council's request for additional comment by the Health Department, the AHD has sought the opinion of two experts on toxic materials within the Virginia Department of Health (VDH): Dr. Ram Tripathi, toxicologist with the VDH Division of Public Health Toxicology, and Ken Schoultz, certified industrial hygienist with the VDH Division of Emergency Preparedness and Response. Both Dr. Tripathi and Mr. Schoultz have reviewed the proposed SUP and conclude that emissions from Virginia Paving are unlikely to have any significant health impact on the adjacent residential community (please see attachments).

The Health Department has also received information on child respiratory illness from the Nursing Coordinator for the Alexandria City Public Schools, indicating that the incidence of asthma in students is the same or lower at Samuel Tucker Elementary School, than at other schools in the city.

In summary, the Health Department believes that the proposed Special Use Permit for Virginia Paving will improve air quality in the area surrounding the facility, rather than cause negative health effects.

If you have any further questions, I can be reached at (703) 838-4872.

Attachments (2)

cc: Michele Evans, Deputy City Manager  
Bob Custard, Division Chief, AHD Environmental Health

CITY MANAGER'S OFFICE  
ALEXANDRIA, VA  
2006 NOV -2 P 2:25



www.vdh.state.va.us

**From** Kenneth Schoultz <Kenneth.Schoultz@vdh.virginia.gov>  
**Date** Wed, 18 Oct 2006 09:04:23 -0400  
**To** Bob Custard <Bob.Custard@vdh.virginia.gov>  
**Subject** Virginia Paving Company

Bob,

I have reviewed all of the material that you sent me relative to the proposed SUP ammendment for this site. It appears to me that the ammended condition language provides extensive improvements in the operation of this facility with no apparent significant downside. The pollutant modeling data for the baseline (existing) and the proposed SUV scenarios appear to be thorough and conclusive. Both the City and the company have put forth an extensive community outreach effort, and seem to have anticipated most objections/problems with provisions to minimize each of them.

Complaints related to nightttime operations (primarily odors) could possibly be more frequent because more neighbors will be home. However, Virginia Paving appears to have operated at night previously without major impacts and, to a limited extent, could legally operate prior to sunrise without the SUP ammendments (and thus without the enhanced controls).

All in all, I agree that this seems to be a favorable situation for the City.

Ken



# COMMONWEALTH of VIRGINIA

*Department of Health*

ROBERT B. STROUBE, M.D., M.P.H.  
STATE HEALTH COMMISSIONER

P O BOX 2448  
RICHMOND, VA 23218

TTY 7-1-1 OR  
1-800-828-1120

October 27, 2006

Robert W. Custard  
Environmental Health Manager  
Alexandria Health Department  
4480 King Street  
Alexandria, VA 22302

Dear Mr. Custard:

This is in reply to your email of October 17, 2006, to Khizar Wasti, Ph.D., Director, Division of Public Health Toxicology, regarding the potential health risks posed from emissions of air pollutants from the Virginia Paving Company (an asphalt plant) located at 5601 Courtney Avenue, Alexandria, Virginia. I have reviewed the reports submitted by you and evaluated the results of a dispersion modeling analysis of air pollutant emissions from the Virginia Paving facility.

Dispersion modeling is used to estimate the concentrations of pollutants in ambient air that will result from emissions at the facility. Under U.S. Environmental Protection Agency (EPA) guidelines for dispersion modeling analyses, the intent is to assess worst-case impacts that can be expected from the facility's operations. These worst-case impacts are then compared against established air quality standards and guidelines.

The Virginia Paving facility is classified as a minor source of air pollution under the Virginia Department of Environmental Quality (VDEQ) and the EPA regulations. Virginia Paving Company operates on an air quality permit which was issued by the VDEQ on February 17, 2005. Because of its classification as a minor source, Virginia Paving Company is not required to conduct a dispersion modeling analysis of its emissions under the VDEQ regulations. However, based on concerns raised by the residents living near the facility, the City of Alexandria required Virginia Paving Company to perform a dispersion modeling analysis to ensure that the residents were not exposed to pollution levels that exceeded the National Ambient Air Quality Standards (NAAQS).

There is no indication from the submitted reports that the emissions are in excess of the permit issued by the VDEQ. It appears from the modeling analysis of air pollutants that the emissions are in compliance with the NAAQS and with the VDEQ's Significant Ambient Air Concentrations (SAAC).

**VDH** VIRGINIA  
DEPARTMENT  
OF HEALTH  
*Protecting You and Your Environment*  
[www.vdh.state.va.us](http://www.vdh.state.va.us)

Robert W. Custard  
October 27, 2006  
Page 2

These standards have a sufficient margin of safety built in and account for the general public being exposed to pollutants on a twenty-four hour basis, seven days a week.

In summary, based on the current available information, it is unlikely that the emissions of air pollutants from the Virginia Paving Company facility pose a significant risk to human health.

I trust this information will be of help to you. If you have any questions, please feel free to call me at (804) 864-8182.

Sincerely,



Ram K. Tripathi, Ph.D.

Toxicologist

Division of Public Health Toxicology



To: The Honorable Arthur Peabody and Members of the Alexandria School Board

2000 N. Beauregard Street  
Alexandria, Virginia 22311

From: Rebecca L. Perry *Rebecca L. Perry*  
Superintendent of Schools

Telephone: (703) 824-6600  
Facsimile: (703) 824-6699  
TDD: (703) 824-6666  
www.acps.k12.va.us

Subject: Virginia Paving

Date: October 27, 2006 - Revised

As you are aware, Virginia Paving has applied to the City to amend their special use permit to allow an expansion of their operations at their site near Cameron Station. This expansion, if granted, would provide for increased hours of operation to include around the clock production. After review of numerous studies and information, the Alexandria Planning Commission voted 6-1 to approve the amendment to Virginia Paving's special use permit. The City Council will vote on this issue in the near future

Superintendent of Schools  
Rebecca L. Perry

I have talked with City Manager, Jim Hartmann, and John Porter has talked with Dr. Charles Konigsberg of the Health Department. ACPS relies on the information from Transportation and Environmental Services as related to air quality. The appropriate City staff reviewed the data and request and support the decision of the Planning Commission.

School Board  
Chairman  
Arthur E. Peabody Jr.

Virginia Paving Company has been operating since the 1960's. It was in operation when the Tucker site was selected and approved by the City and the School Board. At that time, it was determined that this was a suitable site for a school. Tucker opened in 2000. Currently, Virginia Paving operates during the day as does the school. The request for longer operations would not affect the school unless, of course, the increase in operations caused a reduction in air quality or other unforeseen issues. About two years ago, the City permanently placed an air quality monitoring device at the school which they read and monitor and there have been no concerns from the City.

Vice Chairman  
Blanche D. Maness

Members  
Ronnie Campbell  
Cläre M. Eberwein  
Yvonne A. Folkerts  
Sheryl Gorsuch

I also checked with our nurse coordinator to monitor asthma cases at the schools and discovered that Tucker does not have an increased number of students with asthma. In fact, the cases of asthma at Tucker (a large school) are smaller than the number of cases at George Mason.

Scott Newsham  
Eileen Cassidy Rivera  
Charles H. Wilson

I will continue to monitor this situation and will work closely with the City and the Health Department should concerns arise. At this point, I have no data or evidence that indicates that there are health concerns related to Virginia Paving's operations.

I am providing you with this information because a number of the speakers at the City Council were asking that the School Board become involved in this matter and I wanted to provide you with what information I have.

# HART, CALLEY, GIBBS & KARP, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

307 NORTH WASHINGTON STREET  
ALEXANDRIA, VIRGINIA 22314-2557

TELEPHONE (703) 836-5757  
FAX (703) 548-5443

## MEMORANDUM

TO: Jim Hartmann, City Manager  
FROM: Virginia Paving Company, by Counsel  
RE: Additional Questions from the Mayor and City Council  
DATE: October 31, 2006

---

This memo provides Virginia Paving Company's response to the additional questions raised by the Mayor, the Vice Mayor and City Council members with regard to the Virginia Paving application to amend its existing 1960 SUP.

A. Questions from Mayor William D. Euille dated October 24, 2006:

1. Why were there no comments from both the Health Department and the School System included in the staff's recommendation for the SUP request?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC assumes that neither the Health Department nor the Alexandria City Public Schools ("ACPS") had concerns about the VPC plant's presence on Courtney Avenue, and therefore made no comments. VPC has made telephone inquiries to both organizations and has received indications that they have not participated in the SUP process because they had no concerns. VPC welcomes any requests by City staff for formal input by the Health Department and ACPS.

2. What do we know about U.S. Filter's relationship with Virginia Paving? Do they operate under the same current SUP? If not, should they have a separate SUP and what is their product/service?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes U.S. Filter has a separate SUP, obtained for a part of its operations in the 1980's. That facility is not a part of this application. That was and is appropriate since they are a separate company and operation.

3. Has a study/survey of neighborhood odors been undertaken? If not, why not?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes that no survey have been undertaken because odor is subjective for the most part. Citizen-reports have at times either described different odors, or included different descriptions of a single odor. In addition, VPC continues to investigate citizen-reports of odors registered at times when the VPC plant was not in operation. VPC is currently looking into whether it is possible to establish more objective standards for identification and measurement of odors.

4. It was alleged by a Virginia Paving employee that the company has been engaged in night work for more than 20 years. Is this, indeed, a fact and were they ever cited accordingly?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes that Newton Asphalt engaged in nighttime deliveries for many years before Virginia Paving Company took over in 2001. It is VPC's belief that the night paving was ordered by the city's Department of T&ES, the author of the condition, because the reason for the condition was eliminated when the overpass over the railroad tracks was constructed and Van Dorn Street became a four lane, traffic signalized road many years ago. The failure to remove the condition was a technicality. It should be noted that the operation of the facility has never been prohibited at night, only nighttime entry and exit of vehicles. The condition was "honored in its breach" in the same way as many other legal requirements.

5. What measurements will be in place for "oil containment?"

VPC RESPONSE: The oil program prevention measures at Virginia Paving Company fall specifically under the U.S. Environmental Protection Agency (EPA) regulated Spill Prevention Control and Countermeasures (SPCC) Program. Virginia Paving Company's SPCC Plan has been submitted and reviewed by the City of Alexandria, and Virginia Department of Environmental Quality (VDEQ). Our plan discusses explicit actions and procedures for oil containment.

6. The 1960 SUP required that "catch basins" be installed. Has this been verified to see if their installation is in place? If not in place, what should be required?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes that the purpose for the "catch basins" is accomplished at this time, and has been since temporary measures were installed pursuant to the Short Term Work Plan provided by VPC back in January of 2005, pending the final approval of the stormwater management plan that has recently been approved by the City. As is required

by their State Stormwater Discharge Permit, VPC performs quarterly sampling of the water discharged from their site into Backlick Run, and there are no existing violations of that permit based upon such testing.

7. Should Virginia Paving withdraw its request for a new SUP, what other steps should be required for the health, safety and welfare of the community?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes that should it withdraw its application, those steps that VPC has undertaken voluntarily are all that can be accomplished.

8. What will be the daily volume of trucks in and out of the plant: at 600 K tons?; at 900 K tons?; and at 1.5 M tons?

VPC RESPONSE: Considering that VPC will operate approximately 261 days per year (365 total days – 104 weekend days), and that each truckload of asphalt weighs approximately 18 tons:

600 K tons/year = 127 trucks/day  
900 K tons/year = 192 trucks/day  
1.5 M tons/year = 319 trucks/day

All of the above figures are calculated based on averages and approximations.

B. Questions from Vice Mayor Andrew Macdonald – dated October 23, 2006:

- 1) Please ask Virginia Paving to provide annual night-time and daytime production rates from 2001 –present.

VPC RESPONSE: VPC is working on this for the past two years of data available. VPC has to go back through paper receipts to look at times loadouts were delivered to trucks and it's a laborious process. That data will be provided shortly.

- 2) Graph the daily (day-time and nighttime) seasonal production rates over the same operating period.

VPC RESPONSE: See response to No. B-1 above.

- 3) Per my conversation with Maureen Barrett: Ask Aero Engineering to try to model the maximum seasonal (spring, summer, fall, winter) "day-time" and annual "day-time" concentration levels of the Criteria pollutants and other major hazardous chemicals at Tucker Elementary, etc, using actual production data.

Input variables: Use the maximum annual "day-time" production level for the years that VA Paving has operated the plant (above.) If this data is not available assume that yearly production levels do not exceed 600,000 tons per year. Use actual maximum reported seasonal "day-time" production rates to predict the maximum daily concentrations of the pollutants of concern. If the concentrations of PM 2.5 exceed 35 ug/cubic meter at sites where people may be exposed to the asphalt "fumes," adjust the production levels and run the model again. What is the maximum safe "day-time" production level? Can it be determined?

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes all relevant modeling considered important by the experts and the City's Department of Environmental Quality has been done. All production levels that have been considered are safe.

- 4) How much additional pollution is likely to be generated by night-time paving operations? Use the maximum reported yearly and daily "night-time" production levels.

VPC RESPONSE: For almost all of the emission sources at Virginia Paving, the overall emissions are dependent only on how much asphalt is produced. Therefore, if the maximum and/or average productions levels are identical for operation of the plant during the daytime only and for operation day and night, then the overall emissions from these sources would also be identical. For example, 10,000 tons of asphalt produced during daytime only hours would lead to the same amount of emissions as 10,000 tons of asphalt produced during both daytime and nighttime operations. If operation of the facility during nighttime hours leads to an increase in daily or annual production levels, the increased emissions would be proportional to the production increase. However, these production levels would be restricted to the limits imposed by the SUP.

The exceptions to this direct production-to-emissions relationship are fugitive PM emissions from batch and continuous aggregate dropping operations which are dependent on both production levels and on the wind speed, and fugitive PM emissions due to wind erosion which is assumed to be dependent on wind speeds only. For both of these sources, emission rates are higher when wind speeds are higher.

- 5) What's the worst time of year and day to produce asphalt? Why?

VPC RESPONSE: There is no unsafe time to produce asphalt.

- 6) To the extent possible, predict what the maximum and minimum "hourly" concentrations of key pollutants might be.

VPC RESPONSE: Hourly impacts were modeled for pollutants which have hourly NAAQS, or for which the pollutant's maximum modeled hourly emission rate

exceeds the *de minimis* level for exclusion from SAAC consideration. These pollutants were carbon monoxide for which the maximum modeled hourly impact from Virginia Paving is 622  $\mu\text{g}/\text{m}^3$ , compared with the NAAQS of 40,000  $\mu\text{g}/\text{m}^3$ ; acrolein with a maximum modeled hourly impact from Virginia Paving of 0.12  $\mu\text{g}/\text{m}^3$ , compared with a SAAC of 17.25  $\mu\text{g}/\text{m}^3$ ; formaldehyde with a maximum modeled hourly impact from Virginia Paving of 14.6  $\mu\text{g}/\text{m}^3$ , compared with a SAAC of 62.5  $\mu\text{g}/\text{m}^3$ ; quinone with a maximum modeled hourly impact from Virginia Paving of 0.73  $\mu\text{g}/\text{m}^3$ , compared with a SAAC of 22  $\mu\text{g}/\text{m}^3$ ; and lead with a maximum modeled hourly impact from Virginia Paving of 0.068  $\mu\text{g}/\text{m}^3$ , compared with a SAAC of 7.5  $\mu\text{g}/\text{m}^3$ . These values were reported in the Cambridge Environmental report and addendum of December 2005.

The minimum hourly impacts for these pollutants would be essentially zero.

- 7) What chemicals are found in “blue smoke” and the odors it creates? How effective are these filters?

VPC RESPONSE: The term “blue smoke” refers to emissions from the asphalt storage silos and tanks. The emissions are not smoke in the usual sense of the word because they are not generated by combustion, but are instead material that has volatilized from the hot asphalt and has either partially or totally condensed as it cooled. Table 1 lists the compounds in the EPA’s AP42 emission factors handbook as being emitted from asphalt storage silos and tanks, and/or from asphalt loadout operations.

Table 1. Compounds listed as being emitted by loadout, silo filling and asphalt storage operations in EPA’s AP42 emission factors handbook Tables 11.1-15 and 11.1-16.

Acenaphthene	Chloromethane	Methylene Chloride
Acenaphthylene	Chrysene	2-Methylnaphthalene
Acetone	Cumene	Naphthalene
Anthracene	Dibenz(a,h)anthracene	Perylene
Benzene	Ethylbenzene	Phenanthrene
Benzo(a)anthracene	Ethylene	Phenol
Benzo(a)pyrene	Fluoranthene	Pyrene
Benzo(b)fluoranthene	Fluorene	Styrene
Benzo(e)pyrene	Formaldehyde	Tetrachloroethene
Benzo(g,h,i)perylene	Hexane	Toluene
Benzo(k)fluoranthene	Indeno(1,2,3-cd)pyrene	Trichlorofluoromethane
Bromomethane	Isooctane	Xylenes
Carbon Disulfide	Methane	
Chloroethane	Methyl Ethyl Ketone (2-Butanone)	

For the purposes of modeling emissions of specific compounds from these sources, no collection efficiency was assumed for the “blue smoke” control systems because the systems’ manufacturer has no data regarding control efficiencies for organic compounds. Data available for the collection of particulate matter by the system’s filters indicate that the overall system is 99% efficient at controlling PM emissions.

- 8) What can we do to verify that the plant is not releasing harmful amounts of key pollutants? Conduct yearly stack tests? Run the models again?

VPC RESPONSE: Of the pollutants that have been assessed by Cambridge Environmental and AERO Engineering, only PM<sub>2.5</sub> and SO<sub>2</sub> were found to approach or exceed NAAQS or SAAC levels. Emissions of these two pollutants are limited by various means within the SUP. With respect to PM emissions, a total suspended particulate dryer stack concentration limit of 0.03 grains per dry standard cubic foot is included in the SUP; the air quality modeling assumed emissions at this concentration. Scheduled testing of particulate matter emissions from the Virginia Paving dryer stacks are included in the SUP to ensure that the dryer stack emissions are below this level. Fugitive PM<sub>2.5</sub> emissions from truck traffic, aggregate handling, RAP crushing, and erosion are very difficult to measure, and were estimated using EPA's AP42 emission factors for these sources. Various operational conditions such as roadway silt levels and watering frequency affect these emissions, and operational requirements are included in the SUP for most of these sources. It should be noted that since the time when the air quality modeling was performed, the EPA has proposed lower emission factors for fugitive PM<sub>2.5</sub> based on more recent tests carried out specifically for evaluating fugitive PM<sub>2.5</sub> emissions. If the modeling were repeated using the updated emissions factors, significantly lower PM<sub>2.5</sub> impacts would be predicted than were found in the previous modeling.

The SO<sub>2</sub> impacts were found to exceed the 3-hour NAAQS in the AERO Engineering modeling but not in the Cambridge Environmental modeling. The 3-hour SO<sub>2</sub> standard is not a health-based, primary standard, but is a secondary standard designed to protect ecosystems, visibility, human-made structures, and other non-health related aspects of public welfare. Nevertheless, the sulfur content of recycled oil, distillate oil, and diesel fuel used at Virginia Paving are limited by conditions of the SUP, thus restricting the amount of SO<sub>2</sub> emitted from the facility to levels that will not lead to exceedances of the applicable standards.

- C. Additional questions from Vice Mayor Andrew MacDonald forwarded from Cameron Station Civic Association dated October 27, 2006:

1. Does the US Filter oil recycling facility located on Virginia Paving Company's Courtney Avenue plant ("US Filter") have an SUP and, if so, what provisions in the SUP relate to environmental or safety issues.

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes U.S. Filter has its own SUP, to the extent that it needs one, and although it emits odors, it has no "unsafe" pollutants, and in fact, its emission levels are so low, the State Department of Environmental Quality determined it no longer needed an Air Permit.

2. Has US Filter ever violated its SUP and, if so, for what reason(s) and when.

VPC RESPONSE: Not that VPC is aware.

3. At the recent public hearing, people from Summers Grove and City staff said that the organic filters used by US Filter to produce recycled oil emit foul natural gas odors. What steps has the City taken to ensure US Filter takes reasonable steps to mitigate the odor caused by them during the production of recycled oil.

VPC RESPONSE: U.S. Filter has voluntarily agreed to implement additional measures to address its odor issues.

4. What toxins are released into the air and water by US Filter. What steps has the City taken to assure that the toxins released by US Filter do not exceed current or proposed EPA PM2.5 standards, or other federal, state or local water or air quality standards.

VPC RESPONSE: See response to No. C-1 above. U.S. Filter has voluntarily agreed to implement additional measures to address its odor issues.

5. Did VA Paving exceed permitted annual tonnage limits in 2004 and, if so, what action was taken by VA DEQ.

VPC RESPONSE: In 2004, Virginia Paving notified VDEQ of potential to go above permitted annual tonnage. Under VDEQ direction, a plan was developed to ensure compliance. Virginia Paving subsequently submitted an application to increase permitted annual tonnage. The application was processing within the department when VDEQ audited Virginia Paving's facility. Virginia Paving performed regulatory supervised stack testing to obtain tangible data, which VDEQ used to determine emission levels as related to tonnage limitations. No emission limits were exceeded, therefore no action was taken by VDEQ.

6. Did Newton Asphalt ever approach City staff in 1998 alerting them to the fact that they intended to replace a small batch plant with a new more efficient counter rotating drum plant and, if so, would this have required an amendment to the SUP.

VPC RESPONSE: If a response is requested by Council from the Virginia Paving Co. ("VPC"):

VPC believes that Newton Asphalt applied to the State Department of Environmental Quality to change the equipment they use under their air permit. The State notified the City's Division of Environmental Quality, and at that time, the DEQ

notified the then Planning Director and Deputy Planning Director to determine if the installation of such equipment constituted an "intensification" of the use and they both said "no".

7. Provide the dates when any changes were made to the dryer mixers. A change for purposes of this question means a change in capacity (tons per hour) or type (e.g. batch, parallel flow, counter flow).

VPC RESPONSE: As far as VPC is aware, through contacts with Mr. Miller of Newton Asphalt and from the one employee that was working at the plant during that timeframe, prior to 1978, there were at least four plants on the site. In 1979, Newton Asphalt ordered what is now Plant 1 to replace two other plants that existed on the site. Consequently, that installation resulted in no enlargement, extension or increase in intensity of this facility because this was merely a consolidation of two other plants based upon technological advancements. At some point between 1980 when Plant 1 was installed and the mid-1990's, two of the other plants were removed from the site. In the mid-1990's, Plant 2 replaced the original batch plant with the current counterflow drum dryer plant that exists today, however, the conveyer system remained. Although the current Plant 2 has the capacity to produce more mix per hour than the original batch plant, the conveyor system cannot handle any more mix than the original batch plant produced. Any replacement of a parallel flow drum dryer with a counterflow drum dryer was not an "enlargement, extension or increase in intensity" of the plant. It is merely an improvement based upon technological advances that improves the emissions levels from the site itself.

8. Provide the annual nighttime production tonnage totals for the period from 2001 through and including 2006. For purposes of this question, nighttime production means asphalt delivered to a truck during nighttime hours (i.e., production prohibited under the current SUP).

VPC RESPONSE: See Response to No. B-1 above.

9. At the recent public hearing it was stated by Dr. Laura Green that what the daytime photograph of VA Paving provided to each City Council member showed was "steam." According to Cambridge Environmental's studies, what besides steam is coming from the stacks.

VPC RESPONSE: Components of the emissions from the Virginia Paving dryer stacks are primarily nitrogen (approximately 68%), water (approximately 20%), oxygen (approximately 9%), and carbon dioxide (approximately 3%), as well as much smaller amounts of various organic and inorganic compounds. Those compounds for which emissions from hot mix asphalt plants have been measured and tabulated by the EPA include the criteria pollutants (carbon monoxide, nitrogen dioxide, lead, and particulate matter (composition unspecified), and sulfur dioxide), as well as the specific compounds

listed in the various tables of the EPA's AP42 emissions factor handbook, chapter 11.1 Hot Mix Asphalt Plants.

10. Based on the study by Maureen Barrett of Aero Engineering, does the area of exceedance for current annual PM<sub>2.5</sub> standards include Boothe Park and/or Tucker Elementary School.

VPC RESPONSE: Based on Figure 3-2 from AERO Engineering's January 2006 report it appears that the area of exceedance for the current annual PM<sub>2.5</sub> NAAQS does not include Boothe Park and/or Tucker Elementary School.

11. Assuming all upgrades contemplated by the new SUP provisions are installed and work as planned, what would be the highest annual production level that would result in complete compliance with all current and proposed National Ambient Air Quality Standards, including those for annual and 24-hour PM<sub>2.5</sub> and for 3-hour SO<sub>2</sub>.

VPC RESPONSE: The annual production limits only affect the modeled annual average concentrations for PM<sub>2.5</sub> and PM<sub>10</sub>. The maximum modeled 24-hour average concentrations are governed by the daily production limits, and the maximum modeled 3-hour average SO<sub>2</sub> concentration is governed by the hourly production limit. The annual production limit of 1.2 million tons in the new SUP was calculated so that emissions from Virginia Paving, when added to measured background levels, would not lead to exceedances of the annual NAAQS for PM<sub>2.5</sub> and PM<sub>10</sub>. Similarly, the daily production limit of 10,000 tons in the new SUP was calculated so that emissions from Virginia Paving, when added to measured background levels, would not lead to exceedances of the daily NAAQS for PM<sub>2.5</sub> and PM<sub>10</sub> that were in place at the time of the analysis. Based on Cambridge Environmental's modeling and the conditions of the SUP, the 3-hour SO<sub>2</sub> NAAQS will not be exceeded at an hour production rate of 1,000 tons per hour.

Because the 24-hour PM<sub>2.5</sub> NAAQS has recently been reduced from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup> and the maximum measured fourth highest 24-hour PM<sub>2.5</sub> background concentration near Virginia Paving is 35.3 µg/m<sup>3</sup>, no emissions from any source could be modeled to meet the standard. Under such a situation, a State Implementation Plan is used to address the issue on a county, state, or regional scale.

The 35 µg/m<sup>3</sup> standard does not go into effect until 2015, when it is anticipated that air quality improvements, primarily from vehicles (both passenger and heavy trucks), will have made substantial improvements.

12. How many times have the bags in the baghouse been torn or otherwise broken and, therefore, not operating properly. How long a period were they not working for each noted incident.

VPC RESPONSE: Air Quality Control Equipment is inspected and maintained accordingly. The bag house and auger system is regularly inspected for deterioration,

emissions, and unusual occurrences. If an occurrence indicates maintenance, this takes place without delay. Virginia Paving changes all bag house bags annually. If a bag house bag shows wear it is replaced without delay.

13. What are the levels of toxins emitted if a bag in the baghouse were to break and would these emissions exceed National Ambient Air Quality Standards. Please include levels of dioxin, SO<sub>2</sub>, formaldehyde, PM<sub>2.5</sub>, PM<sub>10</sub>, CO, NO<sub>2</sub>, VOCs, lead, acrolein, butadiene, benzene, acetaldehyde and quinone.

VPC RESPONSE: The baghouses control emissions of the particulate and condensable pollutants PM<sub>2.5</sub>, PM<sub>10</sub>, lead, and dioxins only. Emissions of the other pollutants listed above would not be significantly affected by upset conditions in the baghouse.

14. Has VA Paving obtained a new Stationary Source Permit to Modify and Operate from VA DEQ since the one they disclosed to City staff dated February 17, 2005 and, if so, why hasn't this been provided to City staff and City Council.

VPC RESPONSE: As a part of the phased construction plan, Virginia Paving requested a permit amendment to allow for use of fugitive emission control technology, stack extensions, and the hot oil heater to sustain No. 2 low sulfur virgin oil usage. That permission was granted subject to the City's approval of this SUP Amendment. The existing Stationary Source Permit was renewed this past July 2006 under the same conditions.

D. Additional question from Councilman Lovain:

What methods are available for the measurement of noxious odors like those from Virginia Paving? How will we be able to measure progress in reducing these odors?

VPC RESPONSE: VPC is continuing to research the odor issue in an attempt to identify objective methods of measurement, recognizing that it would be in everyone's best interest to be able to set a standard to be measured against, if possible. See Also, VPC Response to No. A-3 above.

City of Alexandria, Virginia

5 ✓  
10-14-06

MEMORANDUM

DATE: OCTOBER 13, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES K. HARTMANN, CITY MANAGER *J*

FROM: RICHARD BAIER, DIRECTOR, TRANSPORTATION AND ENVIRONMENTAL SERVICES *R Baier*  
RICHARD JOSEPHSON, ACTING DIRECTOR, PLANNING AND ZONING *R*

SUBJECT: VIRGINIA PAVING SUP ENFORCEMENT

---

Virginia Paving is requesting approval of a Special Use Permit to allow nighttime vehicular traffic at their existing plant on Courtney Avenue. Staff is recommending approval subject to compliance with 74 conditions. Council has requested that staff provide a strategy for enforcement of these conditions.

The attached Virginia Paving Enforcement Matrix provides a description of each condition, identifies the department primarily responsible for recommending the condition and includes the compliance schedule for each condition. The conditions fall into two major categories: 1) Conditions that require ongoing enforcement, and 2) Conditions that have a specific deadline for compliance. Of the 74 recommended conditions, 32 require ongoing enforcement, some of which include daily, weekly and monthly inspections by City staff. The remainder have specific deadlines for compliance.

Staff proposes to enforce these conditions through a comprehensive program, including team inspections carried out by staff from five agencies: Transportation and Environmental Services, Planning and Zoning, Code Enforcement, Recreation, Parks and Cultural Activities and the Health Department. While most of the conditions have been recommended by T&ES and will have to be verified by T&ES staff, coordination and timing of the inspections will be provided by Planning and Zoning staff. Once the time specific conditions have been completed, most of which will occur in the first two years after approval of the SUP, staff will be tasked with ongoing enforcement of the remaining 32 conditions. These conditions will require regular frequent inspections. Additional T&ES staff resources will be required to supplement regular staff. One new T&ES inspector will be needed in order to verify compliance with the conditions on a timely basis and in accordance with the SUP. This inspector will provide both unscheduled and

scheduled inspections for the conditions concerning construction and the environment. The inspector will possess currently utilized by the Department of T&ES on the Mirant (PRGS) case. This professional will be versed in State and Federal National Ambient Air Quality Standards (NAAQS) as well as City Code requirements. Other department staff from Code Enforcement, Planning and Zoning, Recreation, Parks and Cultural Activities, Fire and Police will augment the inspections/enforcement as necessary.

The fiscal impact of this effort is estimated at \$126,000 per year for the first two years and includes initial start up and equipment costs. Cost in subsequent years will depend on the number of scheduled inspections and complaints. I recommend we recover these costs from Virginia Paving on a quarterly or annual basis based on actual costs incurred by the City. If Council concurs, this should be added as an additional condition.

Please let us know if you have any comments or questions.

**Attachment**

cc: Jannine Pennell, Acting Director, Code Enforcement  
Kirk Kincannon, Director, Recreation, Parks and Cultural Activities  
David Baker, Police Chief  
Gary Mesaris, Fire Chief

<b>Virginia Paving SUP Enforcement Matrix</b> <b>October 14, 2006</b>			
<i>Condition #</i>	<i>Description</i>	<i>Responsible Department</i>	<i>Compliance Schedule</i>
1, 2	Production limit	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
3	Control of smoke, odors and air pollution	T&ES, Health	Regularly unannounced inspections; and follow-up inspections in response to complaints
4, 5	Limit on days and type of nighttime work	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
6	Odor control additives and record keeping	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
7, 8, 9, 10	Use of No. 2 fuel oil and record keeping	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
11	Blue Smoke Control	T&ES	Test within 90 days of startup,; installation complete by Dec 31, 2006 for Plant 1 and July 30, 2007 for Plant 2
12	Low NOx burners	T&ES	Install by October 30, 2006 for Plant 2 and December 31, 2007 for Plant 1
13	Tank Vent Condensers	T&ES	Install by September 30, 2006
14	Fugitive Emissions Control System	T&ES	Install by September 30, 2007 for Plant 1 and June 30, 2008 for Plant 2; certified within 180 days of startup
15	TSP Emissions	T&ES	Demonstrate compliance once every two years and submit report to Cit within 30 days; also, monthly visible emissions testing
16	Particle traps for Virginia Paving trucks and Equipment	T&ES	Traps installed on 50% of equipment by September 30, 2006 and remainder by December 31, 2006

**Virginia Paving SUP Enforcement Matrix**  
**October 14, 2006**

<i>Condition #</i>	<i>Description</i>	<i>Responsible Department</i>	<i>Compliance Schedule</i>
17	Height of Drum Dryer Exhaust Stacks	T&ES	Increase height to 20 meters by January 31, 2007
18	Height of Hot Oil Heater Stack	T&ES	Increase height by 6 meters by October 31, 2006
19	RAP Crusher particulate matter emission control	T&ES	Install by December 31, 2006
20	RAP Crusher visible emissions	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
21	Water Spray twice daily	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
22	Pave truck access	T&ES	By October 31, 2006
23	Water Sprays and Enclosures	T&ES	By December 31, 2006
24	Control of Fugitive Dust	T&ES	Annual inspection and record keeping; first submittal by April 30, 2007
25	Stack Tests	T&ES	First test prior to August 31, 2007; second test prior to August 31, 2009; subsequent tests at least every 5 years; results submitted to City within 90 days
26	Permits from VDEQ	T&ES	For construction of required controls and operations
27	Determination of Public Nuisance/Public Health Problem	T&ES, Health	Regularly unannounced inspections; and follow-up inspections in response to complaints
28, 28a., 28b.	Changes to National Ambient Air Quality Standards (NAAQS)	T&ES	Operate PM10 monitor until 3 years of data is collected; if data indicate exceedance, require Virginia paving to demonstrate, within 90 days, that it is not causing the exceedance
29	Stormwater Management Facility	T&ES	Install by December 31, 2006

**Virginia Paving SUP Enforcement Matrix**  
**October 14, 2006**

<i>Condition #</i>	<i>Description</i>	<i>Responsible Department</i>	<i>Compliance Schedule</i>
30A, 30B, 30C	Stormwater Management Best Management Practices	T&ES	Execute a maintenance agreement with the City
31	Asphalt Pile Buffer from Back Lick Run	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
32	Bank Stabilization Project	T&ES	To satisfaction of T&ES
33, 34, 35	Noise from operations	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
36	Noise from Norfolk Southern	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
37	Hours of operation of locomotive, rail unloading and RAP crusher	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
38	RAP pile dumping	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
39	Virginia Paving Truck noise	T&ES	Install backup alarms within 6 months of SUP approval; adjust truck routes to reduce noise
40	Tailgate noise	T&ES	On-site personnel and posting of signs
41	24 hour hotline	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
42	Engine Idling	T&ES	Post signs limiting idling
43	Noise Reducing Mufflers	T&ES	Install on exhaust ports by November 30, 2006
44	Noise Review	T&ES	Review noise complaints 2 years after approval of SUP; may require sound barriers or all trucks to be equipped with ambient noise level back-up alarms

**Virginia Paving SUP Enforcement Matrix**  
**October 14, 2006**

<i>Condition #</i>	<i>Description</i>	<i>Responsible Department</i>	<i>Compliance Schedule</i>
45	Disposal of Waste	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
46	Compliance with City Best Management Practices for auto related industries	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
47	Auto and Equipment Repair inside building	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
48	Removal of tack deposits	T&ES	Removal of tack within 90 days of notice of problem
49, 50	Reduction of lighting and glare	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
51	Maintenance of Locomotive	T&ES	Prevent oil leaks; replace locomotive by December 31, 2009
52	Maintenance of all on-site equipment	T&ES	Daily, weekly, monthly, and annual monitoring and reporting
53	Records for daily plant mix temperature readings	T&ES	Maintain for period of 5 years
54	Records for failures/pressure drops in baghouses	T&ES	Notify T&ES within 24 hours of failure or pressure drop
55	General Record Keeping	T&ES	Maintain all records on site for at least the most recent 5 year period
56	Correspondence	T&ES	Virginia Paving to copy City on all correspondence with VDEQ
57	Site inspection	T&ES	Regularly unannounced inspections; and follow-up inspections in response to complaints
58	Daily production and site activity reporting	P&Z	Provide on monthly basis
59	Quarterly Report	P&Z	Quarterly for capital projects; annually for BMPs

**Virginia Paving SUP Enforcement Matrix**  
**October 14, 2006**

<i>Condition #</i>	<i>Description</i>	<i>Responsible Department</i>	<i>Compliance Schedule</i>
60	SUP Review	P&Z, T&ES, Code, Health	Every 6 months for first 2 years; and annually thereafter
61	SUP Compliance with conditions 11, 12, 13, 14, 17, 18	P&Z, T&ES, Code, Health	Violation without reasonable basis for delay shall cause cessation of nighttime vehicular operations and docketing of SUP for Council review
62	Designated Virginia Paving Compliance Contact Person	P&Z	Daily, weekly, monthly, and annual monitoring and reporting
63	Community Relations meetings	P&Z	2 times per year
64, 65, 66, 67, 68	Landscaping and site work	P&Z, T&ES, RP&CA	Provide plan for approval by P&Z, T&ES, RP&CA
69	Public access easement option for multi-use trail	RP&CA	Record option upon approval of SUP
70	Maintain height of Asphalt storage pile near S. Van Dorn Street not to exceed bridge	P&Z	Regularly unannounced inspections; and follow-up inspections in response to complaints
71	Asphalt and gravel pile spillage	P&Z	Regularly unannounced inspections; and follow-up inspections in response to complaints
72	Trucks stored in orderly fashion on site	P&Z	Regularly unannounced inspections; and follow-up inspections in response to complaints
73	Encroachment of parking area	P&Z	Relocate or apply for encroachment
74	Hours of operation - no private nighttime paving	P&Z	Daily, weekly, monthly, and annual monitoring and reporting

W.S.  
11-6-06



<bjscott36@yahoo.com>

11/03/2006 09:39 AM

Please respond to  
<bjscott36@yahoo.com>

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>, <timothylovain@aol.com>, <councilmangaines@aol.com>, <council@krupicka.com>, <delpepper@aol.com>,

cc

bcc

Subject COA Contact Us: More VA Paving Odor Problems

History: This message has been replied to.

## COA Contact Us: More VA Paving Odor Problems

Time: [Fri Nov 03, 2006 09:39:04] IP Address: [140.185.180.78]

Response requested:

**First Name:** Brian  
**Last Name:** Scott  
**Street Address:** 1036 Harrison Circle  
**City:** Alexandria  
**State:** VA  
**Zip:** 22304  
**Phone:** 7038232133  
**Email Address:** bjscott36@yahoo.com  
**Subject:** More VA Paving Odor Problems  
Greetings Elected Officials,

As you prepare to meet tomorrow to discuss this matter, I wanted you to have the benefit of the following email string regarding my recent complaint to Bill Skrabak about a VA Paving related odor, along with a followup from Cameron Station. I wanted you all to know the extent to which this facility is taxing the City's precious emergency response resources. NO Response is necessary. Also, it is best to read the string from the bottom up.

Thank you...Brian Scott

---

Bill,

You might want to check with Washington Gas and the police as well. They are in Cameron Station often looking for a "gas main break". The last time I sent an email about it was 10/25 at 11:15 pm. The email was sent to you and Rich.

The police were out here at least twice the week before that for a "gas leak".

Mindy [CSCA, President]

Mindy Lyle

5235 Tancreti Lane  
Alexandria, VA 22304  
703-567-9827

---

-----Original Message-----

From: BrianNova37  
[mailto:bjscott36@yahoo.com]  
Sent: Thursday, November 02, 2006 8:34 PM  
To: William.Skrabak@alexandriava.gov  
Cc: CDMonahan@laneconstruct.com;  
DAHoyt@laneconstruct.com; mindylyle; john  
pecic; Rich Josephson; Zina Raye;  
Lalit.Sharma@alexandriava.gov;  
Erica.Bannerman@alexandriava.gov  
Subject: Re: VA Paving Odor Complaint

Hi Bill,

Thanks for the response. I smelled the odor around 3:00 pm, just before sending my email to you. I was standing on the 2nd floor balcony of my home at 1036 Harrison Circle, which faces North and West toward the railroad tracks and the Van Dorn Street rail bridge. The odor was quite strong, so much so that I was surprised that I didn't smell it in the house. A fire engine rolled through the neighborhood about the same time, so you might check to see if someone called them about the odor. While many have characterized the odor as a "natural gas" smell, it smells more like petroleum to me. Zina Raye previously reported that she smelled the same odor at U.S. Filter's facility when she took the VA Paving plant tour.

**Comments:**

Hope that helps, Brian Scott

William.Skrabak@alexandriava.gov wrote:

Brian thanks for the heads up, can you provide a little more detail as best you can recall as to specifically when and where you observed the odor? Thanks again and any more specific info would be a great help. We have been working directly with U S Filter in an effort to improve their

operation especially from an odor perspective as well.

email address:  
william.skrabak@alexandriava.gov

William J. Skrabak, Division Chief, Environmental  
Quality  
Department of Transportation & Environmental  
Services  
City Hall, Room 3900 (Box 66)  
301 King Street Alexandria, Virginia 22314

Phone: 703-519-3400 ext.163 or 703-838-4334  
Fax: 703-519-5941

BrianNova37

To:  
Rich Josephson,  
William.Skrabak@alexandriava.gov  
11/02/2006 03:10PM  
cc:

Zina Raye bjscott36@yahoo.com,  
mindylyle, john pecic,  
CDMonahan@laneconstruct.com,  
DAHoyt@laneconstruct.com

Subject: VA Paving Odor Complaint

Hi Bill and Rich,

Just wanted to notify someone at the City that today we at Summers Grove are smelling that very unpleasant "burning petroleum" or "natural gas" smell that has been alleged to emanate from the U.S. Filter facility on VA Paving's property.

Thanks,

Brian Scott  
1036 Harrison Circle



<iasanden@gmail.com>

11/06/2006 01:29 PM

Please respond to  
<iasanden@gmail.com>

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>,  
<timothylovain@aol.com>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <delpepper@aol.com>,

cc

bcc

Subject COA Contact Us: VA Paving Work Session

WS  
11-6-06

## COA Contact Us: VA Paving Work Session

Time: [Mon Nov 06, 2006 13:29:23] IP Address: [68.83.208.243]

Response requested:

**First Name:** Ingrid  
**Last Name:** Sanden  
**Street Address:** 5238 Bessley Place  
**City:** Alexandria  
**State:** VA  
**Zip:** 22304  
**Phone:** 7035673284  
**Email Address:** iasanden@gmail.com  
**Subject:** VA Paving Work Session  
Hello Council and Mr. Mayor:

I can't attend the work session tonight regarding VA Paving's SUP. I can't find a sitter and don't want to bring my kids (I'm sure you're thanking me silently). I can't fight the Clinton crowds in Market Square with a 1 and 3 year old.

Anyway, I have seen the new memo regarding VA Paving's and staff's responses to council's questions from the meeting earlier last month. Some answers are fine, some are half-way fine, and some are not fine at all. One thing that really bothers me is that VA Paving seems unwilling to compromise on the code-red day shut down. It's inconceivable that they wouldn't have some time built into their construction contracts to allow for "weather" - whether it's rain, snow or whatever. Code red days fall into that "weather" category.

Code red day shut downs are important to me because Tucker school is in session all year round. They start school in mid-July, so they are in school during some of the worst air-quality months of the year, during which VA Paving wants to be doing the bulk of their production (most of which at night!!!). This is just

inappropriate and irresponsible. The children at Tucker do an amazing job academically, especially considering there is such a high percentage of students receiving free-and reduced-fee school lunch. These kids have enough to battle - let's at least take strides to make the air they are breathing CLEAN. You can't tell me that a company like this - with the track record they have - will bend over backward to make the air clean for neighbors and the school. Painting their plant green doesn't exactly cut it. Good lord. Their priority is making money and they seem to be doing pretty well at that (even though, for some reason, they can't pay their employees a living wage without forcing them to break the law and work at night, but that's another story...)

**Comments:**

Anyway, my other point is that it's time for the city to get serious about enforcement with this company. Without real enforcement, there is NO reason for them to follow the rules. They haven't done it in the past, so there's really no reason for me to believe they'll start now. Not exactly a good corporate neighbor.

Obviously, I believe there should be a cap on how much asphalt should be produced each year. Why not just take an average of how much VA Paving produced (LEGALLY!!!) between 2001 and 2006. That seems about fair. Plus, there's NO WAY the city should allow 130 nights of production. That's practically the whole summer. GROSS. How about 30 days (no weekends) - but NONE during July and August, which are notoriously bad air-quality months? Seems like a decent compromise... And that night paving should be for CITY WORK ONLY. If they want to pave the Wilson Bridge or Mixing Bowl, they can use one of their other plants and truck it up.

Thanks for your time, and please know I wish I could attend tonight. This VA Paving SUP, besides costing VA Paving and the City a ton of money, is costing me a small fortune in babysitting fees. Yikes. But it's all worth it - the health and quality of life of my kids, plus several hundred other kids is at stake.

Sincerely,  
Ingrid Sanden

WS  
11-6-06

**REVISIONS PROPOSED BY COUNCILMEMBER LOVAIN  
TO THE RECOMMENDED CONDITIONS ON THE  
VIRGINIA PAVING AMENDED SPECIAL USE PERMIT (SUP)**

Condition #1: Annual Production Limits: Reduce the initial yearly maximum on hot mix asphalt production of 900,000 tons per year to **850,000 tons per year**. Reduce the yearly maximum after all air pollution controls have been installed as scheduled from 1.2 millions tons per year to **980,000 tons per year**.

*Discussion: Virginia Paving produced 761,000 tons in 2005, about average for recent years ('04: 907K; '03: 719K; '02: 650K; '01: 847K). Under these revisions, production would increase 12 percent initially over 2005 levels and an additional 17 percent after all pollution controls have been installed.*

Condition #2: Daily Production Limits: Reduce the maximum daily production rate from 10,000 tons per day to **8,000 tons per day**. Reduce the maximum production from any one nighttime shift from 5,000 tons to **4,000 tons per nighttime shift**.

*Discussion: This revision would reduce both the maximum daily production limit and the maximum nightly production limit by 20 percent from the amended SUP as proposed.*

Condition #4: Maximum Annual Number of Nighttime Shifts: Reduce the maximum number of nighttime shifts per calendar year from 130 nights to **110 nights per year**.

*Discussion: This 15 percent reduction from the amended SUP as proposed would limit Virginia Paving nighttime work to 30 percent of all nights over the course of a year and probably less than half of the nights during peak paving season.*

New Condition: Annual Production Limit from Nighttime Shifts: Limit the amount of annual production during nighttime shifts to no more than **275,000 tons**. e.g. by adding, at the end of Condition #1, the following: "Hot mix asphalt production shall be limited to 275,000 tons per year during nighttime shifts as defined in Condition No. 4 below."

*Discussion: The amended SUP as proposed permits the production of as much as 650,000 tons from nighttime shifts (5000 tons X 130 days). This revision would reduce that maximum by 58 percent. If Virginia Paving worked all 110 nights permitted, their average production per night would be 2,500 tons (vs. the potential 5,000 tons under the amended SUP as proposed). If they produced at the maximum nightly production levels every possible night, they would use up their annual production limit from nighttime shifts after 69 nights.*



<reillyw@erols.com>

11/03/2006 02:43 PM

Please respond to  
<reillyw@erols.com>

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>,  
<timothylovain@aol.com>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <delpepper@aol.com>,

cc

bcc

Subject COA Contact Us: Virginia Paving SUP

WS  
11-6-06

## COA Contact Us: Virginia Paving SUP

Time: [Fri Nov 03, 2006 14:43:08] IP Address: [66.44.54.60]

Response requested:

**First Name:** willis  
**Last Name:** reilly  
**Street Address:** 281 Cameron Station Blvd  
**City:** Alexandria  
**State:** VA  
**Zip:** 22304  
**Phone:** 703-567-3318  
**Email Address:** reillyw@erols.com  
**Subject:** Virginia Paving SUP

On October 28,2006 Councilman Lovain sent me a thoughtful letter on the Virginia Paving Company and his belief that the SUP needed further amendment. This would accept the proposed new technologies to be introduced at the plant, which he felt would greatly reduce the odor and emissions from the plant, but also he felt that there should be major reductions in production and much tougher enforcement protocols, to be paid for by Virginia Paving. Prior to the City Council hearing I wrote to all Council members endorsing that SUP with which you have been presented. I noted that I have lived in Cameron Station for five years and that, although I live less than a block from some people who have troubles with the odors and emissions, I have not.

The sensor station at Tucker ES seems to bear out that there is no emissions problem. Emissions, yes, but no emissions problem - and this is before we will have seen the benefit of the improvements that Virginia Paving is committed to make.

"Odors" cannot be meaningfully captured in the current sensor array. I believe the discussion of the odor problem was elevated to a highly emotional level. Hence, all of the evidence on the

issue has been anecdotal. I do not deny nor question the sincerity of those who have articulated that concern, but Council must make sure that it comes to its conclusions on a rational basis.

**Comments:**

The upgrades that are being undertaken or planned by Virginia Paving are designed to create a more benign environment than currently exists. Also, their figures reveal that, in the year 2004, they produced over 900,000 tons - probably with a lot of night time work - when these improvements were not yet contemplated. I do not believe that there was a groundswell of opinion on the environmental issues at that time. For this reason, I do not believe that there is any need for "major reductions" from the proposed SUP figures. The matter of having Virginia Paving pay for the "much tougher enforcement protocols" is extremely bothersome to me. As the discussions before the Planning Commission and City Council progressed a clear impression was left that the City had heretofore been lax in dispensing their enforcement responsibilities. I believe, at one time, it was stated that the City would have to put a person on this SUP full-time to do enforcement. However, to turn around and now suggest that the City is going to get serious about this and now do rigorous enforcement on the permit-holder's dime seems to be a new abrogation of the City's responsibility and borders on being punitive. If the City cannot do its oversight of this permit holder, how will it be able to do the same oversight for other permit holders? The City should have been factoring these responsibilities into its budget over the years and I would think that the citizens of the City believed that they had done so. This is neither ! good governance nor a good message to be sending to businesses who desire to locate and become tax paying members of the community.

WS

11-6-06

**Burke Wilson**

---

**From:** <CSCivicAssn@cs.com> - Joe Bennett  
**To:** <gdonnellan@comcast.net>  
**Cc:** <irmiya@gmail.com>; <rbbjwil@comcast.net>  
**Sent:** Thursday, November 02, 2006 1:43 PM  
**Subject:** Re: more petitions to turn in to council

Glen,

Burke may be out of town. If so, you can give or send them with a note to Jackie Henderson, the City Clerk. (I'm also out of town.) Thanks for all your help Glen.

Joe

*Petitions from Cameron Station*

**Petition to Deny the Request by Virginia Paving Company to Amend its Special Use Permit**

**BACKGROUND:** The Virginia Paving Company facility at 5601 Courtney Avenue in Alexandria, Virginia (VA Paving) filed an application to change its Special Use Permit (SUP) to allow it to double its production and to essentially operate its asphalt plant 24/7. Its current 1960 SUP limits its hours of operation to Saturdays and to weekday daylight hours, but not including holidays. VA Paving is located just west of Tucker Elementary School, Boothe Park and Cameron Station. Intensification of asphalt production in such an area is clearly inappropriate and unhealthy.

VA Paving has publicly admitted being in violation of its SUP since it bought the plant in 2001. VA Paving had to pay fines to the EPA in late 2004 for two violations of the Clean Water Act and was cited by the City of Alexandria (City) in October 2004 for 22 violations relating to, among other things, water discharge, the fire code and dumping of waste. Six of these 22 violations have not been remedied. We believe VA Paving is a public nuisance and a potential health and safety hazard and should not be allowed to increase its hours of operation or increase its annual production.

**PETITION:** For the foregoing reasons, the undersigned respectfully request that Alexandria's Mayor and City Council deny VA Paving's request to amend its SUP, fully enforce its current SUP and take prompt action to ensure that VA Paving is currently in compliance with all City and state environmental and safety regulations.

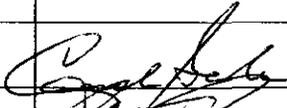
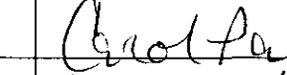
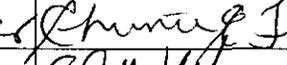
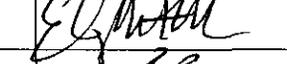
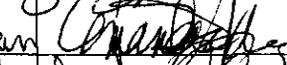
Print Name	Signature	Address	Date
Micah McDonald		6614 Huntersman Blvd Springfield VA 22152	10/11/06
Dominique Ludugson		4950 Brennan Park Dr #114 Alexandria VA 22304	10/11/06
Kathleen Reedy		168 Martin Ln Alexandria VA 22304	10/11/06
Mr. Michael Taper		279 Murthe Alexandria, VA 22304	10/11/06
John Michalowski		513 Cameron Station Blvd VA 22304	10/11/06
Phyllis Miller		378 Murthe St Alex VA 22304	10/11/06
KAREN DIENER		162 COMPTON PLACE ALEX. VA	10/11/06
Lauren Patrich		4911 Barbour Dr. Alex. 22304	10/11/06
Brynn Beckner		217 Medlock Lane Alex 22304	10/11/06
JOANN KELLY		150 CAMERON ST. BLVD ALEX. VA 22304	10/11/06
Vim Hughes		7123 Rock Ridge Ln	10/11/06
Konstantin Makhenki		4951 Brennan Park Dr.	10/11/06
Megan Toddley		5171 Brawner Place	10/11/06

**Petition to Deny the Request by Virginia Paving Company to Amend its Special Use Permit**

**BACKGROUND:** The Virginia Paving Company facility at 5601 Courtney Avenue in Alexandria, Virginia (VA Paving) filed an application to change its Special Use Permit (SUP) to allow it to double its production and to essentially operate its asphalt plant 24/7. Its current 1960 SUP limits its hours of operation to Saturdays and to weekday daylight hours, but not including holidays. VA Paving is located just west of Tucker Elementary School, Boothe Park and Cameron Station. Intensification of asphalt production in such an area is clearly inappropriate and unhealthy.

VA Paving has publicly admitted being in violation of its SUP since it bought the plant in 2001. VA Paving had to pay fines to the EPA in late 2004 for two violations of the Clean Water Act and was cited by the City of Alexandria (City) in October 2004 for 22 violations relating to, among other things, water discharge, the fire code and dumping of waste. Six of these 22 violations have not been remedied. We believe VA Paving is a public nuisance and a potential health and safety hazard and should not be allowed to increase its hours of operation or increase its annual production.

**PETITION:** For the foregoing reasons, the undersigned respectfully request that Alexandria's Mayor and City Council deny VA Paving's request to amend its SUP, fully enforce its current SUP and take prompt action to ensure that VA Paving is currently in compliance with all City and state environmental and safety regulations.

Print Name	Signature	Address	Date
CAROL GODWIN		5027 MURTHA ST, Alex 22304	10-24-06
Marcu Stein		314 Cameron Station Alex 22304	10-25-06
Carol Parry		5052 Donovan Dr	10-25-06
Christine Fisher		239 Somerville	10-25-06
Elizabeth Hillard		141 Martin Lane	10-26-06
Kirk McClelland		160 Martin Ln	10/27/06
Julie McClelland		160 Martin Ln	10/27/06
Joseph Rachinsky		305 Cameron St Blvd 22304	10/27/06
Amanda Halligan		5076 Grimm Alex 22304	10-28-06
JOHN HALLIGAN		5076 GRIMM DR ALEXANDRIA, VA 22304	10/28/2006



W.S.  
11-6-06

---

# **City Council Worksession**

## **VIRGINIA PAVING Special Use Permit**

**November 6, 2006**



# Virginia Paving Special Use Permit

---

**Since October 14 City Council hearing, staff has:**

- **Provided responses to Council's questions and concerns (see 11/3/06 memo)**
- **Met with the Alexandria Health Department and Alexandria City Public Schools**
- **Met with Brookville-Seminary Civic Association**



# Enforcement

---

## SUP Enforcement--Generally

- Changed from complaint-based to proactive in 2005**
- All SUPs now inspected every three years**
- Hierarchy of Enforcement:**
  - Notice***
  - Fines***
  - Hearing***
  - Revocation***



# **SUP Enforcement—Virginia Paving**

---

## **Comprehensive Enforcement Strategy**

- Review and perform comprehensive inspections every 6 months for the first 2 years and then annually thereafter**
- Targeted inspections to insure compliance with/implementation of date specific conditions**
- Inspections conducted in response to complaints**
- Compliance checklist for all enforcement personnel, and air quality inspection form for air quality staff and consultants**



# **SUP Enforcement—Virginia Paving**

---

## **Penalties for Noncompliance with Specific Conditions**

- Failure to comply with specific air quality conditions shall result in immediate cessation of all night-time exit and entrance of vehicles from site; and**
  
- The SUP will be docketed for review and action by City Council within 30 days.**



# **SUP Enforcement—Virginia Paving**

---

## **Extensive Recordkeeping and Reporting Requirements**

### **Examples:**

- Production and operating information to be provided to City on monthly basis**
- Quarterly report on status of all improvements required by the SUP**
- Reporting and recordkeeping on implementation of operational best management practices**



# **SUP Enforcement—Virginia Paving**

---

## **Testing and Monitoring Requirements**

- On-going testing and monitoring**
- Stack tests for PM 2.5, PM 10, NOx, SOx, and CO - two tests by 2009 and every 5 years thereafter**
- VA Paving to address new proposed PM2.5 standard, years ahead of EPA's regulatory framework**



# **SUP Enforcement—Virginia Paving**

---

## **Enforcement Management**

- One new T&ES inspector needed to address Virginia Paving enforcement (Fiscal impact of \$126,000 in 1<sup>st</sup> year)**
- Actual SUP related enforcement costs (including staff, consultants, other resources) to be recovered from Virginia Paving on a quarterly or annual basis**
- If Council concurs, should be added as SUP condition**



# **SUP Enforcement—Virginia Paving**

---

## **Community Outreach**

- Designation of VA Paving employee as compliance officer with name and phone number provided to City and community**
  
- Regularly scheduled meetings, at least once every 6 months, to discuss operations**



# **Resident Complaints Regarding ODORS**

---

- Asphalt odors**
  
- Natural Gas/Solvent based odors**



# Staff Actions to Address ODORS

---

- Staff Investigation and follow-up of complaints**
  - **Inspections**
  - **Odor Tracking (Physical)**
  
- Identification/Survey of the potential odor sources**
  - **Virginia Paving operations and US Filter Operations**
  
- Consultants review of best available controls and industry's best practices**
  
- A specific control measure has been identified for each potential source of odor in consultation with City's consultants**
  
- Encouraged US filter to address their Odor sources and received commitments with implementation schedule**



**VA  
Paving**

**O  
D  
O  
R  
S**

Odor Source		Odor Control Measure	Proposed SUP Condition No.	Proposed Compliance Date
Asphalt Cement Storage Tanks		Vent Condensers, Steel Wool Filters or equivalent control*	13	Sep 30, 2006
Asphalt Plant No. 1	Asphalt product	Low-odor anti-strip additive or equivalent approach*	6	•Effective Immediately
	Product silo	•Blue Smoke Control	11	Dec 31, 2006
	Product conveyor & loadout	Fugitive Emission Control System (vented to Blue Smoke Control)	14	Sep 30, 2007
Asphalt Plant No. 2	Asphalt product	Low-odor anti-strip additive or equivalent approach*	6	Currently
	Product silo	Fugitive Emission Control System (vented to drum dryer)	11	Jul 30, 2007
	Product conveyor & loadout	Fugitive Emission Control System (vented to drum dryer)	14	Jun 30, 2008
Product Trucks		Low-odor anti-strip additive or equivalent approach*	6	•Effective Immediately
		Covered trucks	None <sup>&amp;</sup>	Current <sup>&amp;</sup>
Plantwide		Control odor and prevent it from leaving property or becoming a nuisance to neighboring properties	3	Perpetual



# US Filter ODORS

Odor Source		Odor Control Measure	Proposed SUP Condition No.	Proposed Compliance Date
U.S.Filter (located on Virginia Paving property)	RFO Loading	Use vapor recovery to prevent discharge to atmosphere	N/A#	Dec 31, 2006
	RFO Storage Tanks	Installed pressure loaded vapor conservation valves	N/A#	Aug 2006
	Vibrating Screen Area	Upgrade to air-tight design and route to vapor recovery system	N/A#	Jan 31, 2007
	Biofilter Area	Enhance current bio-filter by installing effective cover and route exhaust through a carbon bed	N/A#	Feb 28, 2007



## **IF SUP IS DENIED or Application Withdrawn:**

---

- The plant would continue to operate with the existing SUP:**
  - **A stormwater management system would be installed**
  - **Night time vehicular activity would stop**
  - **Night time operation (heating and mixing) would continue**
  
- The additional environmental controls, addressing air quality, noise, odors and other community concerns, would not be required.**
  
- No daily production cap or annual cap, except the 1,500,000 tons stipulated in State Operating Permit.**

WS  
11-6-06



<jcooper395@aol.com>

11/06/2006 03:44 PM

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>, <council@krupicka.com>, <PaulCSmedberg@aol.com>, <delpepper@aol.com>, <councilmangaines@aol.com>, cc <jackie.henderson@alexandriava.gov>

bcc

Subject re: Virginia Paving's SUP

Dear Mayor Euille and Members of Council,

Please accept the attached letter regarding the Virginia Paving's request for a new SUP.

Judith Cooper

**Check out the new AOL.** Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.



VIRGINIAPAVING.doc

1007 N. Van Dorn Street  
Alexandria, Virginia 22304  
November 3, 2006

Re: SUP Amendment Application of Virginia  
Paving Company (SUP # 2005-0042)

Mayor William Euille and Members of the City Council  
City Hall  
301 King Street  
Alexandria, Va. 22314

Dear Mayor Euille and City Council Members,

This letter is in response to the SUP application by Virginia Paving Company for an extension of their hours – both day and night. I request that you deny this SUP and form a task force of members from the City Council, City Staff, Virginia Paving Company (VAP) and members of the community to review the numerous issues related to their request and to decide whether asphalt plants and homes can coexist.

There are many reasons for denial. The first of which is VAPs failure to comply with the current SUP and also the fact that the City Staff has not monitored activities at the VAP plant. VAP and the previous owners have knowingly violated the SUP by working at night producing asphalt for over 20 years. They have engaged in illegal activities.

The second reason deals with the health risks associated with asphalt production and flawed testing. Computer modeling has been the chief method of tracking pollution, however, the City should have had actual smokestack testing starting as early as 2000. Besides smokestack emissions, there are large amounts of “fugitive emissions” released from asphalt as it is moved around in trucks and conveyor belts and stored. Even if a plant meets air pollution standards, those people who live near the plant are still exposed to cancer causing substances. Asphalt fumes can cause various forms of cancer and other illnesses.

Also, the fact that the school system and the Health Department have not weighed in on this discussion is a serious omission. However, at this time to expect any data that would represent a long testing period by either group is impossible and any short time testing data lacks credibility. Data should have been gathered when night asphalt production was in progress. There is still the controversy over the PM2.5 emissions that has not been addressed satisfactorily.

The third reason is the credibility gap related to the lack of City monitoring of VAP and determining best use of property. I realize past City Councils supported the extensive building at Cameron Station but seemed to ignore the health costs and quality

of life issues. Now that the health and quality of life issues have become a focal point, it behooves the current City Council to be responsive to the needs of the residents of Cameron Station and Summer's Grove and any future residents in the area. The City has not responsibly monitored the health risks caused by the asphalt production at VAP and thus has little credibility with the citizens of Alexandria with reference to future monitoring.

The fourth reason is the statement by the attorney, Ms. Gibbs, for VAP in that this is an historic opportunity for the City to pass a new SUP with numerous conditions which should (?) guarantee that the production of asphalt will be carefully monitored. What does she mean – that at last the City will be forced to monitor them for activities in which they illegally engaged because they thought they wouldn't be caught? What type of reasoning is this?

Finally, the website for VAP is [www.nightpaving.com](http://www.nightpaving.com) and not only have they paved at night illegally for over 20 years but also they have the audacity to flaunt it with the name of their website! The website is used to discredit any reports of their illegal actions and insist that asphalt fumes are neither harmful nor noxious. I think this website expresses their true disdain for following rules and working cooperatively with the community.

Facts about asphalt are taken from <http://besafenet.com> and <http://www.calgaryclearnair.com> .

As a life long resident of Alexandria, I think the Cameron Station residents and all residents current and anticipated of the west end deserve a safe, clean, and healthful environment now and in the future. The asphalt industry and residents are not a good mix. Please do not pass the SUP and form a task force to examine the problem and the future of the west end more closely.

Sincerely,

Judith Cooper

WS  
11-6-06



<gdonnellan@comcast.net>

11/06/2006 04:42 PM

Please respond to  
<gdonnellan@comcast.net>

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>,  
<timothylovain@aol.com>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <delperpepper@aol.com>,

cc

bcc

Subject COA Contact Us: VA Paving petition

## COA Contact Us: VA Paving petition

Time: [Mon Nov 06, 2006 16:42:44] IP Address: [68.34.7.169]

Response requested:

**First Name:** Glenn  
**Last Name:** Donnellan  
**Street Address:** 5152 Californai Ln  
**City:** Alexandria  
**State:** va  
**Zip:** 22304  
**Phone:** 703.553.2074  
**Email Address:** gdonnellan@comcast.net  
**Subject:** VA Paving petition

Dear Mayor Euille, Vice-Mayor Macdonald,  
members of Alexandria City Council,

Today your clerk of council, Jackie Henderson, should have received copies of a petition with 160 signatures from Cameron Station asking you to deny VA Paving's request to amend its SUP. Please add these to the 650 signatures already in your possession on this very same petition that were given to you by the date of the VA Paving SUP hearing. These recent signatures were collected in large part at the retail businesses and community center inside Cameron Station, signed by the residents who frequent these establishments.

Please understand that while there may be several thousand unsigned residents in Cameron Station, these signatures from over 800 residents represent a strong voice against the SUP that needs to be heard. Why has not every resident signed? Many are under the impression that the Cameron Station Civic Association and those of us asking for signatures want the plant closed outright, and that we are being unfair to a preexisting business by forwarding our petition. This has been fostered by misinformation, as in the signs that have been placed throughout the

**Comments:**

community that read "VA Paving" encircled in red with a line through it. These signs should really read "Don't allow VA Paving to start producing asphalt around the clock (throughout the night-time)", as people misread them to mean "close the VA Paving plant".

Thus, some of these residents have made up their minds to oppose the movement of the petition. One of them even worked at a paving plant in college and was very supportive of the plant and its existence here in Alexandria. This man (and many others who support the existence of the plant) signed the petition after hearing my argument - that the plant as currently experienced is an early morning nuisance at best, and therefore must not be allowed to add night time production, which stands to increase that nuisance at the least. They were persuaded and signed on that basis alone.

So I leave you with the hope that you will consider the true weight of these hundreds of signatures, and as you do, I will continue to collect more signatures and win the support of more of my neighbors and fellow Alexandrians on this issue. We are not a small whining group of malcontents. We are a community of people who only ask for a decent quality of life, unimpeded by the acts of others; a quality of life that we deserve as residents of Alexandria. Please do not approve the new SUP.

Glenn Donnellan  
5152 California Lane  
Alexandria VA

WS  
11-6-06



Carol James  
<cjcomm@cjcomm.com>  
11/06/2006 04:11 PM

To <jackie.henderson@alexandriava.gov>  
cc  
bcc  
Subject Virginia Paving

Jackie -

Please forward this to the City Council and appropriate staff. Thank you.

TO: City Council

FROM: Carol James, 1000 North Vail Street, Alexandria, VA 22304

RE: Virginia Paving

The City staff is to be commended for its long and detailed work seeking to resolve tensions between neighbors at Cameron Station and the Virginia Paving Co. The plan as put forward at tonight's meeting – and detailed at a meeting last week of the Brookville-Seminary Valley Citizens Association - should be adopted. Both private property holders – homeowners and the paving company - have a right to exist and must now find a way to do so peaceably without further expenditure of City funds and undue pressure on City staff.

Abutting luxury homes and heavy industry has caused conflict – there's no surprise there. Virginia Paving existed long before the homes were planned and developed. As with any successful business, it has grown and met the business demands of a changing marketplace. Cameron Station's assertion that an asphalt plant does not belong within an urban metroplex is puzzling to me – who uses asphalt more than those of us who live inside the Beltway? The Beltway – a bituminous surface - defines us. We need Virginia Paving as a valuable infrastructure maintenance resource to service it and all the other hard-topped surfaces we depend on daily. Cameron Station says Virginia Paving's output well exceeds the needs of Alexandria. I suspect that the Patent and Trademark Office also does business with folks outside the City limits. Cameron Station says soot gets inside the homes. I suspect that anyone who lives in this City with thousands of vehicles driving by every day has to wash soot off the walls – I certainly do and I don't live next door to the paving plant.

We are all concerned about air quality – but singling out one business in

absence of scientific evidence for doing so and a comprehensive abatement plan makes no sense.

Should this fight continue, let it do so as a civil matter and not at public expense.

WS  
11-6-06

**Ignacio Pessoa/Alex**  
11/07/2006 10:49 AM

To Jackie Henderson/Alex@Alex  
cc  
bcc  
Subject Fw: Draft Va Paving "sunset" provision

**This is what council passed out.**

----- Forwarded by Ignacio Pessoa/Alex on 11/07/2006 10:47 AM -----

**Ignacio Pessoa/Alex**  
11/06/2006 03:48 PM

To City Council  
cc  
Subject Draft Va Paving "sunset" provision

Attached is a draft "sunset" provision, if Council wishes to include such a provision in the SUP.

The rationale for this provision is that approval of the SUP today should not limit Council's discretion and ability to end this use, if that is Council's decision, when the new Eisenhower East Small Area Plan is adopted in two years. If no SUP were approved today, and the SAP were to be adopted in two years calling for abatement of the plant, the use would have seven years from adoption of the SAP to shut down (nine years from today), plus, possibly, an additional two years for litigation, should the plant challenge the SAP (i.e., nine years from the adoption of the new SAP or eleven years from today).

The draft provision calls for a review of the SUP by Council five years from today, i.e., three years after the anticipated adoption of the new SAP. Thus, the SAP process need not directly address the continuation of this SUP, and there will be three post-SAP years for development or redevelopment in accord with the new SAP to occur.

At that review, Council can allow the plant to continue, if this use is compatible with the neighborhood, or require the use to shut down if it is not compatible. If Council were to decide on a shut down, the plant could continue only for the balance of the seven to nine year abatement period after the SAP is adopted, as specified by council. Since the sunset provision is part of the SUP, the applicant would not be able to challenge the provision separately.

Thus, the SUP could be approved, allowing the environmental improvements to be implemented in exchange for night paving, subject to what ever volume and time limits are specified in the SUP, but without affecting the termination date for the plant, should Council ultimately decide as part of the SAP process that this use should cease operations at this location.

Let me know if you have any questions.

75. Compatibility with Eisenhower West Small Area Plan and sunset provision. City Council shall review this SUP, conduct a public hearing, and determine if the continued operation

of this use is compatible with the Eisenhower West Small Area Plan (SAP) and implementing zoning amendments, anticipated for adoption in 2009, and with the ensuing and foreseeable development and redevelopment in the area. Such public hearing shall be held, and determination made, on or about December 31, 2012 (about five years from the date of approval of this SUP). In the event Council determines that the continued operation of the use is compatible with such SAP, implementing zoning and/or development or redevelopment, the use may continue, subject to the terms and conditions of this SUP, and such additional terms and conditions as the Council may adopt, including without limitation a new or revised sunset date. In the event Council determines that the continued operation of the use is not compatible with such SAP, implementing zoning and/or development or redevelopment, the use, and all related and tenant operations on or within the site, shall terminate at such time as the Council shall determine, which shall not be sooner than December 31, 2016 (about seven years after adoption of the SAP), nor longer than December 31, 2018 (about nine years after adoption of the SAP).

Mr. Mayor, I move that City Council adopt the following amendments to Conditions 1, 4, 5, and 74, and add new conditions 59A and 75, as follows:

1. This special use permit is issued to Virginia Paving Company of Alexandria, Virginia, a division of Lane Construction Corporation, only (hereinafter, VA Paving). VA Paving shall limit its hot mix asphalt production to a yearly maximum of 900,000 700,000 tons per year until all air pollution controls have been installed as scheduled in this Special Use Permit. Thereafter, the hot mix asphalt production shall be limited to ~~1,200,000~~ 900,000 tons per year.
4. Virginia Paving shall limit its nighttime work to ~~130~~ 30 nighttime shifts per calendar year, excluding emergency work required to maintain public health, safety and welfare, as authorized by the Director of Transportation and Environmental Services. A record shall be maintained on site for the days/shifts on which nighttime work was conducted. Work conducted from 9 ~~6~~ pm to 5 am will be considered as nighttime shift. A partial shift work will be counted as 1 nighttime shift work for the purposes of this condition.
5. All night time production at VA Paving shall be limited ~~for government customers to contracts with the City of Alexandria and VDOT, and the Maryland State Highway Administration (MDSHA) for work on the Woodrow Wilson Bridge construction project only (Federal, State transportation agencies or local governments).~~ Night time production for and servicing of non-government or other government entities from this facility is not permitted.
- 59A. VA Paving shall pay the City \$126,000 per year for two years, commencing 30 days after approval of this SUP, for compliance monitoring and enforcement of the terms and conditions of this SUP.
74. The hours of operation for the asphalt plant shall be limited to 5:00 a.m. to ~~9:00~~ 6:00 p.m. Monday through Saturday. In addition, when undertaking ~~State or Local Government~~ projects pursuant to a contract with the City of Alexandria and VDOT, and MDSHA for work on the Woodrow Wilson Bridge construction project only during the paving season (April 1 to November 1), the facility may also operate from ~~9:00~~ 6:00 p.m. to 5:00 a.m. Sunday through Friday. During nighttime hours, ~~the application shall not engage in private paving production for and servicing of non-government or other government entities from this facility is not permitted.~~
75. Compatibility with Eisenhower West Small Area Plan and sunset provision. City Council shall review this SUP, conduct a public hearing, and determine if the continued operation of this use is compatible with the Eisenhower West Small Area Plan (SAP) and implementing zoning amendments, anticipated for adoption in 2009, and with the ensuing and foreseeable development and redevelopment in the area. Such public hearing shall be held, and determination made, on or about December 31, 2012 (about five years from the date of approval of this SUP). In the event Council determines that the continued operation of the use is compatible with such SAP, implementing zoning and/or

development or redevelopment, the use may continue, subject to the terms and conditions of this SUP, and such additional terms and conditions as the Council may adopt, including without limitation a new or revised sunset date. In the event Council determines that the continued operation of the use is not compatible with such SAP, implementing zoning and/or development or redevelopment, the use, and all related and tenant operations on or within the site, shall terminate at such time as the Council shall determine, which shall not be sooner than December 31, 2016 (about seven years after adoption of the SAP), nor longer than December 31, 2018 (about nine years after adoption of the SAP).



<dave@fluit.com>

11/06/2006 06:27 PM

Please respond to  
<dave@fluit.com>

To <alexvamayor@aol.com>, <macdonaldcouncil@msn.com>,  
<timothylovain@aol.com>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <delperpe@aol.com>,  
cc

bcc

Subject COA Contact Us: Virginia Paving Co.

W.S.  
11-6-06

## COA Contact Us: Virginia Paving Co.

Time: [Mon Nov 06, 2006 18:27:20] IP Address: [69.140.84.225]

Response requested:

**First Name:** David  
**Last Name:** Fluit  
**Street Address:** 449 Cameron Station Blvd.  
**City:** Alexandria  
**State:** VA  
**Zip:** 22304  
**Phone:** 703-370-2372  
**Email Address:** dave@fluit.com  
**Subject:** Virginia Paving Co.

Mr. Mayor and Members of the City Council:

My wife and I attended the Council session in October regarding the SUP for Virginia Paving Company (VPC), and we appreciate your collective interest in our concerns.

We learned two important facts during that session.

**Comments:**

The first is that both the Staff and VPC repeatedly stated that there is no known or empirical data proving that an increase in production would be harmful to the health of nearby residents. A basic principle of law enforcement investigations holds that an absence of the evidence is not the evidence of its absence. There is no empirical data that one would definitely be attacked if swimming in a shark tank. However, the vast majority would concede the mere possibility of a health risk and choose not to engage in that activity.

The second is that VPC openly admitted to committing multiple and numerous violations throughout its history. That fact alone makes one wonder how an increase in VPC production and

expansion of operating hours is even being considered at all.

Thank you all again for giving the citizens most affected by this decision a chance to express their concerns.

Sincerely,  
David and Aimee Fluitt  
449 Cameron Station Blvd.