

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
April 6, 2016 - 5:00 p.m.**

**In Attendance were:**

Ken Moon, Planning Commission, Chairman  
Bobby Drake, Planning Commission  
Kathy Giles, Planning Commission  
Edward Roberts, Planning Commission  
Allen Lindsay, Planning Commission  
Brad Wells, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

John Beck	EP Energy
Deb Lindsay	
Ryan Fairbanks	EP Energy
Allen Rydman	EP Energy
Ed and Jeanne Henry	EP Energy

Chairman Moon opened the meeting at 5:00 pm and read the rules of order. He asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. Commissioner Lindsay explained he has hauled sand from these locations but does not feel that will affect his ability to make a fair, unbiased decision. With no one in the audience opposed to Commissioner Lindsay participating in these hearings, the meeting proceeded.

**PUBLIC HEARINGS:**

**A. Request by EP Energy for a Conditional Use Permit to extract earth products from their property located at the southeast corner of Highway 87 and 1000 South (Caravan Lane), in the Blue Bench area, north of Duchesne.**

Mr. Hyde stated EP Energy is applying for this permit to authorize the extraction of earth products (sand) from a portion of a 32.44-acre site located on the Blue Bench. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that sand from this location will be used for application to oilfield roads during the winter and for pipe bedding.

The criteria for approval include the following:

**1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.**

Mr. Hyde stated the extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the extraction area is not reclaimed properly. The county has “material pit finishing” standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed.

Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. There are no waterways located in this area; however, the applicants should contact the Utah DEQ to determine if a storm water permit is required.

According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the mining area receives access to Highway 87 via a Class D Road known as Caravan Lane or 1000 South. This road is not maintained by the County. The westerly 550 feet of this road would be impacted by truck traffic from the mining operation. This road serves oil well locations in the EP Energy operating area, handles existing truck traffic and receives maintenance from EP Energy.

The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Such time limits should be applied in this case if noise complaints are received by the county.

**2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.**

The Duchesne County General Plan contains the following statements with respect to mining activities: *“Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region’s economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.”*

In this case, the applicants intend to use the earth products to support their own needs for pipe bedding material and sand for roads in the winter, which is beneficial to the economy and energy industry of the county and in compliance with the general plan.

**3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.**

The applicant had indicated the proposed mining would take place on a portion of the subject 32.44-acre site, estimated at about 14.67 acres. The site is certainly large enough to accommodate the proposed use. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished grade level. The applicants are also required to set the mining area back 660 from existing homes. The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Specific conditions for approval of earth product extraction activities are as follows:

- A. Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department for approval prior to operations continuing. The applicant or authorized agent must follow this plan to control dust at active mining areas and on driving surfaces. With extraction of earth products, haul roads between the site and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. In this case, there are no dwellings in close proximity to the extraction site and haul road. However, the dust control plan must demonstrate that dust at the mining site and along the haul road can be controlled.

- B. Bond Required:** A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

Mr. Hyde indicated the bonding requirement has been waived by the property owner/applicant by letter dated February 9, 2016.

**C. Reconditioning:** Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning;

The “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant has agreed, by letter dated February 9, 2016, to recondition the property in accordance with these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced or bermed.

**D. Distance Requirement for Gravel Pits and Rock Crushing Operations:** Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

Mr. Hyde stated the distance requirements of this section will be met. The proposed excavation boundaries must be set back at least 50 feet from the property lines to meet the minimum standard of the ordinance. The excavation boundary will be set back 660 feet from the nearest home, which is located on the Casper property over 1,500 feet northeast of the NE corner of the excavation area. There will be no rock crusher located at this site.

Mr. Hyde’s recommendation is approval of the Conditional Use Permit requested by EP Energy for extraction of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
  - a. A dust control plan approved by the TriCounty Health Department shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.
  - b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of operation: (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays).

2. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines.
3. Before starting excavation at the site, the applicants shall contact the Water Quality Division of the Utah Department of Environmental Quality to determine if an industrial stormwater permit is required.

Mr. Hyde asked if there were any questions of the staff report. There were none.

Commissioner Moon invited the applicant to speak.

Ryan Fairbanks, agent and Independent Landman for EP Energy stated their intent is to remove sand from this location for winter maintenance of other oil well locations in the area. They are working with Tri County Health for the dust control permit and noise should be at a minimum since it is only for maintenance. Both Commissioners Moon and Drake clarified the product will be stored and used for winter maintenance not for sale to the public. Mr. Fairbanks replied, yes.

There was some discussion about a DEQ Air permit and water drainages in the area.

Commissioner Moon asked if there was anyone else to speak in favor of the applicant's request. There were none. He invited anyone in opposition to speak.

Allen Rydman, a property owner, stated his concerns about living on an unmaintained county road and to have the dust and blowing sand from this location. Mr. Rydman wants to make sure EP controls any dust issues that may arise.

John Beck, a property owner, is concerned about the depth restrictions and how long their permit will be valid. Mr. Hyde stated they are extracting sand and does not think the sand deposits go very deep. He indicated their permit is valid until they stop working for 18 months.

Mr. Hyde let Mr. Rydman know the contact person for EP if there are any dust issues.

Commissioner Moon asked if there was anyone else either opposed or neutral to the applicant's request that would like to speak. There were none so the hearing was closed.

Commissioner Drake motioned to approve the Conditional Use Permit requested by EP Energy for extraction of earth products, subject to the conditions stated in the staff report. Commissioner Giles seconded the motion and it passed unanimously.

**B. Request by EP Energy for a Conditional Use Permit to extract earth products from their property located approximately one mile east of the**

**intersection of Highway 87 and Highway 35, in the Blue Bench area, north of Duchesne.**

Mr. Hyde stated EP Energy is applying for this permit to authorize the extraction of earth products (sand) from a portion of a 160-acre site located on the Blue Bench. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that sand from this location will be used for application to oilfield roads during the winter and for pipe bedding.

The criteria for approval include the following:

**1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.**

Mr. Hyde stated the extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the extraction area is not reclaimed properly. The county has “material pit finishing” standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed. Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. There are no waterways located in this area; however, the applicants should contact the Utah DEQ to determine if a storm water permit is required. According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the mining area receives access to Highway 87 via Class D Roads that extend east from Highway 87. These roads serve oil well locations in the EP Energy operating area, handle existing truck traffic and receive maintenance from EP Energy.

The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Such time limits should be applied in this case if noise complaints are received by the county.

**2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.**

Mr. Hyde stated in this case, the applicants intend to use the earth products to support their own needs for pipe bedding material and sand for roads in the winter, which is beneficial to the economy and energy industry of the county and in compliance with the general plan.

**3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.**

The applicant has indicated the proposed mining would take place on approximately 80-90 acres of the 160-acre site. The site is certainly large enough to accommodate the proposed use. Mr. Hyde stated the applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished grade level. They are also required to set the mining area back 660 from existing homes. The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Specific conditions for approval of earth product extraction activities include:

- A. Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department for approval prior to operations continuing. The applicant or authorized agent must follow this plan to control dust at active mining areas and on driving surfaces. With extraction of earth products, haul roads between the site and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. In this case, there are no dwellings in close proximity to the extraction site and haul road. However, the dust control plan must demonstrate that dust at the mining site and along the haul road can be controlled.

- B. Bond Required:** A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

The bonding requirement has been waived by the property owner/applicant by letter dated February 9, 2016.

**C. Reconditioning:** Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning;

The “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant has agreed, by letter dated February 9, 2016, to recondition the property in accordance with these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced or bermed.

**D. Distance Requirement for Gravel Pits and Rock Crushing Operations:** Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

The distance requirements of this section will be met. The proposed excavation boundaries must be set back at least 50 feet from the property lines to meet the minimum standard of the ordinance. The excavation boundary will be set back 660 feet from the nearest homes. County records show a secondary dwelling located about 1,870 feet west of the west subject property boundary and a residence under construction on the Henry property, about 740 feet from the southwest corner of the subject property. There will be no rock crusher located at this site.

Mr. Hyde’s recommendation is approval of the Conditional Use Permit requested by EP Energy for extraction of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
  - a. A dust control plan approved by the TriCounty Health Department shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.
  - b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of operation: (7:00 AM to 9:30



PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays).

2. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines.
3. Before starting excavation at the site, the applicants shall contact the Water Quality Division of the Utah Department of Environmental Quality to determine if an industrial stormwater permit is required.

Referring the Planning commission to their packets and some site photos of the location he asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Ryan Fairbanks agent and Independent Landman for ER Energy stated they will meet the conditions for approval and are doing the same permits as the Caravan Lane location in the previous hearing.

Commissioner Moon asked if there was anyone in the audience to speak in favor of the applicant's request. There were none so anyone in opposition was invited to speak.

Jeannie Henry, an adjoining property owner, stated her concerns about the dust and wondered if the wind is blowing will they stop until the conditions are better. Mr. Fairbanks stated there will be a water truck on site and to call if they are concerned.

Commissioner Drake asked if there is no response from EP Energy can they call the Planning office. Mr. Hyde stated they could.

John Beck, a property owner in the vicinity has some concerns about the lights and hours of operation.

Commissioner Lindsay stated the newer lights have a shield on them to direct the light downward.

Commissioner Moon asked if there were any other questions or comments. There were none so the public hearing was closed.

Commissioner Drake motioned to approve the Conditional Use Permit requested by EP Energy for extraction of earth products, subject to the conditions stated in the staff report. Commissioner Roberts seconded the motion and it passed unanimously.

**NEW BUSINESS:**

None

**Minutes: Approval of February 3, 2016 minutes:**

Commissioner Roberts moved to approve the minutes of the February 3, 2016 meeting. Commissioner Lindsay seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items:**

Mr. Hyde encouraged the commission to attend at least one day of the Utah APA Conference in Vernal on May 19<sup>th</sup> and 20<sup>th</sup>. So far there is nothing scheduled for the May meeting.

**Adjournment:**

Meeting adjourned at 5:50 p.m.