

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
December 7, 2016 - 5:00 p.m.**

**In Attendance were:**

Bobby Drake, Planning Commission-Vice Chairman  
Kathy Giles, Planning Commission  
Edward Roberts, Planning Commission  
Brad Wells, Planning Commission  
Ken Richens, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Dick Walkingshaw	Eskelson-CUP
Shauna Walkingshaw	Eskelson-CUP
Susan Holt	Eskelson-CUP
Kirk Holt	Eskelson-CUP
Shelley Brennan-Duchesne County Recorder	
Brandon Eskelson	Eskelson-CUP
Calvin Roberts	Roberts-CUP
Curt Maynes	Eskelson-CUP
Kurt Mace	Eskelson-CUP

Chairman Drake 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 Roberts stated he has worked for and had some conversation with Mr. and Mrs. Walkingshaw about Mr. Eskelson, in light of those circumstances he will recuse himself from the Eskelson hearing. With no other conflicts reported, the meeting proceeded.

**PUBLIC HEARINGS:**

**A. Request by Calvin Roberts for a Conditional Use Permit to operate a private airstrip at 152 North 12000 West; located on the east side of the Big Sandwash Reservoir, north of Upalco.**

Mr. Hyde explained the Conditional Use Ordinance and the uses and standards. After reviewing the hearing process, he referred the Planning Commission to their packets and some site photos of the proposed airstrip location. Mr. Hyde stated the applicant proposes to establish an approved private airstrip on this 90.76-acre parcel. He has constructed the airstrip and has been using it for several years for personal recreational purposes. The gravel surface is about 50 feet wide and about 1,800 feet long. The county became aware of the airstrip upon receipt of an October 27, 2016 letter from the Denver office of the

Federal Aviation Administration.

The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

- 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 proposed use has the potential to be detrimental to other property owners and the public health, safety and general welfare if conditions are not imposed to regulate noise (hours of use) and control dust.

The Federal Aviation Administration, as stated in their letter of October 27, 2016, completed an airspace analysis and expressed no opposition to the proposal. The FAA determination was made after considering “the effect the proposal would have on the existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected program of the FAA, the effects it would have on the safety of persons and property on the ground and the effects that existing or proposed man-made objects (on file with the FAA) and known natural objects within the affected area would have on the proposal.”

During the public review period, the county did receive one phone call expressing concern about unsafe practices such as pilots “dogfighting” and making low passes over the reservoir. The proposal was also forwarded to the Utah Department of Transportation, Aeronautics Division, for review and comment. That office had no objection to the approval of the permit. Finally, the proposal was forwarded (as recommended by UDOT) to the FAA’s Utah Flight Standards Office. That office has made no comments as of November 28, 2016.

- 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 states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan states that “Duchesne County encourages private sector development of recreational facilities and services...” In light of this plan policy, the Conditional Use request should be approved, provided that conditions are imposed to protect rural residential interests in the area.

- 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.**

Mr. Hyde stated the subject property is 90.76 acres in size and about 2,450 feet wide. This is wide enough to accommodate the 1,800 foot long airstrip. The applicant also owns an additional 36 acre parcel to the east. The east-west dimension of these two parcels is about 3,700 feet at the location of the airstrip. If conditions are complied with, the applicant should be able to use the airstrip without detrimental impacts to adjoining

and surrounding properties.

The additional criteria for approval of Conditional Use Permits are as follows:

**A. Landscaping, Design:** That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Mr. Hyde stated that an airstrip does not create unsightly conditions that would require the construction of a fence, wall or other buffer device or the planting of landscaping materials. No buildings or structures are associated with the request.

**B. Parking:** Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

The public will not have access to the airstrip, so there is no need for driveway, parking or loading facilities.

**C. Streets, Water, Sewer, Fire Protection:** The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Streets: The public will not be invited to use the airstrip, so it will have no impact on the capacity of the county road system in the area. The applicant indicates that he lands eastbound and takes off westbound and is well above the county road when crossing it.

Water: The applicant's home has culinary water, but the proposed airstrip will have no facilities with need for a water connection.

Sewer: There will be no restroom facilities associated with the airstrip.

Fire Protection: The applicant's airplane is stored at a hangar at the Roosevelt Municipal Airport and all fueling is done at that location. No new structures will be constructed at the airstrip. No additional fire protection measures are required; unless the applicant were to propose a fueling facility in the future.

**D. Signs: Regulation of signs.**

Mr. Hyde stated that there are no signs are proposed as the airstrip is for private use only.

**E. Nuisances:** The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Mr. Hyde explained the operation of the airstrip will generate occasional noise from aircraft engines. Conditions should be imposed to ensure that such noise does not occur in late night or early morning hours.

**G. Noise Disturbances:**

1. The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:

a. Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty

o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.

- b. The use of a motor vehicle, motorcycle or motorized vehicle, whether or not designed for use on public roads, at any time or under any condition of grade, load, acceleration, deceleration, movement, or at rest, whether or not in repair or operated in such manner as to create loud or unnecessary grating, grinding, rattling, motor winding, squealing, screeching or other tire noise, or any other unnecessary noise.

**F. Operating Hours:** The regulation of operating hours for activities affecting normal schedules and functions.

The applicant has indicated the airstrip and his aircraft will only be used during daylight hours and it will not be used in the winter time when the airstrip has snow and ice on it. During the site visit on November 8, 2016, numerous frac tank trailers were parked on the airstrip, which indicates that it is not currently in active use. Such daylight-only operating plans fit within the guidelines of the Nuisance Ordinance for the generation of noise.

Mr. Hyde's recommendation is the Planning Commission approve the Conditional Use Permit requested by Calvin Roberts, subject to the following conditions:

1. Noise on the property associated with the airstrip shall be limited to the hours between 7:00 A.M and 9:30 P.M.
2. Applicants shall not install fueling facilities unless plans are first approved by the Duchesne County Fire Chief.
3. Applicants agree to initiate dust control measures if dust complaints are received by the County or the TriCounty Health Department.
4. Pilots using the airstrip shall avoid practices that may put persons or property on the ground at risk.

Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Calvin Roberts, applicant and property owner thanked Mr. Hyde for his efforts with the staff report and his help in this process and stated he built the runway for his personal use before there were any homes in the area. Since there is a lot more air traffic in the area he has decided to register the airstrip and allow planes to land on it in case of an emergency.

Mr. Roberts stated in response to the dogfighting comment during the public review period first it is against aviation rules and referred to another pilot in the area that might have done that from his own airstrip. The applicant also indicated that the airstrip would only be used

during the day as he keeps his plane at the Roosevelt airport.

Commissioner Wells asked Mr. Roberts if he was okay with the conditions for approval. Mr. Roberts stated that he was.

Mr. Hyde asked about the frac tanks. Mr. Roberts stated they would be moving them if the permit is approved.

Vice-Chairman Drake asked if there was anyone in the audience to speak in favor or in opposition to the applicant's request. There were none so the public hearing was closed.

Commissioner Roberts motioned to approve the Conditional Use Permit requested by Calvin Roberts, subject to the conditions stated in the staff report. Commissioner Richens seconded the motion and it passed unanimously.

At this time Commissioner Roberts left the hearing.

**B. Request by Brandon and Doug Eskelson (3<sup>rd</sup> Pig Construction) for a Conditional Use Permit to excavate decorative stone from a portion of a 9.34-acre parcel in the Timber Canyon area, south of Fruitland.**

Mr. Hyde stated Brandon and Doug Eskelson (3<sup>rd</sup> Pig Construction) are applying for this permit to authorize the extraction of earth products (decorative rock) from a portion of a 9.34-acre site located on the east side of the Timber Canyon road, south of Fruitland.

The county first became aware of this operation in November, 2014 and contacted the property owner, Wallace O. Nelson, Jr. Mr. Nelson had sold a parcel to the south to Kirk Holt and Mr. Holt had a friend (Brandon Eskelson) excavate into the hillside to create a cabin site. Mr. Eskelson started hauling material away at that time and then purchased the lot to the north from Mr. Nelson to continue mining. Mr. Eskelson was not aware that he needed permits from the county and state until he contacted the Division of Oil, Gas & Mining (DOGM) in December, 2014.

Mr. Eskelson stopped mining at the site and almost sold the property to Mr. Holt. However, that sale did not occur and the applicants now desire to obtain the required state and county permits so the mining may continue. Upon reclamation, Mr. Eskelson will have created another recreational cabin or RV site.

The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

- 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. Since Timber Canyon Creek runs through the subject property, the applicants should be required to contact the Utah DEQ Water Quality Division to determine if a storm water permit is required.

The applicants have been using an unimproved crossing of Timber Canyon Creek to access the quarry. The applicants should be required to improve this crossing with a culvert. That project will need a permit from the Utah Division of Water Resources. An alternative would be to use only the existing driveway access across the Kirk Holt property.

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 Strawberry River Road and the Timber Canyon Road are narrow roads that do not meet full County standards (less than 30 feet of gravel width) in most locations. These roads receive a low level of maintenance due to their location away from populated areas. The request has been referred to the Duchesne County Public Works Department for comment. That department responded by indicating that they are not concerned about the use of one-ton trucks on the road, but that no trucks with more than six wheels would be permitted. County crews do not drive large dump trucks into this area due to the road conditions.

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). The applicant states that hours will be limited to 8 AM to 6 PM on Mondays through Fridays. No work will occur on weekends or major holidays (4<sup>th</sup> of July, Thanksgiving and Christmas), so as to mitigate noise concerns for owners of recreational cabins in the area. Such time limits should be applied in this case.

During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed, fenced or bermed.

As stated in the DOGM small mine permit letter, since the activity requires state authorization, the applicant is required to have a cultural resource survey conducted on

the property before additional disturbance occurs. This requirement should be made a part of the county permit as well.

**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 earth products are being hauled out of the county to be used in building projects; mostly along the Wasatch Front. The operation does not contribute to jobs or income for the county; but will result in a greater amount of property taxes paid compared to similar land without a mining operation.

**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 proposed mining would take place on a portion of the subject 9.34-acre site, estimated at about one acre. The property is certainly large enough to accommodate the proposed use. 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.

The additional criteria for approval of Conditional Use Permits for the excavation of earth products 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 to the TriCounty Health Department for approval prior to operations continuing. The applicant 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, especially if there is heavy truck traffic, that can be a nuisance for nearby dwellings. In this case, the hauling is done by up to three one-ton flat-bed trucks and the number of trips is low (typically one or two trips per day). The haul route is in a remote location, with only two cabins nearby on Timber Canyon Road and very little development along the Strawberry River Road between Timber Canyon and the

Camelot Resort. These roads are narrow and rough, which limits speeds and helps reduce dust.

- 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 stated in this case the bonding requirement will be met by the bonding provided in conjunction with a small mine permit issued by the Utah Division of Oil, Gas & Mining.

- 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 is required to recondition the property in accordance with these standards and in accordance with a reclamation plan required by the state.

- 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 are not applicable as the proposal does not include a gravel pit or rock crusher.

Mr. Hyde’s recommendation is approval of the Conditional Use Permit requested by 3<sup>rd</sup> Pig Construction for extraction of earth products, subject to the following conditions:



1. Applicants shall comply with the following hours of operation: (8:00 AM to 6:00 PM on weekdays, with no weekend work and no work on the 4<sup>th</sup> of July, Thanksgiving and Christmas).
2. Applicants shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and the reclamation plan approved by the Utah Division of Oil, Gas & Mining.
3. Applicants shall protect the public from hazardous conditions on the site by signage and/or fencing.
4. Applicants agree that trucks hauling rock from this location shall have no more than six wheels.
5. Before additional excavation at the site, the applicants shall:
  - (a) Provide the County with documentation of contact with the Water Quality Division of the Utah Department of Environmental Quality to inquire about an industrial stormwater permit and obtain stormwater permit approval, if required.
  - (b) Provide the County with documentation of contact with the Utah State Historic Preservation Office and have a cultural resource survey performed at the site in accordance with the DOGM approval letter and Section 9-8-404 of the Utah Code.
  - (c) Obtain approval of a dust control plan from the TriCounty Health Department. Such plan shall be implemented throughout the course of the operations. Dust control agents shall be applied at active portions of the site and on gravel access roads during periods of hauling where dust is creating a nuisance. Trucks serving the quarry shall control their speed on gravel roads to reduce dust impacts.
  - (d) Obtain a permit from the Utah Division of Water Resources and construct an acceptable driveway crossing of Timber Canyon Creek. Until an approved crossing is constructed, applicants shall not use that route into the quarry.

Mr. Hyde stated there were some site photos in your packets along with some DOGM photos and mineral inspection reports along with e-mails from the Holts and the Walkingshaws in opposition to the applicant's request.

Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Brandon Eskelson, applicant and property owner, thanked Mr. Hyde for his efforts in helping him with this process and asked the commission if they had any questions.

Commissioner Wells asked Mr. Eskelson if there was anything else he'd like the Commission to know. Mr. Eskelson stated it is recreational property but he is extracting rock product from the site and will reclaim it when he is finished.

Commissioner Wells asked if the permit will be permanent. Mr. Eskelson stated he just has a small operation that has been in business since 1995 and has been working at this location for 6 years. There were not any problems, until last year when the Holt's started

staying at the cabin more frequently. Mr. Eskelson loves the property and wants to use it as recreational property in the future also. He wants to assure the Holts that he will not leave it un-reclaimed and does not want to be a trashy neighbor.

There was some discussion between the Planning Commission and Mr. Eskelson about how long the project would last, what kind of rock was in demand, whether they work every day or 2 or 3 days a week and whether the project would last 1 year or 20 years.

Vice-Chairman Drake asked Mr. Eskelson if he purchased the mine to remove the rock only? Mr. Eskelson replied they opened the parking area first and then moved down the face of the hill and then made a deal with the Holts to excavate the stone to make more room for the cabin area and an access. He stated the intent was always there.

Vice-Chairman Drake asked Mr. Eskelson if other trades and the land owners used the stream access. Mr. Eskelson stated they all use it and if it is feasible he has no problem putting a culvert in as an alternative route to the site but feels he would need to wait until the snow is gone before that can be assessed.

Commissioner Drake also asked Mr. Eskelson what a typical work week is like for him. Mr. Eskelson replied they work 4 to 5 hours a day 2 to 3 days a week, depending on the orders he has, excavating the rock loading both trucks and a flatbed trailer. There is only him and a coworker at the site. No dump trucks or service trucks come to the location.

Commissioner Giles asked about the access thru the Holts property to the excavating site. Mr. Eskelson stated it is a legal recorded access which if the creek access is not accessible the easement can be used.

There was some discussion with Mr. Hyde and Mr. Eskelson about the DOGM bonding, acreage disturbance, reclamation, working holidays, the conditions of approval and whether Mr. Eskelson and comply with the conditions.

Mr. Hyde asked Mr. Eskelson if he thought, by spring before the creek was full, if he could do the cultural resource survey and put a bridge or culvert in to keep the sediment and oils out of the creek. There was some discussion about the feasibility and whether or not to use the Timber canyon crossing until it has been engineered and approved or installed. Mr. Eskelson stated he would need to investigate further to see if it is feasible or not.

Mr. Eskelson asked if there were any other questions. There were not. Vice- Chairman Drake asked if there was any one in the audience to speak in favor of the applicant's request.

Kurt Mace, a friend and former worker of Mr. Eskelson's had some comments about the site and stated Mr. Holt had allowed Mr. Mace many times to extract rock from that location to help clear his cabin site. They were always mindful about driving carefully by their site and were only working 2-4 hours a day, never 8 to 10 hours a day. As they would drive back to the highway in regular pickups (no trailers) they would often need to stop and pick

up rocks that had fallen on the road. In regards to Mr. Holt's e-mail to Mr. Hyde they always observed the speed limit as they were loaded and could not go any faster than 20-30 mph. Mr. Mace also stated they were 100 feet away from their septic system and never intended to harm it in any way. There are not any permanent residents in the area except the Walkingshaw's and they are ¼ mile away; therefore, it would be hard to hear the excavation or have any dust or sediment from Mr. Eskelson's operation.

Mr. Mace stated, as of now, the Holt's don't live there so Mr. Eskelson's operation should not be a problem. Mr. Mace asked the commission if they had any questions. There were none.

With no one else to speak in favor of the applicant's request Vice-Chairman Drake invited anyone in opposition to speak.

Kirk Holt, adjoining property owner, explained the background on how Mr. Eskelson started extracting rock from this location and eventually became the owner of the quarry. As the operation became larger and more frequent and the Holt's started staying at the cabin more often he stated having a commercial quarry site right next to what is going to be their residence in the future is not reasonable. Mr. Holt has invested everything he owns in to the cabin site and having the quarry access running thru his lot will negatively impact the value of his property.

Mr. Holt stated he had allowed this to happen when he sold the property as a recreational lot to help with the expense of building his cabin but had allowed Mr. Eskelson to extract the rock both for Mr. Holt and for Mr. Eskelson to sell. It was never supposed to be a commercial operation. Mr. Holt is upset at this time and feels he should have some rights as a property owner in a residential area and not have to live next to a construction site and asked the Planning Commission to deny the applicant's request.

Vice-Chairman Drake asked if there was an access other than the easement. Mr. Holt stated there is thru the creek but they only use it when it is dry.

Commissioner Giles asked about the language on the minor subdivision easement. Mr. Holt stated he had to put the easement on the minor subdivision for approval but it was never intended for a commercial operation.

There was some discussion with Mr. Holt and the commissioners about the roads, the easement for Mr. Eskelson thru the Holts property and whether this should be a commercial area and the hours Mr. Eskelson can work.

There was some discussion about modifying condition 5d, exploring the engineering and its feasibility and if and when to revisit the applicants permit if approved to see if he has made any progress.

With no other questions or comments from Mr. Holt, Vice-Chairman Drake asked if there was anyone else in the audience to speak in opposition.

Dick Walkingshaw, concerned neighbor and property owner, stated his concerns about the quarry. This is their secondary residence and there is a dust and noise problem. Mr. Eskelson stated he didn't know he needed a permit but he got a letter from DOGM in 2014. His trucks are overloaded and the road was not built for the weight his trucks carry or any commercial use, there are no passing areas on the road and atv restrictions are in place.

Mr. Walkingshaw feels MSHA should do an inspection to see if they are in compliance and Mr. Eskelson should provide hearing protection, make sure they berm the river so they can't dump rocks in it and keep the debris from floating down it.

Mr. Walkingshaw stated Mr. Eskelson has not followed the rules and feels that he is being rewarded by being allowed to operate an illegal operation.

Commissioner Wells asked Mr. Walkingshaw if he prefers no commercial traffic at all. Mr. Walkingshaw replied no it is both dangerous and a hazard. Commissioner Wells asked if that would include services you all need, including propane.

Commissioner Giles asked if there was any documentation of accidents on the road. Mr. Walkingshaw stated there have been incidents and trailers sliding off the road.

Mr. Walkingshaw indicated it is very unsafe for everyone along the road and the rock trucks are the cause of the problems.

Mr. Walkingshaw asked if there were any other questions. There were none.

Susan Holt, adjoining cabin owner, stated her concerns about the safety for her children and grandchildren with the quarry in close proximity to their cabin. She indicated Mr. Eskelson has moved the survey markers, works long hours, including holidays and has no remorse for running a commercial operation right next to our home.

There was some discussion with the commissioners, Mrs. Holt and Mr. Eskelson about his business hours in the winter months and who is going to make him follow the conditions for approval. Commissioner Wells explained there are conditions for a reason and the permits can be revoked.

There were no other questions or comments in opposition, so Mr. Eskelson was invited to speak in rebuttal.

Mr. Eskelson stated he hated being the most hated person in the room. He agrees with Mr. Holt about using the excavator so he could work on his cabin in trade for rock that Mr. Eskelson could haul out of there. He has known the Holt's for over 24 years. Change is never a good thing and progress goes on every day. Mr. Eskelson stated he moved out of the city so he wouldn't have neighbors close by and development has filled in the open space. Mr. Eskelson feels they can work together. If there are issues with the noise and dust, they just need to let him know.

There was some discussion about the working hours and the culvert issue.

Mr. Eskelson stated he knows the cabin lot is not a building lot but a quarry is allowed with a Conditional Use Permit. The lot can be converted to a building lot with approval from Tri County Health. For now, he will just take an RV to the property and camp with his family.

Commissioner Wells suggested the speed limit on Timber Canyon road for quarry vehicles be 15 mph from the bridge to the site.

Mrs. Holt asked the commission if the permit would be transferable. Mr. Hyde stated it can be if the conditions of approval are met.

With no other comments, the public hearing was closed.

Mr. Hyde discussed the commission's options either to approve the permit, recess the hearing until findings for denial can be available for review, or to recess the hearing until there is a site visit.

There was some discussion with the Planning Commission about the changes to the conditions of approval, the speed limit and when to revisit the permit to see if the applicant is in compliance.

Commissioner Wells motioned to approve applicant's request for Conditional Use Permit requested by 3<sup>rd</sup> Pig Construction for extraction of earth products, subject to the conditions in the staff report and as amended by the Planning Commission as follows:

1. Applicants shall comply with the following hours of operation: (9:00 AM to 6:00 PM on weekdays, with no weekend work and no work on Memorial Day, the 4<sup>th</sup> of July, Labor Day, Thanksgiving and Christmas).
2. Applicants shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and the reclamation plan approved by the Utah Division of Oil, Gas & Mining.
3. Applicants shall protect the public from hazardous conditions on the site by signage and/or fencing.
4. Applicants agree that trucks hauling rock from this location shall have no more than six wheels.
5. By May 31, 2017, the applicants shall provide the County with documentation of contact with the Water Quality Division of the Utah Department of Environmental Quality to inquire about an industrial stormwater permit and obtain stormwater permit approval, if required.

6. Before excavating beyond the footprint of the existing disturbed area, the applicants shall provide the County with documentation of contact with the Utah State Historic Preservation Office and have a cultural resource survey performed at the site in accordance with the DOGM approval letter and Section 9-8-404 of the Utah Code.
7. By May 31, 2017, the applicants shall obtain approval of a dust control plan from the TriCounty Health Department. Such plan shall be implemented throughout the course of the operations. Dust control agents shall be applied at active portions of the site and on gravel access roads during periods of hauling where dust is creating a nuisance. Trucks serving the quarry shall limit their speed on Timber Canyon Road to 15 miles per hour for safety reasons and to reduce dust impacts.
8. The applicants shall not use the existing, unimproved Timber Canyon Creek crossing, except during dry streambed conditions. During dry streambed conditions, the applicant shall minimize business use of the access easement across the property to the south. Further, the applicants shall, by May 31, 2017, explore the feasibility of constructing an approved concrete low water crossing or culvert crossing of Timber Canyon Creek that will provide more direct access to the quarry.
9. The Planning Commission will re-open the public hearing on June 7, 2017 to determine if the applicant has complied with the above conditions.

Commissioner Richens seconded the motion and it passed by a vote of 3-1 with Commissioner Giles voting against the motion.

Commissioner Roberts rejoined the hearing at this time.

**NEW BUSINESS:**

- A. Consider the 2017 meeting schedule.

After some discussion the Planning Commission decided to change the July meeting from the 5<sup>th</sup> to the 12<sup>th</sup> because of the July 4<sup>th</sup> Holiday. Commissioner Richens motioned to approve the 2017 schedule with the change made. Commissioner Wells seconded the motion and it passed unanimously.

- B. Election of a Chair and Vice Chair for 2017 (Ken Moon has served as Chair two consecutive years, so must be replaced)

With the absence of Chairman Moon and Commissioner Lindsay the Planning Commission decided to vote on the Chairman and Vice Chair at the January meeting.

**Minutes: Approval of November 2, 2016 minutes:**

Commissioner Roberts moved to approve the minutes of November 2, 2016.

Commissioner Wells seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items:**

None

**Adjournment:**

Meeting adjourned at 9:00 p.m.