

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
April 4, 2018 - 5:00 p.m.**

In Attendance were:

Kathy Giles, Planning Commission, Chairman
Brad Wells, Planning Commission
Ken Richens, Planning Commission
Ryan Clark, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Junior Jessen	Chapman CUP
Ryan Chapman	Chapman CUP
Gary Clayburn	Chapman CUP
Chet Clayburn	Chapman CUP
Roger Clayburn	Chapman CUP
Colby Clayburn	Chapman CUP
Ben Henderson, Duchesne County	

Chairman Giles opened the meeting at 5:00 pm and read the rules of order. She asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with the agenda. There were none, so the meeting proceeded.

Mr. Hyde took a minute to welcome Mr. Ryan Clark to the Planning Commission. He was appointed on Monday at the Commission meeting. Mr. Clark is representing the Fruitland area and replaces Eddy Roberts who finished his second term of service in December.

PUBLIC HEARINGS:

- A. Request by R. Chapman Construction for a Conditional Use Permit to establish a gravel pit and rock crusher on an 80.0 acre parcel owned by the Forest Reed Clayburn Family Trust, located south of Lake Boreham in Section 36, Township 3 South, Range 3 West.**

Mr. Hyde referred the commission to their packets and some site photos and explained the approval process for conditional use permits and stated the applicants are applying for this permit to authorize a gravel pit and rock crusher on a portion of an 80-acre parcel owned by the Forest Reed Clayburn Family Trust. Extraction of earth products is a conditionally permitted use in the A-5 zone. A conditional use permit was approved by the Planning Commission for this location on June 6, 2012; however, work was not started within 18 months and the permit expired. A conditional use permit shall be approved if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the

proposed land use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use permit may be denied.

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. The applicants have entered into an agreement with the property owners addressing reclamation.

Detrimental impacts can occur if excavation results in sedimentation of adjacent waterways. There may be drainage courses running from the parcel to the Duchesne River (to the south) and Lake Boreham (to the north) that will need to be protected. Such protections are afforded through the DEQ industrial storm water permit process.

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

Rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the Lake Boreham Road (east of the pit access road) was reconstructed by the County in 2014-2015 and meets standards for heavy truck traffic. However, the portion of the Lake Boreham Road westerly to 12000 West has not been improved, but a portion is scheduled for reconstruction in the 2018 construction season. Public Works Director, Ben Henderson, has submitted the following comments associated with this proposal. Conditions should be considered to address these issues.

“Chapman Construction was awarded the UDOT [passing lane] project in Bridgeland. Chapman Construction will be starting this project in spring 2018. With the assumption of Chapman wanting to travel in both directions East & West on Lake Boreham road, there will have to be some consideration and coordination from all parties involved regarding the traffic being created within the [county’s] Lake Boreham project. There will be locations throughout the [county’s] Lake Boreham project that will delay travel. There will be high potential for conflict as I see [the UDOT and county]

projects over lapping. There should be someone representing Chapman Construction attending the weekly Lake Boreham [Road] construction meetings to address any issues that will arise. It will be highly important that all issues be dealt with quickly, so that both projects can be completed within their contracted time lines. In the case there are any project conflicts that cannot be resolved there shall be a reconsideration of the conditional use permit regarding the gravel pit.

At the time all projects within the 2018 construction period are completed, it will be a requirement of the Duchesne County Road Department that Chapman Construction use the East bound travel lane on the Lake Boreham road regarding their hauling routes from the proposed pit site.”

The applicant has requested that hours of operation between 6 AM and 10 PM be allowed. The county Nuisance Ordinance sets forth time limits during which construction 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). These time limits should be applied to this permit and enforced to prevent early morning or late evening noise that could disturb residents in the vicinity. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

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 rock products to support construction associated with oil drilling in the area and for other construction purposes, which is beneficial to the economy 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 proposed mining would take place on most of the 80-acre parcel, beginning with the areas that are not farmed. The crusher must be kept at least ¼ mile away from dwelling units and the mining areas at least 660 feet from residences. As shown on the attached aerial photos, there is sufficient area in the center of the property for a crusher location. A newer home to the west of the parcel will eliminate approximately nine acres of land from potential mining, as shown on the aerial photos. 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.

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 is considered maintaining a near dust free condition;

A dust control plan has been provided by the applicant. This plan must be presented to the TriCounty Health Department for approval prior to operations beginning. The applicant must follow this plan to control dust at the extraction site and along the haul road. Also, a DEQ air quality permit must be obtained and a copy provided to the county before crushing operations begin.

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 property owner has waived the bonding requirement.

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 and his authorized agents shall be subject to these standards. The applicant has submitted a copy of their Materials Sales Agreement, which satisfactorily addresses the requirements for reclamation in Section 4 of the document.

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 six hundred sixty feet (660') 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 fifty feet (50') 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) consents 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 rock crusher location is proposed to be set back over ¼ mile from the nearest dwellings; which are: approximately 2,433 feet to the east (Gary Clayburn), 2,600 feet to the northwest (Joe Clayburn) and 1,500 to the west (Colby Clayburn). The 660-foot mining setback from Colby Clayburn residence eliminates about nine acres of land on the 80-acre parcel from potential mining activity, as shown on the attached aerial photos. The applicant understands that a 50 foot setback from property lines to mining areas is to be maintained.

Mr. Hyde's recommendation is approval of the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products, subject to seven conditions.

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

Commissioner Giles invited the applicant to speak.

Mr. Junior Jessen, representative and applicant from R.Chapman Construction, stated they have some upcoming projects in the area and were hoping to get this location re-approved to keep the trucking costs and traffic issues to a minimum.

Commissioner Wells asked if they were ok with the conditions. Mr. Jessen stated they were. They are awaiting approval from Tri-County Health for the dust control permit. Mr. Jessen wishes they could work 24 hours a day but they will comply with the county ordinances and the conditions for approval.

Ryan Chapman, an R Chapman representative and Public Works Director Ben Henderson had some discussion about using the Lake Boreham road, the traffic restrictions, the condition of the bridge and some possible solutions.

Commissioner Richens asked Mr. Chapman about their test holes and if they were ok with the setbacks. Mr. Chapman replied their test holes reveal from 5-18 feet of rock and the setbacks are fine.

Mr. Hyde reminded Mr. Chapman to check with the State of Utah about their water rights and what those rights can be used for (eligible for dust control).

With no other comments for the applicant. Commissioner Giles invited anyone in opposition of the applicant's request to speak.

Roger Clayburn, an adjoining property owner, stated he was not opposed to the gravel pit, but he is concerned about the noise and dust. They already have the Burdick pit next door and there is always dust on the alfalfa that effects the farming season, along with the long hours they work and noise from the equipment. Mr Clayburn suggested their hours be from 7 am to 7 pm and allow the neighbors some quiet time.

Commissioner Giles asked Mr Clayburn if he had contacted Burdicks about the dust and the noise. He stated no but he will.

Mr. Clayburn also questioned whether they can use the water rights for dust control. Mr. Chapman stated if it is a problem we will use mag water instead. Commissioner Moon asked if they had filed on their water rights. Gary Clayburn stated it is ok.

Colby Clayburn, an adjoining property owner, stated his concerns about the dust and noise also. It is not safe for his children to run around and play anymore. He already has Burdicks pit, the oil trucks and added traffic there and now another pit to the east of his property. Mr. Clayburn is just asking for some good decisions and asks that their working hours are from 7 am to 7 pm.

Commissioner Giles asked if there were any other comments in opposition. There were none so the applicant was invited to speak in rebuttal,

Mr. Chapman stated they will work within the hours the Clayburn's have requested. He knows crushers are noisy. There are several new things to help keep the dust down and they will try to respect the neighborhood.

Commissioner Wells suggested the neighbors work with Chapmans and keep them posted with any problems. Mr. Chapman said they can call him or Junior anytime; he will give them their business cards.

Mr. Hyde suggested that the applicants make sure they can use the water for dust control.

Gary Clayburn stated if he does call Burdicks because of the dust, they send a truck and get it watered. Commissioner Richens asked if Burdicks were using mag water. Mr. Clayburn wasn't sure.

Commissioner Giles asked if there were any other comments either in favor or opposed to the applicant's request. There were none so the public hearing was closed.

Commissioner Wells motioned to approve the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products subject to the following conditions.

1. Owners and their authorized agent(s) shall control dust and noise so neither becomes a nuisance.

- a. The dust control plan shall be approved by the TriCounty Health Department and shall be implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at the gravel pit and on the private and public access roads between the pit and paved roads during periods of hauling.
 - b. A DEQ Air Quality permit shall be obtained and a copy provided to the County prior to the start of crushing operations.
 - c. Owners and their authorized agents shall limit mining and crushing operations to the following times: 7:00 AM to 7:00 PM on weekdays, 8:00 AM to 7:00 PM on Saturdays and 9:00 AM to 7:00 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."
3. Owner(s) and their authorized agents shall protect the public from any hazardous conditions on the site with signage, fencing or berming.
4. Before excavation begins, owner(s) or their authorized agents shall obtain an industrial storm water permit, if required, from the Utah Department of Environmental Quality, Water Quality Division.
5. Owner(s) and their authorized agents shall maintain mining areas at a minimum setback of 50 feet from the property lines and 660 feet from dwelling units. The crusher location shall be maintained at least 1,320 feet from dwelling units.
6. Operators of the proposed gravel pit shall attend the weekly Lake Boreham County Road construction meetings in 2018 to address any issues that may arise as the county reconstructs the Lake Boreham Road while the operator seeks to fulfill its obligations associated with rock from this pit. In the case there are any county-operator project conflicts that cannot be resolved; the conditional use permit may be temporarily suspended until such conflicts are resolved to the satisfaction of the Public Works Director. The County will provide a one-week written notice of any required suspension.
7. Owner(s) and their authorized agents agree that, after the conclusion of the 2018 road construction season, until the Lake Boreham Road and the bridge along this route has been reconstructed all the way to 12000 West, all gravel truck traffic shall be required to travel eastbound when leaving the pit and westbound when accessing the pit, unless otherwise approved by the Public Works Director.

Commissioner Richens seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of February 7, 2017 minutes:

Commissioner Wells moved to approve the minutes of February 7, 2017. Commissioner Richens seconded the motion and it passed unanimously. Commissioner Clark abstained from voting.

Commission Comments and Staff Information Items:

Mr. Hyde reminded the planning commission about the training in Vernal on May 10th.

Adjournment:

Meeting adjourned at 6:10 p.m.