

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
April 2, 2008 - 5:00 p.m.**

**In Attendance were:**

Shelly Fabrizio, Planning Commission Chairman  
Chris Peatross, Planning Commission  
Dean Burton, Planning Commission  
Leon Sweat, Planning Commission  
Randy Mair, Planning Commission  
Mike Hyde, Community Development Administrator  
Laraine Dickinson, Planning Secretary  
**Excused:** John Jorgensen, Kent Olsen

**Visitors:**

Lex Fabrizio  
Zack Garner  
Kim Bird  
Bert & Bernie Pilling  
Richard Ivie  
David Lupold  
John Bailey  
Tim Engel  
David Bingham  
Doug Cowley  
Katherine Richins  
Celia Richins  
Carla Richins

**Agenda Item**

Fabrizio Gravel Pit

Moon Gravel Pit

Chairman Fabrizio opened the meeting at 5:00 PM.

**PUBLIC HEARINGS:**

- A. Request for a Conditional Use Permit by Fabrizio Transport Inc., to establish a gravel pit, rock crusher and truck shop on a 10-acre parcel east of Highway 87, located in Section 19, Township 3 South, Range 4 West, in the Blue Bench area north of Duchesne City.**

Chairman Fabrizio disclosed that the applicant is a relative of her husband; however, she did not feel that this would create a bias. No one present requested that she recuse herself from the hearing.

Mr. Hyde stated that the applicant is proposing to conduct gravel mining and rock crushing operations on the east half of a ten acre parcel of land located on the east side of Highway 87, at about 6270 South. Also the applicant would like to construct a truck shop on the west side of the property to store and repair his own business trucks. Both activities need a Conditional Use Permit in an Agricultural-Residential zone.

Mr. Hyde stated that the criteria for a Conditional Use Permit are:

1. The site would not be unduly detrimental to public health, safety or general welfare.

Mr. Hyde stated that the zoning code contains a ¼ mile separation distance from residential units to mitigate the impacts of rock crushing operations. In this case, the closest dwelling a mobile home on the west side of Highway 87, ¼ mile west of the proposed site. General welfare is also protected by the elevation of the rock crusher site, lying below the elevation of the highway.

Mr. Hyde stated that plans for the truck shop would need to be approved by Duchesne City prior to issuing a building permit to ensure that the structure does not create safety problems for the nearby municipal airport, such as, glare from roof material as not to hinder pilot's vision and the height limits.

2. The proposed use is in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.

Mr. Hyde stated that the county encourages this type of mining activities, which support the construction industry and the truck shop is considered a commercial use which is encouraged by the General Plan as long as there is no adverse impact to the zone in which it is located.

3. The proposed site is adequate in size and dimensions to permit the conduct of the use that would not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated that the 10-acre parcel is large enough and situated easterly of the nearest dwelling so detrimental impacts would be minimal.

Mr. Hyde stated that there are special conditions for the extraction of earth products, which are:

1. Must be maintained in a near dust-free condition.

Mr. Hyde stated that the applicants indicated that Hog Excavation of Heber City would operate the pit and crusher in accordance with MSHA standards associated with air quality and noise. Hog Excavation will supply a tanker truck to provide dust control. Mr.

Hyde stated that to ensure adequate dust control that the applicants provide the county with a dust control plan prior to the commencement of mining and crushing.

2. That a bond is in place in the amount of \$5,000.00 for the first acre and \$3,000.00 for each additional acre. This is to assure reconditioning of the ground after mining has been completed.

Mr. Hyde stated that it would be the easterly five acres and the applicants can submit a bond for the first acre and then reclaim it and move to the second acre and so on without having to bond for the entire 5 acres at once.

3. Reconditioning to assure the surrounding property is protected along with the beauty of the landscape.

The property needs to be reconditioned at the conclusion of the mining project. Safe cut or fill slopes must be established and disturbed areas re-seeded with vegetation suitable for the area. Mr. Hyde recommended that the property owner state in his lease how he would like the area to look after the mining operation is complete so that there are no arguments later on.

4. Rock crushing operations must be a minimum of 1,320 feet from any city, town or residential use.

Mr. Hyde stated that this requirement has been met with the nearest residential use being ¼ mile west. Mr. Hyde stated that the county does have a Nuisance Ordinance including time limits during which noise is permitted (7:00 AM to 9:30 PM weekdays, 8:00 AM to 9:30 PM Saturdays and 9:00 AM to 9:30 PM Sundays and holidays). Mr. Hyde stated that the applicants had indicated that working hours would be from 8:00 AM to 6:00 PM.

Mr. Hyde stated that for the truck shop, which would be located closer to Highway 87 the criteria for that would be:

1. That the site be suitably landscaped, fenced, adequate setbacks and to buffer the area from surrounding properties.

Mr. Hyde stated that the applicant indicated that he plans to create an earthen berm along the highway frontage to screen view of the site. Mr. Hyde stated that portions of the site are not being mined or built on and would retain the natural vegetation. Mr. Hyde stated that there is not a fencing plan and that it would be an unmanned facility with no office and there would be no water connection and so the county would recommend some type of xeriscape design such as decorative rock around the building.

2. Provisions of parking facilities and driveways.

Mr. Hyde stated that the applicants have a UDOT shared access between the subject property and the parcel to the north. Mr. Hyde stated that the property owners and UDOT signed a shared access agreement on April 26, 2005. Also, no parking facilities are required because the public would not going to the shop to receive services as the applicant would be working on his own trucks.

3. The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal and fire protection.

Mr. Hyde stated that there is sufficient right of way at this location for Highway 87. East Duchesne Water is available if at any time the applicant decides to install restroom facilities in the truck shop. Also, fire protection would need to be dealt with during the building permit process and a fire hydrant may need to be installed within 500 feet of the truck shop site.

4. Regulation of signs.

Mr. Hyde stated that the applicant has no plans for sign as the shop is for storage of trucks owned by his company only.

5. The nuisance factors such as noise with the truck shop.

Mr. Hyde stated that with the truck shop the county Nuisance Ordinance sets forth time limits, which noise is permitted and they would need to keep these time limits in mind for nearby residents. Also, that Duchesne City operates the airport to the southeast and the applicant would need to coordinate his plans for the truck shop as not to violate the Airport Master Plan regulations for height, location or design.

6. Working hours.

Mr. Hyde stated that the operating hours of the truck shop would be the same as the rock crushing, which is 8:00 AM and 6:00 PM.

Mr. Hyde stated that the Utah Division of Oil, Gas and Mining has indicated that their office does not regulate this type of mining but the Utah Department of Environmental Quality has commented that a dust control plan should be required and they would provide a sample for the applicant to use.

Commissioner Burton asked does the ¼ mile distance needs to be maintained from any resident? Mr. Hyde stated the crusher site needs to be at least a ¼ mile from any existing home. Chairman Fabrizio asked then as they move further up on the 5 acres would that affect this and Mr. Hyde stated that as long as the crusher site is ¼ mile from any existing home the mining can be done closer than that.

Chairman Fabrizio asked if the applicant had any comments?

Lex Fabrizio (Fabrizio Transport) stated that the crusher would be sitting in a hole or ravine so other than the approach from Highway 87 it probably would not be known that a crusher is there so it would be out of sight. Mr. Fabrizio stated that with the truck shop he would be in contact with the Fire Official to see if there would be a need to have a fire hydrant installed.

Mr. Fabrizio stated that when speaking with Mr. Hyde earlier he indicated that there would not be a water hookup but that now there would be and he would be in contact with Tri-County Health Department for the requirements for installing a septic system because there would now be restrooms inside the truck shop.

Chairman Fabrizio asked if the rock crushing would be leased to Hog Excavation? Mr. Fabrizio stated that whatever is crushed would belong to Hog Excavation so this project would be under their supervision.

Commissioner Burton asked about the purpose of the earthen berm on the west side of the property. Mr. Fabrizio stated that it was basically for him so that people would not try to enter the property without using the approach.

Chairman Fabrizio asked if there were any comments or questions?

Bert Pilling stated that he owns property to the north of the proposed site and has pulmonary problems and so dust would definitely be an issue here. Mr. Pilling stated that right now they live in Vernal but are planning on building and moving here in the near future. Mr. Pilling stated that he and his wife are very opposed to having a rock crushing operation this close. There was some discussion of Mr. Pilling's property's location, which is about 3,500 feet north of the applicant.

Mr. Pilling stated that where these properties are located and depending on wind conditions dust can be a real problem. Mr. Hyde asked how the existing rock crushing operation to the southwest affected them and Mr. Pilling stated that at times when the wind is blowing, there is quite a problem with that also.

John Bailey stated that he owns property to the north of Mr. Pilling and is also planning on building a home and does not think that a rock crushing operation should be in the same area. Mr. Bailey stated that he had the same concerns with dust and noise.

Tim Engel stated that his property is directly to the west across Highway 87 and was very opposed to having a rock crushing operation and a truck shop. Mr. Engel stated that he did not want to look out his front window and see a big earthen berm and truck shop.

David Bingham stated that he is also opposed to having a rock crushing operation in this area. Mr. Bingham stated that he has been there for three years and each year has noticed more and more people building in this area and would rather see trees going in and not a rock crushing operation.

Chairman Fabrizio asked Mr. Fabrizio if he had any comments or wanted to rebut.

Mr. Fabrizio stated that unless people would be flying overhead they would not have any idea that there would be a gravel pit in the area because it would be sitting down in a hole. Mr. Fabrizio asked if anyone had been over there on the property to see where the gravel pit would be located and if not he stated that they can go over there and see just what the layout of the land is.

Chairman Fabrizio asked Mr. Fabrizio for clarification how long would the rock crushing operation be there? Mr. Fabrizio stated that initially, it would be approximately 30 to 60 days and then they would return periodically but right now the plan is to crush a hundred thousand tons of material and then leave six months to a year. So this is not going to be on a continuous basis.

Mr. Fabrizio stated that the wind on the bench mainly blows from the west to the east and so in regards to the dust factor it would be blowing away because most of those that has spoken live on the west side of Highway 87. Also, there would be dust control plan in effect.

Mr. Bingham asked how many trucks would there be in and out on a daily basis? Mr. Fabrizio stated that he was uncertain as to how many trucks there would be hauling from the gravel pit.

Chris Bird (JRJ Services) stated that in the staff report it states that the trucks going in and out to the truck shop would be for Mr. Fabrizio's own personal use but there is nothing that mentions how many trucks would be in and out to the gravel pit. Mr. Fabrizio stated that the road for the truck traffic would definitely handle it and the approach onto Highway 87 has a good line of sight in both directions. Mr. Fabrizio stated that compared with the traffic from the sand and gravel pit to the south, the landfill to the north and the oilfield traffic, the traffic from this gravel pit would be minimal. Mr. Hyde stated that in regards to the traffic it would not be addressed by the county but by UDOT because it is their highway, so if they felt that there was going to be a problem with truck traffic, they would have required Mr. Fabrizio to put in deceleration or acceleration lanes.

Mrs. Bird stated that with their operation they started with 25 acres and has since increased that to an additional 60 acres and I do not feel that a 5-acre parcel is at all big enough to begin a crushing operation.

Doug Cowley (Hog Excavating) stated that with concerns about dust control we have as good a plan as anybody and even though there is already a gravel pit here and talk of building in the area, there basically can not be improvements without construction. Mr. Cowley stated that with regards to the spacing Hog Excavation has a pretty mobile crushing operation, with the three pieces we have they are track mounted and are very small in regards to the older types of crushers. So, Mr. Cowley felt that this was not

going to be as big of a problem as many people are making it out to be. Mr. Hyde asked Mr. Cowley if they could live with the setbacks such as the ¼ mile distance from any existing resident? Mr. Cowley stated that they do not have any problem with these conditions.

Mr. Hyde asked would there be an adequate haul road so that there would not be any tracking of mud onto Highway 87? Mr. Cowley stated that they would be making gravel so they would be able to gravel the road to prevent mud.

Mr. Pilling asked the Commission if there had been an Environmental Impact Statement placed on this venture? Mr. Hyde stated that this is not a requirement for a Conditional Use Permit. Mr. Pilling asked for a little better explanation. Mr. Hyde stated that the County has requirements in the Zoning Ordinance that pertain to gravel operations that were read in the staff report but Environmental Impact Statements are generally involved when there are Federal Funds or Federal Agencies involved but that's not the case here.

Mr. Bingham asked if there were plans to increase the crushing operation such as buying additional property? Mr. Fabrizio stated that he didn't think that anyone else would sell him any more land so it would basically be on the ten-acre parcel. Commissioner Peatross stated that the Conditional Use Permit is for Mr. Fabrizio's ten-acre parcel and if there is to be mining done on a different parcel there would need to be another Conditional Use Permit applied for.

Richard Ivie (Duchesne City) stated that the engineer's concerns were that the building does not exceed over 84 feet high in the fly zone and dust control. Mr. Hyde asked about non-reflective roofing and Mr. Ivie stated that mostly just the height of the building was their concern.

Chairman Fabrizio asked if there were any other comments or questions?

Commissioner Burton asked Mr. Hyde if there were any other alternatives rather than the earthen berm to shield people from seeing the shop? Mr. Hyde stated that without knowing how high the shop is, the earthen berm would probably not totally conceal it. Mr. Fabrizio stated that the berm is basically to keep trucks from entering from the highway and stealing gravel.

Chairman Fabrizio stated that her concern is that from the sawmill south to the existing crushing operation when the wind is blowing the dust is really bad.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Fabrizio Transport, Inc., subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. A dust control plan meeting DEQ standards shall be provided to the county and DEQ prior to the commencement of mining and crushing operations.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level

of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.

3. Applicant agrees to reclaim (re-contour and re-seed) the site at the conclusion of mining operations in a manner acceptable to Duchesne County.
4. Applicant shall provide fire protection as required by the Building Official and County Fire and Emergency Management Director.
5. Applicant shall obtain a building permit for the truck shop and a Duchesne County business license for each business on the site prior to conducting business.
6. Prior to issuance of a building permit, the applicant shall obtain verification from Duchesne City that the plans do not violate the city airport master plan in terms of building height, location and design.

Commissioner Mair seconded that motion with four voting yes and Chairman Fabrizio abstained.

Mr. Hyde stated that the decision to approve would be sent out to those here and anyone wanting to appeal this decision to the County Commission could file an application within ten days.

**B. Request for a Conditional Use Permit by Neil and Todd Moon to establish a gravel pit and rock crusher on a 175.87-acre parcel west of the Wells Draw Rd., located in the SE ¼ of Section 4, Township 4 South, Range 2 West, in the Pleasant Valley area.**

Mr. Hyde stated that the proposed site is located west of the Wells Draw Road just south of the intersection with the Pariette Road. This property is located in an Agricultural-Residential zone and so this type of gravel mining and rock crushing requires a Conditional Use Permit.

Mr. Hyde stated that the criteria for this type of operation the county considers:

1. The proposed location so that it would not be detrimental to the public health, safety or general welfare.

The zoning code contains a ¼ mile separation distance from residential units to mitigate the impacts of rock crushing operations. In this case, the closest dwelling is about 2,300 feet away to the southeast on the Kim Farnsworth property.

2. The proposed use would be located and conducted in compliance with the goals and policies of the Duchesne County General Plan.

Mr. Hyde stated that the County continues to encourage and support this type of industry and in this case, the mining activity would support the construction industry, which is very active due to the oil and gas boom in the region.



3. The property is of adequate size and would not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated that the proposed mining would occur on portions of parcels that are 40, 166.12 and 175.87 acres in size. These parcels are large enough and situated such that detrimental impacts would be minimized.

Mr. Hyde stated that there are special minimum conditions for extraction of earth products.

1. Must maintain a near dust-free condition.

Mr. Hyde stated that the applicants indicated that Burdick Paving would operate the pit and crusher in accordance with MSHA standards associated with air quality and noise. They would supply a tanker truck to provide dust control. Also, to ensure adequate dust control the applicants must provide the county with a dust control plan, acceptable to the Utah Department of Environmental Quality, prior to the commencement of mining and crushing.

2. A bond shall be issued in the amount of \$5,000.00 for the first acre and \$3,000.00 for each additional acre from which such material is taken as a guarantee of reconditioning. This requirement may be met by naming the County as an obligee on the required Division of Oil, Gas and Mining bond. Also, the number acres must be specified on the Conditional Use Permit and cannot be enlarged or modified until it is re-presented to the Planning Commission and is approved.

Mr. Hyde suggested that the property owners include in their lease with Burdick Paving how they would like the property to look when it is time to reclaim the site. Even though the County requires a bond of \$5,000.00 for the first acre and \$3,000.00 for each additional acre that may not restore the land to the condition in which the property owner would want it in.

3. Reconditioning to assure the surrounding property is protected along with the beauty of the landscape.

Reconditioning must occur after the conclusion of mining operations on the site. Safe cut or fill slopes must be established and disturbed areas re-seeded with grasses suitable for the area.

4. Rock crushing operations must be a minimum of 1,320 feet from any city, town or residential use.

Mr. Hyde stated that the nearest resident is 2,300 feet to the southeast. The county Nuisance Ordinance set forth time limits during which noise is permitted. The

applicants indicated that the tentative hours of operation are Monday through Friday from 7:00 AM to 5:00 PM, beginning early in the summer of 2008 and lasting several years.

Chairman Fabrizio asked if there were any questions?

Mr. Hyde stated that there are homes that are located closer to the site other than the one that is 2,300 feet but the applicants own these homes.

Commissioner Sweat asked about the road. Mr. Hyde stated that the applicants would need to obtain a road approach permit from the county road department to have a driveway access that would connect to the Wells Draw Road, to make sure that it is located in a safe spot with good visibility.

Katherine Richens stated that she would like some clarification. Mrs. Richens stated that a person should be able to do with their property what they want as long as you are not putting a life or someone's livelihood in danger. Mrs. Richens asked if the equipment being used would have those annoying beepers? Commissioner Peatross stated that if they have been inspected they should. Commissioner Sweat stated that the trucks and loaders probably would but the stationary equipment would not. Mrs. Richens stated that her property is about ½ mile off of Highway 40 and she stated that she is able to hear sirens from the highway long before she is able to see their headlights and so the way that sound travels if that beeping noise goes on all day that would be pretty annoying. Mr. Hyde stated the Nuisance Ordinance allows noise between the hours of 7:00 AM to 9:30 PM. Commissioner Peatross stated that the crusher would probably sound like the roar of the ocean and so the noise from this operation is not going to be any worse than the noise from the highway. Commissioner Mair stated that most of the time the trucks would be making a loop rather than backing up so the beeping noise would come from the loader.

Carla Richins stated that she is a neighbor to Todd and Camille Moon. Carla asked that there was no mention of weekends so does this mean that they would not be operating on the weekend? Mr. Hyde stated that in their application it stated that their hours of operation would be Monday thru Friday 7:00 AM to 5:00 PM. Carla stated her only concern was with her children and if this operation would interfere with when she put them to bed.

Carla asked how many years would this operation be in business? Mr. Hyde stated that in the application it stated that it would last several years depending on the jobs in the area and how much product is found.

Carla asked how much ground is this crushing site going to be? Mr. Hyde stated that it would be south of the canal and not going to take up on any of their farmland.

Carla stated some of her concerns would be with dust increasing in their hayfields and the affect it would have on her farm animals especially with her horses so that when

they ride they would not be wheezing from the dust. It was indicated to Mrs. Richins that the wind usually blows from the west to the east and so in most cases where her property is to the northwest there probably would not be a problem there unless of course the wind swirls and then there may be some dust. Commissioner Peatross stated that the State monitors these types of operations whereas with agricultural uses these are not and they may cause more dust. Commissioner Mair stated that with the applicants living closer to this operation they would probably want to keep the dust to a minimal.

Chairman Fabrizio asked if there were any others comments or questions?

Commissioner Peatross motioned that the Planning Commission approve the Conditional Use Permit requested by Todd and Neil Moon, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. A dust control plan meeting DEQ standards shall be provided to the county and DEQ prior to the commencement of mining and crushing operations.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.
3. Applicant agrees to reclaim (re-contour and re-seed) the site at the conclusion of mining operations in a manner acceptable to Duchesne County.
4. Applicant agrees to obtain a road approach permit from the Duchesne County Road Department for the access to the site from the Wells Draw Road, prior to constructing or modifying this access.

Commissioner Mair seconded that motion and it passed unanimously.

### **Minutes: Approval of the March 5, 2008 minutes**

Commissioner Sweat motioned to approve the minutes of March 5, 2008 with corrections.

Commissioner Mair seconded that motion and it passed unanimously.

### **Commission comments and Staff Information Items:**

There was some discussion about the recent ruling associated with the Hancock's Treatment Center.

### **Adjournment:**

Chairman Fabrizio motioned to adjourn the meeting at 6:40 PM

Commissioner Burton seconded that motion and it passed unanimously.

