

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
December 2, 2009 - 5:00 p.m.**

**In Attendance were:**

Randy Mair, Planning Commission – Chairperson  
John Jorgensen, Planning Commission  
Shelly Fabrizio, Planning Commission  
Leon Sweat, Planning Commission  
Kent Olsen, Planning Commission  
Chris Peatross, Planning Commission  
Dean Burton, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Dustin Larsen	DR&L Investments-CUP
Nolan Larsen	DR&L Investments-CUP

Chairperson Mair opened the meeting at 5:00 PM.

Chairperson Mair asked if any of the Planning Commission had any ex-parte contacts associated with any item on the agenda. There were none, so the hearing proceeded.

Mr. Hyde introduced and invited Duchesne County Commissioner Kent Peatross to speak.

Commissioner Peatross thanked all the Planning and Zoning members for their hard work and the service they provide to the county. To Commissioner Sweat as he retires Commissioner Peatross presented a plaque and thanked him for the last 8 years of dedicated service to the county and the Planning and Zoning Board and wished him well in the future.

**PUBLIC HEARINGS:**

- A. Request by Dustin Larsen (DR&L Investments), for a Conditional Use permit to allow the extraction of earth products (shale pit with no rock crushing) on approximately 21 acres of a 40-acre parcel owned by Nolan & Vicki Larsen in the Pleasant Valley area.**

Mr. Hyde showed the commissioners some photos of the site, the roads and what materials were available and the conditions of the area. The applicant is proposing to

extract earth products (shale) from property owned by Nolan and Vicki Larsen for use on nearby oil well sites and for other construction purposes. It is estimated that about 21 acres of the 40-acre parcel could be excavated, depending on the actual shale deposits found. This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone.

**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. Even though no rock crushing is proposed, surface disturbance creates noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant complies with dust and noise standards, the proposal will not be injurious to public health, safety or welfare. Detrimental impacts can also occur if the pit is not reclaimed properly. The county has "material pit finishing" standards that should prevent the applicant from leaving eyesore or hazardous conditions when mining is completed. According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

**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 proposed mining will take place on approximately 21 acres of the 40-acre parcel, just east of a new dwelling unit being constructed by Nolan and Vicki Larsen. If standard conditions are imposed and followed regarding noise control, dust control and site reclamation, the proposed use should be acceptable at this location.

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

**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 Utah DEQ. Watering the site and street during times of operation is considered maintaining a near dust-free condition.**

Mr. Hyde stated a dust control plan must be presented to the TriCounty Health Department for review and approval. The plan will need to indicate what equipment will be available to control dust at the pit and along the haul road and document a source of water for dust suppression. Health Department approval of the dust control plan must be provided to the County prior the start of operations.

**A bond shall be issued in the amount of one 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.**

Mr. Hyde stated in this case, the applicant is using his own loading equipment on his parent's property. However, since the proposal does not involve leveling the ground for farming purposes, a bond or other financial surety will be required to ensure that the material pit finishing standards are met.

**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.**

Mr. Hyde stated the "Material Pit Finishing Standards" included in the agenda are used by the County to determine how reconditioning is to be accomplished.

**Rock crushing operations must be a minimum of one thousand three hundred twenty feet from any city, town or residential use.**

Mr. Hyde stated there will be no rock crushing proposed in this case. However, equipment will be used to load the shale. 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 indicates that loading equipment will usually be operated between 7:00 AM and 5:00 PM, Monday through Friday. This meets the weekday noise standards of the nuisance ordinance. The applicant indicates that the earth products are being used by Newfield for oilfield construction purposes and that the number of loads per average day will fluctuate.

Mr. Hyde stated The Utah Division of Oil, Gas and Mining has indicated that their office does not regulate this type of mining.

Mr. Hyde stated there were a couple of comments from adjoining property owners. The owners to the north are concerned about the wetlands to the north of the proposed location and are hoping the Larsen's will prevent damage to that area. The second comment was from the Henderson's, who own property to the south and a portion of the property over which the access road extends westerly to the Pleasant Valley Road. They indicate that there is some question whether the access road is really a county B road or simply a D road used historically to access farm land and one dwelling unit. The county road maps do not show this to be a county-maintained road. Thus, the applicant will need to coordinate with the Henderson's to ensure legal access to the mining site before starting excavation and hauling.

Mr. Hyde recommends that the Planning Commission approve the Conditional Use Permit requested by Dustin Larsen, DR& L Investments, subject to the following

conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
  - a. A dust control plan, approved by the TriCounty Health Department, shall be submitted to the County and implemented throughout the course of the operations.
  - b. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance.
2. Applicant shall reclaim the property in accordance with the county "Material Pit Finishing Standards."
3. Applicant shall ensure that they have legal access across the Henderson property to the mining location before starting excavation and hauling over this road.
4. Applicant shall maintain bonding or other acceptable financial surety at the rate of \$5,000 for the first acre and \$3,000 for each additional acre during the course of operations to ensure reclamation of disturbed areas.

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Sweat asked Mr. Hyde about the DOGM requirements on gravel pits. Mr. Hyde explained DOGM does not monitor sand and gravel removal.

Commissioner Mair asked if there were any other questions. There were none so the applicant was invited to speak.

Dustin Larsen, owner of DR & L Investments stated he did not have anything further to add to the staff report and explained that Duchesne County Road Department has in the past graveled and bladed the access road in question and was under the impression it is a county maintained road. Mr. Hyde explained that Mr. Larsen should talk to Mr. Murphy of the road department to see if it is a county road and if so the Henderson's would not have a valid claim, if the road is not a county maintained road the applicant will have to enter into an agreement with the Henderson's for access to the gravel pit.

Nolan Larsen has some concerns about the road issues and the fact the Henderson's are disputing the access to the Larsen's land. Mr. Larsen also stated he had talked to Stoney Monks and Leon Fillingim and that road is a county maintained road.

Mr. Hyde explained the difference between class B and D roads.

Commissioner Sweat stated the first step is to find out if the road in question is in fact a class B or class D road and the second step would be to go to the Henderson's for a right of way if it is a D road.

Commissioner Mair asked if there were any other questions.

Commissioner Peatross asked if the Henderson's have all the control in the case of any personal issues. Mr. Hyde stated if the use of the road changes there might be an issue but that would have to be answered by an attorney if it becomes an issue.

Mr. Larsen stated he was under the impression if the roads were along the section lines that automatically made them county roads. Mr. Hyde again stated that was not necessarily the case and a good question for an attorney.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by DR & L Investments, subject to the 4 conditions stated in the staff report. Commissioner Burton seconded the motion and it passed unanimously.

**NEW BUSINESS:**

None

**Minutes:**

**Approval of November 4, 2009**

Commissioner Jorgensen moved to approve the minutes of November 4, 2009 subject to two corrections. Commissioner Sweat seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items**

There was some discussion on the appeal of the Crossroads Concrete CUP which will be on December 7<sup>th</sup> with the County Commissioners. Mr. Hyde discussed some of the items for the January meeting.

The Planning Commission thanked Commissioner Sweat for his service and wished him well in the future. Commissioner Sweat stated he enjoyed being on the P&Z board and working with Mr. Hyde and the other commissioners.

**Adjournment:**

Meeting adjourned at 5:35 p.m.