

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
November 4, 2009 - 5:00 p.m.**

In Attendance were:

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

Visitors:

Ryan Chapman	RNI
Joe Feildsted	RNI
Shane Long	RNI
Michael Duncan	RNI
Junior Jessen	RNI
Dale Rasmussen	RNI
Becky Rasmussen	RNI
Scott Hacking	DEQ, TriCounty Health Dept.
Karla Gines	Crossroads Concrete-CUP
Levaughn Gines	Crossroads Concrete-CUP
Frankie Fisher	

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. Mr. Hyde along with Commissioners Olsen, Jorgensen, Peatross, Fabrizio and Burton visited the RNI site on October 27. Commissioner Sweat stated he has had business dealings with Mr. Gines and Crossroads Concrete in the past but did not feel that it will cause him to be biased.

PUBLIC HEARINGS:

- A. Continuation of public hearing on review of the Conditional Use Permit granted to R. N. Industries on August 6, 2008 to determine if prompt action to control and eliminate odors at their produced water disposal facility on the BLM Fence Road has been taken in accordance with permit conditions.**

Mr. Hyde stated at the October 7, 2009 Planning Commission meeting, a public hearing was held. After testimony and discussion, the Planning Commission voted 5-0, with one abstention, to pass the following motion:

That the public hearing be recessed to November 4, 2009 at 5:00 PM. The applicant shall immediately provide the county with a detailed odor treatment plan outlining the treatment methods and steps that will be taken to control and eliminate odors. When the public hearing is re-opened, if the applicant has not provided a detailed odor treatment plan, no new produced water may be received at the facility. When the public hearing is re-opened, progress shall be evaluated based on the complaint log and any test results available. If progress is being made toward odor elimination, the Planning Commission may grant an additional 30-day period for odor control measures to fully take effect, in lieu of an order to cease receipt of water. The applicant shall provide a contact person or phone number for after-hours complaints and respond to such complaints as soon as possible to gather data.

Mr. Hyde stated the applicant provided the county with an odor treatment plan on October 12, 2009. A site inspection with the Planning Commission was scheduled for October 27, 2009 at 2:00 PM. The inspection was attended by Commissioners Peatross, Fabrizio, Jorgensen, Olsen and Burton. Ryan and Chris Chapman led the tour. There was a strong west wind blowing. Pumps were in operation at the skim pond and Pond #10. Downwind of these ponds, there was some detectable odor, but it was not the common sulfuric produced water odor. By circulating the water and applying microbes, it appears that RNI is solving their odor problem.

Mr. Hyde stated the Planning Commission has a couple of options, the first is to recess the public hearing until December 2, 2009 to allow one additional month for RNI's odor control measures to more fully take effect and the second is to close the public hearing and commend RNI for their prompt action to control and eliminate odors.

Mr. Hyde asked if there were any questions of the staff report. There were none so the hearing was opened to the public.

Ryan Chapman, RNI stated with the added circulation, micro biologics and the infusers the odors have drastically reduced. Together with the larger pumps and increased water level they are hoping these measures will continue working.

Commissioner Sweat asked Mr. Chapman if they had been receiving more water. Mr. Chapman stated they had received more water and with the decreased evaporation it is easier to circulate.

Commissioner Mair asked if there were any other questions, or if others wished to speak.

Becky Rasmussen, a Pleasant Valley resident, stated they were on the tour of RNI on October 27th and do appreciate RNI's efforts in eliminating the odors. Mrs. Rasmussen is concerned that in the spring when the ponds roll over, should the odors start again what will the commission do to remedy the problem. She feels the residents have already suffered enough and do not want to spend another summer like this last one.

There was some conversation between Mr. Hyde, Commissioner Peatross and Mr. Chapman about the spring thaw and what will happen in the future. Mr. Hyde suggested a tour in the spring of both pond sites. Mr. Chapman stated there will be some issues in the spring but assured the residents they will continue to keep the odors under control.

Commissioner Mair asked if there were any other questions.

Commissioner Jorgensen motioned to close the public hearing and commend RNI for their prompt action to control and eliminate odors and schedule a spring visit at the convenience of the residents and the company owners. Commissioner Peatross seconded the motion and it passed unanimously.

B. Recommendation to the County Commissioners regarding a request by Nile Chapman Construction to rezone 80 acres of a 340-acre parcel owned by Whisper Canyon LC, from A-2.5 to A-5. The property is located on the southeast side of the Tabby Swale Road, northwest of Hanna, in Section 9, Township 1 South, Range 8 West.

Mr. Hyde referred the Planning Commission to the aerial photos in their packets and stated the applicant is proposing to rezone an additional 80 acres of a 340-acre parcel from Agricultural (A2.5) to Agricultural (A-5). An 80-acre parcel abutting to the north was rezoned by the County Commissioners on August 31, 2009 and a conditional use permit was issued by the Planning Commission on September 2, 2009. During the first rezone process and the subsequent Conditional Use Permit process, property owners suggested that the proposed gravel pit and rock crusher be moved to the south (farther away from homes). This second rezone would allow that to happen.

Mr. Hyde stated there are criteria for granting approval of zoning ordinance and map

amendments as follows.

The overall community benefit of the proposed amendment. Mr. Hyde stated the proposed rezone would facilitate the operation of a gravel pit and rock crusher at a location farther to the south than originally approved to respect the wishes of nearby property owners.

Consistency with the goals and policies of the general plan. Mr. Hyde stated the General Plan contains the following statements regarding private land use:

“Duchesne County feels that residential, commercial, and industrial development on private land should be allowed to continue in a responsible manner and in locations that contribute to the economic and social well-being of County residents. The County will continually review and amend its existing ordinances as necessary to accurately and adequately reflect the land-use preferences of Duchesne County residents.”

The rezoning criteria of Section 17.16.030 of the zoning ordinance are established to aid the Planning Commission in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.

Compatibility with the neighborhood.

Mr. Hyde stated the aerial photos show that the neighborhood consists of rural residential development in an agricultural setting. The proposed zone change continues a form of agricultural-residential zoning, which matches the zoning in Section 8, Township 1 South, Range 8 West, to the west. Sections to the north and east have the A2.5 zoning and A-10 zoning exists to the south on state lands (see zoning map). Rock crushers associated with gravel pits are required to be located at least ¼ mile from residences. This proposed rezone would move the operation even farther away from the nearest residences than originally approved.

What changes have occurred in the neighborhood since the zoning ordinance & map or latest amendment was enacted.

Mr. Hyde stated there have been very few changes in this neighborhood, with the exception of at least one new home, constructed by the Iversons, on the Tabby Swale Road, just west of Highway 35.

Whether a change in the use for the affected properties will unduly affect the uses for adjoining properties.

Mr. Hyde stated the proposed rezone is from one type of Agricultural zoning to another, (A2.5 to A-5) where the minimum lot size and permitted uses change. The affects on adjoining properties would be reduced if the proposed gravel pit is moved farther to the south.

Consider the interest of the applicant.

Mr. Hyde stated the applicants would like to rezone the property to enable them to pursue a land use that is not presently permitted in the current zone (gravel pit). The applicant was successful in obtaining a rezone for this use on 80 acres of land abutting to the north. However, after speaking with other property owners, the applicant has elected to pursue this additional rezone to move the proposed gravel pit farther to the south.

Mr. Hyde recommended that the Planning Commission adopt the findings and conclusions herein and recommend approval of this rezone from Agricultural-Residential (AR-2.5) to Agricultural-Residential (AR-5) to the County Commissioners.

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

Commissioner Mair asked Mr. Hyde if this application will effect the first rezone amendment. Mr. Hyde stated the first 80 acres will stay at the 5 acre zone and referred the commission to the photos in the staff report indicating the applicants will mine on the blue hatched area.

Commissioner Jorgensen has some concerns about the bridge study that was required in the conditional Use Permit. Mr. Hyde stated the engineer study was required before

the permit could be issued. As of today he has not received any documentation from the applicant.

Commissioner Burton asked about the narrowness of the road. Mr. Hyde stated the applicant was to enter into an agreement with the County road department. As of today, I have not received any information on this agreement. Mr. Hyde stated both items need to be addressed before the permit is issued.

Commissioner Sweat asked if the crusher will stay on the original rezone property. Mr. Hyde stated the crusher will stay and the mining will be moved south.

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

Ryan Chapman stated they will be moving the operation to the south away from the property owners as a good faith effort. The engineer study for the bridge is in the process and also they will be meeting with the road department to discuss those issues.

Commissioner Mair asked if there were any other questions.

Commissioner Burton is concerned about the road and bridge issues and wants to make sure those items will be taken care of before their operations begin.

Commissioner Sweat motioned that the Planning Commission adopt the findings and conclusions herein and recommend approval of this rezone from Agricultural-Residential (AR-2.5) to Agricultural-Residential (AR-5) to the County Commissioners. Commissioner Jorgensen seconded the motion and it passed unanimously.

C. Request by LeVaughn Gines for a Conditional Use Permit to establish a gravel pit with rock crusher on property located in Section 33, Township 1 South, Range 7 West, in the Tabiona area.

Mr. Hyde stated the applicants, who own and operate a concrete batch plant on Tabby Lane, northwest of Tabiona, are proposing to conduct gravel mining and rock crushing operations on one to two acres of an 80-acre parcel of land located north of Highway 35, about two miles east of Tabiona. This operation would supply sand and gravel for their concrete operation (sand and gravel is currently being trucked from Fruitland). This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone.

Mr. Hyde stated there are general criteria for granting a conditional use permit for gravel pits as follows.

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 zoning code contains a ¼ mile (1,320 foot) separation distance from rock crushers to residential units to help mitigate the public health, safety and welfare impacts of such operations (predominately noise and dust). In this case, according to the Duchesne County tax rolls, none of the properties within 1,320 feet of the subject parcel contain dwelling units. Some primary and secondary residential units are located about 4,300 feet to the southeast (owned by Delyle, Douglas and Dallas Giles). There are other residences located a similar distance to the southwest, near the Tabiona wastewater ponds and Highway 35. Because of the distance and if the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare. The site lies outside of drinking water source protection zones mapped by the Utah Division of Drinking Water. Truck traffic on the haul route can also cause public health, safety and welfare concerns. In this case, the gravel pit would be accessed from Highway 35 at County Road #234, also known as 36750 West. This county road traverses Indian land to the southwest corner of the Gines property. From there, the applicants would construct a private gravel road across their farm field to an existing bridge over an irrigation canal. Although loaded hay trucks have used this bridge historically, it is recommended that the applicant coordinate the proposed new use of this bridge crossing with the irrigation ditch owners and consult with an engineer to determine a load limit for the bridge.

Mr. Hyde referred the commission to a letter from Mr. John C. Green an attorney for Mr. Kennedy an adjoining property owner to the west who is concerned the dust will get on the crops he now has leased and is proposing the haul road is moved as far east as possible. Dust control along this haul route will be important to minimize dust impacts on irrigated crops.

The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.

Mr. Hyde stated 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 mining activity will support the construction industry, which is a very important component of the local economy.

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 one to two acres of an 80-acre parcel, where there is a rocky hill that would be leveled. This parcel is large enough and situated remote from developed areas so that detrimental impacts on other properties will be minimized. If standard conditions are imposed regarding noise and dust control, the proposed use will be acceptable at this location.

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

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 the pit and crusher must operate in accordance with Utah DEQ air quality standards, under a valid DEQ permit. Dust must be controlled at the pit site and along the haul route using water sprays on the crusher and water trucks, with water hauled from an approved source. A detailed dust control plan must be presented to the TriCounty Health Department for review and approval prior to starting 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 the bonding for two acres of disturbance would be \$8,000.00. A bond in the appropriate amount will need to be received by the County prior to the start of mining operations and maintained during the course of operations.

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 reconditioning must occur after the conclusion of mining operations on the site in accordance with the "Material Pit Finishing" standards.

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

Mr. Hyde stated the 1,320-foot rule is met in this case, with the nearest residential uses found being about 4,300 feet to the southeast and southwest of the site. 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). Crushing must be limited to those hours of operation.

Also, the Utah Department of Transportation has been given an opportunity to comment as has the Duchesne County Road Department. No comments have been received.

Mr. Hyde recommends that the Planning Commission approve the Conditional Use Permit requested by Crossroads Concrete, subject to the following 6 conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
 - a. A dust control plan, approved by the TriCounty Health Department prior to start of operations, shall be implemented throughout the course of the operations for the gravel pit site, the crusher and the haul route.
 - b. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance.
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 the site at the conclusion of mining operations in a manner acceptable to Duchesne County pursuant to the "Material Pit Finishing" standards.
4. Applicant shall provide the county with a copy of the DEQ air quality permit for the crusher prior to operations at this site. The requirements of the DEQ air quality permit shall also be requirements of the Conditional Use permit.
5. Applicant shall coordinate with the Duchesne County Road Department regarding the use of County Road #234 (36750 West) for the haul route; making sure that any damage to the road from increased truck traffic is repaired and that the road intersection with Highway 35 is improved, if necessary, to accommodate truck turning movements.
6. Applicant shall inform the irrigation canal representative of the proposed gravel truck use of the existing private canal bridge. It is recommended that the applicant have an engineer inspect the bridge to determine if it is adequate to support gravel truck loads.

Mr. Hyde read an e-mail from Larry Williams stating his concerns with an existing irrigation pipeline that services his property and that this mining operation could undercut his adjoining property.

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

Commissioner Sweat asked if the pipeline right of way is recorded. Mr. Hyde the concern is where it is on the ground but the right of way should be recorded.

Levaughn Gines, owner of Crossroads Concrete stated it is not feasible to build a road running along the east and south property lines next to the canal, he feels there is not enough base to make a good road, the other side is dry and they have good access. They have access to water trucks and if need be they will pump from the pond to keep the dust under control. Mr. Gines knows where the pipeline easement is that Mr. Williams is concerned about and will protect the line with a ramp or fill if need be. As to Mr. Williams second concern he feels that the excavation is far enough away from his property that should not be an issue.

Commissioner Sweat asked Mr. Gines whether this is for personal use or will Crossroads sell their product to the public. Mr. Gines replied he will sell if the demand is there and explained what he pays out for sand and gravel now, they should produce it themselves.

Commissioner Jorgensen and Mr. Gines had some discussion with the commission about where the expansion will be and where the property lines, canal and roads are.

Mr. Gines stated he will do what needs to be done to control the dust, protect the canal and try to keep the neighbors happy.

Commissioner Muir asked how many trips would be made on a daily basis. Mr. Gines was not sure at this time.

Commissioner Mair asked if there were any questions. There were none so the hearing was closed.

Mr. Hyde stated based on the testimony heard tonight, condition #6 should be changed to state *the applicant shall inform the Hicken irrigation ditch representative of the proposed gravel truck use of the existing private ditch culvert crossing. It is recommended that the applicant have an engineer inspect the culvert crossing to determine if it is adequate to support gravel truck loads. The applicant shall receive approval from the Jasper-Pike irrigation canal company of the plans for a new crossing of their canal and receive their written approval prior to use by gravel trucks.*

Commissioner Olsen motioned that the Planning Commission approve the Conditional Use Permit requested by Crossroads Concrete, subject to the five conditions stated in the staff report with #6 being modified as previously stated. Commissioner Burton seconded the motion and it passed unanimously.

Mr. Hyde stated there is a ten day appeal period before the conditional use permit is issued.

NEW BUSINESS:

None

Minutes: Approval of October 7, 2009

Commissioner Sweat moved to approve the minutes of October 7, 2009. Commissioner Olsen seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde informed the commission of a couple of items for the December 2nd meeting, and asked the commissioners to report on the meeting that was attended in October. The Commissioners reiterated how much they appreciate the work Mr. Hyde does before our planning meetings and that the October training session was worth attending.

Mr. Hyde also invited Scott Hacking to update the commission on the Uintah County and the BIA issues with their production water facilities. Uintah County is going to use Duchesne County's ordinance as a guideline. Mr. Hacking stated DOGM will be tightening up the rules and are forming a committee about doing a rules rewrite and invited the commission to be on the committee if they are interested. The BIA wants to help with the odor issues and stated the ponds are inactive right now since they had a failure and the tribe is hoping the operator will reclaim the site but stated there should not be any odors from this site at this time. Mr. Hacking stated in the future there should be more injection wells to slow down the need for production facilities.

Adjournment:

Meeting adjourned at 6:14 p.m.