

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

In Attendance were:

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

Visitors:

Joel Gines	Collett-CUP
Gary Mullins	Chapman-CUP
Junior Jessen	Chapman-CUP
Sam Brough	Chapman-CUP
Ryan Chapman	Chapman-CUP
Clark Jensen	KW Robinson-Gravel Pit
Chris Chapman	Chapman-CUP
Tim Engle	KW Robinson-Gravel Pit
Gene Banks	KW Robinson-Gravel Pit
Laura Jensen	KW Robinson-Gravel Pit
Craig Collett	Collett-CUP
Toni Collett	Collett-CUP
Dale Rasmussen	ITL-Evaporation Ponds
Becky Rasmussen	ITL-Evaporation Ponds
Todd Bro	ITL-Evaporation Ponds
Scott Hacking	DEQ
Kendelin Newton	Collett-CUP
Paul Garrett	
Larry Defa	
Sheila Defa	
Les R. Loran	
Luke Defa	Chapman-CUP
Manuel Cardona	KW Robinson-Gravel Pit
Shelby Cardona	KW Robinson-Gravel Pit
Merrill Dalling	ITL-Evaporation Ponds

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.

PUBLIC HEARINGS:

- A. Continuation of public hearing on review of the Conditional Use Permit granted August 6, 2008 to Todd Bro, Iowa Tanklines Water Recovery, 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 referred the Planning Commission to the report dated August 25, 2009, stating a conditional use permit was granted to Iowa Tanklines on August 6, 2008 subject to three conditions, the third one stating, *after operations begin, the applicants agree to take prompt action to control and eliminate odors if the county receives complaints.* Mr. Hyde stated the county has received many complaints starting in mid May and continuing until July 1, 2009 when the Planning Commission passed the following motion.

That the public hearing be recessed to August 5, 2009 at 5:00 PM. The applicant shall immediately provide the county with an 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 an 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.

Mr. Hyde stated since that time there have been minimal complaints until the end of August when the odors started again, not necessarily being from the ITL ponds.

Mr. Hyde stated it appears that Iowa Tanklines has successfully addressed their odor problems and recommends the Planning Commission close the public hearing and find the applicant to be in compliance with the terms of the conditional use permit.

Mr. Hyde stated the recent complaints are from the RNI facility to the west. With minimal water at this point it is hard to circulate the remaining water and recommends the Planning Commission open a hearing on October 7, 2009 to determine if RNI is in compliance with their permit.

Commissioner Mair asked if there were any questions. There were none. The applicant was asked to speak, he declined. Commissioner Mair asked if there were any other questions or comments.

Dale Rasmussen, a Pleasant Valley resident, stated they have some concerns about

the recent odors and feels like they are not coming from the ITL ponds but they were coming from the RNI ponds. Mr. Rasmussen stated the residents in the area do not want to smell the odors for another 60 days until some action is taken against RNI.

Commissioner Olsen asked Mr. Rasmussen about the different odors. Mr. Rasmussen stated there was a musty smell at ITL and a definite produced water odor from RNI.

Commissioner Sweat asked Mr. Rasmussen if he feels that Iowa Tanklines has taken care of their odor problems. Mr. Rasmussen replied yes and thanked Mr. Bro for his efforts and concerns in taking care of the problem.

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

Commissioner Jorgensen motioned to close the public hearing and commended ITL for taking prompt action to control and eliminate odors. Commissioner Olsen seconded the motion and it passed unanimously.

Commissioner Sweat motioned to schedule a hearing on October 7, 2009 for reviewing compliance at the RNI ponds. Commissioner Peatross seconded the motion and it passed unanimously.

- B. Request for a Conditional Use Permit by Nile Chapman Construction to extract earth products (gravel pit and rock crusher) on an 80-acre site located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 9, Township 1 South, Range 8 West, on the Tabby Swale Road northwest of Hanna.

Mr. Hyde stated to the Planning Commission at the August 5, 2009 meeting the applicants had requested a zone change from A2.5 to A5 zone. In a 4-3, vote the Planning Commission recommended the County Commissioners approve the rezone application. On August 17, 2009 the Commissioners recessed the hearing until August 31, 2009 so they could conduct a site visit. On August 24, the commissioners had a site tour and resumed the hearing on August 31. With a unanimous vote, the rezone passed.

Mr. Hyde stated the applicants are proposing to conduct gravel mining and rock crushing operations on 40 acres of an 80-acre site located on the Tabby Swale Road. The operation will provide gravel for use by the property owner on nearby roads and for sale. This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone. The rezoning of the subject site from A2.5 to A5 was approved by the Duchesne County Commissioners on August 31, 2009. Mr. Hyde referred the planning commission to the aerial photos in their packets showing the site and the proposed location of the crusher.

Mr. Hyde stated there are general use criteria for granting the conditional use permit for gravel pits are 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, the closest residence is located on the Iverson property, about 1,320 feet from the north boundary of the proposed gravel pit and about 2,120 feet from the NE corner of the proposed crusher site, as shown on the aerial photos and the site plan. 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 any drinking water source protection zones, according to Utah Division of Drinking Water maps.

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 a 40-acre parcel, with the first phase taking place on five acres on the south side of the parcel. 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.

Hr. Hyde stated there are some special conditions for granting a conditional Use Permit for the extraction of earth products; they are 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 the applicants indicate that the pit and crusher will operate in accordance with Utah DEQ air quality standards, under a valid DEQ permit. Dust will be controlled using water sprays on the crusher and water trucks, with water hauled from an approved source. The 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 represented to the Planning Commission for a new Conditional Use Permit and the enlargement or modification is approved.

Mr. Hyde stated the bonding for 5 acres of disturbance would be \$17,000.00. The applicant plans to consecutively disturb and reclaim five acre sections of the 40-acre parcel, reducing overall bonding costs. 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" standard.

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 over ¼ mile to the north of the site and significantly lower in elevation. 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). The applicant proposes operating hours of 6:00 AM to 10:00 PM. If noise complaints are received, the applicant will be required to comply with the time limits for construction set forth in the Nuisance Ordinance.

Mr. Hyde indicated The Utah Division of Oil, Gas and Mining has indicated that their office does not regulate this type of mining. The Duchesne County Road Department has indicated if the permit is approved the applicants will need to enter into an agreement with them to make any necessary improvements for the increased truck traffic. A copy of the UDOT Bridge Sufficiency Rating for the bridge on the Tabby Swale Road has been obtained by the road department. The bridge has a rating of 64.6, which is in the "fair" category and qualifies the bridge for rehabilitation funding. UDOT indicates that the bridge has never been load rated and recommends that an engineer study the bridge and assign

a load rating before any additional truck traffic is added to the bridge.

Mr. Hyde recommended that if the Planning Commission approve the Conditional Use Permit requested by Nile Chapman Construction, Inc., that the approval be 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 implemented throughout the course of the operations.
 - b. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance if complaints are received about the 6:00 AM to 10:00 PM operating hours proposed.
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 and the property owner 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 provide the county with a load rating analysis for the Tabby Swale Road Bridge over the Duchesne River prior to beginning mining operations. No mining operations shall commence until it is demonstrated by a registered professional engineer that the bridge can support normal loads associated with gravel transport trucks and trailers or until the bridge is upgraded to support such loads.
6. Prior to beginning mining operation, the applicant shall enter into an agreement with the Duchesne County Road Department to ensure that the Tabby Swale Road is improved to safely accommodate gravel truck traffic and maintained in a condition acceptable to the Duchesne County Public Works Director during the course of operations.

Mr. Hyde stated after the hearing if the Planning Commission has reason to deny the request, the findings for denial are prepared. He explained the differences contained in the staff report.

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

Commissioner Mair asked Mr. Hyde if the engineering study would include traffic going in the location as well as leaving the location. Mr. Hyde replied the study would be done before any operations started to determine the load limit.

Commissioner Fabrizio asked how old the bridge was. Mr. Hyde replied the UDOT report stated the bridge was built in 1965.

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

Ryan Chapman, Nile Chapman Construction representative, stated most of the gravel produced will stay on the Whisper Canyon properties pending the bridge issues and if requested by the local community will be sold and transported to different sites.

Commissioner Sweat asked Mr. Chapman if they sold gravel commercially would they be the only trucks using the roads. Mr. Chapman replied if the buyer wanted to haul their own gravel they would allow that.

Commissioner Mair asked if there were any other comments.

Luke Defa, Hanna resident, stated he works for Chapman Construction and uses the road for his logging company on a daily basis and has used it for seven or eight years. Mr. Defa stated the need for a gravel company in the area and his concerns about the narrow bridge together with the dust issues, but feels that the applicant will address each issue as it arises.

Commissioner Mair asked if there were any comments in opposition.

Mr. Hyde stated Alan White is an owner of property to the north of this location and wanted Mr. Hyde to reiterate his comments and concerns from the minutes of the Duchesne County Commission meeting held on August 17, 2009.

Commissioner Sweat asked if Mr. White had any land for sale now or is it just speculation at this time. Mr. Hyde stated he did not notice any for sale signs.

Commissioner Fabrizio stated her concerns for the land owners and the narrow road together with the increased traffic to the area.

Mr. Hyde stated the Planning Commission has the option, if their concerns are not met in the conditions for approval they can motion for a denial of the applicant's request.

Commissioner Sweat asked Mr. Chapman if there has been any preliminary testing to see if there is any gravel at this site. Mr. Chapman replied yes there was enough for their needs.

Commissioner Olsen asked Mr. Chapman if Mr. White was the previous owner of this site. Mr. Chapman stated he was the owner of this site and the other Whisper Canyon property.

Commissioner Fabrizio stated her concerns to Mr. Chapman regarding the narrow one way road and bridge going to and from this location. Mr. Chapman stated in conjunction with the county road department there would need to be signs put up in the area for the increased traffic.

Commissioner Mair asked if the applicant was intending to operate year round. Mr. Chapman stated they would crush and stockpile the product a few months in the winter.

Commissioner Fabrizio asked why the earlier starting hours. Mr. Chapman stated that was not necessary.

Commissioner Jorgensen asked if this 80 acres was the only property owned by the applicant and why another location could not be used. Mr. Chapman stated it was not but the gravel source is not there.

There was some discussion with the Planning Commissioners and Mr. Hyde as to Mr. White's refusal to give any additional right of way to the site and the concerns of the narrow bridge together with the one lane road.

Commissioner Jorgensen asked Mr. Chapman what the gravel will be used for and is there any planned development. Mr. Chapman stated there is not any development planned and the gravel will be used for the roads through out the Whisper Canyon properties.

Commissioner Peatross stated his concerns with the gravel pit but since the rezone was approved he feels that the conditional use permit process should move on.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Nile Chapman Construction subject to the six conditions stated in the staff report. Commissioner Peatross seconded the motion. Commissioners Jorgensen and Olsen voted yes, Commissioner Fabrizio voted no and Commissioner Mair abstained from the vote.

C. Request by K. W. Robinson Construction for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) on a portion of a 40-acre parcel located at 6206 South Highway 87, on the Blue Bench north of Duchesne.

Mr. Hyde referred the Planning Commission to some aerial photos in their packets, stating the applicants are proposing to conduct gravel mining and rock crushing operations on a portion of a 40-acre parcel located on the west side of Highway 87, between the Hidden Hollow Road and 6000 South, on the Blue Bench, north of Duchesne. The southerly ten acres is fenced for a construction equipment yard and shop. The applicant would like the flexibility to mine the northerly 30 acres, with about five acres in the northwest corner of the

property used initially. The main purpose for the operation is to supply road base for the construction equipment yard and to improve roads on other property in the county owned by the applicant. Commercial sales are a secondary consideration. This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone.

Mr. Hyde stated there are some special conditions for granting a conditional Use Permit for the extraction of earth products; they are 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, the closest residences are located on the Lupold, Williford and Cardona properties, all of which are within ¼ mile of the boundaries of the applicant's property, as shown on the aerial photos. If the crusher is set back at least ¼ mile from these dwellings (by being placed in the northwest portion of the property) and the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare.

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.

Mr. Hyde stated there are special minimum conditions for the extraction of earth products, they are 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 the pit and crusher must operate in accordance with Utah DEQ air quality standards, under a valid DEQ permit. Dust must be controlled using water sprays on the crusher and water trucks, with water hauled from an approved source. The 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 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 can be met in this case, if the crusher is located in the northwest portion of the applicant's property, outside of the ¼ mile arcs extending from the Lupold, Williford and Cardona residences. 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). The applicant proposes operating hours of 7:00 AM to 5:00 PM on weekdays. These hours are within acceptable limits.

Mr. Hyde stated the applicant will not be using a county road, but will use Highway 87. The Utah Department of Transportation was asked to comment regarding the use of the Highway 87 access point for this purpose. A reply on August 20, 2009 indicated no objection to expanding the use of the existing access point to serve a gravel operation.

Mr. Hyde stated after the hearing if the Planning Commission has reason to deny the request, the findings for denial are prepared. He explained the differences contained in the staff report.

Mr. Hyde recommended that if the Planning Commission approves the Conditional Use Permit requested by K.W. Robinson Construction, that the approval be 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 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 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.

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

Commissioner Sweat asked Mr. Hyde what the hours of operation would be. Mr. Hyde stated in the conditions for approval the applicant will comply with the nuisance ordinance.

Commissioner Mair asked how will the applicant maintain the crusher in the designated area. Mr. Hyde replied the applicants have the ability on the north side with 670 feet and the west side with 450 feet, they will have to abide by that type of area. Mr. Hyde stated the applicants will have to leave the crusher in the northwest corner to abide by the ¼ mile setback and will have to control dust on all 30 acres not just the crusher site.

There was some discussion with the commission on the locations of the residents surrounding the applicant.

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

Jared Robinson a representative of K.W. Robinson Construction stated he agreed with the staff report, also the applicants will be using the gravel for road base around the shop and other properties they own in Duchesne and Uintah Counties.

Commissioner Sweat asked if this will be for personal use or will it be commercial. Mr. Robinson stated there will be no commercial sales at this time.

Commissioner Olsen asked Mr. Robinson where their other properties are. Mr. Robinson replied in Boneta and Clay Basin.

Mr. Hyde asked if they had operated crushers in the past and if they have access to water. Mr. Robinson stated they will get a hookup from East Duchesne Water.

Commissioner Jorgensed asked if they have water trucks. Mr. Robinson stated they have water trucks on site.

Commissioner Mair asked if the crusher will be on site for an extended period of time.

Mr. Robinson stated it is a mobile crusher they need approximately 10-15 thousand tons of base and are hoping it will only take a month or so.

Commissioner Fabrizio asked the size of the crusher. Mr. Robinson replied it will be on a low boy with a three way screen and crushes about 50-100 ton per hour. The carriage can sit on a 50-60,000 pound trac hoe.

Mr. Hyde stated the applicants have 40 acres total and are asking that the northerly 30 acres be mined beginning with a 5 acre site. He asked how long will it take to mine the 5 acre site. Mr. Robinson stated he was not sure at this time.

Commissioner Mair asked if there were any other questions. There were none so any one wishing to speak in opposition of this proposal was invited to speak.

Gary Mullins, a Blue Bench resident, stated his concerns about the winds and the dust that will be created by the gravel site, he is on oxygen and is totally opposed to the approval of this conditional use permit in this area.

Commissioner Jorgensen asked where his home is located. Mr. Mullins stated the first house south of the Moon Lake Electric substation.

Clark Jensen, a Blue Bench resident, stated his concerns about the resale value of his home which his acreage extends up the hill and will be within the ¼ mile setback. Mr. Jensen stated he already has issues with the JRJ pit to the south of his property and does not think we need 2 pits that close together and is opposed to the approval of the permit.

Gene Banks, a Blue Bench resident, lives two homes from the proposed site. He is on oxygen full time and is concerned about the dust, increased traffic along with the drop in property values. Mr. Banks stated he has concerns with the dust and noise from the JRJ gravel pit that the residents already have to deal with.

David Lupold, a Blue Bench resident stated his concerns with the dust also. This will make three pits in the area with the JRJ pit and the Lex Fabrizio pit across the highway from his home. He is opposed to the approval of the conditional use permit.

Shelby Cardona, a Blue Bench resident, moved here because it is a beautiful area and feels that a crusher will not make it better. Also, stating her concerns about the dust and noise from the JRJ site and feels that one more pit will make matters worse. Mrs. Cardona wonders about the regulations for the applicant and who monitors if they are staying within the ¼ mile setbacks and complying with the regulations. She is opposed to the approval of the permit.

Randy Harrison, property owner with a rental on Blue Bench, stated his concerns about the dust, resale values on the property in the area and is opposed to the crusher.

Tim Engle, a Blue Bench resident, stated he has the same concerns about the dust and traffic issues together with the dust from the Fabrizio gravel pit across the street the area does not need another gravel pit next to our homes.

Bob Newland, a Blue Bench resident, stated his concerns with the economy, should he have to sell his property and this would make the value of his property decrease. The increased dust and wind on Blue Bench is a concern also. Mr. Newland is opposed to the permit being approved.

Commissioner Peatross asked Mr. Hyde if there had been any complaints on the JRJ site. Mr. Hyde stated that permit is old and does not have the standards that the newer permits do leaving the enforcement of dust control to the Utah DEQ. Commissioner Fabrizio stated she has seen water trucks at the JRJ site because of the wind and dry conditions it is hard to keep the dust under control.

Scott Hacking, District Engineer for the Utah DEQ, stated they have had complaints on the JRJ site but by the time the inspectors visit the site after the complaint either the wind is not blowing or they have watered the pit area. Mr. Hacking has seen the dust and is surprised there are not more complaints.

Commissioner Sweat asked if it is possible to control dust from a gravel pit and does the wind blow more on Blue Bench than other areas. Mr. Hacking stated it is hard to suppress the dust on any new disturbance especially on Blue Bench where the wind blows all the time.

Commissioner Peatross had some comments on the dust and resale value at this site with so many residents within the ¼ mile setback. Commissioner Fabrizio stated the wind is exceptional on the Blue Bench.

Commissioner Mair asked the applicant if he wanted to speak in rebuttal.

Mr. Robinson stated he does understand the concerns the residents have due to the small area involved. This is a small scale, portable and temporary operation. The applicant had hoped with the crusher off the hill and the graveled roads the dust could be controlled.

Mr. Hyde asked Mr. Robinson if they would be willing to scale their operation back to a smaller site instead of the 30 acres applied for. Mr. Robinson stated this is just for their personal property so a smaller parcel would work. Mr. Hyde asked how many total disturbed acres would you want for your personal needs. Mr. Robinson stated approximately 10-15 acres. It will be a dusty process whether we crush our own or haul the product to the site.

Mr. Hyde stated the Planning and Zoning Department and the Commission does their best to enforce the terms of the permits.

Commissioner Jorgensen motioned to deny the Conditional Use permit requested by K. W. Robinson Construction. Commissioner Fabrizio seconded the motion and it passed unanimously.

Mr. Hyde stated to the applicant this decision can be appealed to the Duchesne County Commissioners within 10 days.

- D. Request by Toni and Craig Collette for a Conditional Use Permit operate a commercial use (catering kitchen with pizza and ice cream shop) on a 3.19 acre parcel at 42296 West Highway 35 in the Hanna area.

Mr. Hyde stated the applicants are proposing to establish a commercial use (catering kitchen with pizza and ice cream shop) on their 3.19-acre parcel located on the north side

of Highway 35, northwest of Hanna. Such proposed uses require a conditional use permit in the R-1 zone.

Mr. Hyde referred the planning commission to the photos in their packets and stated the applicants already have a new building on the property which is for storage only at this time. If the conditional Use Permit is approved the applicants will have to apply for a new building permit to convert the building for commercial use.

Mr. Hyde stated the criteria for granting a Conditional Use Permit are 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 TriCounty Health Department has issued approval of the food establishment plans by letter dated July 10, 2009. This letter covers proposed improvements on the interior of the new building but does not address wastewater system improvements that are required to handle the new use. A new culinary water connection will provide safe drinking water to the public patronizing the business. UDOT has reviewed and approved the driveway from Highway 35 to ensure safe ingress and egress. If the conditions of approval are met, the proposed use will not be detrimental to public health, safety or general welfare. This notion is supported by a petition submitted by the applicant containing signatures of eleven residents/owners in the vicinity expressing support of the application.

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 states that future growth and development decisions should be made with sensitivity to rural residential/agricultural interests. The plan indicates that the county wishes to encourage business activity and that the county will support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. In light of these plan policies, the Conditional Use request should be approved to support the creation of a new business site, knowing that conditions of approval will be imposed to protect rural residential and agricultural interests in the area.

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 that if the conditions of the permit are met, the 3.19-acre parcel is of sufficient size to permit the conduct of the business in a manner that will not be materially detrimental to surrounding properties.

Mr. Hyde stated there are some other conditions that may apply to granting a conditional use permit they are as follows;

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

Mr. Hyde stated the applicant has indicated the landscaping will include pine trees, large rocks and flowering plants. Such landscaping will need to be completed prior to the issuance of a Certificate of Occupancy for the building, unless bonding is provided to guarantee installation of such improvements within a reasonable time. In your packets there are some photos the applicant has provided to the commission to show the design of the proposed landscape.

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

Mr. Hyde stated the zoning ordinance requires off-street parking for eating and drinking establishments at the rate of one space per four seats. The floor plan of the business shows 24 seats. Thus, 6 parking spaces are required. The site plan indicates that there is an area 64 feet wide available for parking in front of the new building. Since parking spaces must be at least nine feet wide, this will accommodate 7 vehicles. Handicap parking standards of the building code must be met. The driveway will need to be designed so that patrons are not required to back onto Highway 35 to leave the site. The building lies a sufficient distance from Highway 35 to allow for this. Parking and driveway surfaces are required to be "surfaced with asphalt, concrete or other durable and dustless surface and shall have appropriate bumper guards or curbs where needed, as determined by the Community Development Director...". All parking and driveway improvements must be completed prior to the issuance of a Certificate of Occupancy, unless bonding is provided to guarantee installation of such improvements within a reasonable time. The applicants plan to begin with a gravel parking and driving surface, with paving a possibility for the future.

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

Mr. Hyde stated the property has frontage on Highway 35, which has adequate right of way width and improvements. On August 12, 2009, Region 3 UDOT approved the applicant's permit to utilize the existing driveway to access the business.

The property is currently served by a spring water source. To accommodate the business, the applicants purchased a Hanna Water connection on August 4, 2009. The TriCounty Health Department indicates that the sewage disposal system on the property will either need to be enlarged or a separate wastewater system installed to

serve the new use. Completion of the culinary water connection and health department approval will be required prior to the issuance of a certificate of occupancy for the building.

The Fire Department and the Hanna Water District indicate that the nearest fire hydrant is located approximately 2,700 feet away from this property. Consequently, a new fire hydrant will need to be installed, at the expense of the applicant, at a location approved by the Fire Department, prior to the issuance of a certificate of occupancy for the building. The location must be within 400 feet of the proposed business site.

Regulation of signs.

Mr. Hyde stated the applicant has not presented sign plans. Due to the residential-agricultural nature of the vicinity, signs should be limited to a size and design that helps maintain the rural character. No signs exceeding 32 square feet or with internal illumination should be allowed.

The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro-magnetic disturbances and radiation.

Mr. Hyde stated this type of business is not anticipated to create such nuisance factors.

The regulation of operating hours for activities affecting normal schedules and functions.

Mr. Hyde stated the applicant indicates that the summer operating hours at the facility will be Monday thru Saturday 11:00 AM to 8:00 PM. Such hours would not interfere with normal residential-agricultural activities in the area. Winter hours may be different as fewer people are visiting the area during winter.

Mr. Hyde stated it is his recommendation to the Planning Commission to approve the Conditional Use Permit requested by Toni and Craig Collett, subject to the following conditions:

1. Prior to opening for business, the applicants shall:
 - a. Install the required fire hydrant.
 - b. Obtain approval to operate from the TriCounty Health Department.
 - c. Install parking, driveway and landscaping improvements or post a bond to guarantee installation of such improvements.
 - d. Obtain a certificate of occupancy from the Building Department.
 - e. Obtain a county business license.
2. Business signs shall be limited to 32 square feet in size and shall be non-illuminated.
3. Off street parking shall be provided at the rate of one space per four seats.

4. Parking and driving areas shall be maintained in a dust-free condition.

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

Commissioner Sweat stated there is some confusion between the names on the permit. Is it TK Cowgirls or Sandstone Pizza and Catering. Mr. Hyde stated the health department issued the permit under a previous business name.

Commissioner Sweat also inquired about the power right of way. Mr. Hyde stated the minimum setback is 10 feet the building is 27 feet from center of powerline.

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

Craig Collett, owner of Sandstone Pizza and Catering want to open the business for the residents of Tabiona, to have the ability for a second income for the family, help the community and maybe supply a couple of jobs to the residents. He also stated that Moon Lake Electric told Mr. Collett where the building could be located in relation to the powerlines I just added a few feet. Mr. Collett stated they just want to do something positive for the community.

Commissioner Sweat asked Mr. Collett if the building meets the code for food processing. Mr. Collett replied yes after talking with TriCounty Health it will meet the codes for commercial use. Mr. Hyde stated Tri County has approved their plans but there will be a final inspection before they can start preparing food.

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

Joel Gines, a Tabiona resident, has some personal concerns and issues with the Collett's. Mr. Gines is opposed to the approval of the conditional use permit.

Kendalyn Newton stated she is in favor of the CUP. She stated Mrs. Collett is hoping to invest in the future of the Tabiona area.

Mr. Hyde referred the Planning Commission to a letter from Tony and Mary Ellen Hardman stating their concerns on the approval of the Conditional Use Permit.

There was some discussion between the Planning Commission and Mr. Hyde about the criteria for approval and not being concerned with the building and expense of operating a commercial business.

Toni Collett, owner of Sandstone Pizza and Catering, is concerned about the expense of owning and operating a business but feels that it is an investment in and for the community.

Commissioner Peatross motioned to approve the Conditional Use Permit requested by Toni and Craig Collett, subject to conditions 1-4 as stated in the staff report.

Commissioner Jorgensen seconded the motion and it passed unanimously.

Mr. Hyde stated there is a 10 day appeal period for any one opposed to the approval of the Conditional Use Permit.

NEW BUSINESS:

October 7th the hearing for RNI evaporation ponds.

Minutes: Approval of August 5, 2009

Commissioner Sweat moved to approve the minutes of August 5, 2009. Commissioner Olsen seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

There was some discussion on the Tabby Swale rezone hearing.

Adjournment:

Meeting adjourned at 7:15 p.m.