

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
October 6, 2010 - 5:00 p.m.**

**In Attendance were:**

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

**Visitors:**

Jason Danley	
Eddie Furrh	Horrocks-CUP
Josie Horrocks	Horrocks-CUP
Monte Horrocks	Horrocks-CUP
Bud Wess	Horrocks-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.

**PUBLIC HEARINGS:**

- A. Request for a Conditional Use Permit by Todd and Russell Moon for extraction of earth products (gravel pit and rock crusher) located at approximately 11740 South Antelope Canyon Road, in the south half of Section 17, Township 4 South, Range 3 West.**

Mr. Hyde referred the commission to the photos in their packets and stated the applicants are applying for this permit to authorize a gravel pit and rock crushing operation on the property. Extraction of earth products is a conditionally permitted use in the A-5 zone. Mr. Hyde also stated there are criteria for granting a conditional use permit, they are as follows.

- 1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity**

**and will not be detrimental to the public health, safety or general welfare.**

Mr. Hyde explained extraction of earth products can be detrimental in terms of noise and dust during operations. Rock crushing and 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.

**2. 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 excavation of earth products and rock crushing will support the construction and oil & gas industries in the county, which are an important part of the local economy.

**3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.**

Mr. Hyde stated the proposed mining will take place on a portion of a 260.34-acre parcel. The actual area to be mined covers about 20 acres. The nearest dwelling unit (Ewell) is under construction about one half mile to the east of the easternmost location of the mining. The size of the property and location away from dwelling units, together with anticipated conditions of approval, enables the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Some special minimum conditions for extraction of earth products are:

- 1. Must be maintained in a near dust-free condition. A dust control plan shall be provided 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 by the applicant to the TriCounty Health Department for review and approval. The plan must indicate what equipment will be available to control dust at the pit and document a source of water for dust suppression. Health Department approval of the dust control plan must be provided to the County prior to the start of operations. In addition, the applicant must demonstrate that the crusher has a valid DEQ air quality permit.

With gravel pits, haul roads between the pit and the nearest paved County Road generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. In this case, there is a new dwelling being constructed on the east side of the Antelope Canyon Road that is located about 1,100 feet north of the existing access location. The actual improved access location may need to be shifted northerly 300 to 400 feet toward this house to move away from a blind corner. However, required dust control efforts will mitigate dust impacts at the nearest residence. It is anticipated that gravel products from this location will head both north and south to new oil well locations in the area.

- 2. 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 approximately 20 acres of the 260.34-acre parcel is anticipated to be mined, it is doubtful that the entire area will be mined all at once. The operator of the facility will need to provide bonding in accordance with the formula noted above based on the actual amount of surface disturbance at any one time, prior to the start of operations.

- 3. 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" are used by the County to determine how reconditioning is to be accomplished. The applicant shall be subject to these standards for each phase of the operation before a new phase is opened and at the time of completion of extraction and crushing operations on the property.

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

Mr. Hyde explained the nearest homes are located about a half mile away to the east. The ¼ mile setback requirement is met and the applicant must comply with the county nuisance ordinance regarding noise.

The request has been submitted to the Duchesne County Road Department for review and comment. Before a new driveway access is constructed, an access permit will be required by the Duchesne County Road Department. The new driveway will need to be located a sufficient distance away from a blind corner on the road. The Antelope Canyon Road was paved about four years ago to serve heavy truck traffic associated with the oilfield.

Mr. Hyde recommends that the Planning Commission approve the Conditional Use Permit requested by Todd and Russell Moon, subject to the following conditions:

1. Applicants and their agent(s) 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 before crushing begins and shall be implemented throughout the course of the operations. Dust control agents shall be applied at the gravel pit and on the road between the Antelope Canyon Road and the pit.
  - b. Applicants and their agent(s) shall comply with the construction activity noise time limits of the Nuisance Ordinance.
  - c. Applicants and their agent(s) shall ensure that the crusher operates under a valid DEQ air quality permit.
2. Applicants and their agent(s) shall reclaim the property at the conclusion of each phase of mining operations in accordance with the county's "Material Pit Finishing Standards".
3. Applicants or their agent(s) shall provide the county bonding in the amount of \$5,000.00 for the first acre and \$3,000.00 per additional acre of disturbance prior to commencing mining operations.
4. Before constructing any new driveway to the Antelope Canyon Road, the applicant or agent(s) shall obtain a road approach permit from the Duchesne County Road Department.

Mr. Hyde asked if there were any questions of the staff report. There were none and no one appeared to speak in favor of or against the request so the hearing was closed. Mr. Hyde stated our department has not received any comments concerning the gravel pit.

Commissioner Olsen motioned that the Planning Commission approve the Conditional Use Permit requested by Todd and Russell Moon, subject to the conditions stated in

the staff report. Commissioner Fabrizio seconded the motion and passed unanimously.

**NEW BUSINESS:**

**A. Review Conditional Use Permit issued March 3, 2010 for Monty Horrocks' trucking business (M.J. Hauling) to assess compliance with the conditions of approval.**

Mr. Hyde stated On March 3, 2010, the Duchesne County Planning Commission granted Monte Horrocks a Conditional Use Permit to operate a trucking business from his home at 2553 W 3000 North, subject to the following conditions:

1. All inoperable equipment shall be removed from the property, stored behind a sight-obscuring fence or housed inside an enclosed building by August 31, 2010.
2. All fueling facilities shall be upgraded to Fire Code standards or removed from the property by August 31, 2010.
3. Equipment noise shall be limited to the hours set forth in the county Nuisance Ordinance (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).
4. Applicant shall take precautions to prevent or minimize dust by application of dust inhibitors to driving surfaces, maintaining low speeds on gravel surfaces or through other means.
5. No truck washing shall occur on the property unless approved by the TriCounty Health Department (contact Darrin Brown at 247-1163 in Vernal).
6. No processing of dirt or rock for resale shall occur on the property.

Mr. Hyde stated after he inspected the applicant's property on September 10, 2010 to determine if the conditions of approval have been met. Mr. Hyde referred the commission to the photos in their packets taken that day. The results of this inspection are as follows:

**Condition #1.** Photo #1 shows a methane tanker truck that had the engine removed. I presume that this engine is being replaced soon so the truck is ready for the winter methane season. All of the vehicles in Photos #2 and #3 appear to be operable. In Photo #5, the old Levitz Furniture moving truck does not appear to be operable. In Photo #6, old tires and wheels are being left on the property, which is contrary to the county's solid waste ordinance. Photo #7 shows a pickup truck and a backhoe that appear inoperable. The orange semi-tractor in Photo #8 is not operable; nor is the red and white semi-tractor in Photo #9. Based on this observation, it appears that the business is not in compliance with Condition #1 of the conditional use permit.

**Condition #2.** The larger of the two fuel tanks and the fuel pumps have been removed. The applicant has been requested to provide the county with the size of the fuel storage tank (in gallons) so we can determine if it complies with the Fire Code.

This tank is shown in Photo #4.

Mr. Hyde stated as to condition #3, there have not been any complaints due to the noise, condition #4- they have applied some rotomill on the driving surfaces, condition #5- TriCounty Health has authorized the truck washing activities at this location and condition #6- there is no evidence of the processing of dirt or rock for resale on the property.

Based on these findings MJ Hauling is not in compliance with Condition #1 of their Conditional Use Permit due to the presence of inoperable vehicles and equipment on the property that is not stored behind a sight-obscuring fence or housed inside an enclosed building. MJ Hauling may or may not be in compliance with Condition #2, depending on the size of the above-ground fuel tank on the property. Mr. Hyde stated although this is not a public hearing the surrounding property owners have been invited to this review and both parties will have an opportunity to speak.

Mr. Hyde asked if there are any questions.

Commissioner Jorgensen asked what is the gallon limit for fuel storage before a permit is required by the fire code. Mr. Hyde stated it is 300 gallons according to Emergency Management.

Commissioner Burton asked Mr. Hyde if the overall appearance was better as of the August 31<sup>st</sup> deadline. Mr. Hyde replied generally yes but there is still more work that needs to be done.

Mr. Hyde asked if there were any other questions. There were none so the applicants were invited to speak.

Josie Horrocks, MJ Hauling gave the commission some photos of the home and shop site showing what can be seen from the road stating the only piece of equipment that is not operable is the red and white semi and the tires were to be hauled off last month but there was an emergency with Mr. Horrocks so GCR will be at the shop at the end of November to pick up the tires for recapping.

Commissioner Fabrizio asked how many gallons does the fuel tank hold and if the Leavitt's truck runs. Mrs. Horrocks stated the tank is 300 gallons but has been empty for a long time and the truck does run but is parked at the side of the shop for parts storage.

There was some discussion between the commission and Mrs. Horrocks about the used tires and rims, the non-running semi and unused equipment should be behind the shop or behind a fence as the commission required for their permit.

Eddie Furrh, adjoining property owner, is pleased with the progress the Horrocks have made, but is concerned with the dirt fence that is blocking the subdivision road on the

east side of the property blocking access to his property to the back.

There was some discussion with the commission and Mr. Furrh on the road right of way, property ownership and access issues. The Horrocks were advised not to excavate or pile material in the road right of way unless permission is received from the road department.

Bud Wess, adjoining property owner, stated Mr. Horrocks has cleaned up the shop and yard location over all it looks a lot better than a few months ago. Mr. Hyde asked if there were any issues with the dust, noise, or hours of operation. Mr. Wess stated it is a trucking business they do work long hours but the noise and dust are not a problem for him.

Mr. Hyde asked Mr. Furrh if he had any issues with dust, noise and hours of operation at the Horrocks business. Mr. Furrh replied he has no complaints other than the dirt wall and access to his property.

Commissioner Mair asked if there were any questions.

Commissioner Peatross stated if the tires are to be hauled off and the access to Mr. Furrh's property is accessible, the planning commission should monitor the situation and check with the Horrocks in a few months.

Commissioner Fabrizio stated the fuel tank does need to be moved.

Commissioner Peatross motioned that after review and discussion, the Planning Commission found that the applicant MJ Hauling is in substantial compliance with the terms of their permit; provided they have the old tires removed from the property by November 30, 2010. Since the remaining fuel tank is not in use and is 300 gallons in size, it is not in violation of the fire code. Commissioner Jorgensen seconded the motion and it passed unanimously.

At this time Mr. Hyde requested the Planning Commission move to item C. under new business until the work meeting begins.

**B. Work Session with the Duchesne County Commissioners regarding a potential amendment of the Duchesne County Zoning Ordinance regarding Sexually Oriented Businesses.**

**C. Review potential amendments to the Duchesne County Zoning Ordinance regarding labor camps, oil and gas drilling and other matters.**

Mr. Hyde stated the County is proposing an amendment to the zoning ordinance as to Labor camps and their regulation. As of now the Tri County Health enforces the rules not the county, these changes would be similar to Uintah County's ordinances. The other proposal is with the expansion of oil and gas locations, their facilities in the county

and the proximity to residential areas. Mr. Hyde stated the changes would include minimizing damage to agricultural lands and irrigation systems, monitoring hazardous materials, having electric engines or muffling gas engines, painting the tanks to blend with the surroundings in the area, changing the distance from dwellings with possible fencing, requiring a plan for reclamation and having approval by the zoning administrator, access roads to accommodate heavy truck traffic and having portable toilets at active drilling sites.

Mr. Hyde stated Newfield has provided the commission with some comments stating the county has no jurisdiction on oilfield locations and they are exempted from the clean water act. Mr. Hyde has asked the attorney general to make a ruling regarding the county's ability to regulate oil and gas development.

There was some discussion with the commissioners about the oil companies and their responsibilities to the land owners and the mineral owners.

Mr. Hyde stated there is still some work that needs to be done for this proposal and suggested the commission table this discussion until the county receives a decision on any authority they might have. Mr. Hyde asked Mr. Jason Danley if he had any comments at this time. Mr. Danley feels the commission is on the right track and is concerned with the magnitude of Newfield's production locations and hopes to be included in any discussions in the future.

At this time the meeting was adjourned for the work session with the Duchesne County Commissioners regarding a potential amendment of the Duchesne County Zoning Ordinance regarding Sexually Oriented Businesses.

**Minutes: Approval of September 1, 2010**

Commissioner Fabrizio moved to approve the minutes of September 1, 2010. Commissioner Burton seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items**

There was some discussion on the definitions of Sexually Oriented Business and the rules the county can and wants to enforce whether it be under conditional use permit, industrial or commercial zones.

**Adjournment:**

Meeting adjourned at 7:30 p.m.