

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
March 2, 2011 - 5:00 p.m.**

**In Attendance were:**

John Jorgensen, Planning Commission – Chairperson  
Dean Burton, Planning Commission  
Randy Mair, Planning Commission  
Shelly Fabrizio, Planning Commission  
Kent Olsen, Planning Commission  
Eddie Roberts, Absent  
Ken Moon, Absent  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Ryan Harvey	Harvey-Shields, CUP
Maurice Harvey	Harvey-Shields, CUP
Larry Farnsworth	Harvey Shields, CUP
Roland Uresk	Harvey-Shields, CUP
Gary Shields	Harvey-Shields, CUP
Glen Murphy, Duchesne County Road Department	

Chairperson Jorgensen opened the meeting at 5:00 PM.

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

**PUBLIC HEARINGS:**

**A. Request by Ryan Harvey for a Conditional Use Permit to extract earth products and crush rock from a 71.73-acre parcel owned by Gary and Thelma Shields located northeast of Lake Boreham, north of the Lake Boreham Road in the Arcadia area.**

Mr. Hyde referred the commission to the aerial photos in their packets showing the location and stated the applicant is applying for this permit to authorize a gravel pit and rock crushing operation on the property. An existing county gravel pit is located to the west. While the parcel is 71.73 acres in size, the applicant plans to operate on two acres of land at a time, working from west to east. It is anticipated that gravel products from this location will be used to construct new oil well locations in the area and for other construction

purposes. Extraction of earth products is a conditionally permitted use in the A-5 zone. The criteria for granting a conditional use permit 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 stated the 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 and operators comply 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/operator 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.

The proposed use may be detrimental to public improvements in the vicinity; especially county roads that can be damaged by an increase in heavy truck traffic. The Public Works Director is concerned about damage to the Lake Boreham road, between the lake and 12000 West, but the county does not have an impact fee mechanism in place to make gravel pit developers pay into a fund for road repairs. The Road Department will allow eastbound traffic out of the pit but not westbound due to road conditions between the lake and 12000 West.

- 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 states 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 of roads and well pads serving the 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 would take place on a 71.73-acre parcel. The

nearest dwelling unit is located over ¼ mile to the southeast on the Kenney property. 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.

There are some additional conditional use requirements for gravel pits to be considered.

- 1. Dust Free Condition: 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 state DEQ. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the County, unless the crusher is considered exempt from permit requirements by 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 or operator 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 the start of operations. In addition, the applicant or operator must demonstrate that the crusher has a valid DEQ air quality permit, unless the crusher has been exempted by DEQ from permit requirements.

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, the nearest dwelling is located about ¼ mile southeast of the hayfield on the subject property. The proposed access road intersects with the paved Lake Boreham Road near a dwelling owned by Leslie and Audrie Wissell. Dust control efforts will be needed at the crusher site and along the gravel access road. Such control efforts will mitigate dust impacts at the nearest residences.

- 2. Bond Required: 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. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.**

Mr. Hyde stated the applicant has proposed to submit bonding in the amount of \$8,000.00 to cover reclamation of two acres of disturbance at one time. Reclamation of each two-acre operating area will need to be completed and approved by the county and property owner before the applicant moves beyond that area.

- 3. Reconditioning: 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. Guidelines known as the Material Pit Finishing Standards on file at the County Planning Department are suggested for use in reclamation planning.**

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. Distance Requirement for Rock Crushing Operations: 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 nearest home is located over ¼ mile southeast of the hayfield on the subject property. The ¼ mile setback requirement from the crusher will be met if the crusher is not moved closer than that point. 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 must comply with these time limits.

Mr. Hyde stated a request was submitted to the Duchesne County Road Department for review and comment. The Road Department has responded with a letter giving the applicant written permission to access the proposed gravel pit via a county road to and through the County gravel pit to the west but expressing concern about heavy truck traffic damaging the Lake Boreham Road between the lake and 12000 West. The paved road is already breaking up and heavy gravel trucks will accelerate the problem. Since the applicant declined to enter into a road maintenance agreement and since the county does not have an impact fee system in place to collect funds for road repairs, the county would be forced to maintain or repair roads impacted by this proposal using limited B Road funds received from the state. The Road Department will allow eastbound traffic out of the pit but not westbound due to road conditions between the lake and 12000 West. The only exception would be for hauls to project locations that have no other access.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Ryan Harvey, 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 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 the start of operations. Said dust control plan shall be implemented throughout the course of the

operations by the applicant. Dust control agents shall be applied at the gravel pit and on the access road between the Lake Boreham Road and the pit.

- b. The applicant shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance.
  - c. The applicant shall ensure that the crusher operates under a valid DEQ air quality permit or submit evidence that the crusher has been exempted from permit requirements.
2. Applicant shall reclaim the property at the conclusion of each phase of mining operations in accordance with the county's "Material Pit Finishing Standards".
  3. Applicant agrees to keep the crusher at least ¼ mile away from the nearest dwelling unit.
  4. Applicant agrees to not allow gravel trucks to travel westerly on the Lake Boreham Road when exiting the gravel pit unless absolutely necessary to access project sites requiring use of the road between the pit and 12000 West.

Mr. Hyde stated he has prepared findings to deny the applicants request should the commission feel it necessary and will review those findings at that time.

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

Commissioner Olsen asked how the westbound traffic will be controlled. Mr. Hyde suggested the applicant give the county a courtesy call and let them know their intentions should westbound traffic be necessary.

Commissioner Jorgensen stated that condition might be difficult to enforce. Mr. Hyde stated it would be a matter of courtesy and cooperation between the applicant and the county.

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

Ryan Harvey and Roland Uresk, his attorney stated they are aware of the issues raised by the road department and the condition of the Lake Boreham road. Stating the applicant has an alternative route to the east that will be used unless the oil well location is to the west of the pit. The applicant is in agreement with the staff report and its conditions for approval. Mr. Uresk stated there will be a 2 to 3 month delay in starting production at this point because of the slow down in the economy and feels the project will be beneficial to the area.

Mr. Harvey stated if this location is not approved they will run product from another location which there are no limitations on using county roads.

Commissioner Mair asked if the trucks are contracted. Mr. Harvey stated he does not own any of the trucks that will be used.

Commissioner Olsen asked where are the anticipated oil and gas well locations going to be? Mr. Harvey stated they would be in various locations in the Arcadia and Lake Boreham area. Mr. Hyde stated there has been some activity in the area with Harvest Holdings.

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

Larry Farnsworth, a property owner next to the proposed location stated his concerns as he owns a 4 acre homesite with utility hookups next to the county gravel pit and the right of way thru his property will be the access to the applicant's location. Mr. Farnsworth has a daughter wanting to build a home there when her current home in town sells. Mr. Farnsworth feels the heavy truck traffic and dust issues will make it difficult to build a home and keep small children safe with the right of way at the current location as the county has moved to the south. Mr. Farnsworth feels if the county provides the right of way thru his property making it a public access for Mr. Harvey, it makes his 4 acre homesite an industrial location.

Commissioner Burton asked if the easement was in place when he purchased the property. Mr. Farnsworth stated it was a right of way when he bought the land.

Mr. Farnsworth stated he is not against the gravel pit he just wonders if the access can be at a different location.

Commissioner Mair asked if this is a county road or just an access to the county gravel pit.

Glen Murphy, County Road Department stated it is a county road thru the Farnsworth property for approximately ½ mile in the pit area and they do maintain that road. Mr. Hyde stated it is his understanding that the county road goes to the county pit and Mr. Murphy has given Mr. Shields a right of way thru his land to the proposed site.

There was some discussion on the right of way, the location of the pit and the frontage on the Lake Boreham road.

Mr. Harvey stated should Mr. Farnsworth or his daughter build a home on this property he would use another access across the top of the hill to the proposed location.

Commissioner Fabrizio asked if this will be a long term operation. Mr. Harvey stated it would be long term as long as the oil field is running.

Gary Shields stated he has used the existing right of way for years.

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

Commissioner Fabrizio motioned to approve the Conditional Use Permit requested by Ryan Harvey, subject to the 4 conditions stated in the staff report. Commissioner Mair seconded the motion and it passed unanimously, with the understanding that the applicants will access the site from a different location should a home be constructed on the Farnsworth property.

**B. Request by Russell and Todd Moon for a Conditional Use Permit to extract earth products and crush rock from 66.43 acres of land located on the south side of the Shearing Corral Cutoff Road, on the east side of Antelope Canyon.**

Mr. Hyde stated the applicants are applying for this permit to authorize a gravel pit and rock crushing operation on the described property. It is anticipated that gravel products from this location will be used to construct new oil well locations in the area and for other construction purposes. Extraction of earth products is a conditionally permitted use in the A-5 zone.

Mr. Hyde stated this hearing and criteria are the same as the previous hearing. The closest home is the Russell Moon residence with nothing else in the vicinity. The county roads are improved to handle the heavy truck traffic associated with this permit and Mr. Moon has waived the bonding requirements in writing.

Mr. Hyde recommends the Planning Commission approve the Conditional Use Permit requested by Russell and Todd 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 must be presented by the applicant or operator 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 the start of operations. Said dust control plan shall be implemented throughout the course of the operations by the applicant and operator. Dust control agents shall be applied at the gravel pit and on gravel roads between the property and the paved roads to the west.
  - b. The applicant and operator shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance.
  - c. The applicant and operator shall ensure that the crusher operates under a valid DEQ air quality permit or submit evidence that the crusher has been exempted from permit requirements.

2. Applicant or the operator shall reclaim the property at the conclusion of each phase of mining operations in accordance with the county's "Material Pit Finishing Standards".
3. Applicant and the operator agree to keep the crusher at least ¼ mile away from the nearest dwelling unit.

Mr. Hyde asked if there were any questions of the staff report. There were none so the hearing was closed. No one appeared to speak in favor or against the request.

Commissioner Mair motioned to approve the Conditional Use Permit requested by Russell and Todd Moon, subject to the conditions stated in the staff report. Commissioner Olsen seconded the motion and it passed unanimously.

**NEW BUSINESS:**

None

**Minutes: Approval of February 2, 2011**

Commissioner Mair moved to approve the minutes of February 2, 2011. Commissioner Burton seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items**

Mr. Hyde stated there is nothing on the agenda yet for the April meeting and encouraged the commission to attend the planning and zoning conference in Provo on April 26<sup>th</sup> and 27<sup>th</sup>.

**Adjournment:**

Meeting adjourned at 5:39 p.m.