

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
June 6, 2012 - 5:00 p.m.**

In Attendance were:

John Jorgensen, Planning Commission – Chairperson
Randy Mair, Planning Commission
Kent Olsen, Planning Commission
Edward Roberts, Planning Commission
Kathy Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Jason Evans	Transfuels CUP
Rick Miller	RM Sand and Gravel
Danny Pace	Against the Wind-Rezone
Chuck Rich	Nielsen-CUP
Brad Allred	Nielsen-CUP
Jason McKenna	R Chapman Const-CUP
Lane Larsen	RM Sand and Gravel
Marlene Tanner	RM Sand and Gravel
Roland Uresk	RM Sand and Gravel
Debi Tracy-Uintah Basin Standard	

Chairperson Jorgensen opened the meeting at 5:00 PM.

Chairperson Jorgensen 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. Consider revocation of a Conditional Use Permit granted October 5, 2011 to Lane Larsen, Double L Enterprises LLC, for the extraction of earth products and rock crushing from lands owned by Nolan & Vicki Larsen near 10000 South and 4500 West in the Pleasant Valley area.**

Mr. Hyde stated on October 5, 2011, the Duchesne County Planning Commission approved a Conditional Use Permit requested by Lane, Nolan and Vicki Larsen for a gravel pit and rock crusher on their 80-acre parcel located southeast of the intersection

of 10000 South and 4500 West in the Pleasant Valley area. The conditions of approval of this permit included the following:

1. Applicants and their agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. Prior to the start of operations, a dust control plan must be presented by the applicant to the TriCounty Health Department for review and approval. The plan must indicate what measures will be taken to control dust at the pit and document a source of water for dust suppression. Evidence of 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 or his authorized agents. Dust control agents shall be applied at the gravel pit and on the access road between the pit and paved roads during periods of hauling. The haul road shall be constructed to the east of the Tanner residence to reduce dust impacts at that residence. If another haul road is constructed west of the Tanner residence, applicant shall apply a dust inhibitor (such as magnesium chloride or lignin sulfonate) or sufficient water applications to such road to eliminate dust.
 - b. The applicant shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance. Noise from mining and crushing is allowed only between 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.
 - c. The applicant shall ensure that the crusher operates under a valid DEQ air quality permit (with a copy of said permit provided to the County) or submit evidence that the crusher has been exempted from DEQ permit requirements.

On April 20, 2012, a Stop Work Order was issued for the gravel pit and rock crusher on the Larsen property for failure to comply with the conditions of approval 1(a) and 1(c).

Mr. Hyde stated after public comment and discussion at the May 2, 2012 meeting, the Planning Commission voted to maintain the stop work order in effect. The Planning Commission required that there shall be no operations at the facility (including crushing, loading or hauling) until all conditions of the conditional use permit are complied with and the order is lifted in writing. The Planning Commission also scheduled a public hearing for June 6, 2012 to consider revocation of the conditional use permit. During the interim period, the Planning Commission expected the property owners and operator to adequately control dust on the access road, disturbed surfaces and stockpiles.

On May 23, 2012, the County received evidence that the operators have received a

DEQ Air Quality permit for 180 days of operation at this site (see DEQ letter dated May 18, 2012). On May 23, 2012, the County received notification that the TriCounty Health Department issued an approval of the required dust control plan (letter dated May 22, 2012 from the health department).

Mr. Hyde stated a conditional use permit may be modified or revoked if the planning commission finds the permit was obtained in a fraudulent manner, the permit has ceased operation for six consecutive calendar months or one or more of the conditions for approval have not been met. There is no evidence of fraud, operations have not ceased, however since the public hearing the applicant has obtained TriCounty Health approval and their DEQ air quality permit.

Mr. Hyde recommends that the Planning Commission rescind the Stop Work Order issued to RM Sand and Gravel on April 20, 2012 provided that the owners and operator implement their approved dust control plan, comply with their DEQ air quality permit and operate in accordance with all conditions of the Conditional Use permit issued October 5, 2011. Since the haul road was constructed west of the Tanner residence, applicant or operator shall apply a dust inhibitor (such as magnesium chloride or lignin sulfonate) or sufficient water applications to this road to eliminate dust. Failure to do so will result in another public hearing to consider permit revocation.

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

Rick Miller, pit operator and owner stated since the hearing he has purchased a water truck and an 8000 gallon water tank with sprayers for each conveyor. Mr. Miller has been to the location several times and stated the product is crusted over and vegetation has started growing.

Commissioner Mair asked what road is being used. Mr. Miller stated they have not been using the road but will put mag chloride on the road but will not operate until this has been done.

Commissioner Olsen asked which permits are needed. Mr. Hyde stated the TriCounty Health and Utah DEQ air quality and both have been issued at this time.

Commissioner Jorgensen asked Mr. Miller if he plans to treat the road. Mr. Miller replied there will be no dust.

Marlene Tanner, a nearby resident stated her concerns about already being promised there would be no dust and the traffic would be controlled. After they were asked by the commission to spray while they were under the stop work order she has dates and times when there was dust and no water in sight. Mrs. Tanner wants to make sure they have the water source and that they will use it if and when they begin operations again.

Lane Larsen, CUP applicant stated Ryan Harvey and Newfield are both drawing water from a pond that Mr. Larsen's father Nolan has the first filing on. Mr. Larsen has been to

the location every day watching for signs of dust and except for the days the wind was blowing there was none at the pit site. Mr. Larsen stated Mr. Miller will use the sprayers but did not want to invest in them if he could not return to work. There are 2 roads one still needs to be cut in and if they can return to work and need to, they will cut the 2nd road.

Mr. Hyde stated the county road that is under construction (10000 South) is a big dust source in the area and asked Mr. Larsen if the pond use is limited. Mr. Larsen replied that is not a problem.

There was some discussion between the planning commission about the time constraints if the stop work order is lifted and any other complaints that might arise in the future.

Commissioner Olsen asked why the permits were not obtained. Mr. Miller stated he bought the company and thought the permits followed the crusher.

Roland Uresk stated their concerns about failure to obtain the permits required, the lack of dust control and construction of the road to the east of Mrs. Tanner's residence. Zoning ordinances are to be complied with and enforced. In this case, they have not been met so Mr. Uresk's client Mrs. Tanner feels the conditional use permit should be revoked for noncompliance.

Since Mr. Uresk entered the meeting after hearing testimony, Mr. Hyde reviewed the conditions and steps Mr. Miller has taken and will need to take to be in compliance. Mr. Uresk suggested due to the lack of trust in the past they are strongly opposed to the work order being lifted until all conditions are in met but would suggest probation.

After some discussion with the commission and Mr. Miller and Mr. Uresk it was agreed there would be a review at the July meeting, the road to the east would be constructed and ready for use and dust control would start immediately. Mr. Miller assured the commission everything would be in place before operations start.

Commissioner Mair motioned to rescind the Stop Work Order issued to RM Sand and Gravel on April 20, 2012 provided that the owners and operator implement their approved dust control plan, comply with their DEQ air quality permit and operate in accordance with all conditions of the Conditional Use permit issued October 5, 2011. Since the haul road was constructed west of the Tanner residence, applicant or operator shall apply a dust inhibitor (such as magnesium chloride or lignin sulfonate) or sufficient water applications to this road to eliminate dust. The east access road will be accessible by June 20th. This public hearing will remain open until July 11th and the matter will be reviewed and progress assessed at that time. Commissioner Olsen seconded the motion and it passed unanimously.

**B. Recommendation to the County Commissioners regarding a request by
Against the Wind, LLC for an amendment of the Duchesne County Zoning**

map from Agricultural-Residential (A-5) to Industrial. The subject property is 34 acres of land located on the south side of Highway 87 (Ioka Lane) west of 4000 West, in the Ioka area.

Mr. Hyde stated the applicants' property is located on the south side of Highway 87 (Ioka Lane) and the west side of 4000 West, in the Ioka area. The applicants propose to change the zoning of their parcel from agricultural-residential (5 acre minimum lot size) to industrial, which is the same as the zoning existing of several parcels in the vicinity. The table of land uses allowed in the zoning districts as provided to demonstrate which land uses are allowed in the current zone and which would be allowed on the property if the rezone is approved.

After viewing photos of the proposed site, Mr. Hyde highlighted sections of the staff report as to the community benefit, consistency with the goals of the general plan, the fact that this area already has several industrial companies (including Petroglyph Energy, Hosco, Iowa Tanklines) and if a change in the use for the affected properties will unduly affect the uses of adjoining properties. A possible condition of approval requires a deed restriction on the property prohibiting businesses that have detrimental impacts, such as junk yards, landfills, feedlots and composting facilities. The rights of residential property owners in the vicinity will not be unduly affected. In addition, the county has a noise ordinance that prohibits noise from parked motor vehicles that is plainly audible within a dwelling unit between the hours of 7:00 AM and 9:30 PM.

Mr. Hyde recommends that the Planning Commission adopt the findings and conclusions and recommend the County Commissioners' approval of this rezone, requested by Against the Wind, LLC, from Agricultural-Residential (A-5) to Industrial, provided that a deed restriction be recorded on the subject parcel prohibiting junk yards, landfills and composting facilities.

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

After some discussion about the access road, the deed restriction and the benefits to the area the applicant was invited to speak.

Danny Pace, Against the Wind representative stated their intentions are to have a truck shop in the long term but for now they need a place to park trucks so they are closer to the oil field locations.

Mr. Hyde asked if there would be a problem with the deed restriction language prohibiting junk yards, landfills or feed lots. Mr. Pace stated that would not be an issue with the property owners.

Commissioner Jorgensen asked if anyone either in favor or opposed to the proposed zone change would like to speak. There were none so the hearing was closed.

Commissioner Mair motioned that the Planning Commission adopt the findings and conclusions and recommend the County Commissioners' approval of this rezone, requested by Against the Wind, LLC, from Agricultural-Residential (A-5) to Industrial, provided that a deed restriction be recorded on the subject parcel prohibiting junk yards, landfills and composting facilities. Commissioner Roberts seconded the motion and it passed unanimously.

C. Request by R Chapman Construction for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) from 80 acres of land owned by Reed and Joyleen Clayburn, located south of Lake Boreham (Midview Reservoir) in Section 36, Township 3 South, Range 3 West.

Mr. Hyde stated the applicants are applying for this permit to authorize a gravel pit and rock crusher on an 80-acre parcel owned by Reed and Joyleen Clayburn. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used to construct new oil well locations in the area and for other construction purposes. After highlighting sections of the staff report including criteria and conditions for approval Mr. Hyde referred the commission to their packets and site photos of the proposed location.

Mr. Hyde recommends the Planning Commission approve the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. The dust control plan approved by the TriCounty Health Department shall be implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at the gravel pit and on the private and public access roads between the pit and paved roads during periods of hauling.
 - b. A DEQ Air Quality permit shall be obtained and a copy provided to the County prior to the start of crushing operations.
 - c. Owners and their authorized agents shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance. In that ordinance, noise from mining and crushing is allowed only between 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.
2. Before mining operations begin, owner(s) or their authorized agents shall provide surety bonding to the County in the amount of \$5,000 for the first acre and \$3,000 for each additional acre of surface disturbance; said bonding to be refunded or released only after reclamation occurs in accordance with the Material Pit Finishing Standards and any private agreement between the pit operator and the property owners.
3. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site.

4. Owner(s) or their authorized agent(s) agrees to obtain an approach permit from the Duchesne County Road Department for the new or modified access road approach from the Lake Boreham Road to the gravel pit.
5. Before excavation begins, owner(s) or their authorized agents shall obtain an industrial storm water permit from the Utah Department of Environmental Quality, Water Quality Division.
6. 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 Lake Boreham Road between the pit and 12000 West. This condition will be removed from the permit once the Road Department completes construction of truck route standard improvements to the Lake Boreham Road (scheduled for the 2012 construction season).

There was some discussion about the haul road to the east, the extra traffic across the dam and if this pit has the same conditions as the Shields pit in the same area.

There were no other questions so the applicant was invited to speak.

Jason McKenna, R Chapman Construction representative, stated this is a good location and in the area the oilfield is moving. They will comply with the conditions that come with the crusher and gravel pit. The crusher will stock pile and move from site to site and if needed, they will have a scale shed with employees to man the location.

Commissioner Jorgensen asked how are they going to control the dust. Mr. McKenna stated water trucks for now and but are looking at some other options. Mr. McKenna stated they want this to be dust free so between Roosevelt City, Myton City and Johnson Water sources they should be fine.

There was some discussion about water rights and how they can be used and transferred and the other options Chapman's are looking at.

Commissioner Mair asked if using the haul road to the East is ok instead of hauling west. Mr. McKenna stated that would not be a problem.

There were no other questions or comments either in favor or opposed, so the public hearing was closed.

Mr. McKenna stated he has another appointment but would like to comment of Item F, the proposed zoning amendment that will revise setback requirements for rock crushers and gravel pits. He feels instead of increasing the distance from the crusher site there needs to be stricter regulations as to dust and noise control. Unfortunately in this area we do not have unlimited resources and when we find rock there is usually a home somewhere close. He asked the commission to review the text and consider other options.

Commissioner Olsen motioned to approve the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products, subject to the conditions stated in the staff report. Commissioner Mair seconded the motion and it passed unanimously.

D. Request by Transfuels LLC for a Conditional Use Permit to construct and operate a commercial fueling station with future convenience store, on a 10-acre site west of the Pariette Road, between Highway 40 and “The Patch” Restaurant, in the Myton area.

Mr. Hyde stated the applicant is proposing to construct an unmanned liquid natural gas and compressed natural gas fueling station with future convenience store and gasoline/diesel fuel services. Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones. The applicant has submitted an extensive package with project information similar to an operation in Salt Lake City. After highlighting sections of the staff report with concerns of fire protection, operating hours, signage and dust, Mr. Hyde made his recommendation.

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

1. Fire protection shall be provided for the facility as required by the Duchesne County Building Official and Fire Chief. Applicant shall coordinate with the Fire Chief to ensure that fuel storage and dispensing on the property is in accordance with the Fire Code.
2. Continuous (24-7) operating hours are allowed. However, if legitimate noise complaints are received by the County, applicant agrees to limit hours of operation at this location to 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.
3. A landscaping plan for the short-term xeriscape design and the long-term irrigated design should be presented to the Planning Department for review and approval before issuance of a building permit for the facility.
4. A six foot chain link fence shall be erected around the perimeter of the facility, prior to opening for business, to separate the use from livestock grazing areas and to mitigate impacts of trash blowing into agricultural fields in the area.
5. To minimize blowing dust, site paving shall be adequate to allow trucks entering and exiting the facility to do so without driving on a gravel surface.
6. On-premise business signage shall be erected only after a building permit has been received. Off-premise business signage, if any, shall be erected only after receipt of applicable permits from the Utah Department of Transportation. No

signage may be erected within county or state road right of way. Before this facility opens for business, the existing trailer-mounted signs shall be removed.

7. Prior to construction of a driveway approach to the Pariette Road, applicant shall obtain a permit from the Duchesne County Road Department and locate the approach approximately 1,000 feet south of the Highway 40 intersection.
8. Prior to opening for business, the applicant shall obtain a Duchesne County business license.
9. Prior to creation of the ten acre parcel, owners shall receive approval of the TriCounty Health Department and Duchesne County and record a minor subdivision survey.
10. Prior to construction of a convenience store on the property, a wastewater permit must be received from the TriCounty Health Department and an adequate water source identified.

Mr. Hyde asked if there are any questions of the staff report. There were none so the applicant was invited to speak.

Jason Evans, a representative of Transfuels LLC, stated they are excited about this project, thanked Mr. Hyde for his work on the staff report and stated they will comply with the conditions of approval. Mr. Evans stated the gas will be transported to the location and they hope in the future the facility can be unmanned but for now there will be an attendant at the location.

There was some discussion between the commission, Mr. Hyde and Mr. Evans about the transportation and storage of the different types of gas and whether there is a market for this service in this area. Mr. Evans stated he hopes to be operating by August with a successful venture.

With no one in the audience to oppose the proposal, the public hearing was closed.

Commissioner Mair motioned to approve the Conditional Use Permit requested by Transfuels LLC, subject to the conditions stated in the staff report. Commissioner Giles seconded the motion and it passed unanimously.

E. Request by Nielsen Construction for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) from approximately 12 acres of a 66.95-acre parcel of land owned by Brent Gilbert, located in Section 11, Township 3 South, Range 3 West, in the Arcadia area.

Mr. Hyde stated the applicants are applying for this permit to authorize a gravel pit and rock crusher on approximately 12 acres of a 66.95-acre parcel owned by Brent Gilbert.

Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used to construct new oil well locations in the area and for other construction purposes.

Mr. Hyde referred the commission to the site photos in their packets and highlighted sections of the staff report stating some criteria for approval such as dust control, TriCounty health approval, DEQ permits, bonding and the county nuisance ordinance.

Mr. Hyde recommends approval of the Conditional Use Permit requested by Nielson Construction, for extraction and crushing of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. The dust control plan approved by the TriCounty Health Department shall be implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at the gravel pit and on the private and public access roads between the pit and paved roads during periods of hauling.
 - b. A DEQ Air Quality permit shall be obtained and a copy provided to the County prior to the start of crushing operations.
 - c. Owners and their authorized agents shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance. In that ordinance, noise from mining and crushing is allowed only between 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.
2. Before mining operations begin, owner(s) or their authorized agents shall provide surety bonding to the County in the amount of \$5,000 for the first acre and \$3,000 for each additional acre of surface disturbance; said bonding to be refunded or released only after reclamation occurs in accordance with the Material Pit Finishing Standards and any private agreement between the pit operator and the property owner.
3. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site.
4. Owner(s) or their authorized agent(s) agrees to obtain an approach permit from the Duchesne County Road Department for any new or modified access road approach from County Road #83 (4450 South) to the gravel pit.
5. Before excavation begins, owner(s) or their authorized agents shall obtain an industrial storm water permit from the Utah Department of Environmental Quality, Water Quality Division, if required by that agency.

6. Applicants shall provide evidence, before starting excavation work, that they have contacted the Ute Tribe and obtained any access permits necessary for the use of County Road #83 as it crosses tribal lands.

Mr. Hyde asked if there were any questions or comments of the staff report. There were none so the applicant was invited to speak.

Chuck Rich, a Nielson Construction representative, stated this is a good location for the crusher and are working on the necessary permits with DEQ and Tri County Health. Mr. Rich said they are still waiting for a response from the Ute Tribe for road access permit and have filed a notice of intent for their storm water permit. He has also talked with Glen Murphy and there should be no problems with the county roads. Mr. Rich stated they will also be putting mag chloride on the road past the Gilbert residence.

Commissioner Mair asked what the distance was from the Lake Fork River. Mr. Rich replied about ½ mile south and west of river.

Mr. Hyde asked if they will mag the whole road or just in front of the Gilberts home. Mr. Rich stated they will be using mag chloride on the road past the Gilbert residence and want to protect the Gilbert farm so they will have a water truck on site to keep the dust at a minimum.

Commissioner Jorgensen asked if this is a portable crusher. Mr. Rich replied it was and they anticipate bidding on other projects in the area so they will operate as needed.

Commissioner Jorgensen asked if there were any other questions or comments. There were none either in favor or in opposition so the hearing was closed.

Commissioner Mair motioned to approve the Conditional Use Permit requested by Nielson Construction, for extraction and crushing of earth products, subject to the conditions stated in the staff report. Commissioner Roberts seconded the motion and it passed unanimously.

F. Recommendation to the County Commissioners regarding a zoning ordinance text amendment that would establish revised setback standards for gravel pits and rock crushers, regulate land farms and restrict the numbers of livestock kept in residential areas.

Mr. Hyde explained to the commission the various reasons Duchesne County proposes to amend its zoning ordinance to establish revised setback standards for gravel pits and rock crushers, regulate land farms and restrict the numbers of livestock kept in residential areas. Referring to Ordinance 12-302, Mr. Hyde stated there are many property owners with more animals and livestock than reasonable on smaller properties creating a nuisance within the county. The proposed change would limit the animal units and explained the setbacks for barns, corrals or pen sheds housing the animals. The proposed change does not apply to farms and animal feeding operations.

There was some discussion between the commission about farms, fairs, race tracks or

licensed breeders and the difference between breeding operations and just having too many animals. The commissioners also stated their concerns about the 30 foot rear setback for corrals. Mr. Hyde reminded the commission farms are excluded from this proposal, and accessory structures must still follow the local codes.

Mr. Hyde explained the changes for crushers and gravel pits in Section 4, the proposal is to increase the distance from ¼ mile to ½ mile from any city, town or residential use and the proposed one mile distance between gravel pits would be measured from property line to property line.

Adding the extra ¼ mile could dissipate the dust over the larger area and should help with the noise.

There was some discussion about the effected property owners, the rights of the adjoining owners, waivers of the property owners if they want a lesser distance, understanding that on any given day circumstances can change.

The Planning commission are ok with the proposed change in section 2 explaining the definition of Land Farms making that a Conditional Use in the A-5,A-10,C and I zones and definitions that are in place.

The Planning Commission recessed the public hearing until the July meeting to consider a second draft of the proposed ordinance.

NEW BUSINESS:

None

Minutes: Approval of May 2, 2012 minutes

Commissioner Mair moved to approve the minutes of May 2, 2012.

Commissioner Olsen seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde welcomed Debi Tracy, a reporter from the Uintah Basin Standard, informed the commission about the resignation of Dean Burton effective immediately and explained that Walt and LouAnna Burdette have appealed the Planning Commission's decision from last month on the R Chapman Construction-Fitzgerald crusher and gravel pit. Their hearing will be on Monday June 11th with the County Commissioners.

Adjournment:

Meeting adjourned at 7:01p.m.