

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
June 5, 2013 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission – Chairman
John Jorgensen, Planning Commission
Edward Roberts, Planning Commission
Ken Moon, Planning Commission
Kathy Giles, Planning Commission
Allen Lindsay, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Executive Secretary

Visitors:

Steve Puro-Uintah Basin Standard	
Laurie Jo White	Winterton CUP
Nate Robinson	Integrated Rock CUP
Robert Meeks	Integrated Rock CUP
Ken and Cris Bird	Integrated Rock CUP
Carolyne Madsen	Integrated Rock CUP
Dale and Kelari Winterton	Winterton CUP
Jerry and Debbie Foote	Winterton CUP
Gavin McCormick	Winterton CUP
Curtis McCormick	Winterton CUP
Terry Scholes	Winterton CUP
Scott Harvey	Harvey CUP
Mali Harrison	Harvey CUP
Cloyd and Carolyn Davis	Winterton CUP
Henry McKenna	Winterton CUP
Paul E and Deanna Hayes	Integrated Rock CUP
David and Dawn Price	Winterton CUP
Mike and Lori Nealley	Integrated Rock CUP
Eugene Mortenson	Winterton CUP
Roger Rasmussen	Winterton CUP
Jim Hogan	
Leonard Wilson	Harvey CUP
Stan and Suzanne Young	Integrated Rock CUP
Dan and Tiffany Huber	Winterton CUP
Chuck Rich	Moon Rezone
Levaughn and Karla Gines	Crossroads Concrete CUP
Mike Taylor	Integrated Rock CUP

Debra Lindsay
Roger Rabet
Brad and Serena Taylor
Freda Davies
Will Taylor
Jason Taylor

Integrated Rock CUP
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Chairman Mair opened the meeting at 5:00 PM, read the rules of order and asked if any of the Planning Commission had any ex-parte contacts associated with any item on the agenda. Commissioner Jorgensen clarified some issues with the First Call propane hearing. He lives within 2 miles of the proposed location, goes to church with the neighbors and represents the residents of that area along with the public by being a member of the commission, in requesting to deny the permit during the June meeting, . Mr. Jorgensen offered to excuse himself from the hearing if the Winterton's feel he cannot be objective. Mr. Winterton stated he feels Mr. Jorgensen is a respectable and honest man. Mr. Winterton feels that Mr. Jorgensen will make the decision that is best for the people and area he represents and is okay with him participating in the continuation of this hearing. Commissioner Lindsay stated he has worked in his personal business for Integrated Water (Mr. Martin and Mr. Robinson) although Integrated Rock Products is a different company the same people are involved but does not feel there will be any bias. No one in the audience objected to Mr. Lindsay participating in the hearing. Commissioner Roberts stated that he buys concrete from Crossroads Concrete for his business but does not feel there will be any bias and no one in the audience was opposed to Mr. Roberts participating in that hearing. With no other disclosures to be made the hearing proceeded.

PUBLIC HEARINGS:

A. Continuation of the public hearing on a request by Dale & Kelari Winterton for a Conditional Use Permit to operate a propane business ("First Call Propane") on Lot 10 of the Amended Uintah Mountain Vista Subdivision, Phase 1, located at approximately 3796 W 3000 South (Ioka Lane) in the Roosevelt area.

Mr. Hyde stated the applicants are proposing to purchase this site from Lanny & Kathy Ross for the new location of First Call Propane; which is currently located just west of the Top Stop on Highway 40 in Roosevelt. Initial improvements will include a bulk propane storage tank and a storage area for customer tanks. The future, perhaps in 2014, could see the addition of an office-shop building. Additional bulk storage tanks could be added in the future as the business grows.

The southeast corner of this site is zoned commercial; however, the majority of the parcel is zoned Agricultural-Residential (A-5) or R-1, once it receives a Johnson Water connection. Commercial uses are a conditionally permitted use in the A-5 and R-1 zones. This is the same site that had a conditional use permit granted in June 2011 for the Wilson Supply business, which was instead constructed easterly on Highway 40. The

2011 permit has expired.

After review of the recommended findings to approve, Mr. Hyde stated the differences in the findings to deny, should the commission decide to deny the request.

Mr. Hyde stated the International Fire Code provides setback standards for fuel tanks. In this case, the existing propane tank contains 19,354 gallons when full. Potential future tanks are likely to be 30,000 gallons in size. Conditions will need to be imposed to ensure that the facility meets all requirements of the Fire Code and that plans are approved by local and state fire authorities. *However, regardless of steps that might be taken during the permitting process to promote safety, the possibility of harm to nearby residents would still exist in the event of an accident associated with propane storage and handling.*

The proposed use must be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

Mr. Hyde stated the Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and 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 denied due to the close proximity of this potentially hazardous land use to rural residential uses to the west of the subject property. *Purposes #3 and #4 of the Zoning Ordinance will not be met in this case as public health, safety and general welfare could be compromised by allowing this potentially hazardous land use in close proximity to residential uses. Landowners should be protected from adverse impacts of adjoining uses, including the potential for fire and explosion associated with the storage and handling of propane gas.*

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 subject property is 6.6 acres in size, which will provide adequate space for the future shop and office building, bulk tanks, customer tank storage, parking and driveway areas and landscaping. Surrounding properties are agricultural or rural residential in nature, with homes on several parcels to the west. Commercial uses exist farther west at 4000 West. The public hearing revealed that nearby residents feel that the proposed use will be detrimental, *given the potential for fire and explosion associated with the storage and handling of propane gas. The small size of the property makes it impossible to locate the propane storage tanks far enough from dwellings to the west to address such safety concerns.*

Mr. Hyde stated there are three other propane businesses operating in residential-agricultural areas. Big T Propane is located at 4789 South River Road near Duchesne. The parcel is 79 acres in size, with the propane tanks situated close to the county road and several dwellings in the vicinity as shown on the attached aerial photo. A-1 Propane is located at 4800 N 3000 West in the Cedarview area. It is on a 32-acre parcel, with several homes nearby, as shown on the attached aerial photo.

Mountain West Propane is located at 7140 N 3000 West, about 2 ½ miles north of A-1 Propane. One acre at that location was rezoned to industrial in 1999 and a 30,000 gallon bulk propane tank was installed along with a 500-gallon dispensing tank in 2003. A conditional use permit was granted in 2007 for the construction of an office and shop and a second bulk storage tank was added. This business is located on a 38-acre parcel and the attached aerial photo shows the proximity of residential uses. These comparable businesses operate on parcels 32, 38 and 79 acres in size. The proposed 6.6-acre parcel is very small in comparison and the small size inevitably results in impacts to the surrounding property owners.

The conclusions associated with the findings to deny are as follows:

1. Conditional Use Criteria #1: The proposed use at the proposed location would be unduly detrimental or injurious to property or improvements in the vicinity, and would be detrimental to the public health, safety or general welfare because of the potential for fire and explosion associated with the storage and handling of propane gas.
2. Conditional Use Criteria #2: The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. In light of this plan policy, the Conditional Use request should be denied due to the proximity of this potentially hazardous land use to rural residential uses to the west of the subject property.
3. Purposes #3 and #4 of the Zoning Ordinance will not be met in this case as public health, safety and general welfare could be compromised by allowing this potentially hazardous land use in close proximity to residential uses. Landowners should be protected from adverse impacts of adjoining uses, including the potential for fire and explosion associated with the storage and handling of propane gas.
4. Conditional Use Criteria #3: The property on which the use, building or other structure is proposed is not 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. The subject property is 6.6 acres in size, which makes it impossible to locate the propane storage tanks far enough from dwellings to the west to address safety concerns.

Mr. Hyde stated the planning office has received a letter from Russell Crowley which is in support of the Winterton's request with one condition; that there is a privacy fence installed on the west property line. Mr. Crowley stated the trend for Industrial businesses in the area is growing, there are already trucking companies, hot oil companies, large propane tanks and tanker trailers in the area so the potential for an industrial accident is already here.

Mr. Hyde asked if there were any questions of the staff reports. There were none so the public hearing continued. Chairman Mair urged anyone wishing to speak not to repeat testimony heard during the June hearing.

Mr. Dale Winterton, applicant and owner of Frist Call Propane, thanked the commission for a chance address their concerns after findings to deny were prepared. There are many industrial companies including Iowa Tank Lines, Petroglyph, and Nebeker Trucking in the surrounding area including a new rezone for Matt Betts Trucking. There is some commercial zoning along with the residential properties along Highway 40. There is a little more than 1 acre that is zoned commercial on the parcel they want to purchase and the applicant feels since the area is mostly industrial the criteria is met. The county addresses the issues of health and public safety when the zoning is changed. Mr. Winterton stated they do not want to be compared with the accident in Jensen at the Adler building. That was human error and irresponsible behavior by employees of that company. First Call Propane has not had any accidents or state sanctions and safety is very important to their company.

Mr. Winterton stated the other three propane companies all of which are operating at the present time, Big T Propane is in a residential area and Mountain West propane had a rezone in 1999. The amount of acres used versus the acres owned by each company is much less than the lot we will purchase. At each of the businesses, there are trucks, tanks and offices you can see from the road and none of them have had any accidents. First Call propane storage tanks will be located further off the road than the other companies that are currently in business. The actual footages First Call Propane will be from each of the area homes is further than the other business currently operating and one home is only 174 feet from the current industrial zone. Mr. Winterton feels the county has already addressed the safety concerns with the zoning and we will comply with the conditions for approval the planning commission has set.

Commissioner Mair asked Mr. Winterton if they will work with Johnson Water (owners of the adjoining property) to insure they have access. Mr. Winterton replied they would address that issue when the time comes.

Commissioner Mair asked if anyone in favor of the applicant's request wanted to speak. There were none so the opposition was invited to speak.

Dan Huber, an area property owner, thanked Mr. Hyde for the report and stated his concerns about the industrial area versus the residential area. This is not the place for any propane storage tanks. With Hwy 40 and the Ioka Lane nearby, it is too dangerous. This is not a safe intersection for the added traffic this business would bring. Mr. Huber stated he has not talked with the Winterton's. Johnson Water will be land locked and the county is just trying to make money and does not care about the people or the values of their homes in that neighborhood. Mr. Huber is against the proposal and hopes the commission votes no.

Henry McKenna, lives at the 4000 West intersection. He has been in law enforcement and is opposed to the applicant's request. There is no evacuation plan in place which would be a huge undertaking. There is a trailer court across the street with too many homes and

small children. This is not the place for a propane business, just look at the destruction at the Adler Building in Jensen.

Jerry Foote, an adjoining property owner, stated the granting of the CUP would be detrimental to the area. Property values will go down and no one will be able to sell their homes due to the public safety concerns with 30000 gallon tanks full of propane. Should there be an incident, both highways will shut down for at least 1 and up to 3 miles each way. Mr. Foote is against the proposal and feels the criteria has not been met and should be denied.

Terry Scholes, an area resident, is also opposed to the applicant's request. The three other companies' neighborhoods are not as populated as this area is. The owners of these companies live next to their business and have chose to. We did not choose this in our neighborhood and request the planning commission deny this request.

Dave Price, an area property owner, has some concerns about the safety at that intersection, the risks and aggravated traffic conditions.

Laurie Jo White, an adjoining property owner, stated her concerns about the dangers of industrial accidents at this intersection. There are too many families and homes in this area, and the dangers of propane storage tanks. There is already too much traffic and with another business the potential for more accidents is too great. She wants the business moved somewhere else and is opposed to the approval of the Winterton's request.

Carolyn Davis, a neighbor, stated she has the same concerns and agrees with the other speakers. She is not comfortable with the proposal and is concerned with the traffic, property values and safety issues.

Curtis McCormick, spoke in opposition to the request. He leases the property currently owned by Johnson Water and is ready to build 2 spec homes in the area already having the perc tests and applied for building permits. Mr. McCormick is concerned that, with the decreased property values if this permit is approved. he will not be able to sell those homes.

Commissioner Mair asked if there was any one else to speak either in favor or against the request.

In rebuttal, Kelari Winterton, Co-owner of First Call Propane, stated the public concerns are valid but the fact is it is an industrial area. There are already many established businesses and new rezoned areas. Mr. Scholes has a large propane tank approximately 25 feet from his property line along the east fence. There are already traffic issues and they are a two-person company with deliveries twice a week and Dale is the only driver. They will meet and mitigate the requirements and the county has stated with the zoning. Mrs. Winterton stated if they could stay on the 1+ acre that is already zoned commercial they would not even need this permit. She feels it would be unfair to deny their application and hopes the issues are considered.

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

Commissioner Jorgensen stated it is too close to the residents, the access is questionable, and he is opposed to the request. Commissioner Moon is concerned about the conditions for approval (he was absent for the June hearing) and the storage and traffic issues. Commissioner Lindsay stated the traffic will always be an issue but the storage could be a concern and stated a crude truck with a spark could be just as dangerous. Commissioner Giles feels the criteria has been met and feels subject to the conditions for approval the request should be approved. Commissioner Moon asked where and how many tanks will be stored. Mr. Winterton stated one 19000 gallon tank.

At the conclusion of the discussion Commissioner Giles, motioned to approve the request for a conditional use permit requested by Dale and Kelari Winterton subject to the conditions in the findings for approval. Commissioner Mair stated there should be a condition to have the Johnson Water right of way addressed. Commissioner Moon seconded the motion with condition# 6 added for the Johnson Water District access. The motion passed with a vote of 4-2 with Commissioners Jorgensen and Roberts opposed to the request.

Mr. Hyde advised the audience that this decision could be appealed to the County Commissioners within 10 days.

B. Request by Scott Harvey for a Conditional Use Permit to move his trucking business to the former Rasmussen dairy at 6178 W 11350 South, in the Pleasant Valley area.

Mr. Hyde referred the commission to some photos in their packets showing 8-10 trucks at this location. The applicant received a conditional use permit on June 1, 2011 to locate his trucking business at 11308 S 3000 West in Pleasant Valley. The applicant has since moved the trucking business to the former Rasmussen Dairy at the west end of 11350 South in Pleasant Valley, which requires a new conditional use permit. Commercial uses are a conditionally-permitted use in the agricultural-residential zones.

The criteria for approval 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 proposed business has between 10 and 12 active semi tractors and trailers on the property, which includes rock and dirt haulers, water haulers and heavy equipment transports. Trucks are not loaded as they leave the site in the morning and return in the evening unless they are hauling a load associated with the dairy operation. The business has a 6,000 gallon diesel storage tank on the premises.

Conducting such a business in an-agricultural-residential area has the potential to

generate bothersome noise, diesel exhaust and vibrations. However, this area does not have dense residential development and heavy truck traffic is common due to oilfield and agricultural activity. Public safety could be jeopardized if ingress & egress to the truck parking area passes through residential areas or if the access road is inadequate. In this case, there are three dwellings along 11350 South between the site and the Pariette Road. This is fewer dwellings to pass by than from the previous business location at 11308 S 3000 West. The applicants indicate that their eight employees are aware of speed limits in the area, which is critical to public safety. Anyone observing trucks not obeying the speed limit should report that to the county sheriff's office.

The Road Department has commented that unloaded trucks should cause less damage to the existing paved county road. If loaded trucks were travelling to and from this site, they would be more concerned. By letter dated May 15, 2013, the Road Department has requested that the applicant take responsibility for any damage that they do to the road. The Road Department is working with its engineers to design an adequate truck turning radius at the Pariette Road as part of the reconstruction project currently underway.

Fuel storage can pose a safety or health hazard if not designed properly. Fuel storage tanks in excess of 300 gallons in size are regulated by the Fire Code. The applicant must design, install and maintain any such fuel storage in accordance with Fire Code standards.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

Mr. Hyde stated the Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. The general plan also calls for support of the oil and gas industry, which this proposed use would serve. 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.

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.

The subject property is 12.15 acres in size, but is part of a larger farm operation that appears to be about 240 acres in size. This site provides adequate space for the parking of trucks and trailers associated with this business. Surrounding properties are agricultural or rural residential in nature, with homes on the Nello Scott, Leonard Wilson, Jorge Torres, Merrill Dalling and Gail Wall properties nearby. The public

hearing will reveal whether any of those nearby residents feel that the proposed use will be detrimental.

The other applicable criteria are:

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

Mr. Hyde suggested given the agricultural nature of the area and distance from dwelling units (500 feet from the truck parking area on the Harvey property to the nearest residence), it would not be reasonable to require the truck parking area to be screened by landscaping, fencing or walls.

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

Existing ingress and egress will be from a driveway off the west end of the county road. The driveway appears adequate to accommodate large truck traffic. Parking areas for trucks must be designed with road base and gravel to reduce the tracking of mud onto the county road.

C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Mr. Hyde stated the proposed use does not generate the need for a separate water service, sewage disposal or road right of way dedication. However, any storage of fuel associated with the trucking business must comply with Fire Code standards administered by the Duchesne County Fire and Emergency Management Director.

D. Signs: Regulation of signs.

The applicant has indicated no business signs are proposed. If signs are considered in the future, they will be limited to 32 square feet in area, which is the size that has been allowed for other commercial signs in agricultural-residential areas by the Planning Commission in the past.

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Mr. Hyde stated trucks can generate nuisance noise, smoke from exhaust and vibration. The county nuisance ordinance sets forth the following noise standards for motor vehicles:

G. Noise Disturbances:

1. The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:

a. Parking a motor vehicle with the motor or auxiliary equipment in

operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.

Based on the standard above, trucks should not generate nuisance noise while parked on the premises. The applicants indicate that the trucks typically leave the yard between 6 AM and 7 AM and return between 5 PM and 8 PM. These hours are very close to the nuisance ordinance requirements, with a one-hour variation in the morning. The nearest home is about 500 feet to the southwest, which should reduce the likelihood of nuisance noise. To reduce noise issues, compression brakes should not be used when travelling along 11350 South.

F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

The applicant has indicated the trucks typically leave the yard between 6 AM and 7 AM and return between 5 PM and 8 PM. These hours are very close to the nuisance ordinance requirements, with a one-hour variation in the morning. The applicant should attempt to minimize early morning or late night noise generation as a courtesy to nearby residents.

Mr. Hyde's recommendation is that the Planning Commission approve the Conditional Use Permit requested by Scott Harvey, subject to the following conditions:

1. Applicant shall obtain verification from the Duchesne County Fire & Emergency Management Director that the fueling facility on the property is in accordance with the Fire Code.
2. Compression brakes shall not be used on 11350 South due to the presence of dwellings. Early morning or late night idling of trucks at the site should be avoided when possible to reduce noise impacts on surrounding property owners.
3. Applicant shall maintain the truck parking and driveway areas with adequate road base and gravel to minimize the tracking of mud onto 11350 South.
4. If business signage is installed in the future, it shall be on-premise and not greater than thirty two square feet in size per sign.
5. Applicant shall coordinate with the Road Department to document current pavement conditions on 11350 South. Applicant agrees to repair damage to said road that can be reasonably attributed to applicant's business use of the road.

Mr. Hyde advised the commission of a letter from Mr. Merrill Dalling stating his concerns about the dust, the use of the jake brakes and the speed which the trucks travel along the county road near his home.

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

Commissioner Jorgensen asked how long Mr. Harvey has owned the property and been using it as a yard. Mr. Hyde stated the applicant has been using this location for his trucking company for some time not realizing he needed another permit. There are also some RV trailers in the yard for the farm workers that Mr. Harvey needs to discuss with TriCounty Health. Mr. Hyde suggested Mr. Harvey address those concerns during testimony.

Commissioner Mair asked about the hours of operation and the truck noise. Mr. Hyde stated the conditions for approval include limiting the use of the compression brakes and the nuisance ordinance which will be enforced if the county receives any complaints.

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

Scott Harvey, applicant and owner of Haulin Harvey, stated he is re-applying for a new permit at a different location. The move was a matter of convenience since he was at the dairy all the time, the trucks may as well be there to. Mr. Harvey stated he will try to keep the drivers in line with the brakes and speed but he cannot control them when they are driving personal vehicles.

Commissioner Jorgensen asked Mr. Harvey how long he has been operating at this location without a permit. Mr. Harvey replied since 2012.

Commissioner Lindsay asked how many trucks he currently has. Mr. Harvey stated, at the most, 8 trucks in the mornings.

Commissioner Moon asked Mr. Harvey if he had any issues with the conditions for approval. Mr. Harvey stated there should not be a problem.

Commissioner Mair asked if there was anyone in favor of the application to speak. There was none and with no one in opposition to speak, so the public hearing was closed.

Commissioner Moon motioned to approve the Conditional Use Permit requested by Scott Harvey, subject to the conditions stated in the staff report. Commissioner Roberts seconded the motion and it passed unanimously.

C. Request by Levaughn and Karla Gines for a Conditional Use Permit to locate a gravel pit and rock crusher on a 19-acre parcel located at the south

end of 36480 West, in Section 4, Township 2 South, Range 7 West, in the Tabiona area.

Mr. Hyde stated the applicants are applying for this permit to authorize a gravel pit, with rock crushing, on that portion of this 19-acre parcel lying north of the Duchesne River. 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 supply the applicant's business; Crossroads Concrete, which currently receives five loads of gravel per day from the Fruitland area.

The criteria for approval 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.**

The extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in 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 is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the extraction area 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.

Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process, which needs to be used in this case as the Duchesne River lies within the property boundaries.

Mr. Hyde stated since the property lies within an un-mapped floodplain of the Duchesne River, it is possible that the proposal will require an authorization from the US Army Corps of Engineers. The Corps requests that the applicants have a wetlands delineation conducted by a qualified wetlands consultant. The results of that study will determine whether the project will require a permit from the Corps.

According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Mr. Hyde indicated with rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the roads. In this case, access from the gravel pit to Highway 35 would be from a gravel county road [36480 West or County Road #234], which is a county Class B road, principally because the road provided access to the former Tabiona rodeo grounds. The Road Department has sent a letter to the applicants stating that the road is "unimproved". Glen Murphy, Public Works Director, indicates that the county will continue to plow the snow drifts in the winter; however, the gravel pit operator will be responsible for providing additional

base rock and gravel to allow the road to handle heavy loads and be responsible for any damage done to the road. The applicant will need to abide by any load limits established by the Public Works Director.

The request has also been referred to UDOT Region 3 for comment. The applicants should take action to minimize the tracking of mud and rock onto the paved state highway.

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). Such time limits should be applied in this case if noise complaints are received by the county.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

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 applicants intend to use the rock products to support the construction industry, which is beneficial to the economy of the county and in compliance with the general plan.

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.

The applicant has indicated the proposed mining would take place on those portions of the subject 19-acre site lying north of the Duchesne River. The parcel is certainly large enough to accommodate the proposed use, provided that conditions are imposed and the requirements implemented by the applicants. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished pit level. The applicants are also required to set the mining area back 660 from existing homes. In this case, aerial photos and the county tax rolls show that the nearest homes are located 1,650 feet to the northwest (owned by Premier Bank) and 2,620 feet to the southwest (owned by Van Tassell). The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated there are additional criteria which include a dust free condition with approval from TriCounty Health Department and the Utah DEQ, Duchesne County nuisance ordinance, bonding and complying with the county Material Pit Finishing standards. In this case the distance requirements are met with the setbacks and the distance to the nearest home.

Mr. Hyde recommended approval of the Conditional Use Permit requested by Levaughn & Karla Gines, for extraction 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. A dust control plan approved by the TriCounty Health Department and Utah DEQ shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.
 - b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of crusher operation: (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. 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 by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines.
3. A DEQ Air Quality permit shall be obtained for the crusher and a copy provided to the County prior to the start of crushing operations.
4. Before starting excavation at the site, the applicants shall obtain an industrial stormwater permit from the Utah Department of Environmental Quality.
5. Before starting excavation at the site, the applicants shall hire a consultant to conduct a wetlands delineation on the site. The applicants shall obtain any Corps of Engineers permit required based on the results of this study.
6. If crushing is done by a third party, that entity shall provide the county with a reclamation bond, with the amount based on the acreage to be disturbed as set forth by the zoning ordinance, unless such bonding is waived by the property owner.
7. The applicants or their designees shall abide by any county road load limits established by the Public Works Director.
8. The applicant shall be responsible for the upgrading of the existing road with base rock and gravel as necessary to accommodate heavy truck traffic. Such work shall be done in coordination with the Road Department.
9. Applicant shall coordinate with the Road Department to document current road conditions on 36480 West. Applicant agrees to repair damage to said road that can be reasonably attributed to applicant's business use of the road.

10. The applicants or their designees shall be responsible for minimizing the tracking of mud and rock onto Highway 35.

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

Levaughn Gines, applicant and owner of Crossroads Concrete, thanked the commission for their time and efforts. Mr. Gines stated they want to cut business costs associated with hauling the product from Fruitland. They eventually want to sell and haul to the general public. At this time, they are not sure if they will purchase a crusher or have another company do it for us.

Commissioner Moon asked about their access. Mr. Gines stated it is the road to the old Tabiona rodeo grounds and is bordered by Indian ground.

Commissioner Mair asked if there were any other questions or comments. There were none and with no one in the audience to speak either in favor or opposed the request the public hearing was closed.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Levaughn & Karla Gines, for extraction of earth products, subject to conditions 1-10 as stated in the staff report. Commissioner Moon seconded the motion and it passed unanimously.

D. Request by Integrated Rock Products for a Conditional Use Permit to operate a gravel pit and rock crusher about ¼ mile west of Highway 87, between 4000 and 4500 South, in the Duchesne area.

Mr. Hyde referred the commission to their packets and some photos of the location. He stated Integrated Rock Products is applying for this permit to authorize a gravel pit, with rock crushing, on a portion of the north half of a 160-acre site located on the Blue Bench. 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 for a variety of construction activities, including oil well pads and roads.

After highlighting the criteria and conditions for approval which is much the same as the last (Crossroads Concrete) hearing and include public health, safety and welfare, a dust free condition with approvals from TriCounty Health Department and the Utah DEQ, Duchesne County nuisance ordinance, bonding, complying with the county Material Pit Finishing standards the setback and distance requirements for gravel pits and crusher sites to the nearest homes. There will need to be access permit issued from UDOT Region 3 before construction of the road and road approach begins. There is a gas pipeline, in a 50-foot wide easement, running through the proposed gravel pit area as shown on a survey prepared by Bromac Land Surveying dated November 21, 2012.

The applicant will need to coordinate with the owner of this pipeline to ensure that their requirements for crossing or mining near the pipeline are met.

Staff recommendation is approval of the Conditional Use Permit requested by Integrated Rock Products, for extraction 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. A dust control plan approved by the TriCounty Health Department and Utah DEQ shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.
 - b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of crusher operation: (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. 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 by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines.
3. A DEQ Air Quality permit shall be obtained for the crusher and a copy provided to the County prior to the start of crushing operations.
4. Before starting excavation at the site, the applicants shall obtain an industrial stormwater permit from the Utah Department of Environmental Quality.
5. The proposed access point to Highway 87 must be approved by UDOT Region 3 before construction of the road and road approach begins.
6. The applicant shall coordinate with the owner of the gas pipeline crossing the property to ensure that their requirements for crossing or mining near the pipeline are met.

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

Nate Robinson, applicant and owner of Integrated Rock Products, Thanked Mr. Hyde and the commission for their time. Mr. Robinson stated the location is just off highway 87 about ½ mile north of the saw mill and a water disposal location. Their intention is to have gravel in the area for the oil companies that are currently building locations and reduce truck traffic by having a crusher location and product available. IRP is currently

working with TriCounty Health, UDOT and Utah DEQ for the permits needed. After the crushing is finished at each location top soil will be hauled in and the plan is to make and sell building lots for homes. Their hope is to preserve the hillside and protect the river view. There should be some benefits to the community with the increased revenue and added jobs in the area.

Commissioner Mair asked if there were any questions. There were none. Anyone in favor of the proposal was invited to speak. There were none so any opposition was invited to speak.

Jason Taylor, Lehi, Utah has recently purchased 35 acres along the river road to build a home and raise his family. He has done research on this massive operation and stated his concerns on the noise, dust and health issues including the respiratory effects, asthma, particulate matter (PM 10) and the effects on humans, crops and animals. Mr. Taylor feels this is not a good location for a gravel pit. It is unhealthy and will jeopardize the health and welfare of his family. Mr. Taylor feels any state or county permits that are required are not enforced. The residents along the river and Mr. Taylor wish the commission will deny the applicant's request.

Will Taylor, a concerned citizen, feels the same as his brother Jason and also wants to build in the area where he was raised. Mr. Taylor stated the standards and conditions for approval are never complied with and wants their request denied.

Lori Neeley, a resident on the river road, is concerned about the noise, dust and the health issues and wonders when the citizens get to exercise their rights to live and keep their residences peaceful and quiet. Mrs. Neeley is opposed to the applicant's request and wants the commission to deny it.

Brad Taylor, an adjoining resident, stated his concerns with the noise, dust and health issues and as he gets older it is harder to breathe. There is already one crusher in the area and we do not need another one. This gravel pit with the dust blowing from the east will land along the river floor and he is opposed to the approval of this request.

Paul Hayes, a resident on the river road, is wondering why the residents were not notified about the request and is concerned about the noise and dust. Some of the residents and property owners are on oxygen and this will make it impossible for them to even go outside. Mr. Hayes wants the commission to deny the request and go somewhere else to operate. Mr. Hyde responded to Mr. Hayes concerns about the notification process.

Cris Bird, a concerned citizen and operator of a neighboring gravel pit, speaking neither for or against the proposal, stated this will not be a massive operation since most companies only mine 5 acres at a time. The crusher companies need to comply with the standards and conditions of each entity because the fines are expensive and no company wants to have to pay them. Mrs. Bird lives off of 7200 S and stated the dust comes from the river bottom not the crusher location and finds it interesting that no one

on the east side of highway 87 is present at this meeting. She feels the county gravel pits are getting a bad reputation.

Nate Robinson, in rebuttal, stated the residents have valid concerns and he wants to reassure them IRP will comply with the conditions of Duchesne County and the requirements of TriCounty Health and the Utah DEQ. Mr. Robinson wants the residents to know if they have any issues they can contact him. He thanked his competitor for her comments.

Commissioner Mair asked if there were any other questions or comments.

Commissioner Lindsay asked if they were going to leave a berm along the west side of the property. Mr. Robinson stated they want to leave that as natural grade and preserve the view from the river bottom.

With no other questions the public hearing was closed.

There was some discussion with the commission about the dust and noise concerns and the long term plans for this location and IRP.

Commissioner Giles motioned to approve of the Conditional Use Permit requested by Integrated Rock Products, for extraction of earth products, subject to the conditions stated in the staff report. Commissioner Lindsay seconded the motion and it passed unanimously.

E. Recommendation to the County Commissioners regarding a request by Clinton & Donnette Moon and Nielson Construction to rezone approximately 55.9 acres of land located on the Pariette Road, just south of 10000 South, from A-5, Agricultural-Residential to Industrial.

Mr. Hyde stated that Nielson Construction is proposing to purchase 20 acres of land owned by Clinton Moon located on the east side of the Pariette Road, just south of 10000 South in the Pleasant Valley area. The property is currently zoned A-5, Agricultural-Residential. Nielson Construction would like to relocate their Roosevelt office and shop from the Vonsville area to this location. That facility would be an outright permitted use at this location. The property owner has decided to request the rezoning of the remaining 35.9 acres of land he owns surrounding the Nielson site.

The rezoning criteria are as follows:

1. The overall community benefit of the proposed amendment.

Mr. Hyde stated the overall community benefit of the proposed amendment would be the provision of additional business sites to support the local economy and allow an existing construction business to expand.

2. Consistency with the goals and policies of the general plan.

The General Plan contains the following statements regarding private land use:

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

The rezoning criteria of Section 8-1-7 of the zoning ordinance are established to aid the Planning Commission and County Commissioners in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.

3. Compatibility with the neighborhood.

The aerial photos indicate that there are a number of oilfield related businesses in close proximity to this proposed rezone. The Newfield Production Company site to the south has attracted several other businesses serving the oilfield, such as a truck wash, fueling facilities, pipe suppliers, outdoor storage areas, equipment rental and a gravel pit. There is existing commercial and industrial zoning in the area as shown by the existing zoning map. Rezoning of the subject property would be compatible with the neighborhood, which has evolved, with the robust energy industry, to become a business cluster.

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

Mr. Hyde stated in recent years, several businesses have located in this vicinity to serve the Monument Butte oilfield activities. The Planning Commission has granted rezones to either commercial or industrial designations to support these businesses, which were mentioned above. These changes in the neighborhood and the existing industrial zoning to the south would support rezoning of this site for additional business use.

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

Mr. Hyde indicated by changing the use of this property from agricultural to industrial would continue the recent trend in the area, which has seen a change of use from agricultural or vacant land to oilfield related businesses. The proposed zoning and businesses expected to locate in this area are unlikely to have undue adverse effects on the adjoining properties.

6. Consider the interest of the applicant.

Mr. Hyde indicated it is the applicant's intention to convert this property to its highest and best use and capitalize on the market for additional business sites. One business, Nielson Construction, has already committed to building an office and shop on 20 acres of this site.

Mr. Hyde recommended that the Planning Commission adopt the findings and conclusions herein and recommend the County Commissioners' approval of this rezone, requested by Clinton Moon and Nielson Construction, from Agricultural-

Residential (A-5) to Industrial.

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

Chuck Rich, a Nielson Construction representative, stated they have leased in the Roosevelt area for 5 years and are ready to build a new office building and shop. Nielson wants to continue to work in this area. They have many projects in the works and employ many local residents. They want a nice office for the secretaries with landscaping and a place visitors can come anytime and feel welcome. Mr. Rich feels this will be an asset to Duchesne County and the oil and gas industry.

Commissioner Mair asked if there were any questions or comments. There were none. With no one in the audience to speak either in favor or opposed to the applicant's request, the public hearing was closed.

Commissioner Moon motioned that the Planning Commission adopt the findings and conclusions and recommend the County Commissioners' approval of this rezone, requested by Clinton Moon and Nielson Construction, from Agricultural-Residential (A-5) to Industrial. Commissioner Lindsay seconded the motion and it passed unanimously.

NEW BUSINESS:

- A. Initial review of proposed Ordinance #13-314 amending the Duchesne County Zoning Ordinance to make it consistent with new laws passed during the 2013 Utah Legislative session.

- B. Initial review of proposed Ordinance #13-315 amending the Duchesne County Subdivision Ordinance to make it consistent with new laws passed during the 2013 Utah Legislative session.

There was some discussion about each of these ordinances and what the changes will be and who will be effected. Mr. Hyde stated these items should have been on the agenda for this month; however, there was a publishing error so they will be on the July agenda.

Minutes: Approval of May 1, 2013 minutes

Commissioner Jorgensen moved to approve the minutes of May 1, 2013.

Commissioner Roberts seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Commissioner Mair asked about the Wilkerson appeal on the Paul Wells property. Mr. Hyde advised the commission that County Commission denied Mr. Wilkerson's appeal. Mr. Wilkerson had not filed an appeal with District Court. Mr. Hyde also let the commission know Mr. Robison with Sundance RV Park in Myton has withdrawn his request because Myton City withdrew their support for water and sewer connections. There is a possibility of three hearings for the July meeting along with the zoning and subdivision amendments.

Adjournment:

Meeting adjourned at 7:20p.m.