

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
January 8, 2014 - 5:00 p.m.**

In Attendance were:

Kent Olsen, Planning Commission, Chairman
John Jorgensen, Planning Commission
Ken Moon, Planning Commission
Kathy Giles, Planning Commission
Allen Lindsay, Planning Commission
Brad Wells, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

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| Debra Lindsay | |
| Jason McKenna | Fitzgerald Gravel Pit |
| Travis Duncan | Fitzgerald Gravel Pit |
| Kevin Abplanalp | Fitzgerald Gravel Pit |
| Walt and LouAnna Burdette | Fitzgerald Gravel Pit |

Commissioner Olsen opened the meeting at 5:00 PM and welcomed Brad Wells from the Roosevelt area to the Planning Commission replacing Randy Mair after his term expired in December, 2013.

Election of a new Chair and Vice Chair for 2014

Commissioner Jorgensen nominated Commissioner Olsen to serve as Chairman. Commissioner Moon seconded the motion and it passed unanimously. Commissioner Lindsay nominated Commissioner Moon for Vice-Chair. Commissioner Jorgensen seconded the motion and it passed unanimously.

Chairman Olsen read the rules of order and asked if any of the Planning Commission members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. Commissioner Moon stated he is the owner of several gravel pits in the area but does not feel that will affect his decision in any way. Commissioner Wells stated that Chapmans work for the Wells in their family business but does not feel that will affect his voting decision either way. With no objections from the audience the meeting proceeded.

PUBLIC HEARINGS:

A. Continuation of the public hearing on a request by R. Chapman

Construction for a Conditional Use Permit to allow the extraction of earth products (gravel pit and rock crusher) from “Phase 2” of the lands owned by Richard & Vickie Fitzgerald (Myton View Farms) located on the west side of 4000 West, south of Myton.

Mr. Hyde reviewed the staff report beginning with the approval on May 2, 2012 of the applicant's request to locate a gravel pit and rock crusher on about 56 acres of a 290-acre parcel owned by Richard & Vickie Fitzgerald (Myton View Farms). The Planning Commission decision was appealed to the County Commissioners, who conducted a public hearing on June 11, 2012 and approved their Conditional Use Permit subject to several conditions. Work at this gravel pit started during the summer of 2013. As of December 30, 2013, the dust control plan approval had not been received by the County. On January 7, 2014 the county received that approval letter from Tri County Health.

As stated in the staff report, crushing operations at this gravel pit started during the summer of 2013. As of December 30, 2013, a copy of the DEQ air quality permit for the crusher to operate at this location has not been received by the County, although application has been made, the applicant's are waiting for approval. Mr. Hyde stated the County has not received any noise complaints resulting from operations. On November 26, 2013, the property owner waived the bonding requirement in writing and elected to depend on the contract for reclamation they have with the operator. An inspection of the site on November 14, 2013 revealed that the gate to the facility was open and some potentially hazardous conditions exist which could cause harm to trespassers. The applicants indicate that they have constructed berms to help prevent access to dangerous areas.

There was a permit obtained from the County Road Department in April 2013 and the work was approved by the Public Works Director on July 25, 2013. On December 30, 2013, the County received confirmation that the DEQ Storm Water Permit was issued by the Utah DEQ on December 4, 2013 (Permit #UTR265909). This permit is effective through December 31, 2017. The location of the Questar pipeline is outside of the gravel pit excavation area and is not being driven over.

Mr. Hyde stated on October 17, 2013, it was reported to the County that R. Chapman Construction had moved their gravel operation onto Phase II. Staff contacted the operator to remind them of condition #7. The operators admitted their error and discontinued operations within Phase II on October 23, 2013. Application for their conditional use permit for Phase II was received on November 6, 2013. During operations in Phase I, the County did receive dust complaints; however, we understand that the operators did respond quickly to resolve those complaints. Although, based on photos submitted by the residents to the east, more pro-active dust control needs to occur if Phase II mining is authorized.

Mr. Hyde reminded the commission that the applicants did not have the permits required for Phase I operations and the hearing on Phase II was recessed in December

to give the applicants more time to get the required permits. In your packets there are some site photos of the location showing the hazards of the open pit areas and that operations have begun in Phase II. The first findings included in your packets would allow for approval of the applicant's request subject to some conditions include the following:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. Before further operations in Phases I and II, a dust control plan shall be approved by the TriCounty Health Department and shall be implemented on a pro-active basis throughout the course of the operations in Phases I and II 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. A water truck shall be present on the site at all times and adequate personnel made available to operate the truck to control dust during operations at the pit.
 - b. A DEQ Air Quality permit or other authorization to proceed shall be obtained from the DEQ Air Quality Division and a copy provided to the County prior to additional crushing operations in either phase.
 - 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. (Should say 7 AM to 7 PM which was changed during the appeal to the County Commissioners).
2. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and the contract with the property owner and protect the public from any hazardous conditions on the site.

The second set of findings would allow the commission to deny the applicant's request to continue with phase II, based on the following conclusions:

1. The applicant failed to comply with the following conditions of approval prior to start of operations in Phase I: maintaining control of dust, obtaining Utah DEQ and Tri-County Health Department approval of a dust control plan, obtaining Utah DEQ Stormwater permit and submittal of reclamation bonding. However, bonding was addressed and waived by the property owner on November 26, 2013 and the stormwater permit was obtained on December 4, 2013.
2. The applicant moved the operation onto Phase II without obtaining a conditional use permit from the County, as required by the County Commissioners during the appeal hearing.

3. The applicants failed to comply with the requirements of the Phase I conditional use permit; thus, revocation of that permit is appropriate under Section 8-13-7 (B) (3) of the Zoning Ordinance. Partial compliance has since been obtained.
4. Since the applicant has demonstrated lapses in compliance with the terms of the Conditional Use Permit in Phase I, no such permit should be authorized for Phase II.

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

Jason McKenna, representative for R Chapman Construction, stated they are getting their paper work in order. Their engineer has had their Air Quality permit for the crusher approved and it has been in place since 2008. Chapman's have purchased a water truck and hired a driver for this location, whose job is strictly dust control. Mr. McKenna feels the issues they are having at this location are not just theirs, he feels dust comes from other pits in the area and also from Duchesne County (from the closure and detour of the Pariette Road onto the South Myton Road, which had an un-paved section to the North of the pit last year).

Mr. Hyde stated there were dust and traffic issues with the detour but that section of the South Myton Road has since been paved.

Mr. McKenna stated they are looking into a couple of products to control the dust besides just water. Both are polymer products; one is from Dupont called "*dust gone*" and the other is called "*gorilla snot*", which stabilizes the ground surface and controls dust.

There was some discussion with the Commission and Mr. McKenna about the pros and cons of these two products along with the use of Mag water and its benefits.

Mr. Hyde asked if the 2008 air quality permit is for the crusher at any location. Mr. McKenna stated it is a mobile permit or a Title 5 at this time. In the past we have turned the equipment and serial numbers to Tri County Health but there is some confusion about some new EPA rulings and the generators that will be in use. Mr. Hyde understood that when the crusher is moved, the DEQ should be notified 20 days before relocation and it can stay at each location for 180 days. Mr. McKenna stated that was correct. Mr. Hyde also stated he wants verification of the DEQ approval of the location of the crusher as stated in condition 1-B of the previous CUP approval.

Commissioner Jorgensen asked Mr. McKenna if they have completed mining in phase I. Mr. McKenna stated, in conversations with the Fitzgerald's, they would hope that the gravel in Phase II could be depleted before they move on to the alfalfa fields in Phase I. Commissioner Jorgensen was concerned about the reclamation in Phase 1.

There was some discussion between Mr. McKenna and the commission about the need to hold other gravel operators to the same standards associated with state and health

department permits.

Commissioner Olsen asked if there were any other questions. There were none so anyone in opposition was invited to speak.

Walt Burdette, an adjoining property owner, stated the dust comes from the gravel pit not the county road that was under construction. The county did water the road but it was ½ mile from their home. The pit is right behind their home and that is where the dust in their house, on the hot tub cover and in their garage is generated from. Chapman Construction has not done anything they said they would do as far as controlling the dust. They pulled the water truck off the location to service the other pits they have. Without any permits for Phase I and the fact they moved on to Phase II without their conditional use permit. Mr. Burdette feels phase II should be denied and phase I should be revoked.

Commissioner Olsen asked if the applicant wanted to speak in rebuttal. Mr. McKenna stated he did not.

With no one else to speak either in favor or against the applicant's request the hearing was closed.

Commissioner Lindsay motioned to deny the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products in Phase II of the Fitzgerald property and revocation of the conditional use permit for Phase I. Commissioner Jorgensen seconded the motion.

Commissioners Giles and Moon wanted to clarify if the denial is indefinitely or until their permits for Phase I are issued.

There was some discussion about the required permits and lack thereof, the completion of mining in Phase I and a review of the Planning Commissions options.

Commissioner Lindsay stood with his motion to deny the applicant's request. Commissioner Jorgensen seconded the motion.

The discussion continued about the crusher, stockpiles of the product, dust control and the enforcement of the rules and conditions of approval if the permits are approved.

Commissioner Giles requested to re-open the hearing and there was some discussion between the Planning Commission and the applicant regarding conditions for approval, about the two products to control the dust and erosion, stockpiling, disturbed areas at the pit, sprinkler useage and the Burdette residence.

With no other questions or comments the hearing was closed.

At this time, Commissioner Lindsay's motion failed by a vote of 4-2.

Commissioner Giles motioned to approve the Conditional Use Permit requested by R. Chapman Construction, Inc. for extraction and crushing of earth products in Phase II of the Fitzgerald property subject to the conditions stated in the staff report. Commissioner Moon seconded the motion. The motion passed 4-2, with Commissioners Lindsay and Jorgensen voting no.

B. Request by Levi Allred, for a Conditional Use Permit to allow a trucking business to locate at 408 W 13000 South in the Pleasant Valley area.

Mr. Hyde stated the applicant has applied for a county business license to operate a trucking business from the A-5 zone in the Pleasant Valley area. Commercial uses are a conditionally-permitted use in the agricultural-residential zones. Mr. Hyde highlighted the staff report reviewing the conditions and criteria for approval as to public safety, truck parking areas, the nuisance rules and times of operation.

The staff recommendation is that the Planning Commission approve the Conditional Use Permit requested by Levi Allred, subject to the following conditions:

1. The applicant shall obtain a permit from the Duchesne County Fire & Emergency Management Director for any future fueling facilities on the property in accordance with the Fire Code.
2. The applicant shall maintain the truck parking and driveway areas with adequate road base and gravel to minimize the tracking of mud onto the Pleasant Valley Road.
3. 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.
4. The applicant shall ensure that trucks follow posted speed limits and minimize the use of compression brakes on sections of the Pleasant Valley Road where residences are nearby.
5. The applicant shall obtain a building permit and provide adequate water, wastewater and fire protection facilities if a truck shop is built on the property in the future.

Mr. Hyde asked if there were any questions of the staff report. There were none and with no one present, either in favor or opposed to the applicants request, the public hearing was closed.

Commissioner Moon motioned to approve the applicant's request subject to the conditions as stated in the staff report. Commissioner Lindsay seconded the motion and it passed unanimously.

C. Request by Joe Shields for a Conditional Use Permit to allow a trucking business to locate at 11594 S Pariette Road in the Pleasant Valley area.

Mr. Hyde referred the commission to their packets and some site photos of the proposed shop which has been changed from ag building status to a truck shop. The applicant has applied for a county business license to operate a trucking business from the A-5 zone in the Pleasant Valley area. Commercial uses are a conditionally-permitted use in the agricultural-residential zones. Mr. Hyde highlighted the staff report reviewing the conditions and criteria for approval as to public safety, truck parking areas, the nuisance rules and times of operation.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Joe Shields, subject to the following conditions:

1. The applicant shall obtain approval from the Duchesne County Fire & Emergency Management Director for the fueling facilities on the property, in accordance with the Fire Code.
2. The applicant shall maintain the truck parking and driveway areas with adequate road base and gravel to minimize the tracking of mud onto the Pariette Road.
3. 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.
4. The applicant shall ensure that trucks follow posted speed limits and minimize the use of compression brakes on sections of the Pariette Road where residences are nearby.
5. The applicant shall obtain a building permit and provide adequate water, wastewater and fire protection facilities to convert the existing agricultural building to a commercial truck shop and to construct the potential new shop envisioned on the east side of the Pariette Road.

Mr. Hyde asked if there were any questions of the staff report. There were none. With no one present in the audience to speak in favor or against the applicants request the hearing was closed.

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

NEW BUSINESS:

None

Minutes: Approval of the December 4, 2013 minutes

Commissioner Moon moved to approve the minutes of December 4, 2013. Commissioner Giles seconded the motion and it passed unanimously. Commissioner Wells abstained from voting as he was not present at that meeting.

Commission Comments and Staff Information Items

Mr. Hyde stated at this time there is only one hearing for the February meeting, which is a rezone in the Pleasant Valley area.

Adjournment:

The meeting adjourned at 6:01p.m.