

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
March 4, 2015 - 5:00 p.m.**

In Attendance were:

Ken Moon, Planning Commission, Chairman
John Jorgensen, Planning Commission
Allen Lindsay, Planning Commission
Brad Wells, Planning Commission
Bobby Drake, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Darrin Brown, TriCounty Health Department	
Scott Hacking, Utah DEQ	
Jake Woodland	Subdivision Ordinance
Ryan Snow	Burdick-CUP
Gary and Paula Jenkins	Burdick-CUP
Nicole Rasmussen	Burdick-CUP

Chairman Moon opened the meeting at 5:00 pm and read the rules of order. He asked if any of the Planning Commissioners had any ex-parte contacts or conflicts of interest associated with any item on the agenda. There were none, so the meeting proceeded.

PUBLIC HEARINGS:

- A. Request by Burdick Materials for a Conditional Use Permit to locate a gravel pit and rock crusher on an 81.64-acre parcel owned by Double JJ Holdings LLC, Gary Howard Jenkins and Paula Jenkins, located on the south side of the Bluebell Highway, in the Water Hollow area, east of Bluebell.**

Mr. Hyde referred the planning commission to their packets and some site photos of the proposed location and stated that Burdick Materials is proposing to extract earth products (gravel pit and rock crushing) from an 81.64-acre site located on the south side of the Bluebell Highway, in the Water Hollow area east of Bluebell. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that these products will be used initially for the Bluebell Road Phase III road reconstruction project scheduled for the 2015 construction season.

The criteria for a conditional use permit include the following.

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.

Mr. Hyde stated the extraction of earth products can be detrimental in terms of noise and dust during operations. 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 bonding and "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.

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

Rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the proposed access to the mining area is via an existing oil well access road that crosses tribal land. Before using this road, the applicants will need to obtain permission from the Ute Tribe.

Also, the applicants will need to receive approval from the Duchesne County Public Works Director for the gravel pit's access to the Bluebell Road and abide by any load limits established for this road by the County. The proposed gravel pit is being considered to provide rock for a reconstruction of the Bluebell Road being planned for 2015.

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 as there are homes less than one half mile to the southeast.

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.

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 has a county road reconstruction project in this area scheduled for 2015. Rock products could also be used in the energy industry when drilling occurs again in this part of the County. Such projects are 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.

Mr. Hyde stated the proposed mining would take place on an 81.64-acre parcel, which is certainly large enough to accommodate the proposed use. 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 and the crusher is to be set back at least 1,320 feet from existing homes. Aerial photos indicate that there are no homes within 1,320 feet of the boundaries of this site. 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.

Specific criteria for gravel pits include:

- A. Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition;

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department for approval prior to operations beginning. The applicant or authorized agent must follow this plan to control dust at active pit areas and driving surfaces. With extraction of rock, haul roads between the quarry and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. The dust control plan must demonstrate that dust at the pit and along the haul road can be controlled.

- B. Bond Required:** A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements;

The bonding requirement has not been waived by the property owner. The applicants understand that reclamation must occur in accordance with the county standards regardless of the bonding.

C. Reconditioning: Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning;

The “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents shall be subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

D. Distance Requirement for Gravel Pits and Rock Crushing Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

Mr. Hyde indicated the distance requirements of this section will be met. The proposed gravel pit boundaries must be set back at least 50 feet from the property line to meet the minimum standard of the ordinance. The gravel pit boundary will be set back over 660 feet from the nearest homes as shown on the aerial photo attached. The rock crusher location must meet the ¼ mile setback requirement (from a dwelling or city limit line). The aerial photo attached shows that the nearest homes are located over ¼ mile to the southeast.

Mr. Hyde’s recommendation is approval of the Conditional Use Permit requested by Burdick Materials, for extraction of earth products from the Double JJ Holdings property located on the south side of the Bluebell Road, just west of Water Hollow, subject to the following conditions:

1. The Owners and 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 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 Bluebell Road during periods of hauling.

- b. 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. The Owners 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, berming and/or fencing.
3. A DEQ Air Quality permit shall be obtained for the crusher to operate at this location and a copy provided to the County prior to the start of crushing operations.
4. Before starting excavation at the site, the Owners or their authorized agents shall obtain an industrial stormwater permit, if required, from the Utah Department of Environmental Quality and provide a copy to the County.
5. The Owners and their authorized agents agree to maintain a 50-foot wide buffer between the excavation areas and the property lines, a 660-foot buffer between excavation areas and existing homes and a 1,320-foot buffer between the crusher location and existing homes.
6. The Owners and their authorized agents agree to obtain permission from the Ute Tribe if they use a road crossing tribal land to access the gravel pit.
7. The Owners and their authorized agents agree to obtain permission from the Duchesne County Public Works Director for their Bluebell Road access location and agree to abide by any load limits on this road established by the County.

Mr. Hyde asked if the commission had any questions of the staff report. There were none. So the applicant was invited to speak.

Ryan Snow, a representative of Burdick Materials, stated they have many gravel pits around the basin and have standard air quality and dust control permits in place. They always reclaim their pits and hope to be good neighbors and asked if the commission had any questions.

Commissioner Moon asked Mr. Snow if the tribal access road will be an issue. Mr. Snow indicated they will just add it to their tribal access permit.

Commissioner Moon asked if there was anyone in the audience to speak either in favor or opposed to the applicant's request. There were none so the public hearing was closed.

Commissioner Jorgensen motioned to approve the Conditional Use Permit requested by Burdick Materials, subject to the conditions stated in the staff report. Commissioner Lindsay seconded the motion and it passed unanimously.

B. Recommendation to the Duchesne County Commissioners regarding proposed amendments of the Duchesne County Subdivision Ordinance, amending the requirements for submittal of a preliminary plat for a subdivision and specifying where connection to a public sewer system will be required.

Mr. Hyde stated Duchesne County proposes to amend its subdivision ordinance to establish when connection to a public sewer system will be required for subdivisions. Recent on-site waste water system failures in the Hancock Cove area west of Roosevelt demonstrate the need to reduce the density of on-site waste water systems in areas with the potential for high ground water levels.

The criteria for considering a proposed amendment to the zoning [or subdivision] ordinance and map are as follows:

1. The overall community benefit of the proposed amendment.

Mr. Hyde stated the amendments have been proposed to help ensure that developers of new lots, by minor or standard subdivision, provide adequate waste water disposal facilities for future lot owners. Experience has shown that some areas of the County have high groundwater table issues which can result in the failure of on-site waste water disposal systems; especially in areas where ample irrigation water is present.

The proposed ordinance sets forth that connection to a public sewer system will be required when:

- a. On-site wastewater disposal is deemed unfeasible by the sanitary sewer authority [the TriCounty Health Department] or a licensed geotechnical engineer or hydrogeologist; or
- b. Lot sizes are proposed to be one net acre or less. [A net acre is the gross acreage less any road rights of way. For example, there are residential lots in the County, where culinary water is available, with a gross acreage of one acre; however, when the abutting road right of way is removed, the net acreage is about .75 to .8 acre]; or
- c. The subdivision or minor subdivision boundary is located within a distance of one hundred fifty (150) feet multiplied by the number of proposed lots, in all anticipated phases of the subdivision, from an existing public sanitary sewer line. This standard shall apply regardless of topography or other natural features located between the subdivision and the existing sanitary sewer line. This standard shall apply regardless of the laws and policies of a city or an agency with jurisdiction over said existing sanitary sewer line. [Thus, a requirement to annex will not relieve a developer from the requirement to connect to a public sewer. Also, a developer would have to plan for all anticipated phases rather than using a phasing process to avoid the requirement for connection to a public sewer. Finally, the existence of

natural features and topography (such as hills and streams) would not allow a developer to avoid a public sewer connection; rather, engineering solutions would have to be evaluated].

Mr. Hyde indicated there are other criteria including the consistency with the goals and policies of the general plan, compatibility with the neighborhood, the changes that have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted, whether the changes in the use for the affected properties will unduly affect the uses of adjoining properties and to consider the interest of the applicant.

Mr. Hyde stated in this case Duchesne County is the applicant and those criteria are not applicable although the county does have an interest in amending its subdivision ordinance to ensure that developers provide their new subdivisions with adequate waste water disposal systems.

Mr. Hyde referred the commission to a copy of Ordinance 15-341 in their packets and noted the changes in bold. In Section 1, Section 9-4-3 (Q) and (U): The proposed layout, dimensions, area and number of each lot. **Lot area shall be calculated including the gross acreage and the net acreage (gross acreage less the abutting road rights of way) would be added.** The second change in **Section 1 #3 (U) states a preliminary plat shall contain a statement indicating the distance from the proposed subdivision boundary to the nearest public sewer line(s) and state the agency with jurisdiction over said line(s).**

Mr. Hyde recommends that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Subdivision Ordinance as set forth in proposed Ordinance #15-341.

Mr. Hyde asked the planning commission if they had any questions or comments of the staff report.

There was some discussion about the need to annex into Roosevelt City and the possibility of using septic systems if you are a developer.

Scott Hacking, from the DEQ office stated there are a lot of other counties that use these requirements such as Iron County.

Commissioner Wells noted his concerns about the 1 net acre especially in a high water area. Maybe that should be 1.25 net acres.

Commissioner Moon asked if there were any other comments.

Jake Woodland, a property owner on Mortensen Lane, stated his concerns about the 1 acre net also especially if that does not include any right of ways. Mr. Woodland is also concerned about the one size fits all standard and doesn't feel there is any room for terrain or if a farmer has 100 acres and wants to sale a parcel of land that can pass a percolation test on 1 or 2 acres. There needs to be some allowance for different situations.

There was some discussion about the current ordinance, the revisions for the proposed amended ordinance and the need for the variance process. Mr. Hyde stated either TriCounty Health, the County Commissioners or himself can make decisions on a case

by case basis.

Darrin Brown, TriCounty Health Department, commented on Mr. Woodlands concerns about the one size fits all statement and stated that one size fits most and that is why the variance process needs to be an option. Mr. Brown stated 150 feet per lot is a good concept and he likes the direction the County is going and commented the health department will be making changes even if the county does not adopt this amendment. The small lots are the problem without sewer connections; the 5 acre lots have some flexibility because of the distance.

Mr. Hacking commented that if sewer was not available you would not be forced to connect. There are options, if Roosevelt City is at capacity you could create a mini sewer district or there are fabric filters that have a much smaller footprint to disperse. Mr. Hacking would also like to thank Mr. Hyde for his efforts.

There was some discussion with the Planning Commission, Mr. Brown, Mr. Hacking and Mr. Woodland about lot sizes, sewer districts, pumping stations, individual pumps, and alternatives if sewer is not available.

Commissioner Lindsay suggested to delete a portion of the third criteria for connection and add a variance procedure.

Mr. Hyde suggested to add some wording for the variance section.

Mr. Brown stated the health department will consider the county ordinance as they change their rules to deal with the issues.

There was some discussion about recessing the hearing, maybe having a comment period with the health department until they have made their changes.

Commissioner Jorgensen suggested the planning commission move ahead with their decision and not wait for TriCounty to move forward and asked Mr. Hyde, if need be, could the commission amend this ordinance. Mr. Hyde replied yes.

Commissioner Moon asked if there were any other questions or comments. There were none so the public hearing was closed.

Commissioner Jorgensen motioned that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Subdivision Ordinance as set forth in proposed Ordinance #15-341 subject to the changes to the third criteria for connecting to sewer and to establish a variance process.

NEW BUSINESS:

None

Minutes: Approval of February 11, 2015 minutes:

Commissioner Drake moved to approve the minutes of February 11, 2015. Commissioner Jorgensen seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

Mr. Hyde informed the commission that their decision on the Nelson minor subdivision they heard last month has been appealed to the county commissioners. That hearing

will be held on March 23rd in the Commission Chambers. The next Planning Commission meeting will be April 1st. There is a possible conditional use permit hearing to bring a RV Park on Highway 35 in the Utahn area into compliance.

Adjournment:

Meeting adjourned at 6:10 p.m.