

## ROUTT COUNTY PLANNING COMMISSION

### FINAL MINUTES

**APRIL 5, 2018**

The regular meeting of the Routt County Planning Commission was called to order at 6:00 p.m. with the following members present: Chairman Steve Warnke and Commissioners Troy Brookshire, Geoff Petis, Andrew Benjamin, Bill Norris, Roberta Marshall and John Merrill. Commissioners Brian Arel, Paul Hebert, Peter Flint and Karl Koehler were absent. Planning Director Chad Phillips and staff planner Alan Goldich also attended. Sarah Katherman recorded the meeting and prepared the minutes.

#### **PUBLIC COMMENT**

There was no public comment.

**ACTIVITY: PL-17-175**

**PETITIONER: Elam Construction**

**PETITION: Amendment of PP2013-042 to expand the boundaries of the Fetcher/Vale gravel pit by 8 acres**

**LOCATION: 54395 CR 62, Clark, CO; located approximately 4,300 feet west of the intersection of CR 129 and CR 62**

Mr. Ben Langenfeld of Greg Lewicki and Associates, representing the petitioner, reviewed the application to expand the Fetcher/Vale gravel pit. He reviewed the current operation on an aerial photo and presented a site plan of the mine. He indicated the expansion area, the location of the crushing equipment, the boundary of the conservation easement, the reclaimed areas and the stockpiles. Mr. Langenfeld described the mining plan that would move to north and northeast, eventually excavating the hillside and daylighting the mine site. He also reviewed the final reclamation plan.

Mr. Langenfeld stated that another element of the application is the proposed asphalt plant. He said that although the asphalt plant has not been used in many years, the petitioner would like to reserve the ability to operate an asphalt plant in the event of a road paving or other similar project in the area. Mr. Langenfeld indicated on a site plan the current location of the crusher. He also indicated the location where the equipment would be located at the later stages of the mine plan.

Commissioner Petis asked for further explanation of the removal of the hillside that serves to screen the pit. Mr. Langenfeld reviewed the plan to excavate the hillside from the backside. Eventually, the hill will be removed and there will be a narrow window through which the pit area will be visible from CR 62 at the northeast corner of the pit. The only residence in the area is owned by the Vale family. Mr. Langenfeld noted that by the time the hill is removed, the opposite

side of the mine, which will then be visible, will have been reclaimed. Chairman Warnke stated that when the hill is removed, the sound attenuation it provides will also go away.

Commissioner Benjamin asked about the nature of the gravel deposits in the area. Mr. Jon Mueller of Elam Construction stated that the gravel is the result of glacial deposits. He said that the topsoil on the site is approximately 2 ft. thick, and that there is another 6 - 8 ft. of overburden between that and the mineral deposits.

In response to a question from Chairman Warnke, Mr. Mueller stated that the pit does not accept imported materials. He said that a provision for this is included in the application in the event of an overlay project that would enable Elam to recycle asphalt.

Commissioner Petis asked if requiring mitigation for the visual impacts of the mine would be appropriate, given that it will be visible once mined out. Commissioner Brookshire noted that the length of time during which mining activity would be visible would depend on demand for gravel from the pit. Mr. Langenfeld stated that the portion of material to be mined that would require the removal of the hillside is very small. He acknowledged that the final stage of mining could drag on, but offered that it would be more likely that the gravel under the hillside would be mined out, processed and stockpiled at the bottom of the pit, allowing for reclamation of the rest of the mine. Sales would then be made from stockpiles located on the floor of the mine, which would probably not be visible from CR 62. He pointed out the narrow window through which the pit would be visible. Mr. Mueller added that the backside of the pit, which would be visible through that window, would have been already reclaimed by the time the hill is removed. Mr. Langenfeld estimated that mining equipment would be visible for less than a single season.

Commissioner Petis asked about the discrepancy between the average annual sales and the maximum tonnage requested in the permit application. Mr. Langenfeld stated that sales in small rural pits of this type can spike during large projects, such as road overlays. The requested sales limit reflects the maximum capacity of the pit that could be produced if needed for such a project.

Commissioner Petis asked for a clarification of the hours of operation and hours of hauling. Mr. Langenfeld stated that the hours of pit operation are 7 a.m. to 6 p.m. The hours of off-site hauling are 8 a.m. to 5 p.m. Mr. Vale explained that when the North Routt Community Charter School was located on CR 62, hauling could not begin prior to 8:30 in order to avoid interference with the school bus schedule. The school is now located on CR 129.

Mr. Goldich reviewed the history of the gravel pit. He stated that no compliance issues were identified in a recent inspection of the operation and no complaints had been received since the early 2000s. The Division of Reclamation, Mining

and Safety (DRMS) last inspected the pit in August of 2016 and no violations were noted. DRMS generally conducts inspections every three years unless complaints are received. Mr. Goldich stated that following consultation with the Colorado Cattlemen's Agricultural Land Trust (CCALT), which holds the conservation easement on the Fetcher and Vale properties, modifications had been made to the mine plan. With these changes, the CCALT is in support of the application. Mr. Goldich noted that when the permit for the pit was last renewed, some conditions of approval had been inadvertently left out of the permit. Those conditions of approval have been reinstated in the suggested conditions of approval included in the staff report. Mr. Goldich stated that a referral had been sent to the North Routt Community Charter School, but that no response had been received.

Chairman Warnke asked how the DRMS sets the bond amount required for the pit. Mr. Langenfeld stated that after the request for a permit amendment is submitted, and after the public comment period has closed, the DRMS will evaluate the technical aspects of the mine plan and calculate the maximum worst-case-scenario cost of reclamation. A 3% contingency is added to that amount to come up with the required bond. Mr. Langenfeld stated that for small pits like this one it is unlikely that portions of the bond would be released early.

In response to a question from Commissioner Petis, Mr. Vale and Mr. Fetcher stated their support for the application.

Commissioner Petis asked about the strikethroughs included in the suggested conditions of approval in the staff report. Mr. Goldich stated that these were left to show what is in the existing permit. He clarified the changes to the conditions. In response to a question from Chairman Warnke, Mr. Goldich clarified suggested Condition #17 regarding the discrepancy between the Elam lease on the property and the permit period. He stated that the condition ensures that the lease is maintained throughout term of the permit.

Commissioner Brookshire asked about the provision for a light plant. Mr. Goldich stated that the permit is for year-round operation and that lighting would be needed for anything to occur at the site during the winter in the early and late hours of the day. Mr. Langenfeld stated that the pit operates from early April to late October, at the longest, but that occasional site maintenance may be needed in the winter. He stated that the provision for lighting is to ensure that if emergency stabilization is needed, it could be performed to prevent slope failure to protect the neighboring properties and the mine. Mr. Mueller added that any lighting would be directed toward the pit and not outside it. Commissioner Brookshire expressed concern that the provision would allow full operations under light. Mr. Langenfeld stated that the annual snowfall in north Routt would make regular operation during the winter impossible.

There was a discussion of suggested Condition 19. Commissioner Brookshire recommended changes to clarify when gravel hauling is allowed.

There was no public comment.

### **Roundtable Discussion**

Chairman Warnke asked Planning Commission if visual mitigation was needed to address the impacts of the hill removal.

Mr. Langenfeld indicated on a site plan the location of the equipment on the pit floor now, and where it would be located when the hillside is removed.

In response to a question from Commissioner Merrill, Mr. Goldich reviewed the requirements regarding conservation mitigation which would apply if the total disturbed area were to exceed 10 acres. The current application is for 8 acres.

Commissioners Marshall, Benjamin, Brookshire, Merrill and Norris agreed that visual mitigation was not needed. Commissioner Petis offered that some provision for mitigation could be included in case visual or noise impacts prove to be more significant than currently anticipated when the hill is removed. Commissioner Benjamin noted the isolated location of the pit.

Mr. Vale stated that the future land use after the pit is mined out is cattle grazing. He stated that the areas surrounding the pit are under conservation easement, and that there are no neighbors. He added that the original life of the pit was expected to be 10 years when it was evaluated in the late 1970s.

### **MOTION**

Commissioner Brookshire moved to recommend approval of the amendment to the Special Use Permit for the Fetcher/Vale Gravel Pit, with the following findings of fact:

1. The proposal with the following conditions meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, 6 and 9 of the Routt County Zoning Regulations.
2. The Special Use Permit with the following conditions will not adversely affect the public health, safety, and welfare.
3. The proposal with the following conditions is compatible with the immediately adjacent and neighboring properties.

This approval is subject to the following conditions:

### **General Conditions:**

1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 4, 5, 6, 8 and 9.
2. The SUP is limited to uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or

amended application. Minor amendments may be approved by the Planning Director subject to Section 3.2.10 of the Zoning Regulations.

3. Any complaints or concerns which may arise from this operation may be cause for review of the SUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. In the event that Routt County commences an action to enforce or interpret this SUP, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
5. No junk, trash, or inoperative vehicles shall be stored on the property.
6. This permit is contingent upon any required permits being obtained and complied from all involved agencies including, but not limited to the Division of Reclamation, Mining and Safety (DRMS) Mined Land Reclamation (112 Construction Materials Permit), Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division (Air Quality Permit), CDPHE (Stormwater Management Plan), any applicable US Army Corps of Engineer permits, and Routt County Road and Bridge (Grading & Excavating and Right of Way permits). The operation shall comply with all Federal, State, and local laws. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to operations.
7. Fuel, flammable materials, and hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements. Any spills of fuels or hazardous materials shall be reported to the Routt County Planning Department within three days of occurrence.
8. All exterior lighting shall be downcast and opaquely shielded.
9. Prior to the issuance of the permit, the Permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.
10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director without notice.
11. Permits/Approvals shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this SUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, Transferee shall submit written consent to the transfer by the landowner. Failure to receive approval for the transfer shall constitute

sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.

13. The permittee shall prevent the spread of weeds to surrounding lands and shall comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan. A weed mitigation plan shall be developed by the Permittee and reviewed and approved by the Weed Supervisor prior to issuance of the Special Use Permit.
14. Any land survey monuments shall be recorded in the Colorado Land Survey Monument Records prior to commencement of mining, and if removed, shall be replaced following reclamation.
15. Copies of all financial guarantees related to the project shall be submitted to the Planning Director prior to issuance of the Special Use Permit. The Board of County Commissioners may require a financial performance guarantee to ensure restoration of the site and access roads and compliance with other conditions of this permit. The County will not require financial guarantees that are duplicative of that required by the State.

**Specific Conditions:**

**Operations Plan:**

16. The Special Use Permit (SUP) is valid until December 31, 2024, provided it is acted upon within one year of approval. The permit period is based on the length of the valid lease with the landowners. Upon submission of an updated lease, the Planning Director may renew the permit for a period of 10 years from the date of Board of County Commissioner approval. The SUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year (except for uses that are customarily operated seasonally or periodically).
17. Approved uses include:
  - Extraction of gravel deposits
  - Crushing and processing of gravel deposits
  - Stockpiling of topsoil, overburden, and extracted and processed gravel
  - Intermittent operation of an asphalt plant
  - Locating a scale house and portable office facilities
  - Recycling of soil, asphalt, and concrete rubble
  - Reclamation
  - Site Sign
18. The operation consists of:

- a) A maximum of 100,000 tons of material may be removed from the pit in any 12-month period. Any increase above this amount will require an amended permit.
  - b) Operation: 7:00 a.m. to 6:00 p.m., Monday through Friday. Operation, as used in this condition, shall include the firing up and operation of the crusher, loading, internal hauling, extraction, sorting and crushing of gravel and other materials, use of the office, equipment maintenance and repair, the warming up of equipment, and shipping and receiving of non-aggregate materials. The site will also operate one Saturday per month following the operating hours outlined above.
  - c) There shall be no operation on Sundays or national holidays, which are Christmas Day, Thanksgiving Day, New Year's Day, Fourth of July, Presidents' Day, Memorial Day, and Labor Day, except as may be permitted by the Planning Director of Board of County Commissioners.
  - d) The Planning Director may grant temporary waiver of hours and/or days of operation and hauling for public projects or for projects with special technical requirements.
  - e) The hours of off-site truck hauling shall be from 8:00 am to 5:00 pm Monday through Friday.
  - f) This permit will allow crushing activities for no more than sixty (60) days within any given construction season and the operation of one asphalt plant for no more than thirty (30) days in any one construction season. The operator shall notify the community ten days in advance of installing the asphalt plant. There may be special public projects that necessitate additional time. Any such special public project shall be of limited duration and the additional operation must be approved by the Planning Director. Requests for this type of approval shall be submitted at least two weeks in advance.
19. A maximum of 25.3 acres shall be disturbed at a time. Disturbed acreage is defined as all areas not covered by water, pavement or substantially noxious weed free vegetation. Reclamation according to the approved plans including grading, topsoiling, and seeding shall occur concurrently with mineral extraction in each area.
20. Overburden and topsoil stockpiles shall be seeded within 12 months of disturbance.
21. Prior to issuance, permittee shall submit evidence of approval from DRMS for the proposed amendment. Such approval shall be consistent with the approved with this SUP. Any future amendments to the DRMS permit must be approved by the Planning Director and may be cause for a review of the SUP.
22. As soon as sufficient working area is available, the asphalt plant and crusher shall be located behind the east land barrier and on the pit floor to reduce visibility.

**Reporting:**

23. The operator shall submit the current DRMS Annual Report for the pit to the Planning Department within two weeks of the due date each year for compliance verification.
24. The operator shall submit an annual report to the Planning Department and Assessor's office that details total materials hauled, remaining reserves, and the number of truck trips. This annual report shall be submitted on the same day as the DRMS Annual Report.
25. Permittee shall notify the Routt County Environmental Health Department of any written or verbal notice of violation or citation issued to the Permittee by DRMS, CDPHE, or any other permitting agency. **Copies of inspection reports, annual reports, asphalt plant and crusher relocation notices, and any other documentation required to be submitted to DRMS, CDPHE, or any other permitting agency for any permits obtained through those agencies shall be submitted to the Routt County Environmental Health Department.**

**Reclamation:**

26. Final reclamation of the pit shall be in conformance with the submitted and approved reclamation plan. Reclamation shall include concurrent backfilling and reseeding, occurring in 3-5 year intervals until the site has been completely mined. Upon cessation of mining, the permittee shall proceed with reclamation with due diligence.
27. The Reclamation Plan shall be approved by DRMS as the final reclamation plan for this site prior to the issuance of the SUP. Any revisions to the DRMS approved reclamation plan must be approved by the Planning Director and may be cause for a review of the SUP.

**Access and Traffic:**

28. Routt County has the authority to close any county road at its sole discretion if damage to the road may occur by its use. To the extent that a road closure may affect the permittee's operations, Routt County will cooperate with the permittee to allow operation to be continued in a safe and practical manner.
29. Permittee shall maintain county roads affected by this SUP during the life of the operations. Maintenance shall be determined by the Routt County Road and Bridge Department at its sole discretion and at the permittee's expense. Maintenance may include, but is not limited to grading and graveling of roadways, restoration of roadway crown, sweeping or cleaning access points, soft spot/damage repair, and application of a dust palliative as approved by the Routt County Road and Bridge Director and the Routt County Department of Environmental Health.

**Air and Water Quality:**

30. No mining or other activity shall occur within 50 feet of Cottonwood Gulch.
31. Control of stormwater shall adhere to the Stormwater Management Plan as approved by CDPHE.

32. The asphalt plant shall be consistent with the submitted drawings, including the utilization of a baghouse for air pollution control.
33. The operator of the asphalt batch plant shall utilize “best management practices” in the operation of the plant including routine, continual monitoring of the plant operation and having the plant operator become certified to perform opacity testing and conducting such testing on an ongoing basis. The plant operator shall keep records of such testing and make such records reasonably available for inspection by the County. The asphalt batch plant shall be operated so that noxious odors are not emitted beyond the boundary line of the property. The applicant shall also comply with all applicable Colorado odor regulations.
34. The Special Use Permit is contingent upon the petitioner complying with the applicable requirements of Regulation 1, Section III.D.1.b of the Colorado Air Quality Control Commission, as a minimum standard. The operation shall maintain a State-approved fugitive dust control plan for the sand and gravel operation. In addition, no off-site transport of visible dust emissions shall be allowed. The Planning Administrator may require temporary closure of the facility if dust control measures are not effective. All disturbed sites shall be watered or chemically stabilized to minimize dust. Watering operations shall be increased immediately in response to periods of high wind. The operator shall take all appropriate actions to mitigate and control dust from all sources, including stockpiles.

**Noise:**

35. Noise from equipment and trucks associated with the operation shall be muffled as much as possible.
36. Proximity sensitive back-up alarms shall be installed on all on-site loaders and earth-moving equipment operation above the elevation of the pit floor.
37. Noise from all on-site sources and from haul trucks shall be in compliance with the performance standards in the State noise statute (C. R. S. 25-12-101). Violations of performance standards shall be enforceable by the Routt County Planning Department and may be cause for a full review of the SUP by Planning Commission and/or the Board of County Commissioners.
38. The asphalt plant shall use the best available technologies to reduce noise. Noise reduction equipment shall be upgraded as new technologies become available.

**Miscellaneous:**

39. This permit allows expansion of the pit by 8 acres. Prior to issuing permits for any future expansions that total 2 acres or more, the permittee shall enter into a Conservation Mitigation agreement with Routt County to protect land located within five miles of the subject site from any future residential or commercial development. Such agreement shall conserve an equivalent amount of land above 2 acres.

40. All trash shall be stored in Interagency Grizzly Bear Committee certified receptacles. All other black bear attractants shall be minimized.

Commissioner Norris seconded the motion.

**Discussion**

Commissioner Petis proposed a friendly amendment to add a condition requiring the applicant to return to Planning Commission at the end of the project to determine if any visual mitigations should be implemented.

The friendly amendment failed for lack of support.

**The motion carried 7 - 0, with the Chair voting yes.**

**ADMINISTRATOR 'S REPORT**

Mr. Phillips reviewed the upcoming agendas for May. He said that he keeps a running list of all projects being worked on by staff other than their Planner of the Day duties. He said that he could occasionally review that list with Planning Commission.

**The meeting was adjourned at 7:10 p.m.**