

# ROUTT COUNTY PLANNING COMMISSION

## MINUTES

**FEBRUARY 16 , 2023**

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 Brian Kelly, Bill Norris, Andrew Benjamin, and Linda Miller. Commissioners Greg Jaeger, Ren Martyn, Jim DeFrancia, and Paul Weese were absent. Planning Director Kristy Winser and staff planner Alan Goldich also attended. Sarah Katherman prepared the minutes from a recording.

**ACTIVITY : PL20220097**

**PETITION : Special Use Permit - Mining for Sand and Gravel**

**APPLICANT: Duckels Construction, Inc (Fred Duckels) c/o Lyn Halliday**

**LOCATION: 25740 COUNTY ROAD 33A 62.7 acre portion of a 1069 parcel located 0.83 miles west of the intersection of US40 and Anchor Way between US40 and the Yampa River**

Ms. Lyn Halliday, representing the petitioner, stated that the current Special Use Permit (SUP) expires on March 26, 2023. She stated that the request is to renew the existing permit for another 10 years. She reviewed a site plan of the gravel pit and indicated the location of the access road, processing area, and current mining operations. She noted that 11.7 acres had been added to the mine boundary when the SUP was renewed in 2012. The total mine boundary contains 67.2 acres. Ms. Halliday reviewed the permits under which the gravel pit operates, including permits from the Division of Reclamation and Mine Safety (DRMS), from the Colorado Department of Public Health and the Environment (CPDHE) for stormwater management, the water well, and emissions (an APEN permit), as well as the SUP from Routt County. She noted that the water rights on the site are owned by the Hogue family that owns the parcel on which the gravel pit is located.

Ms. Halliday reviewed the products that the gravel pit supplies and noted the importance of the pit to the County's economy. She stated that no complaints regarding this gravel pit have been received in all the years it has been operating. She reviewed the dewatering system and the water sampling and testing protocols. Ms. Halliday also stated that a 100 ft. no-work zone between the pit and the Yampa River is maintained and added that there is a berm around the entire perimeter of the pit.

Mr. Goldich presented a site plan of the gravel pit and indicated the adjacent properties and the location of access road, the stockpiles, the scale and processing area and the area currently being mined. He noted that the mine is located on a 1069-acre parcel. Mr. Goldich stated that the permit had been

previously renewed in 2012. He said that the petitioners are not requesting any changes to the existing conditions of approval (COAs) and are not proposing any expansion of the mine boundary. He stated that because the operation had previously been deemed in compliance with the Master Plan, the Zoning and Subdivision Regulations, and the Steamboat Springs Area Community Plan, the review had been limited to compliance with the COAs. He said that while none of the existing COAs had been changed substantially, they had been updated to reflect current standards and language. Also, some additional reporting requirements were included in the suggested COAs to bring this permit into conformance with those of other similar operations. Mr. Goldich noted that COA #42 (current COA #39), which concerns an agreement with the County regarding conservation mitigation, was supposed to be completed prior to the commencement of mining in Phase 2 of the pit. The requirement to preserve from development 0.7 acres of land within a 5-mile radius of the site is intended to offset impacts of the mine, and can also be fulfilled by the operator providing an equivalent local public benefit. He said that the County was not aware that Phase 2 mining had begun, but that staff has been working with the applicant on a plan for compliance. Mr. Goldich said that the applicant had proposed donating gravel in the amount equal to the value of a 0.7-acre parcel to the US Forest Service for improvements to the Dry Lake parking lot on Buffalo Pass. He stated that based on the December 2022 appraisal of the Hogue Property, at \$13,913/acre, the value of 0.7 acres of land has been estimated at \$9,740. The applicant would enter into an agreement with Routt County to provide \$9,740 of gravel to the US Forest Service. Mr. Goldich stated that the USFS supports this proposal. He added that the details of the agreement have not been worked out because staff wanted to ensure that the proposal had the support of Planning Commission and the Board of County Commissioners before moving forward. Mr. Goldich also noted that COA #6a (current COA #5a) should refer to the DRMS **112** permit, not the 110 permit.

In response to a question from Chairman Warnke, Mr. Goldich said that he did not think the County had ever before used an in-kind donation of equivalent value to satisfy a conservation requirement. Commissioner Miller asked if the proposed amount gravel to be donated would be significant to the parking lot improvement project. There was a discussion of the amount of gravel that \$9,740 would buy. Mr. Derrick Gallegos, of Duckels Construction, offered that the amount of gravel would depend on whether Duckels, the County or the USFS were hauling it, as hauling would account for a significant portion of the cost. Mr. Derek Duckels estimated that the donated gravel would cover about 1/3 of the parking lot at a depth of 4 inches.

Commissioner Benjamin asked about the change in wording to some of the COAs. Mr. Goldich explained that the language was modified to better match the language of the regulations.

Noting the provision for the importation of aggregate, Chairman Warnke asked if aggregate recycling was done at the pit. Mr. Goldich said that aggregate is not

being recycled at this time, but the provision will allow it to occur in the future. He said that the 2022 Master Plan includes a policy regarding aggregate recycling.

There was no public comment.

Following discussion, Planning Commission expressed support for the proposal to fulfill the conservation mitigation requirement with a donation of gravel to the USFS. Commissioner Benjamin offered that the USFS should be allowed to use the in-kind donation as it sees fit. He also asked about the 10-year term suggested for the new permit. Mr. Goldich clarified that the County's regulations do not allow gravel mining permits to be issued for longer than 10 years. He said that this limitation would be reviewed when the regulations are updated later this year.

### **MOTION**

Commissioner Kelly moved to approve the Special Use Permit for mining sand and gravel 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 neighborhood properties.
4. The pit has been in operation since 1992. No complaints have been received concerning this operation since it was last reviewed in 2011.

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 and 9.
2. 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.
3. 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.
4. No junk, trash, or inoperative vehicles shall be stored on the property.
5. This permit is contingent upon any required permits being obtained and complied with from all involved agencies including, but not limited to the following:
  - a) Division of Reclamation, Mining and Safety (DRMS) 112 Construction Materials Permit

- b) Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division (APCD) Air Quality Permit
  - c) CDPHE Stormwater Management Plan
6. 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.
  7. Fuel, flammable materials, and hazardous materials shall be kept in a safe area. 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, as per Section 6.3 of the Routt County Zoning Regulations.
  9. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance in compliance with the County's Insurance and Surety Requirements policy then in effect. The certificate of insurance shall include all permit numbers associated with the activity and Routt County shall be named as an additional insured. Permittee shall notify the Routt County Planning Department of any claims made against the policy.
  10. Accessory structures/uses and minor variations to the site specific development plan that do not increase the scope or extent of the approval or change the intended purpose of the conditions may be administratively approved by the Planning Director, without public notice prior to the decision.
  11. 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.
  12. The permittee shall prevent the spread of weeds to surrounding lands, and comply with the most current version of the Colorado Noxious Weed Act and Routt County regulations for noxious weeds. The weed mitigation plan shall be reviewed and approved by the Weed Supervisor prior to issuance of the Special Use Permit.
  13. 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.
  14. 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 insure 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.

- ~~15.~~ The operator shall use the use of the mostly technologically advanced and proven procedures and equipment to mitigate the significant impacts of mining operations and associated uses.

**Specific Conditions:**

Operations Plan:

- ~~16.~~ The Special Use Permit (SUP) is valid for ten (10) years from the Board of County Commissioners' approval date, provided it is acted upon within one year of approval. The SUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year.
17. The SUP is limited to the facilities presented in the Site Specific Development Plan (mining and reclamation plans). 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. Approved uses include:
- Importation of aggregate,
  - mining,
  - crushing,
  - washing,
  - processing,
  - stockpiling of gravel and associated equipment.
18. The hours and days of operation shall not exceed the following:
- Operation: 7:00 a.m. to 7:00 p.m., Monday through Saturday. Operation, as used in this condition, shall include the firing up and operation of the crusher and wash plant, loading, hauling, extraction, sorting and crushing of gravel and other materials; it shall not include use of the office, maintenance and repair of equipment, and shipping and receiving of non-aggregate materials.
  - No extraction, processing, hauling, or operation of trucks or other equipment shall occur on Sundays and Christmas Day, Thanksgiving Day, New Year's Day, Fourth of July, Presidents' Day, Memorial Day, and Labor Day.
  - Warming of equipment is allowed 15 minutes prior to startup of operation.
  - The Planning Director may grant temporary waiver of hours and/or days of operation for public projects or for projects with special technical requirements.
19. Any proposed amendments to the DRMS permit must be approved by the Planning Director and may be cause for a review of the SUP.
20. Soil and vegetation shall not be stripped in excess of an area required for one year of mining
21. Topsoil and overburden stockpiles shall have a minimum of 3:1 slopes, and shall be revegetated if left undisturbed for more than six-months.
22. Permittee shall obtain all necessary County and Federal Emergency Management Agency (FEMA) approvals and permits for both mining and final reclamation related alterations to the floodplain, prior to issuance of this SUP.

No increase in base flood elevation on adjoining properties shall be allowed as part of any such permit. Required approvals include but are not limited to a Routt County Floodplain Development Permit, a FEMA Conditional Letter of Map Revision (CLOMR) prior to any mining related construction, a FEMA Letter of Map Revision (LOMR) for as-built mining related construction, and a LOMR for as-built final reclamation.

Reporting:

- ~~23.~~ The operator shall submit the current DRMS Annual Report for the pit to the Planning Department within two weeks of due date each year for compliance verification.
24. The operator shall submit an annual report to the Planning Department on or before February 15th of each year. This annual report shall be submitted on the same day as the DRMS Annual Report. The annual report shall detail total materials hauled, remaining reserves, and total number of truck trips to and from the site.
25. Permittee shall conduct an annual inventory of weeds on site each spring including but not limited to species identification and map locations. Inventory shall be submitted to Routt County Weed Program (RCWP) supervisor within 30 days of conducting the survey.
26. Permittee shall submit an annual report prior to December 31 of each year to document all weed control measures undertaken, including herbicides used, rates of application, and total gallons of mixed herbicide solution applied.
27. Any written or verbal notice of violation or citation issued to the Permittee by DRMS, CDPHE, MSHA, or any other permitting agency will be provided to the Routt County Environmental Health within 7 business days of the violation. Any other inspection reports, annual reports, asphalt plant and crusher relocation notices, and any other documentation required to be submitted to DRMS, CDPHE, or MSHA for any permits obtained through those agencies shall be available to the Routt County Environmental Health Department upon request.

Reclamation:

28. Permittee shall be responsible for reclamation as set forth by the DRMS gravel mining guidelines and the approved reclamation plan. The Reclamation Plan shall be implemented in a manner concurrent with the phased mining plan to insure the maximum disturbed area is not exceeded. Completed phases should be partially filled with water where possible to reduce disturbed area. Disturbed area is land not covered by substantially noxious weed free vegetation, water, pavement, or seed and mulch sufficient to resist wind and water erosion. Final reclamation shall include measures to prevent the proliferation of non-native species as required in the Army Corps of Engineers 404 permit as approved by the Colorado Parks and Wildlife or U.S. Fish and Wildlife Service.
29. The permittee shall engage in phased reclamation during the life of the permit, and is required to proceed with due diligence upon the closing of the pit.

Visual Mitigation:

30. A maximum of 25 acres within the permit limits shall be disturbed at any time. "Disturbed acreage" is defined as any area that is not covered by water, substantially noxious weed-free vegetation, paving, or other stabilized road surface.
31. Stockpiles and excavation shall be kept a distance from cottonwood trees equal to the diameter of the crown of the trees.
32. The new berms along the northern and western boundary of the expansion area shall be a minimum of 3:1 slopes, shaped to create varied slopes heights and shall be revegetated with common grasses. The berms shall be irrigated to ensure survival of plant materials. The berms used as visual screens from U.S. Hwy 40 shall be at least 6 feet above the elevation of the highway. Berms shall be installed prior to mining of the expansion area. All berms shall remain in place until final reclamation commences to provide adequate screening from Highway 40 during operation of the mine.

Air and Water Quality and Noise:

33. Duckels Construction, Inc. shall ensure a year around flow of water in the Duquette Ditch of at least four inches (4"), as measured at the Sandelin water box, to ensure recharge of the water wells for surrounding landowners. If this has no beneficial effect, the operator may be summoned back to the Planning Commission and Board of County Commissioners to require that he drill wells for the affected landowners, or that he cease dewatering the gravel pit and allow the gravel pit to fill with water and operate a drag line to remove gravel. As an alternative to drilling wells, the operator can, upon approval from the Division of Water Resources (DWR), pump water from the Yampa River directly into the Duquette Ditch or through such means as the DWR should approve. The operator shall implement a daily water monitoring plan and shall keep a daily log to ensure sufficient water flow in the Duquette Ditch. The daily log shall be made available to Planning Staff during normal business hours upon request.
34. If Steamboat II Water and Sanitation District experiences a depletion of water in their well, Planning Staff will work with Duckels Construction and the District to determine if Duckels' operation is contributing to that depletion. If Duckels is contributing to the depletion, they will work to implement a solution to the problem, if necessary.
35. Permittee shall comply with the approved Stormwater Management Plan (SWMP). Permittee shall comply with all conditions of any applicable discharge permits and shall not permit drainage onto adjacent properties greater than historic flows thereon unless approved by the terms of any discharge permit or by separate agreement with affected property owners.
36. The permittee shall comply with all conditions of any applicable discharge permits and shall not permit drainage onto adjacent properties greater than historic flows thereon unless approved by the terms of any discharge permit or by separate agreement with affected property owners.
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 review of the SUP by Planning Commission and/or the Board of County Commissioners.

38. 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. If applicable, 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 haul roads and disturbed sites shall be watered and/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. Environmental Health Director may require temporary closure of facility if dust control measures are not effective.

Miscellaneous:

39. Permittee shall enter into an agreement with Routt County to satisfy the Conservation Mitigation requirement, Section 9.4.1.D of the Zoning Regulations. Permittee shall donate gravel valued at \$9,740 to the US Forest Service for maintenance of the Buffalo Pass parking lot. Timing of when this gravel will be donated will be coordinated with the US Forest Service. The agreement shall be finalized and recorded within 3 months of the Board of County Commissioner approval date. Extensions to this deadline may be administratively approved by the Planning Director without public notice.

Commissioner Norris seconded. **The motion carried 5 - 0, with the Chair voting yes.**

**ADMINISTRATOR'S REPORT**

Ms. Winser stated that after some delays with getting the necessary paperwork with DOLA processed, the grant to support the consultant to assist with the update of the regulations has been finalized and an internal kick-off meeting has been scheduled for Thursday, February 23. Design Workshop was selected as the consultant. Ms. Winser said that the update is expected to take 11 months and will involve rolling adoptions as sections of the regulations are completed. Ms. Winser stated that regulations pertaining to large-scale solar energy development and the establishment of standards for future land uses in the three designated Tiers for development described in the 2022 Master Plan will be prioritized. She noted that staff has been doing a lot of work to prepare for the solar development regulations and has a draft ready for evaluation and refinement in conjunction with Design Workshop.



Ms. Winser acknowledged that there are a lot of rumors about new development proposals in Stagecoach. She said that while staff has conducted ART reviews (informal pre-application courtesy meetings) regarding two possible developments, no applications have been received.

Ms. Winser said that the Brown Ranch annexation process has begun, and that Routt County will have the opportunity to provide comments. She said that all discussion have been very high level at this point. She said that the annexation proposal would be presented to Planning Commission when the outlines of an agreement have been worked out.

Ms. Winser stated that the terms of Planning Commissioners Norris, Jaeger, Benjamin, Miller and Martyn all expire this year. She encouraged all to reapply, noting that two additional positions remain unfilled. She said that interviews with the Board would be scheduled for March.

Mr. Goldich stated that there is one item scheduled for the March 2<sup>nd</sup> meeting.

There was a discussion of the work being done by the joint Planning/Building Code Enforcement Officer, who is very busy.

**The meeting was adjourned at 7:05 p.m.**