

**FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS
OF THE MADISON COUNTY PLANNING AND ZONING COMMISSION**

**Title 10 Unified Development Code, Chapter 2 Definitions update and Chapter 4
Zoning, Section 4.13 Gravel Pit Overlay Zone (GPO)**

The Madison County Planning and Zoning Commission held a public hearing on May 26, 2011 at 7:15 p.m. in the Commissioner's Room at the Madison County Courthouse, Rexburg, Idaho to consider the adding a new definition to Chapter 2 Definitions and the proposed Section 4.13 Gravel Pit Overlay Zone addition to the Unified Development Code.

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing. Joe Law and Kelsi Jones from the Rexburg Standard Journal newspaper attended the meeting.

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Vice Chairman Bill Squires, Mike Munns, Ed Williams, Dean Peterson, Anthony Merrill, Bradley Petersen, Jolene Sutton and Kevin Willmore. Those unable to attend were: Chairman Andrus, Kay Burrell and Doug Sakota. Planning and Zoning Administrator Brent G. McFadden, Coordinator Shauna J. Ringel and Legal Counsel Troy Evans also attended.

The public hearing was called to order by Vice Chairman Bill Squires. Shauna J. Ringel acted as clerk for the meeting. The Chairman questioned Mr. McFadden as to whether or not notices of the hearing had been properly published, posted and provided. Mr. McFadden stated all required legal notices had been given. The Vice Chairman asked if there were any conflicts of interest. None were stated.

A summary of the discussion at the hearing is incorporated herein.

Shauna Ringel read into the record the proposed new definition of

SECURITY FENCING: Security Fencing is defined as a fence with a minimum height of 6 feet high to a maximum height of 10 feet high that secures the area from casual trespass.

Bradley Petersen made the motion to accept the Security Fencing definition. Anthony Merrill seconded the motion. The vote was unanimous.

Brent McFadden gave the presentation on behalf of Planning and Zoning Department for the proposed Gravel Pit Overlay Zone.

- Madison County has never had gravel pit guidelines.
- A provision for smaller gravel pits of five acres or less was added so they will not have to meet the same requirements as large gravel pits. These will be determined on a case by case basis.
- Large gravel pits will be allowed to have only 12.8 acres or 2% of a section actively mined at one time no matters how many sections the property is in. As soon as the 12.8 is finished or 3 years reclamation must be started.
- The setbacks were the hardest part to determine. The proposal is for:

4.13.3.5 Setbacks

1. Set backs to the beginning of excavation shall be a minimum of 105 feet from the centerline of a designated County road and 75 feet from the surveyed right-of-way of any state highway.

2. There shall be a minimum of 30 feet from nonresidential property lines and 300 feet from any residential living space or 100 feet from any residential taxed property line whichever is the greater distance.

- A 75 acre parcel would loose one-third of the acreage if the setback to residential property line was 600 feet.
- Takings was researched and it was determined that the county could not take too big of a setback or property loss without becoming a taking.
- Operating hours were placed so there would not be 24 hours of operation.
- A stipulation of the noise level not to exceed 70dBA was added and it will be monitored daily.
- Buffering must include with an approved watering system, 4 rows of approved tree system that must be made up of 1 row of bush type plants, 2 rows of fast growing trees and 1 row of evergreens. It must be maintained during the development, operation and reclamation process. This system must be established for a least 3 years before the mining operation commences. If trees used in the buffering zone are established and of a height of 12 feet or 1 row of fast growing type trees and 3 to 4 feet of slower growing trees, the developer can start at that time.
- Berms are usually eyesores. The provision for a berm states it may be optional, *except* next to areas of residentially zoned lands or next to existing home.

- Road capacity and traffic must be approved by both the Madison County Road and Bridge Department and the Idaho Transportation Department.
- Dust must be controlled using all federal and state guidelines for air quality standards.
- Stockpiles cannot exceed 25 feet in height from the existing ground level.
- Water rights must be acquired to ensure proper maintenance of landscaping. Proof must be shown of water rights.
- Reclamation must commence at the end of a three year period from the start of the mining or as soon as the first 12.8 acres have been mined. Vegetation shall be restored and maintained for 2 years.
- The State rules for operating a mine are only one load of gravel needs to be extracted per year to keep a mine open. We won't allow that, it must be actively mined or reclaimed.

Correspondence was read by Shauna Ringel. Letters of opposition were received from Ronald and Maria Nate and 144 flyers from various citizens in Madison County. (see attached Exhibit A)

Mr. McFadden was asked questions by the Commission. A summary of this discussion at the hearing is incorporated herein.

After hearing the presentation by Madison County officials Vice Chairman Squires reminded the citizens in attendance that they would need to sign up on the appropriate lists if they wished to speak at the hearing. He then asked all those who wanted to speak in favor, in neutral, or opposed to the proposal to come forward and be heard.

Those in favor were: None

Those in neutral were: Bill Moss, 410 Partridge Lane, Rexburg

Those opposed were:

Elizabeth Crist, 576 Chad Drive, Rexburg

MJ Peel, 108 Maud, Conconnelly, Washington

Barbara Lusk, 126 W. 1st S., Sugar City

Aaron Ricks, 2026 E. 3000 N., Sugar City

Katherine Nielsen, 120 S. Idaho Avenue, Sugar City

Elaine King, 225 W. 2nd S., Sugar City

Jeff Carter, 4344 N. 3000 E., Sugar City

Rachel Ricks, 100 S. Maple, Sugar City

Karalee Ricks, 100 S. Maple, Sugar City

Golden Linford, 2120 W. 4200 S., Rexburg

Gaylynn Bean, 3041 N. Cottonwood, Rexburg

Charles Ricks, 100 S. Maple, Sugar City
Dale Mortensen, 1617 N. 3000 E., Sugar City
Brad Gardner, 3737 E. Highway 33, Sugar City
Linda Jex, 2294 E. 3000 N., Sugar City
Daniel Mortensen, 1159 W. Country Road, Rexburg
Roland Wilding, 3480 E. Highway 33, Sugar City

Attached are the minutes from this hearing so testimony can be reviewed.

There being no further comments, the public hearing was closed. The Planning and Zoning Commission noted that any recommendations they would make would be tentative, pending final approval from the Board of County Commissioners. The Commission then deliberated the Gravel Pit Overlay Zone.

Having given due consideration to the application and evidence presented, the Planning and Zoning Commission hereby makes the following findings of fact:

FINDINGS OF FACT

- 1) Public hearing was held May 26, 2011 to take the testimony on a proposed Gravel Pit Overlay Zone addition to the Unified Development Code. This proposal is consistent with the goals and objectives of the Comprehensive Plan. Notice was published in the legal County newspaper, the Standard Journal, May 7th, 12th and 17th, 2011 as required. Said notice was also published in the *Madison County Courthouse, Madison County Administration Building, Madison County Public Library, Albertson's and Broulim's Supermarkets*. The published notice included an appropriate and accurate summary of the issues to be heard. Copies of the notices were made available as requested and were provided to political subdivisions within the planning jurisdiction at least 15 days prior to the hearings.
- 2) At the beginning of the hearing, Vice Chairman Squires asked whether proper notice of the hearing had been provided. The Planning and Zoning Staff answered in the affirmative, discussing what notices had been provided.
- 3) The Public hearing was scheduled at 7:15 pm all as set out in the published notices, as described above.

- 4) The meeting agenda was available prior to the meeting, and the public hearing followed the order of events listed on the agenda. The Planning and Zoning Administrator gave an explanation of the subject of the public hearing. An opportunity was provided for the applicant and members of the public to present testimony, which was followed by members of the Planning and Zoning Commission. Public testimony was closed after all present had been given an opportunity to submit oral or written testimony. Reasonable time limit was imposed on oral testimony.

- 5) The following points were factors in the recommendation by the Planning and Zoning Commission for the approval of the County Commissioners.
 - Be fair to homeowners and property owners
 - Must have gravel in Madison County
 - No controls or safe guards before
 - A bonding process is in place in case of default
 - Most comprehensive gravel pit plan in State of Idaho
 - EPA and DEQ will be involved
 - **Madison County reserves the right to have the responsible party for reclamation post a bond or a Performance Guarantee above the State's requirements for reclamation and show proof of ability to complete. If such a Performance Guarantee is required, Madison County would be listed as the joint owner.**

- 6) Approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code is in the best interests of the people of Madison County.

CONCLUSIONS AND RECOMMENDATIONS

1. Notice of the Public Hearing held to consider approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code was published and provided as is required by Idaho Code §§67-6509 and 67-6511.

2. The Public Hearing was held to consider approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code updates and was conducted in accordance with the requirements of Idaho Code §§ 67-6509 and 6511 as well as Title 10 Unified Development Code, Chapter 1 General Provisions.

3. A transcribable verbatim record was made and kept of the

Public Hearing held to consider approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code, in accordance with the requirements of Idaho Code §§ 67-6536.

4. The proposed Gravel Pit Overlay Zone addition to the Unified Development Code updates is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et. seg.*

5. Approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code in the best interest of the people of Madison County, Idaho, based upon the following:

- Be fair to homeowners and property owners
- Must have gravel in Madison County
- No controls or safe guards before
- A bonding process is in place in case of default
- Most comprehensive gravel pit plan in State of Idaho
- EPA and DEQ will be involved
- **Madison County reserves the right to have the responsible party for reclamation post a bond or a Performance Guarantee above the State's requirements for reclamation and show proof of ability to complete. If such a Performance Guarantee is required, Madison County would be listed as the joint owner.**

6. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

Commission member Bradley Petersen made the motion to approve proposed Gravel Pit Overlay Zone addition to the Unified Development Code. Commission member Ed Williams seconded the motion. Vote in favor were: Bradley Petersen, Ed Williams, Jolene Sutton, Anthony Merrill and Dean Peterson. Those against: Mike Munns and Kevin Willmore.

Motion carried.

CONCLUSION

Based upon the foregoing Findings of Fact, Conclusions and Recommendations, the planning and zoning procedures conducted

throughout the county, the comments received at the public hearing held hereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends approval of the proposed Gravel Pit Overlay Zone addition to the Unified Development Code.

This decision may be appealed, in writing, relative to this decision taken by the Commission, as long as the appeal is submitted within twenty-eight (28) days from such Commission action, per Title 10 Unified Development Code, Chapter 1 General Provisions, Section 1.6 Appeals.

Dated this 27th day of May, 2011.

PLANNING AND ZONING COMMISSION
MADISON COUNTY, IDAHO

Bill Squires, Vice Chairman

ATTEST:

BRENT G. MCFADDEN, Planning and Zoning Administrator

Adoption of Findings of Fact
by Madison County Board of County Commissioners

Based upon the foregoing Findings of Fact, Conclusions and Recommendation of the Planning and Zoning Commission, and based upon the Madison County Board of County Commissioners' (Board) review thereon, pursuant to Madison County Title 10, Unified Development Code, Chapter 1 General Provisions, and Idaho State Code §§ 67-6509, 67-6511, *et seq.*, the Board hereby approves the Findings of Fact and Conclusions of Law presented by the Commission and approves this action based thereon. The applicant is hereby given notice that it has the right to request a regulatory taking analysis pursuant to Idaho Code §67-8003.

Dated this 13th day of June, 2011.

BOARD OF COMMISSIONERS
MADISON COUNTY, IDAHO

Kimber Ricks, Chairman

Jon Weber, Commissioner

Todd Smith, Commissioner

ATTEST:

Kim H. Muir, Clerk

