

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

Re: Madison County Road and Bridge – Archer Gravel Pit CUP

The Madison County Planning and Zoning Commission held a public hearing on January 10, 2013 at 8:00 p.m. at the Commissioner’s Room in the Madison County Courthouse, Rexburg, Idaho to consider the Madison County Road and Bridge Department request for a Conditional Use Permit to have a gravel pit in a Transitional Agriculture zone, and for an overlay zone for gravel mining be applied to this property. This proposed gravel pit is located directly east of 87 East 7000 South on approximately 80 acres in the Archer area and is adjacent to the current Madison County Archer gravel pit. This hearing was heard again before the Commission because there was a problem with the recorder at the first hearing, and a verbatim record is required by law.

Testimony was taken during the November 15, 2012 public hearing and then re-heard at the January 10, 2013 public hearing. At issue is a section of the Unified Development Code, Chapter 115 of the Madison County Code book, § 117-62, Gravel Pit Overlay Zone, subsection (b)(1) that reads as follows:

A Gravel Pit Overlay Zone shall be applied to any approved gravel pit subject to the regulations in all zones in the county and as provided in § 11[7]-51, land use table. The Gravel Pit Overlay is a zone where all gravel pit mining would be temporarily allowed during the operation and reclamation period. As soon as the reclamation is complete the Gravel Pit Overlay Zone would no longer be in effect. The Gravel Pit Overlay means an additional designation that temporarily restricts the uses or development standards within a zone. All gravel pits mined for making concrete or producing aggregate for construction projects require a conditional use permit (see Chapter 101, article V, conditional use permit) . . .

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing. No media were in attendance at the meeting.

The following members of the Madison County Planning and Zoning Commission (“Commission”) were present at the public hearing: Chairman Bill Squires, Vice Chairman Anthony Merrill, Ed Williams, Mike Munns, Rick Robertson, Matt Hartline, Dean Peterson, Kevin Willmore and Doug Sakota. Those excused were: Millie Andrus and Jolene Sutton. 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 Chairman Squires. Shauna J. Ringel acted as clerk for the meeting. Chairman Squires 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 Chairman asked if there were any conflicts of interest. None were stated.

A summary of this discussion at the hearing is attached hereto and incorporated herein (see attached January 10, 2013 minutes).

Administrator Brent McFadden informed the Commission that this request was for an 80 acre extension of the current Archer gravel pit owned by the Madison County Road and Bridge Department located one mile north of Big Jud's in Archer. The County Commissioners and legal counsel, Troy Evans, determined that the extension would fall under the new guidelines of the Gravel Pit Overlay Zone because of its expanded use, and that a conditional use permit would be required. One residence, Darnell Weekes, lived next to the current gravel pit, but he has been bought out by the County. Mr. McFadden reiterated that the Gravel Pit Overlay Zone allows gravel extraction, but the existing zone of Transitional Agriculture comes back when the extraction is completed.

Dave Walrath, Madison County Public Works Director, 529 Airport Road, Rexburg gave the presentation on behalf of his Conditional Use Permit. The presenter was asked questions by the Commission.

After hearing the presentation by the Planning and Zoning staff, and from the applicant on behalf of the Madison County Road and Bridge Department Conditional Use Permit, the Chairman asked for those in favor, in neutral, or opposed to the proposal to come forward and be heard. Chairman Squires reminded the citizens in attendance that they must sign up on the appropriate lists if they wished to speak.

Those in favor were: None

Those in neutral were: None

Those opposed were:

Darnell Weekes, 8831 S. 600 E., Rexburg

Kirt Sutton, 864 E. 7156 S., Rexburg

Jayson Sutton, 7007 S. 600 E., Rexburg

Susie Sutton, 390 E. 7000 S., Rexburg

Stan Sutton, 578 E. 7000 S., Rexburg

No written correspondence was received. However, written comments were received at the initial public hearing in this matter and those comments were made a part of this record.

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 Madison County Road and Bridge Department request for a Conditional Use Permit to extend the current Archer Gravel Pit by 80 acres in a Transitional Agriculture Two zone.

Ed Williams made the motion to approve the Madison County Road and Bridge Department request to extend the Archer gravel pit. The conditions he set upon his motion are:

1. Must comply with all provision of the Gravel Pit Overlay Zone.
2. Must have a yearly review.
3. Waive the cost of the fast growing trees, but use evergreens as they grow faster.
4. Berm must be extended 1/6 of a mile down the east side of the new gravel pit. Dean Peterson seconded the motion. Vote was unanimous.

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. A public hearing was re-held January 10, 2013 to take the testimony on a requested Conditional Use Permit. This proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.
2. Notice was published in the legal County newspaper, the Standard Journal, December 27, 2012 as required. 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. Copies of the notice were sent to all residents within the 350 feet, as required, on December 20, 2012.
3. At the beginning of the hearing, 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. No conflicts of interest were noted.
4. The Public hearing was scheduled at 7:30 p.m. all as set out in the published notice, as described above.
5. 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 limits were imposed on oral testimony.

CONCLUSIONS AND RECOMMENDATIONS

1. Notice of the Public Hearing held to consider approval of the Conditional Use Permit 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 and Conditional Use Permit and was conducted in accordance with the requirements of

Idaho Code §§ 67-6509 and 6511 as well as Unified Development Code, Part II, Chapter 101, §§ 101-135 through 101-141, regarding conditional use permits.

3. Per the standards applicable to conditional uses, section 101-137 of the Unified Development Code the following findings are made:

A. The proposed use of the gravel pit does constitute a conditional use permit per Unified Development Code, Chapter 117 of the Madison County Code Book, Section 117-62, Gravel Pit Overlay Zone because is not allowed in Transitional Agricultural Zones without a conditional use permit.

B. The proposed use is in harmony with the Comprehensive Plan as Madison County's existing gravel pit is directly adjacent to this proposed pit, and the materials are necessary for Madison County and its roads and infrastructure.

C. The proposed use will be designed, constructed, operated and maintained to be harmonious with the existing character of the general vicinity. Emphasis on this point included berms and trees that must be established per the gravel ordinance prior to opening up the gravel source. That trees and a berm will be extended down one-third of the east side of the pit to protect the homes adjacent to and in near proximity to the pit from dust and noise.

D. That this standard is specifically made a part of the existing gravel pit ordinance.

E. As to being hazardous or disturbing to existing uses, the mitigating effects of dust, watering, buffering and noise will be monitored by the Planning and Zoning Administrator. The Administrator will make inspections of the site if issues are brought to his attention concerning the effects previously mentioned.

F. The proposed use will be served adequately by public roadways. The remaining factors of 101-137(5) are not applicable.

G. There will be no excessive requirements to public cost for public facilities or services for this use as this is an open gravel mining operation.

H. Testimony was received regarding the dust caused by mining and crushing gravel. That the dust will be minimized by complying with the ordinance and the as set forth in subsection "C" above.

I. Vehicle approaches are not at issue here, where the entrance to the existing county gravel pit will be used.

J. There are no historic features located on this property of major importance. And the loss of the existing natural outlay of the land will be covered by the reclamation plan required by the county.

4. A transcribable verbatim record was made and kept of the Public Hearing held to consider approval of the Conditional Use Permit, in accordance with the requirements of Idaho Code §§ 67-6536.
5. The proposed Conditional Use Permit is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et. seg.*
6. Approval of the proposed Conditional Use Permit change is in the best interests of the people of Madison County, Idaho.
7. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

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 thereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends approval of the request for a Conditional Use Permit.

Dated this 9th day of February, 2013

Planning and Zoning Commission
Madison County, Idaho



Bill Squires, Chairman

Attest:



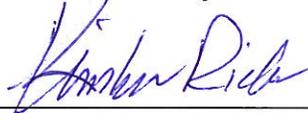
Brent G. McFadden
Planning and Zoning Administrator

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

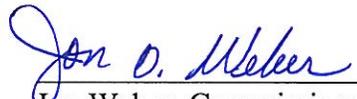
Based upon the foregoing Findings of Fact, Conclusions and Recommendations of the Planning and Zoning Commission, and based upon the Madison County Board of County Commissioners (Board) review thereon, pursuant to Unified Development Code, Part II, Chapter 101, sections 101-105 through 101-141 and Idaho State Code §§ 67-6509, 67-5511 *et seq.*, the Board hereby approves the Findings of Fact and Conclusion of Law presented by the Commission and approves the action based thereon.

Dated this 17th day of February, 2013

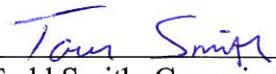
Board of County Commissioners



Kimber Ricks, Chairman

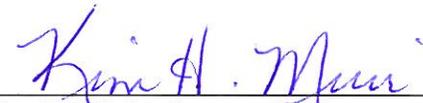


Jon Weber, Commissioner



Todd Smith, Commissioner

Attest:



Kim H. Muir, County Clerk

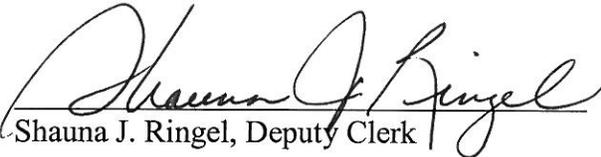
CLERK'S CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of February, 2013, I mailed a true and correct copy of the foregoing to the parties named below, by the means shown, and addressed as follows:

Dave Walrath
529 Airport Road
Rexburg, ID 83440

Hand Delivered
 Facsimile
 U.S. Mail

/s/ Kim H. Muir


Shauna J. Ringel, Deputy Clerk