

## Planning Commission Minutes

May 19, 2020

**Member Present and seated as Board:** Chairman Leonard Brown, Mike Mitchell, Charles Stillings, Rodney Reed, Cary Aloia via zoom, and Jessica Lovelace via zoom. Dixie Diltz – Secretary, Jerry Gallegos joins via telephone to observe.

**Members Absent with notification:** Russell Pratt – alternate

**Others Present:** Patrick Sullivan.

**Others Present via Zoom format:** T.J. Dlubac – Community Planning Strategies (3<sup>rd</sup> Party Presenter), Matt Carnahan - Four Corners Materials (applicant), Kyle High – Four Corners Materials (Applicant), Tricia Slater – RGC Administrator, Earl Robinson, Troy Rakes, Suzy Woodward, Bruce Freebairn, Tammy Kaiser, Michele (?), Cindi (?).

Chairman Leonard Brown called the meeting to order at 1:35pm.

Mike Mitchell makes motion to accept the agenda as presented, Charles Stillings seconds and the motion passes unanimously.

**First Item of Business:** Conditional Use Application Presented by Oldcastle SW Group, LLC dba Four Corners Materials for a gravel yard to be located east of South Fork along Highway 160 and County Road 50.

T.J. Dlubac shares his screen and presents a power point and the application to board; he states that this is a conditional use application for mineral extraction permit. This is actually two things to be considering, one is the conditional use permit and the second is the mineral extraction permit. The natural resource extraction permit is governed by section 7.02 of the RGCLUDC and the conditional use permit process as mineral extraction is identified as a conditional use in the AF zoning district.

The applicant is OldCastle SW Group, the owner is the Colorado State Land Board, the application requirements have been meet and the referral process completed.

The property is 920 acres which spans across both sides of State Highway 160; we are looking at 120 acres of this large property that is located on the north side of the Highway. This location is shown on the vicinity map; this map also shows some of the adjacent gravel yards in the area. The site will be accessed from county road 50 in the beginning. The applicant currently has an application in with CDOT to gain access directly from Highway 160, but this is not approved yet. The mining site is approximately 30 acres as shown in blue on the map. The Minor Ditch does run along the north east corner of the property, the applicant is leasing the land from the State of Colorado; this is a two term lease with the first term set to expire on March 10, 2021 with a second 5 year term set to expire on March 10, 2026. The mining permit was issued by the State in 2016 and is still active. Based on the lease agreement the materials extracted from this property cannot be sold and can only be used for public infrastructure projects that the applicant is awarded. They have a project that is to start in June or July which is why they are now requesting this permit. The operation of this mine will only be active during projects that they have, if they don't have projects it will be an inactive mine, therefore it is difficult to know the exact number of employees or trucks on site because it will depend on material needed for each project. One of the conditions that staff recommends is that a updated mining plan is provide to RGC staff each time a project is awarded and prior to starting each project so that we can evaluated the impacts.

Through the review process we did receive multiple public comments. These comments were provided to the Board for their review and include comments from Bitler, Cottrell, Davie, Fleming, Jensen, Kaiser, and Woodward. The general concerns were wildlife migration patterns, disruption of quality of life in the area, the reduction of property values, the first impression upon visitors into South Fork area, infiltration and impacts on the Minor Ditch and the reduced grazing area and impacts on cattle (this is state land that is also leased for grazing) and increased traffic, noise and dust, the visual scaring of the land and the use of state land as well as an out of state contractor doing this work. Secretary Diltz corrects the list of person comments were received from to include a letter from William Shahan and a letter from Christen Shahan.

T.J. presents the next slide in the power point presentation which shows the approval criteria for a conditional use that the board needs to find in order to recommend approval. This is in section 3.05.C of the LUDC. Then associated with the natural resource extraction production permit the board needs to find that all the standards have been met, these were laid out in the staff report. Staff will discuss these with the board if desired as we go on through the meeting. The recommendation of Staff is that the Planning Commission recommends approval of the application to the BOCC with the 8 conditions detailed in the Staff report plus two more conditions which would be: #9. No Operation shall occur between Dec. 1<sup>st</sup> and April 15<sup>th</sup> annually as is stated in the DRMS permit and was a Department of wildlife recommendation. And #10 a Road maintenance agreement be completed between the applicant and RGC.

Chairman Brown opens the floor to the applicant.

Matt Carnahan, resources and environmentalist for Four Corners Materials states that their headquarters are at 9755 County Road 13, Durango, which addresses one of the concerns that the neighbors had that we were an out of state contractor. Four Corners has experience doing projects in Rio Grande County that include a chip seal project between Monte Vista and Del Norte as well as a project in Alamosa several years ago. In 2016, out of the Mathias pit, they provided material for another CDOT project on Wolf Creek just west of the project they were just awarded. The newly awarded project is an overlay project on Highway 160 that begins just a couple miles west of South Fork and continues up to the east entrance to the tunnel, approximately 6 miles. To address some of the issues with the noise, dust, water issues, trucks and access, the operation of this gravel pit is restricted to public works supply only and it cannot be a private land owner use or commercial sales, it is important to note this because the CDRMS permit that is applicable to this only allows them to do that and it is project specific. This permit would not allow them to provide materials for any other type projects. If they come back in a few years to do another project they will have to apply for another CDRMS permit to specify what project it is for. Once this project is completed and the materials have been supplied to the project, the DMRS permit requires them to remove all of their plants and equipment, perform the reclamation or re-stabilization of the property and all the affected areas. There will be some vegetative seeding they will have to do and sloping. The noise, the trucks and the dust are certainly impacts to the community at large, however the construction materials industry in Colorado is one of the most regulated industries in Colorado. Dust is controlled and they have air quality control permits which are awarded by Colorado department of health and environment under their air pollution control division. They have site permits that are required if they meet a certain threshold of material removed, storm water controls are also permitted and regulated by CDPHE under the water quality control division. Four Corners have submitted a storm water management plan to the county which was reviewed by the consultant. They do not anticipate this project to have any discharge of storm water to the minor ditch,

the river or off site; they do plan to apply for the permits just to have it on record. In terms of trucks and dust and addressing the residents just west of the lease area on county road 50, Matt had met with the elder Mr. Jansen about four years ago and consulted with him at the time and told him Four Corners would do whatever they could to control dust and enforce speed limits and that sort of thing. The temporary access permit that they have applied for with CDOT is currently being held up by the State Land Board which will have their next Land Commission Board meeting in July. Four Corners has been in contact with CDOT and feels they are very receptive to this temporary access directly from Highway 160. The duration of the current project is 90 working days to complete the contract, due to Covid delays the project may start a little later than originally hoped, however once started they have the 90 working days to get it completed. Another impact that should be mentioned is the economic impacts of this project. With the covid restrictions, they cannot put two men in one hotel room and they are looking for options including multi room cabins in the area, they will need housing for up to 20 people. They will also be looking for office space for CDOT, inspectors, superintendents and staff. Due to the narrowness of the canyon up Wolf Creek there is no room to put a job trailer which they typically do, so they will be looking for available 6 month rental spaces in the South Fork area. Additionally Four Corners Materials typically tries to employ and recruit as many local sub-contractors and suppliers as they can. In this case it's going to include hired haulers, truck drivers from the area; they have contacted several from Monte Vista and Alamosa to help supply this project. To address the comment that this wasn't an appropriate use of state land, Four Corners Material was approached by the State Land Commission about five years ago to see if they would be interested in a state land gravel lease. One of the benefits of the state land leases is the revenue, the royalties and grazing leases, these revenues go to the school, K12 and higher education schools in Colorado. So these royalties are not going into someone's pocket, they are going to help supplement what is going to be some difficult budget times in the state.

Leonard Brown asks if the 90 days includes the reclamation. Matt states that it is only for the construction. Kyle High corrects that it is actually 70 days for the contract. There is some preliminary work when workers will be in the pit working to clear some areas and begin some excavation and processing, but once they are done providing material to the project, per the CDRMS permit, they have to remove their equipment and restore the area right away including the area they had access.

Suzy Woodward states that she is a real-estate agent in the area and she has concerns about how this will affect the land values in this area. She also questions if the temporary access they are getting from CDOT will require AC/DC lanes, as there is a huge amount of traffic coming from that direction during tourist season which she feels is a huge danger for the traveling public. She questions if the Mathias pit was used one time why it cannot be used again? Matt Carnahan states that Mathias's resources are limited and they do not have the quantity to supply the project and continue with their own business. He also states as a temporary access he believes it will be a right out and left in only and that CDOT will require adequate signage and traffic control. Suzy Woodward questions the visibility at the access point. Matt clarifies that the access is proposed to be right at the top of the hill to increase the "line of site" for the access point.

Chairman Brown reminds the attendees to hold off on public comments until the meeting is opened up to them.

Cary Aloia asked about the working day window and the delays due to covid and if they were to get pushed past the Dec 1 timeline what would happen? Kyle High states that if the condition does not allow they wouldn't do it, also the temperatures won't allow the work to continue that time of year either. Cary asked how they would work with the lessee on the State grazing lease. Matt says that in

conversation with the state land board these two uses would not be in conflict with each other. They haven't seen any indication that this site has been used as a grazing site recently and he has been told that if they didn't want cattle in the mining area, they would have to fence them out. Once the project is done (2026) the site has to be completely reclaimed and will include reseeding with seed mix approved by the different state agencies as well as BLM.

Marty Lukso via telephone requests that he be able to give his statement at this time because his phone battery is going dead. Chairman Freeman gives Mr. Lukso permission to state his opinion. He reads his comments and emails a copy to staff. (Copy attached).

Mike Mitchell states the CDOT project needs to be done and questions what alternatives there may be that make practical sense. He states that to him it makes no sense to haul product from miles away, if they go to private sources and demolish their supply then there is no product for future local projects. If existing pit could provide the product needed that would not eliminate the environmental issues that have been brought up, same dust, noise and trucks just from a different pit.

Chairman Brown opens public comment.

Tammy Kaiser states that she sent a letter in and she feels that it would be an eye sore from her subdivision and create an industrial appearance. The area is residential and this would be bringing more industry to an agricultural/residential area. The elk and deer cross there and this may affect that.

Jerry Gallegos comments that it is a hard decision to make because Highway 160 needs to get improved and he wonders if the work will be done if this is not approved. Leonard Brown states that is something we do not know, it would probably be up to CDOT.

Bruce Freebairn comments that his mother is Roberta Jansen and she lives in the house on County Road 50. Previously when they have worked down there it is very dusty, Roberta is on oxygen and this will be insanely bad for her which is his biggest concern. He also feels this will not be a good introduction to South Fork and is not good business. If this is approved he would like to see the access from 160 and not going in front of his mother's house. The property values will decrease in the area in his opinion and his property will be a dust storm the whole time they are working.

Tammy Kaiser states she agrees with the things Bruce said and that she is very concerned about their property values also.

Jessica Lovelace reads comment from the chat area that asked if the amount of material needed could be mined from the existing pits. Matt Carnahan states that the other sources are the County Pit which he believes they have about mined out what is allowed by their permit and the other one is the Mathias's O'Bannon pit, as stated earlier there is just not adequate reserves for this or any future gravel needs. Four Corners has not been able to locate any other sources in the area that would satisfy this project.

Jessica reads the next comment in the chat area from Suzy Woodward stating that she can verify that the surrounding property values will be negatively affected. She also reminds the board that this is the entrance to the Silver Thread Byway. (Chat documentation attached).

Mike Mitchell points out that if the Silver Thread Highway is in disrepair it could be a negative effect to the tourism.

T.J. Dlubac states he has nothing more to present and summarizes that the P&Z Board is looking at a conditional use for a land use, that the operations are generally going to be regulated by the State permitting processes and that we are trying to do the best we can to hold the applicant accountable to those state processes.

Cary Aloia questions if we were to require that Four Corners not start work until after the application for access from CDOT was approved would they have enough time to complete the project. Matt states that they are trying to get the access permit, however at the outset of the project he would suggest that if they can do whatever it takes to try to mitigate the impacts to the Jansen residence up to and including putting mag-chloride on the road. If they don't get a decision from the State Land Board until July it will put them too far out to complete the project. Conversation has been had with staff regarding a road improvement agreement and restrictions can be placed to make this work. T.J. states that he and staff have had conversations regarding a development agreement or road improvement agreement that could be implemented to help mitigate these issues. Leonard Brown states that what he sees is that if it is this pit or another pit in the area it is going to be the same equipment and the same issues, so the best thing that the board could do is to be sure there are conditions in place to help mitigate these issues, like putting mag-chloride on the road, he doesn't feel speed limits would work. Pat Sullivan suggests that mag-chloride would be good to use.

Jessica reads a comment from Suzy questioning if a different access such as the one to other pits could be used. Leonard Brown responds that there is not a way to access this property from County Road 18 or Daniel Lane without going through someone else's property.

Other comments from Tammy Kaiser and Michele are read. Leonard states that there will not be any compensation and Matt states that the dust is controlled by the air quality control permits.

Jessica Lovelace asks if in the future a situation could arise where resources are being sent to a different area out of the valley but the effects are still on this community. T.J. states that per the County regulations what we are looking at is approving a Land Use of a gravel pit at this site. If you approve a land use for this site that doesn't give you the ability to control where the product goes once it leaves this site through this process. Kyle High informs everyone that the trucking costs really impact the project and that they always look for the closest available source and would likely not be hauling material from this site as there are other pits that would be closer.

Chat comments read again. T.J explains the comment of 15 years was in regards to the life of a gravel pit is generally in excess of 15 years, however, the 2026 date is the lease term for Oldcastle to operate a gravel pit on this property. Matt confers that that is correct, there was two terms and the second term ends March 10, 2026. Matt also addresses the Jeep Road, he says that is a two track road that goes along the ditch all the way to county road 18 and they will not block that entrance.

Jessica reads chat comment from Tammy Kaiser. Matt explains that they have gone to great lengths to try to address noise including going to a white noise back up alarm and using different methods of using berms to try to control the noise. They have been doing this along time and have a lot of experience and will do the best they can to keep the impacts at a minimum.

Cary comments that she would like to make sure the road maintenance agreement would be included in any approval if that's the way the board decides to go. Leonard agrees that he thinks that should be included with the eight other conditions that were listed in the staff report as well as the condition of no operation on site between Dec. 1 to April 15<sup>th</sup> as was discussed earlier. Jessica questions if there would be anyway to clarify what "operations" would mean in this context.

Leonard allows for the comments in the "chat" to be read and states that the comment period is closed and no more comments will be allowed.

Jessica reads comment from Suzy Woodward regarding using County Road 18, a comment from Tammy Kaiser asking how much equipment they plan to be storing on the property and a comment from Bruce regarding owls and hawks on adjacent property and how they would be protected.

T.J. comments that the application has gone through the State process with the CDRMS permit as well as the process for this application and Colorado Parks and wildlife have been referred and have not brought forth any concerns regarding endangered species or wildlife in the area. Cary comments that the property is below the 8500 feet elevation for Southwest fly catcher and yellow billed cookoo and none have been found on the Rick Davie ranch, but with the other gravel yards not enough is known about the disturbance there, but she feels that in terms of wildlife there is a potential to have some negative impacts, especially the elk and deer. Cary has some long term reservation about the effects of reclamation and wildlife habitat.

Jessica reads the email from Marty Lukso for the record.

Leonard Brown asks for a motion, he tells the board that they can recommend approval, recommend denial or table for more information. He felt that Four Corners had done a good job of giving the information available and that if the job is going to be done then decisions need to be made.

Mike Mitchell states that the boards job is to look at the whole Rio Grande community, although he can see some personal negative comments from those very close, but for the benefit of the whole County and the South Fork area and all those that require good roads coming in he would make a motion to recommend approval of the application to the BOCC with the 8 conditions listed in the staff report and the two additional conditions discussed. Charles Stillings seconds. The motion fails by vote of 2 to 3. Roll call vote: Mike Mitchell – yes, Charles Stillings – yes, Rodney Reed – no, Jessica Lovelace – no, Cary Aloia – no.

Jessica Lovelace makes a motion to recommend denial of the application to the BOCC finding that approval criteria 4, 5, 5a, 6 and 7 of Section 3.05.C of the RGC Land Use Development Code were not satisfactorily met by the application. She feels some of the comments on the health of some of the persons in the area contradict #4, the letters from community and the engagement today contradict #5 and #5.a, without the information from CDOT she feels #6 is still questionable and although she does feel that the application was well done and presented, she doesn't feel they met enough of the approval criteria for the county - #7. This motion passed on a vote of 3 to 2. Roll call vote: Mike Mitchell – No, Charles Stillings – No, Rodney Reed – Yes, Cary Aloia – Yes, Jessica Lovelace – Yes.

Board of County Commissioners meet next Wednesday May 27<sup>th</sup> at 9:30am.  
Meeting adjourned 3:30 pm



Dixie Diltz <ddiltz@riograndecounty.org>

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## Ms Dixie Diltz's, Land Use Administrator, letter dated April 30, 2020

1 message

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**Marty and Stephanie** <luksogypsies@frontiernet.net> Tue, May 19, 2020 at 2:35 PM  
To: "ddiltz@riograndecounty.org" <ddiltz@riograndecounty.org>  
Cc: "bocc@riograndecounty.org" <bocc@riograndecounty.org>

I assume the purpose of having Zoning Regulations and the 1500ft notification is to advise neighbors of the possible impacts of proposed activities nearby and allow them to have a voice and some influence in their approval or disapproval.

The repeating expansions of the local gravel operations suggest that this does not seem to be the case.

Why do we pay much higher taxes for the status and benefits of residential property to the same agency that fails to help us maintain and protect it from invasive and unhealthy effects?

In a previous gravel pit expansion proposal hearing of July, 2013, a nearby senior combat war veteran suffering from a lung ailment, worsened by the dust-belching gravel operation, broke down and cried "Please don't do this to me".

His pleading was disregarded. He moved and left his house behind.

From the air, the existing craters look like a bombed-out war zone. How will they be eliminated?

In my opinion, it looks like you have sold out the residential citizens in this part of Rio Grande County.

Why have we become the sacrificial cow for the county. Enough is enough!

Look at other sites to inflict dust, noise ,traffic and loss of property values on besides this one.

Martin Lukso

13:42:36 From Tricia Slater to Dixie(Privately) : Ive muted a few people. When TJ is done you may want to let people know. I would ask the name of the 970 number and he/she is one I have muted

14:34:00 From Michele : Hello, are people aware of the chat area?

14:34:54 From Tricia Slater : I am, I'm not sure many others know about it

14:35:46 From Jessica Lovelace : Maybe you could make an announcement Tricia? So people can leave comments here if they'd like?

14:36:31 From Michele : Yes, please do.

14:37:57 From Jessica Lovelace : It helps to only have one computer on in a room so there is no eclo

14:38:14 From Tammy Kaiser : We are very concerned about our property values as well. Good point Bruce about the SouthFork entrance!

14:38:17 From Jessica Lovelace : 🙄

14:38:20 From bruce freebairn : between the 3 current local pits could the amount of material be mined without an additional pit?

14:40:50 From Suzy Woodward : As a local Real;tor I can verify that the surrounding property values will definitely be negatively affected, that point can't even be debated. Also I would like to remind the board that this is the entrance to the Silver Thread Scenic Byway. People travel many miles to get to the scenic byway, not to see more gravel pits.

14:47:09 From Suzy Woodward : different access to other pits? County Rd 18?

14:49:06 From Tammy Kaiser : Will we compensated for the devaluation of our properties?

14:49:21 From Michele : It's my understanding that digging a pit creates daily dust, not just from the access road alone.

14:49:43 From Tammy Kaiser : Exactly!

14:55:00 From bruce freebairn : will access on jeep road from cr 50 to cr 18 be blocked? this is a cattle drive road for leasee

14:56:33 From Michele : TJ, I heard 15 years? What was that 2026 and beyond?

14:57:58 From Tammy Kaiser : How do you address the noise pollution?

14:59:32 From Suzy Woodward : if using that access to 18, and 18 has ac/dc lanes I believe? Wouldn't that be a safer option?

15:00:08 From Tammy Kaiser : How much equipment do you plan to be storing on the property?

15:00:30 From bruce freebairn : there are owels and hawks nesting on adjacent 40 acres , how do you protect them?

15:01:17 From Michele : Please look at chats.

15:05:07 From Tricia Slater : From Marty -

15:05:53 From Tricia Slater : I assume the purpose of having Zoning Regulations and the 1500ft notification is to advise neighbors of the possible impacts of proposed activities nearby and allow them to have a voice and some influence in their approval or disapproval. The repeating expansions of the local gravel operations suggest that this does not seem to be the case.

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15:06:00 From Suzy Woodward : good points Cary  
15:06:11 From Tricia Slater : In my opinion, it looks like you have sold out the residential citizens in this part of Rio Grande County.

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Martin Lukso

15:06:49 From Suzy Woodward : can someone address the county rd 18 question since that access will be used anyway?  
15:07:08 From Tammy Kaiser : 26 years sounds like a long time to work on this area. What about the equipment?  
15:09:11 From Suzy Woodward : sorry!  
15:09:27 From bruce freebairn : 18 access is not an option great horned owls nest there  
15:14:20 From Michele : Thanks to the Nays.