

## FREMONT COUNTY DEPATCO GRAVEL PIT APPEAL HEARING

Date: September 08, 2010  
Time: 6:00 pm  
Location: Fremont County Annex Building

**Attended by:** Commissioners Paul Romrell, Skip Hurt, and Lee Miller

**Also attended by:** Clerk Abbie Mace, Deputy Clerk Cathy Conger, Hearing Officer Blake Hall, Planning and Building Interim Administrator Stephen Loosli, and Public Works Director Marla Vik

Commissioner Romrell called the hearing to order at 6:13 pm and welcomed those in attendance.

Commissioner Romrell introduced those in attendance. He reviewed the schedule for the evening.

### Hearing Officer Blake Hall

Mr. Hall welcomed everyone. The record shall reflect that this is the time and place indicated for the public hearing relative to the appeal filed by Steven Huber. It has been published 14 days prior to this hearing. Mr. Hall was able to verify that the notice was published on August 24<sup>th</sup> and 31<sup>st</sup>. I have in my possession a notice from the administrator of those that live within 100 feet that those received written notice of the hearing. There is a list of all other individuals who requested or meet the requirements have received written notice. There are copies of the photos indicating and demonstrating that public notice was posted on the property. The information provided indicates that it was posted more than 7 days prior to hearing. This proceeding will declare that proper notice has been provided and the hearing will go forward.

He stated that if there was a commissioner or public official who believes that there is a conflict they may recuse themselves now. Commissioner Hurt stated no, Commissioner Romrell stated no, and Commissioner Miller stated no.

The purpose of the hearing is to provide for public comment. He gave the guidelines for the hearing. Written comments could be provided five days before the hearing. Two written comments were submitted. He explained that the public comments will be kept to five minutes each. He discussed the process of amending the comprehensive plan. Comments are to be consistent with the issue that has been set before the county commissioners at this time. He gave guidelines for content of comments.

Stephen Loosli Provided the administrators report. What we have is an appeal for permit number 10-022 that was granted by the Planning & Zoning Commissioners at a public hearing 2 ½ months ago. The applicant for this permit was Stoddard Brothers LLC.

This permit was requested for a gravel operation on a piece of property in the Wilford area at the Southeast corner of section 23 township 7N range 40 east. The applicable law is the 2003 Fremont County Development Code amended & the 2008 Comprehensive Plan as Resolution number 2009-04 with amendments that indicate where uses are available within the county boundaries. The property is in an area that permits a Class II level permit for the extraction of gravel. Original application was for gravel extraction (which is being appealed) and gravel

manufacture (which is not appealed). The information being reviewed has been provided to the appellant and the Stoddard Brothers.

Mr. Loosli submitted into the record as:

Exhibit 1 Sketch Plan Application

Exhibit 2 Class II Preliminary Plat Application, Hearing Notice, Mailing List

Exhibit 3 Minutes & Audio from Hearing

Exhibit 4 Original P&Z Public Hearing Staff Report

Exhibit 5 Appeal Application

Exhibit 6 Appeal Hearing Notice & Mailing List

Exhibit 7 Administrative Staff Report to Board of County Commissioners

Exhibit 8 Appeal Public Comments

The comprehensive plan permits in this vicinity on application for gravel extraction and manufacture. Appendix J is the development code for performance standard gravel pit mine or quarry. The Stoddard Brothers applied under appendix J. Appendix K is the buffering standard applicable to all zones. The Planning & Zoning took under advisement the appendixes at the hearing for Stoddard Brothers. The decision was that the permit met the standards pending completed improvements. The improvement agreement is referenced on page 13.

The appellant has several points. The development agreement must be completed before approval is granted. Staff concludes that the granting of the permit is not the actual moment that the permit is let by Fremont County. The improvement agreement is only in the draft stage and it would not be reasonable to expect it to be completed within minutes of that evening.

There was a review of road and highway transport accesses from the county and the state. The appellant points out that these conditions were not met at the time of the Planning & Zoning meeting. Marla Vik addressed some concerns at the time of the hearing as is stated on the record. We concur that these remain incomplete. The development order will not be signed until these are completed.

The appellant questioned the applicant's compliance of existing permits. Stoddard Brothers has not been an applicant prior to this application although companies related to them have been. We did review permits for the related companies and did provide to the applicant a list of things to be resolved by each one. The applicant did indicate that they would do so.

The appellant state that onsite parking was not addressed by the applicant. We have no parking requirement for this type of business. The size of the property is more than adequate to accommodate onsite parking.

The appellant has indicated that the applicant has no written plan for reclamation that complies with the requirements that states that the reclamation reuse plan for the gravel mine shall show how the reclaim site will be used. The reclamation plan was discussed and our county code does allow for agriculture and we believe that the applicant has met the stated requirement.

The letter of credit regarding the estimated cost of reclamation was also in question. The reclamation plan had been submitted to the state of Idaho and had been approved. Any money

beyond what has been approved we would require a bond for and the applicant has agreed to comply.

Minimum buffer requirements are buffer width to be 100 feet, height to be 1 to 1, headlight buffer for parking, sound reflective wall and a sight obscuring fence. There is a discrepancy in the sound reflective wall for residential lots as it is different than for a gravel mine, quarry pit. Originally the applicant stated that they would use the extraction hole as a sound reflective wall. Technical requirements have been met. At the hearing someone from the public stated that they would prefer a landscaped berm rather than a wall for the visual site blocking component wall. The applicant agreed to use a landscaped berm and to maintain said berm.

The appellant believes that Planning & Zoning Commissioner Sam Davis should have recused himself. There does not seem to be any personal gain or any wrong doing being done.

The appellant believes that the private property rights were not addressed. The Planning & Zoning commission is a volunteer body to follow state laws and concerns of the county however their scope is limited. Concerns brought up were beyond the scope of the Planning & Zoning commission. There was no intent to ignore the concerns of the public.

Commissioner Hurt asked for clarification for a time frame for a development to be concluded. Mr. Loosli stated that there is a two year limit on permits for expiration. Commissioner Hurt questioned if that is completed what the time frame would be. Mr. Loosli stated that the permit is not given until those conditions are met. Commissioner Hurt questioned Mr. Loosli about the elimination of slash or debris and Mr. Loosli explained that it is a requirement of the permit for this to be kept up.

A short recess was taken by the Hearing Officer, the commissioners, Clerk Mace and Mr. Loosli.

Mr. Hall explained that as the hearing officer he has determined that proper hearing notice has not been provided by the county. He is required by state law to close the hearing and require that it be republished. The indication that he had at the beginning of the hearing was that this was a permit granted to DePatco Inc and the appeal was directed to that. The hearing notice that was published was to an appeal issued to DePatco. The application was made by Stoddard Brothers and not by DePatco. The appellant properly appealed the permit by permit number rather than by name. The appeal is proper and timely however the notice that was published listed the DePatco name rather than the permit number. Idaho state statute is very clear in that the notice that is sent out is to be clear to the public. There is no such application in record so the notice is in error. There will be a requirement that a new notice is published and a proper notice be sent out. To continue with the hearing would jeopardize any decision made in this meeting. There will be a new hearing scheduled and new notifications sent out.

The public hearing was closed at 6:54 p.m.

There being no further business to come before the board, the hearing was adjourned.

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Paul Romrell, Chairman  
Fremont County Commission

Attest: \_\_\_\_\_  
Abbie Mace, Clerk