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Routt County Planning Department
Via email

Re: PL20210004

Planning Department:

I represent Scott Eckburg, Aria Hoogendoorn, and Troy Brookshire, property owners adjacent to or near to the proposed Sanders Gravel Pit, PL20210004. My clients are deeply concerned with the proposal, and wishes to inform Planning Staff, the Planning Commission, and the Board of County Commissioners of the same.

The application seeks Special Use Permit approval to operate a 9.95 acre gravel pit. It is important to note that if the size of the gravel pit was .04 acres larger, a mere 1,750 square feet, it would be subject to much more stringent standards pursuant to the Land Use Regulations. In my opinion, the larger operation would likely be outright prohibited because of adjacency standards to residential homes. So, it is important to understand that the applicant is seeking the absolute largest, with the maximum amount of adverse impacts, that the applicant can legally seek.

The project site is directly off CR129 between Clark and Steamboat Springs. As you know, CR129 is the sole connection between Clark / North Routt and Steamboat Springs. It is used daily by numerous commuters, agricultural operators, and recreational cyclists. The project site is surrounded by many residential parcels with operating agriculture.

The applicant's traffic study states that 92 trips per day will be generated from the operation of the gravel pit. However, per Colorado Parks & Wildlife requirements, the operator will only be allowed to operate for approximately 1/3 of the year. Therefore, it is reasonable to conclude that during operations the actual trips generated from the gravel pit will be three times as much as shown in the study, that being nearly 300 trips per day, almost all of which would be large trucks.

The applicant would access the site from CR129 via a private access road, which is shared with and used by the surrounding residences. Therefore, if this application is approved, the neighbors would be forced to essentially drive through a large

industrial operation to get to or from their homes, together with all the industrial truck traffic.

This application is for a Special Use Permit. As you know, pursuant to the Zoning Regulations, “these uses receive the highest level of scrutiny of any of the five categories of uses.”

First, the proposal does not comply with Zoning Regulations Section 9.2 - General Standards for all Mining, Resource Extraction and Accessory Uses. The standards contained in this section are mandatory; the use must comply with them, it or cannot be allowed. Per the section, all Mining uses shall comply with the following standards:

A. Shall be compatible with surrounding agricultural, residential, and recreational land uses by selection of location and/or mitigation.

For all the reasons stated later in this letter, this proposal is completely incompatible with the surrounding agricultural and residences uses. As such, the application must be denied.

B. The proposed operation will be located a sufficient distance from other mining operations so as not to create cumulative impacts to roads, air and water quality, or other resources and amenities. The Planning Commission and the Board of Commissioners will determine sufficiency of distance.

The Fetcher/Vale Pit 6 miles north of site, also on CR129. The Project is not sufficiently distance from the established operation, and will create cumulative impacts, particularly to CR129 and traffic. As such, the application must be denied.

C. Equipment used for the operation will not be visible from adjacent or surrounding residences, or will be mitigated to the extent possible to reduce visual impacts. Planning Commission and/or the Board of County Commissioners will determine sufficiency of mitigation.

The applicant has not proven that the equipment used for the operation will not be visible from the surrounding residences. The applicant should be required to submit proof of same. If the applicant cannot sufficiently prove compliance with this requirement, the application must be denied.

F. Truck traffic will not access the mining operation through residential or commercial areas[.]

The Project proposed to have trucks access the mining operation through a private access easement. The easement runs through and to multiple developed residential parcels. As such, the application must be denied.

Second, this application must be denied because it does not comply with the policies of the Routt County Master Plan, with the Upper Elk River Valley Community Plan, or with the other provision of the Routt County Zoning Regulations. A list of reasons that the application does not comply is as follows:

Routt County Master Plan:

3.3.A – New residential, commercial and industrial development and uses should occur within the vicinity of designated growth centers (Steamboat Springs, Hayden, Oak Creek, and Yampa)[.]

The Project is not within, or even close, to a designated growth center. As such, the application must be denied.

4.3.B – Use Permits that significantly alter the historical use, intensity of use, or character of an area may be deemed incompatible with the plan.

The Project requests a Special Use Permit. The Project would significantly alter the historical use from agriculture, with immensely increase the intensity of use of the site, with heavy equipment and substantial and frequent hauling gravel, and would alter the character of the area, from quiet residential and agricultural, to an industrial mining area. As such, the application must be denied.

4.3.C. – Use Permits for projects located on traditional ranch lands may be approved when the petitioner has demonstrated that the historic agricultural operation and stewardship of the land will be maintained or enhanced.

The Petitioner has not demonstrated maintenance or enhancement of the historical agricultural operation or stewardship of the land; it would be impossible to due so. The proposed gravel pit inevitably disrupt and reduce the agricultural operations, and mining the land can not be described as maintaining stewardship of the land. As such, the application must be denied.

4.4.D Rural development and uses should be limited to areas that have adequate access to accommodate the projected traffic.

Despite the proposed conditions of approval from Road & Bridge, both CR129 and the private access road cannot adequately accommodate the Project. It will create inevitable conflicts with local residential traffic, for people traveling from Steamboat to Clark / North Routt, and cyclists. As such, the application must be denied.

In the event this application is not denied, the application should be required to update the traffic study to reflect the true traffic volumes to meet its production requirements during the limited months of operation, and Road & Bridge should be allowed to impose additional conditions. In addition, in the event the Project is approved, it should be required to access CR129 from Wheeler Creek Trail, to limit residential conflicts.

4.3.I – Routt County encourages adjoining property owners to work together for proposed land use changes.

Planning Staff requested that the applicant reach out to the surrounding landowners submitting this letter. The applicant did not do so. As such, the application must be denied.

5.3.B – While respecting private property rights, the County will not approve development applications or special use permits that would lead to the degradation of the environment without proper mitigation that would bring the proposal into compliance with the Master Plan, appropriate Sub-area Plans, Zoning Regulations, and Subdivision Regulations.

An open gravel is a degradation to the environment. Sufficient mitigation does not exist to bring this proposal into compliance with the required Plans and Regulations. As such, the application must be denied.

7.3.C. – Routt County discourages mining that would cause significant health or safety problems to people.

This project poses significant health and safety risks to the surrounding property owners, and all users of CR129, due to the excessive heavy truck traffic the project will generate. As such, the application must be denied.

7.3.J – Where mitigation is not possible or where mitigation is not sufficient to alleviate significant negative impacts to the surrounding areas, Routt County shall deny permits in those areas altogether[.]

It is not possible to sufficiently alleviate the significant negative impacts of this project to the neighbors and to the public at large. Even if every possible mitigation technique provided for in the Regulations was required, the project would constitute a nuisance and undue burden to the neighbors and public. As such, the application must be denied.

7.3.K – Routt County desires to ensure that new long-term mineral extraction operations shall be mitigated for visual impacts along entryways to growth centers, and to ensure that visual impact of existing operations are mitigated to the maximum extent feasible.

The applicant has stated that the operation will not be visible from CR129 or from surrounding residences. We are unaware of anything submitted by the applicant proving this statement. The applicant should be required to submit proof of same. If the operation is visible from CR129 or the surrounding residences, ever relevant mitigation technique from the Zoning Regulations should be required. As such, the application must be denied.

7.3.R. Routt County encourages the limitation of haul distances.

We are unaware of any limitation on hauling distances for the proposal. If this application is approved, an appropriate haul distance limitation should be imposed.

7.3.T – Routt County encourages the separation and sufficient spacing of mining operations to prevent cumulative significant negative impacts to roads and to surrounding areas.

The Fetcher/Vale Pit 6 miles north of site, also on CR129. The Project is not sufficiently distance from the established operation, and will create cumulative impacts, particularly to CR129 and traffic. As such, the application must be denied.

9.3.A, D, and G – Resolve that wildlife species and their habitats are important and should be protected... Encourage land use practice that will minimize conflicts between wildlife and human uses... Minimize the cumulative impacts of development on wildlife and wildlife habitat.

The site and the surrounding area are elk habitat. There is already conflict between the elk and the residential uses. While some

conditions of approval are proposed to mitigate the impacts of the proposal on wildlife, there is no reason this Special Use needs to occur. The negative impacts would be eliminated if the application was denied. As such, the application must be denied.

10.3.I – Discourage development that changes the rural character or historic agricultural uses and/or practices.

This proposal eliminates or reduces the historic agricultural use on-site. It changes the area from a quiet, productive agricultural and residential area, to an industrial mining area. As such, the application must be denied.

Upper Elk River Valley Community Plan:

2.1.4.2 - Agricultural activities are encouraged and supported, and should be preserved and protected from nuisance complaints, trespass and other impacts from residential population, recreation and tourism.

This project reduces or eliminate agricultural activities on-site. It negatively effects the surrounding agriculture operations due to traffic, noise, dust, etc. As such, the application must be denied.

2.3.4.4 - Strongly encourage building and development outside of riparian areas, critical wildlife habitat and wildlife movement corridors within the planning area.

The site and the surrounding area are elk habitat. There is already conflict between the elk and the residential uses. While some conditions of approval are proposed to mitigate the impacts of the proposal on wildlife, there is no reason this Special Use needs to occur. The negative impacts would be eliminated if the application was denied. As such, the application must be denied.

2.4.7.2 Gravel extraction activities should be located and developed in a manner that will not adversely impact adjoining properties, recreational users and tourists, nor the road system that provides access to the facility.

We make the same comments as we've brought forth throughout this letter.

Routt County Zoning Regulations

5.1.1 General Performance Standards – Health, Safety, and Welfare: Every use shall be operated so that it does not pose a danger to public health, safety or welfare.

It is impossible, even with ever mitigation technique possible, to operate an industrial mining operation in a residential/agricultural area, particularly when using shared access on a private neighborhood road. As such, the application must be denied.

6.1.1 General Approval Standards -Health, Safety, and Welfare

Same as prior comment.

6.1.7 General Approval Standards - Significant Negative Impacts. The proposal shall not create any significant negative impact in surrounding areas.... Issues that may be reviewed for potentially significant negative impacts include, but are not limited to: A. Public Roads, Services and Infrastructure; B. Road Capacity, traffic, and traffic safety; D. Wildlife and Wildlife Habitat; G. Visual Amenities and Scenic Qualities; I. Noise; K. Land Use Compatibility; M. Vibration

6.2 General Approval Standards - Public Road Use Performance Standards

As previously stated, there is significant reason to believe that the traffic study provided by the applicant does not present an accurate representation of the traffic generated by the project, as the applicant is required to increase peak usage during certain months of the year. If the application is not denied, a new traffic study should be required, to allow Planning and Road & Bridge to determine if the standards provided for in 6.2.4 are met, and what additional conditions of approval would be appropriate.

6.6 General Approval Standards - Mitigation Techniques for Development within Critical Wildlife Areas

Pursuant to CPW, this site is a critical wildlife area for elk and grouse. While a proposed condition of approval is to limit operations to certain times of the year, the best mitigation technique would be 6.6.G – Retain existing land use and vegetation – meaning deny the application and retain the existing use. As such, the application must be denied.

6.9 General Approval Standards - Mitigation Techniques to Reduce Impacts to Scenic Quality

The applicant has stated that the operation will not be visible from CR129 or from surrounding residences. We are unaware of anything

submitted by the applicant proving this statement. The applicant should be required to submit proof of same. If the operation is visible from CR129 or the surrounding residences, every relevant mitigation technique from the Zoning Regulations should be required.

6.10 – General Approval Standards – Mitigation Techniques to Reduce Noise impacts

While Staff has recommended noise mitigation techniques, it is impossible for a gravel operation to sufficiently mitigate noise impacts to the surrounding agricultural and residential properties. As sufficient mitigation cannot be achieved, this application must be denied.

6.13 Mitigation Techniques to Reduce Impacts to Residential and Recreation Uses

The only relevant mitigation technique – 6.13.B Locate uses incompatible with residential uses... a sufficient distance from such area – is impossible to achieve in this case. The proposal is on a small lot adjacent to numerous residential uses. As sufficient mitigation cannot be achieved, this application must be denied.

Thank you for your consideration to these comments and concerns. The surrounding property owners are deeply concerned by this proposal, and the inevitable significant negative impacts it will cause on their existing residential and agricultural uses. We look forward to and appreciate your denial of this application.

Sincerely,

ELEVATION LAW GROUP, P.C.



George M. Eck III, Esq.