



***Rio Arriba County
Planning & Zoning Department***

Thomas M. Aragon
Director

P&Z Committee
Benny Roybal
Benny Martinez
JR Trujillo
Manuel Trujillo
Michael A. Trujillo
Chris Lovato
Christina Archuleta
Mares

**PLANNING AND ZONING COMMITTEE
Regular Meeting Minutes
December 5, 2018 10:00 a.m.
Española Complex, Rio Arriba County**

I. Meeting Called to Order

Acting Chairman Benny Martinez called the meeting to order at 10:05 a.m.

He explained to the public that 3 minutes will be allowed to each person that wishes to speak for or against the proposed case. Each person will be sworn in and must state your name and address for the record.

II. Roll Call

Chairman Martinez asked Planning Staff, Andrea Salazar to take roll call.

Present:

Benny Martinez, *Acting Chairman*

JR Trujillo

Michael A. Trujillo (Mick)

Manuel Trujillo

Chris Lovato (*Arrived Late*)

Chairman Martinez declared a quorum was present.

Absent:

Benny Roybal (*Chairman*)

III. Staff Report Presented by Michael Garcia, Planner

Case No. 2018-S039 Special Use Permit- El Guique Mine Expansion Applicant Katharine Fishman, President, of Espanola Transit Mix, LLC, requests to expand the El Guique Sand and Gravel Mine Tract 5A & 5B of approximately 67 acres. The property is owned by Generation Next, LLC. Approval of a Special Use Permit (SUP) for land use category Large Scale Manufacturing is required to expand the existing mining operation and establish the proper zoning for the proposed land use.

FINDINGS OF FACT

1. A legal notice for this Public Hearing has been made pursuant to Ordinance 2012-001 by posting meeting notice placards at the subject property, by sending public hearing notice letters to surrounding property owners within at least half-mile radius, by posting notices on the County website, and two weeks of public notice was published in the Rio Grande Sun on November 11, 2018 and November 18, 2018.
2. A Town Hall Community Meeting was held on November 20, 2018 at the Chamita Community Center. Many community residents attended with concerns about the existing El Guique Mining activity. A summary of the residents' concerns is as follows:
 - a. The expansion should not be approved until all conditions of approval, especially reclamation, have been met at the existing mine.
 - b. Reclamation has not been completed on the currently mined property.

- c. Are flood and erosion control measures to prevent potential flooding onto County Road 57 and the residents' homes adequate?
 - d. County Road 57 must be maintained regularly for the high usage from heavy truck traffic from mining operations.
 - e. Traffic on State Road 74, as hauling trucks wait on the side of the road to begin their work day creates congestion.
 - f. Dust control mitigation to meet air quality control in the area of the mine must be demonstrated.
 - g. County staff must conduct mine inspections regularly following conditions set by County Ordinance.
3. The applicant brought hired consultants to address reclamation on the existing mine and to discuss the potential area of expansion, including flood and erosion control, reclamation, dust control mitigation and compliance with conditions of approval. The applicant itself attempted to address the issues of traffic. Staff feels that the applicant must also address these same issues with the Planning and Zoning Committee as well as the Board of County Commissioners.
 4. The subject property is identified by Assessor's Parcel No. 1-049-131-198-066, Section 23, Township 22 North, Range 8 East. The property is zoned County Rural Agricultural District (CRAD) as are all the surrounding properties. The property is located off County Rd 57, mile marker 3.2, Estaca, New Mexico and is approximately 66.9 acres adjacent to the existing El Guique Sand and Gravel Mine owned by Generation Next, LLC.
 5. Performance and development standards in the Sand and Gravel Mining Ordinance 2013-002 shall be in addition to those set out in the Rio Arriba Design and Development Regulation System Ordinance for a Special Use Permit.
 6. Espanola Transit Mix LLC, has submitted all the required submittals to address the Sand and Gravel and Mining Ordinance 2013-002. The submittal list is as follows:
 1. Introduction page 3
 2. Ordinance Section 3.02 Site Criteria Performance Standards page 3
 3. Ordinance Section 3.02 Performance & Development Standards page 3
 4. Ordinance Section 3.03 Terrain Management Performance Standards page 3
 - a. Soils page 3
 - b. Sand and gravel mining sites located within one mile of acequia page 4
 - c. Excavating, grading, filling and clearing operations page 4
 5. Ordinance Section 3.04 Storm Drainage and Flood Control Management page 5
 - a. Flood Hazard Areas page 5
 - b. U.S. Army Corp of Engineers Jurisdiction page 5
 - c. Storm drainage system Design page 5
 6. Ordinance Section 3.05 Cultural Resources Performance Standards page 6
Cultural Resource Survey
 7. Ordinance Section 3.06 Environment Protection Plans page 6
 - a. Air Quality Performance Standards page 6
 - b. Noise Performance Standards page 6
 - c. Vibration Performance Standards page 7
 - d. Visual Impacts Mitigation Performance Standards page 7
 - a. Lighting Performance Standards page 8
 - b. Blasting Performance Standards page 8
 - c. Roads and Traffic Plans page 8

d. Sign and Markers	page 8
e. Reclamation Plans Performance Standards	page 8
8. Ordinance Section 3.08 Unmarked Human Burials	page 8
Additional Information.....	page 9

7. The mine expansion site contains archaeological sites that shall be protected from destruction by mining activity.
8. The operations of the mine and conditions within the mine site are potentially hazardous to members of the public, who may enter upon the mine site without permission or authorization, signage and or gates shall be posted for safety of the public.
9. This permit and each of the conditions set forth therein, including the deadlines for compliance with certain conditions, are necessary, reasonable and appropriate measures to protect the public health, safety and welfare and to reduce the real and potential adverse effects of the mine, including, adverse visual impacts from the mine and adverse effects associated with dust, noise, truck traffic, runoff and erosion.
10. Rio Arriba County Comprehensive Plan Goals and Strategies:

Land Use - Goal 1: Encourage compact, compatible, and sustainable node development that reflects traditional settlement patterns.

Goal 5: Amend existing or develop new ordinance to encourage new development that is compatible with the proposed location and discourage development that is not compatible or in unsuitable locations.

Strategy 1: Encourage small commercial, mixed use, and light industrial uses in communities and nodes.

Strategy 2: Encourage clustered compact development that allows for growth.

Strategy 6: Encourage compact node development on dry land in order to maximize efficiency of services and minimize irrigated land disturbance.

Economic Development Initiatives – Goal 5: Promote the use and purchase of local goods and services that support local businesses and job growth.

Strategy 27: Identify areas of key economic support and creation and recruitment of businesses that provide such products and services locally at a competitive price.

IV. Applicant Presentation: By Espanola Transit Mix LLC.

President Katherine Fishman, Kenny Gallegos, Matt Lane and Nick Parker
Presentation began by President and Manager of Espanola Transit Mix LLC, Katherine Fishman introducing herself and explaining she is now managing the company from her deceased father Richard Cook who owned and managed Piedra Inc. and Espanola Transit Mix LLC.

She explained that her father had begun the sand and gravel mine back in the early 60s. She has been running the company since 2015. She is an Attorney with her background in Corporate Law and is well aware of the permitting process and wants to follow all the rules and regulations set by the County. She wants all to know that she runs the company different than her father did, now under new management practices and wants to be a good neighbor with the surrounding residents near the mine. She is aware of the problems the community had with her father and wants to mend the relationship with the neighbors. Ms. Fishman will do all she can to address the concerns of the community and

comply with requirements set for the existing mine. She noted that Espanola Transit Mix supplies material to all the surrounding area and employ many from the area.

Matt Lane began his presentation to explain the reason why the 67 acre expansion area is necessary and the process in removing the material from the quarry. Stating that they will mine 10 acre area at one time, then reclaim the disturbed area, then move onto the next 10 acres and follow this process until they complete the full 67 acres per County Sand and Gravel Ordinance requirements. Mr. Lane discuss erosion control, storm water control and the method to retain and release the storm water back into the ground. He addressed dust control methods used to mitigate blowing dust. Visual impacts will be addressed by leaving the front hillside next to the roadways untouched, will also act as a noise buffer and retain undisturbed hillsides for view sheds to the historical sites in the area. Reclamation of disturbed areas will also control dust, erosions and view sheds of the area impacted. He stated that a lot of major conditions will not change, the number of haul vehicles that are allowed and the hours of operation will not change.

Nick Parker of P3 Planning said they found three archaeological sites within the proposed mine expansion area. The mine expansion will avoid these areas for mining. The State Historic Preservation Office will conduct an independent study and has asked for a site visit of the area by the County and Espanola Transit Mix to make a determination of the archaeological artifacts and the view sheds of the historical sites that have been identified. Espanola Transit Mix will comply with the State's finding and recommendations.

V. STAFF RECOMMENDATION:

Chairman Martinez asked staff to present staff recommendations presented by Michael Garcia.

Special Use Permit, SUP-2018-S039 Class III, (Large Scale Manufacturing) Request by Espanola Transit Mix LLC, to expand El Guique Sand and Gravel Mine Tract 5. The proposed expansion area is compatible land use adjacent to an existing sand and gravel mine. Planning & Zoning Department staff have recommended **Approval** with the following conditions:

1. This permit will remain in effect as long as mining activities take place continuously on the site. Should extraction of material cease for a period of six months, this permit will become invalid, and the applicant must obtain a new permit as a proposed new mining use. Failure to comply with the terms and conditions of approval of this permit or of any other state, federal, or local regulation, statute or ordinance may also result in suspension or cancellation of the permit. Additionally the terms and conditions are subject to enforcement in accordance with applicable law including injunctive relief. The permittee is required to amend the permit for change in the operating or reclamation plan. Such amendments are subject to review and approval by the Board of County Commissioners.
2. Within 30 days of permit approval Espanola Transit Mix LLC shall establish and maintain visible permanent markers at the boundaries of the property subject to this permit. Espanola Transit Mix LLC shall mark the limits of the areas designated for mining disturbance under this permit with visible permanent markers installed every 200 feet. Disturbance of any type shall not extend beyond the marked boundaries of the areas permitted for mining disturbance.
3. Upon request and as soon as available, Espanola Transit Mix LLC, agrees to allow access to the El Guique Mining site during regular business hours to designated County staff or their contractors or consultants for assessing permit compliance. Inspection staff shall take proper safety precautions upon entering inspection site accompanied with designated Espanola Transit Mix LLC employee.

4. In the case of failure by the applicant to comply with this permit or the conditions of approval set by the Commission and provision of Ordinance 2013-002, the Planning and Zoning Director or staff may issue a written notice of violation. Should the applicant fail to correct the violation within the stated period allowed, the Director may order the operations to cease part or all of the operations and take corrective action until the violation has been corrected.
5. Protection of Air Quality Control. Espanola Transit Mix LLC, shall maintain its overburden stockpiles and roadways to reduce dust emissions. All active stockpiles and roadways shall be watered as frequently as necessary to maintain a surface crust and reduce blowing dust. A truck log of dust control activities, including dates and times of watering, stockpile stabilization, and any other dust suppression measures shall be recorded. Records shall be available on a quarterly basis for county inspection. The standards and regulations of the New Mexico Environment Department, Air Quality Bureau as described in the NM Administrative Code titles 7, 11 and 20 shall be met.
6. Within 30 days of permit approval. Espanola Transit Mix LLC shall install and maintain filter fabric fences at the toe of all cut and fill slopes that drain into flood control dam basins or undisturbed areas. Espanola Transit Mix LLC shall make available; records of monthly storm water control inspections of any water samples taken as required by the SWPPP.
7. Sound and Vibration Mitigation. Espanola Transit Mix LLC, shall not allow more than 16 haul trucks to enter or leave the site each hour between 8:00 a.m. and 5:00 p.m., Monday through Saturday. Hauling shall not take place outside of daylight hours
8. Gross vehicle weight shall not exceed the lesser of 86,000 pounds. Gross vehicle weight logs shall be available to County staff for inspection upon request. Espanola Transit Mix LLC, shall prohibit the use of engine jake brakes along haul routes. All mechanical equipment shall be equipped with mufflers and other sound reduction devices. No blasting shall take place on this site.
9. Espanola Transit Mix LLC, shall not exceed the noise limits specified of 70 dBA for residential areas in Ordinance 2013-002. Any noise study conducted in response to a valid complaint must include proposed mitigation and require immediate implementation by Espanola Transit Mix LLC.
10. Espanola Transit Mix LLC, shall mine the property in thirty acre tracts. No more than thirty acres of land shall be disturbed at any one time, and of these thirty acres, up to ten acres may be undergoing active mining, and at least ten acres shall be in reclamation. No additional acreage shall be disturbed until regrading and reseeded have been completed on the acreage under reclamation.
11. Mining operations shall operate during daylight hours only, use of outdoor lighting is prohibited.
12. Espanola Transit Mix LLC, shall provide perimeter signs and markers advising the public of mining activity and related hazards that may be present including but not limited to warning of trucks turning sign or mining operations, hard hat area sign. This signage shall be placed at the entrance of the mine within 30 days of permit approval. Espanola Transit Mix LLC, shall coordinate padlock configuration with the Watershed District road serving Dam #5 and #6 in order to restrict access to unauthorized personnel.
13. Reclamation Performance Standards, Espanola Transit Mix LLC, shall reclaim its site to interim post mining land use of wildlife habitat and livestock grazing. Reclamation shall result in the establishment of structurally stable slopes and soils through the use of compaction, and a long lasting vegetation cover that is capable of re-seeding itself. Native species shall comprise the largest proportion of the seed mixture. Espanola Transit Mix LLC, shall plant seed mix specified in its

wildlife and vegetation reclamation plan in accordance with standards set by County Ordinance 2013-002. Plants that die or are not established after a two year period shall be replaced. Revegetation shall be monitored for a minimum of three (3) years. Monitoring report shall be provided to Planning and Zoning staff. Additional site inspections shall take place until the vegetation standards specified are achieved.

14. Disturbed areas will be graded to a maximum 3:1 slope and blend with the surrounding topography.
15. Within 30 days of permit approval, Espanola Transit Mix LLC, shall provide the County Financial Assurance Bond in the amount of \$ 250,000.00 based on \$50,000.00 for the first acre then \$6,896.55 per acre for each additional acre of disturbed acres of Tract 5-A, the same shall apply to Tract 5-B. This financial assurance bond shall address all improvements outlined in Ordinance 2013-002 and shall be made payable to Rio Arriba County.
16. Road Impact Fee. If it is determined by the County that mining operations will increase the burden or cause deterioration to any County Road, Espanola Transit Mix LLC, shall be required to undertake a pro-rata share of the cost of improvements or repairs to the County roads which are shown to be impacted by mining related use. Rio Arriba County Public Works Director will determine the pro-rata costs to repair the roads, a separate Financial Assurance Bond will be required, of no less than \$100,000.00, payable to Rio Arriba County.
17. Cultural Preservation Plan shall be required for each proposed mining operation. In order to preserve and enhance the unique heritage of the County of Rio Arriba, all operations shall be established in a manner that respects and avoids disturbance of historic, cultural or archaeological sites, natural and manmade landmarks, acequias, and unmarked human burial sites. The State Historic Preservation Office, (SHPO) has identified potential impacts to the State and/or National Register. P3 planning has submitted detailed information to address these concerns and has identified any impacts that may be of concern. SHPO, has submitted their conclusion of the mining expansion area, Espanola Transit Mix LLC has agreed to comply with any findings and regulations required by the state agency.
18. Setback distance requirements shall be met throughout the mining property. Setback requirements are as follows:
 - a. 50 feet from adjoining property lines
 - b. 300 feet from the boundary of residential developed property
 - c. 25 feet to the right-of-way public and private streets or easements
 - d. 115 feet from the centerline of any acequia
 - e. If two or more mining operations are contiguous to one another, the common boundary area may be mined, extracted or excavated if all parties involved sign a notarized agreement permitting the activity.

A technical analyses, prepared by a qualified specialist may be submitted supporting setback and development criteria other than those described in Section 3.02 (E) of Ordinance 2013-002.

19. Terrain Management Performance Standards, all excavating, grading, filling, and clearing operations shall be designed to fulfill the following requirements in the Terrain Management Plan.
 - a. Preserve, match or blend with the natural contours of the land.
 - b. The plan shall adequately describe how all grading and excavating operations will be performed to blend slopes and fills into the natural contours of the land.
 - c. The plan shall indicate how the applicant intends to retain or replace trees and native vegetation to stabilize slopes, retain moisture, manage erosion and runoff, and mitigate impacts to the natural landscape.

- d. The plan shall demonstrate how the discharge of sediment and other pollutants into floodplains, drainage channels, water courses, and water bodies complies with all applicable state and federal regulations.
20. Storm Drainage and Flood Control Management. Espanola Transit Mix LLC, shall comply with the regulations and standards of the Flood Damage Prevention Ordinance used to govern properties that lie within a FEMA designated flood hazard areas.
- a. The U.S. Army Corp of Engineers shall be consulted for conditions of approval for any mining activity or roads that lie in proximity to water ways under its jurisdiction.
 - b. All storm drainage systems shall be constructed in accordance with the standards of the Rio Arriba County Soil and Water Conservation District.
21. Upon permit approval, Espanola Transit Mix LLC, shall designate a full-time contact person responsible for ordinance compliance and resolving community traffic safety, noise, dust control and other concerns related to the existing El Guique Sand and Gravel Mine and the expansion area.

VI. PUBLIC TESTIMONY:

Chairman Martinez asked anyone that wished to speak will have 3 minutes and will need to be sworn in.

All who wished to speak for or against the mine expansion project were sworn in by Andrea Salazar.

The public that came forward to speak are as follows:

Steve Thompson	Alec Kereso	Ralph Casados
Sue Johnston	Nancy O'Bryan	Harold Mascarenes
Josephine Borrego	Lisa Jensen-Nye	John Kineheloe
Eloida Martinez	Roland Borrego	Alfredo Montoya
Carl Brieuening	Todd Fergus	

The residents' concerns and issues are listed as follows:

1. County Road 57 impacted by heavy truck traffic from the mine needs potholes repaired and maintained.
2. County Ordinance setbacks to roadways need to be increased to create a buffer from noise.
3. Damage to homes by heavy truck vibration on County Road 57 need to be addresses.
4. Damage to existing watershed slopes changing drainage to existing dams causing flooding.
5. Past violations of County Ordinance from existing mine need to come into compliance before expansion is allowed.
6. Retention ponds need to address erosion control and proper drainage to control flooding to homes below the watersheds.
7. Heavy trucks are dangerously speeding and turning onto County Road 57 without regard to local traffic.
8. Existing mine needs to be in compliance with reclamations of disturbed areas before expansion moves forward.
9. Noise from loading of trucks and dust mitigation efforts need close monitoring to meet County Ordinance and State regulation guidelines.
10. Cultural resources and petroglyphs must be identified and not disturbed.
11. Regularly scheduled site inspections by County staff to insure compliance of ordinance.
12. Mine boundary markers placed and maintained not to exceed the permitted areas.

VII. PLANNING AND ZONING COMMITTEE MEMBERS RECOMMENDATION:

Chairman Martinez closed public testimony. Board members had a brief discussion concerning what they heard from the public and staff presentation. Chairman closed discussion by the board members and asked for a motion. A motion was made by Committee Member JR. Trujillo, second by Manuel Trujillo, with Committee Members Christina Archuleta Mares, Miguel Trujillo, Chris Lovato and Manuel Trujillo voted all in favor to **Deny** Special Use Permit 2018-S039, by Applicant Espanola Transit Mix, for El Guique Mine Expansion of Tract 5. The reason given for denial was based on the existing mine’s past of non-compliance of County Ordinance violations and non-compatibility issues raised by concerns of local residence of the area.

The Motion to deny Case No. 2018-S039 by the P&Z Committee Members is a recommendation to the Board of County Commission. The Board will make the final decision on December 20, 2018 at the regularly scheduled Commission Meeting in Tierra Amarilla, County Complex.

VIII. Old Business

There was no old business to conduct.

IX. ADJOURNMENT

Chairman, Martinez adjourned the meeting at 1:20 p.m.

MINUTES SUBMITTED BY: Michael Garcia, Planner

Michael Garcia	Date
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MINUTES APPROVED BY:

Chairman	Date
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Planning and Zoning Department	Date
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