

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
September 5, 2018 - 5:00 p.m.**

In Attendance were:

Kathy Giles, Planning Commission, Chairman
Brad Wells, Planning Commission
Ken Moon, Planning Commission
Allen Lindsay, Planning Commission
Bobby Drake, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Debra Lindsay	
Heather Fitzgerald	Esplin CUP
Tyler Fitzgerald	Esplin CUP
Travis Fitzgerald	Esplin CUP
Mike and Michelle Esplin	Esplin CUP

Chairman Giles opened the meeting at 5:00 pm and read the rules of order. She asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. There were none, so the meeting proceeded.

PUBLIC HEARINGS:

A. Request by Mike Esplin (M Esplin LLC) for a Conditional Use Permit to locate an oilfield pipe storage yard on property owned by Irene Lopatic, located at 4727 South Highway 87, in the Blue Bench area north of Duchesne.

Mr. Hyde stated the applicant is proposing to establish an oilfield pipe storage yard at the subject location, which is zoned Agricultural (A-5). Commercial uses are permitted in the A-5 zone as a conditional use. The county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

Mr. Hyde stated the planning commission may grant a conditional use permit, if from the application and the facts presented at the public hearing, it finds:

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.

Mr. Hyde stated the proposed use has the potential to be detrimental to public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity if conditions are not imposed to protect the residential character of the area.

This can be done by imposing conditions of approval to mitigate anticipated impacts.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. In light of these plan policies, the Conditional Use request should be approved to support the creation of a new business site, provided that conditions of approval will be imposed to protect rural residential and agricultural interests in the area.

Some criteria for approval include.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the subject property is 6.96 acres in size, which is of sufficient size to locate the proposed pipe storage yard. However, locating such a facility close to current and potential residential uses raises the possibility of noise and visual degradation concerns. Thus, conditions should be imposed to require noise control, setbacks and screening the stored materials from view. To do this, the storage area should be surrounded on all sides by a six foot tall, sight obscuring fence (unless abutting property owners prefer an open fence). Also, the storage area should be set back from existing dwellings at least 200 feet.

Some additional conditions include:

A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Mr. Hyde suggested to protect visual qualities of the area, the permit, if granted, should include a requirement to screen the pipe storage area with a sight obscuring fence at least six feet in height (unless abutting property owners prefer an open fence). Maintaining a setback of the storage area from existing dwellings would also help protect the property rights of existing residents. A setback of 200 feet seems appropriate, given that heavy truck movements will be confined to the west side of the property, closer to the highway, with the east side used for pipe storage.

B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

The public will not be coming to this location to do business, which eliminates the need for an improved parking lot. However, there will need to be safe ingress and egress with adequate surfacing to accommodate heavy truck movements. Sufficient base rock and gravel surfacing will need to be applied to the vehicle (including fork lift) movement areas to provide an all-weather surface and help control dust.

The applicants have met with UDOT Region 3 to determine where their highway access point will be. UDOT would prefer that access to the property be from the Class D road to the east of parcel, which can be accessed from 4500 South or 5000 South. However, that road is not built to accommodate heavy truck traffic, is not maintained by the County and passes by several homes; which makes it unacceptable for access to serve the proposed business. UDOT will allow a joint driveway at the northwest corner of the subject parcel, which would serve this parcel and the one to the north. The terms of the UDOT access permit will need to be complied with before opening for business at this site.

C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Mr. Hyde stated the subject property has legal access by frontage on the east side of Highway 87 and also to 20810 West on the east side of the parcel. No additional right of way is required at this location. Use of 20810 West for access to the proposed business would not be acceptable due to the condition of the road and the presence of homes along it. Water supply and sewage disposal is not required at this location as there is no office or public use of the site. A portable toilet will be provided and maintained by the provider. Adequacy of the access road for fire protection and compliance with the Wildland Urban Interface Code will need to be discussed with the County Fire Marshal.

D. Signs: Regulation of signs.

The applicant had indicated there will be a sign at or near the southwest corner of the property. To help maintain residential character, such signage shall not be lighted and shall not exceed 32 square feet in size or ten feet in height. The sign shall be placed in a manner that does not restrict vision clearance at the driveway entrance to the highway.

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Due to the proximity of the proposed storage yard to dwelling units, reasonable conditions should be imposed to prevent noise impacts.

F. Noise Disturbances:

- 1. The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:*

- a. *Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.*
- b. *The use of any mechanical device, operated by compressed air, steam, gasoline or otherwise, unless the noise created is in connection with work being done by authorized agencies or an agricultural activity and/or is effectively muffled between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M.*

Based on the standards above, the applicant will need to ensure that no nuisance noise is generated earlier than 7:00 AM or later than 9:30 PM. Maintaining a 200 foot setback from the storage area to existing dwellings and constructing a sight-obscuring fence should help reduce the potential for noise impacts.

Mr. Hyde has indicated that dust should not be an issue since there will be a low volume of traffic entering and leaving the facility and disturbed areas will have a rock/gravel surface applied.

G. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

Activity at the site will need to be kept within the hours allowed by the nuisance ordinance (7 AM to 9:30 PM).

Mr. Hyde's recommendation is that the Planning Commission approve the Conditional Use Permit requested by Mike Esplin, subject to the following conditions:

1. Prior to opening for business, the applicant shall:
 - a. Construct a sight obscuring fence around the pipe storage area; at least six feet in height (unless abutting property owners prefer an open fence).
 - b. Provide adequate rock base and gravel top course on all vehicle maneuvering areas to allow for all-weather use by heavy trucks and fork lifts, to reduce dust and help prevent the tracking of mud onto Highway 87.
 - c. Provide for emergency vehicle access to the pipe storage yard in compliance with the Wildland Urban Interface Code, as determined by the County Fire Marshal.
 - d. Contract with a provider to locate and maintain at least one portable toilet on the premises.

- e. Construct a driveway to Highway 87 in accordance with an approved UDOT Region 3 access permit. Business access to 20810 West is not permitted.
 - f. Submit an amended county business license application.
2. The applicant shall restrict hours of activity at the pipe storage yard to those permitted by the Noise Disturbance section of the Duchesne County Nuisance Ordinance (7 AM to 9:30 PM).
 3. The applicant shall maintain a setback of at least 200 feet between existing dwelling units and the boundaries of the pipe storage area.
 4. Business signage shall be limited to one sign, which shall not be lighted and shall not exceed 32 square feet in size or ten feet in height. The sign shall be placed in a manner that does not restrict vision clearance at the driveway entrance to the highway.

Mr. Hyde referred the commission to their packets and some site photos and a letter from the applicant stating his intentions and asked the commission if they had any questions of the staff report.

There were none so the applicant was invited to speak.

Mike Esplin, applicant and future property owner, stated it's just a small business and pipeyard storage area for now.

Commissioner Lindsay asked if Mr. Esplin just wanted to use Hwy 87 for now. Mr. Esplin explained he does not want to use 5000 South, there are too many homes and children on that road, also there is not enough room to enter and exit the facility.

With no other questions Commissioner Giles invited anyone in opposition to speak.

Heather Fitzgerald, property owner on 20810 West, stated her concerns about having an oilfield business that close to the homes in the area. There are 10 children that live on that road full time. There are already power lines, many oil locations and EP owns property in that area that Mr. Esplin can lease and use for storage. Mrs. Fitzgerald is concerned there are no street lights, signs, truck turn arounds and fears the property values in the area will decrease.

There was some discussion with Mr. Hyde and the Commission about using Hwy 87 as the only access, whether or not the county could install signs on 20810 West, the property owner fencing, keeping the business hours and traffic to a minimum for the safety of the home owners to the east. Mr. and Mrs. Fitzgerald would prefer the privacy slats in the fence and using the access off of hwy 87.

Mrs. Fitzgerald asked Mr. Esplin where he currently stores his pipe and who he works for. Mr. Esplin stated usually at different locations and works for many different companies.

Mr. Esplin wants to be a good neighbor and is willing to work with the residents to make this work for everybody involved.

Mr. Hyde stated the Planning Commission can impose conditions to mitigate the impacts for the residents in the approval letter. Mrs. Fitzgerald asked what her options are if they don't follow the rules. Mr. Hyde stated she can call our office with any complaints and there is an appeal process and the Esplins could lose their permit.

Commissioner Clark asked how high the pipe racks would be and if Mr. Esplin would be willing to keep the racks below the 6 foot fence line. Mr. Esplin said he would and that would be easier to load and unload.

Chairman Giles asked if there were any other comments or concerns from anyone in the audience.

Travis Fitzgerald, an adjoining property owner stated his concerns about the power lines and easement that are in place, the property values and ultimately the safety for his family and the other residents in the area.

Mr. Hyde stated the assessed values are based on recent sales in the area and improvements to your property; not the adjoining property.

With no other questions or comments from anyone in the audience the public hearing was closed.

Commissioner Wells suggested the commission amend condition 1a to include privacy slats for the fence.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Mike Esplin, subject to the conditions stated in the staff report with the amendment to 1a stating the applicant will construct a sight obscuring fence around the pipe storage area; at least six feet in height. Pipe storage shall not exceed the height of this fence. Commissioner Drake seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of July 11, 2018 minutes:

Commissioner Moon moved to approve the minutes of July 11, 2018.
Commissioner Drake seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

Mr. Hyde reminded the commission about the work meeting with the Public Lands Committee on September 27 to discuss a potential amendment of the general plan. The next planning commission meeting will be on October 10.

Adjournment:

Meeting adjourned at 5:55 p.m.