

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
August 2, 2006 - 5:00 p.m.**

In Attendance were:

Leon Sweat, Planning Commission Chairman
Shelly Fabrizio, Planning Commission
Dean Brough, Planning Commission
Thomas Rather, Planning Commission
Mike Hyde, Community Development Administrator
Laraine Dickinson, Planning Secretary

Excused: Randy Mair, Larain Mobley, Chris Peatross

Visitors:

Jerry Kenczka
Scot Donato
Ed Courtright
Joe Steed
Connie Sweat

Agenda Item

Bureau of Land Management
Bill Barrett Corporation
Berry Petroleum
Zoning & Subdivision Ordinance

Chairman Sweat called the meeting to order at 5:03 P.M.

PUBLIC HEARINGS:

- A. Berry Petroleum Company, requesting a Conditional Use Permit for sand and gravel extraction located in Section 23, Township 5 South, Range 4 West, in the Nutter's Canyon area.**

Mr. Hyde stated that Berry Petroleum has purchased all of Section 23 in Township 5 South, Range 4 West, located in Nutter's Canyon area. The section is surrounded by tribal lands and is in the midst of an area seeing oil and gas well exploration and development. The applicants wish to mine sand and gravel from locations in the northwest quarter of this section for use in building or maintaining well pad access roads and making other improvements, such as rock base for tank batteries, in this expanding oil and gas field.

Mr. Hyde stated that in the findings we look to see if this meets the criteria for a conditional use permit. The first is whether or not the location would be unduly detrimental to properties in the vicinity and will not be detrimental to the public health, safety or general welfare. The zoning code contains a 1/4 mile separation distance from residential units from such mining operations to mitigate any impact. In this case, there

are no dwelling units within ¼ mile and none in the general vicinity due to the presence of tribal, state and federal land in the area. The second is compliance with the goals and policies of the Duchesne County General Plan. The General Plan states the County continues to encourage and support these industries and oil mining and gas are the backbones of the county's economy. The third is if the property is of adequate size and dimensions to permit the conduct of the use in such a manner that will not have an impact on anyone. In this case, the 640-acre parcel is large enough and situated remotely from private property such that detrimental impacts will not occur.

Mr. Hyde stated that there are also special minimum conditions when extracting earth products. The first is controlling the dust by watering the site and roads during times of operation. The applicants have indicated that they are required to control dust along the county roads, such as Nutter's Canyon Road, and can use the same equipment to control dust. There are no land uses nearby that would be affected by the small amount of dust associated with the sporadic use of this pit.

Mr. Hyde stated that the second criteria would be the bonding. A bond in the amount of \$5,000.00 for the first acre and \$3,000.00 for each additional acre from which such material is taken as a guarantee of reconditioning. The applicant has submitted a bond in the amount of \$14,000.00 based on four acres anticipated to be disturbed. The third would be the reconditioning to assure the surrounding property is protected along with the beauty of the landscape so a plan will need to be submitted to show this. And the fourth criteria, is rock crushing and it should be ¼-mile from city, town or residential use but in this case there is no rock crushing being proposed.

Chairman Sweat asked if anyone would like to speak for or against this proposal. Ed Courtright of Berry Petroleum had nothing to add but would respond to any questions. There were none.

Commissioner Brough moved that the Planning Commission approve the Conditional Use Permit requested by Berry Petroleum Company, subject to the following conditions:

1. Applicant shall take action as deemed necessary by the County, if complaints are received, to prevent dust from becoming a nuisance.
2. Applicant shall maintain a reclamation bond in effect during the course of the operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre disturbed and \$3,000.00 for each additional acre.
3. Applicant agrees to reclaim the site at conclusion of mining operations in a manner acceptable to Duchesne County.

Commissioner Fabrizio seconded the motion and it passed unanimously.

B. Bill Barrett Corporation, requesting a Conditional Use Permit for a Produced Water Disposal Facility located in the SW ¼ of the SW ¼ of Section 24, Township 11 South, Range 15 East, in the Wrinkles Road area

Mr. Hyde stated that the Bill Barrett Corporation owns 40 acres in the southeast part of the county near Wrinkles Road a few miles north of Nine Mile Canyon. The remainder of the section is public land administered by the Bureau of Land Management. BBC is in the process of oil and natural gas exploration and production in the West Tavaputs Plateau. Mr. Hyde stated that there are a lot of new potential wells in Carbon County just south of Nine Mile Canyon and they do need the requested produced water storage and evaporation facility to support these energy development activities.

Mr. Hyde stated that the same three conditional use criteria would apply. The first criteria, is whether or not this would be detrimental or not. Due to the remote location of the proposed facility in a section of the county that is predominately BLM land, with the applicant owning the only private property in the section, the public's health, safety and welfare will not be adversely impacted. The second criteria is that this is in compliance with the Duchesne County Plan and it does support the oil, gas and mining industry. The third criteria, is whether or not the property is of adequate size. The 40-acre parcel is large enough and situated remote from developed property such that detrimental impacts will not occur.

Mr. Hyde stated that there are special conditions for produced water disposal facilities and the first would be fencing to sustain safety, and prevent access by livestock, wildlife, and unauthorized personnel. There is a site plan that indicates fencing will be provided around the two proposed water evaporation pits and other facilities to comply with this standard. The second is that the applicant would need approval from State of Utah Division of Oil, Gas and Mining and they are aware of this and are preparing an application for the State permit that is required for this facility. The third is mandatory odor control. The applicants indicate that there are two primary causes of odor at produced water evaporation ponds. The first source is the hydrocarbon residuals. The facility will have equipment to separate the residual oil from the water and store it in tanks for sale. The second source is bacterial activity in the water. The applicants indicate that chemical treatments can be applied to the water to reduce or eliminate the bacterial activity. The fourth is that the site must be located at least one mile from any city, town or residential use or state route or US highway. Mr. Hyde stated that the proposed facility is about 22 miles from Highway 40 and the closest city or town would be Myton, which is also about 22 miles to the north and the closest residential use would be Pleasant Valley or Nine Mile Canyon area, which is about 10-15 miles away. The fifth criteria would be that produced water disposal ponds shall be limited by number and cannot be enlarged or modified without approval from the Planning Commission. Mr. Hyde stated there are two disposal ponds shown on the site plan and future expansion would require another conditional use permit. The sixth is mandatory bonding or other assurance shall be furnished to the county in the amount of \$25,000.00 per acre of pond or open pit to guarantee reclamation will be accomplished. This is in addition DOGM rule (R-649-9-9), which require bonding to treat and remove waste from site and secure the site to prevent future contamination. Mr. Hyde stated that the applicant has agreed to comply with the bonding requirements of the county and DOGM prior to start of construction.

As there were no questions of the staff report, Chairman Sweat called for the applicant to speak.

Scot Donato (Environmental Health and Safety Manager for Bill Barrett Corporation), out of Denver. Commissioner Rather, asked where are the closest residence out in this area and if so how close would they be and in what direction? Mr. Hyde stated that in Pleasant Valley area, which is to the north they would be approximately 10 miles away and in the Nine Mile Canyon area would be to the southwest and approximately 10 to 15 miles away. Mr. Donato stated that the site about one mile from the Questar Compressor Station down from Gate Canyon.

Chairman Sweat asked about the oils and wondered if it fell under hazmat. Mr. Donato stated that it is always a hazardous material but it is not a hazardous waste. Mr. Donato stated that we are in the oil and gas business and anything that we get on there we want to recycle and we will have four or five tanks so we will have a separation system where the oil and water will flow through and the oil will be skimmed off the top and the water will be taken out of the bottom. And there is a flat tank which we call a "polished tank" if needed with the same sort of system but has an opened top so that we are able to look inside. When it is dumped into a pit from the separation system we will have a boomed area where it discharges into the pit and will collect any kind of sheen and there will be hydrocarbon booms and if for some reason there is an upset condition where some of the oil is dumped into the pit, **(A)** it will be contained in that small area and **(B)** make it efficient for the removal of that oil. Chairman Sweat asked are there any County, State or Federal hazmat requirements that need to be followed? Mr. Donato stated that it is an expiration production material, but under DOGM yes and as Mr. Hyde stated we are in the process of making the revisions to that application and it will be submitted to DOGM either later this week or next week.

Commissioner Fabrizio moved that the Planning Commission approve the Conditional Use Permit requested by the Bill Barrett Corporation, subject to the following conditions:

1. Prior to start of construction, the applicants shall submit to the county a copy of their DOGM permit.
2. Prior to start of facility operation, the applicants shall construct the required fencing and post the required bonding.
3. After operations begin, applicants agree to take action to mitigate odors if the county receives complaints.

Commissioner Rather seconded the motion and it passed unanimously.

C. Recommendation to County Commissioners regarding amendments to the Zoning Ordinance Text.

Mr. Hyde stated that there are three reasons for amending the subdivision ordinance. The first is to bring the ordinance into compliance with Senate Bills 127, 155, and 267,

passed by the 2006 Utah Legislature. In these Bills some of the definitions have been changed. Another issue came about with the Hidden Spring Ranch and Walker's conditional use permit at that particular time they stated that the County allows such things as Guest Ranches and Resort Lodges as an out right use. And there is possible impact in the farming and ranching areas such as Hidden Spring Ranch, which generates a lot of traffic. Mr. Hyde stated that when this was brought before the County Commission it was their opinion that Guest Ranches and Resort Lodges should be required to apply for a conditional use permit so that they would have adequate roads and meet all of the requirements for these types of businesses.

Mr. Hyde stated that the next amendment would be to amend the table of permitted land uses in regards to surface and subsurface mining. These were dropped out by accident and they need to be added back in to clarify that they are not permitted in R-1/2, R-1 or R-2 1/2 zones and do require a conditional use permit in the other zones.

Mr. Hyde stated that another amendment would be to provide setback standards for accessory buildings such as garages and sheds. Right now it is strictly by building code and building codes pretty much lets these be built right up to a property line. So the proposed amendment is to make the setbacks the same as a home which is 30 feet especially on corner lots, so this would keep the streets from being cluttered with out buildings and encourage to build in the back areas of the property.

Mr. Hyde stated in the definitions there were two changes:

1. "Affected Entity" and the new definition would be "The entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter".
2. "Residential Facility for Elderly Persons" and the new definition would be "A single family or multiple family dwelling unit that meets the requirements of Section 17-27a-515 of the Utah Code but does not include a health care facility as defined by Section 26-21-2 of the Utah Code".

As there was no one present to speak in favor or against, Chairman Sweat moved that the Planning Commission adopt the findings and conclusions herein and recommend approval of this zoning text amendment by the County Commissioners.

Commissioner Fabrizio seconded the motion and it passed unanimously.

D. Recommendation to County Commissioners regarding amendments to the Subdivision Ordinance Text.

Mr. Hyde stated that there were some changes in the subdivision ordinances by the Utah Legislature. One of the items that we will be looking forward to is the elimination of a public hearing for minor subdivision. Last year the legislature passed a bill that required a public hearing but there seemed to be a large outcry from all the counties so they have reconsidered this. Mr. Hyde stated that a letter will still have to be sent out to

the property owners within 300 feet of the property being split but I will be able to make a decision without a public hearing. The only time that there would be a hearing is if an owner within the 300 feet has a complaint and requests that there be a hearing.

Mr. Hyde stated that the other amendments would be to amend procedures for considering vacations or alterations of plats or roads.

Chairman Sweat asked about Section E in the subdivision ordinance and was wondering if three days was sufficient time to notify surrounding property owners. Mr. Hyde stated that there was 7 to 10 days notice sent out before a public hearing because there needs to be this much time lead get it into the newspaper.

Chairman Sweat asked if there were any comments or questions from the public. There were none.

Commissioner Brough moved that the Planning Commission adopt the findings and conclusions herein and recommend approval of this subdivision ordinance text amendment by the County Commissioners.

Commissioner Fabrizio seconded the motion and it passed unanimously.

Minutes: Approval of the July 5, 2006 minutes

Commissioner Brough moved that the minutes be approved as written. Commissioner Rather seconded that motion and it passed unanimously.

Commission Comments and Staff Reports:

Mr. Hyde stated that on August 7th the County Commissioners would be showing members of the Legislature the impact that the oil and gas industries are having on the roads and the need for more money to upgrade and repair impacted roads.

Mr. Hyde stated that the County Commissioners are scheduled to discuss the issue with the Fruitland Water District regarding why they are against fire hydrants on their system. Chairman Sweat stated that he is on that board also and that when the Fruitland Water District was formed it was considered a water service district and either there wasn't enough water or that the lines weren't big enough to handle 1,000 gallons a minute to supply a fire hydrant. Commissioner Brough stated that even though Fruitland Water District can't supply water for fire hydrants now, new developments should be required to put in 8-inch lines so that if and when the district is capable to supply water to fire hydrants then the lines will already be in.

Adjournment:

Commissioner Fabrizio moved to adjourn the meeting at 5:45 P.M. Chairman Sweat seconded that motion and it passed unanimously.