

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
January 7, 2009 - 5:00 p.m.**

In Attendance were:

Shelly Fabrizio, Planning Commission Chairperson
Leon Sweat, Planning Commission
Randy Mair, Planning Commission
John Jorgensen, Planning Commission
Dean Burton, Planning Commission
Chris Peatross, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

H2O Waste Management	Conditional Use Permit
DC Transport and Excavation	Conditional Use Permit
Scott Hacking	DEQ District Engineer
Dale M. Rasmussen	
Ken Richens	
Clint Peatross	Majestic Sunrise Subdivision
Roger Brockbank	Zoning Map Amendment

Chairperson Fabrizio opened the meeting at 5:00 PM.

Chairperson Fabrizio asked if any of the Planning Commission had any involvement with either item on the agenda. There were none.

The Planning commission requested they postpone the elections for Chairperson and Vice Chairperson for 2009 until the end of the meeting.

PUBLIC HEARINGS:

A. Request by Kendall Investments LLC for preliminary plat approval of the Majestic Sunrise Subdivision, a 16-lot subdivision located in Section 15, Township 2 South, Range 2 West, west of Hancock Cove and Roosevelt City.

Mr. Hyde stated this subdivision consumes all of section 15 excepting a 1 acre parcel in the southeast corner and the lots range from 40 acres to 42.71 acres in size.

Because of the large lot size there is no requirement to provide a water source for this subdivision.

Mr. Hyde stated there is an established 66' right-of-way to an existing County B road, state route or US highway. (A connection to a County B Road, known as County Road #264, which extends west from the South Cove Road, exists on the south side of the property. The Road Department has inspected this connection location and found it to be acceptable. There are no additional opportunities to connect to an existing county road.) Before final plat approval will be granted, the road will have to be brought to county standards and accepted by the county road department, along with the required culverts and appropriate street signs.

Mr. Hyde stated the Tri County Health Department has issued a letter dated October 23, 2008 stating that the subdivision is feasible to construct with on-site wastewater disposal systems. The health department also noted that, since there is no water system proposed, that the final plat must clearly state that no water is available, unless hauled from an approved source or by drilling a well.

Mr. Hyde also stated according to the subdivision ordinance, the arrangement of streets in a new subdivision shall make provisions for the continuation of the existing streets in adjoining areas (or their protection where adjoining land is not subdivided), insofar as such may be deemed necessary by the Planning Commission for the public welfare. The street arrangement shall not cause unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. All subdivisions shall be connected by a road to an existing County B road or to a state road for access to the subdivision. All subdivision roads shall have an access road constructed to B road specifications, accessing each lot (to and through), with the exception of a minor subdivision. The preliminary plat must make adequate provisions for the continuation of 5500 West to serve adjoining lands, which are tribal lands. There was some discussion whether this road should be a cul de sac at this time or to extend it to the west boundary of the subdivision to provide access to tribal lands and provide an escape route in the event of a wildfire. Also, Mr. Hyde stated this subdivision is only 1 mile south from the Bluebell highway and could potentially provide another route to this area in the future.

Mr. Hyde stated the developer will need to coordinate with the Road Department in the provision of a street sign at the intersection of 5500 West and County Road #264.

Mr. Hyde stated the developer will need to provide a title report showing all easements and right of ways, a public offering statement and restrictive covenants before final plat approval.

Mr. Hyde stated upon final plat approval the developer can either post a bond for 125% of the costs to construct the roads to county specifications or improve the roads. The county road department will approve them when construction is completed.

Again, Mr. Hyde stated there is no water required, the developer will need to put in culverts and ditches along the roads and work with the public works department and the Utah DEQ

if more than 1 acre of land is disturbed in the construction of the roads as a storm water permit will be required.

Mr. Hyde stated in 2006, Duchesne County adopted the Utah Wildland Urban Interface (WUI) Code. This code sets forth standards intended to make developments in rural areas less susceptible to Wildland fire danger. Section 4.5 of this code requires that a Fire Protection Plan be prepared for new subdivisions. The Duchesne County Fire Department has agreed that compliance with the WUI code will be attained if the developer agrees that all homes constructed within the subdivision shall be provided with residential fire sprinkler systems, water storage tanks, defensible space, fire-resistant construction materials or a combination thereof, approved by the Building Official and Fire Department, prior to occupancy.

Mr. Hyde recommended, based on these findings the Planning Commission adopt the Findings of Fact and Conclusions set forth in this Staff Report and approve the preliminary plat of the Majestic Sunrise Subdivision, subject to the following conditions:

1. The final plat map shall contain a statement that no culinary water is available other than water hauled from an approved source or by drilling wells.
2. Protective covenants and a public offering statement shall be provided and approved by the County prior to final plat approval.
3. The final plat shall include any easements revealed after preparation of a title report.
4. A DEQ storm water permit shall be obtained if construction of 5500 West disturbs one acre or more of land.
5. Prior to final plat approval, 5500 West, including ditches and culverts, shall be improved to county standards and accepted by the Public Works Director, unless a bond is posted.
6. Prior to occupancy of any homes within this subdivision, road improvements shall be accepted by the Road Department and road signs installed at the intersection of 5500 West and County Road #264.
7. The final plat shall extend 5500 West to the west boundary of Lot 7, with a temporary cul de sac at that location. The cul de sac on the east boundary of Lot 7 shall be eliminated.
8. Developer agrees that all homes constructed within the subdivision shall be provided with residential fire sprinkler systems, water storage tanks, defensible space, fire-resistant construction materials or a combination thereof, approved by the Building Official and Fire Department, prior to occupancy.

Mr. Hyde asked if there were any questions.

Mr. Peatross, representative for Majestic Meadows Subdivision, stated he has spoke to Mr. Lefler about the defensible space and set backs concerning condition No. 8. Mr. Peatross questioned how the defensible space is determined.

Mr. Hyde replied they look at specific fire hazards on any given parcel. If the hazard is moderate they require a 30 foot setback, high they require a 50 foot setback and extreme a 100 foot setback is required to keep vegetation away from the home in the event of a wild fire. These items are looked at during the building permit process.

Mr. Peatross asked if this is a new requirement for all subdivisions or new construction. Mr. Hyde stated it is required in all new construction and stated the state required the county to adopt this code to continue receiving funds to fight wild fires.

Chairperson Fabrizio asked if there were any questions of the applicant at this time. Commissioner Peatross asked about the easements and right of ways. Mr. Peatross stated the roadway easements were set up for future development and access to the Bluebell highway.

There was some discussion between the planning commission and Mr. Peatross about the road thru lot 7 to the Indian land to the west of this subdivision.

Chairperson Fabrizio asked if there were any questions at this time.

Mr. Hyde requested the commission discuss condition No. 7. The question being whether the developer should have a public right of way thru Lot 7 or have a cul de sac at the beginning of Lot 7 and just a right of way (limited access) thru lot 7 to the west section line for emergency use only.

Mr. Peatross stated the verbage can be put on the final plat stating the County would have a right of way thru lot 7 for future development as well as emergency services.

Again, some discussion between the Planning Commission, Mr. Hyde and Mr. Peatross about the road right of way and easement issue thru Lot 7.

Chairperson Fabrizio asked if there were any additional questions. There were none, so the hearing was closed.

Mr. Hyde stated he had received a phone call from the Leavitts, property owners to the South and their concerns about having 16 additional wells drilled in the area. The Planning Commission talked about Johnson Water District being close to the area and property owners eventually having access to their services.

Commissioner Sweat moved that the Planning Commission approve the preliminary plat for The Majestic Meadows Subdivision subject to the 8 conditions as stated in the staff report, with No. 7 amended to read **the final plat shall extend 5500 West right of way to the North corner of Lot 7**. Commissioner Jorgensen seconded the motion and it passed unanimously.

B. Request by H²O Waste Management Corp. for a Conditional Use permit to operate a waste water recycling facility on 5 acres of a 40-acre parcel located at 14859 South Lake Canyon Road in Section 32, Township 4 South, Range 6 West, southwest of Duchesne.

Mr. Hyde stated the applicants are proposing to establish a wastewater treatment facility in the Lake Canyon area to serve the oil and gas industry. The facility will use a technology that could lessen the dependence on evaporation ponds to dispose of wastewater and

allow for more recycling of water in the energy industry. Such commercial uses are a conditionally permitted use in the Agricultural-Residential zone. Mr. Hyde also stated the applicants may move to various well locations with portable units. This would be considered an accessory use to the well pad and would not require Planning Commission approval.

Mr. Hyde stated there are criteria and conditions for approval of a conditional use permit.

- 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.** The surrounding area is characterized by vacant lands, with very few full-time residential uses. Since wastewater will be stored in tanks, very minimal odor impacts are expected. To protect public health, safety and welfare, the applicants will need to obtain a wastewater permit for the proposed office from the Tri County Health Department, unless the health department approves the use of portable toilets. The applicant will need to coordinate with the Utah Department of Environmental Quality (DEQ) to ensure that any surface disturbance over one acre in size does not create storm water erosion or sedimentation problems. The applicant will also need to obtain any required DEQ permits associated with wastewater treatment facilities. A DOGM permit is not required, as no evaporation ponds would be used. The Duchesne County Building Department will require permits for the installation of the mobile office structure and the water storage tanks.
- 2. The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential/agricultural interests. The plan indicates that the county wishes to encourage business activity and that the county will support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. The general plan also mentions the importance of the oil and gas industry to the county and contains policies that support projects, such as this, that benefit the energy industry. In light of these plan policies, the Conditional Use request should be approved to support the creation of this new business site, offering a promising water treatment technology to the energy industry, knowing that conditions of approval will be imposed to protect public health, safety and welfare.
- 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.** The property is 40 acres in size, with five fenced acres on the east side of the Lake Canyon Road to be

used initially for the facility, which will consist of a 10 X 36-foot mobile office, water storage tanks (18,000 to 21,000 gallon size) and water treatment equipment as shown on the site plan. The property is of adequate size and dimensions to allow for the conduct of the use in a manner not detrimental to surrounding properties, which are very sparsely populated.

Mr. Hyde stated there are some other conditions associated with the conditional use Permit they may include:

- 1. That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all building and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.** The site will be fenced for security purposes and to define the boundaries of the leased area. There are no surrounding land uses that would generate the need for walls or other buffering. There is no water system in this area to support landscaping. Since the facilities are moveable and the technology is not yet proven, the facility could be temporary in nature, which justifies minimal site improvements at this time.
- 2. Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.** To support the ingress, egress and on-site movements of water trucks, the applicant will need to install adequate rock base and gravel top course on the parking and driveway areas of the site. The Duchesne County Road Department indicates that the Trail Canyon Road has been improved to county standards along the south boundary of the leased area by energy companies. Each driveway location will need to be reviewed and approved by the Duchesne County Public Works Director prior to start of construction.
- 3. The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal and fire protection.** Sewage disposal needs will need to be coordinated with the Tri County Health Department. The applicant will need to obtain a wastewater permit from the Tri County Health Department prior to locating the office on the property unless the health department approves the use of portable toilets. There is no water system in Lake Canyon. Potable water will need to be hauled to the site or a well drilled, if permission to drill is obtained from the Utah Division of Water Rights. The applicants will need to coordinate with the Duchesne County Fire Department regarding fire protection; especially regarding any fuel storage. The Road Department has indicated that right of way for the Lake Canyon and Trail Canyon roads is needed. The property owner shall dedicate 33 feet of right of way, measured from the center of each road toward the property.

4. **Regulation of signs.** The applicant has indicated that signs will be mounted on the fencing at the facility. The County does not have a sign code that regulates sign size and height. Due to the agricultural-residential zoning, signage should be limited to no more than 32 square feet in size, per sign.
5. **The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro-magnetic disturbances and radiation.** The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). The operator will need to keep these time limits in mind to avoid creating a noise disturbance. Also, if dust is created by the operation of the facility that disturbs other property owners, the applicant will need to apply dust inhibitors, pave the parking and driveway areas or take other action as directed by the county. Although odorous wastewater will be treated at the site, the water will be stored in tanks, which will reduce odor impacts. Should odor complaints be received, the applicants shall take prompt action to remedy the problem.
6. **The regulation of operating hours for activities affecting normal schedules and functions.** The applicant indicates that there will be two shifts of workers at the facility; with the first being at the site from 7:00 AM to 3:00 PM and the second shift, during summer months, from 3:00 PM to 9:00 PM. The noise limits of the nuisance ordinance (see above) apply and the hours proposed are acceptable for weekday operations.

Mr. Hyde stated it is his recommendation that the Planning Commission approve the Conditional Use Permit requested by H2O Waste Management Corporation subject to the following conditions:

1. Applicant shall control dust, odors and noise to avoid creating a nuisance. Rock shall be applied to the driving surfaces to minimize dust and minimize the tracking of mud onto the County Road.
2. Prior to conducting business at this site, the applicant shall obtain a Duchesne County business license.
3. Signage shall be limited to 32 square feet in size, per sign and be mounted to the site fencing.
4. Prior to any surface disturbance exceeding one acre in size, the applicant shall obtain a storm water permit, if required by the Utah Department of Environmental Quality.
5. Fire protection measures and any on-site fuel storage must be reviewed and approved by the Duchesne County Fire Department, prior to opening for business.

6. Applicant will need to obtain a wastewater permit from the Tri County Health Department prior to locating the office on the property unless the health department approves the use of portable toilets.
7. The property owner shall sign a dedication deed providing 33 feet of right of way for Lake Canyon Road and Trail Canyon Road abutting this property.
8. Applicant shall obtain permits from the Duchesne County Building Department for the installation of the mobile office structure and the water storage tanks. Engineering will be required to demonstrate adequate foundation design for the tanks.

Mr. Hyde stated in your packets there is a site plan and some aerial photos to show the remote location of this project. Mr. Hyde also stated in your packet there is some additional information on the applicants and how this facility and process works.

Chairperson Fabrizio asked if there were any questions on the staff report. There were none so the applicants were asked to speak.

Demetri Politis and K.H. Kambouris, agents for H2O Waste Management Corporation, appeared. Mr. Politis asked the Commission about getting approval from the Utah DEQ on altering the site. Scott Hacking from the Utah DEQ stated he would refer Mr. Politis to Harry Campbell, DEQ, for that information.

Mr. Kambouris is concerned about the 33 foot right of way in condition No. 7. Mr. Hyde stated it is a formality just to legalize the right of way. Commissioner Peatross asked if they wanted to increase the right of way by 33 feet or just legalize the right of way that already exists. Mr. Hyde stated that a 66 foot right of way is the standard right of way. So this condition would legalize the existing 33 feet on their side of the centerline. Mr. Kambouris stated he sold a right of way to Berry Petroleum and they would put in the culverts needed at the intersections. Mr. Hyde stated the applicants will need to coordinate with the County road department to meet department standards.

Chairperson Fabrizio asked if there were any questions. Commissioner Jorgensen asked the applicants if they have any back up plans for any overflow and spillage from the tanks. Mr. Politis stated they will have spill containers on the bottom of each tank to catch any overflow.

Mr. Hacking stated he has spoke to Rob Herbert about a DEQ Permit. He stated the applicants are not required to have a permit because everything is self contained and mobile, however Mr. Herbert would like to see a write up of the applicants proposal and then issue a Permit by Rule. Mr. Hacking stated if the applicants wanted to do an agricultural discharge, that would require a DEQ permit for that operation.

Commissioner Burton asked the applicants what kind of volumes and at what rate will they be able to treat the water. Mr. Politis stated currently they are anticipating treating approximately 20,000 to 21,000 gallons of water per day.

Commissioner Jorgensen asked if the operation is on trailers. Mr. Politis replied the treatment plants were on tandem axle trailers and are completely mobile.

Commissioner Sweat stated the water is not potable but asked if the treated water could be used for any other applications such as irrigation. Mr. Politis replied they still need to do further testing but anticipate that would be the case. Commissioner Sweat also asked how

will the applicants dispose of the 21000 gallons of treated water. Mr. Politis stated with the current process the treated water is safe for fracing and drilling so it can be re-used in the industry and create another water source.

Mr. Hyde asked if there would be any solid waste product as a result of this process. Mr. Politis replied there would be some solid waste but it will be skimmed and sold to the refineries. Mr. Kambouris stated there will be sediment but it will be clear with no hazards and can be disposed in fertilizer plants. Mr. Hyde asked if there will be any odor that will go along with the solid material. Mr. Politis stated the containers are above ground and sealed therefore there should be no odor or fumes.

Chairperson Fabrizio asked if there were any other questions or any others wishing to speak in favor of this application. There were none, so any persons opposed to the permit were invited to speak.

Dale Rasmussen asked Mr. Politis why they do not need to have a DOGM Permit and what percentage of the 21,000 gallons of water will be frac water, and how much is sediment. Mr Politis replied about 95 percent or more with very little sediment. Mr. Rasmussen is comparing this process to Todd Bro's reverse osmosis which is at 45 percent water and 55 percent solids. How is this process different? Mr. Politis replied it destroys the metals.

Chairperson Fabrizio asked if there were any more questions. There were none, so the hearing was closed.

Commissioner Jorgensen moved to approve the Conditional Use Permit requested by the applicant H2O Waste Management Corporation subject to the 8 conditions stated in the staff report. Commissioner Burton seconded the motion and it passed unanimously.

C. Request by DC Transport & Excavating, Inc. for a Conditional Use permit to operate a gravel pit and rock crusher on property owned by Ken and Nancy Moon located in Section 7, Township 4 South, Range 2 West, west of the Wells Draw Road, northwest of the Pleasant Valley area.

Mr. Hyde refered the commission to their packets including an aerial photo provided by the applicant of the area to be mined. The applicants are proposing to conduct gravel mining and rock crushing operations on two portions (15.2 and 11.8 acres in size) of a 359.26-acre parcel owned by Ken and Nancy Moon, located about five miles southwest of Myton, west of the Wells Draw Road. This activity requires a Conditional Use Permit in the Agricultural-Residential zone.

Mr. Hyde stated there are criteria for the Conditional Use permit to be granted:

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.** The zoning code contains a ¼ mile (1,320 foot) separation distance from residential units to mitigate the public health, safety and welfare impacts of rock crushing operations. In this case, the closest dwelling units are about ¾ mile to the west and about one mile to the north of the subject property, as shown on the aerial photo. If the use

complies with dust and noise standards, it will not be injurious to public health, safety or welfare.

2. **The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The Duchesne County General Plan, contains the following statements with respect to mining activities: “Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.” In this case, the mining activity will support the road construction industry, which is very active due to the oil and gas boom in the region. Production of gravel at this location would help with the upgrading of roads in the area, such as the Pariette Road project.
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.** The proposed mining will take place on two portions (15.2 and 11.8 acres in size) of the 359.26-acre parcel. This parcel is large enough and situated remote from developed areas so that detrimental impacts on other properties will be minimized. If standard conditions are imposed regarding noise and dust control, the proposed use will be acceptable at this location.

Mr. Hyde stated there are some specific conditions for the extraction of earth products:

1. **Must be maintained in a near dust-free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County Health Department and the Utah DEQ. Watering the site and street during times of operation is considered maintaining a near dust-free condition.** The applicants indicate that the pit and crusher will operate in accordance with Utah DEQ air quality standards, under DEQ permit #DAQE-AN3057002-06. Dust will be controlled using water or chemical dust suppression sprays on the crusher and water trucks, with water hauled from an approved spring source owned by Ryan Harvey. This meets the requirements of a dust control plan. The DEQ permit requires, among other things, that the haul road have a posted speed limit of 15 miles per hour.
2. **A bond shall be issued in the amount of one five thousand dollars (\$5,000.00) for the first acre and three thousand dollars (\$3,000.00) for**

each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the Conditional Use Permit and cannot be enlarged or modified until the issue is re-presented to the Planning Commission for a new Conditional Use Permit and the enlargement or modification is approved. Bonding for 15.2 acres of disturbance would be \$47,600.00. Bonding for the 11.8-acre portion would be \$37,400.00. The applicant can consecutively disturb and reclaim smaller areas, reducing overall bonding costs. The DEQ air quality permit contains a limitation of 5.0 acres of disturbed surface and 1.5 acres of storage piles at any one time, which implies a smaller potential bonding amount. A bond in the appropriate amount will need to be received by the County prior to the start of mining operations and maintained during the course of operations.

- 3. Reconditioning in a manner agreed to by the County, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape.** Reconditioning must occur after the conclusion of mining operations on the site. Safe cut or fill slopes must be established and disturbed areas re-seeded with grasses suitable for the area. The application meets these standards, as demonstrated by the lease agreement with the property owner.

- 4. Rock crushing operations must be a minimum of one thousand three hundred twenty feet from any city, town or residential use. The 1,320-foot rule is met in this case, with the nearest residential uses being $\frac{3}{4}$ mile west and 1 mile north of the site.** The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). If noise becomes an issue, these hours of operation will be enforced.

Mr. Hyde stated also The Duchesne County Road Department will require a permit for the proposed haul road to connect with the Wells Draw Road. It would be difficult to assess damage done to this county road by truck traffic associated with this gravel pit as the Wells Draw Road is heavily used by oilfield traffic. Rock generated from this operation could be used in county road projects in this area, such as the Pariette Road project in Duchene and Uintah Counties. The road department has looked at this site and access point and are looking forward to having the additional rock from this site to help with road projects in this area.

Mr. Hyde stated it is his recommendation that the Planning Commission approve the conditional Use Permit requested by DC Transport and Excavating, Inc., subject to the following conditions.

1. Applicant shall control dust and noise so neither becomes a nuisance. A dust control plan shall be implemented throughout the course of the operations.

2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.
3. Applicant agrees to reclaim (re-contour and re-seed) the site at the conclusion of mining operations in a manner acceptable to Duchesne County and the property owner.
4. Applicant agrees to obtain a road approach permit from the Duchesne County Road Department prior to constructing their access road.
5. Applicant shall obtain a Duchesne County business license prior to start of operations.
6. The requirements of the DEQ air quality permit shall also be requirements of the Conditional Use permit.

Mr. Hyde added in your packets there are some additional photos and information and a letter from their bonding company.

Commissioner Sweat asked Mr. Hyde if there had been any negative or positive input from the Allred's in this matter. Mr. Hyde replied not at this time.

Chairperson Fabrizio asked the applicant to speak.

Russ Larson agent for DC Transportation and Excavating, Inc., stated they were going to reconstruct a section of the Pariette road for Duchesne County, so they need a local source of rock.

Chairperson Fabrizio asked if there were any questions. There were none so the hearing was closed.

Commissioner Burton motioned to approve the Conditional Use Permit for the applicant DC Transportation and Excavating, Inc., subject to the six conditions stated in the staff report. Commissioner Mair seconded the motion and it passed unanimously.

D. Recommendation to the County Commissioners regarding a request by Roger Brockbank for the rezoning of 36.58 acres of land located on the east side of the Pariette Road, near Newfield, in Section 10, Township 4 South, Range 2 West, from Agricultural-Residential (AR-5) to Industrial.

Mr. Hyde referred the commission to the photos in the back of their packets to familiarize them with the area. The applicant owns a 36.58-acre parcel on the east side of the Pariette Road, just east-southeast of Newfield, surrounding the Gasco Energy office site (which received a Conditional Use permit from the Planning Commission on June 6, 2007. The parcel lies southeast of 52.65 acres of land that were rezoned from Agricultural-Residential to Industrial on September 8, 2008 and another 16.7 acres of land that were rezoned from Agricultural-Residential to Commercial on May 7, 2007.

Mr. Hyde also stated this is a recommendation to the County Commissioners. January 26, 2009 is their public hearing date.

Mr. Hyde stated the criteria for approval of a Zoning Ordinance are as follows:

1. **The overall community benefit of the proposed amendment.** The proposed rezone would create a new site or sites for businesses, especially for service companies that operate in the oil and gas fields to the south. Assisting in the expansion of business activity would generate socio-economic benefits for the community.
2. **Consistency with the goals and policies of the general plan.** The General Plan contains the following statements regarding private land use:
“Duchesne County feels that residential, commercial, and industrial development on private land should be allowed to continue in a responsible manner and in locations that contribute to the economic and social well-being of County residents. The County will continually review and amend its existing ordinances as necessary to accurately and adequately reflect the land-use preferences of Duchesne County residents.”
The rezoning criteria of Section 17.16.030 of the zoning ordinance are established to aid the Planning Commission in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.
3. **Compatibility with the neighborhood.** Aerial photos show that the proposed industrial site is located east-southeast of the Newfield facility on the east side of the Pariette Road. Proposed industrial uses would be compatible with existing and proposed development at this location, which includes a Flying J fueling facility, a natural gas production company (Gasco) office and a growing number of energy industry service businesses, including a welding shop and B&G Crane Service.
4. **What changes have occurred in the neighborhood since the zoning ordinance & map or latest amendment was enacted.** Since the Newfield facility was located in Pleasant Valley and zoned Industrial; there has been interest in nearby lands for energy industry service businesses. Some 52 acres north of Newfield was recently zoned industrial. Over 16 acres north of that site were rezoned to Commercial and part has been developed with a Flying J fueling station. Gasco located an office for its natural gas production business bordering the subject rezone by conditional use permit. A node of industrial uses is being generated at this location to serve the nearby oilfield. It makes sense for such businesses to be located near the oil and gas fields to reduce energy consumption associated with travel.
5. **Whether a change in the use for the affected properties will unduly affect the uses for adjoining properties.** Other adjoining properties are being used for industrial or agricultural purposes. Changing the zoning to industrial makes sense in that the subject property is not irrigated farmland and residential use would be incompatible with adjacent business uses.

6. **Consider the interest of the applicant.** The applicant would like to rezone the property to enable it to be marketed for businesses compatible with the energy industry operations occurring in the area.

Mr. Hyde stated the Tri-County Health Department and Utah Department of Environmental Quality have expressed concerns in the past regarding rezoning lands to industrial that are not served by a sanitary sewer system. Industrial uses commonly produce wastewater that cannot be placed in a septic tank. The applicant and future owners should coordinate with these agencies to ensure that wastewater is handled properly. Other issues, such as water and fire protection will be addressed during the building permit process. Johnson Water is available at this location.

Mr. Hyde stated it is his recommendation that the Planning Commission adopt the findings and conclusions herein and recommend approval of this rezone from Agricultural-Residential to Industrial to the County Commissioners, provided that the applicant and future owners coordinate wastewater disposal with the Tri-County Health Department and the Utah DEQ.

Mr. Hyde asked if there were any questions. There were none.

Chairperson Fabrizio asked for the applicant to speak.

Roger Brockbank stated the facts have been presented in a favorable manner and requests the Planning Commission approve the rezone as requested.

Chairperson Fabrizio asked if there were any other questions or comments. There were none so the hearing was closed.

There was some discussion about the natural break between the industrial land on top and the private ground below, Mr. Rasmussen feels everyone should be able to co-exist.

Commissioner Peatross motioned to recommend that the County Commission approve the rezone requested by Roger Brockbank with the conditions stated in the staff report. Commissioner Mair seconded the motion and it passed unanimously.

Election of Chairperson and Vice-Chairperson for 2009.

Chairperson Fabrizio motioned that Randy Mair serve as Chairperson and John Jorgensen serve as Vice-Chairperson for the 2009 year. The motion passed unanimously.

NEW BUSINESS

None.

Minutes: Approval of December 3, 2008

Commissioner Sweat moved to approve the minutes of December 3, 2008
Commissioner Mair seconded the motion and it passed unanimously.
Commissioner Peatross abstained from voting, he was absent from that meeting.

Commission Comments and Staff Information Items

None.

Adjournment:

Meeting adjourned at 6.27 p.m.