

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
March 3, 2010 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission – Chairperson
John Jorgensen, Planning Commission
Shelly Fabrizio, Planning Commission
Kent Olsen, Planning Commission
Dean Burton, Planning Commission
Edward Roberts, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Monte Horrocks	CUP
Josie Horrocks	CUP
Eddie Furrh	CUP
Darby Furrh	CUP

Chairperson Mair opened the meeting at 5:00 PM.

Chairperson Mair asked if any of the Planning Commissioner’s had any ex-parte contacts or conflicts of interest associated with either item on the agenda. Commissioner Burton stated Mr. Horrocks is a contractor for El Paso, the company Mr. Burton is employed by, but does not feel there should be a problem, Commissioner Roberts has also contracted business with Mr. Brandow and Hidden Meadow Subdivision and wishes to excuse himself from voting on this item.

Mr. Hyde stated Commissioner Burton expressed his concern and business dealings with Mr. Horrocks and his company and asked if either party in the audience has any objection to Commissioner Burton voting on this matter. Mr. and Mrs. Horrocks and Mr. and Mrs. Furrh stated they had no objection.

PUBLIC HEARINGS:

- A. Request by Armond “Monty” Horrocks for a Conditional Use Permit to allow the continuation of a trucking business at 2553 W 3000 North, Lot 4, Sharmel Acres, in the Roosevelt area.**

Mr. Hyde stated on October 24, 2005, Mr. Horrocks received approval of a Home Occupation license for his business, M and J Hauling, to be operated from his home at

2553 W 3000 North in the Roosevelt area. It is common for the county to issue a home occupation license for water truck or oil tanker truck operators who keep one truck at their home as long as there are no complaints. Zoning approval was granted on the home occupation license application in 2005 based on representations stated in the staff report.

Based on photos taken on the premises, it is apparent that there is significant outdoor storage of equipment on the property and that the residential character of the property has been changed. Thus, M and J Hauling no longer qualifies to do business as a home occupation. Options available would include (1) Eliminate the outdoor storage of equipment, (2) Move the business to a commercial or industrial zone or (3) Obtain a Conditional Use Permit to allow the operation of a commercial business in the agricultural-residential zone. The applicant has elected to pursue option 3.

Mr. Hyde stated the criteria for granting a conditional use permit are as follows:

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 since the proposed use is commercial in nature, but would continue to be operated in a residential zone, this conditional use permit is required. A public hearing is conducted to determine how the owners of property in the vicinity feel about the use. This business has been operating under a home occupation license since 2005, so it has established a track record. Public health, safety and welfare are supported by the existence of a septic system to serve the property and a county standard access road. However, conditions would need to be imposed, should the permit be granted, to address safety concerns associated with fuel storage on the premises since there is a home, shop, wells and septic systems to be considered. There is also an issue with the contents of the trucks being stored on the property whether there is methanol in the tanks and the safety hazards that might impose to the residents in the area.

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. In light of these plan policies, the Conditional Use request should be approved to support this small business, provided that conditions of approval will be imposed to protect rural residential and agricultural interests in the area.

Mr. Hyde stated if the applicant meets the Conditional Use permit criteria, the purposes of the Zoning Ordinance will be met.

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 3.03 acres in size, which provides adequate space for the applicant's residence, a shop building and equipment parking areas. Comments received at the public hearing will enable the Planning Commission to determine whether or not this use is being conducted in a manner detrimental to adjoining and surrounding properties.

Some other conditions may include:

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.

Mr. Hyde stated the photos of the site dated January 8, 2010 demonstrate that outdoor storage of equipment, some operable and some not, does detract from the appearance and character of the area. Because of the residential character of the area, it is not appropriate or legal to have outdoor storage of inoperable equipment (which is legally defined as junk). The applicant states that there are a few semi trucks on the property that are inoperable and the site photos show 2 or 3 pickup trucks that may also be inoperable. Thus, if the permit is approved, the applicant should be given a deadline to remove all inoperable equipment, store it behind a fence or house it within a building.

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

Mr. Hyde stated the site contains adequate areas for parking and access is via a graveled county road in the Sharmel Acres Subdivision. The applicant indicates that vehicles leave in the morning and come back at night, so there is not a significant amount of traffic that would warrant pavement of driveways to keep dust down. Many persons in Duchesne County are employed in oilfield related activities and it is fairly common for water trucks and crude oil trucks to be brought to residential locations overnight.

The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal and fire protection.

Mr. Hyde stated the site is accessed by a gravel road that is maintained by the county. There is sufficient right of way width of 66 feet dedicated by the Sharmel Acres plat.

Water supply and sewage disposal exists for the house and shop on the applicant's property. Fire protection has been a concern, with the parking of vehicles that carry flammable liquids and storage of fuel on the property. As indicated by the letter dated April 14, 2008, and the conditional use permit application, the applicant has stated that the methanol trucks are empty while parked on this site. The Fire Department's 2008 letter noted that the 3,000 gallon diesel storage tank was not installed to Fire Code standards. The applicant indicates that this tank is no longer in use. Fueling facilities will either need to be brought to Fire Code standards or removed from the property by a certain date.

Regulation of signs.

Mr. Hyde stated no business signs are proposed.

The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro-magnetic disturbances and radiation.

Mr. Hyde stated noise and dust are potential nuisance factors associated with this type of land use. 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 noise disturbance. The applicant states their normal business hours are Monday through Friday, 9 AM to 5 PM. These hours comply with the nuisance ordinance. If dust is created by the operation of the facility that disturbs other property owners or residents, the applicant will need to apply dust inhibitors to the access road, obey a speed limit that will limit dust generation or take other action as directed by the county.

The regulation of operating hours for activities affecting normal schedules and functions.

Mr. Hyde stated the applicant has indicated their normal business hours are Monday through Friday, 9 AM to 5 PM. During the methanol season (September-March), they may get called out at hours outside the norm. During the summer months, the semi truck and belly dump will run at times dictated by the construction projects being served.

Mr. Hyde recommends the Planning Commission approve the Conditional Use Permit requested by Armond "Monty" Horrocks, subject to the following conditions:

1. All inoperable equipment shall be removed from the property, stored behind a sight-obscuring fence or housed inside an enclosed building by August 31, 2010.
2. All fueling facilities shall be upgraded to Fire Code standards or removed from the property by August 31, 2010.

3. Equipment noise shall be limited to the hours set forth in the county Nuisance Ordinance.
4. Applicant shall take precautions to prevent or minimize dust by application of dust inhibitors to driving surfaces, maintaining low speeds on gravel surfaces or through other means.

Mr. Hyde stated there are a couple of changes in the findings for denial should the Planning Commission deny the applicant's request for a conditional use permit. Whatever decision the commission makes at this hearing, either party can appeal the decision to the County Commissioners within 10 days.

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Olsen asked Mr. Hyde what the notification boundaries were. Mr. Hyde replied normally 300 feet, however, for this notice we notified all of Sharmel Acres.

Commissioner Mair asked if there were any other questions. There were none so the applicant was invited to speak.

Monte Horrocks, owner of M.J. Hauling apologized to the commission and just wants to make a living, get the permit and end the problems with the neighbors. Commissioner Mair asked if there were any other questions.

Commissioner Burton asked how he felt about the stipulations stated in the staff report.

Mr. Horrocks explained he had bought a couple of trucks for parts and intended to put them behind the shop.

Mr. Hyde asked if any other equipment was inoperable. Mr. Horrocks stated there were a couple of pickup trucks that run and one that will be hauled off the site.

Commissioner Jorgensen referred to the photos of the site and is concerned about the oil barrels, fuel storage tanks, batteries and the fact that there are water wells in and around the area, stating also it is illegal to have these items stored on site. Mr. Horrocks stated he has both a 300 and 3000 gallon tank to store fuel. The 3000 gallon tank is empty, stating it is easier to fuel up at the gas stations. Commissioner Jorgensen asked about all the other equipment. Mr. Horrocks stated there are 5 semis, 2 do not run, some trucks and a backhoe that is a friend's.

Commissioner Burton wanted to clarify which trucks are staying and which ones can be hauled away. Mr. Horrocks stated he will keep the semi trucks for parts but will move them around back and will clean up the other items.

Commissioner Mair asked if there were any other questions. There were none so any one in opposition was invited to speak.

Eddie Furrh, resident and neighbor of the applicant, stated the concerns he has with the conditional use permit being approved in the residential neighborhood. 1- The fact that a commercial business license was approved and issued in a residential neighborhood. 2- There are five homes on a county dead end dirt road, spillage from the fuel that might run off to the residents below and into the irrigation water. Mr. Horrocks does wash his equipment and do some mechanical work, welding and general repairs to the semi's bringing a chance of fire and with only one road in and out of the property makes it hard for emergency vehicles to get in and out. Mr. Furrh stated Mr. and Mrs. Horrocks have brought in loads of dirt and separated the rocks and dirt in the evening making noise and dust. Mr. Furrh stated they moved to that area for a quiet lifestyle and as of late, that is not the case with the noise, fuel, chemical and oil smells, dust and traffic. Mr. Furrh feels that an operation of this size should be located in an industrial area and not a residential zone.

Commissioner Fabrizio asked how much property does Mr. Furrh own. Mr. Furrh stated he owns three five acre lots and a two acre lot that connects to the Horrocks on the south, east and west.

Commissioner Mair asked Mr. Furrh if parking was a problem. Mr. Furrh stated the other neighbors do bring their trucks home as does he. It is the conducting of business between the dirt work and the mechanical repairs that go on every day.

Commissioner Mair asked if there were any other questions.

Darby Furrh, resident and neighbor of the applicant, stated she is concerned with the speed and amount of trucks that are in and out every day with their children and animals that someone will get hurt.

Josie Horrocks, in rebuttal to the Furrh's complaints, stated there is no methanol on the land. They load and unload before they return to the yard The Diesel tanks are empty and have been for a long time, they just fuel up in town. She is also concerned with the amount of equipment both working and not working in their yard but insists they will clean it up and stated everybody has stuff, as do the Furrh's, that she also looks at on a daily basis. Mrs. Horrocks has small children also and feels they would not jeopardize the safety of either the children or the animals.

Mrs. Horrocks stated the dirt was for personal landscaping use and to protect their property from the Furrh's pond, that had leaked. They did sell a few loads of rock to make ends meet during the slow economic times.

Commissioner Mair asked if they were going to continue to process the dirt and sell it if need be. Mrs. Horrocks replied they hope they would not need to.

Commissioner Mair asked if there were any other questions.

Commissioner Jorgensen asked Mr. Hyde if there are any rules regarding washing

chemical trucks in a residential area. Mr. Hyde stated if TriCounty Health knew they were doing that they would probably shut them down. Mr. Horrocks replied they only rinse off the outside. Mr. Hyde stated the grease and oil could contaminate the water sources in the area.

Mr. Horrocks stated the other residents in the area are happy for them to have a successful business and have employees working during these times. Commissioner Jorgensen stated his concerns to Mr. Horrocks that some of the things they are doing are illegal and unsafe for the residents so they need to clean up the site, dispose of the contaminated drums, fuel tanks and unused vehicles.

There was some discussion between the Planning Commission and Mr. Horrocks about his intentions and the concerns for public safety and whether he can or will follow the recommendations of the staff report.

Mr. Hyde stated the planning commission could add some additional conditions stating there cannot be anymore truck washing or rock processing at this location.

Commissioner Olsen had a couple comments about the fire marshals letters.

Commissioner Burton asked Mr. Furrh if he is satisfied with the conditions of the staff report. Mr. Furrh stated if there is not any industrial work and with the added conditions of staff, they will be ok.

Mrs. Horrocks stated, once again, the dirt was for personal use not for sale to the public and agreed there is a lot of junk that needs to be removed and hopes this process will make Monte find the time to remove it.

There was some discussion between the Horrocks and the Commission about the conditions for approval.

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

Commissioner Olsen motioned to approve the conditional use permit as requested by Monte Horrocks subject to the four conditions stated in the staff report along with the added conditions, 5-no truck washing shall occur on the property unless approved by the TriCounty Health Department (contact Darrin Brown at 247-1163 in Vernal) and 6-no processing of dirt or rock for resale shall occur on the property.

Commissioner Fabrizio seconded the motion and it passed unanimously.

NEW BUSINESS:

Sign final plat of Hidden Meadow Subdivision, Phase 1C.

Mr. Hyde stated at the December 18, 2006 meeting of the Duchesne County Commissioners, the revised final plat of Phases 1A, 1B and 1C of the Hidden Meadow

Subdivision was approved, subject to the conditions recommended by the Planning Commission. The final plats of Phases 1A and 1B have since been recorded. The developer would now like to record Phase 1C. Condition #1 has been met in December 2006. The Utah Division of Drinking Water issued an operating permit for the water system serving all three phases on May 22, 2007. The Duchesne County Road Department issued approval of the roads in Phases 1A and 1B on June 26, 2007 and verbal approval of Phase 1C was received on February 22, 2010 (written approval to follow). Bonding in the amount of 10% of the construction cost of the roads in Phase 1C will need to be submitted to the county prior to recording of the plat. This bonding will be released when the roads are found in an acceptable condition, by the Public Works Director, two winters from the date of completion. Condition #4 is null and void as improved access to these phases is from 45000 West.

As the conditions of approval for Phase 1C have been met, staff recommends that the Planning Commission Chairman sign the final plat. It can not be recorded until the guarantee bonding is received.

Commissioner Jorgensen motioned to authorize the chair to sign the final plat of Hidden Meadows Subdivision, Phase 1C as recommended by staff. Commissioner Burton seconded the motion and it passed unanimously with Commissioner Roberts abstaining.

Minutes: Approval of January 6, 2010

Commissioner Olsen moved to approve the minutes of January 6, 2010. Commissioner Burton seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde stated there was a land use seminar registration form in their packets if any of the commission is interested. Mr. Hyde explained some possible agenda items for the April 7th meeting and the commission discussed the withdrawal of the Lamb's application for the storage units in Roosevelt. There should be a visit in late April to the ponds in Pleasant Valley.

Adjournment:

Meeting adjourned at 6:15 p.m.