

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
February 2, 2011 - 5:00 p.m.**

In Attendance were:

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

Visitors:

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|-----------------|-------------|
| Don Hamilton | Harvest-CUP |
| Leon Ross | Harvest-CUP |
| John Paul McKee | Harvest-CUP |
| Zander McIntyre | Harvest-CUP |
| Bryan Reynolds | Harvest-CUP |

Chairperson Jorgensen opened the meeting at 5:00 PM.

Chairperson Jorgensen asked if any of the Planning Commission had any ex-parte contacts associated with any item on the agenda. Commissioner Burton stated he has business dealings with Harvest Holdings thru his employment with EIPaso but does not feel there will be any conflict of interest or bias. At this time Mr. Hyde wanted to verify that those in the audience did not have any issues with Commissioner Burton participating in the hearing. There were none, so the hearing proceeded.

PUBLIC HEARINGS:

- A. Request by Harvest (US) Holdings, Inc. for a Conditional Use Permit to drill an oil well on property owned by Fred and Angeline Evans, located in the South ½ of the NW ¼ of Section 4, Township 3 South, Range 3 West, in the Arcadia area.**

Mr. Hyde referred the commission to their packets and some aerial photos, stating the applicants are applying for this permit to authorize an oil and gas well on the property, which is zoned R-1 due to the presence of an East Duchesne Water connection. Oil and gas wells are a conditionally permitted use in the R-1 zone.

Some requirements for granting a conditional use permit are as follows.

- 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 Harvest Holdings has ongoing exploration operations in the area extending from the North Myton Bench westerly toward the Arcadia area. These areas are zoned Agricultural-Residential (A-5), with a five- acre minimum lot size; however, parcels that have a culinary water connection are deemed to be zoned R-1. In areas where smaller lot sizes and higher densities are allowed, oil and gas well development can potentially be detrimental or injurious to property and detrimental to public health, safety and welfare. If conditions of approval are considered, these potential impacts can be mitigated.

- 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.**

Mr. Hyde stated 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 drilling of this oil and gas well will support the oil & gas industry in the county, which is an important part of the local economy.

- 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 proposed oil well would be located on a 300.75-acre parcel. If the dwelling on this parcel had been divided from the remainder of the parcel, this oil well could have been located without a conditional use permit as the remainder would have been zoned A-5. However, due to the R-1 zoning of the parcel, conditions may be imposed to mitigate any materially detrimental impacts of the proposal on nearby properties.

- A. Damage Minimized: Drilling and production facilities, including roadways, shall be constructed in a manner that minimizes damage to watersheds, vegetation and natural resources.**

Mr. Hyde stated the site is not in a watershed location. According to aerial photos, the site is on the edge of agricultural land, in an unused pond area and would not remove agricultural land from production. This condition therefore is met.

B. Encroachment, Road Use Permit: For use of county roads, an encroachment permit or road use permit shall be required; a letter or copy of the permit with conditions for use, signed by the road supervisor or his designee, must accompany any application for a conditional use permit.

Mr. Hyde stated the proposed oil well will receive access from County Road #81 (13000 West). There is an existing agricultural access that would be upgraded to access the well. The applicant has contacted the Duchesne County Road Department and obtained a road approach permit on December 27, 2010.

C. Drainage of Surface Water: All facilities shall be constructed in a manner so as to properly drain surface water to an approved location.

Mr. Hyde stated this location contains flat topography and the perimeter of the location will be bermed to control water flow; thus, surface water drainage is not anticipated to be a problem. Drilling of oil and gas wells is exempt from Clean Water Act regulations.

D. Facilities for Materials: Location of any facilities for liquids, chemicals, explosives, flammable, hazardous or toxic materials shall be in compliance with all applicable federal and state laws and building codes.

Mr. Hyde stated before drilling commences, the applicant shall obtain Duchesne County Fire and Emergency Management Director approval of the locations and types of hazardous and flammable materials to be located at the site.

E. Well Site Pumps: All well site pumps shall be located in a structure approved by the planning commission, and fenced with a six foot (6') high, locked chain link fence.

Mr. Hyde stated hazardous machinery must be protected from public access. In this case, the nearest homes are almost ¼ mile away. NOTE: There is an amendment of this code, which may be approved on January 24, 2011, which will require fencing only when a well hole is within 300 feet of a residence. If the code is amended and the well goes into production after February 23rd the county will honor the 300 foot standard.

F. Painting Well Production Facilities: Well production facilities, such as pumps, separators and appurtenances, shall be painted to blend with the surroundings.

Mr. Hyde stated the well facilities should be painted an earth tone color to help them blend into the surroundings.

G. Distance from Dwellings: The well site shall be located more than six hundred sixty feet (660') from any existing dwelling.

Mr. Hyde stated the proposed well hole would be located over 660 feet from the nearest dwellings. According to aerial photos, the nearest residences are: Baldwin, about 1260 feet to the NW; Evans, about 1470 feet to the SE; Ross, about 1630 feet to the SW; Lynn Gilbert, about 1660 feet to the NW; Jason Gilbert, about 2050 feet to the SE and LeGrand Gilbert, about 2080 feet to the NE.

H. State, Federal Permit: The applicant shall have been issued an approval or permit to drill from the state division of oil, gas and mining, or other state or federal agency.

Mr. Hyde stated that all authorizations from the Utah Division of Oil, Gas and Mining (UDOGM) shall be received prior to commencing the drilling of this well. The applicant indicates that the UDOGM permit is pending but may be issued by the hearing date. (The letter was received on January 25th .)

I. Plan for Reclamation: A reclamation plan shall be submitted for each proposed mine, well site, pipeline, excavation, roadway, and area of disturbance. Roadways may remain in place upon capping the wells with approval of the county commission. Particular attention will be given to stream crossings.

Mr. Hyde stated state law gives the Utah Division of Oil, Gas and Mining the authority to regulate reclamation of well sites. DOGM states that such plans are required just prior to reclamation, so the reclamation can occur using the best available techniques available at that time. DOGM works with the surface owner to require acceptable reclamation based on the post-reclamation surface use. The owner's agreement with the applicant calls for Harvest Holdings to "restore the surface of said land as nearly as is reasonably practical to its original condition."

J. Access Road: Each mine, exploratory or production well shall be accessed by a designated county road or a private road, which road has been approved by the county as to the quality of construction, and for which there is adequate documentation guaranteeing the operators of the well and county staff, emergency providers, and law enforcement officers a perpetual right of access until such road is abandoned and reclaimed.

Mr. Hyde stated the property owner has granted Harvest Holdings an easement across his property to access this proposed well site. This access must be improved to accommodate heavy truck traffic. Harvest Holdings should agree to allow county staff, emergency service providers and law enforcement officers to utilize this access road to facilitate the performance of their duties.

K. Sanitary Facilities: All production or exploratory well sites shall be served by sanitary facilities for employees, as approved by the sanitary sewer authority.

Mr. Hyde stated portable toilets need to be provided at active well sites for use by personnel. After the well is placed in production, Harvest Holdings shall provide portable toilet facilities at convenient locations, as approved by the TriCounty Health Department, for personnel working in the project area.

L. Reclamation: All roadway improvements, mines, well sites, and other areas of disturbance shall be reclaimed in conformance with plans submitted.

Mr. Hyde referred the planning commission to item I above.

M. Guarantee: A performance guarantee shall be submitted, in an amount required by the division of oil, gas and mining, with the county named as an additional obligee.

Mr. Hyde stated DOGM policies do not attach third parties (such as the County) to bonds required by their rules. In lieu of that, a copy of the required bond should be provided to the County. Such proof of bonding (in the amount of \$120,000) was received from the applicant on January 13, 2011.

N. Mitigation Plans: Nothing in these regulations shall prohibit a landowner from requiring the developer of an energy extraction or transmission project to complete inventories of the site for forage, timber, wildlife, objects of historic or scientific interest, or substantial unanticipated detrimental affects to the value of the property, and providing for a plan to mitigate for these effects.

Mr. Hyde stated the surface owners have signed an agreement with Harvest Holdings that requires Harvest to “restore the surface of said land as nearly as is reasonably practical to its original condition.” The property owner has required no other mitigation measures. This standard is met.

Mr. Hyde recommends the Planning Commission approve the Conditional Use Permit requested by Harvest (US) Holdings, Inc., subject to the following conditions:

1. Before drilling commences, the applicant shall obtain Duchesne County Fire and Emergency Management Director approval of the location and type of hazardous and flammable materials to be located at the site.
2. Applicant shall protect the public from exposure to hazardous equipment and materials on the site. The fencing requirement shall be waived if the zoning ordinance is amended to require fencing only within 300 feet of homes prior to this well going into production.
3. Well facilities shall be painted an earth tone color to help them blend into the surroundings.
4. Applicant shall reclaim the property in accordance with the agreement with the property owner when the well is plugged and abandoned.
5. Access to this well site must be improved to accommodate heavy truck traffic. Applicant shall allow county staff, emergency service providers and law enforcement officers a right of access on this road to facilitate the performance of their duties.
6. Portable toilets shall be provided at active well sites for use by personnel. After the subject well is placed in production, the applicant shall comply with TriCounty Health Department sanitation requirements for personnel working in the project area.

Mr. Hyde referred the commission to their packet for photos, site maps and road access permit. Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Don Hamilton, representative of Harvest US Holdings, Inc., stated the staff report covers the concerns and requirements that need to be dealt with and they will comply.

Mr. Hamilton stated Harvest Holdings does have a surface use agreement in place with the land owner and invited the Evans' to the hearing.

Mr. Hyde asked about the fencing requirement and the February deadline and any other safety concerns such as H₂s gases. Mr. Hamilton stated production will begin after the February 23rd date and there are not any other safety concerns.

Commissioner Jorgensen asked if there were any other comments in favor or in opposition.

Mr. Leon Ross, property owner and neighbor to the location, stated he is ok with Harvest Holdings intentions. Mr. Hyde stated according to his research the Ross home is ¼ mile southwest of the well site and asked if there are full time residents at this location. Mr. Ross stated his mother lives there. Mr. Hyde invited a Harvest Holdings representative to speak regarding potential noise issues.

John Paul McKee, Operations Manager for Harvest Holdings stated there was 3 phase power available so the motors will be electric to minimize the noise levels.

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

Commissioner Fabrizio motioned to approve the Conditional Use Permit requested by Harvest (US) Holdings, Inc., subject to the 6 conditions stated in the staff report. Commissioner Moon seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of January 5, 2011 Minutes.

Commissioner Moon moved to approve the minutes of the January 5, 2011 meeting. Commissioner Burton seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

There was some discussion on the revised zoning and sexually oriented business ordinance's and where they stand. Mr. Hyde stated the zoning ordinance was adopted by the County Commissioners and will be in effect on February 23, 2011 and the attorney has been busy with other commitments for the county and thinks Mr. Stearmer will re-introduce the SOB ordinance to the commission at a later date.

Adjournment:

Meeting adjourned at 5:24 p.m.