

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
April 4, 2012 - 5:00 p.m.**

In Attendance were:

John Jorgensen, Planning Commission – Chairperson
Randy Mair, Planning Commission
Edward Roberts, Planning Commission
Ken Moon, Planning Commission
Kathy Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Phil Brotherson	Arnold CUP
Gloria Manning	“
Dennis Manning	“
Moroni Manning	“
Jim Young	Eagle Estates
Tracy Killian	Arnold CUP
Todd Killian	“
Glen Ellingford	“
Carloyn Ellingford	“
Gayle Crowley	“
Bob Crawley	“
Karen Percival	“
Kristy Groves	
David Herron	
Dan Crozier	Arnold CUP
Barbara Smith	“
Dale Nelson	“
Sherry Fountain	
Herb Gillespie	Arnold CUP
Andrea Gurr	“
Bob West	Eagle Estates
Lew Arnold	Arnold CUP
Susan Hamilton	Calvert CUP
Gary Scholes	Arnold CUP
Charilyn Scholes	“

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 the agenda. Commissioner Jorgensen stated he has been contacted by some of the neighboring property owners and is an adjoining property owner also so he will excuse himself from the Arnold CUP hearing.

PUBLIC HEARINGS:

A. Recommendation to the County Commissioners regarding a request by Robert S. West Enterprises LLC to vacate the subdivision known as Eagle Estates, Phase 4, located north and west of Eagle Estates, Phases 1, 2 and 3, in the Hancock Cove area.

Mr. Hyde stated Mr. West has made application to vacate the Eagle Estates, Phase 4 subdivision; which would return the 22 residential lots to one large agricultural parcel, about 49.35 acres in size. Mr. Hyde highlighted sections of the staff report and explained there had been no building permits issued in this phase.

While the economy and housing market has rebounded to a degree since 2008, Mr. West has decided that it is still not economically feasible to develop Eagle Estates, Phase 4. He has requested to “wipe the slate clean” and return the lands within this subdivision to one parcel. To do so, under Utah law, requires county approval of a plat vacation.

Mr. Hyde recommends that the Planning Commission recommend to the Duchesne County Commissioners the adoption of the findings and conclusions and that they vacate the plat of Eagle Estates, Phase 4, as stated in proposed Ordinance #12-299.

Mr. Hyde asked if there were any questions or comments of the staff report. There were none so Mr. West was invited to speak.

Mr. West agrees with Mr. Hyde’s staff report and summary of the events, stating, due to the economic situation, this is the best option at this time.

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

Commissioner Mair motioned to recommend to the County Commissioners that they approve Mr. West’s request to vacate the subdivision known as Eagle Estates, Phase 4. Commissioner Moon seconded the motion and it passed unanimously.

B. Request by Don Calvert for a Conditional Use Permit to operate a painting and sandblasting business on lots 18-15 and 18-16 of the Uintah View Ranches Subdivision, located on the east side of Highway 87, between 5500 and 6000 South, on the Blue Bench, north of Duchesne.

Mr. Hyde referred the commission to the site plan and some aerial photos in their packets and stated the applicant is proposing to construct a 6,000 square foot commercial shop building associated with his painting and sandblasting business, which serves the oilfield, together with parking and driveway areas and a future dwelling unit. Commercial uses such as this are a conditionally-permitted use in the residential zones. Mr. Hyde highlighted sections of the staff report and explained there are already some business on

Blue Bench such as Fabrizio Sawmill, KW Robinson, Pro Water Logistics, CF Diesel and Lex Fabrizio Trucking. The applicant will need to work with Tri County Health, Utah DEQ, the Fire Emergency Management Director for the fuel storage, the building department and Duchesne City for the airport master plan and any conflicts that might arise.

Mr. Hyde stated the applicants request is in compliance with the Duchesne County General Plan and went over some criteria for approval such as the lot size, landscaping requirements, parking provisions, sign regulation and Duchesne County nuisance ordinance that will need to be complied with.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Don Calvert, subject to the following conditions:

1. Fire protection shall be provided for the building as required by the Duchesne County Building Official and/or Fire Chief and may include the installation of a fire hydrant on the East Duchesne Water line along Highway 87. Applicant shall coordinate with the Fire Chief to ensure that any fuel storage on the property is in accordance with the Fire Code.
2. Applicant shall limit noise generating operations at this location to 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.
3. Applicant shall construct the parking and driveway areas with adequate road base and gravel to minimize dust and the tracking of mud and rock onto State Highway 87. A landscaping plan for disturbed areas not occupied by proposed building, parking or driveway improvements or outdoor storage and work areas shall be submitted to the Planning Director for review and approval.
4. Business signage shall not be greater than 32 square feet in size, per sign and not encroach into the highway right of way.
5. Prior to the issuance of a building permit, the applicant must receive a letter from Duchesne City verifying that his plans do not conflict with the airport master plan or associated airport zoning regulations adopted by the City.
6. Prior to construction of a driveway approach to Highway 87, applicant shall obtain a permit from the Utah Department of Transportation, Region 3.
7. Prior to opening for business, the applicant shall obtain a permit or letter of exemption from the Utah Department of Environmental Quality, Air Quality Division.
8. Prior to opening for business, the applicant shall obtain a Duchesne County business license.

Mr. Hyde referred the commission to a letter from the applicant in their packet stating the nature of his business and plans for a successful venture.

Mr. Hyde asked if there were any questions of the staff report. There were none and without the applicant, anyone in favor or opposition were invited to speak. There were none so the hearing was closed.

Commissioner Moon motioned to approve the applicants request subject to the conditions stated in the staff report. Commissioner Mair seconded the motion and it passed unanimously.

Commissioner Jorgensen left the meeting at this time for the Arnold Engineering hearing, Vice Chairman Mair conducted the hearing.

C. Request by Arnold Engineering Inc. and Ryan Harvey for a Conditional Use Permit to extract earth products (“pit run” rock) from approximately 20 acres of a 293.4 acre parcel located between 5000 West and 6000 West, south of Highway 87 (Ioka Lane), in Section 3, Township 3 South, Range 2 West, in the Ioka area.

Mr. Hyde stated that Mr. Harvey and Mr. Arnold have has modified the application and excluded the crusher from the application. They will only be removing and screening the rock products from this location. The applicant is applying for this permit to authorize removal of pit run rock from about 20 acres of a 293.4-acre parcel. The proposal to site a rock crusher at this location to produce gravel has been withdrawn. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used to construct new oil well locations in the area (Newfield). The operation is anticipated to be short-term and will result in more favorable conditions for farming in the long term for the property owner.

The planning commission may grant a conditional use permit in compliance with this title 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 extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal will not be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the extraction area is not reclaimed properly. The county has “material pit finishing” standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed.

Detrimental impacts can occur if excavation results in sedimentation of adjacent waterways. There is an open drainage/irrigation ditch to the north of the proposed excavation area that will need to be protected. Such protections are afforded through the DEQ storm water permit process.

According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the applicant proposes direct access to 4000 South, which is a paved county road. However, trucks could also use 6000 West and 5000 West, which have gravel sections, inadequate road base for heavy loads and are not designed and constructed to accommodate heavy truck movements. There is a blind curve at the south end of 6000 West and switchback curves on the south end of 5000 West that make use of these roads impractical and unsafe. Consequently, the only feasible option is for the property owner to provide a road from the proposed excavation site directly north, across his property to Highway 87 (Ioka Lane). Such a route will minimize traffic impacts to property owners along 4000 South, 5000 West and 6000 West and protect the county roads from damage.

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). These time limits will be enforced during mining activity at the site.

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 applicants intend to use the pit run rock to support construction associated with oil drilling in the area, which is beneficial to the economy of the county and in compliance with the general plan.

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 mining would take place on about 20 acres of this 293.4-acre parcel. The area does border existing residential uses to the south; however there

is no setback requirement in the zoning ordinance between excavation areas and dwellings (only if rock crushing is involved is there a ¼ mile setback). The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Additional conditional use permit criteria for extraction of earth products are:

- A. **Dust Free Condition:** 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 state DEQ. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering the site and street during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant to the TriCounty Health Department for approval prior to operations beginning. The applicant must follow this plan to control dust at the extraction site and along the haul roads. Since no crushing will occur, a DEQ air quality permit is not required.

With extraction of pit run, haul roads between the pit and the nearest paved road generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. Dust control efforts will be needed at the extraction site and along the access roads, when material is being hauled. Such control efforts will help mitigate dust impacts.

- B. **Bond Required:** A bond shall be issued in the amount of 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. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

Mr. Hyde stated the property owner has not waived the bonding requirement. Bonding will need to be submitted to the county by the operator, based on the number of acres to be disturbed at any one time before reclamation.

- C. **Reconditioning:** 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. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning.

Mr. Hyde stated the “Material Pit Finishing Standards” are attached and used by the County to determine how reconditioning is to be accomplished. The applicant and his authorized agents shall be subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

D. Distance Requirement For Rock Crushing Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use.

The rock crushing has been withdrawn from this location.

Mr. Hyde stated the request has been submitted to the Duchesne County Road Department for review and comment. The Road Department has suggested a prohibition on the use of county roads in the area for heavy hauling associated with this proposal and requested an alternate route be used. Any additional comments received will be presented at the meeting.

Mr. Hyde recommends that the Planning Commission approve the Conditional Use Permit requested by Arnold Engineering, Inc. for extraction of earth products, subject to the following conditions:

1. Owner and his agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. The dust control plan approved by the TriCounty Health Department shall be implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at the gravel pit and on the private and public access roads between the pit and paved roads during periods of hauling.
 - b. Owner and his authorized agents shall comply with the construction activity noise time limits of the Duchesne County Nuisance Ordinance. In that ordinance, noise from mining and crushing is allowed only between 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.
2. Before mining operations begin, owner or his authorized agents shall provide surety bonding to the County in the amount of \$5,000 for the first acre and \$3,000 for each additional acre of surface disturbance; said bonding to be refunded or released only after reclamation occurs in accordance with the Material Pit Finishing Standards and any private agreement between the pit operator and the property owners.
3. Owner or his authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site.
4. Owner agrees that no truck traffic from this excavation area shall be permitted on the county roads known as 4000 South, 5000 West or 6000 West. The sole access from the rock excavation location shall be via a direct access to Highway 87 (Ioka Lane) across owner's property. Before such an access route is constructed, owner or his authorized agents shall receive a road access permit from the Utah Department of Transportation.
5. No rock crushing is allowed at this location.

6. Before excavation begins, owner or his authorized agents shall obtain a storm water permit from the Utah Department of Environmental Quality, Water Quality Division.

Mr. Hyde read letters and e-mail's from the county road department, Terry and Deann Nelson, Alfred Stringham, Karrie McKinnon, Ralph Dart, Dr. Blaine Whiting, Dr. Mark R. Dennis and Pat Keech all opposing the noise, dust, safety and traffic issues that may arise with the Arnold application and other applications that have been approved in the past.

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

Commissioner Mair confirmed the only access would be from the Ioka Lane and no crusher will be used at this location. Mr. Hyde stated that was *correct*

There were no other questions so the applicant was invited to speak.

Herb Gillespie, Attorney for Lew Arnold understands the public concerns and stated the applicant does not want to have any problems with the neighbors and his only interest is to level the land and farm it. If he cannot use 4000 South and has to build a road thru his farm land they will need to withdraw their application.

There was some discussion about the truck traffic and road conditions for the 12 locations Newfield are going to build in the future.

Mr. Hyde asked Mr. Gillespie if they want to hear testimony from the public or close the hearing and withdraw the request. Mr. Gillespie stated they withdraw the application.

There was a short recess and Commissioner Jorgensen returned to the meeting.

D. Recommendation to the County Commissioners regarding an amendment to the public land use policies of the Duchesne County General Plan associated with the Uintah Basin Utah Energy Zone.

Mr. Hyde stated Duchesne County proposes to amend its general plan to incorporate and recognize the Uintah Basin Utah Energy Zone as designated in Utah law by the 2012 Utah legislature. The proposed amendment encourages land management agencies to make energy resource development the highest priority use of such lands and to refrain from making decisions that hinder the development of these resources. Uintah and Daggett counties also support this proposal and are amending their general plans accordingly.

Mr. Hyde highlighted sections of the staff report and reviewing the proposed Resolution #12-06. The policies in the Resolution would be added to the existing Energy and Mineral Development policies if the Resolution is approved by the County Commissioners.

Mr. Hyde stated the Duchesne County Public Lands Committee met on March 29, 2012

to consider the proposed Resolution. They voted unanimously to recommend to the County Commissioners that the Resolution be passed, with the following amendments:

1. Amend Exhibit A to remove lands owned by State Institutional Trust Lands, Utah State Parks and Division of Wildlife Resources).
2. That a new Section 7 be included to show the county's support for the Surface Owner's Protection Act passed in the 2012 Utah Legislature's General Session.
3. That the townships and ranges listed in Section 1 be grouped according to whether they are in the Salt Lake Meridian or the Uintah Special Base and Meridian.

Mr. Hyde recommends that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the General Plan as set forth in proposed Resolution #12-06, including the amendments recommended by the Public Land Use Committee

Mr. Hyde stated there were several agencies that were notified including the BLM, Ashley National Forest, SITLA, Division of Wildlife Resources and the State of Utah public lands office as required for any amendments.

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

Commissioner Mair motioned to recommend that the County Commissioners approve the amendments to the General Plan as set forth in proposed Resolution #12-06, including the amendments recommended by the Public Land Use Committee. Commissioner Roberts seconded the motion and it passed unanimously.

NEW BUSINESS:

Mr. Hyde thanked Commissioner Roberts and Jorgensen for attending the Public meeting training which explained the rules we need to follow for our public hearings.

Minutes: Approval of March 7, 2012 minutes

Commissioner Giles moved to approve the minutes of March 7, 2012.

Commissioner Roberts seconded the motion and it passed unanimously with Commissioners Mair and Moon abstaining from the vote as they were absent.

Commission Comments and Staff Information Items

There was some discussion on holding electronic public meetings in the event a quorum could not attend in person. Mr. Hyde stated for the next meeting there will be an amendment to the zoning ordinance to comply with the Summit County judge's ruling on family/group homes, as well as more gravel pit requests.

Adjournment:

Meeting adjourned at 6:30p.m.