



Archuleta County Development Services Department
ARCHULETA COUNTY PLANNING COMMISSION MINUTES

Archuleta County Planning Commission Minutes, Regular Meeting June 27, 2018

The Archuleta County Planning Commission held a meeting on Wednesday, June 27, 2018, at 6:00 PM at the Archuleta County Commissioners Meeting Room, 398 Lewis Street, Pagosa Springs, Colorado. Chairman Frederick called the meeting to order at 6:01 pm.

Commissioners in attendance:

Michael Frederick, Anita Hooton, David Parker, and Lisa Jensen. Betty Shahan had an excused absence.

Staff in Attendance:

John Shepard, AICP; Planning Manager. Sherrie Vick, Planning Technician

Public in Attendance:

BP Representatives Naomi Azulai & Miles Venzara, Barb & Keith Swain, Nancy Cutright, Laurie Herson, and Randi Pierce from the Pagosa Sun.

Consent:

May 23, 2017 Minutes. Commissioner Jensen made a motion to approve as submitted, Commissioner Parker second, vote 3 aye. Commissioner Hooton abstained.

Old Business:

None.

New Business:

BP Cox 3 Well Pad Special Exception, pt. SW¼ NW¼ Section 14, T32N R6W NMPM, at 815 County Rd 988, Arboles (PLN18-094)

BP Production Company, represented by Naomi Azulai of Durango, CO, applied for Major Oil & Gas Facility Review for the **BP Cox 3 Well Pad Special Exception**, on a portion of the SW¼ NW¼ Section 14, T32N R6W NMPM, under a Surface Use Agreement with property owners Raymond Charles Egger and RaDawna Ann Egger, at 815 County Rd 988, Arboles, CO. This property is zoned Agricultural/Ranching (AR). (Case file 18-094.)

Archuleta County Land Use Regulations Section 9.2 Oil and Gas Development Permit provides for review of oil and gas facilities within unincorporated areas of Archuleta County, within the rules and regulations of the Colorado Oil & Gas Conservation Commission (COGCC). While an individual well is a Minor Facility, Sec. 9.2.7.3(1)d requires a Special Exception, approved through the Major Oil & Gas Facilities review process, to establish more than four well pads in a government section of land.

BP America proposes to establish a new well pad with one natural gas well, which will be drilled directionally eastward on-unit (the north ½ of the section). A new access will be constructed directly from County Road 988, south of CO Hwy 151 and about ¼ mile east of the LaPlata County line. There is an existing service pipeline along the south property line. The *Archuleta County Community Plan*, updated in 2017, provides guidance for future development. The Future Land Use Map considers this area as Very Low Density Residential in Critical Wildlife Habitat. Currently, the Community Plan does not address natural resources development. In Chapter 2, Policy 2.2 states "New development avoids, minimizes or mitigates damage and disruption to wildlife and unique biological features, wildlife habitat and other environmentally sensitive areas." Policy 2.7 states "Locate new oil and gas wells and gravel pits to minimize visual and environmental impacts. Require site reclamation and site mitigation." In Chapter 6, Policy 6.2 states "New development will be compatible with adjacent, existing agricultural uses in rural areas."

The property is zoned Agricultural/Ranching (AR). Setbacks in the AR zone are 75' front and 25' sides/rear. The surface parcel has one existing single family home on the north side of the Quarter-Quarter section. The closest home is 830' to the north, on a 1.19 acre parcel between the Eggers' home and the well site—it appears that this is an Improperly Divided Parcel, split without Subdivision review in 2017. The closest building is on the neighboring property, 750' to the south. The *Archuleta County Land Use Regulations* encourage (but do not require) siting multiple wells on existing well pads where practical. The proposed well pad will be the 5th in Section 14. There are three existing well pads in the South ½ of

Section 14, currently operated by Southland Royalty Company (Peterson 32-6 in the SW ¼ and SE ¼) which are close enough together to appear as just two well pads but are permitted by COGCC as three well pads.

- Peterson 32-6 #14-3 was permitted by Energen Resources Corp. as a Minor Oil & Gas facility (GW2008-02) on February 8, 2008, in the SE ¼ of Section 14, with access from County Rd 977 to the south. This well pad was built immediately north of the existing #14-1 well pad, separated by an irrigation ditch, but otherwise would appear as one well site.
- Peterson 32-6 #14-4 was permitted by Energen Resources Corp. as a Minor Oil & Gas facility (GW2007-05) on January 18, 2008, in the SW ¼ of Section 14, with access off of County Rd 977, expanding an existing well pad (#14-2).
- BP's Cox 2 well pad is located in the NE ¼ of Section 14.

Public comments were received at the pre-application conference. This application was referred to local utilities and regulatory agencies for review, as provided in Section 2.2.5. Comments received prior to preparation of the staff report include:

- County Engineering found no engineering issues with the project, and requested the design engineer certify improvements when complete. County Road & Bridge found County Road 988 to be in good condition and requested an after-construction review for any necessary repairs. A County Access Permit will be required.
- County Engineering also requested Applicant take whatever steps necessary to minimize dust pollution during construction and operation.
- LPEA had no objections.
- Since the well pad is within a mile of the county line, the project was also referred to Brenna Kampf, La Plata County Local Government Designee (LGD), who had no comment on the project.
- The Site Plan needs to be revised to show setbacks of proposed structures from property lines and sight triangle, to be stamped by a surveyor or professional engineer.
- An address will be assigned upon approval of this permit.

Neighbor's comments included:

- Eye sore of well adjacent to road.
- Noise & dust impacts

Perimeter berms or fencing along the road or the adjacent neighbor's driveway might mitigate visual impacts, noise and dust. Adjacent wetlands constrain moving the well pad further north or east. Approval granted shall expire if construction of the facility is not commenced within one year of approval. BP will also have to receive approvals from the Colorado Oil & Gas Conservation Commission (COGCC).

DISCUSSION

Once Mr. Shepard completed the report, Chairman Frederick ask if there any questions from the Commissioners. The Chairman asked Mr. Shepard if BP had to find out about the one acre parcels' legality or if that was the property owner's responsibility? Mr. Shepard clarified, the County is approving a Land Use Permit and the Land Use Regulations require a conforming site. Chairman Frederick also inquired about sound standards and wanted to add that a sound engineer certify the equipment is meeting our requirements for this as well. Commissioner Jensen asked about a permit for the wetlands mitigation. Mr. Shepard stated that the State requires permits that should cover these activities.

Chairman Frederick asked Naomi Azulai from BP to address the Commission. Ms. Azulai introduced Miles Venzara and addressed Commissioner Jensen's question by explaining that the State requires a permit for the surface impacts including the wetlands will be reviewed and three permits for the drilling, a pilot hole and two lateral drilling holes. Ms. Azulai went on to explain why this was a special exception permit for BP. Southland had three permitted well pads in the south half and the section and BP has one in the north half of the section and the County regulations only allow four wells per section. In order to retrieve the mineral rights they must place another well in the section on the side of the resources because the geology dictates the best retrieval point. Mr. Venzara pointed out the location of the pad and the wetlands and there would be no disturbance to the wetlands. Chairman Frederick asked why BP could not access the minerals from the old well site. Ms. Azulai explained that drilling from the old site goes against the geology flow of the minerals so the new site will be with the flow. Mr. Venzara explained the gas is mixed with a water layer that drains a specific direction and the extraction well needs to be down below the gravity flow of the water to extract the minerals. Commissioners discussed how close together the Southland wells and wellpads were.

Mr. Venzara addressed the noise concerns. BP is required by the State to maintain a 55 decibel (dBA) level 350 feet from the noise source and 50 dBA at night. Their equipment will adhere to the 50 dBA 350 feet from the equipment. Chairman Frederick noticed that electrical power is not available at this time—will they be using diesel-powered equipment? Ms. Azulai stated they are asking for a temporary generator in case LPEA cannot get the power across the road before the drilling starts, but BP has a request into LPEA for the power hook up. Commissioner Hooton asked what the noise level

was with the generator. Mr. Venzara explained that temporary walls could be put up to help mitigate the noise until power is supplied if noise exceeds 55 dBA. Commissioner Frederick asked if BP could certify the noise meets the 55 dBA after construction. Mr. Venzara confirmed they could do that and explained that noise reacts differently on each site and visual barriers may make the noise concentrate on one side of the site. Commissioner Frederick asked if BP was opposed to the visual berms Mr. Shepard suggested. Ms. Azulai explained the Mr. Venzara is working with the neighbors on a plan for visual and sound mitigation and if the neighbors are happy that plan would be acceptable instead of the berms. The Chairman asked if there were any other questions; hearing none, he opened the floor for public comment at 6:45PM.

Barb Swain, 663 County Rd 988, stated the property line is 71 feet from the equipment berms and 150 for the well. Mrs. Swain asked the Commission if they had received the letters they have sent. The Chairman stated that the Commission received them. Mrs. Swain stated that this is an eye-sore right off the driveway, and that the visual impact should be addressed.

Nancy Cutright, 2030 County Rd 977, stated she is ½ mile away and these are ugly things to look at and drive by each day. The other wells in the area are tucked back out of sight. Mrs. Cutright asked if the mineral rights owner approved this. Mr. Venzara stated the mineral rights owners have pooled and approved this operation. Mrs. Cutright's second question was in regards to the zoning. It was understood that Mr. Egger had lost his Agricultural status. Mr. Shepard stated the zoning was Agricultural which was different from any assessment as agricultural land. Mrs. Cutright was also concerned about water contamination as the pad is right by the water supply for irrigation. Stated concerns also for light and noise at night when the drilling is taking place, the dust on the road and the impact of the wildlife. Mr. Venzara explained that they would work with the land owner. Commissioner Hooton asked Mr. Venzara if they have met with the neighbors about their visual concerns. Mr. Venzara said they are meeting with the next door neighbors and will be working with them to manage their concerns.

Chairman Frederick asked if there were any other comments. Hearing none the public comment was closed at 6:59pm.

Commissioner Parker asked if BP had constructed a below-grade well pad? Mr. Venzara stated, not that he was aware of. Mr. Shepard stated to the Commission that if they wanted to give more flexibility to the visual and noise migration then Staff's proposed conditions would need to be changed. Commissioner Hooton stated the Commission needed more specifics on the mitigation to feel comfortable to move forward on the project. Mr. Venzara explained that they would work on the mitigation plan with the neighbors and work through that but could not give a specific plan at this time. Commissioner Frederick asked for explanation of the sound walls. Mr. Venzara explained they are square with sound buffering material, and BP works with neighbors on placement. Commissioner Frederick asked if the walls could help visual mitigation? Mr. Venzara stated they would not. There was discussion on how to word conditions and it was suggested that the Commission table the project for more details from BP on need and mitigation. Commissioner Hooton wanted a better plan for mitigation and BP should work with the neighbors. Commissioner Jensen asked about the construction timeline and how that effects the wildlife. Mr. Venzara explained that that is all looked at and taken into consideration.

Commissioner Hooton moved to table the project to the July 25, 2018, meeting. Commissioner Jensen Second, Vote 4-0 aye.

Reports and Announcements:


Mr. Shepard reported that the Board continued the vacation rental regulations to July 3, 2018, due to more direction on enforcement. The RV & Campground regulations passed without comments. On the general amendments to the Land Use Regulations, the Board dropped the enforcement parts and amended in the Administrative CUP rather than a use by right permit looking forward to Vacation Rentals. Mr. Shepard stated that the Board took out the notice sign requirement that the Planning Commissioners wanted for Vacation Rentals in the front yard. The Board thought it would be an attractive nuisance. Vacation Rentals would be an administrative process followed up by building inspections.

Next Meeting:

Regular Meeting July 25, 2018

Adjourn: Commissioner Parker moved to adjourn the meeting at 7:39 PM, Commissioner Jensen seconded. Vote 4 aye.


Sherrie Vick
Planning Technician

Approved this 22nd day of August, 2018

Michael Frederick
Chairman