Mesa County Planning Commission
June 11, 2009
PUBLIC HEARING MINUTES

Chairman Justman called to order a scheduled hearing of the Mesa County Planning Commission at 6:04 p.m. Chairman Justman led the Pledge of Allegiance. The hearing was held in the Public Hearing Room, Mesa County Administration Building, 544 Rood Avenue, Grand Junction, Colorado.

In attendance representing the Mesa County Planning Commission, were: John Justman, Mark Bonella, Phillip Jones and Joe Moreng.

In attendance, representing the Mesa County Department of Planning and Economic Development, were: Kurt Larsen, Linda Dannenberger, Donna Ross, JoCarole Haxel and Christie Barton. Chy Arnett was present to record the minutes.

There were (8) eight citizens present throughout the hearing.

APPROVAL OF THE MINUTES
May 28, 2009
Approval of Minutes were tabled until next meeting, Vice Chairman Bonella abstained from the vote as he did not attend the meeting of the minutes being considered and therefore there was not a quorum to move on the minutes.

Announcements
Kurt Larsen, Mesa County Planning & Economic Development Director went through the agenda and pointed out several changes that needed to be addressed in the agenda.

CONSENT ITEMS
Chairman Justman explained the Consent Agenda and polled the Commission and the public to see if anyone had any objections to the item staying on the Consent Agenda. Hearing none he requested a motion to pass item 2008-0401CP1Briarwood Subdivision Concept Plan on to the Board of County Commissioners.

2008-0401 CP1  BRIARWOOD SUBDIVISION CONCEPT PLAN
Property Owner(s): Steve Alpert
Representative(s): Paul Johnson (Meadowlark Consulting)
Location: 500 & 502 32 ½ Rd, Clifton 81520 (32 ½ & E Rds.)
Zoning: RMF-8
Planner: Christie Barton, 255-7191, Christie.Barton@mesacounty.us
Request: 19 Lots on two parcels totaling approximately 3.3 acres.
Motion Commissioner Moreng moved that item 2008-0401CP1 Brairwood Subdivision Concept Plan be passed on to the Board of County Commissioners with a favorable recommendation and all staff and review agency comments.

Second Commissioner Jones

Motion Approved 4-0

CONTINUED

2008-0807 CUP1 OLD WEST OIL CONDITIONAL USE PERMIT
Property Owner(s): Colorado West Real Estate Holdings, LLC
Representative(s): Keith Ehlers, Ciavonne, Roberts & Assoc.
Location: 2139 45 Road, DeBeque 81630 (45 Rd & I-70)
Zoning: AFT
Planner: Jo Carole Haxel, 244-1774, jocarole.haxel@mesacounty.us
Request: For a Conditional Use Permit for Oil & Gas Support Services to provide water, sand, & condensate hauling to oil & gas operations. The proposal includes areas for employee and truck parking, a maintenance building, and truck washing.

Project continued due to sign not posted by the required date according to 3.1.8 of the Mesa County Land Development Code.

Motion Vice Chairman Bonella moved that Item number 2008-0807CUP1 Old West Oil Conditional Use Permit be continued until July 9, 2009.
Second Commissioner Jones
Motion Approved 4-0

Motion Commissioner Moreng moved that Item 2009-0127 CUP1 Gunnison River Gravel Pit Conditional Use Permit be moved to the Hearing Agenda.
Second Commissioner Jones
Motion Approved 4-0

HEARING ITEM

2009-0127 CUP1 GUNNISON RIVER GRAVEL PIT CONDITIONAL USE PERMIT
Property Owner(s): Dennis Krueger, JAK Ventures LLC
Representative(s): Edward Settle
Location: 1471 Hwy 141, 1609 Hwy 141, 1660 Hwy 141, 1688 Hwy 141, 1732 Hwy 141 (Hwys 50 and 141)
Zoning: AFT
Planner: Jo Carole Haxel, 244-1774, jocarole.haxel@mesacounty.us
Request: To extract approximately 2 million tons of gravel from 5 parcels in AFT zone district along the Gunnison River, totaling approximately 43 acres. The proposed operation will include crushing activities and an asphalt plant, to occur over a 10- to 14-year period.

Staff Presentation
Jo Carole Haxel Mesa County Planning and Economic Development Department entered into the record project file 2009-0127 CUP1 Gunnison River Gravel Pit
Conditional Use Permit, the Project Review dated June 11, 2009, the Mesa County Land Development Code 2000 as amended, the Mesa County Land Use Plan, the PowerPoint presentation labeled Exhibit A, letters from the public labeled Exhibit B and Exhibit C that came in after the binders were sent out to the Planning Commission along with a review agency letter that was received late from the Division of Wildlife labeled Exhibit D. Ms. Haxel presented Exhibit A to the commission and the public going through the details of where it would be located along with a Google Earth Virtual demonstration of the locations of the proposed gravel pits and asphalt plant. She stated that the asphalt plant would not be operating all year long. Ms. Haxel stated the largest obstacles would be access, due to the configuration of the parcels and the fact that they are not really continuous but rather strung all along the Gunnison River over 5 different parcels and affecting approximately 40 acres. She pointed out the access points and the obstacles that will come with each point. She pointed out that the existing road was built without permits and pointed out that the County does not regulate private roads such as this. Showing photos, she pointed out several different problem areas for access. She stated that the applicant will respect the 100 foot setback from the floodway and the air and water quality standards that are regulated by the state require regular testing of the emissions. Reclamation being proposed will be continually staged and the over burden that will be generated from the pits will be used to create of wildlife habitat. She read over the letter from the Division of Wildlife pointing out their wetland concerns for the wildlife in the area. She stated that she made some last minute additions to her Project Review in order to accommodate the requests from this Review Agency. All the criteria of approval was gone over and Ms. Haxel stated that the Planning and Development Department recommends approval of this project with conditions. She went through all the conditions of approval following up with the basis is that the petition demonstrates compliance with a majority of the criterion in Section 3.8.7A-F, Section 5.2.13 A-R, and Section 3.1.17.A-C of the Mesa County Land Development Code (2000, as amended).

**Discussion**

Discussion about the letter received from the Division of Wildlife. Ms. Haxel stated that it was received physically on June 10, 2009 around 4:00 p.m. Mr. Bonella reminded the commission that there have been times in the past that a review agency comment was not considered because they did not turn in the comment in a timely manner and he feels that the day before the hearing is not in a timely manner. Vice Chairman Bonella stated the regulations that are placed on an operation such as this are so strictly regulated by the state that the concerns that the Division of Wildlife have for the respiratory systems of the big horn sheep is already taken care of. As far as he was concerned that was the biggest concern of the Division of Wildlife. They spoke about the access points and down time being required each year. Vice Chairman Bonella indicated that according to his calculations no matter what, they are shut down at least 3 months out of the year because of the children and now because of this late entry review agency comments they are being asked to shut down 5 months out of the year. Ms. Haxel stated the condition of approval was written to allow them to work with the Division of Wildlife to come up with an alternate solution. Ms. Dannenberger stated that a herd was identified in that area and to make it fair, it needs to be considered under
Criteria E which states that the impact on the natural environment will be mitigated to the maximum extent practical, including whether soils and geologic suitability are adequate for the proposed use, and whether prevailing winds might cause adverse impacts on-site and off-site. They continued to talk about the Division of Wildlife comments and the access problems to try to come up with solutions to address the problems.

**Representative**

Ed Settle of Grand Junction Pipe, 2661 Sperber Ln, Grand Junction, Co. stated his company just received the letter from the Division of Wildlife at noon on this day of the meeting. He pointed out that he called the biologist at the Division of Wildlife and invited him to come to the proposed site to access the situation and work with his company to mitigate any potential problems for this possible herd. He commented that if you drive up and down Unaweep canyon the big horn sheep are at the road side and don’t seem to be bothered by the traffic but his company has worked with the Division of Wildlife before with previous pits dealing with eagles and they seem to get along fine with them. He spoke about the road that exist stating that they did not own the property when the original road was built.

**Discussion**

Mr. Settle and the Commission talked about the dates that the pits are being requested to close down and the asphalt plant operation plans. Mr. Settle stated that his company wanted the option to be able to bid on highway work as it comes up and the only time that the asphalt plant would be running is if they have a contract with the state or county for highway work. He spoke about the two overlay projects coming up.

**Public Comment**

John E. Schwartz 1200 Highway 141, Whitewater, Co. stated he lives across the road and above the proposed asphalt plant and he is here because he does not want to walk out his front door and see, smell, or hear, an asphalt plant. Mr. Schwartz stated that he feels it would be better served if they went across the creek farther from his house and the creek. He feels that just because they had an asphalt plant before on that location, with today’s rules and regulations he can’t imagine that it would be allowed. He also pointed out that he can hear people talking from the stone cutting place which is way down from him and so he feels that he is sure he would hear everything that happens at the asphalt plant.

**Discussion**

Mr. Schwartz and Commissioner Moreng discussed the present regulations verses the regulations in the past with Commissioner Moreng asking Jo Carole if that was covered by the EPA. Ms. Haxel stated that any plans that were submitted to the State for the asphalt plant will be regulated through the state. Vice Chairman Bonella wanted to know how far the commercial buildings that are presently in that area are to Mr. Schwartz’s house. Mr. Schwartz stated that they were about 100 yards from him and he can hear them clearly.
Representative
Ed Settle of Grand Junction Pipe stated 2661 Sperber Ln, Grand Junction, Co. stated that as far as the east creek crossing they are going to put in three culvert pipes about 48 inches in diameter and if there is a nature storm it will just go over the top.

Question
Vice Chairman Bonella spoke about the wildlife again asking the applicant whether he would be opposed to shutting down pit 4 for example if they found the big horn sheep coming into that area until they left making it clear that it would be up to the Division of Wildlife to prove that there is indeed a herd of big horn sheep there. Mr. Settle stated that it’s not like they can just shut a pit down. It takes quite a while to switch from one pit to another. He would be more inclined to agree to just mine and not crush should the herd come into a site but to switch on a moment’s notice is all but impossible to do.

Commissioner Moreng wanted to know what exactly was involved in an asphalt plant. He wanted to know if there were structures involved. Mr. Settle stated that they would not put anything if they did not have a contract for surfacing however should they get a contract then it would have equipment, tanks and a burner along with gravel. Vice Chairman Bonella asked for clarification from Mr. Settle about the time frame on the asphalt plant. He asked “so it is my understanding that this will only be if they get a job and then it would only be temporary”. Chairman Moreng stated that he just wanted to clarify that fact for Mr. Schwartz so that he understands it would only be during the time of the contract is active. Mr. Settle stated that if they got the contract for instance on highway 141 the asphalt plant would only be there for approximately 2-3 months and leave and then if they got another contract it would be back again for 2-3 months.

Comment
Kurt Larsen, Director of Mesa County Planning and Economic Development Department identified an option to the Commission including a provision of the Conditional Use Permit to have a temporary use permit for the asphalt plant. This would be an administrative process which would take about a week allowing more control over the asphalt plant as far as noise levels, screening, length of time.

Discussion
Discussion about the possibility of the temporary use permit took place with the end result being that they felt that instead of a temporary use permit that they just add a line in the Conditional Use permit that states that the asphalt plant will only be used should a contract come up. Comments were made by several members of the Commission about their thoughts on the lateness of the letter received from the Division of Wildlife.

Motion Vice Chairman Bonella moved that on Project 2009-0127 CUP1 Gunnison River Gravel Pit Conditional Use Permit that a motion of approval be passed on to the Board of County Commissioners with all staff and review agency comments excluding the Division of Wildlife’s comments and striking staff’s recommendation of item number 12 of the conditions of approval and replace item number 12 of the conditions of
approval with a recommendation that the proposed asphalt plant shall be used only on a temporary basis, as related to specific local projects.

**Second** Commissioner Jones  
**Motion Approved 4-0**

**2009-0101 TXT1 ACCESSORY DWELLING UNIT TEXT AMENDMENT**  
Planner: Donna Ross, Division Director  
Request: Amend sections 3.5.11, 3.5.11.1, 3.5.11.3, 5.3.7, and 12.3.2, and Table 5.1, Use Matrix, of the Mesa County Land Development Code to change the process for review of an accessory dwelling unit application to a residential/agricultural site plan (commonly known as a Planning Clearance) and modify the requirements for an accessory dwelling unit. This text amendment also clarifies the minimum size of a residential accessory building which requires an approved Residential/Agricultural Site Plan.

**Staff Presentation**  
Donna Ross, Development Services and Code Enforcement Division Director for Mesa County Planning and Economic Development Department, stated that she was going to do a brief presentation so that discussion could be opened up to talk about the changes being requested that came out of the workshops for the Text Amendments. In her presentation she showed a PowerPoint presentation showing what the requirements are at present and what changes are being proposed. She went over the timeline for Accessory Dwelling review explaining what the definition is for an Accessory Dwelling.

**Discussion**  
Discussion took place in great detail as to the size and the number of occupants that are allowed in an accessory dwelling. Ms. Ross and Mr. Larsen explained the total number of people living in a principal dwelling and accessory dwelling and accessory cannot exceed that allowed for a single household according to the Mesa County Land Development Code.

**Staff Presentation**  
Ms. Ross continued her presentation to the Commission stating that one of the most significant changes that would take place with the text amendment would be the review process. She went over how it is handled at present and then stated the changes that would take place. Going over the size limitations that would go with the changes, Ms. Ross explained in great detail how staff came up with the limitations that are in the amendment. She talked about how the text amendment changes included a change to the requirements that all accessory dwellings have compatibility to the main dwelling including such things as roof lines and construction materials. This change proposed would keep that requirement the same in urban zone districts but rural zone districts would be allowed more flexibility. She spoke about the last change being the visibility requirement and what changes would take place.

**Discussion**
A long detailed discussion took place that eventually led to the understanding that more information was needed and it was decided that this item needed to be continued so that it could be discussed in greater detail at the next workshop scheduled for June 18, 2009.

**Motion** Vice Chairman Bonella moved that on item 2009-0101TXT1 Accessory Dwelling Unit Text Amendment be continued in order to allow further discussion at the workshop coming up on June 18, 2009 and be put on the next Agenda dated June 25, 2009.

**Second** Commissioner Jones

**Motion Approved 4-0**

**Discussion** Discussion to including the different fire districts to the workshop so that all of this work will not go to waste.

**Motion** Commissioner Moreng moved to adjourn the meeting.

**Second** Commissioner Bonella

**Motion Approved 4-0**

**Hearing adjourned at 8:56 PM**

Respectfully Submitted,

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Christi Flynn, Secretary