

Board of Supervisors:
Edward Latuska, Chairman
Alan Smallwood, Vice Chairman
Ronald Flatt, Supervisor
Kenneth Frenchak Jr, Supervisor
Philip Wulff, Supervisor



Anthony Amendolea, Secretary/Treasurer
Michael Gallagher, Solicitor
Olsen & Associates, Engineer
Patrick Gauselmann, Zoning Officer

Board of Supervisors
R E Gas Development Conditional Use Hearing
August 8, 2016
6:00 p.m.

Please silence all pagers and cell phones
(Emergency Responders are exempt)

CALL TO ORDER:

Chairman Edward Latuska called the R E Gas Development Conditional Use Hearing, of the Center Township Board of Supervisors, to order at 6:00 p.m. The meeting was held at the Unionville Volunteer Fire Company Firehall, 102 Mahood Road, Butler PA 16001.

ROLL CALL:

In addition to Chairman Latuska, present were Vice Chairman Alan Smallwood: Supervisors Ronald Flatt, Kenneth Frenchak and Philip Wulff; Recording Secretary Cheryl Eckstein; and Township Secretary/Treasurer Anthony Amendolea.

PURPOSE:

The purpose of this public hearing is to obtain public comment and testimony from the parties involved in the conditional use application filed by R E Gas Development, LLC. The applicant proposes constructing a Marcellus Shale well site. The property, owned by Kurt L. Kern, is located at 205 West Brewster Road (Center Township Map 060-3F43-17), Butler PA 16001. Chapter 20, Article V, Section 20-504.I of the Center Township Codification of Ordinances permits oil and gas extraction, subject to all requirements set forth in the Mineral Extraction Overlay District, Section 20-1305 et. seq. and also set forth in Chapter 20, Article XIX, Section 20-1908.A30, as a conditional use in the "R-1A", Low Density Residential District.

Public notifications were mailed Friday, July 22, 2016 to all property owners within 300 feet. The Planning Commission recommended approval at their meeting held on Wednesday, July 27, 2016. The notice of the public hearing was published in the Butler Eagle editions of Sunday, July 24, 2016 and Sunday, July 31, 2016. The property was posted on Friday, July 22, 2016.

APPLICANT COMMENTS: Mr. Michael Venum, R E Gas Development LLC, submitted the following exhibits into the record:

- 1. Conditional Use Application (Exhibit A-2)

2. Kern Well Pad Property Plan, Site Plan and Site Restoration Plan (including spreadsheet of applicable distances from dwellings) (Exhibit A-1)
3. Integrated Contingency Plan and Site-Specific Emergency Response Plan (collectively including the required Preparedness, Prevention and Contingency Plan and Emergency Action Plan) for the Kern Well Pad. (Exhibit A-1)
4. Erosion and Sediment Control Plan Application (Exhibit A-3)
5. Copy of Department of Environmental Protection Permit (Exhibit A-4)
6. Road Use Documentation (including the "haul route" memorandum; Center Township Excess Maintenance Agreement for the use of West Brewster Road; road bond; applicable state road permits; and approved Driveway Construction Permit) (Exhibit A-1)
7. Copy of reply comments for compliance requirements based on Center Township Chapter 20, Article XVI, "RRO" Rural Resource Overlay District, Article XVIII, Supplemental Regulations and Article XIX, Conditional Uses (Exhibit A-1):

- a. Section 20-1606 of the Zoning Ordinance requires compliance with all applicable standards for lot area, yard setbacks, frontage, lot coverage and building height, as enumerated in Articles V and VII of the Zoning Ordinance, for permitting and conditional uses. Article XIII of the Zoning Ordinance is titled "Mineral Extraction Overlay District." Section 20-1306 of the Zoning Ordinance requires the following: Lot, Yard, Height Requirements. A. Minimum Yard Setbacks: 1. Front yard - 250 ' from street right of way line; 2. Rear yard - 250'; 3. Side yard - 50', 2 required; 4. Accessory structures used to store explosives, gasoline, oil and other inflammables - 250 ' all yards; and 5. All other accessory structures - 250 ' front and rear yards and 50 ' side yards. EXCEPTION: All structures, whether permanent or temporary, must not only meet the above "Minimum Yard Setbacks," but must also set back at least 1 1/2 times the height of the structure.

RESPONSE: Exhibit 2 collectively includes the Kern Well Pad's Property Plan, Site Plan and Reclamation Plan. The Property Plan depicts the Kern Well Pad and associated distances from various landmarks. The Property Plan includes an orange demarcation, which is a 250 ' property line offset, evidencing that the Kern Well Pad will include setbacks greater than 250 ' as to its frontage and rear yardage, and greater than 50 ' as to its side yardage. The drill rig that will temporarily occupy the Kern Well Pad will be 145' in height, and the temporary storage tanks are approximately 30 ' in height. Such equipment will be located to accommodate the 1 1/2 times setback requirement.

- b. Section 20-5.106(B) of the Zoning Ordinance requires the following: Minimum Lot Frontage - 50 ' for purposes of establishing a right-of-way for access to the extractive industry site.

RESPONSE: Exhibit 2 includes the Kern Well Pad's Property Plan, Site Plan and Reclamation Plan. The Property Plan depicts the Kern Well Pad and associated distances from various landmarks. The Property Plan readily shows that the Kern Well Pad exceeds the 50 ' minimum lot frontage for the access road.

- c. Although Article XIII of the Zoning Ordinance does not provide for a maximum lot coverage, Article XVII, titled "Economic Resource Overlay District," at Section 20-1706 provided that the maximum amount of space of a lot which may be covered by impervious surfaces is 65%.

RESPONSE: Exhibit 2 includes the Kern Well Pad's Property Plan, Site Plan and Reclamation Plan. The Property Plan depicts the Kern Well Pad and associated distances from various landmarks. The

Property Plan readily shows that the Kern Well Pad will not cover 65% of the applicable lot.

- d. Section 20-1606 of the Zoning Ordinance requires the following: Minimum Lot Area - five acres for oil and gas well pads and a minimum lot area of three acres for an impoundment if not on the well pad site.

RESPONSE: Exhibit 2 includes the Kern Well Pad's Property Plan, Site Plan and Reclamation Plan. As indicated on the Property Plan, Tax Parcel Number 060- 3F43-17-0000 contains 66.79 acres. Further, the Kern Well Pad will not include an impoundment.

- e. Article XIII of the Zoning Ordinance, at Section 20-1306(D), requires the following: Maximum Building Height: 1. For unoccupied structures and mechanical equipment - None. 2. For unoccupied accessory structures - None. 3. For all occupied structures, maximum 35 ' .

RESPONSE: Following completion of operations at the Kern Well Pad site, no "occupied" structures will be located upon the Kern Well Pad

- f. Article XIII of the Zoning Ordinance, as to the conditions set forth in Section 20- 1306(E), requires the following: Site Development Standards (A) - In addition to the regulations of the Nonresidential Performance Standards in Section 20-1302, any permitted principal overlay district or accessory use shall be subject to the following: 1. Structure - It shall be carried on in such a manner with such precautions against fire and explosion as to produce no exposure hazard to a use on an adjacent property. 2. Water Use - Any water utilized for permitted principal overlay district or accessory uses which is drawn from underground sources must be set back more than 50 ' from the closest property boundary. 3. Liquid Waste - Permit from Pennsylvania Department of Environmental Protection ("DEP") and the Butler Area Sewer Authority agreeing to accept the waste flow. a. All requirements of the DEP shall be met in the construction and operation of all on-site extractive industry liquid sewage disposal plants. b. If an extractive industry operation is connected to a public sewage, the owners shall provide the operators of the public sewage system a chemical analysis of the proposed sewage, and the operator has the right to refuse entrance into the system of any sewage components that may interfere with normal cycle of the sewage treatment plant. c. In no case shall liquid wastes be dumped or permitted to flow or seep into a stream or drainage way. d. Liquid wastes that cannot be disposed of on the site shall not be permitted to accumulate and shall be removed off-site at least once per week. 4. Hazardous Waste - Hazardous waste shall not be permitted to accumulate on any property, and their disposal shall be in compliance with applicable Commonwealth of Pennsylvania Hazardous Waste regulations. 5. Property Maintenance - All areas of any property upon which mineral extraction activities are being conducted shall be maintained free from the exterior accumulation of, but not limited to, material, machine parts, trash, garbage, animal (excluding undomesticated wildlife) or human excrement, rubbish, junk , junk equipment and junk vehicles.

RESPONSE: Rex Energy must (and will) conduct all of its earth disturbance and well activities in accordance with Pennsylvania's Oil and Gas Act (the "Oil and Gas Act") and applicable DEP regulations. Such regulations include safety measures related to the prevention of fire and explosions. 1 Additionally, Rex Energy has prepared an Integrated Contingency Plan and Site-Specific Emergency Response Plan (the "Integrated Plan"), which includes a DEP-required Preparedness, Prevention and Contingency Plan ("PPC Plan")² and Emergency Action Plan.³ The purpose of the PPC Plan is to minimize and abate potential hazards to human health and the environment from the accidental spill, release, emission or discharge of pollutants to air, soil, surface water or groundwater. The PPC Plan also outlines the overall coordination of a response to environmental incidents associated with the Kern Well Pad's construction and operation. The PPC Plan includes emergency contact information for Rex Energy, response contractors, hospitals and area emergency response teams that may be engaged in the event of an emergency at the Well Site. Moreover, the Emergency Action Plan details the procedures to be taken in the event of an emergency. The Integrated Plan will be provided to on-site personnel and county/municipal emergency service providers. A copy of the Integrated Plan is attached as Exhibit 3.

Rex Energy does not anticipate utilizing any water drawn from underground sources.

All liquid waste emanating from the operations occurring at the Kern Well Pad must (and will) be disposed of in conformance with the Oil and Gas Act and applicable DEP regulations.

All hazardous waste, if any, emanating from the operations occurring at the Kern Well Pad must (and will) be disposed of in conformance with the Oil and Gas Act and applicable DEP regulations.

Rex Energy's intended use of the Kern Well Pad does not (and will not) include exterior accumulation of material, machine parts, trash, garbage, animal (excluding undomesticated wildlife) or human excrement, rubbish, junk, junk equipment and junk vehicles. Further, Rex Energy will abide by any Center Township sewage holding tank ordinance as to applicable work-force trailers that may be placed temporarily at the Kern Well Pad during the various phases of operations.

- g. Section 20-1607(B) of the Zoning Ordinance requires the following: pipelines shall be designed and constructed to all Federal and Commonwealth standards depending on size and volume.

RESPONSE: In general, all midstream pipelines will be designed, constructed and maintained by an independent third party midstream gatherer. Nevertheless, the DEP and, if applicable, the Federal Energy Regulatory Commission regulate the design and construction of such pipelines. As such, all associated pipelines will (and must) conform to such standards.

- h. Section 20-1607(C) of the Zoning Ordinance requires the following: all oil and gas operations shall comply with Sections 20-1802 and 20-1817 of the Zoning Ordinance.

- i. The following regulations shall apply to any new development permitted, except when such regulations are less restrictive than comparable regulations administered by State or Federal agencies: Noise; Smoke; Odor; Vibration; Storage of highlight flammable substances; Glare; Outside lighting; Sky-reflected glare; Dust; Outside storage; and, Waste disposal.

RESPONSE: The Kern Well Pad will be located in Center Township's Rural Resource Overlay (RRO) District. Surrounding uses are agricultural and residential in nature, with extensive woodlands adjacent to the proposed Kern Well Pad. Rex Energy's intended operations at the Kern Well Pad will not have a negative impact on such existing uses. In accordance with Rex Energy's proposed site restoration plan, as submitted to (and to be approved by) the DEP, Rex Energy will eventually restore certain disturbed portions of the Kern Well Pad, with the only remaining evidence of continued use being the wellheads, appurtenant equipment and an access road. Rex Energy will conduct all of its activities in accordance with the Oil and Gas Act and associated DEP regulations. A copy of the Site Restoration Plan is attached as part of Exhibit 2.

Further, Rex Energy respectfully submits that the Oil and Gas Act and associated DEP regulations deal specifically with the operational features of oil and gas well activities, including those matters covered by Section 20-1802 of the Center Township Zoning Ordinance (Nonresidential Performance Standards).

Nevertheless, as to outdoor lighting, during all construction and operational phases of the Kern Well Pad, Rex Energy will light the Kern Well Pad in a manner to comply with federal and state safety statutes. In doing so, Rex Energy will use best practices to ensure that such lighting will be directed inward towards well pad operations and will be shielded and/or reflected away from adjoining properties.

- j. Oil and Gas Operations shall be reviewed by the Center Township Planning Commission and approved by the Board of Supervisors prior to the issuance of any required Township permits. All proposals for Oil and Gas Operations shall include the following:

- 1) Copies of all information submitted to the DEP required for issuance of an oil and gas operation permit.

RESPONSE: Rex Energy submits its DEP permit applications and municipal

conditional use applications simultaneously. As part of the conditional use process, Rex Energy will submit to the Township copies of all permit applications and, when received, the actual DEP permits.

- 2) Copies of industry standard health and safety reports for development and operations of such facilities.

RESPONSE: A copy of the Integrated Contingency Plan and Site-Specific Emergency Response Plan is attached as Exhibit 3.

- 3) Sealed and signed affidavit from applicant's engineering consultant that the proposed facility meets all current industry standards and specific Commonwealth standards under the Oil and Gas Act. In lieu thereof, the applicant may submit a well permit approved by the DEP and all erosion and sediment control general permits approved by the DEP.

RESPONSE: Rex Energy submits its DEP permit applications, including those related to wells and erosion and sediment control, simultaneously with its municipal conditional use applications. As part of the conditional use process, Rex Energy will submit to the Township copies of the applicable well permits and earth disturbance permit (being the ESCGP-2) upon receipt from the DEP.

- 4) Design and Construction methods proposed to mitigate any identified health and safety issues at the subject site, including but not limited to, installation of sound barriers, chemical storage and frack water disposal, site lighting, and stormwater management may be referred to professional consultants at the Township's discretion, the cost for which shall be borne by the applicant.

RESPONSE: With due respect to the Township's officials, the matters referenced in item 4 are operational in nature and, thus, regulated by the DEP. (See footnote 4 above.) Based upon principles of conflicts preemption, the Township must address any concerns related to such operations directly with the DEP. However, as a courtesy to the Township, a copy of the applicable Erosion and Sediment Control Plan is attached as Exhibit 4.

- k. The applicant shall provide the Zoning Officer a routing plan for access to the site, identifying Commonwealth and Township roadways being utilized, including copies of any required road performance bonds, Commonwealth permits or other required local or Commonwealth permits.

RESPONSE: Rex Energy's "haul route" will include 1.12 miles of SR-2007 (South Benbrook Road) from SR-8 (William Flynn Highway) to TR-441 (West Brewster Road) and 0.42 of a mile of TR-441 (West Brewster Road). On July 12, 2016, Herbert, Rowland & Grubic, Inc. (professional engineering firm), at the direction of Rex Energy, conducted a visual inspection of that haul route, the results of which are contained in a memorandum attached as part of Exhibit 5. Further, attached as part of Exhibit 5 are: (a) a copy of the Center Township Excess Maintenance agreement for the use of West Brewster Road; (b) the applicable road bond; (c) a copy of the state road permits; and, (d) an approved Driveway Construction Permit issued by the Township on July 14, 2016. As part of the conditional use process, upon receipt from PennDOT, Rex Energy will provide the Township with a copy of the approved road use permit.

- l. Applicant shall provide the Zoning Officer with a copy of the DEP issued Erosion and Sediment Control General Permit.

RESPONSE: Rex Energy submits its DEP permit applications, including those related to wells and erosion and sediment control, simultaneously with its municipal conditional use applications. As part of the conditional use process, Rex Energy will submit to the Township copies of the applicable well permits and ESCGP-2 upon receipt from the DEP.

- m. The applicant shall provide a copy of any access security measures approved by the DEP during the gas drilling operation phase on lands in zoning districts where such activity is permitted.

RESPONSE: All access security measures are detailed in the Integrated Contingency Plan and Site-Specific Emergency Response Plan, which is attached as Exhibit 3.

- n. Any approved landscaping plan shall be visually consistent with the provisions of Section 20-1506 of the Zoning Ordinance.

RESPONSE: If deemed necessary by the Township's Board of Supervisors, Rex Energy will provide an "Opaque Screen, Type A," as set forth in Section 20-1506 of the Zoning Ordinance.

- o. At the time an application for a Township Zoning Permit is submitted, unless otherwise specified, a copy of all DEP required information regarding the rehabilitation-reclamation of the site shall be attached.

RESPONSE: A copy of the Site Restoration Plan is attached as part of Exhibit 1.

- p. Notification requirements of the DEP shall be satisfied prior to commencement of those activities specified in Section 20-1817 of the Zoning Ordinance.

RESPONSE: Rex Energy is prohibited from commencing any activity at the Kern Well Pad prior to fulfilling DEP notification requirements.

- q. In lieu of a land development plan, an applicant may present the Township Engineer and Planning Commission those plans, studies and reports submitted by the applicant to the DEP.

RESPONSE: As part of its presentation to the Center Township Planning Commission, Rex Energy will submit copies of its ESCGP-2 application to the Township Engineer and Chairperson of the Planning Commission.

- r. Section 20-1817 of the Zoning Ordinance provides for setbacks that are in conformance with the Oil and Gas Act. [This section differs from the setbacks set forth in Article XVI, Section 20-1908(30)(a) and (b), titled, "Conditional Use Standards and Criteria - Mineral Extraction Including Oil and Gas Extraction."]

RESPONSE: In *Robinson Township v. Commonwealth* the Pennsylvania Supreme Court invalidated Section 3215 of the Oil and Gas Act, which, in part, required unconventional well bores to be setback 500 feet from existing structures and 300 feet from any solid blue lines stream, spring or water body. However, the Pennsylvania Governor's Office has requested that energy companies continue to abide by those setback requirements. [Further, in consultation with the Township's Solicitor, Rex Energy will be required to abide by the setbacks that were originally included in Section 3215 of the Oil and Gas Act.]

In compliance with such setbacks, and as indicated on the Property Plan attached as part of Exhibit 2, the Kern Well Pad will be located 467 feet from the closest property line and 589 feet from the closest structure. Further, the Kern Well Pad will not be located within 300 feet of any applicable water body.

- s. Section 20-1817(C) of the Zoning Ordinance provides that any applicable Township owned or maintained road shall be bonded and that an applicant must submit to the Township a maintenance plan, which includes a schedule to keep the roadway passable and mud-free.

RESPONSE: Attached as part of Exhibit 5 are: (a) a copy of the Center Township Excess Maintenance agreement for the use of West Brewster Road; and, (b) the applicable road bond.

- t. Section 20-1517(D)(2) of the Zoning Ordinance requires the applicant to:
- 1) Install temporary safety fencing around impoundment areas.
RESPONSE: The Kern Well Pad does not include an impoundment.
 - 2) Install warning signs providing notice of the potential dangers at the well site.
RESPONSE: Rex Energy shall install warning signs in compliance with DEP requirements.
 - 3) Provide security personnel 24/7 at all times when a drilling rig or hydraulic fracturing equipment is on the well site.
RESPONSE: Rex Energy's standard operating procedures include the use of an on-site 24/7 security guard when a drilling rig or hydraulic fracturing equipment is on the well site.
 - 4) Prior to development, the operator shall provide to the Township's first responders a copy of its PPC Plan.
RESPONSE: Prior to commencement of any earth disturbance activities related to the Kern Well Pad, Rex Energy shall provide a copy of its Integrated Contingency Plan and Site-Specific Emergency Response Plan, which includes the PPC Plan, to applicable first responders.
 - 5) Prior to drilling, the Township may request that Rex Energy provide first responders with a group training program to deal with any potential dangerous conditions that may result due to development activities.
RESPONSE: At the Township's request, Rex Energy shall provide training to applicable first responders related to emergencies that may arise at the Kern Well Pad.
 - 6) An emergency response plan shall be submitted addressing methods to handle well leakage, spill containment, vandalism, defective casing or cementing and potential contamination between the well and the public and/or private water supply.
RESPONSE: Attached as Exhibit 3 is Rex Energy's Integrated Contingency Plan and Site-Specific Emergency Response Plan, which includes the PPC Plan and Emergency Action Plan covering the items set forth above.
 - 7) A noise level not to exceed 60 dBA at the property line shall be maintained at the well drilling site unless otherwise specified.
RESPONSE: Via the use of a sound wall, as depicted on the Site Plan attached as part of Exhibit 2, Rex Energy's operations shall conform to the 60 dBA noise requirement.
 - 8) The primary access road to the oil and gas well site shall be improved with dust free, all weather surface and constructed in such a manner that no stormwater, sediment or debris shall be carried onto any public roadway.
RESPONSE: The primary access road to the Kern Well Pad will be constructed with PennDOT approved, 2A gravel, and will include a paved apron, constructed to PennDot's well pad entrance standards. The apron will be paved 50' back from the center line of West Brewster Road. Further, the ESCGP-2 includes design considerations to prevent stormwater, sediment or debris from being carried onto

any public roadway.

- 9) Adequate and appropriate lighting is essential to the safety and welfare of those persons involved in the development of oil and gas, and the operator shall take steps, to the extent practicable, to direct site lighting downward and inward toward the drill site, well head or other area being development so as to minimize glare on public roads and adjacent buildings within 300 feet measured from the property line or leased are line to the drill site, well head or other area being developed.

RESPONSE: Based on the location of the Kern Well Pad, glare emanating from the well pad should not be an issue. However, in the event of complaints related to well pad lighting, Rex Energy will work with Township officials to remedy any perceived nuisance.

- u. The wellhead shall be screened from public view by dense foliage, topography or fencing. In addition, a security fence, a minimum of six feet in height, shall be erected around the perimeter of the site and maintained in good condition.

RESPONSE: As depicted on the Property Plan, Site Plan and Restoration Plan, all of which are attached as Exhibit 2, the Kern Well Pad will be screened from public view via existing topographical features or as otherwise requested by the Township Supervisors (pursuant to a landscaping plan consistent with the provisions of Section 20-1806 of the Zoning Ordinance). Further, as depicted on the Site Restoration Plan, upon restoration, the Kern Well Pad shall be fenced in accordance with , the above referenced requirement.

- v. A traffic and road condition study shall be submitted to determine the adequacy of the road network and the structural condition of the roads serving the site.

RESPONSE: On July 12, 2016, Ryan P. Minor, E.I.T. with Herbert, Rowland and Grubic, Inc. provided Rex Energy with a memorandum detailing his visual inspection of the proposed haul route. A copy of that traffic and road condition study is attached as part of Exhibit 5.

- w. Access to the site shall not be through any residential subdivision or development and shall be from a collector or arterial road.

RESPONSE: Rex Energy shall access the Kern Well Pad from West Brewster Road, which is a collector road.

PUBLIC COMMENTS:

1. Mr. Dan Kamerer, 124 West Brewster Road: Mr. Kamerer is concerned with (1) road weight limit, (2) depth of aquifer and (3) water containment ponds.
2. Mr. David Leech, 108 West Brewster Road: Mr. Leech question when water would be tested.
3. Ms. Luann Orcutt, 105 West Brewster Road: Ms. Orcutt asked about the hours of operation.
4. Mr. Mark Withington, 105 West Brewster Road: Mr. Withington question if Rex Energy ever had a water contamination incident and site of gas lines.
5. Mr. Stephen Catt, 5363 McCandless Road: Mr. Catt was concerned with (1) the preparation and response of emergency responders, (2) appeal process, (3) any traffic from the Grey well pad and the Kern well pad, (4) long term safety of the well site, (5) response to supply water

and (6) if well would be burned off.

6. Mr. Robert Welsch, 5378 McCandless Road: Mr. Walsh questioned the depth of well.

BOARD COMMENTS:

1. Wulff explained that Unionville Volunteer Fire Company attend training sessions. Also, he remarked that the gathering lines are in place.
2. Flatt stated that the appeal process be on the legality of the public hearing. He questioned the setbacks and sound barriers.

ADJOURNMENT:

Latuska motioned to adjourn the hearing at 6:40 p.m. Frenchak seconded. Motion carried.

Anthony A. Amendolea
Township Secretary/Treasurer

Edward G. Latuska
Chairman

Alan H. Smallwood
Vice Chairman

Ronald E. Flatt
Supervisor

Kenneth J. Frenchak Jr
Supervisor

Phillip B. Wulff
Supervisor