

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
November 4, 2020 - 5:00 p.m.**

In Attendance were:

Brad Wells, Planning Commission, Chairman
Bobby Drake, Planning Commission
Ken Richens, Planning Commission
Ryan Clark, Planning Commission
Gary Sorensen, Planning Commission
Connie Sweat, Planning Commission
Jenny Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Ben Henderson, Duchesne County Road Department	Wildcat Sand-CUP
Olan Nielson, Dominion Energy	Wildcat Sand-CUP
Jake Woodland, CH4-Finley	Wildcat Sand-CUP

Chairman Wells opened the meeting at 5:00 pm and read the rules of order. He asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with the agenda. There were none, so the meeting proceeded.

PUBLIC HEARINGS:

A. Request by Wildcat Sand LLC for a Conditional Use permit to allow the surface mining of sand on 298.33 acres of land owned by James Patry, located in the Ioka area.

Mr. Hyde referred the commission to their packets and some site photos and stated that Wildcat Sand, LLC is proposing to mine sand from 298.33 acres of land owned by James Patry, located north of Highway 87 in the Ioka area. Surface mining is a conditionally permitted use in the A-5 zone.

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 that surface mining 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 applicants and

operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the mining area is not reclaimed properly. The county has “material pit finishing” standards that, along with the lease agreement with the property owner and reclamation bonding, should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed. The applicants indicate that after the sand deposits are removed, the ground will be prepared for agricultural use by the property owner. Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. The applicant will need to check with the DEQ Water Quality Division to determine if a permit is required. According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Surface mining and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the proposed access to the mining area is via 7000 West, which is a gravel county road extending north from State Highway 87 (Ioka Lane) to the mining site. Easterly portions of the mining site could be accessed from County Road #56W, which is also known as 2000 South or the Pole Line Road. Trucks would access Highway 40, with the ultimate destination for the sand being a site in Uintah County, south of Fort Duchesne, where reject materials, such as clay and organics, would be removed; with those reject materials being trucked back to the mining location to aid in reclamation. The Duchesne County Public Works Department and UDOT Region 3 have been asked to review the proposal and provide comments.

Ben Henderson, County Public Works Director, has determined that the haul route of 7000 West to Ioka Lane would be acceptable; however, using the Pole Line Road (2000 South) or 4000 West to get to Ioka Lane and Highway 40 will not be permitted due to the condition of the roads, proximity of residential uses and the unsafe intersection at Pole Line Road and Highway 40. Mr. Henderson will also require the applicant to provide dust control on 7000 West and be responsible for the cost of installing additional road base or replacing culverts if necessary during the mining operations. The County will provide the road base and culverts.

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). Such time limits should be applied in this case to ensure that no noise impacts occur. The nearest homes are located within 175 feet of the eastern property boundary, 100 feet of the west boundary and 100 feet of the north boundary, so compliance with these standards will be important; even if mining operations are set back 660 feet from these homes.

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.

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 sand to support the energy and construction industries. Such projects are beneficial to the economy of the county and in compliance with the general plan.

The other Conditional Use Permit criteria associated with surface mining are:

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 five parcels totaling 298.33 acres of land, which is certainly large enough to accommodate the proposed use. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished pit level. The applicants are also required to set the mining area back 660 from existing homes. Aerial photos indicate that the closest homes are located within 175 feet of the eastern property boundary, 100 feet of the west boundary, 100 feet of the north boundary and no homes are close to the south boundary. 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. Owners of these homes have the option to grant a written waiver of the 660-foot mining setback requirement.

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 that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. 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 or applying chemical treatments to active mining areas and driving surfaces 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 or authorized agent to the TriCounty Health Department for approval prior to operations beginning. The applicant or authorized agent must follow this plan to control dust at active mining areas and driving surfaces. With extraction of sand, haul roads between the mining areas and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. In this case, the main haul road is proposed to be 7000 West, which is a graveled county road. There are no homes along the route between the mining site and Highway 87. The secondary haul road is proposed to be along 2000 South, which is a paved county road.

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. The bonding requirement was not waived by the property owner. The applicants are thus required to provide bonding to ensure reclamation before starting mining on the property. The applicants submitted a bond dated October 15, 2020 in the amount of \$900,000.00, which the correct amount for the size of the property to be mined.

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;

The “Material Pit Finishing Standards” attached hereto are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents are 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. The agreement between the applicant and property owner calls for reclaiming the site with clays and organic materials removed from the sand and preparation of the site for agricultural use when mining is complete.

Mr. Hyde stated a final inspection of the condition of 7000 West will also be made by the Public Works Department upon completion of the mining operation, with any needed repairs being made at the applicant’s expense.

D. Distance Requirement for Surface or Subsurface Mining and Critical Infrastructure Materials Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back six hundred sixty feet (660') from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back at least fifty feet (50') from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consents to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the Surface or Subsurface Mining and Critical Infrastructure Materials Operation would occur.

The distance requirements of this section will be met. The proposed surface mining boundaries must be set back at least 50 feet from the property line to meet the minimum standard of the ordinance and allow for gentle slopes between the finished grade and adjacent property grade (unless adjoining property owners agree to allow the slope to occur on their property). The mining area boundary must be set back over 660 feet from the nearest homes as shown on the aerial photo attached (unless the owners of these homes agree in writing to a lesser distance). There is no rock crusher in this case. The aerial photo attached shows that the nearest homes are located within 175 feet of the eastern property boundary, 100 feet of the west boundary, 100 feet of the north boundary and no homes are close to the south boundary. If no waivers are granted, certain sections of the subject property (within 660 feet of these homes) will be off limits for mining.

Mr. Hyde's recommendation is approval of the Conditional Use Permit requested by Wildcat Sand LLC, for the surface mining of sand from the Patry property located on the north side of Ioka Lane, subject to the following conditions:

1. The applicant shall control dust and noise so neither becomes a nuisance.
 - a. A dust control plan approved by the TriCounty Health Department shall be obtained prior to starting excavation and implemented throughout the course of the operations by the applicant. Dust control agents shall be applied at active portions of the mining site. The applicant shall ensure dust is controlled on the gravel haul road (7000 West) between the mining site and Ioka Lane as required by the County Public Works Department.
 - b. The applicant shall comply with the following hours of mining operations: (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. The applicant 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 by signage, berming and/or fencing. The final reclamation inspection shall include an inspection of 7000 West by the applicant and the County Public Works Department to determine if any repairs of that road are needed to address damage done by the mining and hauling operation. Such expenses shall be borne by the applicant.
3. Before starting excavation at the site, the applicant shall obtain an industrial stormwater permit, if required, from the Utah Department of Environmental Quality, Water Quality Division, and provide a copy to the County.
4. The applicant agrees to maintain a 50-foot wide buffer between the excavation areas and the property lines and a 660-foot buffer between excavation areas and existing homes. If the parties are unsure of property line locations, they shall be determined by a surveyor. Any waiver of these standards approved by adjoining property owners shall be provided to the County in writing.
5. No heavy truck traffic associated with this use shall be permitted on 2000 South or 4000 West. Instead, heavy truck traffic shall use Ioka Lane and 7000 West for ingress and egress from the mining site to Highway 40.

6. The applicant shall coordinate with the County Public Works Department in the ongoing maintenance of 7000 West during the duration of mining and hauling. The County will provide road base and new culverts as needed, with the applicant responsible for the cost of applying the road base and installing new culverts, as determined by the County Public Works Director.
7. The applicant shall comply with any requirements of UDOT Region 3 associated with heavy truck movements on State Highway 87 (Ioka Lane) or Highway 40.
8. If material other than sand and gravel is mined, applicants shall obtain a mining permit from the Utah Division of Oil, Gas & Mining pursuant to Utah Administrative Rule R-647.

Mr. Hyde asked if there were any questions or comments of the staff report and referred the commission to a letter from the Public Works Director for Duchesne County that explained their requirements and that the operators will need to repair any damage as needed. There has been no response from UDOT Region 3 at this time. Dominion Energy had expressed concerns that trucks would not be driving over a nearby pipeline.

Commissioner Wells asked if Mr. Hyde has had any correspondence from any of the home owners in the area. Mr. Hyde stated he has not.

With no other questions Mr. Woodland was invited to speak.

Jake Woodland a representative from Wildcat Sand, LLC and CH4 Finley thanked Mr. Hyde for his efforts and guidance thru this process. They have also submitted their dust control application with TriCounty Health. Mr. Woodland stated this will be a small sand operation and explained they already have multiple leases and owners to make this process work. Mr. Woodland stated the plant will be ready for operation in about 45 days. The only equipment will be a loader and the trucks back and forth to a processing facility in Uintah County.

The applicant's indicted they are working with DOGM to work out their issues and are hoping to stay away from the existing homes but will work with the landowners as needed.

Commissioner Richens asked about the sand, how deep it is and how long they will be mining it. Mr. Woodland replied they hope this will be a great partnership that will last 4-10 years.

There was some discussion about the sand and some history about the Ramsey Hill Mine and how it will work for the oil and gas industry in the future.

Commissioner Wells asked about their operating hours. Mr. Woodland stated it would be mostly supply and demand but hopes they can keep it at 5 days a week.

Commissioner Clark asked Mr. Woodland about the equipment they would need and where they would get their water for dust control from. Mr. Woodland replied they would need a dozer and a water truck for now. The water will come from tap outs from Myton

City and LaRue Lamb for now but they are working on a hook up from Johnson water and the Victory pipeline.

Mr. Woodland stated there would be some additional lease agreements with the Crowley's and the Killian's for an additional access and sand pit if needed in the future.

Mr. Woodland asked if there were any other questions. There were none so Chairman Wells invited anyone else to speak in favor of the applicant's request.

Olan Nielson, Engineer for Dominion Energy, thanked Mr. Hyde for his concern for Dominions infrastructure. At this time there are not any issues and Dominion Energy does not expect any but he will stay in contact with Mr. Woodland should any issues arise.

There was some discussion about DOGM's rules on mining sand and making sure all parties interests are protected.

With no other questions or anyone in the audience to speak either in favor or against the applicant's request the public hearing was closed.

Commissioner Drake motioned to approve the Conditional Use Permit requested by Wildcat Sand LLC, for the surface mining of sand from the Patry property located on the north side of Ioka Lane, subject to the conditions stated in the staff report. Commissioner Clark seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of October 7, 2020 minutes:

Commissioner Richens moved to approve the minutes of October 7, 2020. Commissioner Sweat seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

Mr. Hyde reminded the Commission about the trails committee and the need for representatives from different areas and interests of the county

Adjournment:

Meeting adjourned at 6:00p.m.