

DUCHESNE COUNTY PLANNING COMMISSION MINUTES

Duchesne County Administration Building, Commission Chambers

October 4, 2023 at 5:00 PM

ATTENDING

Planning Commission: Jenny Giles, chair; Connie Sweat, vice-chair; Annette Miller, member; Shon McKinnon, member; Ken Richens, member; Shiloh Hatch, member; Thomas Winterton, member.

Staff: Mike Hyde, Director of Community Development; Mike Gottfredson, Deputy Director of Community Development; Becky Broadhead, Community Development Secretary

Visitors: Charles Hansen, Zachary Hansen, Sean Finnerty, Chet Hansen, Michael Dunsmore, Ken High, Brandi Winterton, Cheryl Fabrizio, Logan Hibbard/Operations Manager via on line

Public:

The meeting began at 5:00 PM. Commission Chair Jenny Giles read the rules of order. She asked if any of the Commission Members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. Planning Commissioner Ken Richens said he would be recusing himself on item B, 4C Farms LC on behalf of Blue Diamond Proppants, LLC as he has a conflict of interest.

Public Hearings

Jenny Giles opened the public hearing regarding the request by Ken High for a CUP to operate a personal hobby workshop, located at Lot 10 of the Sundown Ridge Subdivision, or 46558 W. Sundown Ridge Drive, in the Fruitland area.

Mike Gottfredson presented the following:

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Ken High proposes to operate a personal hobby workshop at his residence. His business, called "Walking Cedar Woodworks," produces furniture, doors, cabinets and other custom woodworking products.

The following home occupations are allowed by conditional use permit in the R-¹/₂, R-1 and A-2.5 zones, and permitted outright in the other zones: appliance repair, **cabinet making**, dance instruction to more than two (2) individuals at a time, firearms sales and services, food catering, hair salons, unless limited to two (2) stations, motorized garden tool repair, such as, but not limited to, lawn mowers, chain saws and leaf blowers, pest control, painting of vehicles, trailers, boats, and like vehicles/vessels, photo developing, real estate or brokerage offices,

upholstery and furniture repair, vehicle related uses such as, but not limited to, the cleaning, dismantling, embellishment, installation, manufacture, repair or service, sale, lease, or rental, and towing of vehicles (the dispatching of vehicles such as limousines, taxicabs, and ambulances is allowed as a home business so long as those vehicles need not regularly come into the vicinity of the subject residence), welding, nursing homes, healthcare, including physicians, psychologists, chiropractors, hypnotics and massage therapists.

2. History of Events

August 28, 2023	The application was submitted.
August 28, 2023	The application was deemed complete.
September 19, 2023	Notice mailed to property owners with 300 feet of the subject property.
September 20 & 27, 2023	Notice of Public Hearing published Uintah Basin Standard.

2. DUCHESNE COUNTY ZONING CODE

8-13-1: SCOPE AND PURPOSE:

- A. Issuance: Conditional use permits may be issued as provided by this title for any of the uses for which a conditional use permit is required as identified in the table of uses and the table of site development standards, as set forth in Chapter 6 of this title.
- B. Purpose: The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.
- C. Conditions: A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed land use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use permit may be denied.

8-13-2: APPLICATION FOR PERMIT:

All requests for a conditional use permit shall be made on the application form provided by the county, detailing the nature of the conditional use request. The applicant shall also provide the necessary information identifying the purpose of the conditional use request, and all required information shall be provided to the planning office twenty-one (21) days prior to the planning commission meeting. The planning commission is authorized to render a final decision on the issuance of a conditional use permit following the review and receipt of a recommendation from the zoning administrator.

8-13-3: PUBLIC HEARING REQUIRED:

All applications for a conditional use permit shall be made in accordance with the provisions of this title, and shall be the subject of a public hearing held before the planning commission for which a minimum of fourteen (14) days' public notice has been provided and the planning staff notifying all property owners by U.S. mail within three hundred feet (300') of the proposed conditional use.

8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL:

A. Findings Required: 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.

Findings: Woodworking operations could be detrimental to others in the vicinity due to potential noise impacts. In this case, the woodworking shop is insulated and the nearest neighboring homes are over 500 feet to the south, which will lessen impacts. The proposed use will not be unduly detrimental or injurious to property or improvements in any vicinity, and will not be detrimental to public health, safety, or general welfare.

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.

Findings: The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. The proposal complies with this section of the General Plan as a personal hobby workshop which will not impact rural residential and agricultural interests.

The purposes of the Zoning Ordinance are set forth below:

8-1-2: PURPOSE:

- A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent

of this title to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;
3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses; and
5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

Findings: If the applicant meets the conditional use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.

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.

Findings: The proposed hobby workshop is located on the north side of a 5.12 acre lot, Lot 10 of the Sundown Ridge Subdivision. The nearest residence to the workshop (not including the residence on-site) is over 500 feet to the south. The workshop is intended primarily to be for personal, non-commercial use. Access is via West Sundown Ridge Drive. The property is surrounded by private land.

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 if noise is controlled pursuant to the Duchesne County Nuisance Ordinance.

B. Conditions:

1. In approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the county general

plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. Minimum conditions shall be included for produced water disposal facilities, extraction of earth products and residential treatment or secure treatment facilities as indicated in section 8-13-5 of this chapter.

2. When approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

8-13-5-5: ADDITIONAL CONDITIONS SPECIFIED:

These conditions may include:

- A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Findings: Views into the hobby workshop are obscured from the road by natural vegetation, topography, and the primary residence. The hobby workshop is set back 15 feet from the rear [north] property boundary, with a fence running along the same rear boundary.

The location of the personal hobby workshop is sufficient for the buffering and setback requirements to protect the property and preserve, and/or enhance the appearance and character of the area.

- B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

Findings: Minimal vehicular traffic is anticipated to be generated by this personal hobby workshop. The driveway is graveled, and there is parking for two or more vehicles on the east side of the workshop.

- C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Findings:

Roads: Public access to the property is from West Sundown Ridge Drive, which was dedicated to the public by the subdivision plat and accepted as a County Class B road by letter dated September 1, 1998.

Water: Water is supplied by the Fruitland Special Service District.

Sewer: The existing onsite wastewater system was approved by TriCounty Health Department.

Fire: There are four fire extinguishers located at the facility. The facility met WUI code requirements for defensible space and emergency vehicle access, and was approved for such per the approval of Building Permit #7213-B. However, this building permit was issued for a “pole barn”. The applicant will need to work with the Building Department to convert the occupancy of the structure from a pole barn to a woodworking shop.

D. Signs: Regulation of signs.

Findings: The applicant does not desire to place a sign on-site. If signage is proposed in the future, it must be on-premise and comply with Duchesne County ordinances (8-9-14, 8-13-5-5-D).

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Findings: There is no junk or solid waste found on-site. Dust created by any woodwork undertaken within the hobby workshop is abated by a vacuum system.

This business is not anticipated to generate significant amounts of noise. The structure distance to other residences along with the insulation of the shop mitigates noise created therein. The Duchesne County Nuisance Ordinance allows noise between the hours of 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays, and 9:00 A.M. to 9:30 P.M. on Sundays. Conditions should be considered to ensure that noise, which could disturb others, does not occur earlier or later than these allowed times.

F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

Findings: The applicant proposes hours of operation from 9:00 AM to 5:00 PM, when operational. As indicated in the ADDITIONAL CONDITIONS SPECIFIED Section E, the applicant is required to follow the Duchesne County noise ordinance regulating operating business hours.

8-13-6: TERM OF PERMIT:

Unless there is substantial action under a conditional use permit within a period of eighteen (18) months of its issuance, the permit shall be considered null and void.

8-13-7: REVOCATION OR MODIFICATION OF PERMIT:

A. Authority: If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall hold a public hearing on the question of modification or revocation of a conditional use permit granted under the terms and the provisions of this title.

B. Conditions: A conditional use permit may be modified or revoked if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit have not been met.

C. Modification by Planning Commission: Additionally, the conditions under which a conditional use permit was originally approved may be modified by the planning commission without the consent of the property owner or operator, if the planning commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should reclamation be necessary, complete restoration, to such an extent that the area will not depreciate the surrounding property or impair the beauty of the landscape, shall be accomplished within a twelve (12) month time frame.

CONCLUSIONS

The request will comply with the Conditional Use Permit requirements found in Title 8 Zoning Regulations of the Duchesne County Code, provided that conditions are imposed.

1. The request is valid.

RECOMMENDATIONS

Recommended Motion: I move that the Planning Commission approve the Conditional Use Permit requested by Ken High, subject to the following conditions:

1. If signage is to be posted in the future, it must follow Duchesne County Code, Sections 8-9-14, 8-13-5-5-D. To be compatible with the character of the R-1 zoning district, signs must comply with the following:
 - a. Placed on premise only (includes on a gate or fence);
 - b. Are not internally lit;
 - c. Does not exceed 16 square feet per sign;
 - d. A sign may be attached to the residence, if:
 - i. Mounted flush to the face of the building,
 - ii. Is non-illuminated,
 - iii. Does not exceed 2 square feet in size.

2. Business operating hours must adhere to the Duchesne County noise ordinance (3-1-4-G).
3. The applicant shall request an inspection by the Duchesne County Department of Building Safety to ensure the required safety standards have been met as the building has been converted from the pole barn initially permitted to a woodworking shop. This inspection requires an additional fee paid to the Department of Building Safety and may require the issuance of a certificate of occupancy for the new use.
4. Upon obtaining Department of Building Safety approval, the applicant shall obtain a county business license.

Mike Gottfredson concluded presentation.

Jenny Giles asked if the planning commission had any questions?

Thomas Winterton asked if this is merely a hobby shop what is the reason for making Mr. High obtain a business license when his business is for his purposes only?

Mike Gottfredson responded saying it is because home occupations involving cabinet making requires a conditional use permit in the R-1 Zone.

Jenny Giles asked if there were any other questions? There were none.

Jenny Giles asked if the proponent, Ken High, would like to address everyone?

Ken High came to the podium. He explained that his business is mostly for hobby.

Jenny Giles asked if there were any opponents. There were none.

Jenny Giles closed the public comment.

Jenny Giles asked if there were any questions from the Planning Commission? There were none.

Annette Miller made a motion to approve the CUP based on the recommendations presented.

Shiloh Hatch seconded the motion. The motion passed unanimously.

Jenny Giles opened the public hearing regarding the request by 4C Farms LC, on behalf of Blue Diamond Proppants LLC, for a conditional use permit to operate a mobile industrial sands excavation and processing facility, located in the Arcadia area. Planning Commissioner Ken Richens left the dias and sat in the audience.

Mike Gottfredson presented the following:

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Blue Diamond Proppants, LLC (BDP) proposes to operate a mobile industrial sands excavation and processing facility in a project area of approximately 300 acres across six parcels owned by 4-C Farms, LLC (Charles L. Hansen, registered agent). BDP would excavate and process sand deposits between 5 and 20 feet in depth, reclaiming the ground post-excavation to usable agricultural and/or recreational land. Sand would be surface excavated, hauled to a mobile wet plant on-site, processed, then stockpiled for vendors to load and transport. The project area is

proposed as 7 phases, mined annually and in sequence. The mobile wet plant moves to each phase area each year. An estimated 600,000 tons of sand is expected to be processed each year, for an estimated 4.2 million tons over 7 years.

2. HISTORY OF EVENTS

September 11, 2023	The application was submitted.
September 11, 2023	The application was deemed complete.
September 19, 2023	Notice mailed to property owners within 300 feet of the subject property.
September 20 & 27, 2023	Notice of Public Hearing published in Uintah Basin Standard.
October 4, 2023	Planning Commission hearing.

3. DUCHESNE COUNTY ZONING CODE

8-13-1: SCOPE AND PURPOSE:

- A. Issuance: Conditional use permits may be issued as provided by this title for any of the uses for which a conditional use permit is required as identified in the table of uses and the table of site development standards, as set forth in Chapter 6 of this title.
- B. Purpose: The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.
- C. Conditions: A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed land use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use permit may be denied.

8-13-2: APPLICATION FOR PERMIT:

All requests for a conditional use permit shall be made on the application form provided by the county, detailing the nature of the conditional use request. The applicant shall also provide the necessary information identifying the purpose of the conditional use request, and all required information shall be provided to the planning office twenty-one (21) days prior to the planning commission meeting. The planning commission is authorized to render a final decision on the issuance of a conditional use permit following the review and receipt of a recommendation from the zoning administrator.

8-13-3: PUBLIC HEARING REQUIRED:

All applications for a conditional use permit shall be made in accordance with the provisions of this title, and shall be the subject of a public hearing held before the planning commission for which a minimum of fourteen (14) days' public notice has been provided and the planning staff notifying all property owners by U.S. mail within three hundred feet (300') of the proposed conditional use.

8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL:

A. Findings Required: 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.

Findings:

1. **Noise and Dust:** Surface mining can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from the operation of equipment, windblown dust, and dust from equipment movement.

If the applicants and operators comply with dust standards (administered by the TriCounty Health Department) and noise standards in the county nuisance ordinance, the proposal is less likely to be injurious to public health, safety, or welfare.

2. **Reclamation:** Detrimental impacts can also occur if the mining area is not reclaimed properly. The County has "Material Pit Finishing" standards that, along with the terms of the lease agreement with the property owner, and the Reconditioning Plan provided, will prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed.

3. **Water Pollution:** 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 storm water permit is required at this location.

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

4. **Public Improvements:** Surface mining and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially county roads. The proposed access to the mining area is as shown in the attached map.

5. **Wetlands:** There are several listed wetlands within the project area (see the National Wetlands Inventory). All will need to be avoided unless permission to disturb wetlands is obtained from the US Army Corps of Engineers or other agencies with jurisdiction.
6. **Roads:** Oil wells are currently being drilled in the vicinity, which is already placing heavy truck traffic on private access roads along with County and UDOT roads. Trucks serving this project would access the project area using private access roads on the 4-C Farms property. Trucks leaving 4-C Farms cross onto public roads at 5000 South [County Road #82]. Trucks would then access 12000 W (County Road 80). Trucks could then disperse either north or south and eventually connect with Highway 87 to the north or Highway 40, via East River Road (County Road 79). The applicant anticipates the majority of traffic to turn south and access Highway 40 at the Bridgeland intersection.

If the Duchesne County Road Department needs to apply weight restrictions to the haul routes on current or future County Roads, the applicants will need to adjust accordingly. Since road damage could occur, the applicants shall coordinate with the County to make repairs, as needed.

BDP anticipates 12 trucks operating at any given time- four at the project site, four at an active oil well site, and four in transit. Pursuant to the County's Transportation Master Plan, a Category I Traffic Impact Study would be required if truck traffic increases beyond the 100 new peak hour trip threshold. In addition, an increase in heavy truck traffic beyond 25% of normal operating volume is deemed "extraordinary use" and would trigger measures to improve the pavement structure of the used County road prior to its use by heavy trucks. It is advised that the applicants meet with the Duchesne County Road Department to discuss compliance with the Duchesne County Transportation Master Plan, including whether a traffic impact study, truck route plan, road maintenance agreement, and/or a road upgrade plan will be required before hauling begins from this location.

7. **Hours of Operation:** The applicant anticipates mining to occur 24-hours per day, but truck hauling to comply with the Duchesne County noise ordinance hours of operation.
8. **Surrounding Land Use:** Applicants are not allowed to mine at the project location within 660 feet of any residence unless a residential property owner agrees in writing to a lesser distance. Any residence within 660' of the project area as proposed will be avoided, or a separate agreement will be made with each residence owner. Surrounding property is private and Tribal sovereign land and is used for agriculture and energy development.

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.

Findings: 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 purposes of the Zoning Ordinance are set forth below:

8-1-2: PURPOSE:

A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent of this title to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;
3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses;
and

5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

Findings: If the applicant meets the conditional use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.

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.

Findings: The proposed mining would take place on the 300-acre project location, within the six properties owned by 4-C Farms, which is 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 grade. The applicants are also required to set the mining area back 660 feet from existing city limit lines and residential, educational, public, religious or commercial structures unless the property owner(s) grants a waiver. Aerial photos indicate that there are no city limit lines, educational, public, religious or commercial structures located within 660 feet of the mining area. There are some residential and temporary habitable structures within 660 feet of the project area. Any activity related in the execution of this proposed project must maintain the mentioned 660 feet distance, or the property owner (s) grant waivers before this proposed activity is to begin.

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.

B. Conditions:

1. In approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the county general plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. Minimum conditions shall be included for produced water disposal facilities, extraction of earth products and residential treatment or secure treatment facilities as indicated in section 8-13-5 of this chapter.
2. When approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

8-13-5-2: SURFACE OR SUBSURFACE MINING AND CRITICAL INFRASTRUCTURE MATERIALS OPERATIONS

- 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 Utah Department of Environmental Quality (DEQ) that contains an inventory of dust control equipment and procedures that will be used 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 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.

Findings: The applicants must obtain TriCounty Health Department approval of a dust control plan for this location. The applicant or authorized agent must follow this plan to control dust at active mining areas and driving surfaces, including haul roads. The County nuisance ordinance and Utah air quality rules require 24/7 dust control by applications of water and/or dust suppressants (such as magnesium chloride). There will be no rock crushing associated with this operation. If dust complaints received by Duchesne County, TriCounty Health, or DEQ, the mining operations shall cease until the event can be mitigated.

- 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.

Findings: The property owners have waived the bonding requirement.

- 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 Duchesne County Community Development Department are suggested for use in reclamation planning.

Findings: The County maintains “Material Pit Finishing Standards” used to determine how reconditioning is to be accomplished. The applicant/property owner is 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 applicant has provided a reconditioning plan which is included as an attachment to this report. The plan complies with the Material Pit Finishing Standards.

- 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.

Findings: The proposed surface mining excavation areas 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. The mining area boundary must maintain a 660 foot setback from the nearest residential, educational, public, religious or commercial structures, unless the owner(s) of such structures agree to a lesser distance.

8-13-6: TERM OF PERMIT:

Unless there is substantial action under a conditional use permit within a period of eighteen (18) months of its issuance, the permit shall be considered null and void.

8-13-7: REVOCATION OR MODIFICATION OF PERMIT:

A. Authority: If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall hold a public hearing on the question of modification or revocation of a conditional use permit granted under the terms and the provisions of this title.

B. Conditions: A conditional use permit may be modified or revoked if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit have not been met.

C. Modification by Planning Commission: Additionally, the conditions under which a conditional use permit was originally approved may be modified by the planning commission without the consent of the property owner or operator, if the planning commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should reclamation be necessary,

complete restoration, to such an extent that the area will not depreciate the surrounding property or impair the beauty of the landscape, shall be accomplished within a twelve (12) month time frame.

CONCLUSIONS

1. The request will comply with the Conditional Use Permit requirements found in Title 8 Zoning Regulations of the Duchesne County Code, provided that conditions are imposed.
2. The request is valid.

RECOMMENDATION

Recommended Motion: I move for the approval of the conditional use permit requested by 4-C Farms LLC, and Blue Diamond Proppants LLC, for the operation of a mobile industrial sands excavation and processing facility, on 300-acres of property owned by 4-C Farms LLC., located in the Arcadia area, subject to the following conditions:

1. The applicant shall control dust and noise so neither becomes a nuisance.
 - a. The applicant shall conform to the dust control plan approved by the TriCounty Health Department. The applicant shall provide dust control at all times by application of water and/or dust suppressants such as magnesium chloride. If there are any dust complaints received by Duchesne County, TriCounty Health, or Utah Department of Environmental Quality, the mining operations shall cease until the event can be mitigated.
 - b. The applicant shall comply with Duchesne County noise ordinances, and haul truck traffic 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). Mining may occur at all hours, unless complaints are received by Duchesne County.
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 applicant shall also follow their reconditioning plan submitted as part of this application.
3. Before starting excavation at the project location, the applicant shall obtain both a construction stormwater permit and an industrial stormwater permit, if required, from the Utah Department of Environmental Quality, Water Quality Division, and provide a copy to the County.
4. No wetland areas shall be disturbed unless permitted by the US Army Corps of Engineers or other authorities with jurisdiction. Several wetlands are listed within the project area, per the National Wetlands Inventory.

5. The applicant agrees to maintain a 50-foot-wide buffer between the excavation areas and the property lines and a 660-foot buffer between the excavation areas and any existing residences [unless the residential property owner(s) agree in writing to a lesser distance]. If the applicants are unsure of property line locations, they shall be determined by a licensed surveyor.
6. Applicants shall meet with the Duchesne County Road Department to discuss compliance with the Duchesne County Transportation Master Plan, including whether a traffic impact study, truck route plan, road maintenance agreement, and/or a road upgrade plan will be required before hauling begins from this location.
7. Applicants shall not use any current or future County road that is unapproved for haul truck traffic by the Duchesne County Road Department.
8. If the Duchesne County Road Department requires weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage is determined to be caused by trucks hauling sand, the applicants shall coordinate with the County to fund and make repairs.
9. The applicant shall contact the Utah Department of Transportation and inform Duchesne County, in writing, of any improvements UDOT requires to the intersection of Highway 87 and 12000 W., and Highway 40 and East River Road, due to increased haul truck traffic.

Mike Gottfredson concluded his presentation.

Jenny Giles asked if there were any proponents who would like to speak.

Logan Hibbard addressed the commission via on line. It was noted his title was the Productions Manager for Blue Diamond Proppants LLC which is based in Wisconsin. They are looking to grow and expand the company which is why they are looking at Utah. A couple things that were brought to the attention of the Planning Commission was when they did the noise study at their plant it was 3 to 5 times the size of Utah's site that they are proposing to do sand removal in Arcadia. When they did the noise study it came out really well for it not being a nuisance, therefore, they anticipate no problems in Arcadia with it's size being considerably smaller. When it comes to the dust control plan, they will use every avenue they can to mitigate the dust. Also within this area, they are looking to grow and not just stay at one location. They want to hire in the area and employ a lot of people from the area. They will have at least 15 – 20 direct employees that they will look to hire from the area, and they will have another 20 – 30 indirect 3rd party employees that they will also employ which will help boost the economy in the area. They are very excited to come and be part of the area.

Jenny Giles asked if there were any questions from the Planning Commission? There were none.

Jenny Giles asked for any other proponents who would like to come to the podium.

Charlie Hansen came to the podium and said he would like to address the roads. He stated that the plant does not sit on 4C Farm grounds. It sits on Ovintiv ground. Ovintiv built this pad in about 2013. It had two goliath tanks on it. They are 42,000 barrel tanks. There was a water transfer and

water was hauled in and hauled out for fracking. The roads that will actually access this plant come in at the south down by Ute Feeders. At that time, Newfield built a road all the way through Granita Park and comes out on the north side and comes out on 4000 South which XCL is using for a lot of rigs right now. The road is very well traveled. By doing this it will stop a lot of pollution and a lot more trucking because we are within $\frac{1}{4}$ - $\frac{1}{2}$ mile where they want to frack. It is a benefit environmentally and for Ovintiv because it saves on transportation. As far as the blowing sand situation, his heifer feed lot is right underneath there that runs west to east so the first person to complain about the sand would be me. As far as the noise, there already is oil field noise all the time. The sand lays to the south. It doesn't go to the north. The only people that would be affected by the noise would be Ovintiv.

Jenny Giles asked the Planning Commission if there were any questions?

Shiloh Hatch asked where the water comes from and if it comes out of Duchesne?

Charlie Hansen replied, "yes". It will either be culinary water or Ovintiv has some water that has been set aside for industrial use. The catch pond will be on us which is on there now. The pond will be lined and recirculated back and forth.

Jenny Giles asked if there were any other questions? There were none.

Jenny Giles asked if there were any other proponents who would like to speak?

Mike Dunsmore came to the podium. He stated that he is on both sides. He stated that on the map it was hard to see, but it appeared that one of the proposed routes was on 13000 West which is going past his property. There are two blind turns there. One turn is a one lane with a bunch of trees. They have almost been hit about 3 – 4 times within the last month by Maverik or Ovintiv. Charlie Hansen said earlier, there are other roads on the west side which would be better to have the traffic there. Also, regarding a reclamation bond: It would be a good idea as the roads are already very pot holed right now.

Mike Gottfredson stated that with the reclamation bond in our code is specific to the reconditioning of the site itself. It doesn't address any public road by itself. That money, generally, has just been held for the reclaiming of the site. To address if three of the conditions have a link to the roads it is for the applicant to work with our Roads Department to comply with our ordinances and to make sure our roads are adequate for the kind of traffic that comes down. This includes the width of the road, sight lines and those kinds of things.

Mike Dunsmore asked if this would be addressed later?

Mike Gottfredson stated that it will be addressed before operations.

Jenny Giles asked if there were any opponents?

Charles "Steve" Richens addressed everyone. He is the steward of the 20 acres on 13000 West. When people come down that lane it comes down through their property. The road is about 70 feet from their front door on their property to the center of that road. Steve Richens' concern is about the noise reduction and stated that it has nothing to do with the trucks. A big diesel truck

that is loaded with sand or dirt on a 24 hour project will create a problem for anyone who lives there. Steve Richens' question was, "who owns Blue Diamond Proppants? Who would we go to if we have a problem?" Steve Richens thinks it is wonderful to make money, but they just need someone who will look out for the little guy like himself.

Mike Gottfredson spoke up to clarify the time lines with the trucks operating. The 24 hour operation is only applicable to the wet plant onsite. Trucks won't be able to be outside of the normal business hours.

Jenny Giles asked if this is the blind corner on 13000 West that they were talking about?

Connie Sweat asked if they would come up and show us on the map where this will all take place? At this point, additional discussions ensued.

Jenny Giles asked if there were any other questions for Mr. Richens? There were none.

Jenny Giles asked if there were any other opponents? There were none.

Logan Hibbard offered a rebuttal saying they are a very small private company in Wisconsin. They jump through a lot of hoops there and they are more than willing to jump through any hoops here. Their company plays a huge role in making sure our neighboring properties are happy. They want to make sure if any one is unhappy with something that they know Blue Diamond Proppants, LLC can help them however they can. Another clarification made was they will be travelling up 5000 South out to 12000 West.

Charlie "Steve" Richens stood up at the podium and talked about how the 5000 South road is narrow that goes past their baby calves. Logan Hibbard, and I talked about using the road of Ovintiv that goes clear around.

At this time, Charlie Hansen showed the Planning Commission a map so they could understand what he was talking about when he talks about using the road of Ovintiv that goes around the property.

Mike Gottfredson clarified that in the end as part of the recommended conditions the different routes will be reviewed and anything that goes on record that is maintained by the county will need to be approved by the Duchesne County Road Department.

The role of our Planning Commission is to administer the zoning ordinance for Conditional Use Permits. Therefore, in providing these conditions the Planning Commission needs to provide conditions to make it compliant with the county code and that it complies with health safety and welfare. The code also has specific requirements for the Roads Department on what they are required to do as well. So as a Planning Commission we cannot say, with confidence at this time, that we can specify a route without the input of our Roads Department. Because there were no routes submitted to the Planning Commission as part of the application, it was left open and can be determined by the Roads Department, with the Planning Commission's recommendations, which routes would work best.

Mike Hyde, Community Development Director for Duchesne County, said there were a couple of recommendations for the Planning Commission to consider. One would be a slight amendment to Condition #6 on page 10 of the staff report. The Planning Commission could reword it to say, "The applicant shall meet with the Duchesne County Road Department and interested property owners to discuss roads to be used,". By doing this the Road Department and property owners as well as the applicant could sit down and put their heads together. Everyone could decide which roads to use and which roads not to use. The Planning Commission could recess the hearing as an option for more discussions or they could modify that condition of approval to allow for these discussions to occur later. There are two options the Planning Commission could consider at this time. If the Planning Commission amended the condition then the meetings would occur afterwards. The Planning Commission would want to make sure all the property owners who are involved are notified for further discussions in the future.

Jenny Giles asked if there were any other questions?

Connie Sweat asked Logan Hibbard if the water Blue Diamond Proppants, LLC will be hauling in meant that they will be having more than 12 trucks running? Logan clarified that they'll have the storage water pump as their main source of water. He said that their main source of water would continuously circulate throughout the plant. As they stock pile sand they are going to have a French drain system that continuously takes water from the pile of sand that they create back to this pond. They will continuously pull water from that pond and it will be a continuous cycle. They will lose some water in the sand that will be hauled away. If the sand comes out of the plant at 15% moisture, they try to get that sand down to about 3% moisture. If you calculate out the tons of sand we anticipate selling verses where it is in moisture content then when our company tries to sell it it will equal the amount of loss that will incur. After losing the water, it is calculated out to roughly 3 to 4 trucks of water per day in what is needed. In the 10-12 truck traffic, they have calculated this is what it will be. The hopes are that they can haul the water from Ovintiv property so it won't affect all the same roads.

Jenny Giles asked if Logan was willing to meet with these property owners? Logan Hibbard responded absolutely! Logan said he could meet with the concerned property owners on Tuesday, October 10, 2023 at 5pm. Logan said they'd take the property owners out to dinner to further discuss the matter.

Annette Miller asked if this is something that we needed to make sure the Road Department could attend?

Mike Gottfredson said it can happen with them or independent of it. We will coordinate with them and make sure there is someone to represent.

Sean Finnerty came to the podium and introduced himself as the plant manager for BDP. He stated that the road concerns that had been brought up were very valid. He explained he just hired on and has been out to the discussed roads twice. There are concerns, and there is another road that is well travelled by the current oil companies that may work better. There are recommendations we will look at and look at the issues brought up tonight.

Jenny Giles closed the public comment part of the meeting. She asked if the Planning Commission had any other questions? There were none.

Thomas Winterton stated that he would like to go on public record that he appreciates Blue Diamond for looking at Duchesne County to do business. He stated that he is excited to have new industry here. "I am in support of you being willing to meet with the property owners. It sounds like everybody is on the same page and that everyone just needs to get together and clarify which he appreciated very much."

Shon McKinnon moved to recess the request for a CUP by 4C Farms LC, on behalf of Blue Diamond Proppants LLC until all the interested parties can meet and work out some of the details to include some alternate or the applicant to name a preferred route which would put us to November 1, 2023.

Thomas Winterton commented that he is inclined to vote against this motion for the fact if the parties got together and they're all happy then he'd like to see them move forward without waiting another month to do so. Annette Miller and Connie Sweat agreed.

Jenny Giles asked if there was a second? There was not. The motion to recess the hearing failed.

Connie Sweat moved to approve the CUP for 4C Farms LC, on behalf of Blue Diamond Proppants LLC with the amendment to #6 strongly suggesting that Sean Finnerty and Logan Hibbard meet with the interested property owners and the Road Department and try to come to a mutual agreement. Thomas Winterton seconded the motion. The motion passed unanimously.

Business

Jenny Giles asked if there was any new business? There was none.

Minutes

Jenny Giles called for a motion regarding the September 6, 2023 Duchesne County Planning Commission Minutes.

Connie Sweat moved to approve the minutes.

Annette Miller seconded the motion.

The motion passed unanimously.

The meeting was adjourned at 6:42pm.