

DUCHESNE COUNTY PLANNING COMMISSION MINUTES

Duchesne County Administration Building, Commission Chambers

December 6, 2023 at 5:00 PM

Attending: Ken Richens, Connie Sweat, Tom Winterton, Jenny Giles, Tracy Killian, Logan Hibbard, Cindy Carlson, Mike Hyde, Mike Gottfredson.

- Meeting began at 5:00 PM.

- Recognition of Planning Commission members Ken Richens and Jenny Giles by County Commissioner Tracy Killian and Community Development Director Mike Hyde.

Public Hearings

- Recommendation to the Duchesne County Commissioners regarding a request by Mathew Bell for an amendment of the Duchesne County Zoning Map from A-5 Agricultural to A-2.5 Agricultural for Lot 6 of the Larsen Springs Agricultural Subdivision, located Northwest of Hanna.
 - Mike Hyde presented findings (see attached).
 - Mathew Bell spoke as proponent of the recommendation. Stated he pursued Hanna Water connection but deemed it infeasible due to distance and associated cost. Stated he has a well permit for both sides of the road crossing his property. Stated he is willing to rezone the 17 remaining acres back to A-5.
 - Mike Hyde referred the Planning Commission to three emailed statements of opposition to the zone change.
 - Ken Richens moved to approve the recommendation, and Tom Winterton seconded the motion. Motion carried 4-0.
- Request by Cindy Carlson for a conditional use permit to operate a short-term rental at 44415 W 6375 South (Saddleback Lane) in the Fruitland area.
 - Mike Gottfredson presented findings (see attached).
 - Cindy Carlson spoke as proponent of the request. Stated her family has owned the cabin for 21 years. Previously rented it to full-time renters. Her family has shot firearms at the site, but is ok to restrict short-term renters from shooting.
 - Mike Hyde noted a change in the recommendations, on Item 7, to change the word "ADU" to "cabin."
 - Ken Richens asked if applicant contacted TriCounty Health Department. Cindy Carlson said she had not yet contacted them.
 - Tom Winterton asked about an 18 month provision pertaining to bringing the on-site wastewater system into compliance.
 - Mike Gottfredson mentioned a complaint of an on-site shooting range. Cindy Carlson responded there was none.
 - Ken Richens asked if there was a problem with the septic system. Cindy Carlson said there was none.
 - Tom Winterton asked what kind of marketing she used? Cindy Carlson said she advertised online.
 - Darren Brown stated that any change of use requires a compliance inspection and the septic tank to be pumped.

- Connie Sweat moved to approve the request, with the change mentioned by Mike Hyde, and Ken Richens seconded. The motion carried 4-0.
- Request by Blue Diamond Proppants LLC for a conditional use permit to operate an industrial sands processing facility on property owned by Ovintiv USA Inc., in the Arcadia area.
 - Mike Gottfredson presented findings (see attached).
 - Mike Hyde noted current conclusion #2 could be removed since it did not apply.
 - Connie Sweat asked if there are only 12 trucks. Mike Gottfredson said 12 trucks but more than twelve trips. The Road Department only accepted 12 trips.
 - Tom Winterton stated his concern regarding the impacts on roads. He noted there is oil traffic already in the area. He also stated that this operation should not be unfairly assessed for damage done by others.
 - Darren Brown stated a Utah DEQ stormwater permit is needed and that a temporary wastewater facility is one year with renewal available based upon an inspection. Logan Hibbard replied that they estimated the operation to be 3-5 years.
 - Tom Winterton asked if the type of facility has changed? Logan Hibbard answered in the negative. Logan Hibbard stated that it takes two weeks to setup or takedown.
 - Logan Hibbard stated there would be a mobile office with a bathroom that has a tank with sensors. Commission Tracy Killian stated onsite systems would need to be removed after its use is done which adds to the cost.
 - Ken Richens moved to approve the request with the stated removal of conclusion #2, and Tom Winterton seconded. The motion carried 4-0.

New Business

- Consider the Planning Commission meeting schedule for 2024.
 - Tom Winterton moved to approve the 2024 schedule, Connie Sweat seconded. Motion carried 4-0.

Minutes

- October 4, 2023
 - Connie Sweat moved to approve the minutes, Tom Winterton seconded. Motion carried 4-0.

Information Only Items

- Mike Hyde and Mike Gottfredson noted to the Planning Commission upcoming ordinance amendments, such as a Subdivision Ordinance Update and an Airport Overlay update. Other projects noted were the potential award of a grant from UDOT to update the General Plan, a wetland inventory, Flood Insurance Rate Maps, and a new Transportation Master Plan.

- Meeting adjourned at 6:44 PM.

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

DECEMBER 6, 2023

REQUEST TYPE: Zoning Map Amendment

APPLICANT: Mathew Bell

PROPOSAL: Rezone 20.05 acres of land from Agricultural (A-5) to Agricultural (A-2.5)

LOCATION: Lot 6 of the Larsen Springs Agricultural Subdivision, located in Section 18, Township 1 North, Range 8 West, USM. The subject property is located along the North Fork Road, north of Highway 35, in the Hanna area.

ZONING DESIGNATION: Currently A-5, Proposed A-2.5

REPORT CONTENTS

FINDINGS OF FACT.....2

CONCLUSIONS.....5

RECOMMENDATION..... 6

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Mathew Bell owns Lot 6 of the Larsen Springs Agricultural Subdivision. The 20.05-acre lot is bisected by the North Fork Road, with approximately 2.9 acres located on the east side of the road and approximately 17.15 acres located on the west side. Mr. Bell would like to sell the 2.9 acres but is unable to do so due to the current 5.0-acre minimum lot size in the A-5 zone. He could sell a 5.0-acre lot bisected by the county road; however, that would require a variance to the county subdivision ordinance (lots less than 20-acres in size are not to be bisected by a road).

Rather than rezone one lot; staff proposed that the entire subdivision be rezoned to give the property owners flexibility to create smaller lots in the future. However, none of the other owners in the subdivision expressed interest in joining the rezone request.

The subdivision is within the Hanna Water District boundary and water could be extended in the future, which would then enable the creation of lots down to one acre in size.

Division of existing lots in the Larsen Spring Agricultural Subdivision would require a plat amendment survey and approval by the TriCounty Health Department and Duchesne County.

2. HISTORY OF EVENTS

September 12, 2023	The application was submitted.
November 6, 2023	The application was deemed complete.
November 16, 2023	Notice mailed to property owners within the rezone area and within three hundred feet (300') of the subject property.
November 22 & 29, 2023	Notice of hearings published in the Uintah Basin Standard.
December 6, 2023	Planning Commission hearing.
December 18, 2023	County Commission hearing.

3. DUCHESNE COUNTY ZONING CODE

8-1-7: AMENDMENTS TO TITLE AND MAP:

A. Application: A proposed amendment to this title and map may be initiated by any property owner, any person residing in the county, any business owner, the county commission, planning commission, board of adjustment or the county staff by filing an application for zoning ordinance and map amendment.

B. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

1. The County shall give:

- (a) Notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
- (b) Notice of each public meeting on the subject.

2. Each notice of a public hearing under Subsection (1)(a) shall be:

- (a) Mailed to each affected entity at least 10 calendar days before the public hearing;
- (b) Posted:

- (i) In at least three public locations within the county; or
 - (ii) On the county's official website; and
 - (c) (i) Published:
 - (A) In a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 - (B) On the Utah Public Notice Website at least 10 calendar days before the public hearing; or
 - (ii) mailed at least 10 days before the public hearing to:
 - (A) Each property owner whose land is directly affected by the land use ordinance change; and
 - (B) Each adjacent property owner within 300 feet of the boundary of the rezone area.
- 3. Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:
 - (a) In at least three public locations within the county; or
 - (b) On the county's official website. **Findings: The required public notice has been published in the newspaper, mailed to property owners and posted on the county website.**
- 4. (a) If a county plans to hold a public hearing in accordance with Section 17-27a-502 of the Utah Code to adopt a zoning map or map amendment, the County shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least 10 days prior to the scheduled day of the public hearing.
 - (b) The notice shall:
 - (i) Identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
 - (ii) State the current zone in which the real property is located;
 - (iii) State the proposed new zone for the real property;
 - (iv) Provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
 - (v) State that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
 - (vi) State the address where the property owner should file the protest;
 - (vii) Notify the property owner that each written objection filed with the county will be provided to the municipal legislative body; and
 - (viii) State the location, date, and time of the public hearing described in Section 17-27a-502 of the Utah Code.
 - (c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map

amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately. **Findings: The applicant and the other owners in the Larsen Springs Agricultural Subdivision have been mailed proper notice. Three additional property owners within 300 feet of the affected area (including the US Forest Service and the Ute Indian Tribe) have been sent a mailed notice of the public hearings.**

5. The Planning Commission shall consider all written objections received during the public hearing process and forward a copy of all such objections to the County Commissioners.

C. Criteria for Approval: In considering a proposed amendment to the zoning ordinance and map, the applicant shall identify, and the planning staff, planning commission and the county commission shall consider, the following factors:

1. The overall community benefit of the proposed amendment;

Findings: The county zoning map, in the Tabiona/Hanna area, provides for smaller lots (one acre minimum) along Highway 35 where culinary water hookups are available. Then, for roughly a mile on each side of the Highway 35 corridor, the zoning is Agricultural (A-2.5) with a 2.5-acre minimum lot size. Farther away from the Highway 35 corridor, the zoning becomes Agricultural (A-5) with a five-acre minimum lot size. This zoning scenario places higher densities along major transportation and utility corridors with lower density moving away from those corridors. This approach is deemed to have community benefit as it fosters orderly development. In this case, the proposal aligns with this approach as the rezoned lands lie along a major county road and within the boundaries of the Hanna Water District.

2. Consistency with the goals and policies of the general plan;

Findings: The General Plan contains the following statements regarding private land use:

“Duchesne County feels that residential, commercial, and industrial development on private land should be allowed to continue in a responsible manner and in locations that contribute to the economic and social well-being of County residents. The County will continually review and amend its existing ordinances as necessary to accurately and adequately reflect the land-use preferences of Duchesne County residents.”

“The County supports orderly and responsible residential, commercial, industrial, and recreational growth and feels that there are areas within the County suited to accommodate these types of development.”

“Duchesne County, through its zoning ordinance, encourages a mixture of land uses which helps shorten commuter trips, reduces vehicle miles traveled (VMT), encourages walking and biking and reduces energy consumption.”

The rezoning criteria of Section 8-1-7 of the zoning ordinance are established to aid the Planning Commission and County Commissioners in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.

3. Compatibility with the neighborhood;

Findings: The neighborhood is characterized by U.S. Forest Service land to the north, west and east of the Larsen Springs subdivision and Ute Indian tribal land to the south. There are private lands between the site and Highway 35 that are recreational in nature, with the exception being the Stockmore Ranger Station. Under this proposal, the zoning would remain agricultural; only the minimum lot size would change (from 5.0 acres to 2.5 acres). The nature of the proposed change is not expected to cause incompatibility with other land uses in the neighborhood.

4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted;

Findings: The neighborhood has changed somewhat since the current zoning was established in the late 1990s. Some recreational or second home uses have been established on previously vacant parcels to the south along Highway 35 and the North Fork Road. The Larsen Springs Agricultural Subdivision was a major change; creating nine new lots in 2009. A more recent change saw the U.S. Forest Service transfer ownership of certain surplus portions of the Stockmore Ranger Station to the Ute Indian Tribe. The proposed rezoning would facilitate the continued slow development of recreational uses in the area.

5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties; and

Findings: Lands to the north, west and east of the subdivision are managed as part of the Duchesne Ranger District of the Ashley National Forest. Lands to the south of the subdivision are mostly owned by the Ute Indian Tribe. There are some private lands along the North Fork Road that are predominately vacant or secondary residential/recreational parcels. None of the uses of adjoining properties would be adversely affected by the proposal.

Land uses allowed in the A-2.5 zone are very similar to those allowed in the A-5 zone. However, according to the Table of Uses in Section 8-6-1 of the zoning ordinance, certain land uses that are permitted outright in the larger lot size zone (A-5) typically require a conditional use permit in the smaller lot size zone (A-2.5). There are some land uses (such as airstrips, cemeteries, concentrated animal feeding operations, industrial uses, junkyards, livestock auctions, produced water disposal facilities, sawmills and mining operations) that are allowed in the A-5 zone conditionally but not

allowed in A-2.5 due to the opportunity for smaller lot sizes and resulting incompatibility.

6. Consider the interest of the applicant.

Findings: The interest of the applicant is to rezone the property and enable the sale of approximately 2.9 acres of land on the east side of the North Fork Road; facilitated by the 2.5-acre minimum lot size of the proposed A-2.5 zone.

D. Effect of Amendment: An amendment to the zoning ordinance and map shall not authorize the development of land. After an amendment has been approved by the county commission, no development shall occur until the required development permits and licenses have been issued by the county.

CONCLUSIONS

1. The request complies with the Zoning Map Amendment criteria of the Duchesne County Zoning Code.
2. The request is valid.

RECOMMENDATION

Recommended Motion: I move that the Planning Commission adopt the findings and conclusions herein and recommend the County Commissioners' approval of this rezone, requested by Mathew Bell, changing 20.05 acres of land from Agricultural (A-5) to Agricultural (A-2.5).

Mike Hyde, AICP
Community Development Director

DUCHESNE COUNTY PLANNING COMMISSION MEETING

DECEMBER 6, 2023

REQUEST TYPE: Conditional Use Permit
APPLICANT: Cindy Carlson
PROPOSAL: Short-term rental
LOCATION: 44415 W. Saddleback Road, Fruitland
ZONING DISTRICT: R-1

REPORT CONTENTS

FINDINGS OF FACT	2
CONCLUSIONS.....	7
RECOMMENDATION.....	7

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Cindy Carlson is proposing to operate a short-term rental on her property in the Fruitland area. Short-term rentals fall within the definition of a “Resort Lodge,” *[A facility, including either a single building or resort cabins, which serves as a destination point for visitors, and generally has accessory recreational facilities for the use of guests. Guest residency is limited to no more than ninety (90) days]*. Resort Lodges, including short-term rentals, are allowed in the R-1 zoning district with a conditional use permit.

2. HISTORY OF EVENTS

November 13, 2023	The application was submitted.
November 15, 2023	The application was deemed complete.
November 22, 2023	Notice mailed to property owners within 300 feet of the subject property.
November 22 & 29, 2023	Notice of Public Hearing published in Uintah Basin Standard.
December 6, 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: Gunfire has been noted by neighbors to the applicant's property at various times of the year. Shooting firearms for sport or operating a shooting range are commercial uses that can be detrimental or injurious to property or improvements in any vicinity, and could be detrimental to public health, safety, or general welfare, and are not uses included in the definition of a short-term rental. The applicant discourages these specific activities on the property as part of the proposed short-term rental. It is recommended to the Planning Commission to have the applicant continue to discourage and forbid the shooting of firearms for sport or the operation of a makeshift shooting range on the property to potential guests in the strongest possible terms.

Water and wastewater facilities are in place. Water is served by Fruitland Water. There is no recorded onsite wastewater permit, and TriCounty Health requires an onsite wastewater permit for all habitable dwellings. Obtaining written approval from TriCounty Health will mitigate potential public health detriments.

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 new accommodations business would be supported and more housing opportunities provided in a manner that does 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 subject property is 10.00 acres in size and includes a cabin and accessory storage structure. The cabin is the only structure proposed to be used as a short-term rental. The nearest dwelling is just over 300 feet to the southeast. Surrounding land uses are residential and/or agricultural.

The property and cabin are of sufficient size and dimension to accommodate a short-term rental. The business can operate in a manner that is not detrimental to surrounding property owners if noise is controlled pursuant to the Duchesne County Nuisance Ordinance and trespass by rental guests is discouraged.

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: There is no significant outdoor storage of equipment or other materials associated with the short-term rental. No fence is present. Applicants should educate clients to not trespass onto properties in other ownerships, and signage or fencing should be considered to indicate property boundaries as a condition for approval.

- 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: There is safe public access to the property from 6375 S., or Saddleback Road. (County Road #396). The parking area is sufficient for up to two (2) vehicles but appears to cross on to the lot east of the applicant's property. The driveway and parking area is graveled.

- 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: The property is accessed from 6375 S. (Saddleback Road) in Fruitland, which is a graveled County road (CR#396).

Water: The property is supplied by Fruitland Water. The proposed short-term rental will have a similar impact on water usage as a single-family dwelling. The water system must remain in operating order and in compliance with the Utah Division of Drinking Water rules for the property to be used for short-term rental. The Fruitland Water system is compliant at this time.

Sewer: The property has an onsite wastewater disposal system, but does not have an onsite wastewater permit on file with TriCounty Health Department. Written approval from the County wastewater authority (TriCounty Health) is required prior to the operation of this property as a short-term rental.

Fire: The cabin will meet R-3 Owner Occupied Lodging House and R-3 Boarding Transient House provided that certain smoke and CO detectors are provided (see Short Term Rental Restrictions for Single Family Dwellings attachment). These standards limit each dwelling unit to five guest rooms and ten total guests. The cabin has one bedroom space and will accommodate no more than 10 guests.

D. Signs: Regulation of signs.

Findings: There is a sign currently posted at the entrance of the property (see photos). All signage must comply with Duchesne County ordinances (Title 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: This business is not anticipated to generate significant amounts of noise. The applicant proposes to instruct guests to respect adjacent property owners and not create noise problems.

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.

Mitigating gunfire noise is problematic without on-site host enforcement.

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

Findings: As indicated in the ADDITIONAL CONDITIONS SPECIFIED Section E, the applicant is required to follow the Duchesne County noise ordinance regulating operating business hours.

Applicant anticipates renting the cabin all year for periods less than 30 days. Utah Code Section 17-50-337 defines "Short-term rental" as a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days. Any operator of short-term rentals in the State of Utah must comply with this code.

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

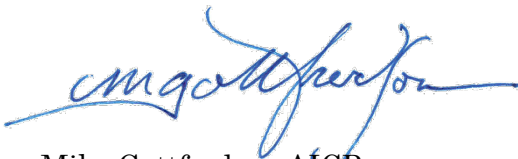
Recommended Motion: I move that the Duchesne County Planning Commission approve the Conditional Use Permit requested by Cindy Carlson, subject to the following conditions:

- 1. A Duchesne County business license shall be obtained and maintained for the duration of this conditional use permit.
- 2. The Transient Room Tax [TRT] shall be collected from guests.
- 3. Ingress/egress and the parking area shall be maintained to WUI code standards.
- 4. WUI code defensible space around structures shall be maintained at all times.
- 5. The “Short Term Rental Restrictions for Single Family Dwellings” document established by the Duchesne County Building Official shall remain in force for the duration of this conditional use permit. To ensure compliance and prior to occupancy

by the public, the applicant shall request an inspection by the Department of Building Safety to ensure that the required safety standards have been met. This inspection has an additional fee paid to the Department of Building Safety.

6. Applicant shall inform clients of the Duchesne County noise ordinance standards and the property boundaries to deter noise nuisances and trespassing.
7. Applicant shall comply with Utah Code Section 17-50-337, while the cabin is offered for short-term rentals.
8. If signage is proposed in the future, it must follow Duchesne County Code (Title 8-9-14, 8-13-5-5-D). As such, 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 ft² in size;
 - d. A sign may be attached to the ADU, if:
 - i. mounted flush to the face of the building,
 - ii. is non-illuminated,
 - iii. does not exceed 2 ft² in size.
9. Guests are prohibited from shooting firearms for sport or operating a makeshift shooting range. The applicant shall continue to inform guests in the strongest possible terms of this recommended condition for approval conspicuously online and on-site.
10. Applicant is required to obtain written approval of the cabin's onsite wastewater system by the County's wastewater authority, TriCounty Health, prior to operation of the cabin and property as a short-term rental.
11. Signs shall be placed along or in front of all property boundaries adjacent to private lands in conspicuous locations informing guests of the property boundary location, or a fence shall be placed along said boundary. The applicant should consult with a surveyor if the property boundary is not evident.

Respectfully submitted:



Mike Gottfredson AICP
Deputy Director of Community Development

**DUCHESNE COUNTY
PLANNING COMMISSION MEETING
DECEMBER 6, 2023**

REQUEST TYPE: Conditional Use Permit
APPLICANT: Ovintiv USA Inc.
& Blue Diamond Proppants, LLC
PROPOSAL: Mobile Industrial Sands
Processing Facility
LOCATION: About 16 acres of Parcel # 00-0007-
7226 in Section 18, Township 3
South, Range 3 West, in Arcadia.
ZONING DISTRICT: A-5

REPORT CONTENTS

FINDINGS OF FACT2
CONCLUSIONS8
RECOMMENDATION.....8

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Blue Diamond Proppants, LLC (BDP) proposes to operate a mobile industrial sands processing facility in a project area of approximately 16 acres on Parcel # 00-0007-7226, owned by Ovintiv USA Inc., and located within the A-5 zoning district. As an industrial use, the proposed operation is permitted within the A-5 zoning district with a conditional use permit. BDP would process sand excavated on lands in the vicinity previously approved for industrial sand excavation, using a mobile wet plant. Processed sand would then be stockpiled for transport. 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

November 14, 2023	The application was submitted.
November 14, 2023	The application was deemed complete.
November 21, 2023	Notice mailed to property owners within 300 feet of the subject property.
November 22 & 29, 2023	Notice of Public Hearing published in Uintah Basin Standard.
December 6, 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:** Processing industrial sands can be detrimental in terms of noise and dust during operations. Noise comes from the operation of equipment, and dust comes from equipment movement and winds on stockpiles and the project site.

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. **Water Pollution:** Detrimental impacts can occur if operations of a processing facility 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 drinking water source protection zone.

3. **Public Improvements:** Processing industrial sands and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially county roads. The proposed access to the processing facility is as shown in the attached map. Regarding County road impacts, the applicant met with and received approval from the County Road Department for up to 12 trucks per day.
4. **Wetlands:** There are several listed wetlands within the project property, and may even cross into the project site (see attached map

and 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.

5. **Roads:** Oil wells are currently being drilled in the vicinity, which is already placing heavy truck traffic on private access roads, public access roads, along with County and UDOT roads. Trucks for this project access the project area using private access roads on the 4-C Farms and Ovintiv USA Inc. properties.. Trucks leaving 4-C Farms cross onto public roads at 4000 S., a Class D road not maintained by Duchesne County. Trucks would 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 most of the 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 well sites, and four in transit. As stated, BDP received approval from the County Road Department for up to 12 trucks per day. 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 affected County roads prior to use by heavy trucks.

6. **Hours of Operation:** The applicant anticipates processing to occur 24-hours per day, but truck hauling to comply with the Duchesne County noise ordinance hours of operation.
 7. **Surrounding Land Use:** Surrounding property is private 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 approximately 16 acres of a 240-acre parcel owned by Ovintiv USA Inc., which is large enough to accommodate the proposed use.

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.

8-13-5-5: ADDITIONAL CONDITIONS

A. Landscaping, Design

Findings: no landscaping is required to buffer the proposed use from surrounding uses, as the surrounding uses are agricultural and energy development related.

B. Parking

Findings: Plant site plans indicate adequate room for the parking of operations personnel. Ingress and egress locations are already established as the plant site is a previous oil well pad.

C. Streets, Water, Sewer, Fire Protection:

Findings:

- a. **Street access is provided by class “D” roads, maintained under the supervision of the property owner, Ovintiv USA Inc. These roads connect to other class “D” roads maintained under the supervision of 4C Farms LLC, and then connect to County roads in the Arcadia area. See Findings A-1-3 on page 3 and A-1-5 on page 4 for further information.**
- b. **Water is provided through pipe and truck hauling, is sourced by Ovintiv USA Inc. or through private purchase by the applicant and is stored on site.**
- c. **No permanent wastewater facilities are proposed as part of this application. Temporary on-site wastewater facilities are proposed to support operators and personnel. These temporary facilities will require wastewater authority (TriCounty Health) approval.**

d. Fire Protection: Fire protection will be addressed during the building permit process.

D. Signs:

Findings: BDP did not indicate the posting of any signs as part of this project. Signs must be approved by the Community Development Office, and may need to be approved by the Department of Building Safety also, prior to installation.

E. Nuisances:

Findings: The applicants must obtain TriCounty Health Department and DEQ 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). If dust complaints received by Duchesne County, TriCounty Health, or DEQ, the mining operations shall cease until the event can be mitigated.

F. Operating Hours:

Findings: see Finding A-1-6 on page 4.

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 Ovintiv USA Inc. and Blue Diamond Proppants LLC for the operation of a mobile industrial sands processing facility, on approximately 16 acres of Parcel # 00-0007-7226, 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 industrial sand processing 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 shall occur at all hours, unless complaints are received by Duchesne County.
2. 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.
3. 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 property boundary, per the National Wetlands Inventory.
4. If truck haul traffic increases beyond 12 trucks per day, 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 for hauling to continue from this location.

5. Applicants shall not use any current or future County road that is unapproved for haul truck traffic by the Duchesne County Road Department.
6. 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.
7. The applicant shall contact the Utah Department of Transportation and inform Duchesne County, in writing, of any improvements, if any, UDOT requires to the intersection of Highway 87 and 12000 W., and Highway 40 and East River Road, due to increased haul truck traffic.
8. Building permits are required for applicable structures prior to operation.
9. Approval from TriCounty Health Department (the County's wastewater authority) is required for all wastewater facilities prior to operation.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "m gottfredson". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Mike Gottfredson AICP
Deputy Director of Community Development
Duchesne County