

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

OCTOBER 7, 2015

REQUEST TYPE:	Conditional Use Permit
APPLICANT:	Chance & Dana Fillingim for Steven Lamb (Black Sheep Oilfield Services, LLC)
PROPOSAL:	Trucking terminal and shop
LOCATION:	5721 West 9000 South, in Section 3, Township 4 South, Range 2 West in the Pleasant Valley area
ZONING DESIGNATION:	A-5 (R-1 with Johnson Water connection)

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicants are proposing to operate a trucking terminal and shop from an existing agricultural shop building at the subject location. Black Sheep Oilfield Services has seven semi-trucks and trailers that are used to haul salt, potash and frac sand from suppliers in Moab, Wendover and Craig to oilfield sites in the region. Many of the trucks are serving the energy industry in Wyoming and will not be present at the Fillingim site on a daily basis. The business has seven employees, but usually only two will be present at the site during the day. "Light duty" maintenance of trucks and trailers is planned for the shop building. Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones.

The applicants applied for a conditional use permit for a trucking terminal and shop at this location in 2009. Approval was recommended, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. Rock shall be applied to the driving surfaces as needed to minimize dust and minimize the tracking of mud onto 9000 South.
2. Prior to conducting business at this site, the applicant shall obtain a Duchesne County business license for this location.
3. Signage shall be limited to 32 square feet in size and be located on the applicant's private property or off-premises by written agreement with the property owner. Pole signs require a building permit.
4. There shall be no fuel storage at the site unless the Duchesne County Fire and Emergency Management Director approves a permit for such storage.
5. The applicant shall work with the Duchesne County Fire and Emergency Management Director to provide an acceptable means of fire protection at the facility.
6. The property owners shall sign a Dedication Deed providing 33 feet of the standard 66-foot right of way for the public road (9000 South) along their property frontage.
7. The property owners shall improve 9000 South (County Road #245) to a standard suitable for heavy truck traffic (24-foot wide pavement, with two three-foot shoulders and an adequate road design approved by the Road Department).

At the April 1, 2009 Planning Commission meeting, the applicants elected to withdraw their request, citing objections from neighbors, the county noise ordinance limitations and the cost of improving the County Road.

2. HISTORY OF EVENTS

September 17, 2015	The application was submitted.
September 18, 2015	The application was deemed complete.
September 18, 2015	Notice mailed to property owners within 300 feet of the subject property.
September 22 & 29, 2015	Notice of Public Hearing published in the Uintah Basin Standard
October 7, 2015	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: Public health, safety and welfare issues potentially associated with this business include noise, fire danger and traffic safety issues. Regulating hours of operation should be considered to ensure that early morning or late night noise does not bother nearby residents. Conditions should be imposed to ensure that adequate fire protection measures are in place for the truck shop and any potential fueling facilities. No hazardous materials will be stored at the site. Conditions should be imposed to ensure that truck traffic can enter and leave the property without generating bothersome compression brake noise.

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. In light of these plan policies, the Conditional Use request should be approved to support the creation of a new business site, provided that conditions of approval are imposed to protect rural residential and agricultural interests in the area.

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 21 acres in size. The truck shop is proposed to be located in an existing agricultural shop building, which has a large gravel parking area surrounding it. The Fillingims own the three closest homes. The Bill Fausett home is about 350 feet northwest of the shop. The Jeremy Wilde home is about 710 feet northwest of the shop. The Bert Jenson home is about 1,200 feet southeast of the shop. The Brent Fenn home is about 1,420 feet southeast of the shop. Business trucks would drive by the Fausett and Wilde homes. The Fausett home is close to the road but the Wilde home is set back 300 feet from 9000 South. If conditions are imposed, the proposed use should 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 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: The property contains an existing 60 x 100 foot shop building and a large graveled yard surrounding it. The property is fenced with a six foot chain link fence, with a gated entrance. The property is well maintained, with effective weed control. Numerous trees exist on the north side of the county road and on the Fillingim property to the west of the shop. No additional fencing or landscaping is necessary in this case.

- 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: The shop is set back approximately 160 feet from the county road and about 100 feet from the south, east and west fence lines, which provides plenty of space for vehicle ingress and egress and parking of the large trucks/trailers and their one-ton service truck. The driveway and parking areas have a gravel surface that appears adequate for all-weather use. Conditions should be imposed to ensure that this surface is maintained in a manner that reduces the tracking of dirt, mud and rock onto the county road.

- 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: County Road #245 (9000 South) was repaved a few years ago and is in much better condition to accommodate heavy truck traffic than it was in 2009. The new road was designed to accommodate traffic from oil wells that were anticipated to be drilled in the vicinity. The applicant states that trucks will be empty the majority of the time as they enter or leave the Fillingim site. A letter has been received from the County Road Department stating that they have no objection to the proposed use on this road.

The property is served by the Johnson Water District, via a four-inch water line. This line is sufficient to meet the culinary water needs of the proposed facility. For fire protection, the applicants will need to submit a plan to the Fire Chief and Building Official, receive approval of such plan and complete the required improvements before occupancy of the building. The applicants state that they do not plan to have fueling facilities onsite. If they change their mind in the future, such fueling facilities will need to be reviewed and approved by the County before being put into use.

The proposed shop will be served by a septic system that was inspected by the TriCounty Health Department on September 11, 2015. The septic tank was pumped on September 9, 2015 and has been approved for use by up to seven employees or 105 gallons of wastewater per day.

D. Signs: Regulation of signs.

Findings: The applicant has provided no plans to erect business signs for this location. If signage is installed in the future, signage should be limited to one on-premise sign, 32 square feet or less in size, to help maintain residential-agricultural character of the area.

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: The county nuisance ordinance sets forth the following noise standards for motor vehicles:

G. Noise Disturbances:

1. The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:

a. Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.

d. The use of any mechanical device, operated by compressed air, steam, gasoline or otherwise, unless the noise created is in connection with work being done by authorized agencies or an agricultural activity and/or is effectively muffled between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M.

Based on the standard above, no vehicles associated with the business may generate nuisance noise, which is noise audible in a dwelling unit off the property, later than 9:30 PM or earlier than 7:00 AM.

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

Findings: Operating hours should be limited to 7 AM to 9:30 PM to help prevent the generation of nuisance noise impacting nearby residents.

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 of the Duchesne County Zoning Code, provided that conditions are imposed.
2. The request is valid.

RECOMMENDATION

Recommended Motion: I move that the Planning Commission approve the Conditional Use Permit requested by Chance & Dana Fillingim for Steve Lamb (Black Sheep Oilfield Services, LLC), subject to the following conditions:

1. Owners and operators agree that operating hours shall be limited to 7 AM to 9:30 PM to help prevent the generation of nuisance noise impacting nearby residents.
2. Owners and operators agree that compression brakes shall not be used on 9000 South or on the Pariette Road approaching 9000 South.

3. Owners and operators agree to maintain sufficient base rock and gravel in parking and driveway areas to maintain an all-weather surface and avoid rutting and tracking of dirt, mud and rock onto 9000 South.
4. Owners and operators agree to limit any future business signage on the premises to one sign not to exceed 32 square feet in area.
5. Owners and operators of the proposed business agree to obtain a Duchesne County business license before moving to this location and maintain this license in effect during the course of operations.
6. Owners and operators agree to prepare and submit a fire protection plan to the Fire Chief and Building Official. Once the plan is approved, the fire protection improvements shall be completed and accepted by county fire and building officials prior to occupancy of the building.
7. If fueling facilities are to be provided at this location, owners and operators agree to submit plans and obtain approval of such facilities from the County fire official prior to accepting or dispensing fuel.

Mike Hyde, AICP
Community Development Administrator

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