

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
October 7, 2015 - 5:00 p.m.**

**In Attendance were:**

Ken Moon, Planning Commission, Chairman  
Kathy Giles, Planning Commission  
John Jorgensen, Planning Commission  
Allen Lindsay, Planning Commission  
Brad Wells, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Steven Lamb	Black Sheep Oilfield-CUP
Deb Lindsay	
Chance Fillingim	Black Sheep Oilfield-CUP
Dana Fillingim	Black Sheep Oilfield-CUP
Diane Jenson	Black Sheep Oilfield-CUP
H. Bert Jenson	Black Sheep Oilfield-CUP

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

**PUBLIC HEARINGS:**

**Request by Chance & Dana Fillingim for a Conditional Use Permit to operate a truck shop for Black Sheep Oilfield Services LLC, on a 21-acre parcel located at 5721 W 9000 South, in the Pleasant Valley area.**

Mr. Hyde explained 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. Mr. Hyde stated the applicants applied for a conditional use permit for a trucking terminal and shop at this location in 2009. Mr. Hyde stated approval was recommended at the April 1, 2009 Planning Commission meeting; however, the applicants elected to withdraw their request, citing objections from neighbors, the county noise ordinance limitations and the

cost of improving the County Road.

The three conditional use criteria are as follows:

- 1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.**

Mr. Hyde stated the 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.**

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.

Mr. Hyde stated 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.**

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.

Some additional conditions may include the following.

**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.**

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.**

Mr. Hyde stated 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.**

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.

Mr. Hyde stated 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.**

The applicant has indicated there are 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.**

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

*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.*

*b. 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.**

Mr. Hyde stated operating hours should be limited to 7 AM to 9:30 PM to help prevent the generation of nuisance noise impacting nearby residents.

Mr. Hyde's recommendation is 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.

Mr. Hyde referred the Planning Commission to their packets and some site photos of the location and noted the condition of the building, the fencing and the parking area. Mr. Hyde asked if there were any questions of the staff report.

Commissioner Jorgensen stated there will not be enough water for a fire hydrant for at least another year. Johnson water does not have enough money to increase the size of the water line.

Mr. Hyde noted a letter has been received from Jones and DeMille Engineering stating the current water flow will not support a fire hydrant or a sprinkler system at this time.

There were no other questions. Chairman Moon invited the applicant to speak.

Chance Fillingim, applicant and property owner stated he has no problem working with the fire marshal, building inspector, planning and zoning and TriCounty health department to meet the requirements. Mr. Fillingim indicated they have made several improvements to the existing shop including road base to improve the appearance of the yard and prevent mud and installing a 6 foot fence for building safety. They feel the building is large enough for Black Sheep's needs at this time and with the economy in a downturn this is a good solution for everyone involved. Mr. Fillingim stated they are willing to work with the county and abide by the conditions for approval but still be sensitive to the interests if the neighborhood of which my family is a part of that.

Steve Lamb, co-applicant and owner of Black Sheep Oilfield Services, LLC, stated they are a small company working mostly out of Casper, Wyoming. With oil prices as they

are, he can't afford to build a new building and renting this shop from the Fillingims seems to work for both of us. Mr. Lamb stated the trucks will only be there part of the time at which time they will service them and do light maintenance. Mr. Lamb stated Scott Harvey and Sheilds trucking are already in the area. He wants to be a good neighbor and will make sure his drivers abide by the conditions of approval.

Chairman Moon asked if there were any questions. There were none and with no one else in the audience to speak in favor of the applicant's request those in opposition were invited to speak.

Bert Jensen, an adjoining property owner stated he is representing the neighborhood (approximately 10 families) and they feel the same way as they did in 2009. There are many reasons a truck shop should not be in this neighborhood. The neighbors were there first. It is a quiet, peaceful area and should stay that way. The Fillingims first built an ag building then turned it into a shop and applied for a CUP in 2009 and because of the neighborhood protests, they withdrew their application. There are many industrial areas to have a shop where your business can grow. Not in a residential area with school bus stops, small children and a busy county road with no truck safety implemented. Mr. Jensen stated since the Pariette road has been improved there have been several accidents including one death because of speeding, increased traffic and drivers just not paying attention. There are no signs for a school zone, or prohibiting jake brakes. There are no traffic lights and with a speed limit of 50-60 mph which means there is going to be an accident.

Mr. Jensen discussed in great length his concerns and the need for the Planning Commission to deny the applicant's request.

Commissioner Wells stated maybe there could be some signs added along the Pariette road. It is well known if the speed limit is 40 many people push it to 60.

Chairman Moon asked if there were any other comments. There were none.

Mr. Hyde read the e-mails he received from the Fausett's, Fenn's and the Crooks who all are neighbors.

Mr. Fillingim was asked if he wanted to speak in rebuttal.

Dana Fillingim, the applicant, stated there have not been any accidents on their road and people in general just need to slow down and pay attention; including Mr. Jensen. They have spoken to the neighbors of which some of them have their own oilfield trucks and equipment and in general they are all ok with the shop being there. Even if the neighbors don't like the truck shop, the oilfield is already in the neighborhood with their locations and trucks. Mrs. Fillingim stated if everybody abides by the laws we should be able to get along.

Mrs. Fillingim stated the kids in the area are her children and grandchildren. She won't take this lightly and they will take precautions to make her family safe. The accidents have, with the exception of one, been near misses and had the drivers been paying attention to their speed and the conditions they might not have happened. We live in an oil field community. That is what this county does for a living and every business has the right to have a business and for that business to grow. Mr. Jensen might say he does not want it in his back yard but it is there and he has had agreements and been paid from Newfield for those agreements so it is in his back yard. They want to be good neighbors and will strive to make it safe for everyone involved.

Commissioner Wells asked Mr. Lamb if the trucks will run all day. Mr. Lamb replied not right now they are mostly in Wyoming and Moab. They will be there for light maintenance and service. Mr. Lamb stated safety is a focus with his company and that will not change. Jake Brakes are a safety feature and if there is a lot of traffic, you need to be able to use them.

Mr. Jensen, in rebuttal, stated his concerns again and does not want the shop in his neighborhood.

Commissioner Moon asked if there were any other questions or comments. There were none so the hearing was closed.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Chance & Dana Fillingim for Steve Lamb (Black Sheep Oilfield Services, LLC), subject to the conditions stated in the staff report. But suggested they add a speed limit sign on 9000 S as condition #8.

There was some discussion with the commission about the Pariette Road concerns and how to enforce them. Mr. Hyde suggested they discuss this matter in new business.

Commissioner Wells added that Mr. Lamb's drivers could not go over 25 mph on the road to the shop and seconded the motion and it passed unanimously.

### **NEW BUSINESS:**

Mr. Hyde stated the Planning Commission could address the Pariette Road safety concerns by writing a letter to the County Commission. The letter could express the concerns heard today and suggest that the road department install some additional speed limit and bus stop signs and request that officers patrol the area. After some discussion, the Planning Commission agreed to have Mr. Hyde write a letter for the Commission Chair to approve.

### **Minutes: Approval of August 5, 2015 minutes:**

Commissioner Jorgensen moved to approve the minutes of August 5, 2015. Commissioner Giles seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items:**

Mr. Hyde stated there were no items for the November meeting yet but there is still time to apply. Commissioner Jorgensen's term will be up at the end of the year so if anyone knows someone who would be interested in applying let him know.

**Adjournment:**

Meeting adjourned at 6:31p.m.