

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
September 4, 2013 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission-Chairman
Kent Olsen, Planning Commission
John Jorgensen, Planning Commission
Edward Roberts, Planning Commission
Ken Moon, Planning Commission
Kathy Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Mark Snow	Duchesne Crossing-Rezone
JC Hyder	Pioneer Wireline-CUP
Gary Murray	Pioneer Wireline-CUP
Patrick Grissom	Pioneer Wireline-CUP
Chance Anderson	Sharkol-CUP
John Mathews	Sharkol-CUP
Moises Cook	Sharkol-CUP
Matt Mitchell	Sharkol-CUP

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

PUBLIC HEARINGS:

- A. Request by Sharkol, Inc. for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) on approximately 60 acres of a 200-acre parcel owned by Louis Simshauser, located northwest of the Ute Tribe feedlot in the Arcadia area.**

Mr. Hyde stated Sharkol, Inc., is applying for this permit to authorize a gravel pit, with rock crushing, on approximately 60 acres of a 200-acre parcel located about .6 mile northwest of the Ute Tribe feedlot in the Arcadia area. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used for a variety of construction activities, including oil well pads and roads. Newfield is actively drilling oil wells in this area.

The 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 extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the extraction area is not reclaimed properly. The county has “material pit finishing” standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed. Another impact could occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Mr. Hyde indicated with the rock extraction activity and associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, the area is accessed by a gravel county road (8500 South) which extends westerly from 12000 West to new graveled oilfield roads constructed by Newfield. Much of the gravel produced from this location is anticipated to stay in the immediate vicinity rather than be trucked out to 12000 West. Before adding gravel truck traffic to any county road, the applicants will need to receive approval from the Duchesne County Public Works Director. The applicant will also need to comply with the County’s Nuisance Ordinance time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Such time limits should be applied in this case if noise complaints are received by the county.

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.

Mr. Hyde stated 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 rock products to support the construction and energy industries, which is beneficial to the economy of the county and in compliance with the general plan.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the proposed mining would take place on a portion of the easterly 120 acres of the subject 200-acre site, estimated at about 60 acres, which is certainly large enough to accommodate the proposed use. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished pit level. The applicants are also required to set the mining area back 660 from existing homes. 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.

Specific conditional use criteria for gravel pits include:

- A. Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department and Utah DEQ for approval prior to operations beginning. The applicant or authorized agent must follow this plan to control dust at active pit areas and driving surfaces. Along with extraction of rock, haul roads between the quarry and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. The dust control plan must demonstrate that dust at the pit and along the haul road can be controlled. In this case, there are no approved dwellings in close proximity to the gravel pit and haul road. There is a single-wide manufactured home on the Penkoff property north of the proposed gravel pit; however, the tax rolls do not list such improvements and there is no record of an installation permit for this manufactured home being issued by the Building Department.

- B. Bond Required:** A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

Mr. Hyde indicated the bonding requirement has been waived by the property owner. However, the applicant understands that reclamation must occur in accordance with the reconditioning standards below.

C. Reconditioning: Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning.

Mr. Hyde stated the “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents shall be subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

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

Mr. Hyde stated the distance requirements of this section must be met. The proposed gravel pit boundaries must be set back at least 50 feet from the property lines to meet the minimum standard of the ordinance. To ensure this, the parcel must be surveyed in advance of excavation beginning. The gravel pit boundary must be set back 660 feet from the nearest homes and livestock feeding operations. The rock crusher location must meet the ¼ mile setback requirement (from a dwelling or city limit line). In this case, there are no legal, authorized dwellings within ¼ mile of the site and the northwest property corner of the closest livestock feeding operation is about 1,800 feet to the southeast. The active feeding operation is about 3,000 feet to the southeast. These standards are met.

Mr. Hyde indicated the BLM and Bureau of Indian Affairs have advised the county that sand and gravel are considered to be part of the mineral estate rather than the surface estate, regardless of the type of surface ownership. If the surface owner does not own the mineral rights, the applicant will need to determine who does own them prior to beginning excavation. If the mineral rights are owned by the Ute Tribe, the applicants will need to work with the BIA and the tribe to obtain a mineral lease and comply with any associated environmental review requirements.

Mr. Hyde recommended approval of the Conditional Use Permit requested by Sharkol, Inc., for extraction of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
 - a. A dust control plan approved by the TriCounty Health Department and ~~Utah DEQ~~ (that applicant has indicated the Federal EPA not the DEQ will oversee permits in this case) shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road as needed during periods of hauling to control dust.
 - b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of crusher operation: (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays).
2. Owner(s) or their authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines.
3. An EPA Air Quality permit shall be obtained for the crusher and a copy provided to the County prior to the start of crushing operations.
4. Before starting excavation at the site, the applicant shall:
 - a. Obtain an industrial stormwater permit from the Utah Department of Environmental Quality or provide the County with verification that UDEQ did not require such permit.
 - b. Determine the ownership of the mineral rights of the property and obtain legal permission to remove the minerals (sand and gravel) from the site.
 - c. Commission a survey of the property to ensure that the location of property lines are known and the 50-foot setback requirements met.
 - d. Obtain approval of the Duchesne County Public Works Director prior to generating gravel truck traffic on county roads.

Mr. Hyde referred the commission to their packets and some aerial and site photos and asked the commission if there were any questions of the staff report. There were none so the applicant was invited to speak.

Chance Anderson, a Sharkol Inc., representative, stated they have entered into an agreement with Luis Shimhauser to extract gravel from his land and thanked Mr. Hyde for his efforts in preparing the staff report. Mr. Anderson stated they are working on the conditions for approval including the storm water permit and are ready to start work but are concerned about condition 4b relating to the tribal mineral interest issue and do not want that to be a condition for approval until that can be resolved.

Commissioner Mair asked Mr. Anderson if Sharkol has any problems with the conditions for approval. Mr. Anderson replied only the condition regarding mineral rights.

Commissioner Olsen asked who is searching the mineral interests Mr. Anderson replied he was. It is their understanding that minerals are underground not the surface.

Commissioner Mair asked if there was any one else to speak in favor of the application. There was not, so anyone opposed to the applicants request was invited to speak.

Moises Cook, an adjoining land owner stated his concerns about controlling the dust and what kind of chemicals were going to be used. After the extraction of the gravel what is the plan for the drainage to protect the dry creek beds, contaminated soils, erosion control and environmental issues that will arise.

Mr. Anderson in rebuttal stated they are working on the permits they will need to operate including a storm water permit, dust control plan and intend to use water trucks not a well for the water source. Mr. Hyde advised Mr. Anderson about High Desert Water, which is located nearby Mr. Anderson stated there is already gravel on the roads which makes dust control easier.

Mr. Cook stated he just wants the environment to be protected and is concerned there will not be any buried trash or waste, stored or burned for future owners to deal with. Mr. Hyde replied that is why the county enforces the Material Finishing Standards. Also, the Utah Solid Waste Division would regulate the placement of waste in the pit.

Commissioner Jorgensen wanted to make sure all permits are issued before work begins. Mr. Hyde stated the EPA gives 90 days to get their permit, both Tri county and storm water permits will be completed before extraction begins.

Mr. Anderson stated there are many other gravel pits in the county and none of them have had to verify mineral rights They do not feel this should hold them up. If they need to get a lease and pay royalties to the tribe they will.

Matt Mitchell, an operator from AM Dirt Works, stated his concerns about this condition. None of the other pits in operation within Duchesne County have had to deal with these issues and does not feel the county wants to open this up for debate. The sand and gravel are separate from oil and gas.

There was some discussion about mineral rights issues and the conditions for approval.

Commissioners Roberts and Moon feel the BIA and the BLM needs to prove the minerals are theirs and not the property owners. Commissioner Giles feels this is a private issue and Sharkol has been advised and needs to deal with it.

Mr. Cook stated a title search would solve their problems by finding the owners of the minerals and the surface.

Louis Simhauser Jr, the property owner, has researched some case law on these issues and stated sand and gravel are surface property not the oil and gas minerals which are underground. He can cite the court cases.

Mr. Anderson stated the county has done their due diligence and Sharkol will take responsibility either for leasing minerals from the tribe or finding another location for a pit.

With no other comments the public hearing was closed.

Commissioner Giles motioned to approve the Conditional Use Permit requested by Sharkol, Inc., for extraction of earth products, subject to the conditions stated in the staff report; excluding 4b determining the ownership of the mineral rights of the property and obtain legal permission to remove the minerals (sand and gravel) from the site. Commissioner Moon seconded the motion and it passed unanimously.

B. Request by Pioneer Wireline Services for a Conditional Use Permit to locate a storage facility for explosives on lands owned by John Hyder located at 2596 N County Road #341, in the Roosevelt area.

Mr. Hyde referred the commission to some site and aerial photos of the location in their packets and stated Pioneer Wireline Services operates a business locally in the industrial area near the Roosevelt Municipal Airport. They have maximized their explosives storage capabilities at their main location and have located two explosives storage magazines on the John Hyder property northwest of Roosevelt as shown in the site photos dated August 16, 2013. The magazines have been there since 2009 and 2010 without authorization by the County. This commercial use requires a conditional use permit in the A-5, Agricultural zoning district.

The 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 with the storage of explosives, the obvious issue for public health, safety and welfare is how secure the storage facility is. In this case, there are no fences or other barriers to prevent the public from walking right up to the two magazines as demonstrated by photos taken at the site. The magazines themselves are theft, bullet and weather resistant and are equipped with two case-hardened locks with 7/16th inch shackle diameter and steel hoods. Anyone with the tools to break into such a storage vault would likely not be deterred by a security fence. Pioneer Wireline visits the site at least once or twice per week to deliver or pick up products and checks for any signs of tampering.

In addition the federal Bureau of Alcohol, Tobacco and Firearms (ATF) has rules for the storage of explosives. Section 555.218 of these rules is a table of setback requirements for the number of pounds stored. The subject magazines are set back 42 feet from one

another. This allows the magazines to hold between 150 and 200 pounds of explosives. The federal rules require that such magazines be set back at least 190 feet from a public road (in this case, the setback from a public road is 432 feet to the north and 360 feet to the west). The federal rules require that such magazines be set back at least 470 feet from an inhabited building (in this case, the setback from the closest inhabited building is 615 feet). If an inhabited building were to be built on an adjoining property at a distance closer than 470 feet away, the magazines could be barricaded by an earthen berm to reduce the required setback to 235 feet. It is 321 feet to the nearest property line to the east.

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 may be approved to this business use at this location, only if conditions of approval can be imposed to protect rural residential and agricultural interests in the area.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the subject property is 23.04 acres in size, which provides enough space to accommodate the proposed use and meet setback standards of the Bureau of Alcohol, Tobacco and Firearms as shown on the applicant's site plan. However, reasonable conditions of approval should be considered to ensure that the use does not detrimentally impact adjoining and surrounding properties.

The additional conditional use permit criteria 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.

Mr. Hyde has indicated there is no irrigation water available to the subject property, so the provision of landscaping is not feasible. In this case, setbacks are the most important thing to buffer the use from nearby residents. The applicant's diagram shows that the storage magazines are setback 321 feet from the closest property line to the east, 432 feet from the nearest public road to the north and 615 feet from the nearest dwelling to the northwest. Since these setbacks meet the requirements of the ATF, they are acceptable to the County.

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.

The applicants have indicated that ingress and egress will occur at least once per week for security reasons. Actual frequency of visits will depend on oil and gas well drilling levels in the region. Employees will use pickup trucks when visiting the site. Since there is such infrequent use, no big trucks with heavy loads and no customers calling at the site, there is no need for upgrading the parking and driveway areas.

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.

Mr. Hyde stated this would be an un-manned facility; so there is no need to provide for culinary water or wastewater disposal for this use. The impact of the proposed use on abutting county roads is low and does not justify the acquisition of additional right of way or upgrading of the road surfaces. The storage magazines themselves are fireproof containers, which results in no need to install a fire hydrant or other fire protection measures to serve the proposed use.

D. Signs: Regulation of signs.

The applicant indicates that National Fire Protection Association Code requires signage to warn fire fighters of the presence of explosives on the property and provide contact information for the responsible party. Such signage has not yet been installed, but should be as soon as possible if this permit is granted.

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 storage magazines do not generate any of the listed nuisance factors.

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

Mr. Hyde stated employees visiting the storage area should do so during normal operating hours. The county Nuisance Ordinance prohibits noise impacts to residential areas earlier than 7 AM on weekdays, 8 AM on Saturdays and 9 AM on Sundays or later than 9:30 PM on any day of the week.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Pioneer Wireline Service and John Hyder, subject to the following conditions:

1. Applicants agree to barricade the magazines to federal ATF standards should an inhabited building be constructed less than 470 feet away on a neighboring property.
2. Applicants shall avoid generation of noise on the site earlier or later than that allowed by the Duchesne County Nuisance Ordinance.

3. Applicants shall obtain a Duchesne County business license to document this business location and contact information for emergency response purposes.
4. Applicants shall install a warning and responsible party contact information sign visible on the access road in accordance with the NFPA code as soon as possible.

Mr. Hyde stated in agenda packets there is a letter of explanation from Pioneer Wireline Services and permission from Mr. Hyder to use the property. He asked the commission if there were any questions of the staff report. There were none so the applicant was invited to speak.

Patrick Grissom, a representative of Pioneer Wireline Services, stated there are about 10 explosive storage locations throughout Duchesne and Uintah counties. All employees have federal background checks (both FBI and ATF) and are certified to use the explosives they work with. Both components have to be stored separately and in a remote location which is the safest place for them. Mr. Grissom indicated the recommended warning sign is almost finished and will be installed as soon as they are completed.

Commissioner Giles asked about fencing if it was a stipulation. Mr. Grissom replied they would fence or berm the property if need be, but a fence is not going to keep anyone out if they want to get in. Mr. Grissom explained the different state, federal and local regulations that need to be followed at all times.

Commissioner Mair asked if there were any other questions or comments from the commission or the audience. There were none so the hearing was closed.

Commissioner Jorgensen motioned to approve the Conditional Use Permit requested by Pioneer Wireline Service and John Hyder, subject to the conditions stated in the staff report. Commissioner Olsed seconded the motion and it passed unanimously.

C. Request by Western Fluid Services and Titan Development LLC for the rezoning of 60 acres of land located at the NE corner of Highway 40 and 6250 South from Agricultural (A-5) to Industrial.

Mr. Hyde stated when Western Fluid Services purchased this 60-acre parcel in 2011. On September 7, 2011, the Planning Commission granted a conditional use permit for them to construct an office, shop and warehouse on a portion of the property. The permit was not activated. Now, Western Fluid Services is selling 10 acres in the southwest corner of the property to Titan Development. Titan Development is in the process of dividing the 10 acres into two five-acre lots. The property is currently zoned A-5, Agricultural-Residential; but the applicants feel that there is a market for industrial property at this location to serve the oilfield; thus, a rezone has been requested. Western Fluid Service originally requested that the 50 acres they are retaining be added to the rezone request and the public hearing was advertised that way. On August 22, 2013, Western Fluid Services changed their mind, which reduces the proposed rezone to ten (10) acres.

The criteria for approval of rezone requests are as follows:

1. The overall community benefit of the proposed amendment.

As indicated, the overall community benefit of the proposed amendment would be the provision of two additional business sites to support the local economy and energy industry. This benefit could be offset by increased traffic at the Highway 40-6250 South intersection. UDOT has made left turn lane improvements at this intersection recently; however, northbound deceleration and acceleration lanes do not exist and the County Road has not been widened to facilitate large truck movements at this intersection. If the County cannot partner with the generators of truck traffic on this road to make improvements soon, this rezoning could make the existing safety problems worse. UDOT Region 3 has recommended that a Traffic Impact Study be conducted before the issuance of any building permits to determine what improvements may be needed.

When the Planning Commission granted a conditional use permit on September 7, 2011 to Western Fluid Services to locate an office, shop and warehouse on the subject property, a condition was imposed that required the applicant/property owner to “irrevocably consent to participate in a fair share of the costs of a road improvement project at the intersection of 6250 South and Highway 40 to facilitate safe truck movements to and from this facility. Said fair share shall be determined by the County Public Works Director or County Commissioners on appeal. Applicants/property owners also consent to dedicate any additional road right of way needed for such a project.” Such a condition should be considered in this case as well.

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

Mr. Hyde stated 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.”

In addition 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.

Mr. Hyde stated the aerial photos indicate that there are a number of existing businesses in close proximity to this proposed rezone. To the east is Karl Lamb’s KD Warehouse, which supplies drilling mud products. To the west is Basin Transmission. To the northwest is the Runners, Inc. pipe yard and to the north is Link Trucking. There is existing industrial zoning in the area as shown by the existing zoning map. Rezoning of the subject property would be compatible with the neighborhood, which has evolved, with the robust energy industry, to become a business cluster.

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

In recent years, several businesses have located in this vicinity to serve the oilfield. The Planning Commission has granted conditional use permits to support these businesses, which were mentioned above. The Johnson Water District has installed an 8" water line on the north side of 6250 South to serve these businesses; however, an additional fire hydrant may be needed as the property develops. These changes in the neighborhood and the existing industrial zoning to the south would support rezoning of this site for additional business use.

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

Mr. Hyde stated the change of use of this property from agricultural to industrial would continue the recent trend in the area, which has seen a change of use from vacant land to oilfield-related businesses. The proposed zoning and businesses expected to locate in this area are unlikely to have undue adverse effects on the adjoining properties.

6. Consider the interest of the applicant.

Mr. Hyde stated the interest of the applicants is to convert this property to its highest and best use and capitalize on the market for additional business sites. The property has no irrigation water rights, so it is not suitable for agricultural use. It is not the best location for residential development given the close proximity of the busy highway, businesses and an oil well in the northwest quarter of this property.

Mr. Hyde recommended that the Planning Commission adopt the findings and conclusions herein and recommend the County Commissioners' approval of this rezone, requested by Western Fluid Services and Titan Development, changing ten acres of land from Agricultural-Residential (A-5) to Industrial, subject to the following condition:

1. The applicants/property owners shall sign a Development Agreement in which they agree to have a Traffic Impact Study prepared for the intersection of Highway 40 and 6250 South before the issuance of any building permits. The applicants/property owners shall also consent to participate in a fair share of the costs of a road improvement project(s) recommended by the traffic study to facilitate safe truck movements to and from this property. Said fair share shall be determined by the County Public Works Director or County Commissioners on appeal. Applicants/property owners shall also consent to dedicate any additional road right of way needed for such a project. Said improvements shall be completed prior to the issuance of any Certificates of Occupancy for new buildings on the subject property.

Mr. Hyde asked if there were any questions of the staff report.

There was some discussion about the traffic study, location, access and right of way issues to the applicant's property.

There were no other questions so the applicant was invited to speak.

Mark Snow, a representative of Titan Development, thanked Mr. Hyde for his efforts. They feel this is a good location for the industrial offices they want to build.

Commissioner Olsen asked if they are ok with participating in the traffic study. Mr. Snow stated they have already started the process.

With no one opposed to speak, the public hearing was closed.

Commissioner Olsen motioned the Planning Commission adopt the findings and conclusions herein and recommend the County Commissioners' approval of this rezone, requested by Western Fluid Services and Titan Development, changing ten acres of land from Agricultural-Residential (A-5) to Industrial, subject to the condition stated in the staff report. Commissioner Moon seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of August 7, 2013 minutes

Commissioner Jorgensen moved to approve the minutes of August 7, 2013.

Commissioner Giles seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Commissioner Mair asked Mr. Hyde about the Sexually Oriented Business ordinance that was started. Mr. Hyde stated that County Attorney Jon Stearmer had initiated that ordinance but has since taken a new position with Uintah County. Unfortunately that has been put on the back burner for now.

There was some discussion regarding the sand and gravel mineral right issue.

Adjournment:

Meeting adjourned at 6:30 p.m.