

**MEETING OF THE  
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES  
November 29, 2023**

The Millard County Planning Commission met on Wednesday November 29, 2023, at 6:30pm at the Millard County Offices, 71 South 200 West, Delta, Utah.

**PRESENT:** David Sturlin ..... Planning Commission Chairman  
Joyce Barney ..... Planning Commission Vice Chairman  
John Nye.....Planning Commissioner  
Erin Sorenson .....Planning Commissioner  
Phil Morrison.....Planning Commissioner  
Peter Greathouse .....Planning Commissioner  
DeMar Iverson .....Planning Commissioner

**EXCUSED:**

**ALSO PRESENT:**

Adam Richins..... Millard County Planner  
Mallori Wood ..... Secretary  
Trevor Johnson.....Millard County Commissioner  
Alexis Bradshaw ..... Financial Advisor  
Kelly Thomas ..... Millard County Resident  
Robert Thomas..... Millard County Resident  
Paulette Thomas..... Millard County Resident  
Whitt Sorenson ..... Millard County Resident  
Graham Stacey..... Falcon Isle Resource Corp

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED to each member of the Planning Commission, posted at the Millard County Offices in Delta, the Public Safety Building in Fillmore, and the Main Street Courthouse in Fillmore, posted on the Utah Public Notice Website and the Millard County Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah as required by law, the following proceedings were had:

**1. WELCOME, CALL TO ORDER** – Chairman David Sturlin called the meeting to order at 6:30 pm. He welcomed all present.

**2. PUBLIC INPUT** – There wasn't any public input.

**3. PUBLIC HEARING** – C-1 Conditional Use Permit Application #Z-2023-065 for Industrial/ Manufacturing Activity (General) at approximately 3750 W 6400 N Delta – Falcon Isle Resource Corp, Owner

Commissioner Peter Greathouse made a MOTION to open the public hearing. Commissioner Phil Morrison SECONDED the motion. Voting was unanimous in the affirmative.

Graham Stacey approached the commission on behalf of Falcon Isle Resources Corp and gave a description of the application

Kelly Thomas approached the commission and asked where the product will be crushed. Graham Stacey stated there are two separate sites. One in Delta and one in Spanish Fork, Ut. The crusher will be kept indoors.

There was discussion about dust accumulation.

Kelly Thomas asked how many trucks will need to be used. Alexis Bradshaw with Falcon Isle Corp stated there will be maybe 15-20 trucks a week.

There was discussion of the route being used to haul product.

Kelly Thomas asked where the water will come from. Graham Stacey stated that the property has an existing 1.06-acre water well.

Robert Thomas approached the commission and stated his concerns with this project. Robert asked about toxic ingredients. Graham Stacey stated that the only potentially toxic substance would be sulfur and that is a critical ingredient for the product but will not contribute to any of the dust.

Graham Stacey stated that the product is registered organic and non-toxic.

Kelly Thomas approached the commission again and stated that she came back to Delta to get away from the hustle and bustle of the city and is concerned that if this is approved, it will impact the quality of life in the area.

Commissioner DeMar Iverson made a MOTION to close the public hearing. Commissioner Joyce barney SECONDED the motion. Voting was unanimous in the affirmative.

**4. REVIEW and POSSIBLE APPROVAL** – C-1 Conditional Use Permit Application #Z-2023-065 for Industrial/Manufacturing Activity (General) at approximately 3750 W 6400 N Delta

Commissioner Peter Greathouse asked why this is being rezoned as Ag Industrial rather than Industrial. Planner Adam Richins stated this is in the table of uses and that the area isn't being rezoned.

There was discussion about the existing building on the property. Graham Stacey stated that the building is insulated and the generator is in a steel container and will be kept indoors.

The generator will need to run 24/5

There was discussion about the decibels. Planner Adam Richins stated that Millard County doesn't currently have a decibel level that has been adopted as a standard.

Commissioner Peter Greathouse asked how much water will need to be used and if the applicant has adequate water. Graham Stacey stated they will use up to 190,000 gallons per year. That includes an office and restroom.

Graham Stacey stated that the hours of operation for trucking will be daylight hours only.

There was discussion about the roads in the area.

Graham Stacey stated that there will be an administrative office but they're not going to be selling their product to the public.

There was discussion about lighting in the area.

Commissioner Peter Greathouse asked if there was any fencing on the property. Graham Stacey stated there currently aren't any fences and there really isn't a need to one.

There was discussion about fire mitigation.

There was discussion about the amount of employees Graham Stacey stated that there will be operators on each shift and some supervisors.

Commissioner Erin Sorenson made a MOTION to approve application Z-2023-065 As it is in conformance to the Millard County general plan and meets the findings in County Code 10.8.3. Based on items 2 A-H with the proposed reasonable conditions 1-16 under #3. Commissioner Phil Morrison SECONDED the motion. Commissioner John Nye abstained. MOTION passed.

## **RECOMMENDATION**

1. Approve the C-1 Conditional Use Permit for Industrial/manufacturing activity (general) be approved with reasonable conditions.

## 2. Basis for Issuance of a Conditional Use Permit:

- a) The proposed use is a Conditional Use within the Zoning District as identified in Appendix A, Table of Uses. Yes
- b) The proposed use is allowed within the Zoning District as identified in Chapter 8. Yes
- c) The proposed use complies with all requirements of the Zoning District, including all minimum area, setbacks, height, and all other requirements as applicable.
- d) The proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations. Yes
- e) The property on which the use is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.
- f) The proposed use complies with all site plan and building requirements, as provided and required by this Ordinance all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations. Yes
- g) The proposed use complies with all applicable dedication requirements of the County and provides the necessary infrastructure, as required. Yes
- h) Such use will not, under the conditions required, be detrimental to the health, general welfare and safety of persons or injurious to property or improvements of the immediate area or the County as a whole. (Ord. 12-12-04, 12-4-2012)

## 3. Approve the Permit with the following reasonable conditions:

- 1. Federal and State Permitting Requirements. Uses within the designated project area shall comply with applicable Federal and/or State Permits and Licenses for the construction and operation of any such facilities. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver or exception to any law, ordinance, or rule, except to the extent that it authorizes the use of the subject premises in the manner authorized herein.
- 2. Plans to be on File. Prior to commencing construction or operation, Developer shall provide to the Office of the County Planner copies of all plans submitted to Local, State or Federal Agencies in connection with obtaining approval of the project.
- 3. Local Agency Plans. Prior to commencing construction, Developer shall provide plans for:

3.1. Public Safety and Emergency Response. The Millard County Sheriff's Office, the Delta City Fire Department, Utah State Fire Marshal's Office, and the Local Emergency Planning Committee must review and approve these Plans.

3.2. Fire Management. This plan must be developed in consultation with Federal, State, and Local agencies, as applicable. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and the County Fire Marshall.

3.3. Traffic Management. A Traffic Management Plan for all County roads and streets and Municipal streets used or impacted during construction is provided to the County Planner prior to the issuance of a Building Permit.

3.4. Fugitive Dust Control.

3.5. Storm Water Control.

3.6. Hazardous Materials Management.

3.7. Construction Waste & Human Waste Management

3.8. Site Reclamation, Decommissioning, and Abandonment. A Site Reclamation, Decommissioning, and Abandonment Plan for facilities located on private land be provided

and reviewed and revised, as necessary, by the County Attorney. This Plan shall include an estimate of the cost of site reclamation, decommissioning, and abandonment including any scrap value offsets. Developer shall post a bond, or other acceptable surety, with a value equal to the costs of site reclamation, decommissioning, and abandonment of the project running to the County, and all other performance guarantees, as determined necessary by the County Attorney for the entire life of the project. Developer shall provide evidence to the County of any site reclamation, decommissioning, and abandonment bonding or other surety and guarantees required by any Federal or State agency prior to the issuance of a Building Permit.

4. Required Reporting to be on File. Required reporting submitted to any Local, State or Federal Agencies during the life of the project shall be provided to the Office of the County Planner at the time such reports, materials, and other correspondence are provided to the governmental agencies regulating the Facility. Developer shall provide notice to the County Attorney and County Planner of any non-compliance along with the corrective actions required by the governmental agencies regulating the construction and operation of the project.

5. Building Permits. Developer shall apply for and comply with the requirements for the issuance of Building Permits, including payment of fees based on adopted fee

schedules. Prior to the issuance of a Building Permit, Developer shall provide documentation to the Office of the County Planner that Developer has received the required Federal and State Permits and Licenses required for the construction and operation of the new facility.

6. Insurance. Developer shall provide a list of all project specific insurance coverage to the Millard County Attorney, with such insurance coverage required to remain in place and valid until the Facility is abandoned. Developer shall provide updated lists from time to time as needed to reflect current changes in insurance coverage(s).

7. Warning Signage. Developer shall provide Facility warning signage of a size, design and location as required by applicable laws, ordinances, and regulations.

8. Necessary Conditional Use Permit Modifications. The Planning Commission reserves the right to initiate necessary modifications, amendments, and additions to this Conditional Use upon a finding that such modifications, amendments, and additions are necessary to protect the public health, welfare and/or safety of the County. All such modifications, amendments, and additions shall comply with the procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

9. Minor Facility Plan Changes. Minor Facility plan changes may be required for the project. To promote efficiency in the review and approval of minor facility plan modifications, the County Planner may review and approve or deny all minor facility plan modifications, provided any approved minor facility plan modification does not materially affect the intent and purposes of this Conditional Use Permit. The County Planner may consult with the County Attorney in determining if proposed facility plan modifications may be determined to be a minor site plan change. A proposed facility plan change that is not determined to be minor facility plan modification by the County Planner shall be presented to the Planning Commission as a Conditional Use Permit amendment, as provided for herein.

10. Amendments. All changes and modifications to this Conditional Use Permit, and not determined to be a minor facility plan modification, shall be considered by the Planning Commission as an amendment to this Permit and shall be required to comply with all procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

11. Incorporation by Reference. All information, applications, permits, licenses, attachments, and all other information referenced herein are hereby incorporated into this Conditional Use Permit by reference.

12. Inconsistencies and Ambiguities. Any inconsistencies or ambiguities in the materials and information provided to the County by Developer and any ambiguities or inconsistencies in the Conditional Use Permit shall be interpreted and applied in favor of the County.

13. Recordation. Upon the approval and execution this Permit shall be recorded in the Office of the Millard County Recorder, with all Attachments being on file in the Office of the County Clerk and Office of the County Planner, with copies of the recorded document provided to the County Attorney, County Planner, and Developer.

14. There is to be a road maintenance agreement with Millard County.

15. All lighting shall be downward facing.

16. All generators must be enclosed to minimize the noise.

**5. REVIEW and POSSIBLE APPROVAL**—Application # Z-2023-060 for a Non-Plat Subdivision located at approximately 2700 N 3000 W Delta. Kai Mallory, Applicant

Kai Mallory approached the commission and gave a description of his application.

Planner Adam Richins stated that as proposed there are 2 pieces that will need to be recorded as one for the lot size to be the minimum required acreage.

Commissioner Joyce Barney asked about water. The applicant stated he will be drilling a well. He is currently using Elwin Johnson's well but does have water lined up to purchase.

Commissioner DeMar Iverson made a MOTION to approve application #Z-2023-060 As it is in conformance to the Millard County general plan and meets the findings in County Code 10.8.3. Commissioner Erin Sorenson SECONDED the motion. Voting was unanimous in the affirmative.

## **RECOMMENDATION**

1. Approve the Non-Plat Subdivision creating a 2.0-acre parcel.

2. Basis for Recommendation or Approval of the Subdivision: (Title 11-Subdivision Regulations)

11-1-4: DEFINITIONS

SUBDIVISION:

A. Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions.

B. "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat or another recorded instrument.

C. "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for agricultural purposes;
  2. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
    - a. No new lot is created; and
    - b. The adjustment does not result in a violation of applicable zoning ordinances;
  3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or
  4. A bona fide division or partition of land in a county other than a first-class county for the purpose of siting, on one or more of the resulting separate parcels:
    - a. An unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or
    - b. An unmanned telecommunication, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.
- D. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision", under subsection A of this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

#### 11-3-1: MINI SUBDIVISIONS

A. Conditions: Any property owner or an owner's agent (hereinafter a "property owner") may submit to the county recorder's office for recording a document that subdivides property by metes and bounds into nine (9) or fewer parcels, without the necessity of recording a final plat if:

1. The planning commission has reviewed the document and has given the county commissioners its recommendation on the subdivision application; and
2. The document contains a certification of approval signed by the chairman of the county commissioners or his designee that:



a. The planning commission has given its recommendation to the county commissioners;

b. The subdivision is not traversed by the mapped lines of a proposed street as shown in the master plan and does not require the dedication of any land for streets or other public purposes;

c. Each parcel in the subdivision meets the minimum area, width, access, and frontage requirements of the zone in which the property is located, or has been granted a variance from those requirements by the board of adjustment.

B. Use Restrictions: The uses on parcels created under this section must be either permitted or conditional uses in the zone district in which they are located. Non-Plat subdivisions which result in the creation of three (3) or fewer lots will be presumed to be for the primary purpose of supporting agricultural uses rather than for primarily residential purposes.

C. Lot Size: The sizes of the lots created in a three (3) or fewer lot, Non-Plat subdivision may be smaller than the minimum lot size required in the zone in order to preserve agricultural land uses.

D. One Time Process; Information on Deed: This special provision may be utilized only once per parcel of property. Parcels of land which are subdivided under these special circumstances must be deed restricted with a notation on the documents of conveyance that this one-time election has been exercised and that the resulting parcels may not be further subdivided without recordation of an approved subdivision plat. The deed restriction shall also contain a statement that subsequent owners of the created parcels are on notice that the parcels are in an agricultural zone, were created for the support of agricultural activities, and may be subject to the noises, odors and other conditions typical of agricultural activities. (Ord. 01-08-27A, 8-27-2001, eff. 10-8-2001)

## **6. OTHER BUSINESS**

Planner Adam Richins stated he has a plat for Ken Skeem that has already been approved. He needs the required signatures.

There is also a minor lot line adjustment for Kay Hansen that also needs signatures.

## **7. POSSIBLE CLOSED MEETING** Pursuant to Utah Code Annotated Section 52-4-204 & 205

## **8. APPROVAL OF MINUTES** –Planning Commission Meeting October 4th 2023

This item was tabled to the next scheduled meeting.

**9. ADJOURNMENT** Commissioner Joyce Barney made a MOTION to adjourn at 8:06 PM. Commissioner Peter Greathouse SECONDED the motion. Voting was unanimous in the affirmative.

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Dated this \_\_\_ day of \_\_\_\_\_ 2023  
David Sturlin, Chairman  
Millard County Planning Commission