



**STAFF REPORT**  
**The City of Oklahoma City**  
**Planning Commission**  
**January 12, 2023**

**Item No. IV. 23.**

(SP-570) Application by DHD, Corp., to operate a (8450.1) Mining and Processing: Mineral and Raw Materials (Sand, Soil, and Gravel strip mine) use in the I-2 Moderate Industrial District located at 4626 NE 23<sup>rd</sup> Street. Ward 7.

**I. GENERAL INFORMATION**

**A. Contacts**

**Applicant's Representative**

David M. Box  
Williams, Box, Forshee, and Bullard, P.C.  
(405) 232-0080  
dmbox@wfbflaw.com

**B. Case History**

This is a new application.

**C. Reason for Request**

The purpose for this request is to permit establishment of a sand, soil, and gravel borrow pit / strip mine.

**D. Existing Conditions**

**1. Comprehensive Plan Land Use Typology Area: Urban – Low Intensity (UL)**

UL applies to the least intensively developed areas of the city that still receive urban water, sewer, police, park and fire services. Development in this area should provide horizontal integration of land uses, connectivity within and between individual developments, and design that facilitates pedestrian and bicycle transportation.

**2. Size of Site (28.86 Acres)**

**3. Zoning and Land Use**

	<b>Subject Site</b>	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Zoning</b>	I-2	C-3	PUD-1631	PUD-1631	R-1
<b>Land Use</b>	Undeveloped	Church	Well	Cdn. River	Residential

**II. APPLICANT'S PROGRAM DESCRIPTION**

Project Summary

DHD Corp. (“Applicant”) seeks to operate a non-coal mining operation on this property (“Property”). The proposed operation will involve the excavation of sand, gravel, and clay through surface mining methods, e.g., stripping, dredging, pumping, and quarrying. The physical layout of the operation is depicted in the Site Plan submitted along with this Application. The Property is zoned I-2. Surrounding properties are zoned R-1, C-3, and PUD-1631. The Property is currently undeveloped and is likewise surrounded by primarily undeveloped parcels.

### Mining & Reclamation

Applicant seeks to mine an area of roughly 28.86 acres for the excavation of sand and dirt based on the market demands for the materials mined and the Applicant’s desires. Applicant will use construction equipment, “haul” roads, and stockpiles to facilitate the mining/reclamation operations. Applicant anticipates the materials to be mined to the maximum depth of 50 feet below the existing surface.

Prior to mining, topsoil will be removed after vegetative cover that could interfere with the use of the topsoil is cleared from the area to be disturbed. The topsoil will be stored in the stockpile area to be sold or redistributed over the surface at the completion of the mining operation. Topsoil stockpiles will be seeded with quick-growing annual and perennial grass seeds. Topsoil stockpiles will be mulched when necessary to provide a quick protective cover or aid in germination of plant and seeds.

Upon completion of the mining operation, all available topsoil will be redistributed and seeded on the disturbed area where possible.

Blasting will not be conducted for the proposed operation.

### Revegetation

After topsoil has been redistributed, leveled, and smoothed, soil samples will be collected and analyzed from those areas that could be re-vegetated to determine the nutrient and lime deficiencies. Any deficiencies will be corrected, according to the Natural Resources Conservation Service’s recommendations based on the results of the analysis before permanent seeding takes place.

Other than customary soil preparation and nutrient and lime application, no other soil remediation will be performed for re-vegetation. Irrigation and pest/disease control measures are not anticipated at this time.

After fertilizing is completed, the topsoil will be disked to provide a smooth and firm bed suitable for seeding. If seeding of the permanent species is not feasible due to climatic or biological conditions, temporary species will be broadcasted as in situ mulch in order to provide a quick vegetative cover.

Screening – Disposal – Additional Safety Measures

Fencing, berms, buffers or other barriers will be used to prevent access to the potentially hazardous slopes (e.g., high walls) of the mining areas and/or the excavated pits. Setbacks and lateral support will remain to provide stability and to prevent immediate access to the mine from adjacent areas. Signs will also be posted on the fences, providing adequate warning to the public. The perimeter of the affected area may be fenced and posted to keep out unauthorized personnel.

Sediment controls will be used during the mining and reclamation operations to reduce sedimentation until vegetation and/or BMPs are established. The Applicant proposes to spray water on the stockpiles and haul roads as necessary to control dust.

**III. GENERAL STANDARDS**

All special permit uses shall satisfy the following general standards:

- 1) The proposed use shall conform to the policies of the adopted Comprehensive Plan.
- 2) The proposed use shall not adversely affect the use of the neighboring properties.
- 3) Pedestrian and vehicle traffic generated will not be hazardous or in conflict with the existing and anticipated traffic in the neighborhood.
- 4) Adequate utility, drainage, parking, loading, signs, access, and other necessary public facilities to serve the proposed use shall meet the adopted codes of the City.
- 5) The site shall front or have direct access to a street having adequate right-of-way and improvements to support the traffic generated by the proposed use.
- 6) The City Council may impose specific conditions regarding location, design, and operation to assure safety, to prevent a nuisance, and to control the noxious effects of excessive sound, light, odor, dust, or similar conditions. Such conditions may include:
  - a. A requirement that all machinery and facilities be located within an enclosed building; or

- b. A requirement that certain areas be screened from view of surrounding neighborhoods; or
- c. A limitation on intensity of lights or hours of operation; or
- d. Similar measures designed to protect the public interest.

#### **IV. ADDITIONAL SPECIFIC STANDARDS**

- A. No use shall be permitted within 200 feet of a habitable dwelling, provided that a caretaker's or watchman's house shall be exempt from this restriction.

*Reference Exhibit E – Phase 1 Plan. Required buffer shown as a 200 foot demarcation line along the South, approximate, half of the West property line.*

- B. A restoration plan shall be submitted with the application and shall include the following:

- (1) Final proposed topography of the site after all proposed restoration is completed.

*Reference Exhibit F – Phase 2 Final Topography.*

- (2) Proposed depth of topsoil, and a vegetation and landscaping plan.

*Reference Exhibit F – Phase 2 Final Topography. Per plan note, final depth of topsoil fill to be 6 Inches at reference elevation per provided contours. Vegetation to be live seed with “Sideoats Grama” at a rate 5 pounds per acre.*

- (3) A drainage plan showing the direction of all drainage during excavation and after restoration.

*Reference Exhibit E – Phase 1 Plan for “during excavation” drainage contours and green arrow flow indication. Reference Exhibit F – Phase 2 Final Topography, for “after restoration” drainage contours and green arrow flow indicators.*

- C. No excavation, stockpiling of material, or accessory or incidental use of the mining operation shall be permitted within 70 feet of any property line, street right-of-way line, or drainage or utility easement.

*Reference Exhibits E and F for 70 foot buffer demarcation line.*

**V. REVIEW COMMENTS**

This application was submitted to the following agencies, departments, and/or divisions for review and comment. An asterisk indicates that the agency, department, and/or division responded with no adverse comments.

**A. Outside Agencies**

- 1. Oklahoma City-County Health Department (OCCHD)**
- 2. Oklahoma City Urban Renewal Authority (OCURA)**
- 3. Oklahoma Gas and Electric (OGE)**
- 4. Oklahoma Water Resources Board (OWRB)**
- 5. School District (Mid-Del City)**
- 6. Oklahoma Department of Transportation (ODOT)**

**B. City Departments**

- 2. Airports**
- 3. Central Oklahoma Transportation and Parking Authority (COTPA)**
- 4. Fire**
- 5. Information Technology/Geographic Support**
- 6. Parks and Recreation**
- 7. Police**
- 8. Public Works**

**a. Engineering**

**Storm Sewer Availability**

- 1) A floodplain activity permit must be submitted with plans for any work contemplated within 200 feet of a mapped FEMA floodplain.

**9. Streets, Traffic and Drainage Maintenance**

**10. Stormwater Quality Management**

**11. Traffic Management**

**12. Utilities**

- a. **Wastewater Comments \***
- b. **Water Comments \***
- c. **Solid Waste Management**

The City cannot service. Contact private hauler.

**13. Development Services**

**14. Planning**

**a. Comprehensive Plan Considerations**

**1) LUTA Development Policies:**

Site Design

- Utilize Best Management Practices (BMP) for stormwater.

*National, state, and local permitting require basic best management practices for stormwater management. The City's Special Permit procedures require a reclamation plan and revegetation plan to be submitted in addition to all other required permits.*

- 2) Compatibility:** The comprehensive plan includes a land use compatibility matrix used to identify potential conflicts between major land use categories. When locating High Intensity Industrial (extractive/mining) uses adjacent to existing residential neighborhoods and uses (west), "Building Scale and Site Design", "Traffic" and "Operational Impact" are potential compatibility issues identified by the comprehensive plan.

Building Scale and Site Design: The comprehensive plan calls for mitigation measures if the setbacks are significantly deeper or more shallow than the predominant character of adjacent development; the building's orientation to the street differs from the predominant character of adjacent development; building size or street frontage dramatically differs from that of adjacent uses, the lot coverage (including buildings and paved areas) dramatically exceeds that of adjacent uses, or if buildings within 40 ft. of a single-family residential structure exceed a 3:1 ratio in height. *The site is already zoned I-2. No new impacts related to building scale are triggered with the Special Permit use.*

Traffic: Mitigation measures should be used if the development is inconsistent with the Street Typology or would substantially exceed the average daily traffic of existing, adjacent uses. *The proposed use is located on NE 23<sup>rd</sup> Street, and Arterial Street.*

Operational Impact: The comprehensive plan calls for mitigation measures if new projects propose uses that generate noise levels above those found in typical residential settings, have detectable odors, spill light above that found in typical residential settings, or operate after 10 p.m. within proximity to residential uses. When located near residential uses, the comprehensive plan calls for containing operating effects (including noise and odor) within building walls, using vertical screening to block any mechanical equipment and service areas, and directing light away from adjacent residential areas. *Potential operational impacts related to dust, noise and lighting are triggered with a mining operation adjacent to the residential uses on the west. The specific standards required by the Zoning Code for the mining and processing use prohibit the activity within 70 feet of the property line or street right-of-way, or within 200 feet of a habitable dwelling. The Special Permit process can be used to specify additional mitigation measures. Preserving trees within setbacks would be one mitigation measure to buffer the use from the neighborhood to the west.*

**3) Environmentally Sensitive Areas:** The following apply to the proposed development site:

- Riparian Areas: N/A (Riparian area is present to the south but not within the Special Permit site.)
- Upland Forests: The subject area is within the upland forest ESA. The comprehensive plan directs to preserve the Cross Timbers and upland forests, including native understory, to the maximum extent practical. When new-growth or re-growth upland forest trees are removed during construction, trees and other native plants should be replanted on-site. New trees should be planted in clusters that mimic the original tree canopy. The comprehensive plan defines mitigation hierarchy in the following priority: 1) Avoidance and minimization, 2) Restoration, 3) Offset. *Upland forest is present on the southern portion of the subject site. When 60% or less forested, the comprehensive plan has a preservation goal of 100 percent.*
- Vulnerable Aquifers: The aquifer in this area is considered highly vulnerable to depletion. The comprehensive plan recommends preserving natural open spaces and utilizing low impact development techniques whenever possible in new developments in order to maintain water quality and allow for the infiltration of stormwater onsite.

- 4) **Transportation System:** This site is located on NE 23<sup>rd</sup> Street, a Major Arterial Street in the Urban Low LUTA.

**b. Plan Conformance Considerations**

The proposed Special Permit would allow sand/soil mining on the south side of NE 23<sup>rd</sup> Street, east of N. Coltrane Road. Land to the east and south is zoned PUD-1631 (2017, Lost Lakes) and is also within the 100-year floodplain for the N Canadian River.

The subject site is zoned I-2 which allows light industrial, moderate industrial, and most commercial uses. The addition of the mining use in the I-2 District requires a Special Permit. The proposed excavation use triggers potential operational impacts to the neighborhood on the west, including dust, noise and lighting. The Special Permit use standards require setbacks of 70 feet from all property lines and 200 feet from any residence, as well as submittal of a restoration plan including the final proposed topography, vegetation and landscaping plan, and drainage plans. Upland forest is present on the southern portion of the subject site. Preserving trees within setbacks would be an additional mitigation measure to help buffer the impacts of the use from the neighborhood to the west.

**IV. STAFF RECOMMENDATION**

*Staff recommendations are advisory only and do not constitute Planning Commission decisions. Staff recommendations are based on a technical evaluation of information submitted at the time of review. Determination of conformance with policies contained in the comprehensive plan is the purview of the Planning Commission. Planning Commission decisions require a vote of five members to approve or deny an item. The Planning Commission may consider in its decision-making process any additional relevant information presented at the public hearing by the public, applicant, and/or City departments.*

**Approval of the application subject to the following Technical Evaluations:**

1. Trees shall be preserved within setbacks where adjacent to a platted residential neighborhood.

**taj**