

DUCHESNE COUNTY
PLANNING COMMISSION MEETING
MAY 3, 2017

REQUEST TYPE: Conditional Use Permit
APPLICANT: Matt Brotherson
PROPOSAL: Motor Vehicle Sales
LOCATION: 17466 West 3000 North, Boneta
ZONING DESIGNATION: R-1

REPORT CONTENTS

FINDINGS OF FACT.....2
CONCLUSIONS 8
RECOMMENDATION..... 8

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicant is seeking approval to operate a motor vehicle sales business at his residence. The property is zoned R-1, which is a residential zone with a one-acre minimum lot size. The Duchesne County Zoning Ordinance includes the following provisions for Home Occupations:

Home Occupation: An accessory use consisting of a vocational activity conducted inside a dwelling unit, conducted by the individuals who reside therein, with up to five FTE of non-resident employment (provided adequate on-site parking is available), provided that the home occupation is clearly subordinate to the use of the parcel for dwelling purposes, does not change the character of the parcel and meets the following standards:

- A. Does not include the outside storage of goods, materials, or equipment. **Findings: The proposal includes the outdoor storage of up to five vehicles; thus, a conditional use permit is required.**
- B. Has signage limited to a non-illuminated, flush wall mounted identification sign two square feet or less in size. **Findings: The Utah Motor Vehicle Dealer licensing rules require that a sign at least 24 square feet in size be installed at motor vehicle dealer locations. Since this sign will exceed that permitted for home occupations, a conditional use permit is required.**
- C. The following occupations are **allowed by conditional use permit in the R1/2, R-1 and R-2.5 zones** and permitted outright in the other zones: appliance repair, cabinet making, dance instruction to more than two (2) individuals at a time; firearms sales and services, food catering, hair salons, unless limited to two (2) stations, motorized garden tool repair, such as, but not limited to, lawnmowers, chain saws, and leaf blowers, pest control, painting of vehicles, trailers, boats, and like vehicles/vessels, photo developing, real estate or brokerage offices, upholstery and furniture repair, vehicle-related uses such as, but not limited to, the cleaning, dismantling, embellishment, installation, manufacture, **repair or service, sale, lease, or rental, and towing of vehicles** (the dispatching of vehicles such as limousines, taxicabs, and ambulances is allowed as a home business so long as those vehicles need not regularly come into the vicinity of the subject residence), welding, nursing homes, health care, including physicians, psychologists, chiropractors, hypnotics and massage therapists. **Findings: A conditional use permit is required for vehicle sales businesses in the R-1 zone.**
- D. Complies with all required Federal and State licensing requirements. **Findings: The applicant will need to comply with all state licensing requirements for motor vehicle dealers.**

2. HISTORY OF EVENTS

February 21, 2017	The application was submitted.
February 24, 2017	The application was deemed complete.
March 13, 2017	Notice mailed to property owners within 300 feet of the subject property.
March 21 & 28, 2017	Notice of Public Hearing published in the Uintah Basin Standard.
April 5, 2017	Planning Commission hearing opened and recessed.
May 3, 2017	Planning Commission hearing continued.

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: The proposed use has the potential to be detrimental to other property owners and the public health, safety and general welfare if conditions are not imposed to maintain the residential character of the business site.

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 provide a site for a new business, provided that conditions of approval are imposed to protect rural residential 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 a one-acre parcel; however, lands bordering the parcel are owned by the applicant's father [Brent Brotherson] and written permission has been obtained from him to use a garage and grounds on the adjoining parcel for vehicle storage. The property and adjacent areas are large enough to operate the proposed vehicle sales business with no significant impact on surrounding properties. The nearest homes are located about 1,470 feet to the northeast (Merlin & Kim Rasmussen), 1,250 feet to the southeast (Ryan & Michelle Lindsay) and 1730 feet to the southwest (Doug & Sandra Swasey).

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 applicant indicates that vehicles will be stored inside his father's garage to the west of the home and in the applicant's two-car garage. However, some vehicle storage could occur in the yard area between the home and the father's garage. Utah DMV rules require that there be a display area for at least three vehicles. This display area must be denoted by a fence, chain or some other approved method. Whatever method is utilized will need to be installed at least 33 feet north of the center of the county road.

- 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: There is safe public access to the site from State Highway 87 to County Road # 111 [18000 West] to County Road #110 [3000 North] which are paved roads. Site photos show that there is ample parking for customer vehicles on a paved strip in front of the home, where the business office will be located. The majority of the business will be conducted over the internet, which will reduce the amount of customer traffic to the home.

- 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:**

Roads: The property receives access to State Highway 87 via 18000 West [County Road #111] and 3000 North [County Road #110]. These roads are paved and are sufficient to handle the small amount of additional traffic associated with the proposed business. There are no plans for acquiring additional right of way identified at this location.

Water: The property receives water from the Upper Country Water District. The proposed business will have a very minimal impact on water usage at the property.

Sewer: The property has an onsite wastewater disposal system. The proposed business will have a very minimal impact on the amount of sewage generated at the property. Business customers would use restroom facilities, if necessary, in the existing home.

Fire: There are no fire hydrants installed on 3000 North in this vicinity. The applicant will need to request a building and fire code inspection of the garage(s) proposed to be used for vehicle storage to determine if they are constructed sufficient for vehicle storage. The business will not generate a fire hazard beyond that typical for a family with a large number of vehicles.

- D. Signs: Regulation of signs.

Findings: Utah DMV rules require a sign at least 24 square feet in size for the business. To maintain residential character, 24 square feet should be the maximum allowed. Such signage should be flush-wall mounted to the garage on the applicant's father's property and be non-illuminated. No other signs or attention devices should be permitted.

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: This small scale vehicle sales business is not anticipated to generate significant amounts of noise. The Duchesne County Nuisance Ordinance allows noise from motor vehicles between the hours of 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays and 9:00 A.M. to 9:30 P.M. on Sundays. Conditions should be considered to ensure that vehicle noise, which could disturb surrounding residents, does not occur earlier or later than these allowed times.

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

Findings: The applicant states that normal business hours are from 8:00 AM to 5:00 PM. Such hours are within the guidelines of the Nuisance Ordinance for the generation of noise.

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 Matt Brotherson, subject to the following conditions:

1. Before opening for business:
 - A. The applicant shall demonstrate compliance with Utah DMV regulations for the operation of a vehicle sales business.
 - B. The applicant shall request a building and fire code inspection of the garages to be used for vehicle storage and ensure that all requirements are met.
 - C. The applicant shall obtain a county business license.
2. Signage shall be limited to 24 square feet in size and shall be flush-wall mounted and non-illuminated. No other business signs or attention devices are allowed.
3. Motor vehicle noise on the property, associated with the business, shall be limited, to the hours between 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays and 9:00 A.M. to 9:30 P.M. on Sundays.
4. All vehicles offered for sale on the premises shall be stored within an enclosed building when not being viewed by a prospective purchaser (unless said vehicle is being actively driven by the owner). If the business grows to a point where outdoor storage of vehicles is necessary, such storage shall be demarcated by a fence, chain or other method approved by the Utah DMV. Such vehicle storage perimeter improvements shall be set back at least 33 feet from the centerline of 3000 North.

Mike Hyde, AICP
Community Development Administrator