

**Planning Commission Meeting
County Administration Building - Duchesne, UT
May 4, 2022**

In Attendance were:

Gary Sorensen, Planning Commission Chairman
Jenny Giles, Planning Commissioner
Bobby Drake, Planning Commissioner
Connie Sweat, Planning Commissioner
Shilo Hatch, Planning Commissioner
Ken Richens, Planning Commissioner
Thomas Winterton, Planning Commissioner

Mike Hyde, Community Development Administrator
Mike Gottfredson, Assistant Community Development
Becky Broadhead, Executive Secretary of Community Development

Visitors

Chris Ivester
Noah Ivester
Jessica Ivester
Bruce Thomas

The Commission welcomed new Planning Commissioner, Thomas Winterton, representing the Rural Roosevelt Area, to his first Commission Meeting.

Chairman Sorensen opened the meeting at 5:00pm 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 any item on the agenda. There were none so the meeting proceeded.

Public Hearings

Mike Gottfredson, Assistant Community Development Director, presented the Chris Ivester request for a Conditional Use Permit to establish a firewood processing and storage business at 5161 S. Highway 87 in the Duchesne area.

This business would reside in this Agricultural A5 zone and is conditionally permitted in that zone. Notice was mailed to all property owners that are within 300' of the proposed business. Application was submitted on April 3rd and working with the applicant it was completed on April 13, 2022 by the business owner and mailed out to property owners on April 15, 2022. On April 20, 2022 and April 27, 2022, a Notice of the Public Hearing was published in the Uintah Basin Standard.

When looking at the Findings the proposed use at the proposed location will not be unduly detrimental or to the property or improvements in the vicinity and will not be detrimental to the public's health safety or general welfare. Our finding is that the proposed use will not be unduly detrimental or injurious to property or improvements in the vicinity due to that several properties in the area are commercial or industrious in nature already and character. The proposed use for

this site is for processing and storage of timber which includes sawing it, splitting it, and storing it on site. All the processing of the timber would take place between the hours of 9am – 5pm which falls within the requirements in our code. The storage of the firewood means the stacking and holding of the firewood inventory for an undetermined amount of time prior to it being sold and shipped off premise. A truck and trailer would be stored on site to transport processed wood. There is a house on the site already which the applicant lives in, but it is not used in the operation of the proposed business. That is a key important distinction as this is considered a mobile business that is not tied to any building of that business. The property on which the use is proposed is of adequate size and it will not be materially detrimental to properties and business in the area. It is 4.88 acres in size and is of sufficient size for the proposed business and house on site.

As there were no questions, Chairman Sorensen invited the applicant to speak.

Chris Ivester addressed the Commissioners and said he felt like Mike Gottfredson had addressed his needs as they had ironed out the situation together. Commissioner Drake asked Chris if his business was currently in operation and if his signage was up? Chris replied, “yes”. Chris told the commission that they could see his equipment in the pictures submitted and the map that he’s drawn which would tell where everything is located. He stated that they do not get a lot of deliveries. Most of their product is shipped to the Wasatch Front for 7-11’s, the grocery store in Kamas, a place in Francis, Castle Dale, and really everywhere. Chris stated that he tries his best to buy all his fuel in Duchesne County to keep all of his tax dollars here.

Bruce Thomas asked to address the commission in favor of the business. He stated that the Ivester’s are great people to have as neighbors. He noted that the oil field companies and Maverick Peterson’s pipeline company use the road which he and the Ivester’s use. He said they make a lot of dust. Chairman Sorensen suggested that he contact the oil company to address the dust issue since they make so many trips up and down the road being referred to. Chairman Sorensen stated that in his experience with the oil companies they would be more than happy to get a water truck out there to help reduce the dust.

As there was no additional testimony in favor for or against the request, Chairman Sorensen closed the public hearing.

Commissioner Drake moved that the Conditional Use Permit for Chris Ivester Tree, LLC be approved to conduct business at the above address in accordance with the following findings and subject to the conditions recommended in the staff report. Commissioner Sweat 2nd the motion and it passed unanimously.

Findings and Fact

1. PROPOSAL DESCRIPTION

The applicant proposes to operate a firewood processing and storage business from his property in the Duchesne area. Commercial uses such as this are permitted in the A-5 zone as a conditional use.

Section 17-27a-506 of the Utah Code states:

(1)

(a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2)

(a)

(i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2) (a) (i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) 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 land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

2. HISTORY OF EVENTS

April 3, 2022	The application was submitted.
April 13, 2022	The application was deemed complete.
April 15, 2022	Notice mailed to property owners within 300 feet of the subject property.
April 20 & 27, 2022	Notice of Public Hearing published in the UB Standard.
May 4, 2022	Planning Commission hearing.

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 will not be unduly detrimental or injurious to property or improvements in the vicinity. Several properties in the vicinity are commercial or industrial in nature and character. The proposed use for this site is for processing and storage of timber. Processing timber means the delivery of said timber, sawing it, splitting it, and storing it as firewood on-site. All processing would occur during the operating hours of 9:00 AM to 5:00 PM, Monday through Friday. Storage of firewood means the stacking and holding of firewood inventory for an undetermined amount of time prior to it being sold and shipped off-premise. A truck and trailer would be stored on-site. There is a house on-site, occupied by the applicant, but it is not used in the operation of the proposed business.

- 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.

In light of these plan policies, the Conditional Use request should be approved, if conditions of approval are imposed to protect rural residential and agricultural 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.

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. **Findings:** 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 4.88 acres in size, which is of sufficient size to locate both the proposed business and the existing house. No structures are needed

for the operation of this business. As indicated, a truck and trailer are to be stored on-site.

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:

- 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 existing fencing running the perimeter of the property is sufficient to protect the property and preserve the appearance and character of the area.

Surrounding property owners and land uses are the following: CF Diesel, a diesel mechanic service, is to the north; EP Energy, an oil and natural gas developer, has a well site to the south; Dark Horse Timber, a lumber processing facility, and Sage Energy Partners, LLC, a water disposal company, is to the west; and Hislop Land Company, LLC, owner of unimproved land, is to the east.

- 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: The business access is located on the east side of the property at 20810 West, not Highway 87, and received approval by the Fire Warden on April 13, 2022.

Applicant expects infrequent public traffic to and from the business. However, a 120 ft. x 70 ft. parking and turn around area is provided (see attached site map). Gravel/road base has been laid for this parking area, and for the 500 ft. x 30 ft. driveway leading to the business access.

- 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: 20810 West is an unpaved, "Class D", minor collector road that is adequate to handle any additional traffic generated by this business. While the home on-site is connected to water and has an approved onsite wastewater disposal system, these are not required for operation of the proposed business. There is an existing fire hydrant

located to the north 650 ft. away. The Fire Chief has reviewed this proposal and determined that no additional fire hydrant installation is necessary.

D. Signs: Regulation of signs.

Findings: The applicant indicates that there is a sign, and it does comply with signage regulations. It is an on-premise, non-illuminated sign, and does not exceed 32 ft² in size.

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: Other than the house on-site, the proposed business is not in close proximity to dwelling units. Reasonable conditions should be imposed to prevent noise impacts. The county nuisance ordinance sets forth the following noise standards:

E. *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.

As stated, applicant intends to operate business between 9:00 AM to 5:00 PM, Mondays through Fridays. Noise impacts are not anticipated.

Dust is mitigated through the use of gravel/ road base laid on the parking/ turn around area and driveway. No ground disturbing excavation is anticipated, and no other dust mitigation is recommended.

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

Findings: Timber processing would occur between the hours of 9:00 AM to 5:00 PM, Monday through Friday. Delivery could occur at any time during these hours. Management of firewood inventory would also occur during this time. Activity at the

site that could cause noise will be kept within the hours allowed by the nuisance ordinance (7 AM to 9:30 PM).

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:

- I. 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.

Decision

Approval of the Conditional Use Permit requested by Chris Ivester, subject to the following conditions:

1. The owner shall avoid creating noise that would be a nuisance to others in the vicinity earlier than 7 AM or later than 9:30 PM.

2. The business sign shall be located on the premises, be non-illuminated and shall not exceed 32 ft² in size.
3. Business access shall be at 20810 West.
4. The owner shall obtain a County business license.

Minutes: Approval of Jan. 5, 2022 minutes

Commissioner Sweat noted that the minutes from the Planning Commission Meeting on Jan. 5, 2022 had two entries that needed to be amended.

Commissioner Sweat moved to approve the minutes of the Jan. 5, 2022 meeting, as corrected. Commissioner Drake seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Commissioner Giles brought up two camping/reunion/wedding facilities in the Tabiona-Hanna area. Mr. Hyde noted that both property owners have been contacted about the need for a conditional use permit.

Adjournment

After a motion to adjourn from Commissioner Richens and a second from Commissioner Drake, the meeting adjourned at 5:45pm.