

Planning Commission Meeting
County Administration Building - Duchesne, UT
March 1, 2023

In Attendance were:

Connie Sweat, Planning Commission
Ken Richens, Planning Commissioner
Annette Miller, Planning Commissioner
Shon McKinnon, Planning Commissioner

Mike Hyde, Community Development Director
Becky Broadhead, Executive Secretary

<u>Visitors</u>	<u>Agenda Item</u>
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Luke Fausett	L & P Enterprises
Thomas Fausett	L & P Enterprises
Lewis Fausett	L & P Enterprises
Jeff Stevenson	L & P Enterprises
Bobby & Lisa Drake	Presentation

Mr. Hyde opened the meeting at 5:00 PM. He welcomed the new Planning Commissioners, Annette Miller, representing the Neola area, and Shon McKinnon, representing the Upper Country area, to their first Commission meeting.

Mr. Hyde conducted business to elect a New Commission Chairperson and a Vice Chair. Ken Richens nominated Jenny Giles for Chairperson and Commissioner Miller seconded the motion. The motion passed unanimously. Mr. Hyde opened up voting for the Planning Commission Vice Chair. Annette Miller nominated Connie Sweat. Ken Richens seconded the motion. The motion passed unanimously.

Since Commissioner Giles was absent, Commissioner Sweat served as Vice Chair for the evening. She read the Rules of Order. She asked if any of the Commission Members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. There were none and the meeting proceeded.

Public Hearings

Mike Hyde, Community Development Director, presented:

- A. Request by L&P Enterprises LLC, dba Uintah Basin Drain and Sewer, for a Conditional Use Permit to construct a commercial garage and office on an agricultural parcel located at approximately 1700 N 11000 W in the Bluebell area.**

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

L&P Enterprises LLC, dba Uintah Basin Drain & Sewer, is proposing to construct and operate a commercial office and garage on an agricultural parcel located at approximately 1700 North 11000 West, in the Bluebell area. The parcel is zoned Agricultural (A-5); however, with an anticipated connection to the Upper Country Water District, the parcel will be considered zoned Residential (R-1). Commercial uses are a conditional use in the A-5 and R-1 zones.

2. HISTORY OF EVENTS

February 1, 2023	The application was submitted.
February 1, 2023	The application was deemed complete.
February 9, 2023	Notice mailed to property owners within 300 feet of the subject property.
February 15 & 22, 2023	Notice of Public Hearing published in Uintah Basin Standard
March 1, 2023	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: No activities proposed as part of this application are deemed to be detrimental to the general public health, safety, or general welfare. A water connection is available from the Upper Country Water District, and the applicant intends to develop wastewater facilities in accordance with TriCounty Health Department regulations through the building permit process.

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. The proposal complies with this section of the General Plan as a new business would be supported that does not negatively impact rural residential and agricultural interests.

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 58.13 acres in size. The parcel is sufficient in size for the proposed business activity, and will permit it to operate in a manner not detrimental to surrounding property owners-provided noise is controlled pursuant to the Duchesne County Nuisance Ordinance. The nearest dwellings are located about 385 feet to the north (Jon & Elizabeth Miles), about 750 feet to the northwest (Stephen & Jobi Baker) and about 330 feet to the southwest (Kevin & Talon Bowler).

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 proposed building will be surrounded by farm fields. Areas not improved for the building and parking will be watered and mowed. Tree plantings are proposed near the north property line. Fencing, walls or other buffering is not anticipated to be necessary.

- 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: No customers will come to the business location. One full time and one part time employee will use the facility. Parking areas will be provided with a gravel surface. Business vehicles will be parked inside the building.

- 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 is accessed from 11000 West [County Road #140] which is paved. County Road 140 is part of a loop between 1000 North and 2000 North. A road encroachment permit for new driveway access to 11000 West was issued by the Duchesne County Roads Department on February 2, 2023 for the new driveway access to serve the proposed building.

Water: The applicant has obtained a “will-serve” letter from the Upper Country Water District dated April 12, 2022. This will supply the culinary water needs of the proposed business.

Sewer: The applicant proposes to dispose of wastewater on-site with an operating permit from the TriCounty Health Department. The wastewater system will need to be installed and approved prior to a Certificate of Occupancy being issued for the building.

Fire: The applicants must meet Wildland Urban Interface (WUI) code requirements as determined by the Fire Chief and Fire Warden. The nearest fire hydrants are located approximately one mile away at the intersections of 12000 West with 1000 North and 2000 North. However, the water line serving the property is a dead-end, 4-inch line that is not sufficient for a hydrant. Thus, the applicant cannot be required to install a new hydrant at this time, but should agree to work with the Upper Country Water District to install one when the infrastructure is upgraded.

D. Signs: Regulation of signs.

Findings: The applicant has plans to place a business sign on the property. It would be a painted plywood sign, not to exceed 32 square feet, mounted on the west side of the proposed building. To maintain residential character, the sign should not be illuminated.

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 business is not anticipated to generate significant amounts of noise as it is a mobile business. The Duchesne County Nuisance Ordinance allows noise 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 noise, which could disturb others, does not occur earlier or later than these allowed times. The business is not anticipated to produce odors or other nuisance factors listed above that would be detrimental to surrounding owners.

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

Findings: The applicant indicates that normal business hours are from 8:00 AM to 5:00 PM; however, a drain emergency could call them out to a job at earlier or later hours of the day or night. There will be no office staff at the facility while the employees are at job sites.

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 found in Title 8, Zoning Regulations, of the Duchesne County 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 L&P Enterprises, LLC, subject to the following conditions:

1. Applicants shall obtain an on-site wastewater permit and operating permit from the Tri-County Health Department prior to business operation and occupancy of the proposed structure.
2. Applicants shall gravel and maintain ingress/egress, driveway, and parking areas in good repair.
3. Applicants shall obtain building permits and Certificates of Occupancy from the County Department of Building Safety prior to business operation and occupancy of the proposed structure.
4. The applicant, in coordination with the Upper Country Water District and Duchesne County Fire Department, shall install a new fire hydrant on the Upper Country Water District line on 11000 West, at the new building location, when water infrastructure upgrades occur in the area.

5. Applicants shall limit noise associated with the business to the hours set forth in the Duchesne County Nuisance Ordinance. While responding to emergency call-outs, the applicants shall minimize noise to the greatest extent possible.
6. Business signage shall be limited to one sign, flush wall mounted, non-illuminated, not to exceed 32 square feet in size.
7. Applicants shall maintain a Duchesne County business license in effect at the new location.

As there were no questions of staff, Commissioner Sweat asked the applicant to speak to the request. Luke Fausett came to the podium and explained why the move from Altamont to Bluebell would be beneficial.

Commissioner Sweat asked if there were any questions from the planning commission?

Mr. Hyde asked, "Where will you store your septic tanks?" Mr. Fausett replied, they would store them in the lean-to building that has its opening facing away from the road.

Commissioner McKinnon asked, "When is your plan for breaking ground?" Mr. Fausett answered that they wanted to break ground immediately, once the required permits are obtained.

Commissioner Richens then asked, "What equipment will you be storing in the building?"

Mr. Fausett said they would be storing a 2017 F-450 truck, a pump truck with a 2500 gallon tank, and a 3055 CAT Mini X.

Commissioner Richens asked them where they would be disposing of sewage waste? Mr. Fausett answered, "In Myton. We have always disposed there and have never had any problems. Mr. Fausett said that they didn't anticipate any problems in the future.

Commissioner Sweat asked if any other Proponents would like to speak? There were none.

Commissioner Sweat asked if there were any opponents that would like to speak? There were none.

As there was no further discussion or questions, Commissioner Sweat called for a motion. Commissioner Richens moved to approve the CUP as recommended by staff. Commissioner McKinnon seconded the motion. The motion passed unanimously.

Presentation to Bobby Drake

Mr. Hyde asked Bobby Drake and Commissioner Killian to come up to the front. Commissioner Killian presented Bobby Drake with a plaque thanking him for his service. Mr. Hyde then elaborated on what a wonderful job Bobby has done while being on the Planning Commission during the last eight years and what a valuable commissioner he has been with his real estate background. Ms. Broadhead then took a group picture of them to be published in the newspaper.

New Business

None

Minutes

Commissioner Sweat moved to accept the minutes of the November 2, 2022 meeting. Commissioner McKinnon seconded the motion. The motion passed unanimously.

Information Only Items

A. Next Meeting Date: April 5, 2023

B. Utah Chapter APA Conference in Vernal, UT May 10, 11 and 12

Commissioner McKinnon asked if this was an all or none conference or if you could attend certain days instead of all three? Mr. Hyde explained that any participation would be good and no one had to attend all three days if they weren't able to do so. Staff will provide the commission with more information as the conference agenda is finalized.

Adjournment

Commissioner Miller made a motion to adjourn at 5:33pm.