

DUCHESNE COUNTY PLANNING COMMISSION MINUTES

Duchesne County Administration Building, Commission Chambers

April 5, 2023, at 5:00 PM

Attending

Planning Commission: Jenny Giles, chair; Connie Sweat, vice-chair; Shilo Hatch, member; Ken Richens, member; and Thomas Winterton, member.

Staff: Mike Hyde, Director of Community Development; and Mike Gottfredson, Deputy Director of Community Development.

Public: Leslie Pearson, Wildcat Sand LLC; Matt Hyita, Wildcat Sand LLC; Tyler Carlsen, himself; and Tracy Killian, himself.

The meeting began at 5:00 PM. Commission Chair Jenny Giles 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. Tom Winterton indicated his intention to abstain from the first agenda item due to the property in question being owned by his parents.

Public Hearings

Ms. Giles opened the public hearing regarding the request by Wildcat Sand LLC for a Conditional Use Permit to allow the surface mining of sand on approximately 268.52 acres of land owned by the Winterton Family Trust, located northeast of the Roosevelt Municipal Airport. Mike Hyde presented.

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Wildcat Sand, LLC is proposing to mine sand from portions of a 268.52 acre parcel of land owned by the Winterton Family Trust, located northeast of the Roosevelt Municipal Airport. The northerly 218+/- acres of the proposed mining area is zoned Industrial. Surface mining is a conditionally permitted use in the Industrial zone. There is a strip of land along the southern border of the property (containing roughly 50 acres) that is zoned Agricultural (A-2.5) on the zoning map. This appears to be a mapping error since the lands in that area are not suitable for agricultural or residential use, contain an industrial use and are surrounded by industrial zoning in the county and in Roosevelt City. For the purposes of this request, county staff is interpreting that the entire property is zoned Industrial.

2. HISTORY OF EVENTS

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| February 16, 2023 | The application was submitted. |
| March 2, 2023 | The application was deemed complete. |
| March 17, 2023 | Notice mailed to property owners within 300 feet of the subject property. |
| March 22 & 29, 2023 | Notice of Public Hearing published in the Uintah Basin Standard |
| April 5, 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 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: Surface mining can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from the operation of equipment, windblown dust and dust from equipment movement.

It is especially important that dust not be allowed to interfere with aircraft operations at the Roosevelt Municipal Airport. Approval of the project by the FAA is required due to the proximity to the airport. As stated in a March 29, 2023 letter from Roosevelt City, this will require the applicants to file a Form 7460-1 with the FAA. Also, the City is requesting that sand mining operations not occur within 1000 feet of the runway or in the approach surface at the east end of the runway (see “No Mining Area” exhibit map prepared by Roosevelt City’s airport engineer – J-U-B Engineers, Inc.). The City is also requiring the applicants to file a NOTAM, which is a notice alerting flight operations personnel of the sand mining operation. Finally, because standing water attracts birds and aircraft bird strikes are a concern, the mining must take place in a manner that does not create open pits or allow water to pond or pool.

If the applicants and operators comply with dust standards (administered by the TriCounty Health Department) and noise standards in the county nuisance ordinance, the proposal is less likely to be injurious to public health, safety or welfare. The health department issued an approval of the dust control plan by letter dated March 22, 2023.

Detrimental impacts can also occur if the mining area is not reclaimed properly. The county has “material pit finishing” standards that; along with the terms of the lease agreement with the property owner, will prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed.

Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. The applicant will need to check with the DEQ Water Quality Division to determine if a storm water permit is required at this location.

There are wetlands in the project area. These areas will need to be avoided unless permission to disturb wetlands is obtained from the US Army Corps of Engineers or other agencies with jurisdiction.

According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Surface mining and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially county roads. The proposed access to the mining area is via 2000 West, which is a paved county road extending north from Highway 40 to the mining site. If any new road approaches to the county road are needed, the applicant will need to seek a permit from the Duchesne County Public Works Department.

Trucks would access Highway 40, with the ultimate destination for the sand being a site in Uintah County, southwest of Fort Duchesne (see sand haul route map), where any reject materials would be removed. The applicants should coordinate with the Duchesne and Uintah County Road Departments to ensure that these haul routes are acceptable. If either the Duchesne or Uintah County Road Departments need to apply

weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage occurs, the applicants should coordinate with the counties to make repairs.

There are traffic signals at 2000 West and Highway 40 where trucks will enter and exit the highway. UDOT inquired whether a traffic impact study would be needed.

In this case, five trucks would make up to six round trips per day. This amounts to 30 trips in each direction for a total of 60 trips. This amount of traffic is below the threshold (in the County Transportation Master Plan) that would require a Traffic Impact Study.

The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Such time limits should be applied in this case to ensure that no noise impacts occur. The nearest homes are located about ¼ mile to the northwest (Conover) and about 2,400 feet to the north (in the Stonegate Subdivision). The applicants anticipate that mining will occur up to seven days a week, between 7:00 AM & 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays, and 9:00 AM to 9:30 PM on Sundays and holidays (which complies with the Nuisance Ordinance limitations).

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 contains the following statements with respect to mining activities: “Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.”

In this case, the applicants intend to use the sand to support the energy and construction industries. Such projects are beneficial to the economy of the county and in compliance with the general plan.

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 proposed mining would take place on approximately 226.45 acres of land, which is certainly large enough to accommodate the proposed use (the “no-mining area near the Roosevelt airport runway and approach zone removes about 42.7 acres from the potential mining area). The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished grade. The applicants are also required to set the mining area back 660 feet from existing city limit lines and residential, educational, public, religious or commercial structures unless the property owner(s) grants a waiver. Aerial photos indicate that there are no residential, educational, public, religious or commercial structures located within 660 feet of the mining area. There are several industrial structures located in close proximity to the mining area but these do not require a setback. Roosevelt City has granted a waiver to allow a 50 foot setback to city limit lines on the north and east boundaries of the property.

The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

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.

8-13-5-2: SURFACE OR SUBSURFACE MINING AND CRITICAL INFRASTRUCTURE MATERIALS OPERATIONS

A. Dust Free Condition: Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active mining areas and driving surfaces during times of operation is considered maintaining a near dust free condition;

Findings: The TriCounty Health Department issued approval of the applicant's dust control plan by letter dated March 22, 2023. The applicant or authorized agent must follow this plan to control dust at active mining areas and driving surfaces, including roads between the paved county road and the mining site. Roosevelt City requests 24/7 dust control by applications of water and/or dust suppressants (such as magnesium chloride) and that if there are any dust complaints received from pilots or the public, the mining operations shall cease until the event can be mitigated.

B. Bond Required: A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements;

Findings: The property owners, feeling that terms of their lease agreement with the applicants will ensure reconditioning to their satisfaction, have waived the bonding requirement in writing by email dated March 28, 2023.

C. Reconditioning: Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the Material Pit Finishing Standards on file at the County Planning Department are suggested for use in reclamation planning;

Findings: The “Material Pit Finishing Standards” attached hereto are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents are subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced. The lease agreement between the applicant and property owner calls for the applicants to leave the site in a clean and flat condition to allow for future development.

D. Distance Requirement for Surface or Subsurface Mining and Critical Infrastructure Materials Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back six hundred sixty feet (660') from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back at least fifty feet (50') from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consents to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the Surface or Subsurface Mining and Critical Infrastructure Materials Operation would occur.

Findings: The proposed surface mining excavation must be set back at least 50 feet from the property line to meet the minimum standard of the ordinance and allow for gentle slopes between the finished grade and adjacent property grade. The mining area boundary exceeds the required 660-foot setback from the nearest home. There are no other residential, educational, public, religious or commercial structures within the minimum setback area. There are many industrial uses in the vicinity that are not protected by the minimum setback standards. There is no rock crusher in this case. Roosevelt City has authorized a waiver for the mining excavation to occur within 50 feet (rather than 660 feet from the city limit line) on the north and east sides of the property.

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.

RECOMMENDATIONS

1. The applicant shall control dust and noise so neither becomes a nuisance.
 - a. The applicant shall conform to the dust control plan approved by the TriCounty Health Department.
 - b. The applicant shall comply with the following hours of mining operations: (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays).
 - c. Pursuant to Roosevelt City's request, the applicant shall provide dust control at all times by application of water and/or dust suppressants such as magnesium chloride.
 - d. If there are any dust complaints received from pilots or the public, the mining operations shall cease until the event can be mitigated.
 - e. To minimize dust impacts on the Roosevelt Municipal Airport, sand mining operations shall not occur within 1000 feet of the runway or in the approach surface at the east end of the runway (see "No Mining Area" exhibit map prepared by Roosevelt City's airport engineer – J-U-B Engineers, Inc.).
2. The applicant shall post the required bonding and reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage, berming and/or fencing.
3. Before starting excavation at the site, the applicant shall obtain an industrial stormwater permit, if required, from the Utah Department of Environmental Quality, Water Quality Division, and provide a copy to the County.
4. Because standing water attracts birds and aircraft bird strikes are a concern, the mining must take place in a manner that does not create open pits or allow water to pond or pool.
5. Before starting excavation at the site, the applicant shall obtain authorization from the Federal Aviation Administration (FAA) using Form 7460-1 and provide a copy to the County and

Roosevelt City. The applicants shall file a NOTAM with Roosevelt City, which is a notice alerting flight operations personnel of the sand mining operation.

6. No wetland areas shall be disturbed unless permitted by the US Army Corps of Engineers or other authorities with jurisdiction.
7. The applicant agrees to maintain a 50-foot wide buffer between the excavation areas and the property lines. If the applicants are unsure of property line locations, they shall be determined by a surveyor.
8. Applicants shall obtain approval of their sand haul routes from the Duchesne and Uintah County Road Departments. If either the Duchesne or Uintah County Road Departments need to apply weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage occurs due to trucks hauling sand, the applicants shall coordinate with the counties to make repairs.

Ms. Giles asked for any questions to Mr. Hyde from the Planning Commission.

1. Shilo Hatch: How many acres of wetland?
 - a. Mr. Hyde: A few small areas.
2. Thomas Winterton: Wind generally goes from west to east. Dust already is not originating at the Roosevelt Airport. Will this be a concern?
 - a. Mr. Hyde: No, not originating from this site.
3. Connie Sweat: Is there a preferred sand haul route for this operation?
 - a. Mr. Hyde: There is direct access from 2000 West to Highway 40. The Road Departments of both Duchesne and Uintah Counties have not responded to the proposal at the time of this public hearing. It is up to both Duchesne and Uintah Counties to determine preferred sand haul routes. The counties prefer that trucks stay on Highway 40 as opposed to using county roads.

Applicant Comments: Matt Hyita

4. Provided background on Wildcat Sand LLC; described the operation on the Winterton Property as one that removes the wind-deposited sand dunes off of the property surface with minimal sub-surface mining; emphasized Wildcat Sand LLCs intention to not operate an open pit on this property, only to remove the "organics;" is waiting on the Duchesne and Roosevelt Road Departments to determine final sand haul routes.
5. Mr. Winterton: Does Wildcat Sands plan on five additional trucks or five rerouted trucks?
 - a. Mr. Hyita: Five rerouted trucks.
6. Ms. Sweat: Will sand rejects be taken back to the property?
 - a. Mr. Hyita: Reject material will not be taken back to property.
7. Mr. Hyde: When does Wildcat Sands intend to start operation at this location?
 - a. Mr. Hyita: Sometime this year.
8. Ken Richens: The condition of County roads is a concern. What is the weight you are hauling?
 - a. Mr. Hyita: 40 tons maximum in aluminum trailers.
9. Mr. Richens: The roads are breaking up with the current traffic. What is Wildcat Sand going to do about it?

- a. Mr. Hyita: We want to be good stewards and follow the Duchesne and Uintah County Road Departments recommendations.
- 10. Mr. Richens: Will you use all of the proposed sand haul routes?
 - i. Mr. Hyita: We will use them as needed.

Opponent Comments: none

Ms. Giles closed the public hearing and opened the request to the Planning Commission for discussion.

Discussion:

- 11. Ms. Sweat: I have a concern about road conditions. The roads proposed for the sand haul routes have issues already.
 - a. Mr. Hyde: see Condition #8.
“Applicants shall obtain approval of their sand haul routes from the Duchesne and Uintah County Road Departments. If either the Duchesne or Uintah County Road Departments need to apply weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage occurs due to trucks hauling sand, the applicants shall coordinate with the Counties to make repairs.”

As there was no further discussion, Ms. Giles called for a motion on the request.

Motion:

- 12. Ms. Sweat: I move for the approval of the Conditional Use Permit requested by Wildcat Sand LLC, for the surface mining of sand from the Winterton property located on the northeast side of the Roosevelt Municipal Airport, subject to the eight conditions outlined in the staff report provided.
 - a. Mr. Richens: Second.Ms. Giles: All in favor?
 - b. Ms. Giles: Aye.
 - c. Ms. Sweat: Aye.
 - d. Ms. Hatch: Aye.
 - e. Mr. Richens: Aye.
 - f. Mr. Winterton: Abstain.

Motion passes, with four ayes, no nays, and one abstention.

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Ms. Giles opened the public hearing regarding the request by Guyla Larson and Tyler Carlsen for a Conditional Use Permit to operate a short-term rental at 27575 W. Old Highway 40, Lot 2 of the Canyon Ledge Subdivision, west of Duchesne. Mike Gottfredson presented.

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Tyler Carlsen and Guyla Larson are proposing to operate a short-term rental at their cabin on their property in the Canyon Ledge Subdivision, west of Duchesne. Short term rentals fall within the definition of a “Resort Lodge,” [A facility, including either a single building or resort cabins,

which serves as a destination point for visitors, and generally has accessory recreational facilities for the use of guests. Guest residency is limited to no more than ninety (90) days]. Resort Lodges, including short-term rentals, are allowed in the A-5 zoning district with a conditional use permit.

2. HISTORY OF EVENTS

February 10, 2023	The application was submitted.
March 2, 2023	The application was deemed complete.
March 16, 2023	Notice mailed to property owners within 300 feet of the subject property.
March 22 & 29, 2023	Notice of Public Hearing published in the Uintah Basin Standard.
April 5, 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 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 is not unduly detrimental or injurious to property or improvements in any vicinity, and is not detrimental to public health, safety, or general welfare.

There are water and wastewater facilities in place mitigating potential public health detriments.

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 and more recreational opportunities provided in a manner that does not 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 7.58 acres in size and includes a secondary residence (cabin) built in 2007 and a smaller bunkhouse built the same year. The cabin has two (2) bedrooms and one (1) bathroom. Although both the cabin and the bunkhouse received a Certificate of Occupancy from Duchesne County in 2013, the bunkhouse is not being considered for public use at this time. Plans are in place by the property owner to improve the bunkhouse for public use later. There is a shed on-site for storage purposes and is not accessible to renters.

The parcel is sufficiently large for the cabin and the cabin will accommodate the short-term rental. The business can operate in a manner that is not detrimental to surrounding property owners if noise is controlled pursuant to the Duchesne County Nuisance Ordinance and trespass is discouraged. The nearest dwelling is located over 2,300 feet to the east. Surrounding lands are private.

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: There is no significant outdoor storage of equipment or other materials associated with the short-term rental. However, applicants should educate clients to not trespass onto properties in other ownerships.

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 property from Old Highway 40. The parking area is sufficient for up to six (6) vehicles. The driveway has a circular turn-around area, and is graveled.

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 Old Highway 40, west of Duchesne. Old Highway 40 is a paved County Road (#377).

Water: The property is supplied by water via cistern. The proposed short-term rental will have similar impact on water usage as a single-family dwelling (permitted at 3 bedrooms maximum). Water hauled to the premises for commercial purposes, such as a short-term rental, must be supplied by a Tri-County Health Department-approved commercial drinking water hauling service.

Sewer: The property has an onsite wastewater disposal system and is approved by Tri-County Health District (Permit # 2009-DUWW-0122).

Fire: The property and building meet Wildland Urban Interface (WUI) code requirements for defensible space. The building will meet R-3 Owner Occupied Lodging House and R-3 Boarding Transient House provided that certain smoke and CO detectors are provided (see Short Term Rental Restrictions for Single Family Dwellings attachment). These standards limit each dwelling unit to five guest rooms and ten total guests.

D. Signs: Regulation of signs.

Findings: The applicant desires to place a sign on the property. All signs must comply with Duchesne County ordinances (Title 8-9-14, 8-13-5-5-D).

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. The applicant proposes to instruct renters to respect adjacent property owners and not create noise problems.

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.

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

Findings: As indicated in the ADDITIONAL CONDITIONS SPECIFIED Section E, the applicant is required to follow the Duchesne County noise ordinance regulating operating business hours.

Applicant anticipates renting the cabin at their property year-round, with stays ranging from two days to one month in duration. Utah Code Section 17-50-337 defines "Short-term rental" as a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days. Any operator of short-term rentals in the State of Utah must comply with this code.

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.

RECOMMENDATIONS

1. A Duchesne County business license shall be obtained and maintained for the duration of this conditional use permit. Note: all other conditions must be addressed before a business license would be issued. For more information, please contact the Duchesne County Clerk-Auditors Department at (435) 738-1101.
2. The Transient Room Tax (TRT) shall be collected from guests.
3. The ingress/egress, driveway, and parking area shall be maintained to the 2006 Wildland Urban Interface code standards.
4. Defensible space shall be maintained around all structures, as outlined in the 2006 Wildland Urban Interface code.
5. The "Short Term Rental Restrictions for Single Family Dwellings" document established by the Duchesne County Building Official shall remain in force for the duration of this conditional use permit. To ensure compliance and prior to occupancy by the public, the applicant shall request an inspection by the Department of Building Safety to ensure that the required safety standards have been met. This inspection has an additional fee (\$110.00, as of this letter), paid to the Department of Building Safety. To schedule an inspection, please call Glenna Mayhew at (435) 738-1150.
6. The property owners shall inform clients of the Duchesne County noise ordinance standards and the property boundaries to deter noise nuisances and trespassing.
7. The property owners shall comply with Utah Code Section 17-50-337, while the cabin is offered for short-term rentals.
8. All signs must follow Duchesne County Code (Title 8-9-14, 8-13-5-5-D). As such, signs must comply with the following:
 - a. Placed on premise only (includes on a gate or fence);
 - b. Are not internally lit;

- c. Does not exceed 16 ft² in size;
 - d. A sign may be attached to the cabin, if:
 - i. mounted flush to the face of the building,
 - ii. is non-illuminated,
 - iii. does not exceed 2 ft² in size.
9. The property owners may not rent the bunkhouse until it has been improved and inspected by the Duchesne County Department of Building Safety.
10. Drinking water must be supplied by a Tri-County Health Department-approved commercial water carrier. Please contact Tri-County Health Department at (435) 722-6300 for a list of approved vendors.

Ms. Giles asked if there were any questions to Mr. Gottfredson from the Planning Commission.

- 1. Ms. Hatch: Water hauling only by TriCounty Health Department approved supplier should be a condition of approval.
 - i. Mr. Gottfredson: It will be included as a 10th condition.
- 2. Applicant Comments: Tyler Carlsen
 - a. Emphasized VRBO's role in collecting transient room tax (TRT) and providing insurance benefits; informed the Planning Commission that the water tank serving the main cabin is in an insulated shed, with filters and rodent control.
- 3. Opponent Comments: none

Ms. Giles closed the public hearing and opened the request to the Planning Commission for discussion.

- 4. Discussion: none

As there was no further discussion, Ms. Giles called for a motion on the request.

- 5. Motion:
 - a. Ms. Hatch: I move that the Planning Commission approve the Conditional Use Permit requested by Guyla Larson and Tyler Carlsen, subject to the nine conditions outlined in the staff report provided, and with the additional Condition #10. *"Drinking water must be supplied by a TriCounty Health Department-approved commercial water carrier."*
 - i. Mr. Winterton: Second.
 - b. Ms. Giles: All in favor?
 - i. Ms. Giles: Aye.
 - ii. Ms. Sweat: Aye.
 - iii. Ms. Hatch: Aye.
 - iv. Mr. Richens: Aye.
 - v. Mr. Winterton: Aye.
 - c. Motion passes unanimously, with five ayes, no nays, and no abstentions.

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Ms. Giles opened the meeting to any new business. Seeing none, and none being brought forward by the other Commission members attending, Ms. Giles called for a motion regarding the March 1, 2023 Duchesne County Planning Commission Minutes.

1. Discussion: none

Holding that no further discussion was requested, Ms. Giles called for a motion on the minutes presented.

2. Motion:
 - a. Ms. Sweat: I move we approve the March 2023 Planning Commission minutes as presented.
 - i. Mr. Richens: Second.
 - b. Ms. Giles: All in favor?
 - i. Ms. Giles: Aye.
 - ii. Ms. Sweat: Aye.
 - iii. Ms. Hatch: Aye.
 - iv. Mr. Richens: Aye.
 - v. Mr. Winterton: Aye.
 - c. Motion passes unanimously, with five ayes, no nays, and no abstentions.

Ms. Giles informed the Planning Commission that the next meeting would be held on May 3, 2023. Mr. Hyde and Mr. Gottfredson informed the Planning Commission that the Spring Conference of the Utah Chapter, American Planning Association would occur in Vernal on May 10-12, 2023. Mr. Gottfredson was requested by Mr. Hyde to send a copy of the Conference agenda to the Commission members.

The meeting adjourned at 6:02 PM.

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