

**DUCHESNE COUNTY PLANNING COMMISSION MINUTES**  
Duchesne County Administration Building, Commission Chambers  
July 5, 2023 at 5:00 PM

**Attending**

Planning Commission: Jenny Giles, chair; Connie Sweat, vice-chair; Annette Miller, member; Ken Richens, member; Shon McKinnon, member;

Staff: Mike Hyde, Director of Community Development; and Becky Broadhead, Community Development Secretary; Tracy Killian, Duchesne County Commissioner

Public:

Leslie Higley, Selanie & Casey Iorg, Tracy Traidon Williams

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. There were none.

**Public Hearings**

Jenny Giles opened the public hearing regarding the request by Casey and Selanie Iorg for a conditional use permit to operate a go kart track, located on the north side of 4000 North, west of Bluebell, UT.

Mr. Hyde presented the following:

**FINDINGS OF FACT**

**1. PROPOSAL DESCRIPTION**

Casey and Selanie Iorg request a conditional use permit to operate a go-kart track on their property, located at the intersection of 13825 W and 4000 N, west of Bluebell. This track will include three (3) courses, a ticket booth, and a parking area. A go-kart track is considered a commercial use, and is allowed in the A-5 zoning district with a conditional use permit.

**2. HISTORY OF EVENTS**

May 30, 2023	The application was submitted.
May 30, 2023	The application was deemed complete.
June 13,2023	Notice mailed to property owners within 300 feet of the subject property.
June 21 & 28, 2023	Notice of Public Hearing published in Uintah Basin Standard.
July 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 (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 is not anticipated to be unduly detrimental or injurious to property or improvements in the vicinity, and is not detrimental to public health, safety, or general welfare. Noise will be emitted from gasoline-powered engines, and dust will be stirred from the use of the dirt track. Following the proposal submitted and the recommendations from staff, these impacts will be mitigated sufficiently to meet this code requirement.**

**Water and wastewater facilities will be provided in accordance with TriCounty Health Department standards.**

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.

**The subject property is 18.65 acres in size and includes a shed under construction for use as a ticket booth.**

**The parcel is sufficiently large for the courses, tracks, and parking proposed as part of this commercial use. The business can operate in a manner that is not detrimental to surrounding property owners if noise and dust are controlled pursuant to the Duchesne County Nuisance Ordinance and the general public is kept within the operations area. The nearest dwelling is located over 150 feet to the east. Lands to the north and west are private and undeveloped. Land south of the property will not be impacted, due to the go-kart track's location on the north side of 4000 N.**

**The applicants anticipate constructing a storage shed/restroom within a year of operation. This structure must comply with County zoning and building**

**code and be provided with water and wastewater facilities approved by TriCounty Health Department.**

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: A wire-mesh fence runs along the north, south, and east sides of the property. The nearest home is 150 feet from the east property boundary.**

- 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 4000 N ( County Road #142). The County Road Department has verified that this access drive is sufficient to service the use.**

**The parking area is sufficient for up to twenty (20) vehicles, half of which is graveled. There is currently one graveled parking stall that is signed as accessible. The driveway is graveled.**

**Per Duchesne County Code 8-12-19, the parking requirements for land uses which are not specified in the code shall be determined by the zoning administrator, or Planning Commission on appeal. The determination shall be based upon the requirements for the most comparable use specified in the code. The Zoning Administrator has determined that 20 parking spaces is sufficient as 36 participants are anticipated at any one time and many will not arrive in sole-occupant vehicles.**

**The entire parking lot must have a “durable and dustless surface” to meet County standard. Also, the parking area must have at least one accessible parking stall, designed with signage and a hard surface per International Building Code (as determined by the Duchesne County Building Official).**

- 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 4000 N (CR #142). Access uses 13825 W, a Class D road that runs the length of the property (north to south) on the north side of 4000 N. The Duchesne County Roads Department has approved this access for the proposed use.

**Water:** The property is not supplied water by well or a public water hook-up. Drinking water will be supplied to customers through bottled water. A water connection or well will be provided within one (1) year of operations beginning to service the required restroom facilities.

**Sewer:** There is no on-site wastewater system or public sewer hook-up at the property. Portable restroom facilities will be in place prior to and throughout the duration of the first year of operations beginning. Working with TriCounty Health and the Duchesne County Department of Building Safety, a permanent restroom facility will be constructed within a year of operation.

**Fire:** The property must meet Wildland Urban Interface (WUI) code requirements for defensible space. The WUI code requires a fire hydrant to be accessible for commercial uses. County code also gives the Fire Marshall discretion in implementing the WUI code. Due to insufficient water supply, and due to the nature of the commercial use, the installation of a fire hydrant was deemed unwarranted at this time. When the Upper Country water system is updated to support hydrants, the applicant will install a hydrant. A certified fire extinguisher must be maintained at each track and the ticket taking shed.

Go-karts are manufactured to meet environmental specifications and include spark arrestors.

D. Signs: Regulation of signs.

**Findings:** The applicants installed a sign at the entrance to the property. All signs must comply with Duchesne County ordinances (Title 8-9-14, 8-13-5-5-D). The sign is less than 16ft<sup>2</sup>. It is located beyond 33 feet from the center of 4000 N, and within the Moon Lake Electric Association right of way. The applicants have verbal approval of location of the sign from Moon Lake Electric. The sign is not 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:**

**Noise:** This business is not anticipated to generate significant amounts of noise. The go-karts motors are electric- and gas-powered. The gas-powered motors generate noise similar to lawn-mower engines at idle. Electric-powered motors generate minimal noise. The applicants are required to follow the Duchesne County noise ordinance regulating operating business hours.

**Dust:** This business would operate on untreated dirt tracks. The applicants propose to wet the tracks using a 325-gallon water tank and 2" pump as needed to keep dust at a minimum. The tracks would be closed during excessive wind. The proposed business warrants a Dust Control Plan from TriCounty Health.

**Gasoline/oil:** No more than ten (10) gallons of gasoline will be on-site at a time. Oil will not be stored on-site.

**Lights:** Initially, operation will be during daylight hours only. No outdoor lights are proposed to be fixed as part of this business; however, lighting may be considered in the future. A condition should be considered to allow future lighting, but only if adjacent property owners have no objection.

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.

Hours of operation are seasonal, commencing June 1, and ending October 31, of each year. June 1 through August 31 hours and days of operation are Wednesday through Saturday, 12:00 PM – 8:00 PM. September 1 through October 31 are Friday and Saturday, 12:00 PM – 6:30 PM.

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 noise that could disturb others does not occur earlier or later than these allowed times.

#### **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 Casey and Selanie Iorg, subject to the following conditions:

1. A Duchesne County business license shall be obtained and maintained for the duration of this conditional use permit.
2. The ingress/egress, driveway, and parking area, shall be maintained to WUI code standards, with driveways and parking areas constructed with a durable and dustless surface.
3. Drinking water will be available to customers via bottled drinking water.
4. Written documentation from TriCounty Health granting the applicants permission to use temporary restroom facilities will be provided to the County prior to commercial operation. Permanent facilities shall be constructed within one year of the beginning of operations.
5. The entire parking area shall be graveled.
6. One accessible parking stall must be installed and approved by the Duchesne County Building Official within 90 days of operations beginning.
7. A Dust Control Plan must be submitted and accepted by TriCounty Health prior to the beginning of operations. The applicants are to maintain a water truck or

- mobile water tank to treat tracks regularly during operating hours to deter dust, shut down operations during blowing dust conditions and comply with TriCounty Health dust control plan requirements.
8. WUI code defensible space around structures shall be maintained at all times.
  9. A building permit must be obtained as part of the construction of the future storage shed/restroom.
  10. Applicants shall sign and record an agreement to install fire hydrant when Upper Country Water Improvement District improves their system to support this infrastructure at a location approved by the Duchesne County Fire Marshall.
  11. A certified fire extinguisher must be maintained at each track and the ticket-taking shed.
  12. Applicants shall comply with the Duchesne County noise ordinance standards to deter noise nuisances.
  13. Signs must follow Duchesne County Code (Title 8-9-14, 8-13-5-5-D). As such, signs must comply with the following prior to commercial operation:
    - a. Placed on premise only (includes on a gate or fence);
    - b. Are not internally lit;
    - c. Does not exceed 32 ft<sup>2</sup> in size;
    - d. A sign may be attached to a building, if:
      - i. mounted flush to the face of the building,
      - ii. is non-illuminated,
      - iii. does not exceed 2 ft<sup>2</sup> in size.
  14. All gasoline storage on-site will comply with TriCounty Health and/or State of Utah code and standards administered by the County Fire Chief.
  15. Outdoor lighting may be installed in the future provided that adjacent property owners are notified in advance and file no written objection.

Ken Richens: The state said they could keep 10 gallons of gasoline on the premises?

Mike Hyde: The applicants will need to coordinate fuel storage with the Duchesne County Fire Department.

Jenny Giles: Did you say that if they wanted to use lights on their track they would have to come back?

Mike Hyde: The original staff recommendation said no lighting. If the applicants would like flexibility to install lighting in the future a condition (#15) could be added. We are just trying to reduce the impact of lighting on the neighbors.

Jenny Giles: Asked for any proponents to come up to the podium and state their name and mailing address.

Selanie Iorg: I have spoken to Tricounty Health Department several times and Mike Gottfredson has too. We have had a meeting all together. We have agreed to start the process of permanent restroom facilities within one year of operating. Tricounty Health has agreed that we can use

portable restroom for our first season. As far as dust control goes, we have agreed we will shut the track down if winds are excessive because at that point we cannot control the dust. We were riding on the track the other night with 10 mph gusts and it wasn't bad at all. I foresee needing to shut the track down with winds around 20-25 mph. Tricounty Health has agreed to our dust control plan. We also have a 325 gallon tank that runs on a 2" pump that we can run around the track and water it down as needed. Regarding Condition #4, we have yet to receive written documentation by Tricounty Health.

Mike Hyde: Once we have something from Darrin Brown with Tricounty Health whether it be by email or a formal letter regarding your restroom plans and your dust control, you will be good to go.

Selanie Iorg: I haven't heard anything from them except verbally.

Mike Hyde: We'll reach out to Darrin Brown with Tricounty Health to send us a letter or email.

Selanie Iorg: I would have loved to have had a bigger sign. The existing sign is 4x4.

I am a rule follower so I did what I was told which was 4x4.

Jenny Giles: So will people miss your business when driving along 4000 North?

Selanie Iorg: If you can't see the sign you will be able to see the track. The sign is fun and inviting. There is no way people will miss it.

Jenny Giles: If they are requiring you to put in a bathroom, does Upper Country have enough water?

Selanie Iorg: Upper Country does not have enough pressure to run a fire hydrant. We actually already have a water connection on the property for the future restrooms.

Jenny Giles: So do you have a permit for a septic system?

Selanie Iorg: There is already a permit in at Tricounty Health from the previous owners. We will probably have to modify it for whatever we feel would best suit our needs.

Ken Richens: Do you know the size of line they have ran for the water line on to your property?

Casey Iorg: It's the regular 3/4" water line.

Jenny Giles: So this will be something that kids who want to go on a date could come over and have a fun time?

Selanie Iorg: Go Karts and helmets are there. If you're sending your underage kids they will need to make sure that the parent or guardian signs the liability form. This form will be on our website that people can download, fill out and send with them. Anyone under the age of 18 must fill out this form. As soon as we get the approval from you all, I will put up my website where you can find everything about our Go Kart Track.

Selanie Iorg: To clarify, our machines are geared towards youth. This is to bring in kids. There is a 400lb weight limit.

Ken Richens: So are you going to get by with 10 gallons of gas?

Selanie Iorg: No. No, we're not, but I also live within walking distance of the track where I can get more gas if we need it.

Casey Iorg: The machines hold about 1 to 1-1/2 gallons of fuel. The other go karts we have are electric, and we expect they'll run about 5 hours on a charge. Therefore, to start out we think we can get by on 10 gallons of gas a day for now.

Jenny Giles: So why doesn't the county allow more than 10 gallons of gas? We have a gas tank on our farm that I'm pretty sure holds more than 10 gallons of gas.

Selanie Iorg: It's the Fire Chief. He wants to be aware of how much gas we have on the property. This is what we feel we will need to get going. Right now we only have 5 go karts. We hope to build up to 15 go karts at which time we will need to meet with the Fire Chief again on how much gas we keep on the premises.

Ken Richens: What is the material like that the track is made out of? Sandy, rock, clay?

Casey Iorg: A little bit of sand and rock mixed together. On the really sandy parts of the track I've been bringing in road base and mixing it with the sand.

Selanie Iorg: This property was used as industrial property before we bought it. We will be bringing in rock as needed.

Ken Richens: I just wondered what the cost will be involved with this property?

Casey Iorg: It's all road base, and we just have added the gravel by the ticket booth. As far as the mud, there hasn't been a big problem after I have driven all around the course when it has rained.

Selanie Iorg: If it rains a lot we will be shut down. No one will want to ride a go kart in the rain. Our go karts are open. I have another question? Will we know tonight if we are approved?

Mike Hyde: Yes. We will also issue you a written decision in the mail tomorrow. You should be able to get your business license tomorrow if the planning commission approves your permit tonight.

Shon McKinnon: Will this be a family run business?

Selanie Iorg: Mostly family run, but this year we figure we need two adults and a teenager. Since we have gotten a late start at this, we figure that next year we will need 3 to 4 adults to run it per day.

Jenny Giles: Are there any other questions?

Mike Hyde: Would you like us to give you the ability to go bigger on your sign?

Selanie Iorg: Yes, that would be nice to have for in the future as well as outdoor lighting.

Mike Hyde: We could go up to 32 square feet if you'd like to do a new sign later down the road.

Annette Miller: So she could do a high and a low sign and that qualifies as one sign. Correct?

Mike Hyde: Yes. As far as the lighting, would you like to be able to get an ok on that so you do not need to come back in the future?

Selanie Iorg: Yes, down the road from now, after we see how well our business does we might want to put in lighting.

Mike Hyde: We can add condition #15 that indicates Outdoor Lighting may be installed provided that there is no written objection from surrounding property owners in the future.

Jenny Giles: Is there anyone else in favor who would like to speak? There were none. There was no testimony in opposition so the public hearing was closed.

Connie Sweat made a motion to approve the request for Casey & Selanie Iorg for the “All for the Adventure Go Kart Track” with the modifications to conditions #14 and #15 regarding future gas storage and future lighting.

Annette Miller seconded the motion. The motion passed unanimously.

Jenny Giles opened the public hearing regarding the request by Higley Estates LLC seeking a Conditional Use permit for a junk storage yard located at 1677 S 7000 W, in the Ioka, UT area.

Mr. Hyde presented the following:

## **FINDINGS OF FACT**

### **1. PROPOSAL DESCRIPTION**

The applicant, in response to a Notice of Noncompliance filed by the County in February, 2023, is requesting permission to maintain a junk storage yard at the subject location, which is zoned Agricultural (A-5). Junk storage yards 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.

A junk yard is defined in the zoning ordinance as: *The use of any lot, parcel or land for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery. All junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so the junkyard is not visible from the main traveled way.*

Junk is defined in the Nuisance Ordinance as: *Inoperative motor vehicles, motor vehicle parts, abandoned automobiles and vehicles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.*

Section 3-4-3 of the County Code defines Solid Waste as: *All putrescible and non-putrescible solid and semisolid wastes, such as refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes and shall include other discarded material classified as solid waste by state and federal law or regulation.*

The permit is being sought in order to bring the current condition of the property, as shown in the site photos, into compliance with the County zoning, nuisance and solid waste ordinances.

## **2. HISTORY OF EVENTS**

June 14, 2023	The application was submitted.
June 14, 2023	The application was deemed complete.
June 15, 2023	Notice mailed to property owners within 300 feet of the subject property.
June 21 & 28, 2023	Notice of Public Hearing published in the Uintah Basin Standard.

## **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 public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity if conditions are not imposed to protect land, air, water and visual quality.**

**The Utah Department of Environmental Quality has a Solid and Hazardous Waste Division that regulates junk yards and scrap metal operations. For junk yards with dismantling operations, the Division would need to be consulted by the applicant to determine if that agency will require the submittal of a "Plan of Operation" for the facility. However, since the applicant states that no dismantling will occur at this location (just storage), no such plan is required.**

**The Utah Department of Environmental Quality has a Water Quality Division that regulates discharges of storm water from junk yards and scrap metal operations. However, this Division does not require a permit when the junk yard is designed for storage only and not dismantling.**

**The Utah Department of Environmental Quality has an Air Quality Division that regulates discharges of pollutants into the air, such as may occur with cutting of metal with a torch. The applicant states there will be no dismantling on the property and no cutting torches will be used. Thus, it is not necessary that this agency be contacted by the applicant.**

**The zoning ordinance requires that *“all junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so the junkyard is not visible from the main traveled way.”* In this case, the main traveled way is 7000 West [County Road #61], which is located about 850 feet west of the storage area. This setback, a row of trees along the road and the corral fencing (see photos) will adequately obscure the view of the stored vehicles and equipment.**

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.

**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 150.59 acres in size, which is of sufficient size to locate the proposed junk storage yard. Only one acre of the parcel would be used, at a location 850 feet east of 7000 West and remote from other property owners.**

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: To preserve the appearance of the area, the permit, if granted, must include a requirement to screen the stored vehicles and other items from view from the main traveled way. Adequate screening appears to exist with a row of trees along 7000 West and the design of the storage corral area (see photos).**

- 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 public will not be doing business or bringing vehicles or equipment to the site. The use is associated with family farm antique vehicle and equipment storage rather than a commercial enterprise. Thus, there is no need for an improved parking lot or a business license.**

- 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: The subject property has legal access to and frontage on County Road #61 [7000 West]. No need for additional right of way has been identified at this location. Water supply, sewage disposal and fire protection are not required for the proposed junk storage yard as there is no office or public use of the site and no dismantling or use of equipment that could start a fire.**

- D. Signs: Regulation of signs.

**Findings: Since the public will not be doing business at this location, no signage is necessary.**

- 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: Due to the junk storage yard being remote from dwelling units, and since there will be no dismantling of vehicles, noise impacts are not anticipated. Dust is not**

**anticipated to be an issue since there will be a low volume of activity at the storage area and no ground disturbing excavation is anticipated.**

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

**Findings: There is no commercial use of the storage area and thus, no operating hours.**

**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 Higley Estates LLC, subject to the following conditions:

1. No dismantling of vehicles and equipment is allowed at the junk storage yard.
2. Offering space for storage of junk by persons outside of the family on a commercial basis is prohibited.
3. Equipment and vehicles shall continually be stored in a manner not visible from County Road #61 [7000 West].

Jenny Giles asked for any proponents to come up to the podium and speak.

Leslie Higley: I think everything that has been presented by Mr. Hyde is accurate. Wildcat has helped us remove about 20 vehicles that were in bad condition. There are a couple of cars and some old farm equipment that I will keep for my photography business. Basically, we would like to come into compliance so Wildcat can start their business on that 70 acres that they want to lease from us.

Ken Richins: Are you good with the conditions set forth?

Leslie Higley: Yes, I am.

Ken Richins: Are you willing to do a berm?

Leslie Higley: Yes.

Mike Hyde: What I would recommend that you do is when you're done moving everything into this 1 acre storage area call Chris Floyd, our Code Enforcement Officer, and he'll come and take a look at it from the road and make sure everything is ok.

Leslie Higley: Ok. Is everything good with Wild Cat at this point for them to start removing the sand from this piece of property?

Mike Hyde: I will need to go back and revisit the terms of their permit. Just have them proceed assuming it's approved tonight to move the automobiles into the compound, and we'll have someone come out and take a look to make sure everything is ok.

Jenny Giles: Are their any other proponents or opponents? There were none, so the public hearing was closed

Shon McKinnon moved to approve the request for a Conditional Use permit for a junk storage yard located at 1677 S 7000 W, in the Ioka area.

Connie Sweat seconded the motion. The motion passed unanimously.

### New Business

There was none.

**Minutes**

Shon McKinnon made a motion to approve the minutes from June 7, 2023.  
Ken Richins seconded the motion.

Ken Richins made a motion to adjourn the meeting.  
Annette Miller seconded the motion.

The meeting was adjourned at 5:59pm