

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

MAY 1, 2024

REQUEST TYPE: Zoning Ordinance Text Amendment
APPLICANT: Duchesne County
PROPOSAL: Amendments of the Zoning Ordinance regulations to establish an airport overlay zoning district to protect the Duchesne Municipal Airport from incompatible uses
LOCATION: Duchesne Municipal Airport vicinity
ZONING DESIGNATION: Industrial, Agricultural

REPORT CONTENTS

FINDINGS OF FACT.....2
CONCLUSIONS 6
RECOMMENDATION..... 6

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Duchesne County proposes to amend its zoning ordinance to establish an airport overlay zoning district to protect the Duchesne Municipal Airport from incompatible uses. This action is required pursuant to House Bill 206, passed in the 2023 Utah General Legislative Session. The proposal would apply additional land use restrictions to real property within several defined airport zones with a goal of preventing higher density development that could result in noise complaints or mass casualties in the event of a crash. The ordinance would also regulate heights of buildings and other features to prevent hazardous obstructions to navigation.

The legislation gave counties until December 31, 2024 to bring their zoning ordinances into compliance. If the County fails to adopt an airport overlay zone by that deadline, the following requirements shall apply in an airport influence area (within 5,000 feet of a runway):

- (a) The County must notify a person building on or developing land within an airport influence area, in writing, of aircraft overflights and associated noise;
- (b) The County must, as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require the person building or developing land to grant or sell to the airport owner, at appraised fair market value, an aviation easement; and
- (c) The County must require that a person building or developing land within an airport influence area conform to the requirements of Title 72, Chapter 10 of the Utah Code (Utah Aeronautics Act) and 14 C.F.R. Part 77; and

The proposed ordinance was prepared with assistance from JUB Engineering, which prepared a recent update of the Duchesne Municipal Airport Master Plan. The ordinance is based on a similar ordinance prepared by Iron County, Utah, to protect the Cedar City Regional Airport. The Duchesne City Planning Commission has reviewed this proposal and the Duchesne City Council asked the County to proceed with the proposed ordinance during their March 26, 2024 meeting.

2. HISTORY OF EVENTS

April 8, 2024	The application was submitted.
April 8, 2024	The application was deemed complete.
April 17 & 24, 2024	Notice of Hearings published in the Uintah Basin Standard
May 1, 2024	Planning Commission hearing
May 13, 2024	County Commissioner's hearing

3. ZONING ORDINANCE: The procedure for considering amendments to the zoning map or text are set forth below:

SECTION 8-1-7: AMENDMENTS TO TITLE AND MAP:

A. Application: A proposed amendment to this title and map may be initiated by any property owner, any person residing in the county, any business owner, the county commission, planning commission, board of adjustment or the county staff by filing an application for zoning ordinance and map amendment. **Findings: The applicant is Duchesne County.**

B. Notice of Public Hearings and Public Meetings:

1. The county shall give:
 - a. Notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
 - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under subsection B.1.a. of this section shall be:
 - a. Mailed to each affected entity at least ten (10) calendar days before the public hearing;
 - b. Posted:
 - (1) In at least three (3) public locations within the county; or
 - (2) On the county's official website; and
 - c. Published:
 - (1) In a newspaper of general circulation in the area at least ten (10) calendar days before the public hearing; and
 - (2) On the Utah public notice website at least ten (10) calendar days before the public hearing; or
 - (3) Mailed at least ten (10) days before the public hearing to:
 - (A) Each property owner whose land is directly affected by the land use ordinance change; and
 - (B) Each adjacent property owner within three hundred feet (300') of the boundary of the rezone area.
3. Each notice of a public meeting under subsection B. 1. b. of this section shall be at least twenty-four (24) hours before the meeting and shall be posted:
 - a. In at least three (3) public locations within the county; or
 - b. On the county's official website.
4. a. If the county plans to hold a public hearing in accordance with section 17-27a-502 of the Utah code to adopt a zoning map or map amendment, the county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least ten (10) days prior to the scheduled day of the public hearing.
 - b. The notice shall:
 - (1) Identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

- (2) State the current zone in which the real property is located;
- (3) State the proposed new zone for the real property;
- (4) Provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
- (5) State that the owner of real property may no later than ten (10) days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
- (6) State the address where the property owner should file the protest;
- (7) Notify the property owner that each written objection filed with the county will be provided to the municipal legislative body; and
- (8) State the location, date, and time of the public hearing described in section 17-27a-502 of the Utah code.

c. If a county mails notice to a property owner in accordance with subsection B. 2. c. (3) of this section for a public hearing on a zoning map or map amendment, the notice required in this subsection B. 4. may be included in or part of the notice described in subsection B. 2. c. (3) of this section rather than sent separately.

5. The planning commission shall consider all written objections received during their public hearing process and forward a copy of all such objections to the county commissioners.
6. The county commission is designated as the land use authority for zoning text or map amendments. The commission shall consider the proposed zoning ordinance text or map amendment and the recommendation of the planning commission pursuant to the procedures established by this section and Utah Code Annotated. The county commission may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. There is no minimum area or diversity of ownership requirement for a zone designation. Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or the invalidity of a county decision.

Findings: The public notice requirements have been met by publication of the hearings notice in the Uintah Basin Standard on April 17 and 24, 2024, on the county website, posting in the county administration building and, in the Utah Public Notice website. Planning Commission agendas are emailed to affected entities and interested parties one week in advance of the meeting.

C. Criteria for Approval: In considering a proposed amendment to the zoning ordinance and map, the applicant shall identify, and the planning staff, planning commission and the county commission shall consider, the following factors:

1. The overall community benefit of the proposed amendment;

Findings: The amendments have been proposed to comply with the provisions of House Bill 206, which was passed in the 2023 Utah Legislature’s General Session. The legislature was mindful of the need to protect Utah’s airports from incompatible development that may result in more airport noise complaints or put larger numbers of people and buildings in danger in the event of an accident. The legislation was also an attempt to minimize the number of airspace obstructions that create a safety hazard for pilots. There is an overall community benefit as land use restrictions govern the appropriate use of land surrounding our airports.

2. Consistency with the goals and policies of the general plan;

Findings: The general plan states: *“County residents feel future growth and development decisions should consider “maintaining the current quantity and quality of public services and facilities through balancing growth and development (commercial, residential, industrial, and recreational) with facility/service capacity, e.g., water, sewer, waste disposal, transportation and roads, law enforcement, emergency services.”* The proposed ordinance is an attempt to maintain the quality of public services at the Duchesne Municipal Airport through development regulations that will protect the airport from safety hazards and land uses that could hamper airport operations, affect pilot safety or put occupants of nearby land uses in harm’s way in the event of an accident.

3. Compatibility with the neighborhood;

Findings: The object of the state law and proposed ordinance is to ensure that development around airports is compatible with airport use.

4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted;

Findings: Some recent changes in the vicinity of the Duchesne Municipal Airport have resulted in obstructions in the airspace, which illustrates the need for the proposed regulations.

5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties; and

Findings: The proposal does not change the underlying zoning of properties in the vicinity of the Duchesne Municipal Airport, but it does impose additional restrictions on what can be developed in terms of land use and structure or vegetation heights.

6. Consider the interest of the applicant.

Findings: The County is the applicant in this case and, along with Duchesne City, has an interest in amending its zoning ordinance to ensure that the Duchesne Municipal Airport is protected from incompatible land uses and obstructions extending into the airspace.

D. Effect of Amendment: An amendment to the zoning ordinance and map shall not authorize the development of land. After an amendment has been approved by the county commission, no development shall occur until the required development permits and licenses have been issued by the county.

CONCLUSIONS

1. The request complies with the text amendment criteria in Section 8-1-7 of the Zoning Ordinance.
2. The request is valid.

RECOMMENDATION

Recommended Motion:

I move that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Duchesne County Zoning Ordinance as set forth in proposed Ordinance #24-410 to establish an overlay zone for parcels in proximity to the Duchesne Municipal Airport.

Mike Hyde, AICP
Community Development Administrator