



4:45 p.m.

Workshop in the County Council Chambers.

5:30 p.m.

Call to order

Opening remarks/Pledge – Lane Parker

Review and approval of agenda.

Review and approval of the minutes of the June 5, 2014 meeting.

5:35 p.m.

Regular Action Items

- (1) **PUBLIC HEARING** – 5:40 p.m. – Country Living Rezone – Steven A. Russell is requesting a recommendation to the County Council for approval of 16.62 acres of property in the Agricultural (A10) Zone to be rezoned to the Rural 2 (RU2) Zone located at approximately 900 West 2200 South, College Ward.
- (2) **Mendon South Subdivision** – David Sorensen is requesting a recommendation of approval to the County Council for a 3-lot subdivision on 10 acres of property in the Agricultural (A10) Zone located at approximately 2400 South 5400 West, Mendon.
- (3) **Discussion** – Title 17.06 – Uses.
- (4) **Discussion** - Title 17.13 – Mineral Extraction and Excavation.

Board Member Reports

Staff reports

Adjourn



PLANNING COMMISSION MINUTES

05 JUNE 2014

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1. CV Wireless Conditional Use Permit	2
2. Training: Conditional Use Permits.....	3
3. Discussion: Title 17.08 Uses	4

DRAFT

1 **Present:** Chris Harrild, Josh Runhaar, Phillip Olsen, Jason Watterson, Rob Smith, Lane Parker, Brady
2 Christensen, Denise Ciebien, Megan Izatt

3
4 **Start Time:** 05:32:00

5 **Sands** welcomed and **Christensen** gave opening remarks

6
7 **Agenda**

8
9 ***Watterson** motioned to move item #1 from the consent agenda to the regular agenda and to swap the
10 order of items #2 and #3; **Parker** seconded; **Passed 5, 0.***

11
12 **Minutes**

13
14 ***Parker** motioned to approve the minutes from May 8, 2014; **Watterson** seconded; **Passed 5, 0.***

15
16 **05:35:00**

17
18 **#1 CV Wireless Conditional Use Permit (Ferris Jorgensen)**

19
20 **Harrild** reviewed Mr. Ferris Jorgensen's request for a conditional use permit (CUP) to allow 2-20' tall
21 towers, 5 short pole mount antennas, and an equipment cabinet for broadcasting wireless internet, located
22 on a portion of 183 acres of property in the Public Infrastructure (PI) Overlay Zone on Crow Mountain at
23 approximately 7530 North Highway 91, Smithfield. The antennas and towers are already in place and
24 currently are in violation of the county ordinance. The towers are not noticeable in context of the entire
25 site. There is a portion of the road that may extend onto the Meikle's property and they have requested
26 that an agreement be indentified and recorded between the property owners before any improvements or
27 changes are made to the site.

28
29 **Ferris Jorgensen** I am the representative for CV wireless. I've been up there roughly around 4 years
30 doing internet. I have contacted a couple of people asking if I was in compliance and thought I was. I've
31 been working with Chris and the Davis's to be in compliance.

32
33 **Smith** you were not aware of the ordinance requirements?

34
35 **Mr. Jorgensen** I was not aware until Jay and also Paul told me that I needed to be identifying the sites
36 that I was actually using, prior to that they asked if I was in compliance and I responded that as far as I
37 know I was. I talked to two council people and they stated that I was, so of course that is where I dropped
38 it until I was brought to my attention.

39
40 **Parker** are we asking that CV Wireless or Davis' get this into compliance?

41
42 **Mr. Jorgensen** I actually lease from the Davis' so they needed my stuff to be in compliance with the
43 county.

44
45 **Parker** the part about the road is up to Davis'?

46
47 **Mr. Jorgensen** I was not aware that the right-of-way to the property was not completely controlled by the
48 Davis'.

49
50 **Harrild** there also appears to be some question regarding if the fence line was the actual property line and
51 the property owner's will need to get together to resolve that.

1
2 **Smith** normally the county does not get involved in that aspect of this process other than that in order for
3 there to be a permit issued the right-of-way has to be in place. Beyond that the property owners have to
4 figure that out.

5
6 **Mr. Jorgensen** if I understand this right, the approval could be given contingent upon the property
7 owner's agreement.

8
9 **Christensen** Sprint Wireless is already approved contingent upon this approval. So what happens where
10 there is a problem with the right-of-way?

11
12 **Mr. Jorgensen** what we're talking about there would affect every user up there.

13
14 **Christensen** well if the potential right-of-way is approved, Sprint is already approved. It is you and then
15 Sprint's approval that is contingent on the road right-of-way.

16
17 **Mr. Jorgensen** this was just for the approval of the use.

18
19 **Smith** thank you for the information.

20
21 **Travis Meikle** I am here representing Ted. We have no problem with the road or anything but we would
22 like some understanding with the Davis' about the use of the road. Our big objective is to get together
23 with Davis and figure something out so that these people don't need to come through our road to access
24 this.

25
26 **Steve Crain** I am representing Sprint. We've had a permit request in for over a year now and have been
27 held up by this. We have new technology that we would like to go in but can't at this time, we hope there
28 is nothing else that holds this up so we may go ahead and make our improvements.

29
30 **Staff and Commission** discussed the conditional use permit for Ferris Jorgensen. Some sort of
31 agreement between the two private parties regarding the right-of-way is needed.

32
33 **Paul Davis** My parents own the property where the towers are located. I of course can't speak for my
34 parents but the road was created probably close to 40 years ago. I was never aware the road was not
35 considered on our property. The road was created 40 years ago by Don Meikle to replace a right-of-way
36 that my parents traded to the Don Meikle. Our opinion is the road is where it is because the Meikle's did
37 not want us to cross their property with the right-of-way that was there when they bought the property.
38 We will certainly try to reach an agreement with them and not hold these people up.

39
40 *Christensen* motioned to approve the CV Wireless Conditional Use Permit with the conditions and
41 findings of facts as noted; *Watterson* seconded; **Passed 5, 0.**

42
43 **05:56:00**

44
45 **Training: Conditional Use Permits**

46 **Runhaar** presented training on conditional use permits. Permitted uses are uses allowed by right. They
47 still require approval from a land use authority. The use is permitted if the basic standards of the zoning
48 regulations are met such as setbacks, height requirements, access, etc. A conditional use permit is a use
49 that, because of their unique characteristics or potential impact on the municipality, surrounding
50 neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if
51 certain conditions are required that mitigate or eliminate the detrimental impacts. A conditional use shall

1 be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably
2 anticipated detrimental effects of the proposed use in accordance with applicable standards. Reasonable
3 conditions must truly mitigate the impact and be roughly proportional to the use. Conditions must be
4 based on standards contained in our local ordinance or from accurate public record. Conditions are based
5 on current issues and future land use plans to help with any anticipated detrimental effects. If the
6 reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially
7 mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable
8 standards, the conditional use may be denied.
9

10 **Runhaar** reviewed case law for zoning and conditional use permits. The cases reviewed were the Village
11 of Euclid v. Ambler Realty Co. (1926), Nollan v. California Coastal Commission (1987), Dolan v. City of
12 Tigard (1994), Lucas v. South Carolina Coastal Council (1992), Harmon’s v. Draper, and Wadsworth v.
13 West Jordan.
14

15 **Discussion – Title 17.08 – Uses**

16 **Harrild** reviewed Title 17.08 – Uses. The main changes proposed throughout are the removal of
17 “Temporary Use” and “Small Business” from the ordinance language. “Zoning Administrator” has been
18 replaced with “Director”. The code will be reformatted for organization of uses and their standards as
19 necessary. There will also been some clean up of the language and reference directing code sections.
20 17.06.070 needs to be rewritten for clarification due to broad and somewhat vague language in the
21 standards and criteria as has been noted by the Planning Commission in the past. In 17.06.080 the
22 expiration for CUP’s needs to be changed from 18 mos. to 12 mos. and the word nuisance may need to be
23 better defined or the intent addressed in a different manner. 17.06.100 needs to be deleted as temporary
24 uses are no longer permitted.
25

26 **06:54:00**

27 **Adjourned**
28

STAFF REPORT: COUNTRY LIVING REZONE

10 July 2014

This staff report is an analysis of the application based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the application. Additional information may be provided that supplements or amends this staff report.

Agent: Steven Russell

Parcel ID#: 03-006-0014

Staff Recommendation: Denial

Type of Action: Legislative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Chris Harrild - Planner II

Project Address:

900 West 2200 South
Logan, Utah 84321

Current Zoning:

Agricultural (A10)

Acres: 16.62

Surrounding Uses:

North – Agricultural/Residential/City of Logan

South – Agricultural/Residential/City of Nibley

East – Agricultural/Residential/City of Millville

West – Agricultural/Residential/City of Logan



PURPOSE, APPLICABLE ORDINANCE, AND SUMMARY

Purpose:

To review and make a recommendation to the County Council regarding the proposed Country Living Rezone request to rezone a portion of the Agricultural (A10) Zone to the Rural (RU2) Zone.

Ordinance:

The current Cache County Ordinance does not specify appropriate locations for the RU2 Zone. The Cache County Comprehensive Plan does not currently support the RU2 Zone.

The Cache County Ordinance Title §17.08.030[C][3] requires that development within the RU2 Zone must be appropriately served by suitable public roads, have access to necessary water and utilities, and have adequate public service provision.

Any impacts related to permitted development and conditional uses allowed within the RU2 Zone shall be addressed as part of each respective approval process required prior to site development activities.

Summary:

Staff has identified general information as pertains to the context of the subject property to assist the Planning Commission and County Council in arriving at a decision. This information is reflected in the attached map and in the following text:

Property Context: There are no existing homes on this parcel. The requested rezone may allow up to eight (8) lots on the 16.62 acre property. This property is nearby, and/or contiguous to, the municipal boundaries of Logan, Nibley, and Millville. The properties within the municipal boundaries are a mix of commercial, residential, and agricultural uses.

Zone Placement: As identified by the Planning Commission and the County Council at the time the RU2 Zone was adopted, the intended/anticipated placement of said zone was the areas of the unincorporated county adjacent to municipalities. This proposed rezone is located within an unincorporated island adjacent to municipalities.

Annexation: The property is within Logan City’s annexation boundary, and the applicant met with Logan City regarding annexation however, the applicant indicated that he is not interested in seeking annexation at this time. The preferred course of action for the development of property located within an unincorporated island, and within the annexation of a municipality, is annexation into that municipality.

Density: A map reflecting the density of surrounding properties is not necessary in this instance as the majority of properties are within municipal jurisdictions.

Maintenance Capability: It is appropriate to consider the consolidation of services with municipalities to limit leap frog provision between county and municipal jurisdictions. The county has difficulty maintaining small patches of unincorporated islands.

Access: Access to this property is from 2200 South (20’ wide pavement, 4’ wide gravel shoulder). The road standard requires 22’ of pavement and 1’ of gravel. This roadway is a total of ~28’ wide. A design exception would be necessary for the approval of a subdivision at this site.

Service Provision: Access for emergency services is adequate. Water supply for fire protection will be provided by the Logan City Fire Department.

Public Comment:

Notices were mailed to the property owners located within 300 feet and to municipalities within 1 mile of the subject property. At this time no public comment regarding this proposal has been received by the Development Services Department.

DETERMINATION AND FINDINGS OF FACT (1)

It is staff’s determination that the Country Living Rezone located at approximately 900 West 2200 South with parcel number 03-006-0014 should be recommended for denial to the Cache County Council. This determination is based on the following findings:

- 1. The determined course of action for the development of said parcel is annexation into a municipality, given that:
 - a. The parcel proposed for rezone is part of an unincorporated island surrounded by Logan, Nibley, and Millville, and is located within Logan City’s annexation area.
 - b. Developing rural density housing adjacent to and in the path of future municipal annexation hinders further growth and development in this area. Services should be consolidated with municipalities to limit the provision of services between municipal jurisdictions by the county.

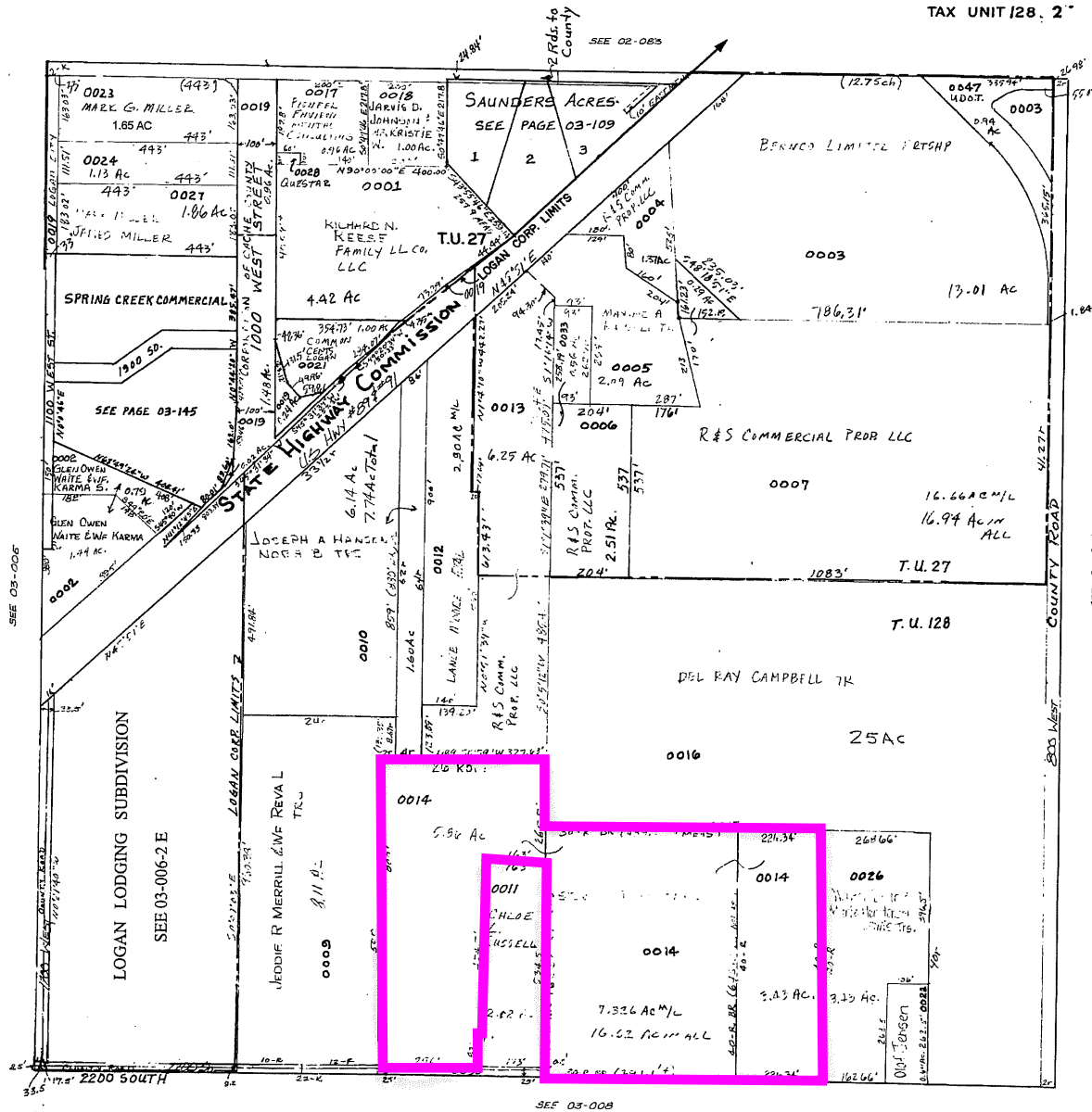
NE⁴ Section 17 Townsh. 11 North Range 1 Eas.

Scale 1 Inch = 3 CHAINS

03-006

-1-

TAX UNIT 128, 2"



STAFF REPORT: MENDON SOUTH SUBDIVISION

10 July 2014

This staff report is an analysis of the application based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the application. Additional information may be provided that supplements or amends this staff report.

Agent: David Sorenson

Parcel ID#: 11-035-0006

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Chris Harrild - Planner II

Project Address:

2400 South 5400 West
Mendon, Utah 84325

Current Zoning:

Agricultural (A10)

Acres: 10

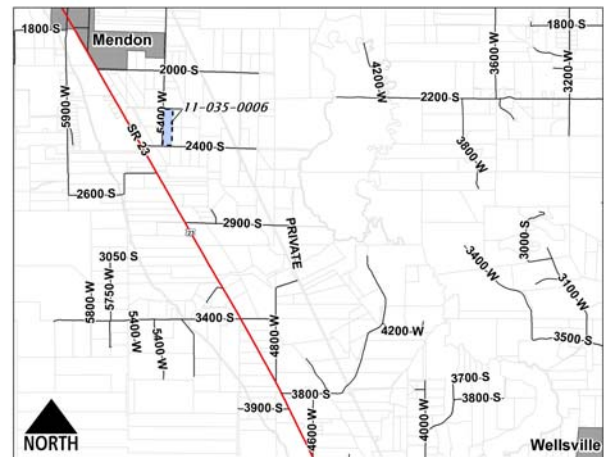
Surrounding Uses:

North – Agricultural/Residential

South – Agricultural/Residential

East – Agricultural/Residential

West – Agricultural/Residential



PURPOSE, APPLICABLE ORDINANCE, AND SUMMARY

Purpose:

To review and make a recommendation to the County Council regarding the proposed Mendon South Subdivision.

Ordinance:

As per the Cache County Zoning Ordinance Table §17.10.030 Development Density and Standards Specific to Base Zoning Districts, this proposed subdivision qualifies for a development density of one of one (1) unit per two (2) acres for the first 3 lots, and (1) unit per ten (10) acres thereafter. The maximum development potential for this 1970 parcel is three (3) buildable lots.

Summary:

This proposal is to divide parcel number 11-035-0006 into three (3) developable lots.

Access:

- Access to this property is from county roads 2400 South (24' wide pavement, 3' wide gravel shoulders) and 5400 West (22' wide pavement, 2' wide gravel shoulders). A private drive at the north end of the property is not an access for these lots. Both county roads are adequate.

Storm Water:

- Drainage along the north side of 2400 South flows through a culvert from the west side to the east side of 5400 West. The culvert appears to be 15-18" in diameter but is nearly entirely obstructed due to sediment accumulation. This culvert must be cleaned out or replaced, and the immediate drainage paths reformed for the drainage to function properly. The county will take responsibility for the culvert and the developer shall address the drainage paths.

Water & Septic:

- An adequate, approved, domestic water right must be in place at the time of final plat recordation for all building lots within the proposed subdivision.
- Lot 2 has been identified as a dry lot. One dry lot is allowed per subdivision; however, a dwelling shall not be built on this lot until an adequate, approved, domestic water right is in place.
- The Bear River Health Department has determined that on-site septic tank systems are feasible for the proposed lots.

Service Provision:

- Residential waste containers shall be placed on 5400 West for Monday collection. Sufficient shoulder space must be provided for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane.
- A school bus stop is located at 5426 West 2400 South, less than 0.1 miles away.
- Any driveways shall meet all applicable requirements of the current International Fire Code, minimum County standards, and any other applicable codes.
- Water supply for fire suppression will be provided by the Mendon City Fire Department. Access for emergency services is adequate.

Public Comment:

Notices were mailed to the property owners located within 300 feet of the subject property. At this time no public comment regarding this proposal has been received by the Development Services Department.

STAFF DETERMINATION AND FINDINGS OF FACT (4)

It is staff's determination that the Mendon South Subdivision, a 3-lot subdivision for property located at approximately 2400 South 5400 West with parcel number 11-035-0006, is in conformance with the Cache County Ordinance requirements and should be forwarded to the County Council with a recommendation of approval. This determination is based on the following findings of fact:

1. The Mendon South Subdivision has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.
2. The Mendon South Subdivision has been revised and amended by the conditions of project approval to conform to the requirements of Titles 16 and 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Mendon South Subdivision conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.
4. The Mendon South Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

CONDITIONS OF APPROVAL (6)

Prior to final plat recordation, the following conditions must be met for the developments to conform to the County Ordinance and the requirements of county service providers.

1. The proponent shall meet all applicable standards of the Cache County Ordinance.
2. Adequate, approved, domestic water rights shall be in place for all building lots within the subdivision.
3. The applicant shall reaffirm 33' from the centerline of Cache County's 66' wide right-of-way for all county roads along the proposed subdivision boundary.
4. Sufficient shoulder space must be provided for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane.
5. Permits for and/or construction of a dwelling shall not be allowed on Lot #2 until an adequate, approved, domestic water right is in place.
6. The drainage paths in the direct vicinity of the culvert under 5400 West at the intersection with 2400 South, shall be reformed to allow the drainage from the culvert to function properly. These improvements are required in the locations east of 5400 West and on the north side of 2400 South.

Mendon South
SCALE 1"=100'

GRAPHIC SCALE

(IN FEET)
1 Inch = 100 Ft.

LEGEND

- PROPERTY LINE
- CENTRALINE
- SEWER LINE
- EDGE OF PAVEMENT
- SPOT
- FENCE LINE
- Found Rebar and Cap
- Section Corner

SET 5/8" REBAR #4 CAP

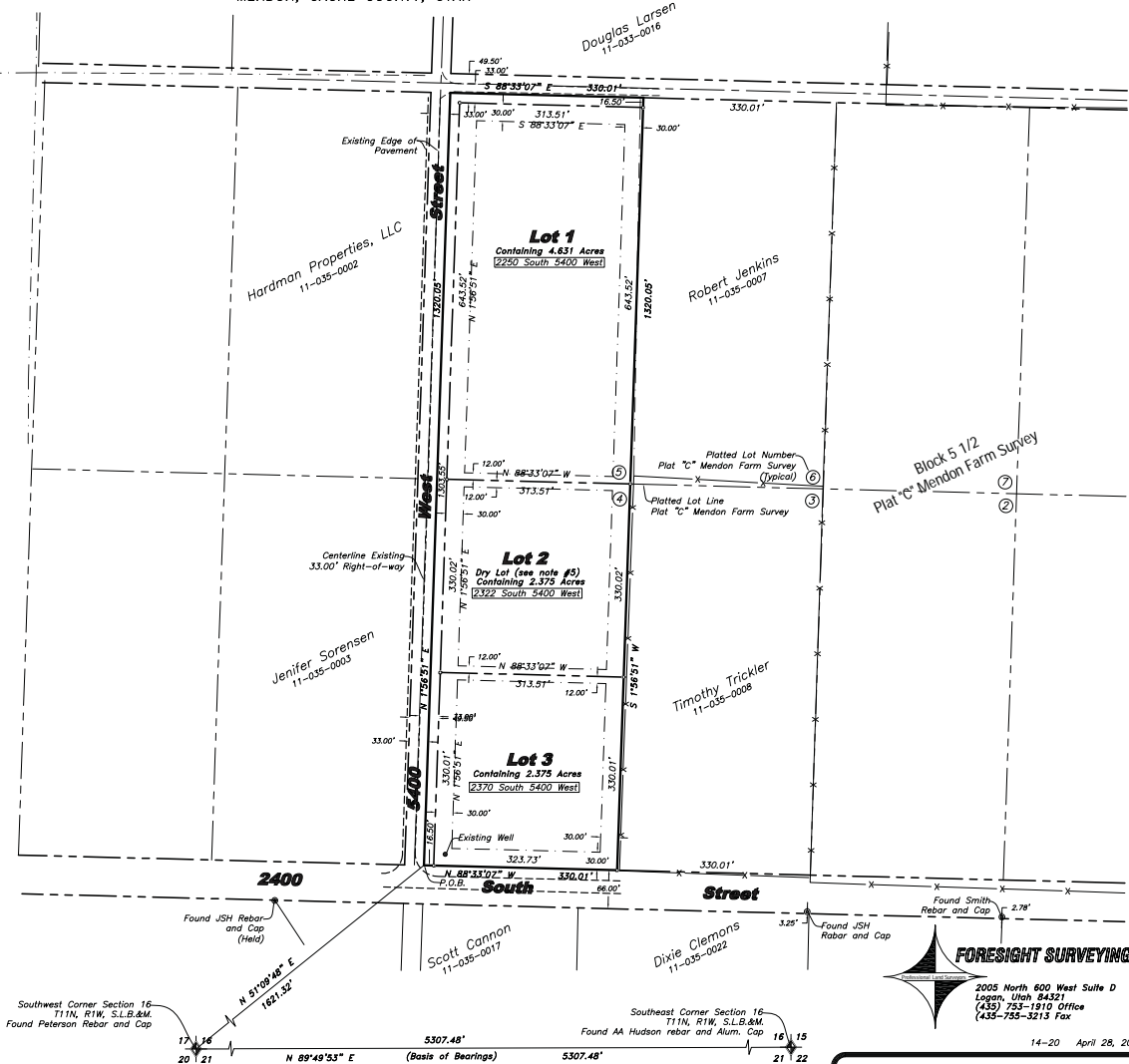
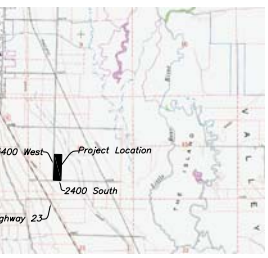
not determined the availability and adequacy of culinary water to meet all owners are advised of the requirements to obtain an approved and comply with all other requirements for the issuance of a zoning or issuance of any building permits.

Compliance with the standards of the Cache County Manual of Construction Standards of the State of Utah, hereby permitting any construction of a well, but is not limited to, any increased rate of storm water drainage or to or remainder parcel of this subdivision to any adjacent parcels, or address of the alteration of any existing, historic, or but prior written authorization provided by the affected party or entity limited to: adjacent property owners, ditch or canal company, State Water Engineers Office.)

property owners must be aware that they will be subject to the rules associated with agricultural activities which are on the permitted uses in the Forest Recreation Zone.

for primary buildings only.
and.
and.
and.
not along roadway.
not restricted until an approved, domestic, water right is provided.

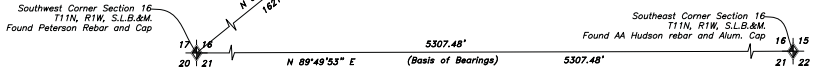
Roadway Dedication Note
Sandra O. Sorensen TRS, grantors of road right-of-way, et al, State of Utah, hereby QUIT CLAIM to Cache County, trustee of the County of Cache, State of Utah, to secure a right-of-way along the existing county roads on this future road widening and improvements that part of parcel 11-035-0006 that lies within 33-feet of the centerline of the right-of-way on both sides of the existing county roads.



FORESIGHT SURVEYING

2005 North 600 West Suite D
Logan, Utah 84321
(435) 763-1910 Office
(435)-755-3213 Fax

Grantors: David K. and Sandra O. Sorensen Trust
2970 South Highway 163
Paradise Utah 84328
Phone: (435) 245-3842



Change throughout

Remove “Temporary Use” and “Small Business” from language
 Replace “Zoning Administrator” with “Director”
 Reformat organization of uses and their standards as necessary
 Clean up language and reference directing code sections
 Rewrite for clarity

17.06.070 - Standards and Criteria for Conditional Use

Rewrite for clarity – a specific concern regarding the broad language in the standards and criteria (1-5) has been noted by the Planning Commission on several occasions when considering CUP’s (see below):

- A. The Planning Commission shall review a conditional use request with the following general standards and criteria:
1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the county;
 2. Compatibility of the proposed use with the intent, function and policies established in the Cache Countywide Comprehensive Plan;
 3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
 4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
 5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the planning commission may deny the request for a conditional use permit.
- B. In approving a conditional use permit, the planning commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, 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.

17.06.080 – Revocation or Modification of a Conditional Use Permit

Change the expiration timeline for CUPs from 18 mos. to 12 mos. – reflects the timeline for subdivision approval

Need to define nuisance or address intent in a different manner (see item B.4)

- B. A conditional use permit may be modified or revoked by the Planning Commission 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 eighteen (18) consecutive calendar months.
 3. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved.
 4. The use constitutes a nuisance.
 5. One or more of the conditions of the conditional use permit have not been met.

17.06.100 – Temporary uses, 17.06.110 – Standards and Criteria for Temporary Uses

Delete – Uses are no longer recognized as temporary

17.06.010 Uses Identified1
17.06.020 Application Required.....1
17.06.030 Burden of Proof.....1
17.06.040 Permitted Uses.....1
17.06.050 Conditional Uses.....2
17.06.060 Nonconforming Uses3

17.06.010: Uses Identified

- A. All uses allowed by this title shall be identified as:
 - 1. Permitted use.
 - 2. Conditional use.
 - 3. Nonconforming use.
- B. Any use which is not identified by this title as either a permitted, conditional, or nonconforming use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the unincorporated area of the county.

17.06.020: Application Required

- A. All requests for a permitted or conditional use shall be made on an application form provided by the Development Services Department.
- B. No use approved as a permitted or conditional use may be modified, enlarged or expanded, without obtaining an approved modification to the permit. The application for modification shall be processed as a new permit application under this ordinance. The issuance of a permit may require that the existing development site be brought into substantial conformance with the terms of the Cache County Code in effect on the date the use permit is approved, including but not limited to: landscaping, screening, parking, and storm water retention.

17.06.030: Burden of Proof

- A. The applicant has the burden of proving that the application meets the ordinance requirements for any permitted or conditional use.

17.06.040: Permitted Uses

- A. As required by the county code, requests for a permitted use shall also provide an application for a building permit and/or application for a business license, as applicable. The Director is authorized to impose reasonable conditions in compliance with this section. A permitted use shall not become effectual until:
 - 1. A zoning clearance is issued by the Director, and as required;
 - 2. A building permit is issued by the County Building Official, and/or;
 - 3. A business license is issued by the County Clerk.
- B. All applications for a permitted use are required to comply with the requirements of this title, the requirements of the county building codes, and the county business license codes as adopted and as applicable. Permitted use applications shall be reviewed in accordance with the following general standards and criteria:
 - 1. The Director shall review the permitted use request and determine if the request meets the following requirements:

- a. The use is identified as a permitted use within the zoning district as identified in chapter 17.09, "Schedule of Zoning Uses", of this title.
 - b. The use complies with the requirements as defined and specified by this title.
 - c. The use complies with the Cache County roadway standards and/or requirements of the Utah Department of Transportation (UDOT).
 - d. The use meets all applicable requirements of the state.
2. Upon finding that the proposed use, building, or structure complies with the standards and requirements of this title, the Director shall issue a zoning clearance.
 3. The proposed building or structure shall then be reviewed for compliance with the current, adopted county building codes.
 4. If the request for a permitted use complies with the requirements of this title, the adopted county building codes, and the applicable requirements of the Bear River Health Department or the Utah Department of Environmental Quality, the permitted use shall be authorized.

17.06.050: Conditional Uses

- A. A conditional use allows the consideration of special uses that may be essential or desirable to a particular community, but are not allowed as a matter of right. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The purpose of the conditional use permit application process is to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval. If adverse impacts cannot be appropriately resolved, the use is not appropriate in that location or configuration.
- B. Conditional use permits may be approved by the Planning Commission as provided by this title for any of the uses for which a conditional use permit is required as identified in Chapter 17.09, "Schedule of Zoning Uses", of this title. The Planning Commission is also authorized to impose such other reasonable conditions as provided in this section.
- C. The Planning Commission shall review a conditional use request with the following general standards and criteria:

To be revised

1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the county;
2. Compatibility of the proposed use with the intent, function and policies established in the Cache Countywide Comprehensive Plan;
3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the Planning Commission may deny the request for a conditional use permit.

- D. In approving a conditional use permit, the Planning Commission may impose such reasonable conditions 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.
- E. If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the Planning Commission shall schedule the item for consideration at a regular meeting. A minimum notice of thirty (30) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.
 - 1. A conditional use permit may be modified or revoked by the Planning Commission if the Planning Commission finds that one or more of the following conditions exist:
 - a. The conditional use permit was obtained in a fraudulent manner.
 - b. The use for which the conditional use permit was granted has ceased for a minimum of twelve (12) consecutive calendar months.
 - c. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved.
 - d. The use constitutes a nuisance as defined by this title.
 - e. One or more of the conditions of the conditional use permit have not been met.
- F. All conditional use permits authorized and approved as required by this title are determined to run with the land.

17.06.60: Nonconforming Use

- A. A nonconforming use may continue provided that it:
 - 1. Is determined to legally exist prior to the effective date of the applicable ordinance, or legally established by the action of a federal, state, or local government entity, and;
 - 2. Has been continuously maintained.
- B. Alteration of a Nonconforming Use:
 - 1. A nonconforming use, lot, or structure shall not be enlarged upon, expanded, or intensified.
 - 2. A nonconforming use may be maintained and repaired. On any work being completed that requires a building permit, a zoning clearance shall be issued that identifies the following: the nonconformity, the legally nonconforming status, and that the use is not being enlarged, expanded, or intensified.
 - 3. Any reconstruction or restoration of a nonconforming structure shall comply with both this title and with Utah State Code Section 17-27a-510(3).
 - 4. Abandonment: The determination of an abandonment of a nonconforming use shall comply with Utah State Code Section 17-27a-510(4).

Move to 17.10.020 [B][3] or [F]

- D. Nonconforming Lot:
 - 1. Parcels not meeting the minimum density or lot size requirements for a zone.
 - a. Legal lots not meeting the minimum lot size or density requirements shall be entitled to be developed as a lot, but not to be further subdivided.
 - b. Restricted lots not meeting the minimum lot size or density requirements may apply to the Board of Adjustments for a variance as provided in subsection A of this section. If the Board of Adjustments approves the variance, the lot owner may then apply for a subdivision to the Planning Commission and County Council.

2. Illegal lots meeting the minimum lot size and/or density requirements of a zone may apply to the Planning Commission and County Council for a subdivision of that lot from the original 1970 parcel. If the parcel is large enough to support multiple lots that meet the lot size and/or density limits, a subdivision from the 1970 parcel will be required in conjunction with the subdivision of the parcel in question.

<u>17.06.010 Uses Identified</u>	<u>1</u>	
<u>17.06.020 Application Required</u>	<u>1</u>	
<u>17.06.010030</u>	<u>Burden of Proof</u>	<u>1</u>
<u>17.06.020 Prohibited Uses</u>		
<u>17.06.030040</u>	<u>Permitted Uses</u>	<u>1</u>
<u>17.06.040050</u>	<u>Application Required</u>	<u>12</u>
<u>17.06.050 Standards and Criteria for Permitted Use</u>	<u>Conditional Uses</u>	
<u>17.06.060 Nonconforming Uses</u>	<u>Permitted Uses</u>	
<u>17.06.070 Standards and Criteria for Conditional Use</u>		<u>23</u>
<u>17.06.080 Revocation or Modification of a Conditional Use Permit</u>		<u>2</u>
<u>17.06.090 Conditional Use Permit to Run with the Land</u>		<u>3</u>
<u>17.06.100 Temporary Uses</u>		<u>3</u>
<u>17.06.110 Standards and Criteria for Temporary Uses</u>		<u>3</u>
<u>17.06.120 Repealed</u>		<u>4</u>
<u>17.06.130 Nonconforming Uses, Lots, and Structures</u>		<u>4</u>
		<u>5</u>

17.06.010: Uses Identified

A. All uses allowed by this title shall be identified as:

- 1. Permitted use.
- 2. Conditional use.
- 3. Nonconforming use.

B. Any use which is not identified by this title as either a permitted, conditional, or nonconforming use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the unincorporated area of the county.

17.06.020: Application Required

A. All requests for a permitted or conditional use shall be made on an application form provided by the Development Services Department.

B. No use approved as a permitted or conditional use may be modified, enlarged or expanded, without obtaining an approved modification to the permit. The application for modification shall be processed as a new permit application under this ordinance. The issuance of a permit may require that the existing development site be brought into substantial conformance with the terms of the Cache County Code in effect on the date the use permit is approved, including but not limited to: landscaping, screening, parking, and storm water retention.

17.06.030: Burden of Proof

A. The applicant has the burden of proving that the application meets the ordinance requirements for any permitted or conditional use.

17.06.010: Uses Identified

All uses allowed by this title shall be identified as:

- A. Permitted use.
- B. Conditional use.
- C. Temporary use.

- ~~D. Nonconforming use.~~
- ~~E. Small business use.~~

17.06.020: Prohibited Uses

~~Any use which is not identified by this title as either a permitted use, a conditional use, a small business use or a temporary use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the unincorporated area of the county.~~

17.06.030: Application Required

~~All requests for a permitted use or a conditional use, a small business use or a temporary use shall be made on an application form provided by the zoning administrator.~~

17.06.040: Permitted Uses

~~A. The zoning administrator is authorized to issue all required zoning clearances for a permitted use. As required by the county building codes, all requests for a permitted use shall also provide an application for a building permit and/or application for a business license, as applicable. The Director is authorized to impose reasonable conditions in compliance with this section. No pA permitted use shall not become effective until:~~

- ~~1. a zoning clearance is received from issued by the Director, zoning administrator and as required;~~
- ~~2. a building permit is issued by the County Building Official, -and/or;~~
- ~~3. A business license, as required, is issued by the County Building Official and/or County Clerk. The zoning administrator is also authorized to impose such other reasonable conditions as provided in section 17.06.050 of this chapter.~~

17.06.050: Standards and Criteria for Permitted Use

~~B. All applications for a permitted use are required to comply with the requirements of this title, the requirements of the county building codes, and the county business license codes (title 5 of this code) as adopted and as applicable. A pPermitted use applications shall be reviewed in accordance with the following general standards and criteria:~~

- ~~A1. The Director zoning administrator shall review the permitted use request and determine if the request meets the following requirements:~~
 - ~~1a. The use is identified as a permitted use within the zoning district as identified in chapter 17.09, "Schedule of Zoning Uses", of this title.~~
 - ~~2b. The use complies with the requirements for the zoning district as defined and specified by this title, with respect to minimum area, setback requirements, height, buffer and landscape standards, maximum coverage, parking, unloading, and all other requirements applicable to the district.~~
 - ~~3. The use does not have an adverse effect on any sensitive areas, as defined by this title.~~
 - ~~4c. The use complies with the Cache County roadway standards and/or requirements of the Utah Department of Transportation (UDOT).
all road dedication requirements of the county and provides necessary infrastructure as required and recommended by the County Road Department and/or Utah Department of Transportation.~~
 - ~~5d. The use meets all applicable requirements of the state Bear River Health Department and Utah Department of Environmental Quality as required and applicable.~~

- ~~B2.~~ Upon finding that the proposed use, building, or structure complies with the standards and requirements of this title, the ~~zoning administrator~~Director shall issue a zoning clearance.
- ~~3.~~ ~~With the receipt of a zoning clearance,~~ The proposed building or structure shall then be reviewed for compliance with the current, adopted county building codes, ~~as adopted~~.
- ~~4.~~ If the request for a permitted use complies with the requirements of this title, the adopted county building codes, ~~as adopted~~, and the applicable requirements of the Bear River Health Department or the Utah Department of Environmental Quality, ~~as applicable~~, the permitted use shall be authorized.

17.06.06050: Conditional Uses

- A. A conditional use allows the consideration of special uses that may be essential or desirable to a particular community, but are not allowed as a matter of right. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The purpose of the conditional use permit application process is to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval. If adverse impacts cannot be appropriately resolved, the use is not appropriate in that location or configuration.

~~The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of those uses which may be suitable in specific locations or if such uses are designed, arranged or conducted on the site in a particular manner.~~

- B. Conditional use permits may be approved by the Planning Commission as provided by this title for any of the uses for which a conditional use permit is required as identified in Chapter 17.09, "Schedule of Zoning Uses", of this title. The Planning Commission is also authorized to impose such other reasonable conditions as provided in this section ~~17.06.070 of this chapter~~.

17.06.070: Standards and Criteria for Conditional Use

- AC. The Planning Commission shall review a conditional use request with the following general standards and criteria:

To be revised

1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the county;
2. Compatibility of the proposed use with the intent, function and policies established in the Cache Countywide Comprehensive Plan;
3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the ~~planning~~Planning ~~commission~~Commission may deny the request for a conditional use permit.

~~B~~D. In approving a conditional use permit, the ~~planning~~ Planning Commission may impose such reasonable conditions ~~with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, time limits, and other items for the conditional use permit~~ as deemed necessary for the protection of adjacent properties and the public interest. The ~~p~~Planning Commission may require guarantees or other evidence that such conditions will be met and complied with.

~~17.06.080: Revocation or Modification of a Conditional Use Permit~~

~~A~~E. If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the ~~planning~~ Planning Commission shall schedule the item for consideration at a regular meeting. A minimum notice of ~~fourteen~~ thirty (1430) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.

~~B~~1. A conditional use permit may be modified or revoked by the Planning Commission if the Planning Commission finds that one or more of the following conditions exist:

- ~~1~~a. The conditional use permit was obtained in a fraudulent manner.
- ~~2~~b. The use for which the conditional use permit was granted has ~~now~~ ceased for a ~~minimum of twelve~~ least eighteen (1812) consecutive calendar months.
- ~~3~~c. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved.
- ~~4~~d. The use constitutes a nuisance as defined by this title.
- ~~5~~e. One or more of the conditions of the conditional use permit have not been met.

~~17.06.090: Conditional Use Permit to Run with the Land~~

~~F~~. All conditional use permits authorized and approved as required by this title are determined to run with the land.

~~17.06.100: Temporary Uses~~

~~A~~. The purpose of the issuance of a temporary use is to allow the establishment of a use on a temporary basis which will not create an undue risk to the public health, welfare and safety, and which will not create a nuisance. Such uses may include, but are not limited to, construction offices, or the storage of materials and equipment necessary for construction, and seasonal activities such as a corn maze, pumpkin patch/stand, fireworks stand, and Christmas tree lot.

~~B~~. A temporary use shall be approved by the zoning administrator, as provided by this title, for any of the uses for which a temporary use is identified in chapter 17.09, "Schedule of Zoning Uses", of this title. A temporary use shall only be authorized by the zoning administrator for a period of up to six (6) months. As required by the county building codes, all requests for a temporary use shall also provide application for a building permit and/or application for a business license, as required by the county. No temporary use shall become effective until approval is received from the zoning administrator and a building permit and/or business license, if required, is issued by the county building official and/or county clerk. The zoning administrator is also authorized to impose such other reasonable conditions as provided in section 17.06.110 of this chapter.

~~17.06.110: Standards and Criteria for Temporary Uses~~

~~In approving a temporary use, the zoning administrator may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, time limits, and other items for the temporary use as deemed necessary for the protection of adjacent properties and the public interest. The zoning administrator may require guarantees or other evidence that such conditions will be met and complied with.~~

~~A. The zoning administrator shall review a temporary use request with the following general standards and criteria:~~

- ~~1. 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 it will not be materially detrimental to adjoining and surrounding properties.~~
- ~~2. The use will cease within a maximum of six (6) months from the date of issuance of the temporary use permit.~~
- ~~3. The use will comply with all requirements of the Bear River health department, sheriff's department, county building codes, county business ordinance, and all other requirements as applicable.~~

~~B. In approving a temporary use, the zoning administrator may impose such reasonable conditions or restrictions as deemed necessary to secure the purposes of this title. These conditions may include:~~

- ~~1. That the site will be suitably maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect, preserve and/or enhance the appearance and character of the area.~~
- ~~2. The provision of parking facilities, including vehicular ingress and egress, loading and unloading areas, and the surfacing of parking areas and driveways to specified standards.~~
- ~~3. The provision of an adequate water supply, sewage disposal, flood control and fire protection.~~
- ~~4. The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.~~
- ~~5. Does not have an adverse effect on any sensitive areas, as defined by this title.~~
- ~~6. The regulation of operating hours for activities affecting normal schedules and functions.~~
- ~~7. The regulation of signs as per chapter 17.23, "Sign Standards", of this title.~~
- ~~8. The provision of a reasonable guarantee, bond or other surety, as determined by the zoning administrator, that the proposed temporary use will be maintained and operated in compliance with all conditions and requirements.~~
- ~~9. Such other reasonable conditions determined necessary by the zoning administrator to allow the establishment and operation of the proposed temporary use in an orderly and efficient manner.~~

17.06.120: Appeal of Permitted Use, Conditional Use, or Temporary Use Decision[†]

(Rep. by Ord. 2008-07, 9-23-2008)

[†]See section 17.02.070 of this title.

17.06.13060: Nonconforming Use, Lot, or Structure

A. A nonconforming use, lot, or structure may continue provided that it:

1. ~~Is determined to~~ legally exist ~~prior to the effective date of the applicable ordinance, or legally established by the action of a federal, state, or local government entity~~, and;
2. ~~Has been continuously maintained on or before the effective date hereof or at the time of an amendment, or by some action by a federal, state, or local government entity may continue provided that the use, lot, or structure has been maintained continuously.~~

~~AB.~~ Alteration of a Nonconforming Use, ~~Lot, or Structure~~:

1. A nonconforming use, lot, or structure shall not be enlarged upon, expanded, or intensified. ~~A nonconforming use, lot, or structure may apply to the board of adjustment to be enlarged or modified by meeting the following criteria:~~
 - a. ~~The change is in harmony with the surrounding neighborhood and in keeping with the intent of the comprehensive plan and this title.~~
 - b. ~~The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity.~~
 - c. ~~Reasonable conditions may be attached to the approval in order to assure compatibility with the surrounding properties.~~
2. A nonconforming use ~~or structure~~ may be maintained and repaired. On any work being completed that requires a building permit, a zoning clearance shall be issued that identifies the following: the nonconformity, ~~;~~ ~~it~~ the legally nonconforming status, ~~;~~ and that the use, ~~lot, or structure~~ is not being enlarged, expanded, or intensified.
3. Any reconstruction or restoration of a nonconforming structure shall comply with both this title and with Utah State Code Section 17-27a-510(3).

~~B4.~~ ~~Abandonment~~: The determination of an abandonment of a nonconforming use, ~~lot, or structure~~ shall comply with Utah State Code Section 17-27a-510(4).

Move to 17.10.020 [B][3] or [F]

~~CD.~~ Nonconforming Lot:

1. Parcels not meeting the minimum density or lot size requirements for a zone.
 - a. Legal lots not meeting the minimum lot size or density requirements shall be entitled to be developed as a lot, but not to be further subdivided.
 - b. Restricted lots not meeting the minimum lot size or density requirements may apply to the Board of Adjustments for a variance as provided in subsection A of this section. If the Board of Adjustments approves the variance, the lot owner may then apply for a subdivision to the Planning Commission and County Council.
2. Illegal lots meeting the minimum lot size and/or density requirements of a zone may apply to the Planning Commission and County Council for a subdivision of that lot from the original 1970 parcel. If the parcel is large enough to support multiple lots that meet the lot size and/or density limits, a subdivision from the 1970 parcel will be required in conjunction with the subdivision of the parcel in question.

Criteria Examples

Cache County (Existing)

- A. The Planning Commission shall review a conditional use request with the following general standards and criteria:
1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the county;
 2. Compatibility of the proposed use with the intent, function and policies established in the Cache Countywide Comprehensive Plan;
 3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
 4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
 5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the Planning Commission may deny the request for a conditional use permit.
- B. In approving a conditional use permit, the Planning Commission may impose such reasonable conditions 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.

Criteria Examples

Weber County

Conditional uses shall be approved on a case-by-case basis. The Planning Commission shall not authorize a conditional use permit unless evidence is presented to establish:

1. Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise.
2. That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

Criteria Examples

Box Elder County

1. A conditional use permit may be issued only when the proposed conditional use is allowed by the zone where the conditional use will be located, or by another provision of this Code.
2. Conditions may be imposed as necessary to prevent or minimize adverse effects upon the character of the site, adjacent properties, surrounding neighborhoods, and other existing development; improvements in the vicinity of a conditional use, upon the County as a whole, or upon public facilities and services. Such conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, traffic impacts, parking, hours of operation, emission of odors, light, and noise, and other matters relating to the purposes and objectives of this Code. Such conditions shall be expressly set forth in the approval authorizing a conditional use permit.
3. No conditional use permit shall be authorized unless the evidence presented establishes:
 - a. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
 - b. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;
 - c. The proposed use at the particular location is compatible with the intent, function and policies established in the general plan, this Code and the particular zoning district in which the use is proposed.
4. The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements of this subsection can be met.
5. The following factors should be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
 - a. The proposed use will comply with the regulations and conditions specific in this Code for such use.
 - b. Conditions relating to safety of persons and property
 - 1) The impact of the proposed facility or use on the health, safety, and welfare of the County, the area, and persons owning or leasing property in the area.
 - 2) The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area;
 - 3) Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
 - 4) Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.
 - 5) Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.
 - c. Conditions relating to the compatibility of the use.

Criteria Examples

- 1) The suitability of the specific property for the proposed use;
 - 2) The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity;
 - 3) Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity;
 - 4) The number of other similar conditional uses in the area and the public need for the proposed conditional use.
- d. Conditions relating to health and safety
 - e. Conditions relating to environmental concerns
 - f. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district
 - g. The aesthetic impact of the proposed facility or use on the surrounding area;
 - h. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area;
 - i. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation;
 - j. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use;

Criteria Examples

Logan City

§17.49.050. Planning Commission Action

The Commission may approve or conditionally approve a conditional use permit only upon substantiating the following findings:

- A. The maximum established density has not been exceeded, unless a density bonus has been approved in conformance with General Plan policy and City ordinance.
- B. The use permitted under the conditional use permit conforms to the requirements of Title 17 of the Logan Municipal Code and is listed as a conditional use in the Use Table.
- C. The use is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.
- D. The streets providing access and other infrastructure to the subject property have adequate capacities or a suitable level of service for the conditional use.
- E. The proposed use is compatible with neighborhood uses and character while preserving and enhancing the character of the neighborhood.
- F. Access to adjoining streets is designed to be constructed in conformance with City standards and specifications. Where adjoining streets are regulated by the Utah Department of Transportation, access to street(s) shall conform to the requirements of the Cache Access Management Plan.
- G. The proposed use provides adequate off-street parking in conformance with this Title.
- H. The project provides open space and landscaping in conformance with this Title.

Criteria Examples

Eastern Summit County

- B. Criteria For Approval: Before an application for a conditional use is approved by the planning commission, it shall conform to the following criteria:
1. The proposed use shall be appropriate in the particular location, taking into account the nature of the use, its relationship to surrounding land uses and its impact on the natural environment.
 2. The proposed use shall be in general compliance with the development evaluation standards in chapter 2 of this title.
 3. The proposed use will not be in violation of any county, state, or federal laws.
 4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, applicant shall submit proof of ownership.
 5. The applicant shall demonstrate that it possesses the requisite skills and experience to ensure that the particular use will be conducted in a safe and orderly manner.
 6. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.
 7. The length and size of the proposed structure must be compatible with the residential uses in the area and must also meet the setback requirements for the zone in which it is located.

Criteria Examples

Snyderville Basin (Summit County)

B. Criteria For Approval: No conditional use permit shall be approved unless the applicant demonstrates that:

1. The use is in accordance with the general plan;
2. The use conforms to all applicable provisions of this title, including, but not limited to, any applicable provisions of this section and chapter 4 of this title, the general plan, and state and federal regulations;
3. The use is not detrimental to public health, safety and welfare;
4. The use is appropriately located with respect to public facilities; and
5. The use is compatible with the existing neighborhood character and with the character and purpose provision of the applicable zoning district, and will not adversely affect surrounding land uses. (Ord. 708, 12-10-2008)

C. Special Standards For Conditional Uses: In addition to the standards established in this section and in chapter 4 of this title for particular uses, all conditional uses within a zoning district shall conform to the following standards and criteria: (Ord. 818, 2-26-2014)

1. The commission may require the applicant or the owner of the property subject to an application for development approval for a conditional use permit to establish an escrow account, post a bond or provide other financial security, in such form and sum as the commission shall determine, with sufficient surety running to the county to offset any extraordinary costs or expenses associated with the following: a) construction of any highways, roads, water or sewer mains, drainage facilities, or other public infrastructure; b) landscaping; c) compliance with the requirements of this section, any applicable special requirements set forth in this section and chapter 4 of this title, and the conditions attached to the development permit; and d) any expense requirements set forth in this section and chapter 4 of this title, and the conditions attached to the development permit, including the provision of facilities or structures, maintenance or construction work, or the execution or fulfillment of conditions of a continuing nature.
2. The proposed development shall not cause a reduction in the adopted level of service for any public facility.
3. Lighting shall not be directed or reflected upon adjoining land and shall meet all other related requirements of section 10-4-21 of this title with respect to exterior lighting.
4. The natural topography, soils, critical areas, watercourses and vegetation shall be preserved and used, where possible, through careful location and design of circulation ways, buildings and other structures, parking areas, recreation areas, open space, utilities and drainage facilities.
5. All roads shall provide free movement for safe and efficient use within the development. Local roads shall provide access to the site in a manner that discourages unsafe and congested conditions, and which provides convenient accessibility to parking areas, arterial and collector roads that shall be free of backing movement from adjoining parking areas and free from congestion and public safety problems.
6. Vehicular and pedestrian passageways shall be separated from public rights of way. Where appropriate, a system of walkways and bicycle paths connecting buildings, open spaces, recreation areas, public facilities, and parking areas shall be provided and appropriately lighted for night use.
7. Buildings and other structures shall provide a human scale consistent with adjacent development and appropriate to residential uses in the RR, HS, MR, CC, SC, and NC zoning districts, and consistent with adjacent conforming development in the zoning districts. The massing, scale and architectural design shall be consistent with the design guidelines established in section [10-4-19](#) of this title. (Ord. 708, 12-10-2008)
8. The volume rate of postdevelopment runoff shall not exceed predevelopment runoff. Runoff calculations shall be submitted with the application for site plan approval and shall be based upon:

Criteria Examples

- a) the 25-year, twenty four (24) hour design storm event; b) a fully developed contributing drainage area; c) the specific location of the proposed development; d) the proposed land use and use density or intensity; and e) the specific location and amount of impervious surfaces, in square feet.
9. The site shall be landscaped in accordance with the requirements of section [10-4-20](#) of this title. (Ord. 708, 12-10-2008; amd. Ord. 818, 2-26-2014)

Criteria Examples

Washington County

10-18-6: PLANNING COMMISSION ACTION:

A. Conditional Use Standards Of Review: When the planning commission acts under its power to hear and decide applications for conditional uses, the conditional use shall be approved if reasonable conditions are proposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards as set forth below. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The planning commission shall make its decision based upon the facts presented for the record. Expressions of support or opposition shall not constitute the basis of approval or denial.

1. General Review Standards: An applicant for a conditional use in the zone must demonstrate:

a. The use complies with all applicable provisions of Washington County ordinances, state and federal law;

b. The use is not detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A proposed use shall be considered detrimental:

(1) If it will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar unreasonable risks; or

(2) If it will unreasonably interfere with the lawful use of surrounding property;

c. The use is consistent with the characteristics and purposes stated in the general plan, as amended;

d. The use is consistent with the characteristics and purposes stated for the zone;

e. Site plan review:

(1) Traffic safety conditions are not adversely affected by the use. The existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets shall be reviewed;

(2) Utility capacity is adequate;

(3) Emergency access is adequate;

(4) The location and design of parking both on site and off street is adequate;

(5) A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate;

(6) Exterior lighting is adequate and does not unduly disturb the surrounding area;

(7) Signage is adequate and in compliance with [chapter 19](#) of this title;

f. Requirements for the management and maintenance of facilities is adequate;

g. The use shall not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal.

2. Specific Review Standards For Certain Conditional Uses: In addition to the general standards of review above, the applicant must also demonstrate compliance with each of the following standards for each of the following conditional uses:

Gravel pit or mining operations.

a. Noise and dust pollution shall not negatively impact surrounding uses in existence at the time the conditional use is approved by the county commission.

b. Road ingress and egress are sufficient to allow safe travel for vehicles and pedestrians surrounding the conditional use.

c. The hours of operation for crushing, processing or hauling aggregate do not significantly negatively impact surrounding uses in existence at the time the conditional use is granted.

Criteria Examples

There may be restrictions on the hours of operation and roads available for the conditional use in areas where there are schools or residences in close proximity to the operation.

- d. A plan for reclamation of land that complies with all applicable provisions of Washington County ordinances, state and federal law. (Ord. 2012-1026-O, 12-18-2012)

Amendments to Definitions

Existing definition of NUISANCE from County Code

NUISANCE: Any use or activity which emits noise, smoke, dust, odor, or vibration in amounts sufficient to substantially depreciate values of surrounding buildings or lands, or a use or activity which substantially deprives the owners of adjoining property of a property right.

State Code

17-41-403. Nuisances.

(1) Each political subdivision shall ensure that any of its laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety; or

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section [76-10-803](#), it is a complete defense if the action involves agricultural activities and those agricultural activities were:

(a) conducted within an agriculture protection area; and

(b) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices.

(3) (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section [76-10-803](#).

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4) (a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can

Amendments to Definitions

be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities."

(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."

Amended by Chapter 376, 2009 General Session

Remove definition for:

USE, PROHIBITED: Any use, whether accessory or primary, not identified as either a permitted use, conditional use or temporary use, as provided by this title.

Change throughout

Clean up language and reference directing code sections

Rewrite for clarity

17.13.050 – Operation Categories

Reassess and rewrite categories

Existing:

All mineral extraction and excavation operations shall be classified as one of the following two (2) categories:

- A. Commercial operations are those that supply materials to the public on a continual, long term basis. All commercial mineral extraction and excavation operations shall file an operations and progress report with the Planning Commission every three (3) years. The report will summarize activities in fulfillment of the requirements for excavation and rehabilitation in compliance with the rehabilitation plan previously submitted to the Planning Commission. The conditional use permit shall remain in effect until such time that full reclamation has been made on the site.
- B. Temporary mineral extraction and excavation operations and associated uses, which may include, but not limited to, asphalt or concrete plants which are necessary to supply material for a specific project (i.e., road construction), or a minor extraction operation of less than five (5) acres. These operations shall be allowed within any zone of the county as a conditional use. These operations will have to operate under the same standards as a commercial operation; the termination of the specific project shall also terminate the conditional use permit and the use of the pit. Once the project is complete, the owner or operator shall begin closure and reclamation operations within six (6) months.

17.07 Definitions- address definition 7420 Site Grading

7420 SITE GRADING: The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property in preparation for the construction of a building, but not including normal cultivation associated with an agricultural operation. Excavation shall be less than 1,500 cubic yards per parcel. Additional excavation may only be permitted with a variance.

17.13. 060, 070, 080, and 090 –Assess the base line for application and operation requirements –

Rewrite sections to reflect more flexibility on the part of the Planning Commission.