



4:45 p.m.

Workshop in the County Council Chambers.

5:30 p.m.

Call to order

Opening remarks/Pledge – Jason Watterson

Review and approval of agenda.

Review and approval of the minutes of the July 10, 2014 meeting.

5:35 p.m.

Consent Agenda

- (1) **Rose Hill Subdivision Amended** – Stephen Eliason is requesting a recommendation of approval to the County Council for the addition of one lot to the existing subdivision on 11.51 acres of property in the Rural (RU2) Zone located at approximately 5159 West 3230 South Highway 23, Wellsville.
- (2) **Bunnell Subdivision** – Paul Bunnell is requesting a recommendation of approval to the County Council for a 2-lot subdivision on 30.84 acres of property in the Agricultural (A10) Zone located at approximately 1600 West 6700 North, Smithfield.

Regular Action Items

- (3) **Wild Bunch Kennel** – John and Caryn Mullin are requesting approval of a conditional use permit to allow a boarding and breeding kennel on 1.14 acres of property in the Agricultural (A10) Zone located at approximately 5670 North Highway 23, Cache Junction.
- (4) **Discussion** – Title 17.06 – Uses.
- (5) **Discussion** - Title 17.13 – Mineral Extraction and Excavation.

Board Member Reports

Staff reports

Adjourn



PLANNING COMMISSION MINUTES

10 JULY 2014

Item	Page
1. Public Hearing: 5:40 p.m. – Country Living Rezone	2
2. Mendon South Subdivision.....	5

1 **Present:** Chris Harrild, Josh Runhaar, Phillip Olsen, Chris Sands, Leslie Larson, Brady
2 Christensen, Denis Ciebien, Megan Izatt

3
4 **Start Time:** 05:40:00

5
6 **Sands** welcomed and **Larson** gave opening remarks

7
8 **Agenda**

9
10 Items 3 and 4 were removed and will be added to next month's agenda.

11
12 **Minutes**

13
14 Passed with minor changes

15
16 **05:43:000**

17
18 **Regular Action Items**

19
20 **#1 Public Hearing – 5:40: Country Living Rezone (Steven A. Russell)**

21
22 *Larson motioned to open the hearing; Olsen seconded; Passed 4, 0.*

23
24 **Harrild** reviewed Mr. Steven A. Russell's request for a recommendation of approval to the
25 County Council for approval of 16.62 acres of property in the Agricultural (A10) Zone to be
26 rezoned to the Rural 2 (RU2) Zone located at approximately 900 West 2200 South, College
27 Ward. It currently qualifies for one home but if the rezone were approved up to eight lots would
28 be permitted. This property is an unincorporated island surround by Logan, Millville, and
29 Nibley and is within Logan City's annexation area. The applicant met with Logan City
30 regarding annexation however he has indicated that he is not interested in annexation at this time.
31 Logan City stated that they are not interested in annexation at this time. Staff noted that it is
32 appropriate to consider the consolidation of services with municipalities to limit leap frog
33 provision between county and municipal jurisdictions. The county has difficulty maintaining
34 small patches of unincorporated islands. Staff noted the best option for the county would be
35 annexation. Staff recommends denial.

36
37 **Staff and Commission** discussed annexation. The county doesn't want to put resources into
38 areas that are going to be annexed within the next couple of years.

39
40 **Mr. Steven Russell** I've got a couple reasons for selling my property. My family isn't here
41 anymore and I would like to follow them. My intention, years ago, was to try and acquire more
42 ground around there and it's been impossible to do that. I've been farming three different plots
43 of land away from my home and in order to do that I'm fighting road traffic and other things. I
44 started this process two years ago and have had the property listed for several years with a realtor
45 and nothing happened. But I've listed it myself since the beginning of the year and there have
46 been a number of people interested. They came to the county and were denied a building permit.
47 I came in and talked with Chris and it took a couple of months and it was determined that I could

1 get one permit. Anyway, I'm trying to rezone this to the RU2 Zone because there are people out
2 there who would like a larger lot to have horses, etc. All of the neighbors are sitting on larger
3 lots and I don't feel like they would have a problem with this.

4
5 **Larson** what was the issue with the building permit?

6
7 **Mr. Russell** I don't know what it was originally.

8
9 **Harrild** In our initial review of this parcel we found numerous changes to this parcel and were
10 unable to find any documentation to legally support those divisions and therefore his parcel was
11 considered restricted. I reviewed it more recently and was able to find sufficient documentation
12 to establish his property as a legal, buildable lot.

13
14 **Sands** so that is one lot.

15
16 **Larson** so that is one lot for now, but if planned out right in the future they could have more lots.

17
18 **Mr. Russell** I believe the neighbors, like me, would like to try to keep it rural. I'm not trying to
19 develop a subdivision there but I am trying to move on and this seemed like the best way to do
20 this. In order to get the opportunity to build on this parcel I need to have it rezoned and move
21 away from that A10 Zone.

22
23 **Olsen** Have you checked with the local municipalities with what zoning they would have you
24 do?

25
26 **Mr. Russell** at this point neither Nibley nor Logan want to annex it. The surrounding
27 individuals don't want to be annexed either.

28
29 **Sands** is it because it is not a contiguous piece of land that the cities aren't interested?

30
31 **Mr. Russell** yes, they would have to annex the whole thing.

32
33 **Staff and Commission** discussed annexation laws and if there was a possibility of Nibley
34 annexing. Nibley wouldn't be able to annex this without annexing the parcel to the south as
35 well.

36
37 **Larson** is two acre density not a high density to you?

38
39 **Mr. Russell** I don't know, not really where I usually deal with 100's of acres.

40
41 **Larson** I ask because, for this Commission, a two acre density is a high acre density. Usually a
42 low density is 10 acres.

43
44 **Mr. Russell** ok, but it seems like individuals can't necessarily take care of, or want 5 acres.

45
46 **Gary Larsen** we have property directly south of Mr. Russell that is in the county presently.
47 2200 south presents an interesting concept. Logan City has an annexation policy to the North

1 and Nibley has an annexation policy to the south and neither city is willing to provide services to
2 individuals. The Logan services are over on Highway 91 and Mr. Russell couldn't bring those
3 services over, it is cost prohibitive. Nibley has a sewer line that runs down that road, but you
4 cannot pay for those services to be run to this area. We don't intend to ask for annexation at this
5 time to Nibley and our situation is a little bit better than his because we do have those services on
6 the southern border of our property. He's stuck in a rock and hard spot because neither Logan
7 nor Nibley is going to help with services. I would strongly encourage the commission to
8 approve this RU2 zone. He is still going to have to drill the wells and get the water rights there.
9 There is a road issue there. It is a very narrow road and we would like to see that road brought
10 up to standard also.

11
12 **Olsen** do you have a home in that area?

13
14 **Mr. Larsen** no.

15
16 **Olsen** all the homes in that area are on wells and septic tanks?

17
18 **Mr. Larsen** yes.

19
20 **Jed Merrill** I live just west of where Steve is. I have no objection to Steve doing this but if you
21 look into the long term road plans we were told there would be a road to come along to hook up
22 to 10th west to help with the traffic coming out of Nibley.

23
24 **Steve Albiston** I own property across the street to the south. My only concern is if he going to
25 have to dig a well for every two acres of property? If he is, I'm very against that. My father
26 owned that property at one time and shortly after he lost it they put a drain in that crosses that
27 entire property and goes over the road to Spring Creek. I feel like whatever utilities or other
28 work has to be down there risks digging up that drain.

29
30 **Olsen** how deep is your well?

31
32 **Mr. Albiston** 168 feet.

33
34 **Olsen** so you believe additional wells would affect your well?

35
36 **Mr. Albiston** I do.

37
38 **Paul Campbell** I own a parcel a little ways away and my father owns a parcel also. I appreciate
39 the thoughts Steve has had for this. Our only concern is the wells. We have two wells on our
40 property, one is agricultural and it was free flowing and it was re-dug about 10 years ago and I
41 can't pump anything out of that. The well for our home was re-drilled about 5 to 6 years ago and
42 we had to go a long ways down to get water. So that is our concern.

43
44 **06:19:00**

45
46 **Larson** motioned to close the hearing; **Christensen** seconded; **Passed** 4, 0.

47

1 **Staff and Commission** discussed the concerns that the public raised. While wells are typically a
2 state concern, they can be taken into consideration with a rezone. This is a unique situation
3 where it is located near three cities and the county is trying not to patch work services and roads.
4 There is a consistency of service issues and it's going to be difficult to put development in the
5 county in these types of situations. It would be very unlikely for this parcel to be annexed if it is
6 developed as residential because it would require higher taxes. The county is backing off of
7 services for islands like this. Staff's recommendation for denial is not based solely on the
8 density, the concern is with development in general because of the possibility of annexation for
9 the three cities surrounding this area.

10
11 *Larson motion to recommend denial of the Country Living Rezone to the County Council with*
12 *the stated conditions and findings of fact; Christensen seconded; Passed 4, 0.*

13
14 **6:36:00**

15
16 **#2 Mendon South Subdivision (David Sorensen)**

17
18 **Harrild** reviewed Mr. David Sorensen's request for a recommendation of approval to the County
19 Council for a 3-lot subdivision on 10 acres of property in the Agricultural (A10) Zone located at
20 approximately 2400 South 54000 West, Mendon. Access is from 2400 South and 5400 West and
21 both are adequate. The Bear River Health Department (BRHD) has approved on-site septic
22 tank systems for the buildable lots. Lot 2 has been identified as a dry lot and no dwelling will be
23 permitted on this lot until an adequate, approved, domestic water right is in place. Staff has
24 received comment from one person that noted their disagreement with additional homes on the
25 roadway and with allowing a dry lot. The code does allow for the dry lot but the Commission
26 can deny the dry lot and make it a wet lot. There is a culvert along the north side of 2400 south
27 that is obstructed due to sediment accumulation that will need to be cleaned out or replaced, and
28 the immediate drainage paths will need to be reformed for it to function properly. The County
29 will take responsibility for the culvert and the developer shall address the drainage paths.

30
31 **Jeff Nielson** I did the surveying and the platting for Mr. Sorensen. This is a pretty straight
32 forward application.

33
34 **Scott Cannon** in 2003 the Utah Geological Society did a study and my concern, which is found
35 in this study, is that although the ground water quality in this area is pristine, it is deteriorating
36 throughout Cache Valley. On the basis of this scientific report, it is deteriorating and the area
37 has been separated into zones with a recommended septic density. In our area, Mendon, they
38 recommend a maximum septic density of five acres, that's one septic system per five acres. I'm
39 not suggesting Cache County has to comply with that, but my thought is that I hope the BRHD
40 follows this. I hope there is science behind that. The water is deteriorating and my alarm went
41 up when the Mendon well started showing nitrates and maybe people weren't paying enough
42 attention to this idea of septic density. But it seems like if it is deteriorating we need to pay
43 attention to that and I don't know what the County's science basis is for giving this the okay.
44 That's one issue and that's probably the primary issue. I'm worried for future generations and
45 how it could harm them. The dry lot, it appears as if you are all aware of it, but the BRHD, when
46 I was getting my water rights, and I have some canal rights, I had occasion a couple of years ago
47 to trade some of my canal rights for well rights. The BRHD told me that they didn't believe I

1 would be able to trade canal rights for well rights because the canal company wouldn't allow it.
2 I have heard it is the plan to follow that same course to do that, but the fact of the matter is, is
3 that has got to happen before it gets approved. But I have pursued this course before and was
4 told no. Secondly, because of the allocation of the ground water I was also told by the BRHD
5 that even if I could provide water rights they had nothing they could give to increase the well
6 permits in the area because they were over allocated. I worry about that little well in that corner
7 being close to the well in my corner and two or three families drawing on it and what the
8 implications would be but I have no data except what I have on my well and I don't know what
9 that would do. It seems like the proposal isn't unreasonable but I am concerned that someone
10 needs to pay attention to what the science of hydrology is telling us in the area regarding the
11 capacity to support wells.

12
13 **Sands** do you have a pump for your well?

14
15 **Mr. Cannon** I do; a submerged pump.

16
17 **Sands** on the UGS study, is that referring to the shallow aquifer or the deep aquifer that you are
18 drawing your water off of?

19
20 **Mr. Cannon** when I was looking at it, it was referring to ground water. It was not detailed
21 enough for stratification.

22
23 **Sands** my expectation would be that it is the shallow ground water that they are concerned about
24 seeing nitrates in.

25
26 **Lori Jenkins** I'm concerned with the wells. I'm just wondering if the more wells we get there
27 could affect our wells. We have a neighbor who has drilled two wells and cannot use either well
28 and is having to bring in water from elsewhere and store it in a tank.

29
30 **Runhaar** honestly as to the problem there, typically the more wells you see affect the flow, not
31 the quality. I don't know how good the aquifer is in this area but we don't typically see flow
32 issues in sparsely populated areas but I cannot give you a definitive answer on that. They will
33 have to prove out water rights before they can do anything with the subdivision but they do not
34 have to prove water flow. Water is not controlled by the county but by the state and they are not
35 required to prove flow but a water right. Three wells should not affect your quantity.

36
37 **Sands** is that a wet area?

38
39 **Staff and Commission** discussed the wet area of land. No wetlands have been defined in this
40 area but in the spring it gets wet. People who have questions regarding septic tanks, and what
41 the criteria are for approval of septic tanks should contact the Bear River Health Department
42 (BRHD). If people have questions regarding wells and water rights need to contact the state.
43 The county has no authority on wells or water rights.

44
45 **Caylenn Rowley** one problem I have with this, 8 years ago was we were assured there was a
46 moratorium on new wells to keep the country atmosphere and to keep the five acre lots. I think
47 approving this subdivision sets a precedent for all the other empty lots around us. We've always

1 thought a house had to have 5 acres. We were also told no well would be granted unless there
2 was a five acre lot. My husband has checked on that recently and been assured that it won't
3 happen but I think approving this subdivision is going to falsely inflate the value of the selling
4 price of the property for people who would be willing to buy it for an agricultural property but if
5 it's zoned residential you are going to inflate the property. Why approve it for 2 ½ acre lots,
6 those people can buy the lot and find out they can't build on it because they can't get a well.
7 When Mr. Sorensen did his well it was approved for one residential house on those ten acres and
8 that was it. It had to be on residential house on 10 acres if you look at this well rights and I don't
9 think approving 2 ½ acres parcel should be done.

10
11 **Sands** who did you talk to about the limitations on wells?

12
13 **Ms. Rowley** the state water people. The people we had to talk to, to get our well approved is
14 who we talked to. We were told they needed to be five acres lots. I know the partial parcel
15 between us and the Cannon's, they made sure that they annexed enough for 5 acres so that it
16 could be sold for a residential lot.

17
18 **Larson** the reason this doesn't follow the norm is because it is a 1970 parcel. This is one of the
19 things that make sense to know one, including us, but we are bound by it. But this 1970 parcel,
20 there are rights vested in a parcel that has not been divided since 1970 that we have to allow. So
21 even if the whole area is zoned for a 10 minimum acre or density of 10 acres we are still bound,
22 they are grandfathered in if the lot has not been divided since 1970.

23
24 **Sands** that is correct, because it is a 1970 parcel. If this were 20 acres or 50 acres it would still
25 be the same rules, they would get three lots.

26
27 **Ms. Rowley** it can be divided into 2 ½ acres lots?

28
29 **Sands** we are saying it can be divided into three lots.

30
31 **Larson** it's the number of divisions, not the size.

32
33 **Ms. Rowley** we bought a five acre lot.

34
35 **Sands** you bought a five acre lot, is it a division of a 1970 parcel?

36
37 **Ms. Rowley** it was part of a 1970 acre parcel, but we were told we couldn't split the parcel and
38 have our children build a home on it because of the 1970.

39
40 **Harrild** it depends on each parcel, each one is parcel specific.

41
42 **Larson** each parcel has its own history.

43
44 **Ms. Rowley** we bought it 8 years ago and the previous owner had owned it the whole time and
45 hadn't split it.

1 **Sands** you could come in and visit with Chris and he can see if it's a 1970 parcel or part of a
2 1970 parcel.

3
4 **Larson** they can clarify that quickly for you.

5
6 **Ms. Rowley** we don't want to see 2 ½ acres lots going in around us because it sets a precedent.

7
8 **Larson** it would be the same thing whether they had 100 acres or whatever because of the 1970
9 parcel rules and we are kind of stuck with it because it is grandfathered in.

10
11 **Tammy Trickler** I am adjacent to this parcel. One of the current concerns I do have regarding
12 this is back to the water. I understand you don't have anything to do with that but when our well
13 was built it was an artesian well and we've had to have our pumps worked on twice and we've
14 been informed it is no longer artesian. Nobody from BRHD has talked to us about flow or
15 function of our well and this is concerning for us.

16
17 **Robert Jenkins** we have talked about buying the north five acres. But from what I understand is
18 that he does not have water rights on that five acres now. If we purchase the five acres with the
19 water right, does it have an expiration date?

20
21 **Runhaar** yes. You have five years to prove beneficial use and then you can file for an extension
22 but if you don't prove beneficial use it will go away.

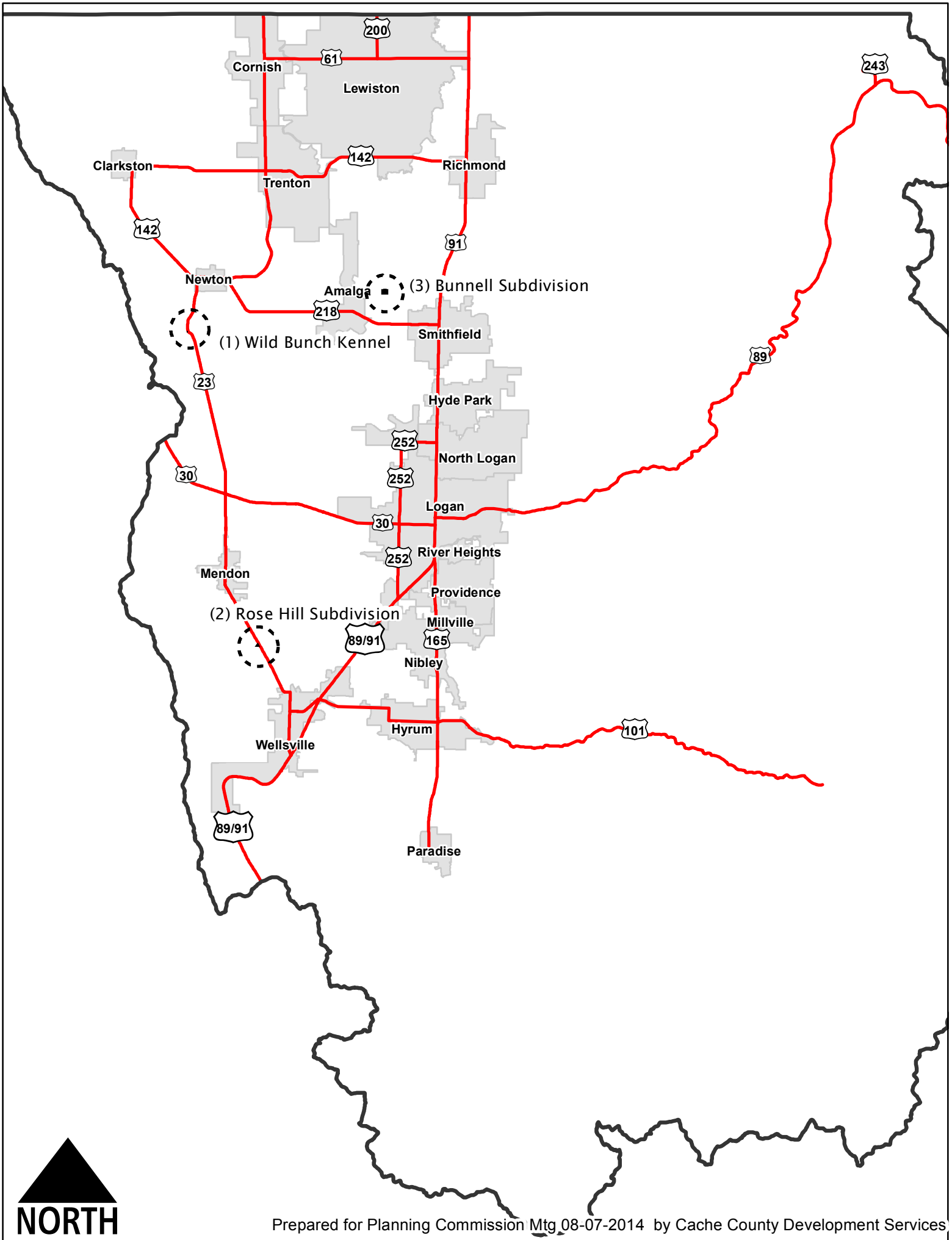
23
24 *Christensen* motioned to recommend approval of the Mendon South Subdivision to the County
25 Council with the stated conditions of approval and findings of fact; **Olsen** seconded; **Passed 4, 0.**

26
27 **7:23:00**

28
29 **Runhaar** the state and EPA are requiring us to go forward with storm water management. The
30 county was rewarded an exemption 10 years ago and we did re-file for the exemption and were
31 denied. We are hiring a full time person to deal with this issue.

32
33 **7:27:00**

34
35 **Adjourned**



STAFF REPORT: ROSE HILL SUBDIVISION AMENDMENT

07 August 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: Stephen Eliason

Parcel ID#: 11-048-0008, 0010, and 0017

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Chris Harrild - Planner II

Project Address:

3225 South Highway 23
North of Wellsville

Current Zoning:

Rural 2 (RU-2)

Acres: 11.51

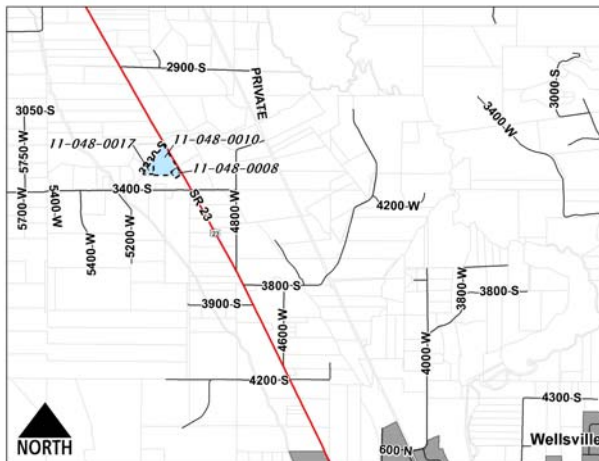
Surrounding Uses:

North – Agricultural/Residential

South – Agricultural/Residential

East – Agricultural/Residential/SR 23

West – Agricultural/Residential



PROJECT PURPOSE, APPLICABLE ORDINANCE, SUMMARY, AND PUBLIC COMMENT

Purpose: To review and make a recommendation to the County Council regarding the proposed amendment to the Rose Hill Subdivision.

Ordinance: As per the Cache County Zoning Map and Zoning Ordinance Table §17.10.030 Development Density and Standards Specific to Base Zoning Districts, this proposed subdivision amendment qualifies for a development density of one (1) unit per two (2) acres. The maximum development potential for this subdivision is five (5) buildable lots.

Summary: This proposal is for the creation of a new buildable lot within the Rose Hill Subdivision. This is currently a 2 lot subdivision with an agricultural remainder. The new lot would be divided from said agricultural parcel (11-048-0010) and would be the third of a possible five buildable lots.

Access

- Access to the new lot is from a private road via Highway 23. The private road is a ~24 foot wide gravel drive and the proponent has obtained the approval of UDOT for the additional lot on the existing access.
- An access easement must be recorded for Lot #3 across parcel 11-048-0010.

Water & Septic:

- An adequate, approved, domestic water right in the owner’s name must be in place at the time of final plat recordation for the new building lot.
- The proposed Lot 3 is feasible for a septic system. Placement of the septic system as regards the private well must be approved the Bear River Health Department. Lots 1 & 2 have existing, approved, septic systems in place.

Service Provision:

- All refuse and recycling containers shall be placed along the side of Highway 23 for Tuesday collection. The residents shall provide sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane, and must be placed so as not to be blown over by passing traffic.
- A school bus stop is located at 3230 South Highway 23, 1.5 blocks from the subdivision.
- Access for emergency services is adequate. Driveways shall meet all applicable requirements of the current International Fire Code, minimum County standards, and any other applicable codes.

Public Comment:

No public comment regarding this proposal has been received by the Development Services Office.

STAFF DETERMINATION AND FINDINGS OF FACT (4)

It is staff’s determination that the Rose Hill Subdivision First Amendment, for property located in the Rural 2 (RU2) Zone at approximately 3225 South Highway 23 on parcel 11-048-0010, is in conformance with the Cache County Ordinance 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 Rose Hill Subdivision First Amendment 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 Rose Hill Subdivision First Amendment 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 Rose Hill Subdivision First Amendment conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.
4. The Rose Hill Subdivision First Amendment is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

CONDITIONS OF APPROVAL (4)

Prior to recordation of the final plat, 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. An adequate, approved, domestic water right shall be in place for the new lot, Lot #3.
3. An access easement must be recorded for Lot #3 across parcel 11-048-0010.
4. The proponent shall provide sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane, and be placed so as not to be blown over by passing traffic.

STAFF REPORT: BUNNELL SUBDIVISION

07 August 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: Paul Bunnell

Parcel ID#: 08-036-0012

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Chris Harrild - Planner II

Project Address:

1600 West 6700 North

West of Smithfield

Current Zoning:

Agricultural (A10)

Acres: 30.84

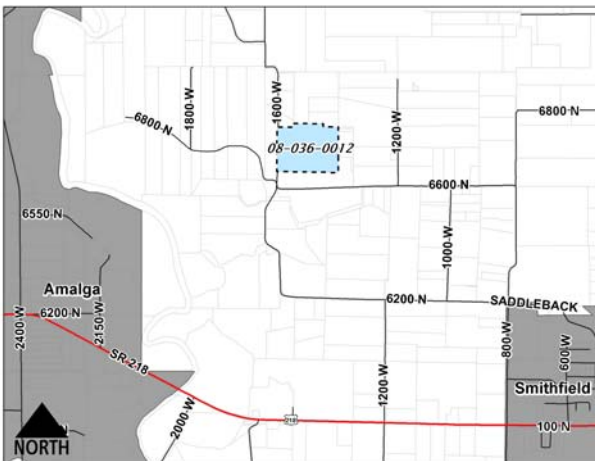
Surrounding Uses:

North – Agricultural/Residential

South – Agricultural/Residential

East – Agricultural/Residential

West – Agricultural/Residential



PROJECT PURPOSE, APPLICABLE ORDINANCE, SUMMARY, AND PUBLIC COMMENT

Purpose:

To review and make a recommendation to the County Council regarding the proposed Bunnell subdivision.

Ordinance:

As per the Cache County Zoning Map and 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 (1) unit per ten (10) acres.

Summary:

This proposal is to create a 2-lot subdivision with an agricultural remainder.

Developable Acreage:

- The proponent’s surveyor has estimated the total developable acreage at 27.41 acres. The total developable acreage was reduced by wetlands (3.32 ac.) and roadway dedication (0.11 ac.).

- The surveyor approximated that 3.32 acres of property was wetlands. However, data from the National Wetlands Institute NWI has identified that ~8 acres of the property are wetlands. In the absence of wetland delineation, the county has assumed the greater number, and therefore the developable portion of the 30.84 acre parcel is 22.73 acres, and no more than 2 developable lots are permitted.
- While wetlands were identified on the property, wetland delineation was not required as the proposed lots are located in the agricultural area that is not within wetland areas identified by the NWI or by the proponent's surveyor, and are also at an elevation and in a location separate from possible wetland areas.

Access:

- Access is from 1600 West. 1600 West is a 19' 6" wide paved roadway with a 2' wide gravel shoulder. Access to 1600 West via 6600 North is adequate. 6600 North is a 20' wide paved roadway with a 1' wide grassy shoulder.
- A design exception for 1600 West and 6600 North is recommended as both roadways are acceptable, however portions of the paved width of 1600 West are 6" short of the required 20' width, and portions of the shoulder of 6600 North are also short of the 2' required width.

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. Evidence of those rights has been submitted.
- The proposed lots are feasible for on-site septic tank systems.

Service Provision:

- Residential refuse and recycle containers shall be placed on 1600 West for Friday collection.
- The residents shall provide sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane.
- A school bus stop would be located at 6600 North 1600 West, approximately 1 block from the proposed subdivision.
- Any driveways shall meet all applicable requirements of the current International Fire Code, minimum County standards, and any other applicable codes.
- Access for emergency vehicles is adequate. Water supply for fire suppression will be provided by the Smithfield Fire Department.

Public Comment:

No public comment regarding this proposal has been received by the Development Services Office.

STAFF DETERMINATION AND FINDINGS OF FACT (4)

It is staff's determination that the Bunnell Subdivision, a 2-lot subdivision with an agricultural remainder, for property located in the Agricultural (A10) Zone at approximately 1600 West 6700 North with parcel number 08-036-0012, 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 Bunnell 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 Bunnell 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 Bunnell 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 Bunnell Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

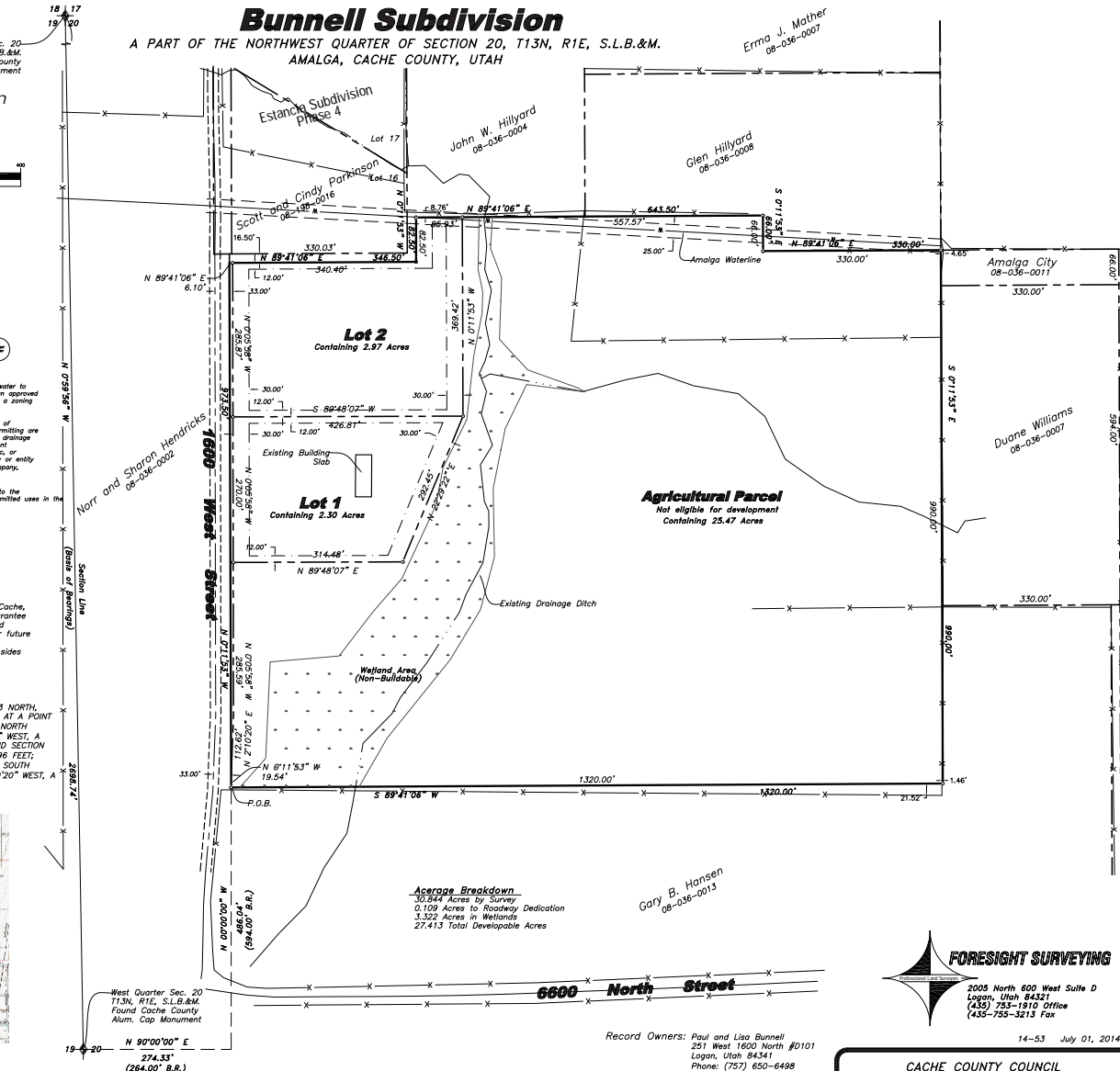
CONDITIONS OF APPROVAL (4)

Prior to recordation, the following conditions must be met for the development 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. Evidence of adequate, approved, domestic water rights shall be in place for all building lots within the subdivision.
3. The proponent shall reaffirm the 33' portion of Cache County's 66' wide right-of-way for all county roads along the proposed subdivision boundary.
4. The proponent shall provide sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane.

Bunnell Subdivision

A PART OF THE NORTHWEST QUARTER OF SECTION 20, T13N, R1E, S.L.B.&M.
AMALGA, CACHE COUNTY, UTAH



Lot 2
Containing 2.57 Acres

Lot 1
Containing 2.50 Acres

Agricultural Parcel
Not eligible for development
Containing 25.47 Acres

Acreage Breakdown
30.544 Acres by Survey
0.109 Acres to Roadway Dedication
3.322 Acres in Wellands
27.413 Total Developable Acres



Record Owners: Paul and Lisa Bunnell
251 West 1600 North #0101
Logan, Utah 84341
Phone: (757) 850-6498

14-53 July 01, 2014

CACHE COUNTY COUNCIL
THIS PLAT WAS APPROVED AND ACCEPTED BY THE
CACHE COUNTY COUNCIL ON _____ 2014.

CACHE COUNTY PLANNING COMMISSION

COUNTY ATTORNEY APPROVAL

PLAT REVIEWER APPROVAL

I, JEFF REGISTERS, AS PREPARED, CERTIFY OF THE ACCURACY AND HEREINAFTER THE SAME DIMENSIONS.

A PART RANGE LOCATED RECORD BY REFERENCE TO A DISTANCE CONTAINING 00'11"5" IN DISTANCE CONTAINING

SIG

KNOW THE TRUTH BE SURE FURTHER PROPER THE CACH COUNTY THE

state of County on this person county satisfied Trustee's signature execute him/her

state of County on this person county satisfied Trustee's signature execute him/her

STATE OF COUNTY THIS PLAT

STAFF REPORT: WILD BUNCH KENNEL CONDITIONAL USE PERMIT

07 August 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: John Mullin

Parcel ID#: 13-048-0046, 0047

Staff Determination: Discussion

Type of Action: Administrative

Land Use Authority: Cache County Council

PROJECT LOCATION

Reviewed by: Chris Harrild - Planner II

Project Address:

5670 North Highway 23
Cache Junction

Current Zoning:

Agricultural (A10)

Acres: 1.14

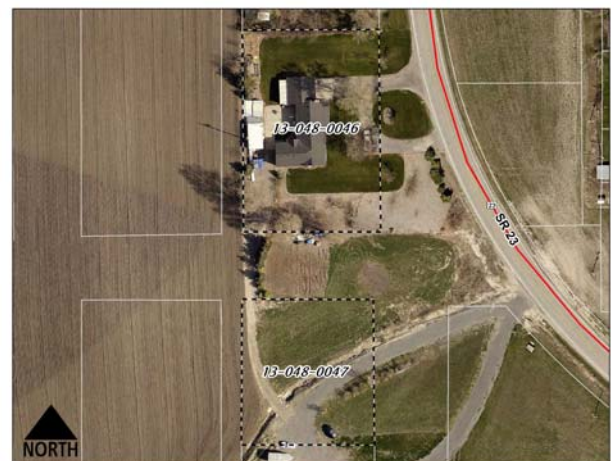
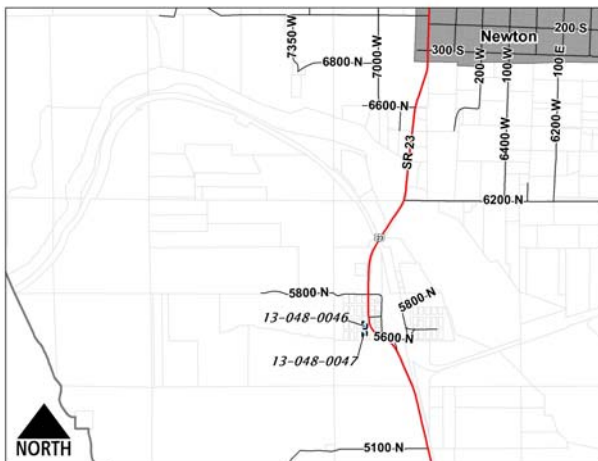
Surrounding Uses:

North – Agricultural/Box Elder County

South – Agricultural/Residential

East – Agricultural/Residential

West – Box Elder County/Residential



PROJECT PURPOSE, APPLICABLE ORDINANCE, SUMMARY, AND PUBLIC COMMENT

Purpose:

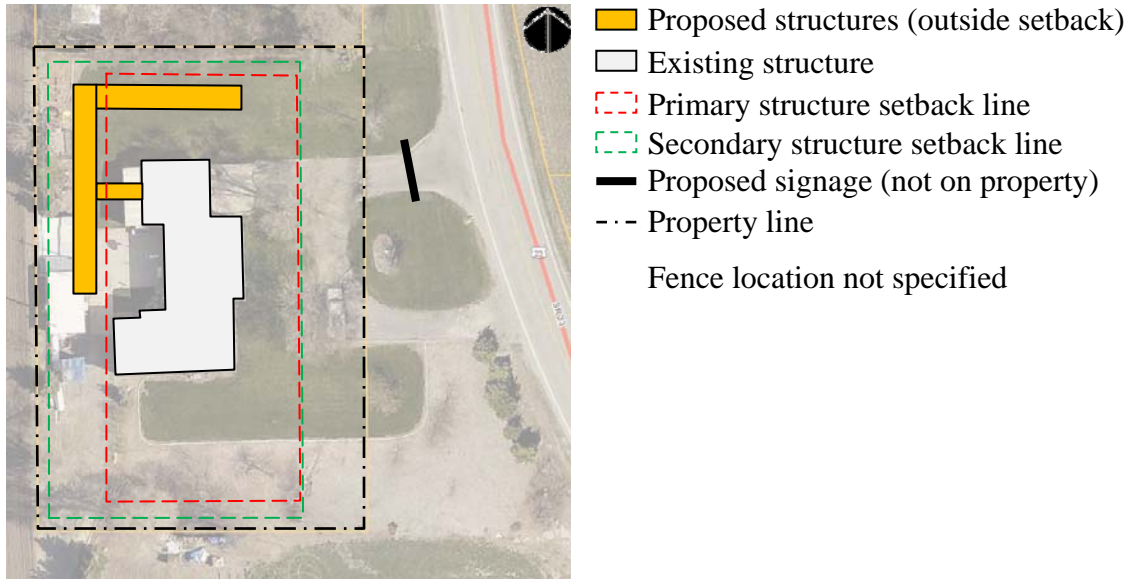
To review the request for a conditional use permit to allow the operation of a kennel that will board up to 42 adult dogs for breeding purposes.

Ordinance:

This proposed use is best defined as “7200 Boarding Facility” under Cache County Ordinance §17.07.020 Definitions, and as per §17.09.030 Schedule of Uses by Zone, this use is permitted as a conditional use in the Agricultural (A10) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses. These procedures are detailed under §17.06.060 Conditional Uses and §17.06.070 Standards and Criteria for Conditional Use.

Summary:

There is an existing home on the northern parcel (13-048-0046). This request includes the construction of additional buildings for kennels (95’x10’x8’, 60’x10’x8’, and 20’x8’x8’) and a privacy fence on that property. The dogs shall be confined to the property within the fence and/or building(s). While the proponent included parcel 13-048-0047 in the request, no construction or activity is proposed on said parcel, therefore, it is not included in this specific assessment.



Customers will not visit or purchase dogs at the site/kennel. Most puppies/dogs are sold on-line and flown out of Salt Lake. Local persons with inquiries are not invited to the site but are sent pictures via email, and then an employee will meet with local customers at another location. There will be no anticipated increase in traffic due to the kennel. The only employees shall be the residents of the property. Hours of operation shall be seven days a week from 7:00 a.m. to 10:00 p.m.

Due to the proposed placement of structures within the setback, an amended site plan addressing the setbacks requirements and information regarding the location and materials of the fence must be submitted.

The proposed ranch entrance sign must be on the same property as the use, and must obtain the approval of UDOT and Cache County. Additional permits may be required for the signage.

Additionally, there have been three recent requests for dog kennels and/or breeding facilities:

1. Road to Paradise – Approved: Up to 15 adult dogs and grooming. An existing permit was already in place and allowed for up to 12 dogs.
2. Rita LaVern Stephens – Withdrawn: Up to 10 adult dogs. Property owner withdrew consent.
3. PJM Animal Care – Denied: Between 40-80 adult dogs. Nuisance issue due mainly to noise and close proximity of single family dwellings.

Access:

- Access is from Highway 23, a UDOT facility. This use has not yet obtained the approval of UDOT for access.
- Any driveways shall meet all applicable requirements of the current International Fire Code, minimum County standards, and any other applicable codes.

Water & Septic:

- An adequate, approved, domestic water right is in place for the existing dwelling.
- There is an existing septic system on the property. Any animal waste shall not be disposed of in the septic system, but is to be disposed of at a sanitary landfill.

Service Provision:

- 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, and must be placed so as not to be blown over by passing traffic.
- Additional waste containers as needed are available through the Logan City Environmental Department.
- Emergency access to the site is adequate. Water supply for fire suppression will be provided by the Smithfield Fire Department.

Public Comment:

No public comment regarding this proposal has been received by the Development Services Office.

STAFF DETERMINATION

This report has been provided to the Planning Commission to assist in their review of this request. All relevant information regarding this request has been presented; however, a determination with finding(s) of fact has not been identified by staff in order to obtain and consider comment from the public and the Planning Commission. Staff will assist in drafting finding(s) of fact, and/or conditions of approval once a determination has been identified by the Planning Commission.

Date: 07/08/2014

To: Cache County
Development Services Department

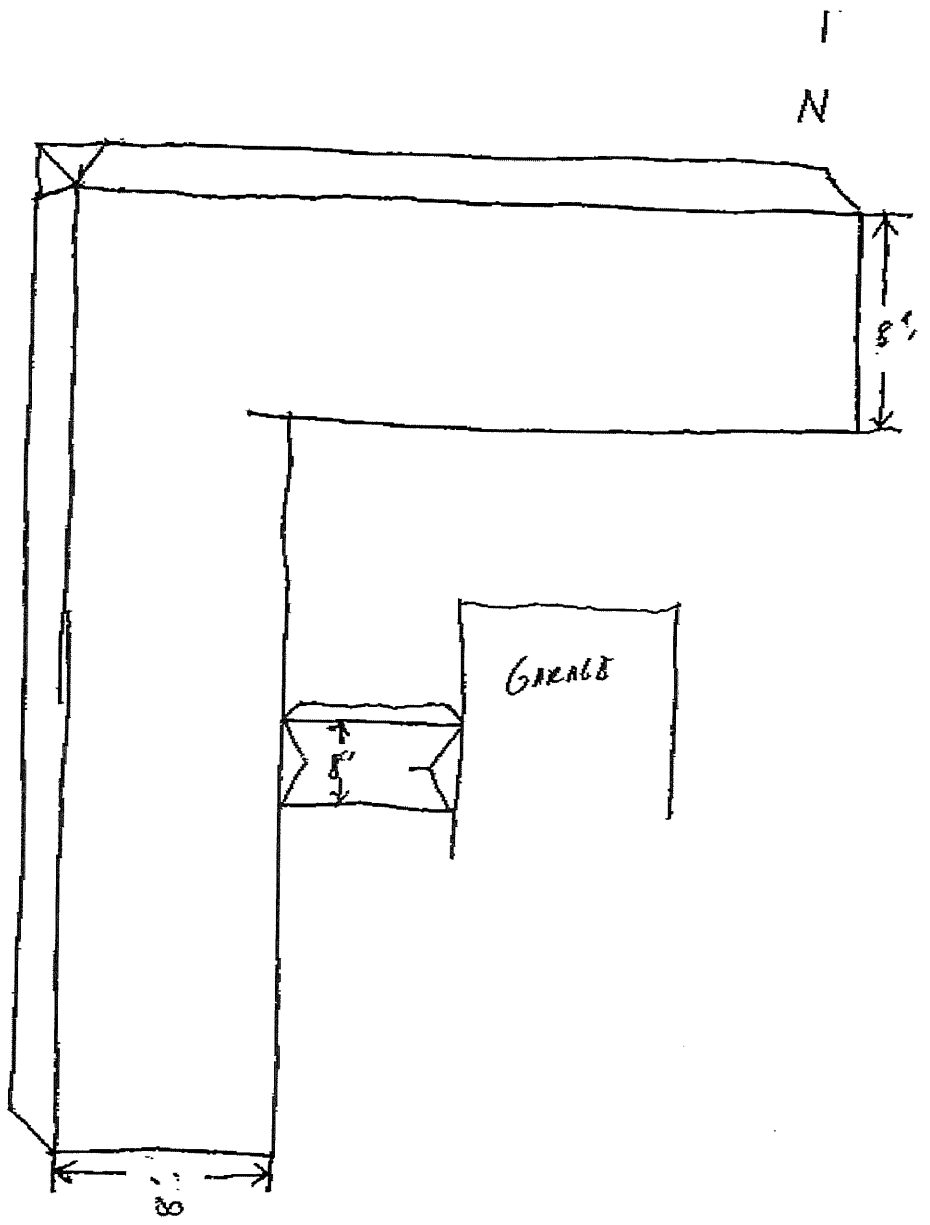
Wild Bunch Kennel
John & Caryn Mullin

Letter of Intent:

To Whom it may concern,

We, John and Caryn Mullin, are applying for a conditional use permit. We are purchasing a home at 5670 N. Highway 23 Cache Junction, Utah and do hereby apply to establish our kennel there. We propose to have a boarding and breeding kennel on the afore mentioned property. The pupose for the kennel is to breed and sell puppies/dogs of the Pug breed. We will construct a building to house these pets and erect a privacy fence to keep them from view of the highway and not be a distraction. At no time will they ever be able to leave this property and roam freely. We will have two connecting buildings erected on the above mentioned property to house our pets. We do not foresee any problems with driver distraction on the highway. With the privacy fence there should be limited noise and nuisance from afore mentioned pets. Most of the puppies sold will be done so on the internet and flown out of Salt Lake. All local inquiries will be sent pictures via email. We will meet local adopting customers in town which will keep travel on highway 23 at its normal level. All feces and other excrements will be disposed of properly and WILL NOT be disposed of in the septic tank on said property. It is our intent to be as inconspicuous as possible. By not selling puppies/dogs out of the home parking or traffic will not be a concern. John and Caryn Mullin are the sole owners and operators of this business. Jeremy Mullin, son of the owners helps with business also. Since this is family owned and operated business where all employees reside at the residence. We receive between 5 and 10 deliveries a year by Fed Ex and UPS. All other deliveries to the business will be to a post office box, which will be opened at the local post office along with all mail. The kennel operates during waking hours usually from 7:00 am to 10:00 pm. Seven days a week. There will be a ranch sign erected typical of most. There will be 2 large tall posts planted at entrance to driveway and the sign attached to them. It will be noticeable just like all the other ranch signs in the area of Logan. We use a power washer to wash kennels with Pine Sol and water. A Rug Doctor shampoo machine is used to vacuum up all excess water and cleaner. This material will be put into 5 gallon buckets and disposed of in accordance with local ordinances. Feces will be bagged and disposed of in waste container provided by local waste company. The waste from pets will only be three tall kitchen bags.

This property sits on .65 of an acre with an additional .49 of an acre. It has plenty of space for the above mentioned kennel. There is an easement between the two parts of the property for a future street if needed by the county. This street would be First South Street. However, this street would be south of the home and our buildings will be on the west and north so there should be no conflict.



FLOORS WILL BE CONCRETE w/SMOOTH FINISH (w/

ADDED STRUCTURES WILL BE 10' HIGH

OUTER MATERIAL AND ROOF WILL BE METAL

GUTTERS WILL BE ADDED ON TO DIRECT RUNOFF THREE FEET FROM BUILDING

THE BUILDINGS WILL BE HEATED AND COOLED TO KEEP PETS SAFE.

THERE WILL BE A PRIVACY FENCE BUILT TO KEEP DOWN VISIBILITY OF BUILDINGS AND PETS FROM HIGHWAY

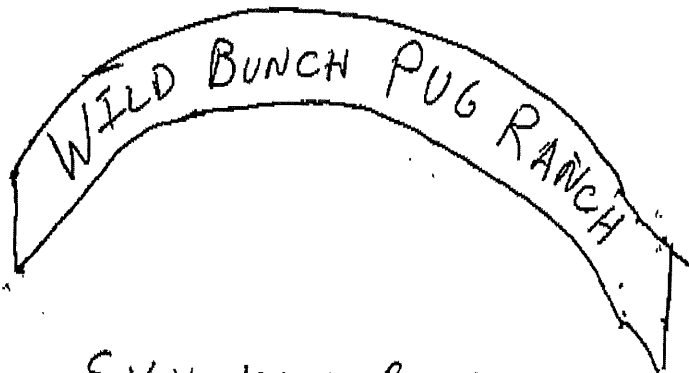
WEST BLOB IS 95' L x 10' W x 8' H

NORTH ADDITION IS 60' L x 10' W x 8' H

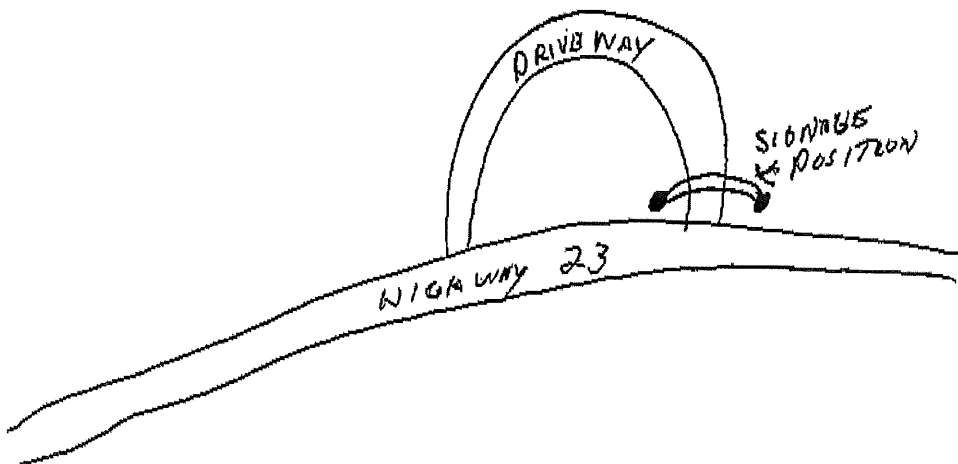
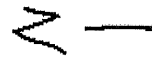
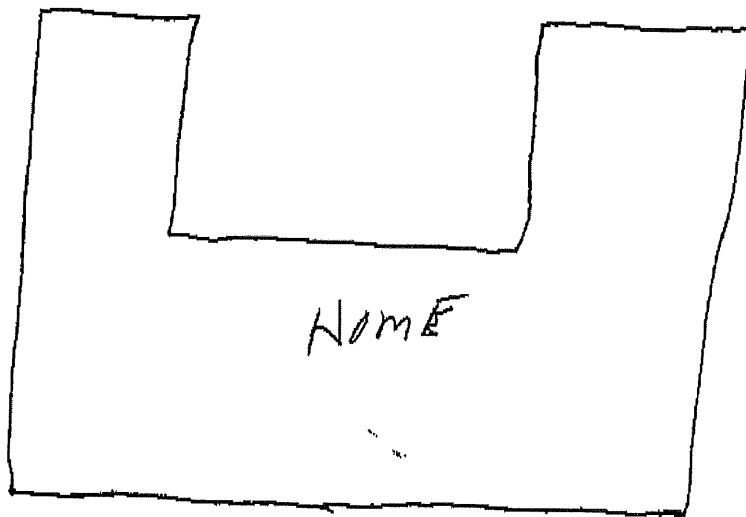
FROM GARAGE TO WEST BLOB IS

20' L x 8' W x 8' H

SIGN



SIGN WILL BE APPROXIMATELY
20' FROM HIGHWAY



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. Prohibited Use: 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, and as required;
 - 2. A building permit is issued, and/or;
 - 3. A business license is issued.
- 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 – see list of proposed criteria in this packet

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 property owner at the location 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 County Code.
 - 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.

17.06.060: 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 shall not be enlarged upon, expanded, or intensified.
 - 2. A nonconforming use may be maintained, however, for any work 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.

*Portions of 17.06.060 regarding structures moved to 17.10.020 [H] and amended
Entirety of 17.06.060 [C] amended and move to 17.10.020 [F] and [G]*

<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>23</u>
<u>17.06.070 Standards and Criteria for Conditional Use</u>		<u>2</u>
<u>17.06.080 Revocation or Modification of a Conditional Use Permit</u>		<u>3</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>4</u>
<u>17.06.120 Repealed</u>		<u>4</u>
<u>17.06.130 Nonconforming Uses, Lots, and Structures</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. Prohibited Use: 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 permitted use shall not become effective until:~~

- ~~1. a zoning clearance is received from issued, zoning administrator and as required;~~
- ~~2. a building permit is issued, -and/or;~~
- ~~3. A business license, as required, is issued. ____ 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 permitted 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, t~~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 – see list of proposed criteria in this packet

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 eommission-Commission~~ may deny the request for a conditional use permit.

BD. In approving a conditional use permit, the ~~planning Planning eommission-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 ~~C~~ommission 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~~ 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 property owner at the location 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 County Code.
- ~~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~~E. 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.~~

~~2. 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.~~

~~3.2. c. Reasonable conditions may be attached to the approval in order to assure compatibility with the surrounding properties.~~ A nonconforming use or structure may be maintained,

~~however, and repaired. On for any work being completed that requires a building permit, a zoning clearance shall be issued that identifies the following: the The nonconformity,; itsthe 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).~~

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

~~C. 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 A rlot 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.~~

*Portions of 17.06.060 regarding structures moved to 17.10.020 [H] and amended
Entirety of 17.06.060 [C] amended and move to 17.10.020 [F] and [G]*

Criteria considerations:

1. Health, Safety, and Welfare
2. Compliance with Law
3. Compliance with Intent of General Plan and Zone
4. Adequate Service Provision
5. Impacts and Mitigation
6. Compatible with Character of Vicinity

Proposed Criteria:

1. Health, Safety, and Welfare:
The proposed conditional 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 conditional use shall be considered detrimental if:
 - a. It causes unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar risks, and/or;
 - b. It unreasonably interferes with the lawful use of surrounding property.
2. Compliance with Law:
The proposed conditional use complies with the regulations and conditions specified in this title and other applicable agency standards for such use.
3. Compliance with Intent of General Plan, Ordinance, and Zone:
The proposed conditional use is consistent with the intent, function, and policies of the applicable zone and the current general plan.
4. Adequate Service Provision:
The proposed conditional use does not result in a situation that creates a need for essential services that cannot be reasonably met by local service providers, including but not limited to: Roads and access for emergency vehicles and residents, fire protection, law enforcement protection, schools and school busing, potable water, septic/sewer, storm water drainage, and garbage removal.
5. Impacts and Mitigation:
Reasonably anticipated detrimental effects of the 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 include but are not limited to odor, vibration, light, dust, smoke, and/or noise.
6. Compatible with the Character of the Vicinity:
The proposed conditional use is compatible with the character and uses in the immediate vicinity while preserving and/or enhancing the character of the same.

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.

17.10.010 Purpose.....1
17.10.020 General Requirements.....1
17.10.030 Development Density and Standards Specific to Base Zoning Districts.....2
17.10.040 Site Development Standards3
17.10.050 Supplemental Standards5
17.10.060 Improvement Agreements.....6

17.10.010: Purpose

The regulations hereinafter set forth in this chapter supplement and/or qualify the zone regulations appearing elsewhere in this title.

17.10.020: General Requirements

- A. Every Single Family Dwelling to be on a Legal Lot:
 - 1. Every single family dwelling shall be located and maintained on an approved lot, as defined in this title.
- B. Establishment of Legal Lots:
 - 1. Outside of a defined subdivision, a parcel may be determined to be a legal developable lot as per the conditions outlined in the “Development Services Policy for the Determination of Parcel Legality” dated August 29th, 2013.
 - 2. The Cache County Director of Development Services shall make all final determinations of parcel legality.
- C. Combined Lots or Parcels:
 - 1. If combined lots/parcels have two (2) or more different zoning designations, the uses and regulations of the most restrictive zone will apply.
- D. Sale or Lease of Required Space:
 - 1. Space needed to meet the width, setback, area, coverage, parking or other requirements of this title for a lot/parcel or building shall not be sold or leased away from such lot/parcel or building.
- E. Sale of Lots/Parcels Below Minimum Space Requirements:
 - 1. A parcel of land which has less than the minimum width and area required for the zone in which it is located shall not be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development.
- F. Restricted Lots:
 - 1. No permits or licenses will be issued for a use on any restricted lot.
 - 2. A restricted lot which meets all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in frontage, yard or other requirements, may be considered legal by adding sufficient area to the adjacent lot to meet all of the requirements of this title for a lot in its zone. The added area must be duly platted and evidenced in the public records by a deed showing a single legal description in the office of the county recorder.
 - 3. A restricted lot meeting the minimum lot size and/or density requirements of a zone may apply for subdivision.

G. Nonconforming Lot/Parcel

1. Legal lots not meeting the minimum lot size or density requirements of the applicable zone shall be entitled to be developed as a lot, but shall not be entitled to further subdivision in that nonconforming configuration.

H. Nonconforming Structure

1. Existence: A nonconforming structure may continue provided that it:
 - a. 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;
 - b. Has been continuously maintained.
2. Alteration: A nonconforming structure may be altered, maintained, and/or repaired as follows:
 - a. Minor: Minor changes that do not increase the nonconformity are permitted provided that:
 - i. Necessary permits are obtained, and on any work being completed that requires a building permit a zoning clearance shall be issued that identifies the following:
 - 1) The legally nonconforming status, and;
 - 2) The nonconformity, and;
 - 3) That the nonconformity of the structure is not being increased.
 - ii. Any reconstruction or restoration of a nonconforming structure shall comply with state and county code.
 - b. Major: Requests for major changes that increase a nonconformity may be made to the Cache County Board of Adjustments and must meet state code requirements for a variance.
3. Abandonment: A nonconforming structure may be determined to be abandoned in compliance with state and county code.

17.10.030: Development Density and Standards Specific to Base Zoning Districts

- A. Agricultural (A10); the following site development densities shall be complied with in the agricultural zoning district (A10):
 1. 1970 parcel development option: 1970 parcels may divide the first three (3) lots at a density of one lot per two (2) acres. All development beyond the first three (3) lots on a 1970 parcel shall conform to the density of one lot per ten (10) acres.
 - a. 1970 parcels shall not be permitted to be adjusted through the means of boundary line adjustments to promote additional development potential under this option. Boundary line adjustments may be completed to deal with subdivision design issues, but shall not be permitted to obtain additional lots.
 - b. 1970 parcels that no longer exist or that have been substantially modified shall not be permitted to be re-created for the purpose of further subdivision under this development option.
- B. Forest Recreation (FR40) Zone; the following site development standards shall be complied with in the forest recreation zoning district (FR40):
 1. Year Round Occupancy Restriction: Year round residences are prohibited. The maximum occupancy period of any dwelling shall be limited to one hundred eighty (180) days per calendar year.
- C. Commercial (C) and Industrial (I) Zones: the following site development standards shall be complied with in the Commercial (C) and Industrial (I) Zoning Districts:

17.10.010 Purpose.....1
17.10.020 General Requirements.....1
17.10.030 Development Density and Standards Specific to Base Zoning Districts.....12
17.10.040 Site Development Standards3
17.10.050 Supplemental Standards45
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 - 1. If combined lots/parcels have two (2) or more different zoning designations, the uses and regulations of the most restrictive zone will apply.
- D. Sale or Lease of Required Space:
 - 1. Space needed to meet the width, setback, area, coverage, parking or other requirements of this title for a lot/parcel or building shall not be sold or leased away from such lot/parcel or building.
- E. Sale of Lots/Parcels Below Minimum Space Requirements:
 - 1. A parcel of land which has less than the minimum width and area required for the zone in which it is located shall not be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development.
- F. Restricted Lots:
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 - 2. A restricted lot which meets all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in frontage, yard or other requirements, may be considered legal by adding sufficient area to the adjacent lot to meet all of the requirements of this title for a lot in its zone. The added area must be duly platted and evidenced in the public records by a deed showing a single legal description in the office of the county recorder.
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 - i. Necessary permits are obtained, and on any work being completed that requires a building permit a zoning clearance shall be issued that identifies the following:**
 - 1) The legally nonconforming status, and;**
 - 2) The nonconformity, and;**
 - 3) That the nonconformity of the structure is not being increased.**
 - ii. Any reconstruction or restoration of a nonconforming structure shall comply with state and county code.**
 - b. Major: Requests for major changes that increase a nonconformity may be made to the Cache County Board of Adjustments and must meet state code requirements for a variance.**
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- C. Commercial (C) and Industrial (I) Zones: the following site development standards shall be complied with in the Commercial (C) and Industrial (I) Zoning Districts:**

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.