



4:45 p.m.

Workshop in the County Council Chambers.

5:30 p.m.

Call to order

Opening remarks/Pledge – Rob Smith

Review and approval of agenda.

Review and approval of the minutes of the October 1, 2015 meeting.

5:35 p.m.

Regular Action Items

- (1) **Barber Conditional Use Permit:** A request for approval of a conditional use permit to allow an accessory apartment in a single family dwelling located on 50.25 acres of property at 6189 South 2400 West, east of Wellsville (Agricultural, A10 Zone).
- (2) **Public Hearing: 5:40 p.m. - Powder Mountain Sprint Rezone** - A request for a recommendation of approval for a rezone of a portion of 73.69 acres of property from Resort Recreation (RR) Zone to Public Infrastructure (PI) Overlay Zone, located at Powder Mountain.
- (3) **Public Hearing: 5:50 p.m. - Com-Tech Manufacturing Services Inc. Rezone** - A request for a recommendation of approval for the rezone of 0.67 acres of property from the Rural (RU2) Zone to the Industrial (I) Zone, located at 1953 North 8000 West, Petersboro.
- (4) **Musselman Airport Conditional Use Permit** – A request for approval of a conditional use permit to allow a private airport located on 114.32 acres of property at 11800 South 1300 East, Avon (Agricultural, A10 Zone).
- (5) **Wild Bunch Kennel Conditional Use Permit** – A request for approval of a conditional use permit to allow a boarding and breeding kennel located on 1.14 acres of property at 5670 North Highway 23, Cache Junction (Agricultural, A10 Zone).
- (6) **Discussion** – Floodplain Buffer
- (7) **Discussion** – Agri-Tourism
- (8) **Board Member Reports**
- (9) **Staff Reports**

Adjourn



PLANNING COMMISSION MINUTES

01 OCTOBER 2015

<u>Item</u>	<u>Page</u>
1. Logan and Northern Canal Piping and Pressurization Conditional Use Permit	2
2. Musselman Airport Conditional Use Permit	4
3. Amalga MX Park Conditional Use Permit	6
4. Staff Reports	9

DRAFT

1 **Present:** Stephanie Nelson, Chris Harrild, Josh Runhaar, Lane Parker, Phillip Olsen, Rob Smith, Leslie
2 Larson, Jason Watterson, Brady Christensen, Jon White, Lee Edwards, Megan Izatt

3
4 **Start Time:** 05:30:00

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

7
8 **05:36:00**

9
10 **Agenda**

11
12 Adopted with no changes.

13
14 **Minutes**

15
16 Adopted with no changes.

17
18 **05:37:000**

19
20 **Regular Action Items**

21
22 **#1 Logan and Northern Canal Piping and Pressurization Conditional Use Permit (Marcus Simons)**

23
24 **Nelson** reviewed Mr. Marcus Simons' request for approval for a conditional use permit (CUP) to allow
25 the piping of the Logan and Northern Canal, located contiguous to North Logan and Hyde park
26 (Agricultural, A10 Zone). Under the definitions section of the Cache County Ordinance this use falls
27 under a 6220 Utility Facility, Distribution definition. It will follow the existing canal alignment and will
28 range in size from 12" to 34" in diameter. The entire project also encompasses areas further north and
29 south of the unincorporated project area. This project must also go through flood plain development
30 permitting. Notices were mailed to property owners and no comment has been received.

31
32 **Staff and commission** discussed storm water issues. The cities will take responsibility for the storm
33 water issues and the irrigation water will be fed to the pipe. The canal bed will still be in place but will
34 most likely be smaller.

35
36 **Zan Murray** I am the project manager for this application. We've been working on this for 6-8 months
37 and this is a continuation of the Cache Water Restoration project that enclosed the canal coming out of the
38 canyon. This will take the load off several pumps that are used now to pressurize the water so it will save
39 energy and the water will be much cleaner now. This will take care of the pressurization issues for all
40 residents from Logan to Smithfield.

41
42 **Smith** what are the provisions for storm water?

43
44 **Mr. Murray** we have a meeting setup for next week with Josh to discuss the particulars of that. This
45 canal will leave an open channel for storm water to drain into from Logan City to Smithfield. We have
46 also made provisions to allow the cities to utilize that easement and enhance that area to convey water
47 better than it does now if the cities elect to do so.

48
49 **5:44:00**

50
51 **Watterson** arrived.

1
2 **Steve Parkinson** the canal runs through part of my property and we filled out the survey and were told to
3 go to a website and couldn't log on to it. When is the project going to occur?
4

5 **Mr. Murry** in the next couple of weeks.
6

7 **Russel Gibbon** I have a lot of concerns about this whole project. I think it's a quality of life issue. As the
8 City and County Councils have looked at this project I have to wonder if the members have ever tubed
9 down the upper canal. That opportunity is gone now. I think the open flowing canal will be an asset and a
10 great benefit to the quality of life than this enclosure that will principally benefit a few agricultural
11 interests. From what I have determined you are looking at the population doubling by 2040 and I
12 sincerely doubt that Mr. Meikel will still be milking his cows where he is at now. That area will be
13 residential and is rapidly evolving that way now. Complaints have come in letter to the editor in the paper
14 and other venues about odors and stench from Mr. Meikel operation. I think we can reasonably expect
15 those complaints to continue and intensify as population growth continues. The open flowing canal with
16 its wonderful enjoyment of walking along the bank and it's cooling in the summer. It attracts wildlife and
17 is a recreation opportunity for our youth, or used to be. For many of our youth and I think in the future
18 that is an asset that we will value much more highly than being able to irrigate some property. I've been
19 able to follow the county water plan somewhat as it is being promulgated. And a major component is for
20 us to be taxed and create a water conservancy district and conserve our water. At some location it is going
21 to be pumped uphill to Green Canyon and injected into the aquifer that is presently being replenished
22 from the open flowing canals. This project only will benefit a few and will affect the quality of life in
23 Cache Valley.
24

25 **Runhaar** I do want to mention that the water conservancy district has nothing to do with this.
26

27 **Larson** right, but to the extent that those things are out of our purview that needs to be established in the
28 record.
29

30 **Mr. Murray** there was a question about population growth and how this will impact the quality of life.
31 Water is one of Utah's most vital resources and using it in the proper ways and being effective in using it
32 is important. The water that will be conserved from this project will take care of the indoor use of Hyde
33 Park and Logan City for one year. That is a significant amount of water that will be saved for future use.
34 The other item is that this project is not just for agricultural purposes. 40% of this project will be used by
35 lawn and gardens and for people that have existing connections to the canal now. The benefit that will
36 come is that those pumps that now pressurize that water will be taken off and that power conserved and
37 gravity flow from the canyon will be used for that now and will benefit more than agriculture.
38

39 **Larson** and the returning to the aquifer, is that relevant?
40

41 **Mr. Murray** that isn't relevant to this project but is an idea being purposed by Bob Fotheringham and the
42 County.
43

44 **Planning Commission** discussed some of the issues raised by the public comment. Members are
45 sensitive to the recreation impacts that this project will have, but there are other recreation opportunities
46 in the valley also. While agriculture will benefit from the project, more people will benefit from it than
47 just agriculture. This project is going to conserve water and has more benefits than negative impacts.
48

49 **Christensen** motioned to approved the Logan and Northern Canal Piping and Pressurization Conditional
50 Use Permit with the stated findings of fact and conditions; **Watterson** seconded; **Passed 6, 0.**
51

1 05:59:00

2
3 #2 Musselman Airport Conditional Use Permit (Greg Musselman)

4
5 **Harrild** reviewed Mr. Greg Musselman's request for approval for a conditional use permit (CUP) to
6 allow a private airport on 114.32 acres of property located at 11800 South 1300 East, Avon (Agricultural,
7 A10 Zone). In addition to the CUP, a private airport is required to provide a copy of any and/or all FAA
8 reviews, forms, and analyses and a copy of the design criteria as per the current FAA airport design
9 advisory circular AC 150/5300-13A. That circular clearly defines out what type of runway/airport is
10 required according to the type of aircraft using the airport. Access to the project is by a dirt road and the
11 fire district did review the project but still needs approval from the Fire Chief before they will conclude
12 their review. It will be a considerable expense to improve that road. The applicant will be operating on a
13 mowed grass surface and is intended to be 980 feet long. The airstrip will be on top of the hill. Specific to
14 the site, the one concern that has been stated is the home near the end of the runway and if there will be
15 frequent air traffic over that home. Staff did ask the applicant to address the concern. The plane does not
16 require the whole 900 feet to take off but due to the FAA requiring the worst case scenario to be planned
17 for, the 900 feet is required. The plane should take off within the first 500 feet of the runway and that
18 should limit the traffic going over the top of that home. There are no specifications regarding hours of
19 operation or seasonal use. The applicant will operate said aircraft at this site on a visibility basis. This
20 means he is not using instruments for his landings/take off.

21
22 **Watterson** is the angle of the strip based on winds or how is that determined?

23
24 **Mr. Greg Musselman** the original strip was 826 feet long and we operated on it for 8 months. We've
25 moved it from the original location trying to get it to a remote location. We tried to get the original
26 location approved through the FAA but ended up moving the strip to the top of a bluff. The orientation of
27 the strip goes with the prevailing winds. Predominately the wind has been out of the south but on
28 occasion it does blow the other way but it is predominately a southern wind. The nearest home is down
29 below the strip. I have no intention of flying over the homes in that area. To leave the ground the aircraft
30 should be off the runway by 500 feet and then I would be turning to the east. One of the main reasons for
31 this location is because it is so remote. We live very near here and I spent most of the day up there on a
32 tractor and you couldn't hear me up there. The hill elevates to 248 feet and is very steep. The road is a
33 steep, dirt road. I am anticipating operating the in winter time and we can access that strip by a
34 snowmobile. There won't be any lights on the strip; we are not operating at night. The intent is to operate
35 and respect our neighbors.

36
37 **Watterson** could you speak to the frequency of take-off/landings?

38
39 **Mr. Musselman** my schedule is that I am home two to three days a week. So the maximum would be a
40 couple of take-offs two to three days a week. It's not going to be operated everyday and we are not going
41 to be doing commercial operations. This is for commuting and personal use.

42
43 **Harrild** one concern that has been raised is that this site would be used to train pilots or used by other
44 pilots and aircraft.

45
46 **Mr. Musselman** this airport is marked with a P on FAA maps which means that it is private and you have
47 to have permission to operate off of it. However, my agreement with the landowner is that no one else
48 will operate off of this strip. There will only be one plane operating off of this strip and that will be mine.

49
50 **Parker** what if you change aircraft?

1 **Mr. Musselman** 500 feet is pretty judicious for my plane. If you were to have a super cub or something
2 they are bigger. A Cessna is too big to operate off of this strip. They might land, but they won't be taking
3 off from this location. I can see a larger plan using this strip in an emergency situation but no other time.
4 We want to be respectful to our neighbors and keep it quiet.

5
6 **Chris Phillips** my house is at the bottom of the runway and we are the reason he had to move it in the
7 first place. I heard he had a piece of property that he was moving it to and we were happy with that. Now
8 it is lined up with my house. If he moved it the other way we would be happy.

9
10 **Mr. Musselman** like I said the reason for the orientation of the strip is specifically for the wind. Also, the
11 lay of the land isn't conducive to orienting it another way. As it sits right now, there is a small ditch line
12 about 50 to 75 feet to the west of the strip and it runs right along the hump of the land. There is a ton of
13 rocks on the other side of the strip and we did look at changing it. But this is where the landowner has
14 asked that it be located and I'm grateful that he would allow us to do this. He would have like to rotate the
15 runway 90 degrees but that puts us in crosswinds and that is not good for take offs/landings. If I were to
16 take off and go over his house I would be 700 feet high and it is only required that I be 500 feet above a
17 home.

18
19 **Olsen** the engine is quiet?

20
21 **Mr. Musselman** it isn't louder than a snowmobile and is only a two stroke.

22
23 **Olsen** there is a gate up there, is it locked?

24
25 **Mr. Musselman** there is a gate up there but it is locked at the landowner's request.

26
27 **Olsen** is the road something you would be willing to work on to make it more passable?

28
29 **Mr. Musselman** if the road is muddy or there has been a heavy rainstorm I won't be up there. And if the
30 ground is soggy, you don't want to be landing on it. The intent is to have the strip be grass and I have
31 cleaned it up a lot.

32
33 **Olsen** does he run cattle up there?

34
35 **Mr. Musselman** he doesn't run cattle there now. He possibly might in the future but that shouldn't be a
36 problem.

37
38 **Staff and commission** discussed the issues with the road. The Fire District is not going to give a
39 recommendation until the Fire Chief has reviewed the project. This type of use is new to the Fire District
40 and they don't want to give a recommendation and set a precedent until they Fire Chief has been allowed
41 time to review the project and he will be back on Monday. Staff is uncertain what the decision by the Fire
42 District will be. The Fire District cannot pass liability off to the private citizen; they have to be
43 comfortable with the decision before they will give a recommendation.

44
45 **Mr. Musselman** we have a volunteer firefighter down the road from us and I have talked to him many
46 times. The access road to our property is here on the map. This section that I am pointing at is steep and
47 gets no sun in the winter time. He told me that there would be no way to get a fire truck up there in the
48 winter time. To me this is a personal liability situation but obviously the fire department can't offload
49 liability. It's a good question and I would like to know what they have to say but we have access issues to
50 our own up there in the winter time.

1 **Staff and commission** discussed the road issues. The ordinance requires that the fire department review
2 the project.

3
4 *Larson* motioned to continue the item up to 90 days to allow for the fire district review; *Watterson*
5 *seconded; Passed 6, 0.*

6
7 **06:42:00**

8
9 **#3 Amalga MX Park Conditional Use Permit (Shane “T” Parker)**

10
11 **Nelson** reviewed Mr. Shane Parker’s request for approval for a conditional use permit (CUP) to allow a
12 motocross park on 25 acres of property located at 6700 North 1900 West, Amalga (Agricultural, A10
13 Zone). Staff has received a new letter of intent. The operation, if approved, would operate between 8-4
14 and would on two weekends during the month with random use during the week. Access to the site is
15 inadequate. The private road does not have an easement to get to his property and that is a requirement for
16 this approval. Anne May Duncan owns the property that the easement is needed for and she is strongly
17 opposed to this use and does not want to grant that easement. The water line for Amalga does cross the
18 property and has been marked. The code does provide that the application shall be approved with
19 reasonable conditions if it is a permitted use. That is a much more supportable position for the
20 Commission to take if this goes to court.

21
22 **Staff and commission** discussed the issues with the road and with the ordinance. Currently the
23 application does not meet the ordinance with the marked access but the condition is written that the
24 applicant has to provide access but it is not limited to this access point. There are other ways to access the
25 property and one of those accesses may be used if they meet the road requirements. Hours of operation
26 were discussed. The updated letter of intent was contradictory when it came to those hours.

27
28 **Mr. Shane Parker** two weekends a month is pretty open but that is the most we are going to operate.
29 These weekends might be consecutive, they might not. The random week day is for my personal use of
30 the property. As far as the access, if that road way doesn’t work out that is fine and we do have some
31 other options for access from the current land owner that we can make work. I think you can see the basic
32 idea and structure of what I’m trying to do here.

33
34 **Parker** I have a question about the sound, is 10 decibels a lot or a little?

35
36 **Mr. Parker** I would say that’s a little. I think I could stand on my property line and have a complaint
37 about my neighbors for 10 decibels. Where did that come from?

38
39 **Harrild** that number comes from work we’ve done on or kennel ordinance and dogs barking. But what
40 that identifies is also in reference to that loudness over time, or Leq. When we talk about noise, 10
41 decibels above ambient sound is quite a generous measure. Decibels increase at an algorithmic rate. The
42 sound doesn’t just double, it’s an exponential doubling. Our research states that this is an adequate level
43 to identify if there is a noise nuisance. If there is a more appropriate measure out there, we can do more
44 research to see if there is a standard for motorcycles, but this is just in relation to noise in general.

45
46 **Staff and commission** discussed the sound study and noise. If you have one motorcycle that produces 50
47 decibels of sound and add one more, you aren’t at 100 decibels. You are at maybe 53 or 55. Law
48 enforcement are not equipped with sound meters for noise complaints but the county can borrow one from
49 Bear River Health Department or Logan City.

1 **Parker** it looks like the road currently being used isn't adequate, is there another access road that you can
2 use?
3
4 **Mr. Parker** if we continue forward with this project.
5
6 **Parker** so there is another access point and the sound becomes the unknown at this point.
7
8 **Mr. Parker** it seems pretty straight forward with the sound. Either I pass or I fail, correct?
9
10 **Harrild** yes.
11
12 **Olsen** where is the other access?
13
14 **Mr. Parker** going north from the current access point there is a section we could use or we have a lot of
15 property to the south we can use as an access as well.
16
17 **Larson** where would the noise readings be taken?
18
19 **Watterson** at the property line.
20
21 **Harrild** at the property line is correct. The impact shouldn't extend beyond the property line.
22
23 **John Clark** I am opposed to this project primarily because of the noise. Also I'm concerned about the
24 water line that runs across this piece of property.
25
26 **Cindy Parkinson** I am opposed to this because of noise and because of safety; safety with the individuals
27 that are coming to and from the track. I have personally almost had a head on with someone coming from
28 this track. The roads are not wide enough for a commercial business in this area. I don't mean the gravel
29 access road, but the actually paved roads. I know there have also been concerns expressed from some law
30 enforcement officers about getting emergency personal to the track if needed.
31
32 **Azeal Jensen** I live on the river and down on the river bottoms sounds is amplified. It is so much nosier
33 along the river bottoms than it is on the track. So I'm concerned with that and we value living in a quiet
34 area and that doesn't happen with them there. My other concern is about the wildlife. We have a lot of
35 wildlife that live in this area that will be affected by the noise as well.
36
37 **Don Hansen** I'm also concerned about the wildlife and the noise is horrendous. They do have a water
38 truck over there to water the track and I'm wondering where they are getting the water from? If they are
39 pumping out of the river that is illegal and I know Amalga is not granting permission to get water from
40 their fire hydrants.
41
42 **Rick Alder** the measuring of noise was discussed and when that is done I think the number of
43 motorcycles at the time of the reading needs to be taken into consideration. 50 to 75 motorcycles are
44 different than 1 motorcycle. If he does create that other access, does it have to meet the county standards
45 and how is that standard held to? The other thing that I haven't seen addressed is sanitation. I don't think
46 one port-a-potty is enough for 70 riders and their families.
47
48 **Scott Parkinson** please be aware of the impact on property values. When you talk about the value of
49 homes in that area you are talking in the millions. People came out there for the benefits of being rural
50 and I'm not convinced this is a good area for this area.
51

1 **Anne Mae Duncan** there is no way that I will give an easement for that road to be used for this purpose.
2 Can I put a gate up there to block them from using it if they build a new easement?

3
4 **Smith** we can't answer that type of legal question.
5

6 **Ms. Duncan** there is no way we will give an easement for this property. We have had trouble with them
7 already tearing up the property in that area and my renter had to put a fence up to keep them off that
8 property. We also have a sprinkler irrigation system there that could cause problems for people coming in
9 and out.

10
11 **Shawn Hansen** I oppose this mostly for the noise. It is a horrendous noise. I think you should come out
12 and actually listen to it. I know Boyd Facer does a lot of hauling of sand out of there, so is it considered
13 an open pit? If it is an open pit, what about enforcing MSHAW requirements?
14

15 **Mr. Shane Parker** I think the noise concern is redundant. We are going to do the noise test and I agree
16 with multiple tests being run. I don't want the police to have to be called on this.
17

18 **Watterson** I think the concern regarding sanitation should be addressed.
19

20 **Mr. Parker** yes I know sanitation is a concern and we plan on addressing that. There is one port-a-potty
21 out there because that is the starting point.
22

23 **Parker** there have been concerns about the water line.
24

25 **Mr. Parker** the water line has been identified and is marked on the property also. It's avoided like the
26 plague. I don't want to flood my track with water and I don't want to take Amalga's water. We do not
27 touch that very clearly by the landowner's request. What I have been able to do and where I can go has
28 been clearly defined by the property owners.
29

30 **Parker** where do you get the water for that water truck? From Smithfield City?
31

32 **Mr. Parker** yes, from Smithfield City. I also have clearance from Hyde Park to get water from there also.
33 With the three weeks of rain we had this spring, we were actually pumping water off the property itself.
34 We have never pumped from the river because it is illegal. I also have permission to hook on to the water
35 rights on the property and pump from there.
36

37 **Christensen** is that pit still running?
38

39 **Mr. Parker** I believe Facer's haul sand out of their occasionally.
40

41 **Staff and Commission** discussed sanitation. This is a permitted use and the commission is looking for
42 conditions that can be imposed. If the conditions that have been proposed by staff need to be amended the
43 Planning Commission can amend those and the law/ordinances allow for that. The commission has
44 expressed concerns with how to test the sound component. A sound engineer would do research and
45 identify the critical areas to be tested. There is one firm in the county that does sound studies currently.
46 The 10 decibel level has been established and is a good starting point. The last sound report that staff saw
47 was broken down in detail. Discussion was also held about what was naturally in the area to help mitigate
48 the sound. Hours of operation were discussed. Staff expressed the concern with enforcement of hours of
49 operation and also stated the opinion that if the operation met the noise requirements then hours of
50 operation shouldn't matter. However, if there is an issue with sound and if the sound study shows that at
51 certain times of days the noise from the MX Park exceeds ambient noise then hours of operation can be

1 more effective. The 10 decibel limit is based on staff's research of other counties and residential
2 requirements. For access staff doesn't care how the access happens as long as it meets the county
3 standards and meets all other requirements. Access could happen to the north or south without using the
4 private access across the Duncan property. Many commissioners expressed a desire to require a sound
5 study be conducted before approval of the project can be granted. The sound study is looking for worst
6 case scenarios and the engineer is going to test those areas and hopefully be able to propose some
7 mitigation initiatives. Staff suggested that Bear River Health conduct a sanitation review.
8

9 *Olsen motioned to approve the Amalga MX Park with the findings of fact and conditions of approval with*
10 *the addition of at 10th condition requiring a review by the Bear River Health Department; Parker*
11 *seconded; Passed 5, 1 (Smith voted nay).*
12

13 **07:41:00**

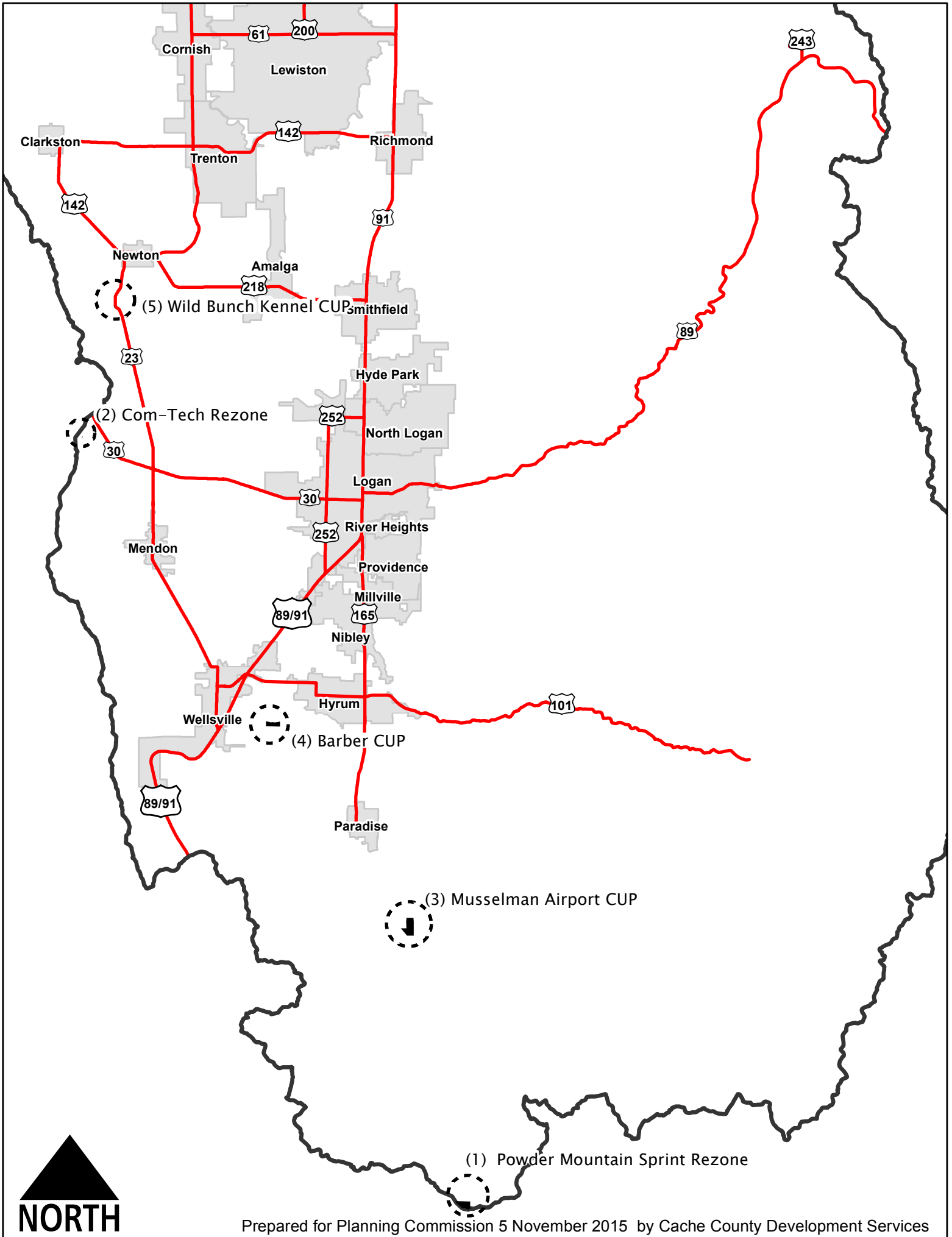
14
15 Commission members explained to the public that the approval is contingent on the 10 conditions of
16 approval. The burden is on the proponent to show that the conditions have been met.
17

18 **Staff Reports**

19
20 **Harrild** The Wild Bunch Kennel will be remanded back to the planning commission and will most likely
21 be on next month's agenda. Agri-tourism is a definition that needs to be added to the code and staff will
22 draft some language to look at for that.
23

24 **7:57:00**

25
26 **Adjourned.**



NORTH

STAFF REPORT: BARBER RESIDENCE CUP

05 November 2015

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: Andrew and Shelly Barber

Parcel ID#: 10-045-0008

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Cache County Planning Commission

PROJECT LOCATION

Reviewed by: Christopher Harrild, Senior Planner

Project Address:

6189 South 2400 West

Surrounding Uses:

North – Agricultural/Residential

South – Agricultural/Residential

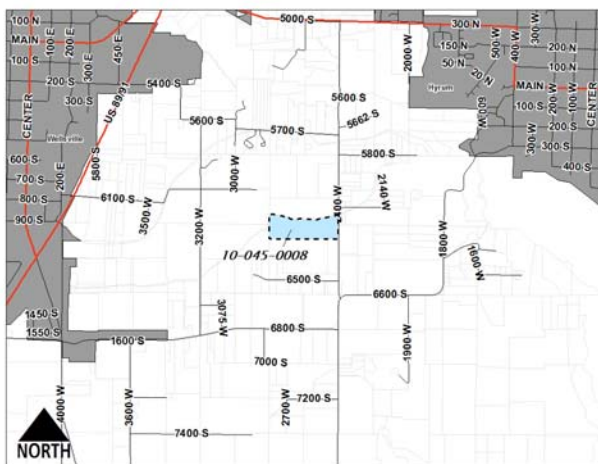
East – Agricultural/Residential

West – Agricultural/Residential

Current Zoning:

Agricultural (A10)

Acres: 50.25



PROJECT PURPOSE, APPLICABLE ORDINANCE, SUMMARY, AND PUBLIC COMMENT

Purpose:

To review and make a decision regarding the request for a conditional use permit to allow an accessory apartment.

Ordinance:

This proposed use is best defined as “1120 Accessory Apartment” 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:

Prior review for a single family dwelling was conducted by staff and zoning clearance was issued. During the plan review, the building inspector noted the existence of what appeared to be an accessory apartment. This was reviewed with our office and it was concluded that it met the definition for such as defined by the County Code. The applicant was unaware of this designation and is working to comply with the Code. At this time, the structure that would include the primary structure and accessory apartment has obtained a building permit for the construction of the footing and foundation only, but must wait the review and decision of the Planning Commission prior to any additional construction.

The applicant(s) intends for the proposed use to be a potential semi-private living space for members of their family at their own discretion, such as elderly parents or married children. The proposed accessory apartment does not have its own entrance, utilities, water, septic, or parking area. The proposed residence does include a small room, with a separate kitchen and bathroom.

Specific to “1120 Accessory Apartment”, the proposed use must comply with the following Cache County requirements:

1. Be located within an existing single-family dwelling which has been designated, built, or converted to accommodate an independent housing unit.
2. Must be approved by the Bear River Health Department and County Building Department with respect to sanitation, water, drainage, and all applicable health codes and requirements and must also comply with all applicable zoning, building, and safety codes, including the obtaining of a building permit.
3. Only one accessory apartment is allowed per legal lot.
4. The existing primary single-family dwelling unit or the accessory apartment must remain owner occupied.

Access:

- Access to the property is from county road 2400 West and is adequate. 2400 West is a 24’ wide paved road with 2’ wide gravel shoulders.
- At the point of access a culvert is in place.

Water & Septic:

- An adequate, approved, domestic water right was submitted to the Cache County Development Services Department.
- The proposed use is feasible for an on-site septic tank system.
- If future development disturbs land area greater than 5000 SF a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be required.

Service Provision:

- A school bus stop is located at 6116 South 2400 West.
- Emergency access to the site is adequate. Fire protection will be provided by the Wellsville Fire Department.

Public Comment:

Notices were mailed to the property owners located within 300 feet and municipalities within one mile 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 (3)

It is staff's determination that the request for the Barber Residence Conditional Use Permit, located in the Agricultural (A10) Zone at 6189 South 2400 West with parcel number 10-045-0008 is in conformance with the Cache County Ordinance and should be approved. This determination is based on the following findings of fact:

1. The Barber Residence Conditional Use Permit 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 Barber Residence Conditional Use Permit has been revised and amended by the conditions of project approval to conform to the requirements of Title 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Barber Residence Conditional Use Permit has been reviewed in conformance with §17.06.070 of the Cache County Ordinance, Standards and Criteria for Conditional Use, and conforms to said title, pursuant to the conditions of approval, and specifically:
 - a. Is located within an existing single-family dwelling which has been designated, built, or converted to accommodate an independent housing unit.
 - b. Has been approved by the Bear River Health Department and County Building Department with respect to sanitation, water, drainage, and all applicable health codes and requirements and must also comply with all applicable zoning, building, and safety codes, including the obtaining of a building permit.
 - c. Only one accessory apartment is being requested.

CONDITIONS OF APPROVAL (1)

The following condition is appurtenant to the existing property and must be followed for the development to conform to the County Ordinance and the requirements of county service providers.

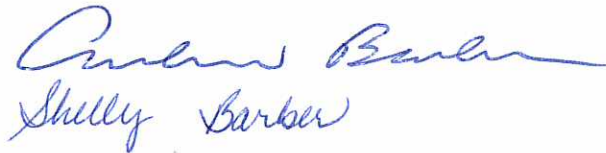
1. The existing primary single-family dwelling unit or the accessory apartment shall remain owner occupied.

September 23, 2015

To Whom it may concern at Cache county Development services

This is a letter of intent for CUP application for Barber Residence as required in application instructions. Per sub-heading 1a, the intent of proposed use is as a potential semi-private living space for members of our family at our discretion, such as elderly parents or married children should the need ever arise. Subheadings 1b-g do not apply in that there is no business, hours of operation, employees, traffic or parking requirements, machinery or waste issues any different than for a single family home. The so called "apartment" does not have its own entrance, utilities, water or septic, or parking area and is in every sense just another room in a home with a small kitchen and bathroom close by, much like many of my surrounding neighbors have recently built with out being subject to said CUP. The county already has plans and elevations showing square footage and other details.

Andrew and Shelly Barber
Applicants



Andrew Barber
Shelly Barber

STAFF REPORT: POWDER MOUNTAIN - SPRINT REZONE

05 November 2015

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: Sprint / Robert Blackie and Shammikka Chisolm

Parcel ID#: 16-001-0009

Staff Recommendation: Approval

Type of Action: Legislative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Christopher Harrild, Senior Planner

Project Address:

Powder Mountain

Surrounding Uses:

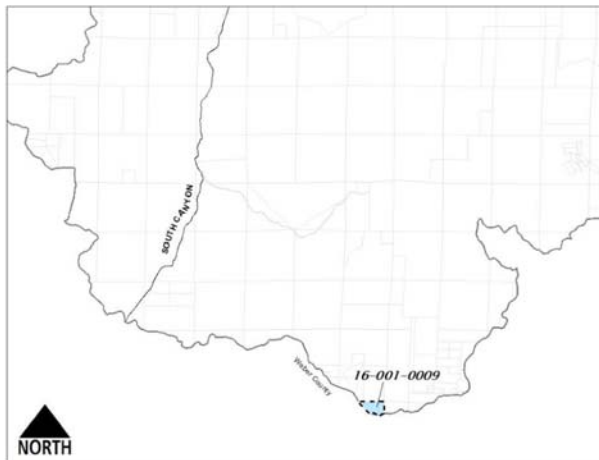
North – Resort Recreation

South – Resort Recreation/Weber County

East – Resort Recreation

West – Resort Recreation/Weber County

Current Zoning: Resort Recreation (RR) **Acres:** 0.69 ac. portion
of 73.69 ac



PURPOSE, APPLICABLE ORDINANCE, AND SUMMARY

Purpose:

To review and make a recommendation to the County Council regarding a request to rezone a 0.69 acre portion of a 73.69 acre property in the Resort Recreation (RR) Zone to include the Public Infrastructure (PI) Overlay Zone.

Ordinance:

As per Title §17.19 Public Infrastructure (PI) Overlay Zone, the purpose of this zone is:

- A. To provide for the siting and operation of public infrastructure in an environmentally sound and economically competitive manner.
- B. To inform current and potential residents of the county of the possible location of future public infrastructure locations.
- C. To ensure that any public infrastructure be designed, constructed, and operated in a safe and efficient manner, and in compliance with all federal, state, and local laws and regulations for the protection of the general health, welfare, and safety of the citizens of the county.”

As per §Title 17.09 Schedule of Zoning Uses, the PI Overlay Zone permits telecommunication facilities as conditional and permitted uses. The existing facility at this site is at present a legal, nonconforming use. Approval of the rezone request would bring the tower into conformance with the Cache County Code, and allow additional permitting to occur on the site.

Summary:

The existing facilities on the site are located on the Hidden Lake Lodge (Image 1) and consist of five antennas and a 10' X 12' equipment structure located under the existing deck (CUP in Dec. of 2000). An 80' tall monopole with co-location potential of up to 12 antennas was also approved prior to that date but does not appear to have been built or has now been removed. As the structure was not built or removed, the CUP approval for said 80' tower and associated facilities is now void as per the permit.



As per the Cache County Code the request by the proponent to expand the original conditional use permit requires a rezone to the PI Overlay, Commercial, or Industrial Zone. The proponent has elected to request a rezone of a 0.69 acre portion of the property to the PI Overlay Zone (Image 2 – approximate location). Additional permitting for any expansion shall be required if the rezone request is approved.

Access:

- Access to this property is from a private road from Weber County. Due to the type of use, access to this facility is adequate.

Storm Water:

- Any additional development and /or future land disturbance shall require additional storm water review.

Service Provision:

- Emergency access to the site is adequate. Water supply for fire protection will be provided by the Wellsville Fire Department.

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 (2)

It is staff's determination that the Powder Mountain-Sprint rezone request to include the Public Infrastructure (PI) Overlay Zone in the Resort Recreation (RR) Zone at Powder Mountain, on a 0.69 acre leased portion of parcel 16-001-0009 is in conformance with the Cache County Ordinance and should be recommended for approval to the Cache County Council. This determination is based on the following findings of fact:

1. The location of the subject property is compatible with the purpose of the proposed Public Infrastructure (PI) Overlay Zone.
2. The subject property is suitable for development within the Public Infrastructure (PI) Overlay Zone district without increasing the need for variances or special exceptions within this zone or the underlying Resort Recreation (RR) Zone.

STAFF REPORT: COM-TECH MANUFACTURING SERVICES INC. REZONE 05 November 2015

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: Craig Veibell

Parcel ID#: 12-053-0001

Staff Recommendation: Denial

Type of Action: Legislative

Land Use Authority: Cache County Council

LOCATION

Reviewed by: Christopher Harrild, Senior Planner

Project Address:
1953 North 8000 West
Petersboro, Utah 84325

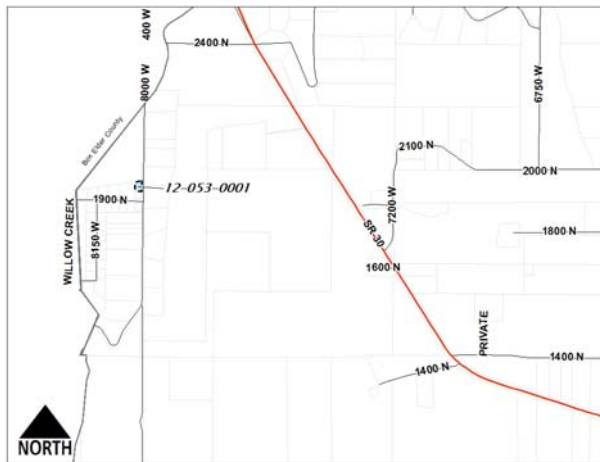
Acres: 0.67

Surrounding Uses:

North – Agricultural/Residential
South – Agricultural/Residential
East – Agricultural/Residential
West –Agricultural/Residential/Box Elder County

Current Zoning:
Rural (RU2)

Proposed Zoning:
Industrial (I)



PURPOSE, APPLICABLE ORDINANCE, AND SUMMARY

Purpose:

To review and make a recommendation to the County Council regarding a request to rezone a 0.67 acre property in the Rural (RU2) Zone to the Industrial (I) Zone.

Ordinance:

As per §Title 17.08.030 [F], the purpose of the Industrial (I) Zone is to provide locations for manufacturing, processing, warehousing, and fabrication of goods and material to be carried on with minimum conflict or deleterious effect upon the surrounding properties. This zone must be appropriately served by suitable public roads, have access to necessary water and utilities, and have adequate provision of public services.

Summary:

The proponent has an existing business located just south of the proposed site to be rezoned. That existing use was previously permitted as a conditional use in the Agricultural (A10) Zone in May of 1999. However, as the County Code has been updated and revised, it is no longer a permitted use in the A10 Zone, but is now considered a legal, nonconforming use. This means that the use may continue to operate in the existing location if no expansion of the use, as permitted, occurs. The proponent’s intent is to move said business to the location proposed for rezone. The use as proposed/exists is conditionally permitted only in the Industrial Zone.

This property was rezoned to the Rural (RU2) Zone in August of 2011. This is Lot #1 of 29 lots of the High Country Estates Subdivision recorded in April of 2013.

Zoning Context and Placement: The property proposed for rezone is located in the RU2 Zone and is adjacent to multiple residential properties in the A10 and RU2 Zones. Within a ½ mile radius from this property, there are currently (See Exhibit A):

- 32 residential lots and 15 residential structures in the RU2 Zone on ~41 acres.
- 17 residential lots and 9 residential structures in the A10 Zone on ~192 acres.
- 14 vacant/agricultural lots in the A10 Zone on ~238 acres.
- The Box Elder County line is ¼ mile to the west, with zoning and development that reflects a similar form of residential density as exists in Cache County.

The Countywide Comprehensive Plan identifies the general land use strategy of limiting industrial development to existing zones with the intent to first, encourage industrial development within municipalities, and then as necessary, in areas convenient and accessible to the public that will not create land use conflicts.

In considering potential conflict or deleterious effect that industrial uses may have upon the surrounding properties, staff has identified likely impacts in two general categories, agricultural and residential, as follows:

Agricultural: The anticipated impact to agricultural property/uses would be negligible due to the similarities present in industrial and agricultural operations.

Residential: The anticipated impact to residential property/uses would likely be significant due to the differences inherent to these distinct zones. Examples of these distinctions are the uses the County Code currently conditionally permits in the Industrial (I) Zone, but does not permit in any of the residential zones, e.g. A10, RU2, RU5, as follows:

- General Manufacturing – Concrete/asphalt plants, saw mills, pulp factories, etc.
- Storage and Warehousing – Storage yard, salvage yard, etc.
- Self-service Storage Facility – Storage units
- Transport Services – Loading, storing, servicing, repair, etc. of tractor trucks and trailers.
- General Vehicle Repair
- Sexually-oriented Businesses
- Commercial Kennel/Animal Shelter – 13 or more adult dogs

It can be reasonably anticipated that these types of uses will create potential conflict or deleterious effect on residential properties and uses due to increased impacts such as noise, traffic, odor, appearance, etc.

Maintenance Capability: The approval of the Industrial (I) Zone in locations that are distant and/or not adjacent to municipalities may increase the maintenance burden and cost to the county.

The county is not currently capable of maintaining the existing county roadway systems, and therefore this increased burden is likely to impact the maintenance of all county roads. Consideration of the long term cost to maintain and serve industrial areas in the unincorporated county is an appropriate tool when determining necessary action regarding such requests.

Roadway Access: Access to this property is from county road 8000 West and is not adequate. 8000 West is a 19'-20' wide paved surface with 1-2' wide gravel shoulders. Industrial access requires two 10' wide paved travel lanes (20') with 2' wide shoulders (1' paved, 1' gravel). The Cache County Road Department currently provides year round maintenance.

Fire Service: Access for fire protection and emergency services is adequate. Water supply for fire protection will be provided by the Willow Creek Water Company hydrant system.

Utilities and Public Service Provision: Provision of an adequate utilities and additional public service for industrial use would be assessed at the time of development.

Storm Water: The proposed rezone does not initiate storm water review. However, if future development disturbs land area greater than 5,000 square feet in size, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be required.







Public Comment:

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

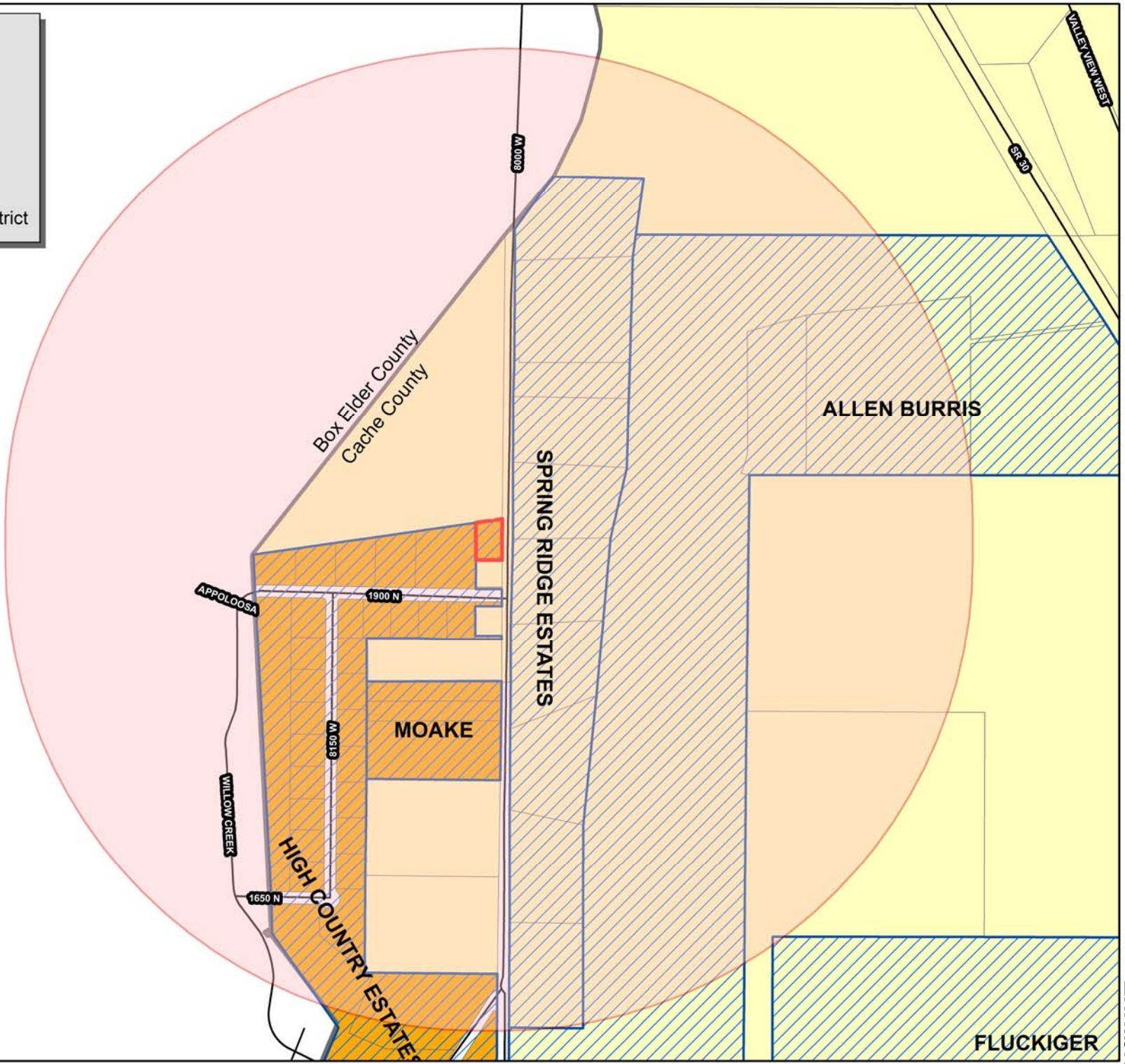
STAFF DETERMINATION AND FINDINGS OF FACT (2)

It is staff's determination that the Com-Tech Manufacturing Services Inc. request to rezone property located at 1953 North 8000 West, on 0.67 acre parcel 12-053-0001 is not in conformance with the Cache County Ordinance or Comprehensive Plan and should be recommended for denial to the Cache County Council. This determination is based on the following findings of fact:

1. The proposed rezone is not consistent with the existing development and zoning patterns within the surrounding area as:
 - a. The property proposed for rezone is located in and adjacent to property in the highest County residential density zone (RU2).
 - b. The property is proximate to multiple residential properties in the Agricultural (A10) and Rural 2 (RU2) Zones.
 - c. The Box Elder County line is located ¼ mile to the west, with zoning in that region reflects a similar form of residential density as Cache County's RU2 and RU5 Zones.
2. In the area context, it is reasonable to anticipate that most uses permitted in the Industrial (I) Zone are likely to result in conflict or deleterious effect upon the surrounding residential properties and uses.

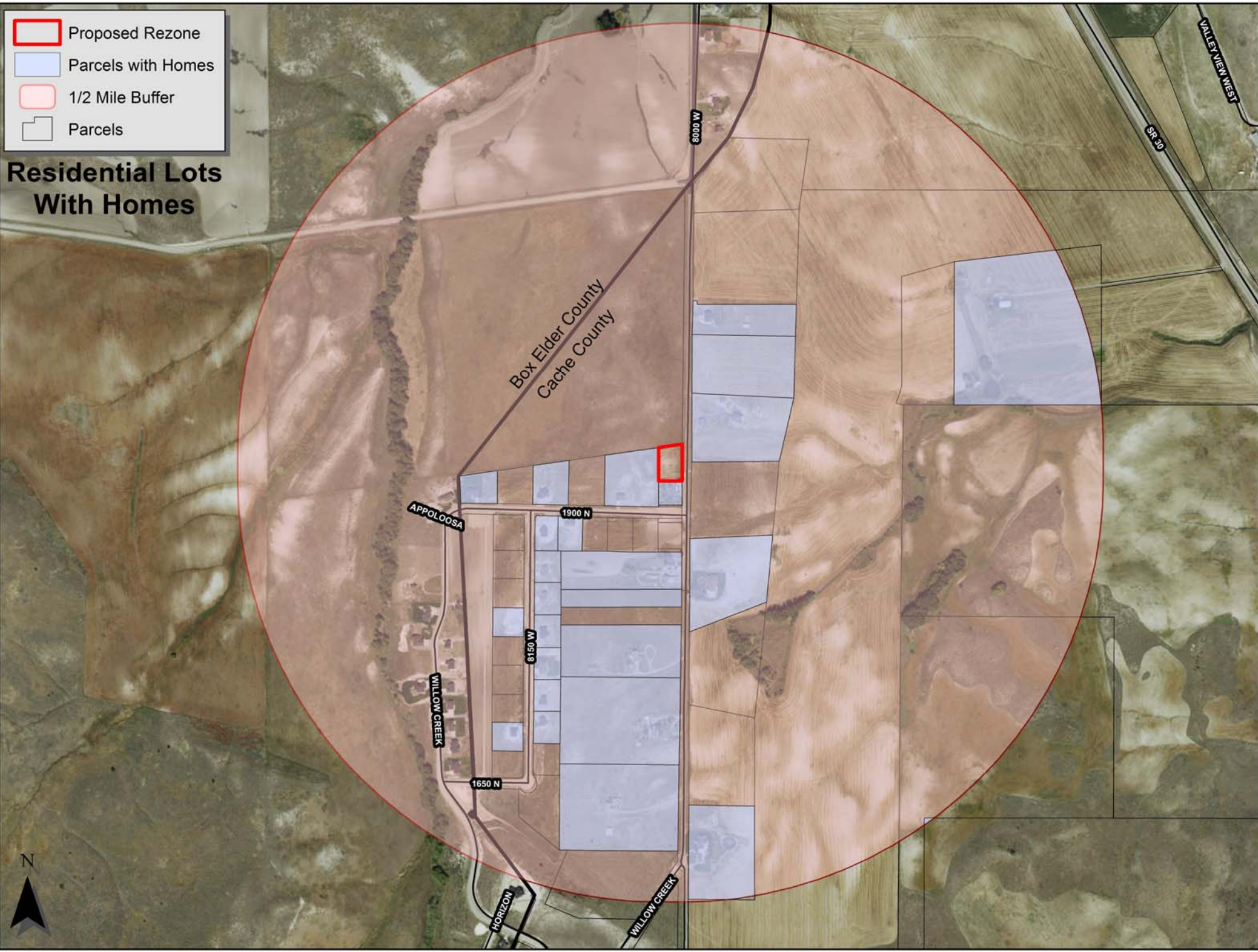
-  1/2 Mile Buffer
-  Proposed Rezone
-  Subdivisions
-  Parcels
-  A10: Agriculture 10 acres
-  RU-2: Rural-2 Zoning District

Subdivisions & Zoning



- Proposed Rezone
- Parcels with Homes
- 1/2 Mile Buffer
- Parcels

Residential Lots With Homes



STAFF REPORT: MUSSELMAN AIRPORT CONDITIONAL USE PERMIT

05 November 2015

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: Greg Musselman

Parcel ID#: 16-052-0003

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Cache County Planning Commission

PROJECT LOCATION

Reviewed by: Christopher Harrild – Senior Planner

Project Address:

11800 South 1300 East

Avon, Utah 84328

Current Zoning:

Agricultural (A10)

Acres: 114.32

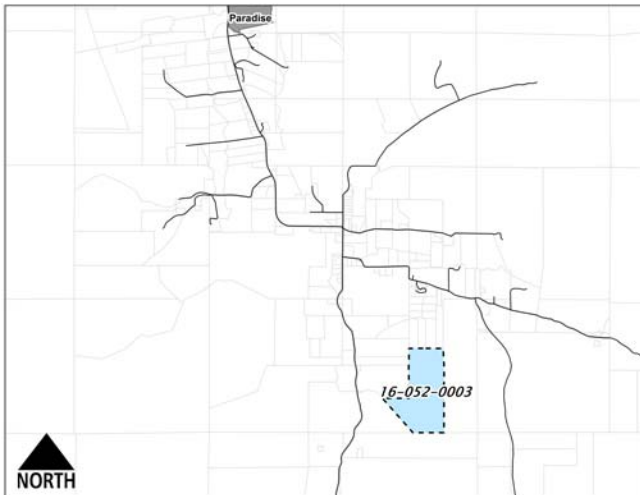
Surrounding Uses:

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 decision regarding the request to allow a private airport.

Ordinance:

This proposed use is defined as “6310 Private Airport” under Cache County Ordinance §17.07.020 Definitions, and as per §17.09.030 Schedule of Uses by Zone, and 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:

In the addition to the requirements of the review for a conditional use permit, 6310 Private Airport (airport) requires:

- 1. A copy of any and/or all FAA reviews, forms, and analyses regarding the airport location, activity, and design including:
 - a. The current FAA Form 7480-1, and;
 - b. FAA response to the Form 7480-1 submission.
 - c. A copy of the Airport Master Record.
- 2. A copy of the design criteria as per the current FAA Airport Design Advisory Circular AC 150/5300-13A as applicable to the type of aircraft proposed to operate at the site. Said design criteria must be implemented at the site.

} **Exhibit A**

} **Exhibit B**

As noted, these items have been provided as Exhibits A and B. The items within Exhibit A have been submitted by the proponent and indicate that the proponent has obtained the necessary review from the FAA to operate the airport. Exhibit B identifies that the design criteria for the airport and includes a comparison matrix provided by the proponent that identifies items applicable to this specific aircraft type, and a letter of intent including the following details:

- 1. Airstrip Type and Size - The proposed airstrip will have a mowed grass surface and is intended to be 980 feet long and 40' wide. The field elevation is 5,487 feet above sea level. The design criterion as per AC 150/5300-13A requires a runway to be a length of 465'-1,238'. Additional requirements are listed under Appendix 7 table A 7-1 runway design standards matrix, A/B-I Small Aircraft.
- 2. Aircraft Type - The primary aircraft proposed is a Kitfox. The aircraft has a wingspan of 32' and weighs 1,050 lb. The length is 17' 8" with a height of 5' 8".
- 3. Aircraft Capability - The Kitfox's take-off and landing distance is 500'.
- 4. Operation times - The hours of operation will vary during visible daylight hours, seven days a week based on weather/visibility.

Access:

- Access to the airport site and the private road is from county road 800 East and is inadequate.
- County road 800 East is a 19' wide paved road with 2' wide gravel shoulders.
- The current Cache County Manual of Roadway Design and Construction Standards §2.5 specifies that roads with more than 30 ADT are required to meet the minimum county roadway standards, specifically, a 22' wide paved surface with 1' wide gravel shoulders.
- Staff recommends that a design exception be granted for the substandard portions of 800 East as the impact to the road is minimal and no structures are proposed (see section 2.4 [4] [b] [i & ii] of The Cache County Manual of Roadway Design and Construction Standards).
- Access to the airport site via the private drive is a 12'-15' wide dirt road with steep slopes and sharp turns.
- The current Cache County Manual of Roadway Design and Construction Standards §2.5 specifies that the private drive must be a minimum of 12' wide.
- If approved, staff recommends that a design exception be granted for the substandard portions of the private road as the impact to the road is negligible (see section 2.4 [4] [b] [i & ii] of The Cache County Manual of Roadway Design and Construction Standards).

Service & Maintenance:

- Cache County performs year round maintenance on 800 East.
- Water supply for fire suppression would be provided by the Paradise Fire Department.

- In order to provide for the public safety in the form of fire and emergency medical service to the proposed airstrip, the access road shall be a minimum of 12' wide, all-weather surface such that fire apparatus and emergency medical vehicles are able to access the site in a minimal amount of time under weather conditions common to the area (IFC 503.2.3).
- 12' wide pullouts shall be constructed near the hairpin turns such that two vehicles can safely pass each other during an emergency response.
- The proponent has indicated that the road will not be use for airstrip access when it is covered with snow, and will instead snowmobile into the site. The Cache County Fire District does not have apparatus capable of traveling over snow and will not be able to provide fire protection in the event of an accident if the road is not maintained. Furthermore, medical assistance will be delayed and will require a response by the Cache County Sheriff's Office Search and Rescue Team.
- A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan shall be required. Best Management Practices (BMP's) should include and define how storm water will be controlled on-site.

Sensitive Areas:

- Moderate and steep slopes are located on this parcel. Any development within moderate or steep slope areas, outside the existing footprint of the existing roadway, shall require geotechnical review.
- This parcel is also located within the Wildfire Hazard Area and Wildland-Urban Interface.
- There is a moderate to high liquefaction potential on portions of the property, but as no structures are proposed there is little to no potential impact.

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 Office.

STAFF DETERMINATION AND FINDINGS OF FACT (4)

It is staff's determination that the request for a conditional use permit for the Musselman Airport, located in the Agricultural (A10) Zone at 11800 South 1300 East with parcel number 16-052-0003 is in conformance with the Cache County Ordinance and should be approved. This determination is based on the following findings of fact:

1. The Musselman Airport conditional use permit 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 Musselman Airport conditional use permit has been revised and amended by the conditions of project approval to conform to the requirements of Title 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Musselman Airport conditional use permit has been reviewed in conformance with §17.06.070 of the Cache County Ordinance, Standards and Criteria for Conditional Use, and conforms to said title, pursuant to the conditions of approval.
4. A design exception is hereby approved to allow 800 East to function as a 19' wide paved road with 2' wide gravel shoulders, as the impact to the road is minimal and no structures are proposed.

CONDITIONS OF APPROVAL (5)

The following conditions are appurtenant to the existing property and must be accomplished prior to recordation or operation 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. Any further expansion or modification of the facility or site shall require the approval of the designated land use authority.
3. The proponent must follow the site plans and letter of intent submitted to the Cache County Development Services office, except as conditioned by the Cache County Planning Commission herein.
4. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan shall be required. Best Management Practices (BMP's) should include and define how storm water will be controlled on-site.
5. In order to provide for the public safety in the form of fire and emergency medical service to the proposed airstrip:
 - a. The access road must be a minimum of 12' wide, all-weather surface such that fire apparatus and emergency medical vehicles are able to access the site in a minimal amount of time under weather conditions common to the area (IFC 503.2.3).
 - b. 12' wide pullouts must be constructed near the hairpin turns such that two vehicles can safely pass each other during an emergency response.
 - c. The Cache County Fire District hereby provides notice to the proponent that the County Fire District does not have apparatus capable of traveling over snow and will not be able to provide fire protection in the event of an accident if the road is not maintained. Furthermore, medical assistance will be delayed and will require a response by the Cache County Sheriff's Office Search and Rescue Team.

STAFF REPORT: WILD BUNCH KENNEL CONDITIONAL USE PERMIT

05 November 2015

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 **Legal Counsel:** Brett Chambers

Parcel ID#: 13-048-0046

Staff Determination: Approval with conditions, or Continue up to 90 days

13-048-0047

Type of Action: Administrative

Land Use Authority: Cache County Planning Commission

PROJECT LOCATION

Reviewed by: Christopher Harrild - Senior Planner

Project Address:

5670 North Highway 23
Cache Junction

Current Zoning:

Agricultural (A10)

Acres: 1.14

Surrounding Uses:

North – Agricultural/Residential/Industrial

South – Agricultural/Residential

East – Hwy 23/Agricultural/Residential/Industrial

West – Agricultural/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. This item was previously heard by the Planning Commission on July 7, 2014. At that time the Commission voted to deny the request. It was then appealed to the Board of Adjustments, who, following a clarification of findings, supported the Commission and denied the appeal. It was then appealed to District Court where a Court Order remanded the request back to the Planning Commission to be reviewed as directed by the Utah Property Rights Ombudsman (Exhibit A).

Applicable Ordinance:

As part of the District Court Order, the ordinance that existed at the time application was made, July 7, 2014, must be used in considering the proposed use. Therefore, under that 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, as also existed at that time. Those procedures are detailed under §17.06.060 Conditional Uses and §17.06.070 Standards and Criteria for Conditional Use. All portions of the code as directly pertain to this request have been attached as Exhibit B.

Said Order also stated that any ordinances adopted since the date of application shall not be considered or imposed, and ordered that the Commission only consider the impacts produced by noise and odor.

Summary:

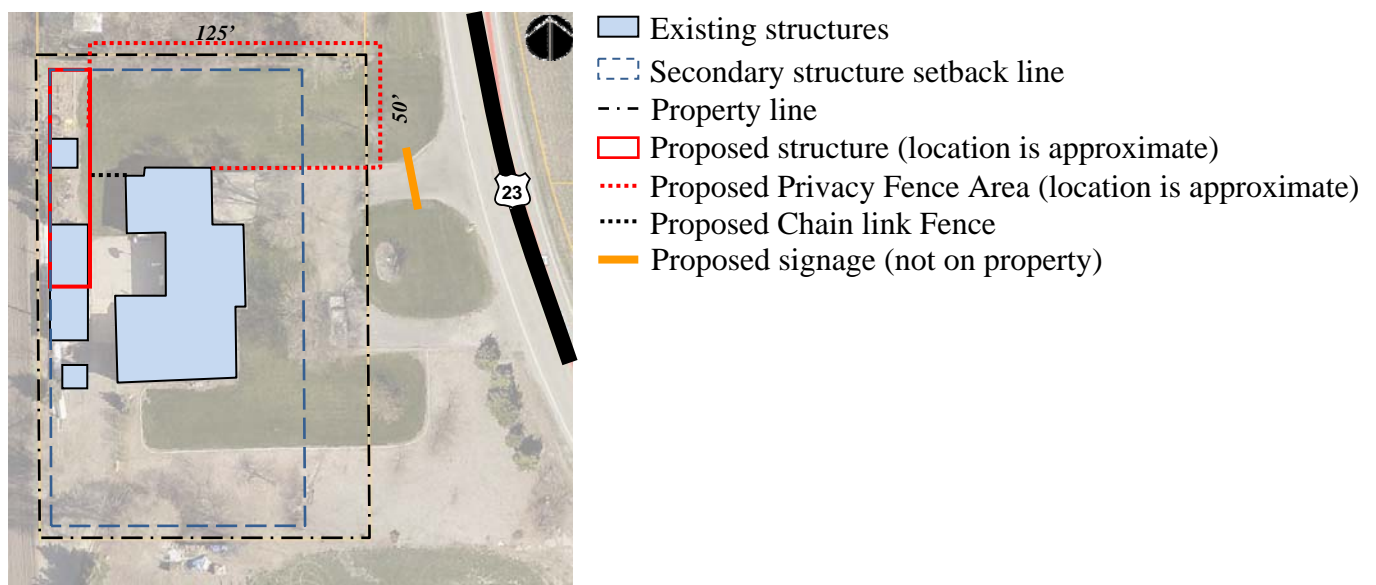
The proponent included parcel 13-048-0047 in the initial request, however, the initial and current letter of intent and site plan identify no construction or activity on said parcel. Said parcel is currently vacant.

There is an existing home and other accessory structures on parcel 13-048-0046. This request includes the construction of an additional 90'x16' building for a kennel and a 125'x50' privacy fence area. Given setback requirements, the location of the proposed structures is in question as the provided site plan and area measurements indicate conflicts with existing property lines and structures. Additional information is required to adequately review the proposal.

The proponent has identified that the dogs shall be confined to the property within the fence and/or kennel building. Specifically, as per the letter dated October 9, 2015, from the Mullins legal counsel Mr. Chambers, the dogs will be kept within the kennel structure with the exception of allowing up to 6 dogs outside at any one time, usually for 10 minutes depending on the weather. There is no indication as to how many times this will occur per day.

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 inquires 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.

A history of permits issued for kennels has also been provided as Exhibit C. This history reflects a pattern in the A10 Zone over the last 10 years of kennels housing between 12-25 dogs. Prior to that, one kennel was approved that allowed up to 50 animals. That specific approval has been a consistent enforcement issue in part due to the number of animals and the associated impacts.



Access:

- Access is from Highway 23, a UDOT facility. Additional impacts/requirements due to the use are not anticipated by UDOT and no additional UDOT review is required.
- The existing driveways meet the applicable requirements of the current International Fire Code and minimum County standards.

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:

- Logan City has identified that 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. As this access is from a state road, and if necessary, any work within the UDOT right-of-way must be reviewed with UDOT.
- Emergency access to the site is adequate. Water supply for fire suppression will be provided by the Smithfield Fire Department.

Context Specific Impacts and Mitigation:

- Reasonably Anticipated Impacts: Odor and noise from the proposed 42 adult dogs as per District Court Order.
- Mitigation: The proponent has proposed mitigation that includes (Exhibit D):
 - A. Odor Mitigation: The proponent has proposed to remove waste daily in plastic containers.
 - B. Adequacy of Odor Mitigation:
 1. It is unclear how much waste will be produced, where said waste will be stored once collected, and/or at what frequency the waste will be removed from the property and transported to a sanitary landfill.
 2. Given the lack of information that has been provided, staff recommends that the proponent either:
 - a. Provide additional information regarding the quantity and handling of waste, or;
 - b. Remove waste from the property and transported to a sanitary landfill either every other day, or daily so as to reduce the anticipated impact.
 - C. Noise Mitigation:
 1. Sound proofing insulation in the wall of the proposed kennel.
 2. Restricting the number of dogs outside at any one time to six (6), usually for 10 minutes depending on the weather.
 - D. Adequacy of Noise Mitigation:
 1. The amplitude (loudness), frequency, and pattern of a single barking Pug is at present unknown to staff and has not been identified by the proponent. The same is true of a kennel and fenced area housing 42 adult Pugs with associated litters.
 2. The actual amount of time that dogs will be outside in the fenced area is unknown. While the proponent has identified the 42 adult dogs used for breeding litters of puppies, the number and size of litters present at any one time is unknown, and if said litters will also be outside in the fenced area is also unknown, and therefore the impact due to dogs barking outside the enclosed kennel is unknown.
 - a. We can estimate the following, however, this is only supposition given the lack of information present in the application: If approximately half of the noted adult Pugs are bred (20), resulting in ten litters at any one time, and given that the average Pug

litter is 3-5 pups, then the actual number of dogs that will be outside, six at a time, over the course of a day may range from 72 up to 92. If each grouping of six is outside only once per day for approximately 10 minutes, then the approximate total time per day that dogs will be outside in the fenced area is 2 to 2.7 hours.

3. The proposed mitigation does not provide a subjective measure of the proposed wall construction to damp or absorb the noise generated by up to 42 adult Pugs and an unknown number of litters/puppies. The construction and damping capability of the roof/ceiling materials are also not addressed.
4. Given the lack of information that has been provided, staff recommends that the proponent provide additional information in the form of either:
 - a. Information indentifying the amplitude (loudness), frequency, and pattern of a single barking Pug, a kennel and fenced area housing 42 adult Pugs and associated litters, and the ability of the proposed mitigation measures to damp or absorb said noise, or;
 - b. A sound study that identifies the ambient sound of the property, and using the loudness measure dBA and the comparison measure Leq, determines if the level that the impact created by the kennel exceeds 10 dBA at any property line of said property at any time of day or night above the ambient measure. If it is found that the impact exceeds the noted maximum of 10 dBA above the ambient sound, additional mitigation strategies to reduce the noise impact to within the noted range may be necessary.

Signage:

- The ranch style entrance sign as proposed must be located on the same property as the use, and must obtain the approval and required permitting of UDOT and Cache County.

Public Comment:

Public comment from the previous August 7, 2014, Planning Commission meeting is available for review online at <https://www.cachecounty.org/pz/current/cup.html> under 2014, Wild Bunch Kennel. No public comment regarding this current proposal has been received by the Development Services Office.

STAFF DETERMINATION

Staff recognizes that the amount of information that is unknown could be considered too extensive to adequately review and impose reasonable conditions.

However, staff also recognizes that the Planning Commission may impose reasonable conditions based on the application as submitted, and based upon known facts regarding previous kennel permits. Therefore, staff has prepared a draft set of findings of fact and conditions of approval (Exhibit E), and has written them in a manner that addresses the noted gaps in information as provided by the proponent, and reflects staff's approach to the most reasonable requirements that may be imposed to address the anticipated impacts.

Therefore, it is staff's determination this request be either:

1. Approved with the findings of fact and conditions of approval as identified or amended at the Commission's discretion, or;
2. If the proponent indicates a willingness to provide and/or supplement the information for the items as addressed in this report, staff then recommends this request be continued for up to 90 days to allow them to provide said information.

Wild Bunch Kennel Staff Report

05 November 2015

Exhibits (A-E)

A – District Court Order and Arbitration Decision of
the Utah Property Rights Ombudsman

B – Applicable Ordinance

C – History of Kennel Permit Issuance

D – Letter of Intent Documents

E - Findings of Fact and Conditions of Approval

The Order of Court is stated below:

Dated: October 16, 2015
11:41:56 AM

/s/ Thomas Willmore
District Court Judge



Exhibit A

Joseph Chambers #0612
J. Brett Chambers #15106
HARRIS, PRESTON & CHAMBERS, LLP
31 Federal Avenue
Logan, Utah 84321
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jbc@utahlawfirm.com
Attorneys for Plaintiffs-Petitioners

**IN THE FIRST JUDICIAL DISTRICT COURT
CACHE COUNTY, STATE OF UTAH**

JOHN MULLIN, an individual, CARYN MULLIN,
an individual,

Plaintiffs-Petitioners,

v.

CACHE COUNTY, a municipality,
CACHE COUNTY PLANNING COMMISSION,
a subdivision of Cache County,
CACHE COUNTY BOARD OF ADJUSTMENT,
a subdivision of Cache County,

Defendants-Respondents.

**ORDER ON SEPTEMBER
17, 2015 HEARING**

Civil No. 150100060
Judge Thomas Willmore

This matter came before the Court on September 17, 2015 for a Pretrial Conference following the conclusion of the nonbinding mediation/arbitration with the Office of Property Rights Ombudsman which was previously ordered by the Court. The Ombudsman's written decision was filed with the Court and reviewed by the Court prior to the hearing. The Plaintiff

John Mullin was present and represented by his attorneys Joseph M. Chambers and J. Brett Chambers. The Defendant was represented by Lee Edwards, Deputy Cache County Attorney. The Court indicated that it had reviewed the Office of the Property Rights Ombudsman's August 6, 2015 Arbitration Decision and following a discussion between counsel and the Court, the Court entered the following order:

IT IS HEREBY ORDERED:

1. The Court orders the parties to work together in good faith as envisioned by Title 17, Chapter 27a of the Utah Code. Notwithstanding the remand as set forth below in paragraph 2, the Court retains jurisdiction of this matter.
2. The matter is remanded back to the Cache County Planning Commission for re-consideration of the Mullins' Conditional Use application in light of the direction and guidance given by the Utah Property Rights Ombudsman. The Court further orders the Planning Commission to carry out their responsibilities as set forth in Utah Code Section 17-27a-506. In this regard the Planning Commission shall re-consider the application only in light of the Cache County Ordinances that were in effect at the time of the Mullin's application on July 7, 2014. The Planning Commission and Planning Department shall not consider or impose the standards of any revised, updated, or new ordinances passed subsequent to the Mullins' July 7, 2014 application. The only two issues to be considered by the Planning Commission are odor and noise. If reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use (*i.e.*, a dog kennel

in Cache Junction), which is already zoned as an agricultural area, then the Planning Commission is obligated to issue the conditional use permit in accordance with the legislative mandate contained in Utah Code 17-27a-506.

3. The Mullins may supplement their application as may be needed for the Planning Commission to perform their statutory responsibilities.

WITNESS, the Judge's signature and the Seal of this Court affixed above in accordance with Rule 4-403 Utah Code of Judicial Administration and Release Notes for Efiling Enhancement 4-2-2013 adopted by the Utah Board of District Judges approving the placement of the court seal and signature at the top of the document.

----- END OF ORDER -----

NOTICE OF COMPLIANCE WITH URCP 7(f)

Pursuant to, and in accordance with, URCP 7(f), objections to the foregoing proposed order, must be filed with the Court within seven (7) days of service. The proposed order is being uploaded to the court file and will be submitted by the clerks on the date that is seven (7) days after the date set forth in the Certificate of Service below.

CERTIFICATE OF SERVICE

I hereby certify on the 1st day of October, 2015, I served a true and correct copy of the foregoing **ORDER ON SEPTEMBER 17, 2015 HEARING** was sent via the Utah Courts Electronic Court Filing system (ECF/NEF) to the following:

Lee Edwards, Deputy Cache County Attorney
Tony Baird, Deputy Cache County Attorney
James Swink, Cache County Attorney

/s/ Jos M. Chambers



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

IN AN ARBITRATION CONDUCTED UNDER UTAH CODE §13-43-204
BY AND THROUGH THE OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

In the Arbitration between:

John and Caryn Mullin,
Property Owners

and

Cache County
Governmental Entity

ARBITRATION DECISION

Arbitrator: Brent N. Bateman

Date of Decision: August 6, 2015

This Arbitration Decision is issued in accordance with UTAH CODE § 13-43-204. As arbitrator, the Office of the Property Rights Ombudsman ("OPRO") is a neutral party, and its attorneys do not represent any party to this dispute. In issuing a decision hereunder, the arbitrator is required to follow the existing Utah law. UTAH CODE § 13-43-204(3)(d). This arbitration was conducted informally under the procedures of the Utah Uniform Arbitration Act, UTAH CODE § 78B-11-101 *et seq.*

In accordance therewith, the OPRO issues the following Arbitration Decision.

BACKGROUND

John and Caryn Mullin (the "Mullins") own a residential parcel of property at 5670 North Highway 23, Cache Junction, Cache County, Utah (the "Parcel"). The parcel is 1.14 acres, and is located in the Agricultural (A10) zone. Although the area is fairly rural, the parcel is located near several residences.

The Mullins currently operate a boarding and breeding dog kennel out of their home in Wyoming, and wish to relocate the kennel to the Parcel in Cache County. Cache County Code categorizes the Kennel as a *7200 Boarding Facility*, which is listed as a conditional use in the A10 zone and requires the approval of the Planning Commission. On July 7, 2014, the Mullins submitted a conditional use permit ("CUP") application to the Cache County Planning

Page - 2 -
August 6, 2015
John & Caryn Mullin/Cache County

Commission. The Mullins applied to establish the *Wild Bunch Kennel* ("Kennel"), and detailed their plan to board forty-two dogs.

On August 7, 2014, the County considered the Mullins' request for a CUP. At the CUP hearing, Rob Smith, the Planning Commission Vice-Chair, made a motion to deny, stating, "it would be difficult to mitigate the damage to surrounding neighbors and did not see how mitigation could occur with the number of dogs proposed." See Letter from Lee Edwards dated May 29, 2015. Also at the hearing, Commissioner Leslie Larson stated that if the noise was mitigated with building materials or a reduction in the number of dogs consistent with a previous proposal she would be comfortable with the issuance of the permit. *Id.* Following further discussion, the motion to deny the CUP passed four to zero. *Id.*

The Planning Commission later issued its *Findings of Fact*, "finding that the standards found in § 17.06.070 of the Cache County Code could not be met as the proposed use was not compatible with the character of the site, adjacent properties and other existing and proposed development." *Findings of Fact*, number 10(a). The Commission further found "that the use would be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvement of vicinity." *Findings of Fact*, number 10(b).

On August 20, 2014, the Mullins appealed that decision to the County Board of Adjustments ("Board"). On November 20, 2014, the Board heard the appeal. The Board obtained information from Mullin and county staff, and also elected to hold a public hearing as part of the appeal, receiving comments from neighboring residents. The Board of Adjustments sent the matter back to the Planning Commission for "their review and clarification of their findings fact taken from the existing record." *Findings of Fact*, number 8.

On December 4, 2014, the Commission responded to the Board's request for clarification by issuing a *Clarification of Findings* to the Board, which stated that the CUP "is not in conformance with the Cache County Ordinance as the standards of §17.06.070 Standards and Criteria for the CUP cannot be met and should therefore be denied." *Id.*

On January 15, 2015, the Board reheard the Mullin's appeal. The Mullins argued that the Commission erred in their decision to deny the CUP. After consideration, the Board concurred with the Commission's decision to deny the Mullins' CUP request, and held that the Mullins failed to provide substantial evidence that the Commission erred in its initial decision. The Mullins have appealed that decision to the District Court. Upon stipulation to the Court, the parties have agreed to enter in the present non-binding arbitration to the Office of the Property Rights Ombudsman.

The issues addressed in this arbitration are 1) whether the Planning Commission adhered to the requirements and standards of the Cache County Ordinance and State Code in receiving, hearing and acting upon the Mullins' CUP; and 2) whether the Mullins failed to provide substantial evidence that the Planning Commission erred in its decision to deny his application for a CUP allowing a kennel for forty-two dogs.

Page - 3 -

August 6, 2015

John & Caryn Mullin/Cache County

ANALYSIS

Cache County argues that the Kennel is not compatible with the character of the site and adjacent properties, which are claimed to be residential in nature. Additionally, they claim that the proposed use would be detrimental to health, safety, and/or general welfare of persons residing or working in the vicinity, or injurious to property. The County argues number of dogs (forty-two) may create a noise and/or odor nuisance.

Moreover, the County claimed this case is similar to *Thurston v. Cache County*, where the plaintiff presented no evidence, nor does the record suggest any, which leads inescapably to the conclusion that the decision of the Planning Commission was "illegal, discriminatory, or exercised an abuse of discretion." 626 P. 2d 440, 445 (Utah 1981). The County further argued that the denial of the CUP was "carefully considered by the Commission and based on the evidence from neighboring property owners and the lack of proposed mitigation by the applicants." See Letter from Lee Edwards dated May 29, 2015. Cache County claims that it was a "legitimate exercise of governmental authority" in denying the issuance of the CUP. *Id.*, quoting *Thurston*, 626 P. 2d at 445.

The Mullins argue that the Commission recognized that mitigation was possible, but instead denied the application without recommending changes or attempting to impose conditions. Further, they argue that the Commission did not fulfill their statutory obligation to "impose reasonable conditions." Finally, the Mullins argue that the County Code contains no standards that permit the County to limit the number of dogs at the facility, and that the Commission's denial was illegitimately based on public clamor without a factual basis in the record.

I. The Cache County Planning Commission Erred when it Denied the Mullins' Conditional Use Permit

The County erred when it denied the Mullins' conditional use permit. Conditional uses may only be denied where the reasonably anticipated detrimental effects *cannot* be substantially mitigated by imposing reasonable conditions. The County failed to include in the record substantial evidence that imposing reasonable conditions was impossible. Reasonable conditions could have been imposed, requiring approval of the CUP.

Conditional uses are governed by the County Land Use, Development, and Management Act ("CLUDMA") found in Title 17, chapter 27a of the Utah Code. In order to deny an application for a CUP, the County must establish that "the reasonably anticipated detrimental effects of a proposed conditional use *cannot* be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards." UTAH CODE § 17-27a-506(2)(b) (emphasis added). The plain language of the statute indicates that a CUP may only be denied if substantial mitigation *cannot* occur, a very high bar for denial of a CUP.

Page - 4 -
August 6, 2015
John & Caryn Mullin/Cache County

Denial of a conditional use must be based on something more concrete than neighborhood opposition and unfounded expressions of concern for public safety and welfare. *Davis County v. Clearfield City*, 756 P.2d 704, 710 (Utah Ct. App. 1988). Denial of a conditional use permit must be supported by substantial evidence. *Ralph L. Wadsworth Constr. v. West Jordan City*, 2000 UT App 49, ¶9. Substantial evidence is “that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.” *Bradley v. Payson City Corp.*, 2003 UT 16, ¶15.

Substantial factual evidence is necessary to support the County’s decision, and the County may not simply rely on deference or a presumption of validity. *Wadsworth*, 2000 UT App at ¶16. Because the County must show factual evidence in the record, the burden is on the County to support its own decision. It is not the applicant’s responsibility to provide evidence to overcome a presumption that the County’s decision is correct.

Uintah Mt. RTC, L.L.C. v. Duchesne County, 2005 UT App 565, is very instructive in this matter. In that case, the applicants sought a conditional use permit to create a residential treatment center. In *Uintah Mt.* the Court reviewed each of the reasons offered by the County for denial of the CUP (some of which resemble the reasons proffered in the present case). The Court discussed the need for factual evidence rather than clamor and unsupported conclusions. The court concluded that the denial was not supported by substantial evidence and was wrongly denied. See also *Wadsworth* for a similar discussion.

Accordingly, in order to have lawfully denied the CUP request, the County would have to show by substantial evidence that the kennel’s reasonably anticipated detrimental effects could not be substantially mitigated by reasonable conditions. The County did not provide in either its *Findings of Fact* or its *Clarification of Findings* sufficient factual evidence to show that the detrimental effects could not be mitigated. Instead, the record shows that the commission discussed mitigating conditions. Rather than providing facts to show that no conditions could mitigate the detrimental effects, the planning commission seems to have based the denial largely on the fact that the Mullins would not accept a reduction in the number of dogs.

The County did not supply substantial evidence that the detrimental effects could not be mitigated by the proposal or imposition of reasonable conditions. Indeed, it cannot be said that imposing conditions to mitigate the detrimental effects, (i.e. requiring soundboard insulation, limiting the number of dogs), was not possible. Accordingly, the conditional use permit should have been approved with conditions, and was wrongly denied.

II. The County May Impose Reasonable Conditions

The County should have approved the Mullins’ Conditional Use Permit, and could have imposed conditions to mitigate the detrimental effects of the use. Those conditions must be reasonable, and must relate to a standard in the ordinance. However, the conditions need not be approved by or acceptable to the Mullins.

Page - 5 -

August 6, 2015

John & Caryn Mullin/Cache County

The state statute on conditional uses is clear: "A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards." UTAH CODE § 17-27a-506(2)(a). The term *propose* in the statute by its plain language implies a responsibility to discuss potential mitigation efforts with the applicant, and to consider suggestions from the applicant. However, the legislature also included the word *impose* as an alternative. The term *impose* by its plain language indicates an act of authority without agreement of the recipient. Thus, according to the statute, should *proposing* fail, the County may *impose* reasonable conditions to mitigate the detrimental effects.

Cache County acknowledges that it discussed possible conditions with the Mullins, and that the County denied the CUP when it became clear that the Mullins would not accept conditions that the County desired, such as a reduction in the number of dogs. In support of its decision to deny the Conditional Use Permit, the County found that the Mullins had not "shown or provided documentation that the proposed kennel has functional capability of controlling and/or reducing the probable noise and/or odor." *Findings of Fact*, number 10(b). The rejection appears based upon the fact that the Mullins failed to *propose* mitigating conditions. However, the County may still *impose* conditions to mitigate the detrimental effect. As long as the County is able to impose conditions, then the County cannot deny the CUP. There is no requirement that the imposed conditions be agreeable to the applicant. The statute only requires that the conditions be reasonable and relate to the standards in the ordinance. UTAH CODE § 17-27a-506(2)(a).

The standards in the ordinance are key. The County must show that a condition it imposes achieves compliance with a standard in the Cache County Ordinance. UTAH CODE § 17-27a-506. The standards must be stated in the ordinance. Local governments cannot make up conditions that suit their response to a particular application.

The Mullins argue that the County lacks applicable standards that would allow it to impose the conditions the commissioners would prefer. The applicable standards are found in Cache County Ordinance Section 17.06.070. Although the applicable standards in the Cache County Ordinance are sparse, consisting generally of broad policy statements, those standards are nevertheless sufficient for conditional use analysis, and conditions that relate to them may be imposed. *Thurston v. Cache County*, 626 P2d 440, 443-44 (Utah 1981) ("A generalized exposition of overall standards or policy goals suffices to direct the inquiry and deliberation of the zoning authority, and to permit appellate review of the decision."). Specificity in the standards would be better, but generalized statements suffice so long as the County's findings related to them are based on substantial evidence. *See generally, Uintah Mt. and Wadsworth* for an examination of generalized unspecific standards similar to Cache County's.

Accordingly, the County's generalized standards may be able to support specific conditions. If the county determined, by substantial evidence, that noise from dogs is a detrimental effect, they would likewise need to include evidence that the condition they impose, perhaps requiring extra insulation on the kennel, or requiring distance from dogs to other residences, or reducing the number of dogs, would reduce the noise levels sufficiently to bring the use into compliance with

Page - 6 -
August 6, 2015
John & Caryn Mullin/Cache County

a stated County standard. The standard need not specifically mention dogs. But whatever standard is being advanced, perhaps Cache County Standard 5 -- detrimental to the health, safety, and welfare of the community --substantial evidence is required to show that the condition advances that standard. In other words, facts must be placed in the record to show that reducing the number of dogs would advance the health, safety, and welfare of citizens. If substantial evidence to show that connection exists, the County may impose the condition, whether the Mullins agree or not. Without evidence relating the condition to the standard, the County cannot impose the condition.

That means that if a reduction in the number of dogs is reasonable, substantially mitigates the detrimental effects, and achieves compliance with a standard in the ordinance, that condition or others like it may be imposed, even though the Mullins find it unacceptable. Within these guidelines, and supported with substantial evidence, the County has great discretion to impose conditions to substantially mitigate the detrimental effects of the proposed use.

III. Conclusion

When a local government lists a conditional use in its zoning code, it has welcomed that use into the zone. The policy decision regarding the desirability of that use has been made previously, and cannot be made again when an application for that use arrives. The County's administrative decision at that point must be based upon evidence. The amount of evidence necessary to show that conditions *cannot* be imposed to mitigate the potential detrimental effects is significant. The County did not include substantial evidence in support of denial here. Accordingly, Cache County's decision to deny the conditional use permit was in error.

However, the victory for the Mullins is tempered by the ability of the County to impose conditions. The County need not impose conditions that the Mullins agree to (although they should try). The County has significant discretion in imposing conditions, if supported by substantial evidence. That discretion is limited by reasonableness and the standards in the County's ordinance. Generalized policy standards are not good standards, but they are standards nonetheless, and can be used to impose specific conditions as long as the evidence-based connection to the standard is shown. So the answer may be "Yes, your permit is granted" but granted with conditions that the Mullins do not like.

ISSUED on this 6th day of August, 2015



Brent N. Bateman, Arbitrator

Page - 7 -
August 6, 2015
John & Caryn Mullin/Cache County

APPEAL

Appeal of this decision may be made in one of three ways:

1. Within twenty (20) days of receipt of this decision, any party may submit a motion to the Arbitrator for change or clarification if the decision based on mistake, miscalculation, or other limited grounds. The motion must be made in writing to the Arbitrator, with copies to all other parties. See UTAH CODE § 78B-11-121.
2. As the parties are already in litigation concerning this matter, a new action for *de novo* review or other appeal or review by the district court review would appear unnecessary. This arbitration decision is non-binding on all parties.

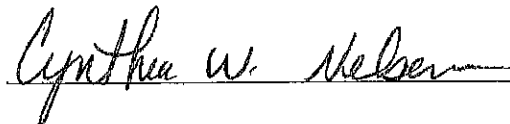
MAILING CERTIFICATE

THIS CERTIFIES that copies of the foregoing Arbitration Decision were mailed to the following Addresses:

Brent J. Chambers
Harris Preston & Chambers
31 Federal Ave
Logan, Utah 84321
Attorney for John & Caryn Mullin

Lee W. Edwards
Cache County Attorney's Office
199 North Main Street
Logan, Utah 84321
Attorney for Cache County

DATED this 6th day of August, 2015.



7120 LIVESTOCK AUCTION FACILITY: A structure or structures with associated pens, yards, corrals, and loading and unloading facilities used for the sale of livestock.

7200 BOARDING FACILITY: A series of stables, barns, paddocks, and/or other shelters and exercising facilities in which farm animals are fed, exercised and/or cared for on a short or long term basis for a fee.

1. **Kennel:** Any establishment at which four (4) or more dogs are bred or raised for sale, boarded, or cared for.

7300 FORESTRY ACTIVITIES: The felling and transportation of commercially harvested trees. Forestry activities do not include the harvesting of firewood or trees for private use. Excludes sawmills or the production/finishing of lumber.

7400 MINERAL EXTRACTION: The extraction of metallic and nonmetallic minerals or materials; including the accessory uses of rock crushing, screening, and the storage of explosives; except where such excavation is for purposes of grading for a building lot or roadway, where grass sod is removed to be used for landscaping, or where materials are excavated from a lot for use on that same lot or an adjoining parcel by the owner of the property. Includes stone quarries and sand/gravel pits.

7410 TOPSOIL EXTRACTION: Extraction activities limited to the removal and sale of topsoil, except where such excavation is for purposes of grading for a building lot or roadway, where grass sod is removed to be used for landscaping, or where materials are excavated from a lot for use on that same lot or an adjoining parcel by the owner of the property.

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.

6000	Public, Institutional, and Utility Uses	RU2	RU5	A10	FR40	RR	C	I	ME	PI
6100	Public/Institutional Uses									
6110	Cemetery	N	N	C	N	N	N	N	N	-
6120	Public Uses	P	P	P	P	P	P	P	N	-
6130	Religious Meeting House	C	C	C	N	C	C	N	N	-
6140	Correctional Facility	N	N	N	N	N	N	N	N	-
6150	Animal Shelter	N	N	N	N	N	C	C	N	-
6160	Educational Facility	N	N	N	N	N	C	N	N	-
6200	Utilities									
6210	Utility Facility, Transmission	N	N	N	N	N	N	N	N	C
6220	Utility Facility, Distribution	C	C	C	C	C	C	C	C	C
6230	Utility Facility, Service	P	P	P	P	P	P	P	P	P
6240	Telecommunication Facility	N	N	N	N	N	C	C	N	C
6300	Airport	N	N	N	N	N	N	N	N	C
6400	Solid Waste Facilities	N	N	N	N	N	N	N	N	C
6410	Nuclear Waste Facility	N	N	N	N	N	N	N	N	N
7000	Resource Production and Extraction	RU2	RU5	A10	FR40	RR	C	I	ME	PI
7100	Agricultural Production	P	P	P	P	P	P	P	P	-
7110	Concentrated Animal Feed Operation	N	N	C	N	N	N	N	N	-
7120	Livestock Auction Facility	N	N	C	N	N	C	C	N	-
7200	Boarding Facility	C	C	C	N	C	C	N	N	-
7300	Forestry Activities	N	N	N	C	C	N	N	N	-
7400	Mineral Extraction	N	N	N	N	N	N	N	C	-
7410	Topsoil Extraction	N	N	C	N	N	N	N	C	-
7420	Site Grading	P	P	P	P	P	P	P	P	-

code) as adopted and as applicable. A permitted use application shall be reviewed in accordance with the following general standards and criteria:

- A. The zoning administrator shall review the permitted use request and determine if the request meets the following requirements:
 - 1. 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.
 - 2. The use complies with the requirements for the zoning district 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.
 - 4. The use complies with 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.
 - 5. The use meets all requirements of the Bear River health department and Utah department of environmental quality as required and applicable.
- B. Upon finding that the proposed use, building or structure complies with the standards and requirements of this title, the zoning administrator shall issue a zoning clearance. With the receipt of a zoning clearance, the proposed building or structure shall be reviewed for compliance with the county building codes, as adopted. If the request for a permitted use complies with the requirements of this title, the county building codes, as adopted, and the requirements of the Bear River health department or the Utah department of environmental quality, as applicable, the permitted use shall be authorized.

17.06.060: Conditional Uses:

- A. 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 section 17.06.070 of this chapter.

17.06.070: Standards and Criteria for Conditional Use:

- 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:

- A. 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 fourteen (14) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.
- 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.

17.06.090: Conditional Use Permit to Run with the Land:

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

Kennel Permit Issuance

Project Name	# of Dogs	Acres/Dog	Date	Type	Parcel	Acres	Zone	Other
Stocker Kennels	18	1.645	1/20/2000	ZC	16-052-0018	29.61	A	
Kathy Carmichael	10	4.223	4/17/2000	CUP	16-046-0009	42.23	A	100' setback from structures
Four Paws Rescue	50	0.22	2/15/2001	ZC	03-049-0012	11	A	# includes any animals
Summit Creek Kennels	20	0.2255	10/16/2002	CUP	08-088-0019	4.51	A	# includes puppies
Galloping Husky Ranch	25	0.56	6/20/2005	CUP	03-068-0004 03-068-0019	14	A	
The Companion Place	40	0.0378	6/29/2007	CUP	02-089-0022	1.51	C	Limited to 25 dogs overnight
North Star Golden Retrievers	20	0.2325	12/28/2009	ZC, BLC	15-023-0025	4.65	A10	
PJM Animal Care	80	0.0356	1/3/2013	CUP	03-009-0040	2.85	A10	Denied
Cache Humane Society	-	-	7/13/2013	CUP	05-057-0008	1.42	C	
Road to Paradise	15	0.334	2/6/2014	CUP	01-080-0071	5.01	A10	
Rita LaVern Stephens	10	0.3	4/10/2014	CUP	01-092-0055	3	A10	Application withdrawn
Mountain View Kennels	12	1.535	6/4/2015	CUP	12-036-0043	18.42	A10	
Wild Bunch Kennel	42	0.0271	In process	CUP	13-048-0046	1.14	A10	In process
Crazy Cascade Blueticks	12	0.125	In process	CUP	09-028-0006	1.5	A10	In process

The maximum number of dogs allowed in approved kennel requests in the Agriculture Zone:

	# of Dogs	Acres/Dog	Acres
Known history	50	0.22	11
Last 10 years	25	0.56	14
Last 5 years	15	0.33	5.01
Wild Bunch Kennel	42	0.0271	1.14

Comparison of equivalent maximum number of dogs of Wild Bunch Kennel to existing acreage ratios:

	# of Dogs	Acres/Dog	Acres
Known history	5	0.22	1.14
Last 10 years	3	0.33	1.14
Last 5 years	2	0.56	1.14

The Law Firm of

HARRIS, PRESTON & CHAMBERS

A LIMITED LIABILITY PARTNERSHIP

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LOGAN, UT 84321(435) 752-3551
FAX (435) 752-3556GEORGE W. PRESTON,
Of CounselJOSEPH M. CHAMBERS
MAYBELL ROMERO
JOSH CHAMBERS*
J. BRETT CHAMBERS

October 9, 2015

*Licensed in Utah and
New York**SENT VIA REGULAR MAIL & EMAIL**

Josh Runhaar
Cache County - Director of Development Services
Development Services
179 North Main St. Suite 305
Logan UT, 84321

Re: Wild Bunch Kennel – Proposal of Conditions

Dear Mr. Runhaar:

I am writing to propose conditions under UTAH CODE § 17-27a-506 for the Mullins conditional use permit application, the Wild Bunch Kennel. First, thank you for taking the time to draft a list of items that you believe would facilitate acceptance by the Planning Commission. I have reviewed the list and the Mullins are willing to accept some of the items.

The Mullins are willing to accept ¶¶ 1, 2, 3, and 5, subject to clarifications or reservations, including:

¶ 1) *“Prior to recordation the proponent shall meet all applicable standards of the Cache County Ordinance.”*

I believe this refers to the Cache County Ordinances in place at the time of application. Assuming this is correct, the Mullins do not have any problem with this.

¶ 2) *“The proponent shall abide by the letter of intent, site plan, and construction specifications as submitted to the Cache County Development Services Office, and by all representations made by the proponent or proponent's representative.”*

Neither I nor the Mullins are aware of any representations or other specifications conflicting with the Mullins original application (including supplementations through this letter of additional acceptable conditions). If there are specific representations or other specifications that you have in mind or are referring to, please let us know so we can appropriately put such down in writing.

¶ 3) *“This permit is issued only for the breed of dog identified as a Pug. This approval does not apply to any other breed of dog, nor any other animal.”*

The Mullins do not have any problem with a pug-specific conditional use permit. While there are no plans for any other breeds or animals, if somehow they wish to make any change, they will submit such to the planning commission.

Wild Bunch Kennel – Proposal of Conditions
October 9, 2015
Page 2

¶ 5) “Any further expansion or modification of the facility, site, or change to the breed of dog shall require the approval of the designated land use authority.”

Please see comments to ¶ 3 above.

Regarding paragraphs 4 and 6, please see my comments below:

¶ 4) “Based on the specific breed type and details as provided in the letter of intent, site plan, and related information, no more than _____* adult dogs, limited to the Pug breed, shall be allowed on the site at any one time.”

Smell and sound – the only issues to be addressed on remand – are reasonably mitigatable with 43 dogs through the steps taken by the Mullins, as described below.

¶ 6) “A Sound Level Impact and Assessment Report performed by a licensed professional must be completed and identify the ambient sound and impact of the noise generated by the use on surrounding properties. Using the comparison measure Leq, the impact must be no more than 10 decibels (dBA) above measured ambient sound at the outside property line at any time of day. If that impact exceeds the noted maximum, mitigation strategies may, be proposed to reduce the noise impact to an acceptable level.”

Respectfully, this is not a requirement under the applicable ordinance. Rather, sound studies are a requirement under ordinances passed after the original application. It is our position that the County cannot legally impose a sound study for acceptance. However, more problematic is that our research into a meaningful sound study indicates the costs are at minimum \$5,000.00. With a dog specific breed limited to the Pug breed, this already addresses a significant sound limitation, as literature indicates that this breed usually snort and snore louder than they bark; in other words, they are not ‘noisy’ animals. The Mullins are responsible people and are happy to address noise problems in the unlikely and unforeseeable event they do arise after their precautions. It is my understanding that none of their Wyoming neighbors has ever complained about the kennel, and this is without the sound-proofing that will occur here.

In addition to the previously proposed conditions in the original application, the Mullins will:

- Remove Waste Daily;
- Allow Only Six Dogs Outside at a Time (usually 10 minutes as this breed is extremely susceptible to heat and cold);
- Install A Privacy Fence; and
- Install Sound Proofing Insulation (See Attached). This is the same type of insulation used in recording studios. It is my understanding there have been three dogs at the property – not being bred – since around July 2014. To my knowledge, there have been no complaints about sound issues. And this is without any sound proofing insulation.

Wild Bunch Kennel – Proposal of Conditions
October 9, 2015
Page 3

I believe these steps more than alleviate any potential or reasonably anticipated detrimental effects of the kennel use. Regarding smell, by removing waste daily in plastic containers, there is no possibility for noxious odors. Please also keep in mind that only six dogs will be outside at a time during short periods of the day. Regarding sound, the proposed insulation is specifically designed to reduce sound and has been used with success in many truly noise-emitting environments.

Lastly, while we have no desire to continue litigation of the matter, we have advised our clients that additional court intervention may be necessary to ensure their rights are not impinged. The Mullins look forward to constructively working with the County but are prepared to move forward through alternative resolution if necessary.

If you have any questions, please do not hesitate to contact me – 435.752.3551 or jbc@utahlawfirm.com.

Sincerely,



J. Brett Chambers
Attorney at Law

cc: Lee Edwards, *Cache County Attorney*; John and Caryn Mullin

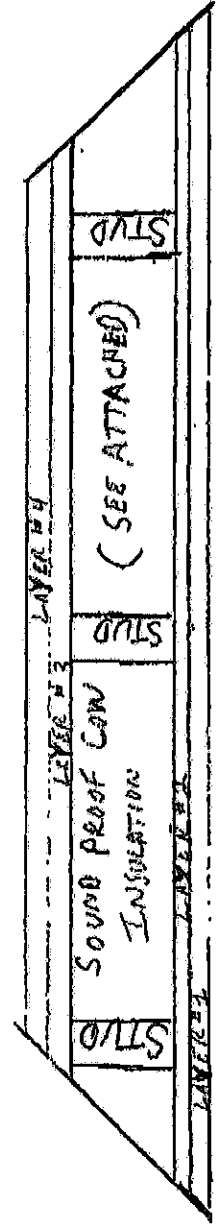
CUT AWAY VIEW OF WALL CONSTRUCTION

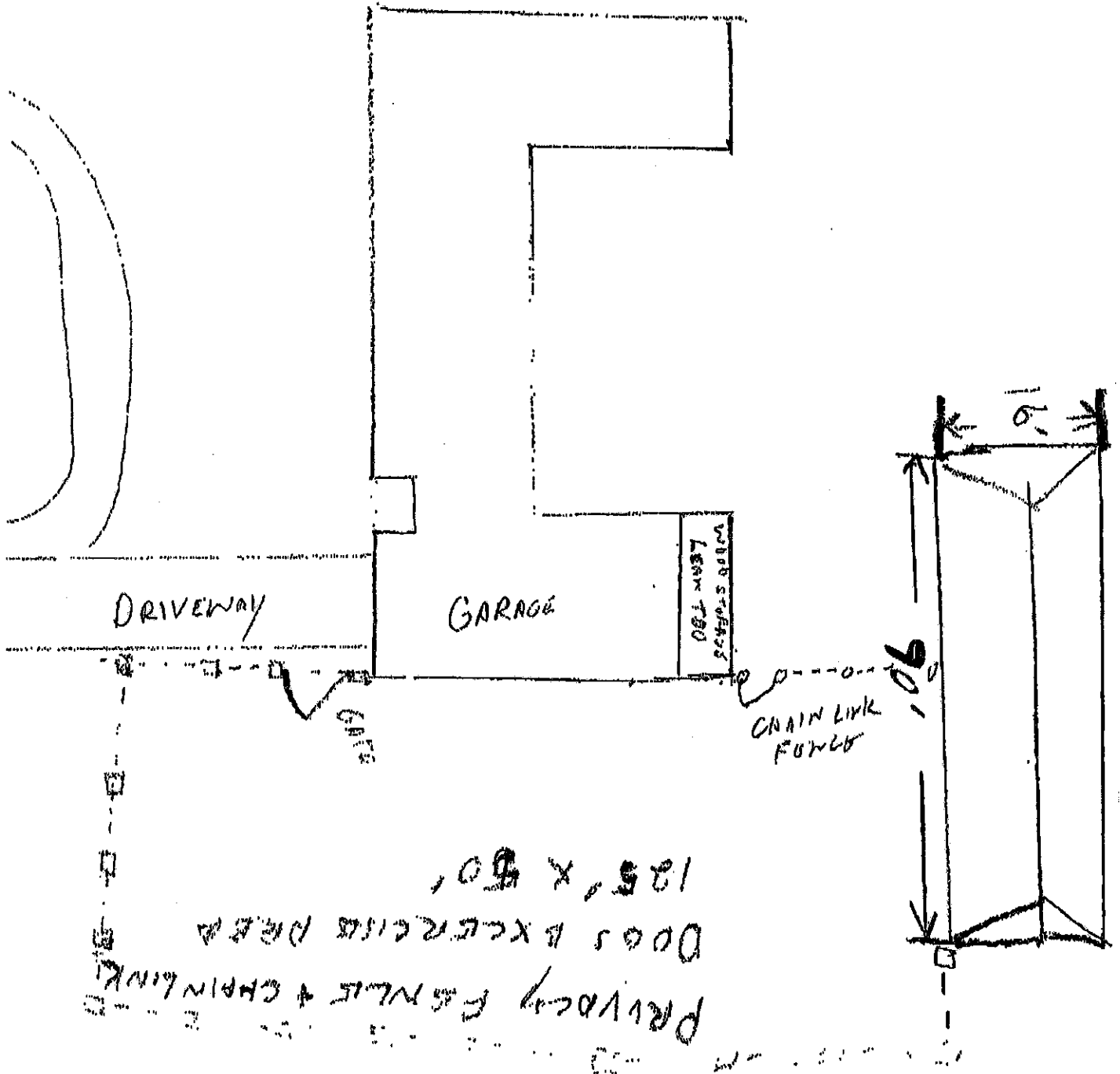
LAYER #1 - METAL OR LAP SIDING

LAYER #2 - CELUTEX

LAYER #3 - 1/2" X 4' X 8' SHEET ROCK

LAYER #4 - 1/8" X 4' HIGH POLYMAX (SEE ATTACHED)





PRIVATELY FENCED & CHAIN LINK
 DOGS EXERCISE AREA
 125' X 50'

SECONDARY WINDOW WALL



The following materials will be used in the construction of the Wild Bunch Kennel facility. The walls will be of 2x4 framing. The outside will start with insulation board and then lap board siding. The interior will consist of R-19 insulation followed by ½ inch sheetrock than ½ inch sound board and finally 1/8 inch thick polyethylene board. This building will have the same sound effects as a recording studio. All sound emitted inside will stay inside building and outside noise will stay outside. Since noise was one of the main issues of our neighbors it will be eliminated by this construction.



Quiet Batt 30 Soundproofing Insulation Specifications



[View detailed images \(9\)](#)



Dimensions 16 in. OR 24 in. x 8 ft.
 Thickness 3 in.
 Weight 16 in. = 28 lbs./box, 24 in. = 30 lbs./box
 Coverage 16 in. = 42 sqft., 24 in. = 48 sqft.
 Quantity 16 in. = 4 batts, 24 in. = 3 batts
 NRC Rating 0.95
 Thermal Resistance R 13
 Availability Usually ships in 1-3 business days
 Technical Data [Product Data Sheet](#)
 Installation [Step-by-Step Instructions](#)



Look for our
"NO BULL"
Stamp for
Deep Discounts

Soundproofing 101

Soundproofing Quick Guide
 What is Sound?
 Soundproofing vs Absorbing
 How to Soundproof a Home
 Soundproof a Room
 How We Test

Options

Size ▾

Price: **\$84.57**

[BUY NOW](#)

Quantity

In Stock

[contact us](#)

[request a sample](#)



Fastest way to a Solution is
 to call us! No Pushy Sales
 Guys...Promise.

1-866-949-9269

OR

Description

Quiet Batt® 30 is a 3 in. premium, high-performance soundproofing and thermal insulation product designed for use in both interior and exterior walls, ceilings and attic applications. Acoustically, Quiet Batt® 30

Soundproofing Questions

OR

Soundproofing Basics

typically out performs standard fiberglass, cellulose and foam insulations. Quiet Batt® 30 installs with a tight friction fit between wood and metal studs to minimize sound and thermal energy transmission, and is a fine stand alone product or can be used in conjunction with a variety of our other soundproofing products.

Burn Test

See how Quiet Batt® stands up to the competition in our burn test video!



Features / Benefits

Excellent Sound Absorption Performance – Quiet Batt® absorbs sound within wall and ceiling cavities, reducing the sound transfer from one space to the next. Quiet Batt® has the highest NRC obtainable of 1.00.

Keep it Green – Quiet Batt® is manufactured with 80% recycled natural cotton fibers.

Easy to Install – Quiet Batt® is friction fit between 16 inch and 24 inch on center studs and does not require any special tools to install. Quiet Batt® can be used between wood or steel studs.

Easy to Handle – Quiet Batt® is itch free and does not contain formaldehydes or other harmful chemicals..

Excellent Flammability Rating – Quiet Batt® has a Class A™ flammability rating. This product passes most building code flammability requirements for exposed materials.

Energy Savings – Quiet Batt® helps keep your house warmer in the winter and cooler in the summer.



Details

Great for:

- Broadcast Studios
- Commercial Recording Studios
- Commercial Theaters
- Equipment Enclosures
- Homes Theaters
- Multi Family Dwellings
- Offices
- Recording Studios
- Restaurants
- Single Family Dwellings

Acoustic Data

frequency	125	250	500	1K	2K	4K	NRC*	SAA*
3 inch	.39	.86	.99	.92	.96	1.01	0.95	0.94

*NRC = noise reduction coefficient, * SAA = sound absorption average

3 in. Quiet Batt® Soundproofing Insulation

overall density 1.20 lbs/ft³

average thermal conductance (c) 0.079 Btu/hr ft² °F

average thermal resistance (R) 12.7 hr ft² °F/Btu

average thermal resistance (Rsi) 2.24 m² K/W

average thermal conductivity (k) 0.275 Btu-in./hr ft² °F



Quiet Barrier HD Soundproofing Material (Sheet)
\$93.98



isoTRAX Soundproofing System
\$180.15



Quiet Batt Insulation Supports (16 in)
\$13.93



Quiet Batt Insulation Supports (24 in)
\$21.95



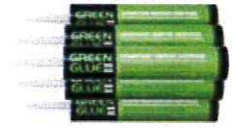
OSI Pro-Series SC-175 Acoustical Sound Sealant (Case of 12)
\$155.88



Convoluted Acoustic Foam Panel
\$54.99



EcoPod Vibration Isolators (Pack of 4)
\$28.50



Green Glue Noiseproofing Compound (Case of 12)
\$158.00

Installation Details

Tools Needed: Utility Knife, Tape Measure

Materials Needed: A vapor barrier is recommended for external wall applications

Installation PDF

[Quiet Batt Install](#)

Product rating

Sign in to rate

Customer Reviews

Author: B. Thurman, OH

“What a great company to deal with from start to finish. I called in not knowing what product I needed, and the gentleman I spoke with was very patient with me learning on the fly. The end result is I’m no longer dealing with my noisy neighbors. The Quiet Batt 30 worked almost immediately in stopping the noise of their tv. I got a great night’s sleep for the first time in five years. Thank you Soundproof Cow.”

Author: J. Freely, CO

I originally went with a blown in insulation because I was told it was the best way to go. After paying top dollar to have everything installed I was a little more than surprised to find out it didn’t do much for the sound. I began looking for a solid replacement and came across Soundproof Cow. After talking with Kellen, he sent me over some data sheets and samples. I was pretty confident this is what I needed. He was able to provide me with a fair discount because of how much I needed. I wish I had gone with this the first time because it worked perfectly. I can’t believe that something 3 inches thick did more than 5 inches worth of the blown in insulation. Lesson learned: Soundproof Cow is the way to go.

Author: Jeanie

Even if this product would not have worked as well as it did, I would call back for more material in an instant. The gentleman I talked to, Drew, was so helpful in guiding me to the right product, and he was very good at not just getting me to the right product, but also helping me understand how it works. The Quiet Batt 30 worked better than I could have imagined and I know when I have another soundproofing need I will be contacting Drew to get what works best for me.

Author: Dave Plummer

The Quiet Batt 30 cost a little bit more than I would have liked to originally spend, but it was well worth the extra cost. When the material was first installed I did not hear a significant change, so I called to ask why it was not working. I spoke with Kellen who told me that it needs time to expand back to full thickness. After about three days I really started to hear the change, and stopped hearing my neighbor’s snoring.

Author: Charles Toosch
The Quiet Batt 30 is something I already have and will again recommend to my friends. I can't even remember how noisy my upstairs neighbor used to be.

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RESOURCES



PAYMENT



Corporate HQ: 440 Ramsey Avenue, Chambersburg, PA 17201

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STAFF DETERMINATION AND FINDINGS OF FACT (3)

It is staff's determination that the request for a conditional use permit for the Wild Bunch Kennel, located in the Agricultural (A-10) Zone at approximately 5670 North Highway 23 on parcel 13-048-0046 is in conformance with the Cache County Ordinance and should be approved. This determination is based on the following findings of fact:

1. The Wild Bunch Kennel Conditional Use Permit 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 Wild Bunch Kennel Conditional Use Permit has been revised and amended by the conditions of project approval to conform to the requirements of Title 17 of the Cache County Code at the time the application was made in July of 2014, and conforms to the requirements of various departments and agencies.
3. The Wild Bunch Kennel Conditional Use Permit has been reviewed in conformance with §17.06.070 of the Cache County Ordinance, Standards and Criteria for Conditional Use, and conforms to said title that was applicable at the time the application was made in July of 2014, and pursuant to the conditions of approval.

CONDITIONS OF APPROVAL (8)

The following conditions must be met for the development to conform to the County Ordinance and the requirements of county service providers.

1. Prior to recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
2. The proponent must provide, in writing, a complete and updated letter of intent, site plan, and construction specifications, and shall abide by said items as submitted to the Cache County Development Services Office, and by all representations made by the proponent or proponent's representative.
3. Any further expansion or modification of the facility, site, or change to the breed of dog shall require the approval of the designated land use authority.
4. The proponent shall remove waste from the property and transport it to a sanitary landfill on a daily basis so as to reduce the anticipated impact.
5. The proponent shall provide additional information in the form of either:
 - a. Information indentifying:
 - i. The amplitude (loudness), frequency, and pattern of a single barking Pug.
 - ii. The amplitude (loudness), frequency, and pattern of a minimum of 25 and up to 42 adult Pugs with associated litters housed within the proposed kennel, and also the fenced area outside.
 - iii. The ability of the proposed mitigation measures to damp or absorb said noise, or;
 - b. A sound study that identifies the ambient sound of the property, and using the loudness measure dBA and the comparison measure Leq, determines if the level that the impact created by the kennel exceeds 10 dBA at any property line of said property at any time of day or night above the ambient measure. If it is found that the impact exceeds the noted maximum of 10 dBA above the ambient sound, additional mitigation strategies to reduce the noise impact to within the noted range
6. This permit is issued only for the breed of dog identified as a Pug. This approval does not apply to any other breed of dog or any other animal.

7. No more than 25 adult dogs, limited to the Pug breed, shall be allowed on the site at any one time. Additionally, up to and not to exceed 42 adult Pugs may be allowed if supported by the information provided in meeting condition #5 as imposed herein.
8. The entrance sign as proposed must be located on the same property as the use, and must meet the requirements and obtain the approval and required permitting of UDOT and Cache County.