



**4:45 p.m.**

Workshop in the County Council Chambers.

**5:30 p.m.**

Call to order

Opening remarks/Pledge – Chris Sands

Review and approval of agenda.

Review and approval of the minutes of the January 7, 2016 meeting.

**5:35 p.m.**

**Regular Action Items**

- (1) **Wild Bunch Kennel CUP** – 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).
- (2) **Nautica Subdivision** - A request for a recommendation of approval to the County Council for an 11-lot subdivision and agricultural remainder on 129 acres of property located at 1550 West 6700 South, Hyrum (Agricultural (A10) Zone).

Board Member Reports

Staff reports

Adjourn

*This page left blank*

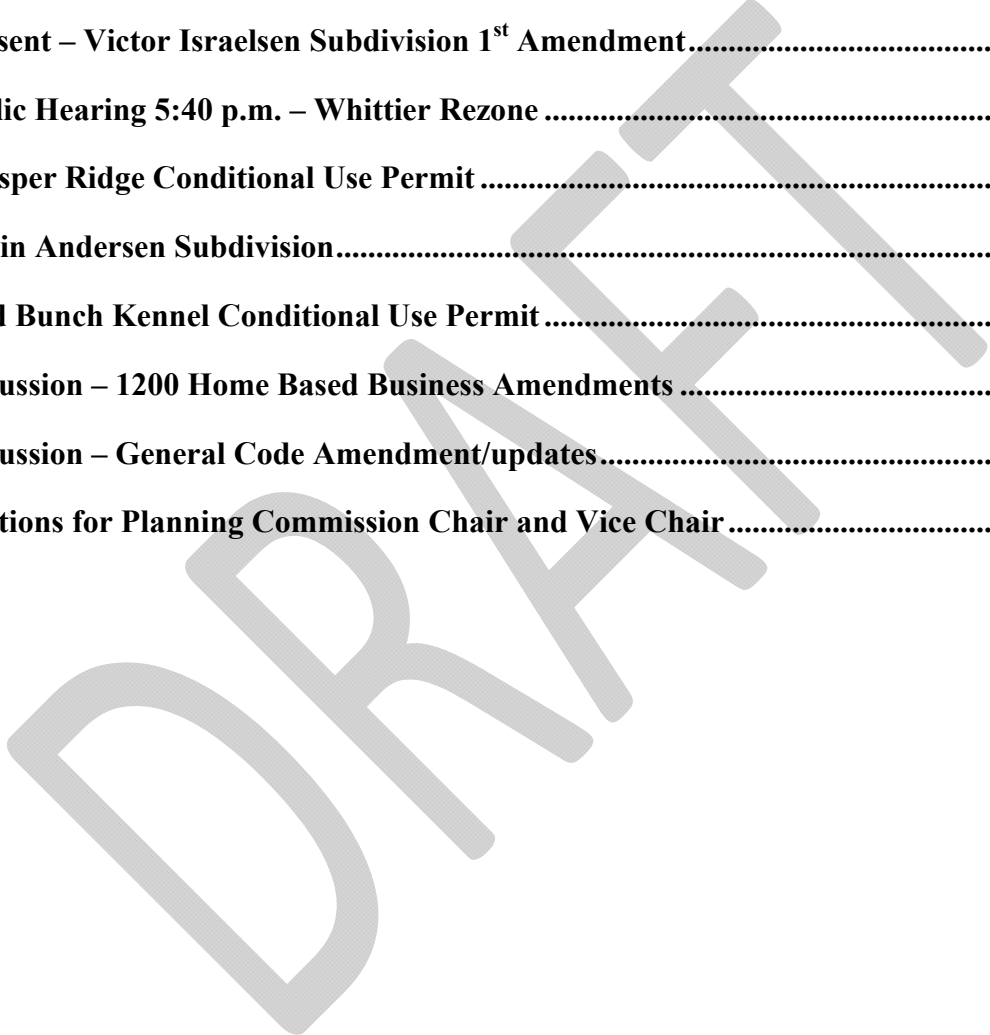


**PLANNING COMMISSION MINUTES**

**07 JANUARY 2016**

<u>Item</u>	<u>Page</u>
1. Consent - Hepner Conditional Use Permit.....	2
2. Consent – Victor Israelsen Subdivision 1 <sup>st</sup> Amendment.....	2
3. Public Hearing 5:40 p.m. – Whittier Rezone .....	2
4. Whisper Ridge Conditional Use Permit .....	3
5. Esplin Andersen Subdivision.....	8
6. Wild Bunch Kennel Conditional Use Permit .....	9
7. Discussion – 1200 Home Based Business Amendments .....	14
8. Discussion – General Code Amendment/updates.....	Postponed
9. Elections for Planning Commission Chair and Vice Chair .....	14

1



1 **Present:** Jacob Adams, Chris Harrild, Josh Runhaar, Jason Watterson, Chris Sands, Lane Parker, Leslie  
2 Larson, Brady Christensen, Jon White, Lee Edwards, Megan Izatt

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

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

7  
8 **05:35:00**

9  
10 **Agenda**

11  
12 Approved and adopted with no changes.

13  
14 **Minutes**

15  
16 Approved and adopted with no changes.

17  
18 **05:35:000**

19  
20 **Consent Agenda Items**

21  
22 **#1 Hepner CUP (Ronald Hepner)**

23  
24 Mr. Ronald Hepner is requesting approval for a conditional use permit (CUP) to allow an accessory  
25 apartment in a single dwelling located on 10 acres of property at 815 North Highway 23 in the  
26 Agricultural (A10) Zone.

27  
28 **#2 Victor Israelsen Subdivision 1<sup>st</sup> Amendment (Andrew Israelsen)**

29  
30 Mr. Andrew Israelsen is requesting approval to add an additional buildable lot to an existing 1-lot  
31 subdivision located on 38.01 acres of property at 1795 South 2400 west, west of Logan in the Agricultural  
32 (A10) Zone.

33  
34 *Watterson* motioned to approve the consent agenda; *Larson* seconded; **Passed 5, 0.**

35  
36 **05:37:00**

37  
38 **Regular Action Items**

39  
40 **#3 Public Hearing 5:40 p.m. – Whittier Rezone (Dick and Betty Whittier)**

41  
42 **Harrild** reviewed Dick and Betty Whittier's request for a recommendation of approval to the County  
43 Council for the rezone of 5 acres of property from the Agricultural (A10) Zone to the Rural (RU2) Zone,  
44 located at 580 South 3200 West, West of Logan. Within a one-mile radius of this property, the  
45 surrounding parcels reflect an average parcel size of 19.4 acres, and an average parcel size of 9.9 acres of  
46 properties with a dwelling. Access to the property is from county roads 600 south (Mendon Road) and  
47 3200 West and is adequate. With this rezone the proponent would be allowed 1 (one) more buildable lot.

48  
49 **Mr. Dick Whittier** we feel like this rezone request is in line with the county ordinance to allow  
50 residential development in this area. We don't see that there would be an impediment for adjacent  
51 agricultural uses. The only concern we have would be with further development and the need for a

1 culvert across the road for the ditch. We feel like this fits with the rest of the area and the density for  
2 moderate housing. The intent is for one of our sons to build a home there.

3  
4 **05:44:00**

5  
6 *Larson motioned to open the public hearing for the Whittier Rezone; Watterson seconded; Passed 5, 0.*

7  
8 **Mr. Bruce Smith** I would like to speak in favor of this rezone. I think it meets all the criteria for the  
9 proposed rezone and gives the Whittier's additional options for the use of their property.

10  
11 **Kurt Pinder** my concern is that a lot of the property is A10 and I think that is hurting our area. I think  
12 this is a good change for the bigger agricultural equipment. It's harder to use that bigger equipment on  
13 small pieces. I think putting houses on an acre or a two acre piece is the direction that we need to move.

14  
15 **05:47:00**

16  
17 *Watterson motioned to close the public hearing; Larson seconded; Passed 5, 0.*

18  
19 **Commission** members expressed concerns with the general idea of placing a RU zone in an agricultural  
20 area. However, for this application this rezone seems to be consistent with past decision and a good fit  
21 for this area.

22  
23 *Christensen motioned to recommend approval for the Whittier Rezone with the finding that*

24 *"1. The location of the subject property is compatible with the purpose of the Rural (RU2) Zone as*  
25 *identified under §17.08.030[A] of the Cache County Code as it:*

- 26 *a. Allows for residential development in a moderately dense pattern that can allow for rural*  
27 *subdivisions without impeding adjacent agricultural uses.*  
28 *b. Is served by suitable public roads."*

29 *Watterson seconded; Passed 5, 0.*

30  
31 **05:50:00**

32  
33 **#4 Whisper Ridge CUP (Dan Lockwood, Tommy Keating, Cortland Lockwood)**

34  
35 **Harrild** reviewed Mr. Dan Lockwood, Tommy Keating, and Cortland Lockwood's request for approval  
36 for a conditional use permit to allow guided cat skiing on ~30,000 acres of property located in the  
37 Blacksmith Fork/Scare Canyon area. This request is located in the FR-40 zone and is a permitted use for  
38 this zone. There are cabins located on some of the parcels but they are not part of this proposal. The  
39 remaining parcels are vacant. Each snow cat will typically carry 12 customers who will be transported  
40 via snow cat from the Paradise Dry Road to the ski areas on private property. There are no specific ski  
41 sites identified. For year 1 it will be ~30,000 acres in use. For subsequent years additional acreage may  
42 be added but that would have to come back to the Planning Commission for approval. For the first year  
43 there will be approximately 15 employees; structures will be a mobile shop located at the base site. In  
44 subsequent years multiple yurts and/or cabin sites may be built but will require the approval of the  
45 Planning Commission for that step. For equipment they will have 3 snow cats, 2 snowmobiles, 2 ATVS  
46 for the first year. For active operations they expect to be open from December 1- April 15 each year  
47 dependent on the weather from 7 a.m. to 5 p.m., 7 days a week, including holidays. Maintenance and  
48 snow road construction may take place 24 hours a day. There will be occasional deliveries of catered  
49 food to clients at the base site. Explosives will be transported and kept near avalanche terrain/ski patrol  
50 areas. Placement of two ATF approved "bomb boxes" for said explosives will be coordinated with the  
51 ATF. The boxes will be stocked and utilized by ATF certified/approved technicians. A blasting permit

1 from the Utah State Fire Marshall for avalanche control is required. A copy of this permit must be  
2 submitted to the Development Services Department prior to any blasting. The property will be signed  
3 with general “No Trespassing” signs and with “Warning” signs in avalanche control areas. All garbage  
4 will be packed out daily. Portable toilet(s) will be enclosed in wooden structure and placed on skis and  
5 transported to locations central to skiing activity. Vehicle parking for clients and the proponent will be  
6 located at the base site. The identified parking areas would accommodate more than 50 vehicles. Snow cat  
7 parking is identified separately. Members of the snow cat staff have search and rescue training. In  
8 emergency/trauma situations air evacuation will be used. Life Flight and Air Med have been notified of  
9 the proposed operation. A smaller, rescue snow cat will also be present with a trauma pack and  
10 backboards if necessary. Emergency services for back country areas are handled by Cache County Search  
11 and Rescue. Access to the base site is via county roads East 11000 South, South 800 East, East 10600  
12 South, and Paradise Dry Road. The county performs winter maintenance on these roadways with the  
13 exception of Paradise Dry Road. Some portions of the roads do not meet the county roadway standards  
14 but staff is recommending a design exception for those portions. This exception is based on the  
15 anticipated number of trips per day creating a minimal impact equal to 16-20 average trips daily (ADT);  
16 use by skiers is limited and controlled by the number of open seats in the snow cats, and will typically  
17 consist of said persons arriving and departing only once to and from the site; no built structures are  
18 proposed or in use, and therefore there is not a need to provide tender truck access for fire suppression;  
19 and this is a seasonal winter operation.  
20

21 **Commission** members asked about impacts to wildlife. There will be no wildlife study required for this;  
22 the area is all privately owned land. Portions of the road will be muddy beginning in March and could  
23 cause problems. Where the road is paved it meets the county road standards, but once the road turns to  
24 gravel it does not. The section from the end of the paved road to the parking area is about 1.7 miles. This  
25 proposed area is owned by 3 landowners and from staff’s understanding this will be downhill powder  
26 skiing.  
27

28 **Mr. Dan Lockwood** as far as the road goes, we feel pretty good about it. We travel that road as a family  
29 and have for the last 12 years. The mud concerns happen more in the late spring and by that time our  
30 operations are basically down.  
31

32 **Sands** are there key areas that you will be traveling to?  
33

34 **Mr. Lockwood** yes.  
35

36 **Sands** it would be helpful for the commission to know where those areas and how close they are to  
37 adjacent properties, etc.  
38

39 **Mr. Lockwood** I can show you on the aerial photos (identifies area east of Paradise City).  
40

41 **Parker** so most of the area you are concentrating on is in the interior areas of the outlined land? You  
42 aren’t near other properties then.  
43

44 **Mr. Lockwood** that is right. We had looked at accessing through Monte Cristo and Ant Flat road but that  
45 drive in a cat is 1 hour and that is too long of a drive so we switched to coming in through Paradise. We  
46 go up and vet the runs and everything.  
47

48 **Parker** has this area been closed to snowmobiling and will it be for this?  
49

50 **Mr. Lockwood** it’s closed now and I believe always has been.  
51

1 **Staff** has received one public comment in writing in opposition to this due to the pristine nature of the  
2 area.

3  
4 **Glen Thornley** I have a couple of minor questions but do speak in favor of it. I have some questions on  
5 wildlife and how it will affect this area. Yes, the wildlife is on private property but was here before this.  
6 I'm not an environmentalist or a hunter, but I have a great deal of respect for the wildlife and think we  
7 should be respectful of that.

8  
9 **Jon White** it is winter range and the same people that are skiing on it own the winter range.

10  
11 **Mr. Thornley** I am very interested in keeping county roads open to the public and will that road be open  
12 up to that same point during the summer or will it be closed due to these interests? There are problems in  
13 the area from Blacksmith Fork to Weber County with County owned roads being closed.

14  
15 **Harrild** it is county road to beyond the cabin. The road is not maintained up to the cabin; typically it is  
16 maintained up to the parking area.

17  
18 **Lynn Shelton** I live at the west end of this proposed project. If this is approved, the idea is already  
19 written on paper, but when this is approved it kind of grants approval for the next steps of what they have  
20 planned. There is a water supply up there for our family and in the past the property owners have sprayed  
21 weed killer and done burns and haven't notified us. I would like to be able to get contact information for  
22 the property owners. Who is responsible for those kinds of things; the users or the property owners? Can  
23 you tell me is our spring on this proposed use area?

24  
25 **Harrild** I don't know where that spring is.

26  
27 **Mr. Shelton** I just want to make sure our spring is taken care of.

28  
29 **White** your spring is enclosed in these 30,000 acres.

30  
31 **Mr. Shelton** ok. I just want to voice the concerns and take care of our water supply. This is a peaceful  
32 good place to live and there is no road maintenance beyond where the bus comes. I don't have any major  
33 opposition for this but I do have some concerns regarding noise for maintenance and hours of operation.  
34 If the noise comes to where I live, is it under different rules? As the foot is in the door and the cabins are  
35 done, is that going to change?

36  
37 **Harrild** that will have to come back here for approval before that can be done.

38  
39 **Mr. Shelton** ok, will there be more public meetings?

40  
41 **Sands** not necessarily.

42  
43 **Mr. Shelton** ok, and who do I contact if there are repercussions to our water supply?

44  
45 **Harrild** you will want to talk to the State water engineer, Will Atkin.

46  
47 **Mr. Shelton** When that helicopter flew over to spray; there wasn't anybody I could really talk to, to stop  
48 that. I don't think Mr. Will Atkin is going to be able to do that.

49  
50 **Runhaar** leave the information with us and we will try and get you a name.

1 **Paul Rochel** I am representing Scare Canyon and Scare Canyon does not have a position for this. In  
2 looking into this, it seems like one of the operators has a history of criminal activity, so we ask that you  
3 please regulate the use. We want them to stay within their boundaries, guides to be with their clients at all  
4 times and to please not extend this use into the summer as a protection for wildlife.

5  
6 **Cole Evans** in here it says there will be signage on the property, will you make sure that signage is on  
7 both sides? Thank you.

8  
9 **Paul Milligan** I am a Scare Canyon owner near the gate. I don't like the idea of the whole 30,000 acres.  
10 If they are only going to ski on one side of the mountain, then why the need for the whole 30,000; why  
11 couldn't it be sized down? It could be reduced a long ways and us Scare Canyon owners would feel a lot  
12 better with not having that right on our fence.

13  
14 **Harrild** we cannot require that. That is up to the property owner to make that determination.

15  
16 **Walter Wallace** I am in Scare Canyon also. I would like to see a map that shows where our borders are  
17 and where their borders are and where the out of bound zones are. That would help a lot; I think that  
18 would show everyone where they plan on doing their recreation at. All these zoning maps do not exactly  
19 show the outlined borders; if we could show both of the borders and the out of bounds zones it would  
20 shed a lot of light on the project. If the applicant does provide that, how would we find out about that and  
21 see it?

22  
23 **Harrild** our mapping department has already laid out the boundaries and it's just a matter of making the  
24 digital map available to you. It will be made available on-line and I will talk to our GIS department and  
25 see if we can make it so everyone can see it.

26  
27 **Mr. Wallace** I am concerned also with the 30,000 acres and the small area that is actually powdered  
28 zoned.

29  
30 **White** couldn't the out of bound zone be so that it can't be within 300 yards of the border?

31  
32 **Mr. Wallace** the people setting this up knows what the out of bounds are; they are safety areas for the  
33 skiers to know where they can't go. This isn't a property line thing but a zone where the skiers and the  
34 operators can be safe.

35  
36 **Tommy Keating** when Dan was showing the area that we plan to use, we are going to stay well away  
37 from Scare Canyon's property or anyone else's property. This is going to be a controlled guided thing  
38 and we want a good relationship with our neighbors. They will be fully contained in our area.

39  
40 **Sands** if you could develop a map that showed the area that you were mainly going to use I think it would  
41 help address some of the concerns.

42  
43 **Larson** I would add to that, that the only need for a buffer is for a demonstrated impact on the neighbors.  
44 So that is step one if there is a demonstrated impact and if there is then a buffer would be appropriate.  
45 But currently they can use their property up until the edge on a snowmobile which is louder than a snow  
46 cat. Before we spend a lot of time on that I think the preliminary question should be addressed.

47  
48 **Sands** what are your thoughts about developing a map?

49  
50 **Mr. Lockwood** our property lines are our boundary. We don't plan to be near that in most of those areas  
51 but we don't know where we are going to be at any given time but it will be on our property. This is very



1 developmental and we haven't done this before. We have gone up and tried to determine where we think  
2 the best skiing is but are still working on that. To give you an idea of what that looks like, we don't drop  
3 them off and leave them. There is a driver, a lead guide, a tail guide, a staff guide and then the clients.  
4 These are GPS-ed runs that have already been vetted. What we are offering is a first track powder  
5 experience. This is all backcountry powder skiing. This is a very controlled experience and we've hired  
6 good guides and lean on Tommy for those things. We have looked at this really hard but I do understand  
7 Scare Canyon's concerns. We are talking about 30,000 acres with 3 snow cats and that means 30 to 32  
8 people at a time. The landowners are also concerned about the wildlife and we are skiing on north facing  
9 slopes that wildlife has long abandoned for winter use.

10  
11 **Staff and Commission** discussed the road concerns. Staff does not know the roads well enough  
12 personally and is relying on the road department for their knowledge and expertise for the design  
13 exemption. If there are concerns about impacts on the road, the Planning Commission can limit the  
14 number of cats that the operation can have and if they want more than that number they would have to  
15 come back to the Planning Commission.

16  
17 **Larson** trying to figure out numbers, so if 5 cats held 50 people and everyone came in their own car; you  
18 have parking for up to 50. So you put 50 people in two cats? How are you operating?

19  
20 **Mr. Lockwood** these groups have to book well in advanced and then we have a discussion with them on  
21 how we are getting there. Typically we will be leading them so there are 4 to 6 people depending on the  
22 size of vehicle. If we had 8 to 10 cars with 6 people in them that is 60 people and that is where that  
23 number came from. People don't typically ski alone.

24  
25 **Larson** I get all of that; I have a lot of experience with this kind of skiing. But I also know that sometimes  
26 you will have a cat that is picking up and dropping off so you will be running two cats.

27  
28 **Mr. Lockwood** typically that is not how we run.

29  
30 **Larson** ok, in trying to come up with a rational reason for limiting the number of cats, it seems that 4 cats  
31 would be rational given the parking situation.

32  
33 **Sands** do you understand why we are discussing this? You are applying for a design exception which is  
34 based on a limited amount of traffic and the concern the county has is about the deterioration of the road.  
35 That is why this is being discussed.

36  
37 **Staff and commission** discussed the number of cats and how to approve this. Sands recommended that  
38 the application be approved based on the year one proposal and then see what happens and the applicant  
39 can come back if needed.

40  
41 **Larson** motioned to approve the Whisper Ridge CUP with the edit to condition #5 to read as follows  
42 "5. Any expansion or modification of the proposed use identified to occur in "subsequent years" as  
43 identified by the proponent and summarized in the staff report, including but not limited to the use and/or  
44 development of any yurt and/or cabin sites or fuel and maintenance structures, or change in the base of  
45 operations and access to the noted properties, shall require the approval of the designated land use  
46 authority."

47 **Parker** seconded; **Passed 5, 0.**

48  
49 **07:02:00**

1 **#5 Esplin Andersen Subdivision (Dennis Andersen)**  
2

3 **Harrild** reviewed Mr. Dennis Andersen’s request for a recommendation of approval for a 3-lot  
4 subdivision on 5 acres of property located at 4560 North 400 west, west of Smithfield in the Agricultural  
5 (A10) Zone. This began as an enforcement issue when the building to the north was being used for small  
6 engine repair. In the process to correct the enforcement issue they have had to cease operation until the  
7 violation is addressed. They are trying to subdivide the property and then do a rezone and CUP. Access  
8 to the lots is from county roads West 4600 North and North 400 West. West 4600 North does not meet  
9 the minimum county standard. However staff recommends that a design exception be granted for the  
10 substandard portions of West 4600 North as the total road width meets the minimum standard, and it is  
11 not practical to construct a 2’ wide paved roadway surface. North 400 West North does not meet the  
12 minimum county standard and would require the proponent improve that access. This road is used mainly  
13 for agricultural use and has functioned as an agricultural road for decades. There are no concerns for  
14 water and septic. It is within the FAA area and the applicant has already completed the FAA review. If in  
15 the future a commercial business were to happen here, a rezone and road improvements would be  
16 required before that commercial business could operate there.  
17

18 **Staff and commission** discussed the possibly relocation of the business entrance being from 4600 North.  
19 Also this area is in the annexation area of Smithfield and would likely trigger an urban development  
20 review if a rezone were to be applied for. Staff did receive public comment and all of it has been negative  
21 and does not support development in this area. There are some concerns regarding water and there has  
22 also been concerns regarding how this has come about where it didn’t have a permit.  
23

24 **Mr. Thornley** I’ve lived with these people all my life and have a great deal of respect for the Esplin  
25 family. The picture there shows a maximum of 13 vehicles and this afternoon there was 30 vehicles there.  
26 I own the 10 acres kitty-corner to this. I don’t want a junkyard there and don’t want a junk yard next to  
27 my property. I have no problem with these folks running a clean, slightly business. That gravel road that  
28 is 400 West has been very good for the last three years because it’s been very dry. That road becomes  
29 very soft in wet years. There are also at least 3 semi engines there and that is not a small engine repair  
30 shop. That is a large engine shop. I can’t speak for the Smithfield City but I have helped them develop  
31 their last master plan and many other things and Smithfield City is not going to like this. They are not  
32 going to look favorably on a peninsula in their annexation. I don’t know what the water situation is there,  
33 but water is a very hot issue in that part of Smithfield.  
34

35 **Staff and Commission** discussed how this came to Staff’s knowledge. The building has been there for  
36 about 3 years and is zoned as agricultural use. Staff received a complaint about a business operating there  
37 when it should not be. Chris investigated and started the process of the enforcement. They have received a  
38 notice stating that they needed to cease and desist operations until it came into compliance. From the  
39 sounds of comments received tonight it sounds like the business has continued to operate but staff has not  
40 yet confirmed it.  
41

42 **Jeremiah Esplin** I am half owner of this property. I own a home in Amalga that we do have a business  
43 license to operate this type of business and for this building. That is where the business started and it  
44 evolved into this and we do have the permits. This is used more as an on-call area.  
45

46 **Runhaar** just to clear something up, your business license is only valid in Amalga and does not work for  
47 the county.  
48

49 **Mr. Esplin** I didn’t realize that at that point but we do have a multi-owner property. We need to  
50 subdivide this so I don’t bring repercussions on the other owner. We don’t want to buck the system here.  
51

1 **Sands** to bring this back to the application, this is for a lot split of a 1970 parcel with a design exception  
2 for the road. The road will have to be upgraded no matter what happens on the property if this is  
3 approved.  
4

5 **Mr. Esplin** to widen that road, there are power poles that are right up to the road. So what is the process  
6 for widening that road?  
7

8 **Harrild** if you can't expand to the west due to property ownership, either way you have to deal with other  
9 property owners or move the power poles.  
10

11 **Mr. Esplin** if I do end up widening the road, how far down do we need to go for those improvements?  
12

13 **Harrild** your 5 acres.  
14

15 **Mr. Esplin** we are willing to do what we need to, to bring this into compliance.  
16

17 **Staff and Commission** discussed the commission's discretion to use the request as leverage to bring the  
18 owners into compliance. This is a multi-month process to complete all the steps needed to bring the  
19 business into compliance.  
20

21 *Christensen* motioned to recommend approval of the Esplin Anderson Subdivision with the stated  
22 conditions and findings of fact; **Parker** seconded; **Passed 4, 0 (Larson abstained)**.  
23

24 **07:34:00**  
25

#### 26 **#6 Wild Bunch Kennel (John Mullin)** 27

28 **Harrild** reviewed Mr. John Mullin's request for approval of a conditional use permit to allow a boarding  
29 and breeding kennel located on 1.14 acres of property at 5670 North Highway 23, Cache Junction  
30 (Agricultural, A10 Zone). This application was remanded back to the Planning Commission by District  
31 Court. The original application was submitted under the previous ordinance and must be considered  
32 under that ordinance and the only impacts allowed to be addressed are noise and odor. There is a new  
33 USDA standard that requires permitting to kennels and is something that will need to be addressed by the  
34 proponent. The proponent is requesting up to 42 adult Pugs and the sale of approximately 10 litters/30-50  
35 puppies per year. This is an existing home and accessory structures on the parcel. Given the setback  
36 requirements, the location of the proposed structures is in question as the provided site plan and area  
37 measurements indicate conflicts with existing property lines and structures. Additional information is  
38 required to adequately review the placement of structures. The proponent has identified that the dogs shall  
39 be confined to the property within the fence and/or kennel building. Specifically, as per the letter dated  
40 October 9, 2015, from the Mullin's legal counsel Mr. Chambers, the dogs will be kept within the kennel  
41 structure with the exception of allowing up to 6 dogs outside at any one time, usually for 10 minutes  
42 depending on the weather. There is no indication as to how many times this will occur per day.  
43 Customers will not visit or purchase dogs at the site/kennel. The proponent has identified hours of  
44 operation being seven days a week from 7:00 a.m. to 10:00 p.m., however as the dogs live at the site,  
45 hours reflecting a use occurring 24/7 may be more accurate. The proponent has identified that waste will  
46 be bagged and stored daily and then transported to a sanitary landfill on a weekly basis with the existing  
47 Logan City/County collection service. For noise mitigation, the proponent has provided information  
48 stating that sound proofing insulation to be installed in the wall of the proposed kennel will reduce overall  
49 sound levels by more than 90% if installed properly. Therefore, while it may not occur in every case, if a  
50 maximum loudness of 125 dBA is assumed, and a reduction of sound by 90% is attained, the noise  
51 originating immediately outside the kennel should not exceed 12.5 dBA and is an acceptable level of

1 noise mitigation. The construction and sound proofing of the kennel roof/ceiling has not yet been  
2 identified. The material identified for sound proofing the walls may be adequate for the roof/ceiling.  
3 Once the kennel is constructed, verification must be provided from a professional source (noise  
4 dosimeter) identifying the reduction in noise from the interior of the kennel to the exterior of the kennel  
5 so that the increase in noise from all use related sources is no greater than 10 dBA at the property line.  
6 Noise levels that exceed this standard may require further mitigation, the reduction in the number of dogs,  
7 or an alteration to the number of dogs outside at any given time. The number of dogs outside at any one  
8 time shall be restricted to six (6), usually for 10 minutes at a time depending on the weather. However, the  
9 total amount of time that dogs will be outside in the fenced area is currently unknown, and therefore the  
10 impact due to dogs barking outside the enclosed kennel is unknown. Signage must conform to the county  
11 standards. Staff does need more information on minor items from the applicant. Staff has identified three  
12 findings of fact and ten conditions of approval.

13  
14 *Larson motioned to extend the meeting until 8:15; Watterson seconded; Passed 5, 0.*

15  
16 **Larson** I assume it's neighbors that are commenting. The business with 6 dogs I'm not sure where it  
17 came from, but there are two concerns. One is volume and the other is the length of time you hear noise.  
18 I would like to hear comments on letting them all out at the same time and get it over with or if you would  
19 like to see it protracted with a few number of dogs.

20  
21 **Joe Chambers** we received the staff report about 5 o'clock tonight. In talking with BioWest and how  
22 this works, the sounds don't increase exponentially, in fact they decrease on a curve. The construction of  
23 the kennel will meet the requirements of the USDA. We believe dog breeding is an agricultural activity  
24 and that is why it is regulated by the USDA. The construction of the kennel will be a metal building on a  
25 concrete pad. The insulation is designed to absorb 95% to 100% of the noise at 4 inches and we will have  
26 6 inches of insulation including on the ceiling of the roof. On the inside walls, there will be sheetrock  
27 with the insulation and there will be a material that is used in carwashes and horse stalls, over the  
28 sheetrock. The entire inside of the building will essentially be power washable. The fecal material that is  
29 solid will be picked up in bags and removed from the property once a week. The non-solid fecal material  
30 will be power washed into the septic tank with a septic professional emptying the tank as once a month or  
31 when needed. The building will have heating and cooling systems as well as a hot water heater. I don't  
32 think smell is going to be an issue. The issue that I see is going to be noise. All of the proposed  
33 conditions to deal with noise we are in agreement with, except #4. We have some issues with it. Our  
34 research in terms of getting the professional studies are, they cost as much as \$5,000-7,000. The district  
35 court indicated that you had to use the ordinance that was in effect with the initial application and I'm not  
36 sure that condition #4 meets the condition of what the District Court meant. We strongly believe that this  
37 is an agricultural activity. I don't believe you would limit a dairy herd or the number of horses or other  
38 agricultural operations. I think the fact that dog breeding is regulated by the USDA is strong evidence  
39 that this is an agricultural activity. Again I direct you back to the state code referenced by the district  
40 court. If the effect is reasonably anticipated detrimental effect and conditions can be imposed, it needs to  
41 be approved and I strongly recommend the approval of it.

42  
43 **Mallory Hunter** I started renting the house just south of this in July. I have four kids, two full time and  
44 two step children. One thing we are concerned about is that our one German Sheppard came into heat and  
45 when we came home late that night there were four coyotes in our driveway. That is one dog, what are  
46 the effects going to be when there are 42 dogs? My friend, who has shih-tzus, says that all of her shih-tzus  
47 come into heat at the same time. What are 42 dogs going into heat going to do for the coyotes? My son,  
48 who has lived here since he was born, has autism. He has issues with sensory overload when it comes to  
49 noise and light. Who is to say what 42 dogs barking going to have on him? This is his home. If you look  
50 their kennel up on Facebook not only is it gross and really dirty. It looks like since October they have had  
51 6 litters of puppies and that is four puppies per litter. That is 24 puppies on top of 42 dogs. I think every

1 aspect of this should be looked over and don't think that it is fair for my son's medical needs be pushed  
2 over so they can bring 42 dogs in. I had 9 hounds at one point and I, my husband, and my roommate  
3 couldn't care for all of them. That was 9 dogs with 3 people. These are animals and they have their own  
4 brains. What is going to happen when you have 42 dogs doing what they want? Thank you.

5  
6 **Diana White** I am the neighbor to the south of this. Did the commission receive the packet that I sent?

7  
8 **Harrild** I did not receive that. I received one from Tammy, from November but I don't have that.

9  
10 **Ms. White** with the secondary packet, I enclosed all the email contacts for my information. Part of that  
11 was with the septic tank and they have addressed that so I will skip it. Part of my issue is that they don't  
12 really know how to run a real kennel. Previously they didn't have that many dogs. A lot of their dogs are  
13 new, so when they say they have been in the business for 7 years that's not completely true. When I look  
14 at the Facebook page, there is a wooden shed that is about 4 feet by about 3 feet with 2 feet tall and that is  
15 their current kennel; this is their house (showed pictures). When we are talking about smells, you can  
16 look at this picture and see that there are feces all over and there are urine stains. The dogs are all over  
17 and are rampant; this is the house that they currently live in. If this is the area that they live in every day,  
18 and have people visit and have no qualms about posting it on social media, how can you be sure they will  
19 clean that up every day? I don't think they have the will or the skill to clean this up every day. When this  
20 proceeded, the proposal was that they would scoop up the feces and discard it. You cannot clean it up that  
21 way. They want to clean it up with pine sol. Pine sol is toxic for dogs. You have a kennel owner who  
22 wants to scoop up feces, not spray it out or use a cleaner and not clean it up with the correct detergent. I  
23 am in the nail business and I get monitored all the time. Who is going to do that for this project? Do you  
24 have the budget for that? My fear is that this is going to be approved and we are going to be saddled with  
25 this no matter how much we complain. I have a lot of compassion. I have dogs and I love them. I know  
26 how much work they are. I have three dogs in my house and if I am not cleaning it up all the time, they  
27 stink. They don't currently have a USDA license and who knows if they will get that done. That should  
28 have already been done. Any reputable breeder is going to have a USDA license and they don't. This tells  
29 me that they are not rule followers; and they say they take care of their dogs but these pictures show that  
30 they do not keep it clean. That is going to breed disease and smell.

31 The other issue is sound. This kennel is fully sound proof 95% of the time. Are there windows? Sound  
32 escapes windows; even if they have a privacy fence, sound travels by line of sight. Guess who is up hill  
33 and has a top bedroom in our house? My grandson is the one who is going to have to listen to barking  
34 dogs all the time. They say they are going to let six dogs out for 10 minutes at a time, so there are going  
35 to be 6 dogs barking every 10 minutes. Every time you open the door you break the sound barrier so  
36 more dogs are going to be barking; dogs are excitable and there will be more barking. Is that going to go  
37 on every day all day long? So the other option is to let all 42 dogs out at the same time, and that isn't  
38 great either. The USDA is going to recommend how much exercise they need and they have to have a vet  
39 on staff or under contract to help with that determination. The USDA requires that you spray down the  
40 kennel every day. So the dogs have to come out of the kennel. The dogs cannot be wet; they have to be  
41 kept dry and comfortable. So just spraying down one corner while the dogs are in the other corner doesn't  
42 work for the USDA standards. You have to remove the dogs from the kennel while they clean them out.  
43 That is going to take longer than 10 minutes to clean all of those kennels. Roland from the Humane  
44 Society said he has full 7 time staff to clean all the kennels and all those dogs have to go outside during  
45 that time. I think that this proposal isn't realistic based on my research. They decided to buy dogs to breed  
46 and make money.

47  
48 **Josh Ballard** I am a neighbor out here. I have a lot of mixed thoughts about this. One being that I chose  
49 to live out there because I'm a farmer and an elevator technician so I travel in and out and several hours  
50 through the day with my crops and the seconded being that I moved out there to do what I want with my  
51 land. So I do have some compassion for this. But I do think 42 dogs is excessive; it doesn't state in there

1 how many females and how many males. They say three to five dogs per set; if you have three males and  
2 the other 39 all females and there are four dogs per litter and they can be breed two to three times a year.  
3 That is an excessive amount of dogs. I think the county needs to look at that and see that this is way too  
4 excessive especially for the neighbors who live there already. It's hard because this seems to be that they  
5 are coming in and don't care about the neighbors. I don't think that is fair for any of the other towns  
6 people out here; there is a lot of homes right there close. There are house to each side and to the east;  
7 within a stone's throw of maybe 50 yards. There are four houses down wind and yes there are a lot noises  
8 and traffic out there but I don't think it is fair to allow them to operate with that many animals on the  
9 property. Especially that they are so close to the neighbors. It was mentioned at the beginning of the  
10 meeting that this area is beautiful and pristine but if this moves into your neighborhood or next to your  
11 house I feel you would have a different opinion about that.

12  
13 **Lamar Clements** one thing I want to ask is how come Smithfield is listed as the first responder on the  
14 fire?

15  
16 **Runhaar** just the way fire districts work.

17  
18 **Mr. Clements** Newton is going to respond to this first. If you will move to the picture, why is the fence  
19 on my property? That can't happen. This plat shows that the chain link fence on my property and that is  
20 not going to stand.

21  
22 **Harrild** we had that same question and John Mullin will clarify for the record that the fence will be  
23 within his property and not your property.

24  
25 **Mr. Clements** it states here 25 animals, so it will start out at 25?

26  
27 **Harrild** that is from a draft approval; he is not starting at 25.

28  
29 **Mr. Clements** then what is the proposal?

30  
31 **Harrild** they are proposing 42 and we are saying 42 dogs are ok if they can meet all the conditions.

32  
33 **Mr. Clements** who is going to verify that it stays at 42? Are you going to have a worker go out there and  
34 monitor it?

35  
36 **Harrild** staff will.

37  
38 **Mr. Clements** who determines between adults and pups?

39  
40 **Harrild** they are going to have to keep good records of that; and the USDA requires they track that.

41  
42 **Mr. Clements** ok, what happens if they can't sell the puppies they have but keep breeding? If we end up  
43 having a noise problem who enforces it?

44  
45 **Harrild** Josh is the enforcement officer for the county and he passes that on to me. However, I can't be  
46 out there all the time so complaints need to be registered with our office and then staff will have to go out  
47 and check. Worst case scenario, the sheriff's office responds but we respond first.

48  
49 **John Mullins** as far as the coyote issue, from my understanding there haven't been coyotes out there for  
50 7 years. As far as the building she is talking about, it's an old goat house. Those pictures of our house  
51 were taken four years ago. Things have changed in four years. We do not use Pine sol, we use approved

1 cleaners that are friendly to pets. The USDA requires that all kennels will be cleaned once a week. We are  
2 not required to clean the kennels every day; we are opting to do that. As for female/male ration, we have  
3 half and half. So now we will not have 100 puppies at one time. The USDA requires we have a birthing  
4 room with tiles and vinyl walls because of the moisture. As far as puppies to sell, we have no puppies  
5 currently. We have a waiting list of 15 people currently. We have established our business and we have a  
6 lot of people who are repeat customers and recommend us to others. We just had a welfare check up in  
7 Casper. They verified that our dogs are healthy and well taken care of. We have had several welfare  
8 checks and never had a problem. We didn't just decide to come down here on a whim. We have family  
9 down here and that is the reason we wanted to move down. Our realtor said we shouldn't have a problem  
10 getting a permit if we were agricultural. It's been 18 months since we started this process. We've done  
11 everything that has been asked of us. We covered the odor and noise issue. USDA is over all of this and is  
12 the ones who do the inspections and count the number of dogs we have. We have to have a name on every  
13 kennel for each dog. We have to license every dog; any puppy that is over six months old is considered an  
14 adult. We have to have them vaccinated and have to have rabies shots. That is how we know how many  
15 we have; we have a list for our vet and the vet takes care of all the vaccinations, tags, and licensing. We  
16 don't maintain our web business anymore because of what you witnessed. We've worked hard to build  
17 our business and it only takes one to tear it down. This has been an invasion of my privacy. I have three  
18 dogs in my house right now and I can guarantee they don't even know it. I have five dogs this morning  
19 and had a semi go by, the train go by and not one peep from my dogs. But then I walk to the south end of  
20 my property is there dogs barking and they bark until I go back into my house.

21  
22 **Sands** please keep the information to your proposal.

23  
24 **Mr. Mullins** we have proposed to take care of the noise and we are giving you all the information and we  
25 have already covered the odor issue and the disposal of waste.

26  
27 **Harrild** can you please state for the record how you are addressing the incomplete things in the  
28 application.

29  
30 **Mr. Mullins** it will be a metal building and there will be a 2x6 sub wall and there will be a ceiling and the  
31 insulation will be up above. There will be 6 inches of insulation in the walls and the ceiling; any noise  
32 even a window, which we do have to have a window for circulation according to the USDA. We have to  
33 monitor the temperature in the building and keep the environment to USDA standards.

34  
35 **Harrild** will you identify the issues with the sight plan.

36  
37 **Mr. Mullins** I can't remove the little shop there because that houses my generator. They have a little lean  
38 to and then a dog kennel and those will be removed. The building will abut up to the shop. The fence is  
39 up and I gave Lamar 4 inches of my property because the post rotted out so I nailed his fence to my fence.  
40 The fence goes up to my garage. There is chain link on the inside to prevent digging. The chain link fence  
41 is eight feet away from Lamar's property line and I didn't do away with the trees or lilac bushes; they are  
42 still there. Also when the building is constructed the fence will be connected to the building so they will  
43 have their area to exercise. As far as the 6 dogs out at a time, we don't let them all out at a time because  
44 they don't all get along. We do know which dogs get along and which ones don't. We can put out more  
45 dogs at a time but the reason we don't let them out very long is because Pugs can't handle the cold very  
46 well and because of the design of their nose they can't handle the heat in the summer. That's the reason  
47 they are not out for long periods of time. We've been doing this for 8 years so we do understand the  
48 breed.

49  
50 **Mr. Chambers** I identified that we are opposed to condition #4 at the 10 decibels but if we are in the 30  
51 to 40 range, that isn't possible.

1  
2 **Runhaar** it's 10 decibels over ambient noise.  
3  
4 **Mr. Chambers** ok, I didn't understand that.  
5  
6 **Edwards** with that understanding are you still opposed to number 4?  
7  
8 **Mr. Chambers** we are opposed to any noise restriction because we believe that is bringing the new  
9 ordinance in.  
10  
11 **Staff** will update the findings of fact and conditions as discussed tonight and send an updated staff report  
12 to the proponents counsel and to the Commissioners.  
13  
14 *Larson* motioned to continue the Wild Bunch Kennel up to 90 days; *Watterson* seconded; **Passed 5, 0.**  
15  
16 **08:47:00**  
17  
18 **#7 Discussion – 1200 Home Based Business Amendments**  
19  
20 **Harrild** reviewed the home based amendments. There are some gray areas in the home based business  
21 ordinance. Staff is going to gather information for the next meeting for the Commission to review and  
22 adjust the ordinance as needed.  
23  
24 **#8 Discussion – General Code Amendments/updates**  
25  
26 Moved to next month's agenda.  
27  
28 **#9 Elections for Planning Commission Chair and Vice Chair**  
29  
30 *Christensen* moved to nominate **Rob Smith** as the chair and *Jason Watterson* as the vice-chair; *Larson*  
31 seconded; **Passed 5, 0.**  
32  
33 **08:54:00**  
34  
35 **Adjourned**



**STAFF REPORT: WILD BUNCH KENNEL CONDITIONAL USE PERMIT**

04 February 2016

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: Chris Harrild - Senior Planner*

**Project Address:**

5670 North Highway 23  
 Cache Junction

**Current Zoning:**  
 Agricultural (A10)

**Acres:** 1.14

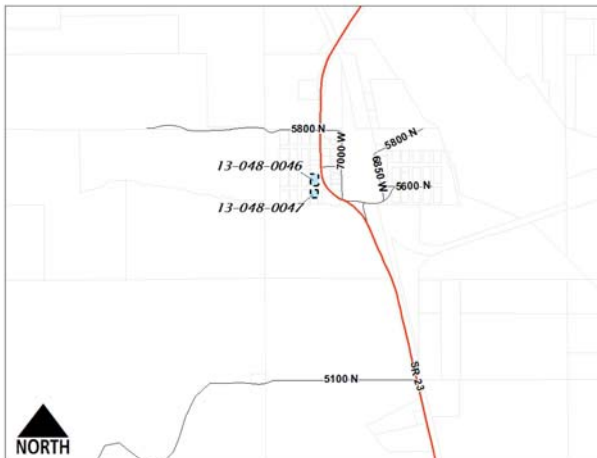
**Surrounding Uses:**

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 (CUP) 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,

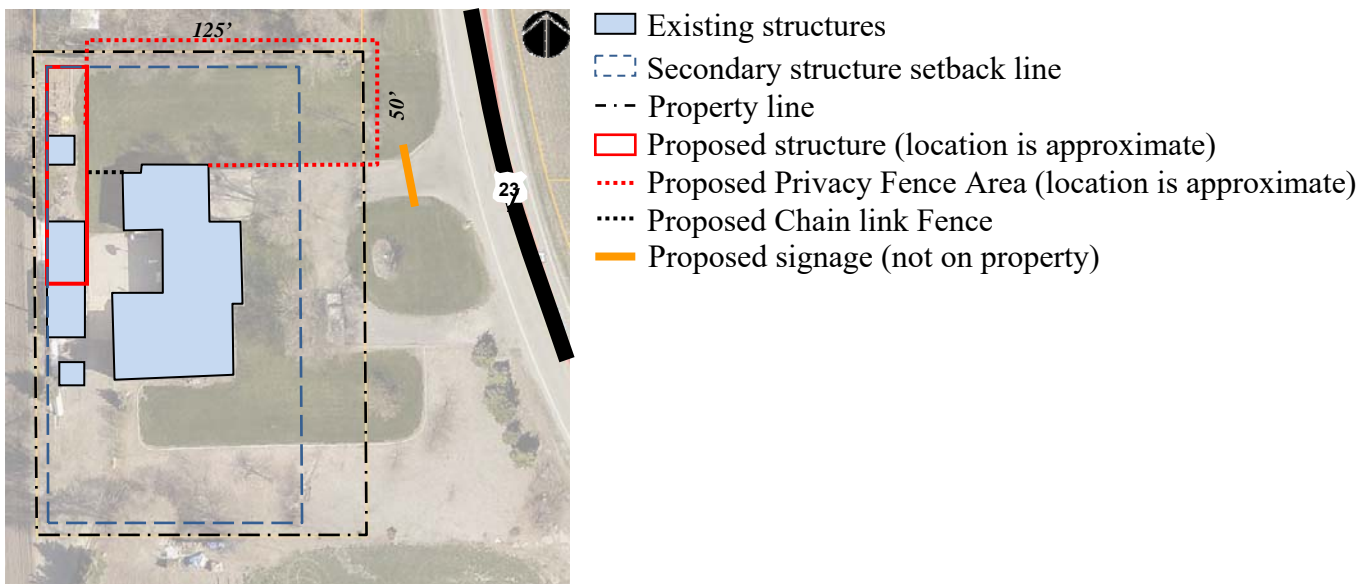
and as per §17.09.030 Schedule of Uses by Zone, this use is permitted as a conditional use in the Agricultural (A10) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses, as also existed at that time. Those procedures are detailed under §17.06.060 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. Additional permitting may also be required under the rules of the United States Department of Agriculture (USDA).

**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.

This request is for a CUP for a breeding kennel for 42 adult Pugs and the sale of approximately 10 litters/30-50 puppies per year. There is an existing home and 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 placement of the structures.



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. The proponent has identified hours of operation being seven days a week from 7:00 a.m. to

10:00 p.m., however, as the dogs live at the site, hours reflecting a use occurring 24/7 may be more accurate.

A history of permits issued for kennels within the unincorporated county 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 in the letters of intent and letters from legal counsel that includes (Exhibit D):
  - A. Odor Mitigation: The proponent has identified that waste will be bagged and stored daily, and then transported to a sanitary landfill on a weekly basis with the existing Logan City/County collection service. The waste from the dogs will fill approximately three tall kitchen bags.
  - B. Noise Mitigation:
    1. While the loudness of this specific kennel has not been identified, <sup>1</sup>Coppola et al (2010) identified that daytime noise levels in a new kennel exceeded the measuring capability of their noise dosimeter at 118.9 dBA. <sup>2</sup>Sales et al (1997) also identified that daytime noise levels in kennels regularly exceeded 100 dBA and often reached 125 dBA.
    2. The proponent has provided information stating that sound proofing insulation to be installed in the wall of the proposed kennel will reduce the overall sound levels by more than 90% if installed properly. Therefore, while it may not occur in every case, if a maximum loudness of 125 dBA is assumed, and a reduction of sound by 90% is attained, the noise originating immediately outside the kennel should not exceed 12.5 dBA and is an acceptable level of noise mitigation.
    3. The construction and sound proofing of the kennel roof/ceiling has not yet been identified. The material identified for sound proofing the walls may also be adequate for the roof/ceiling.

4. Once the kennel is constructed, verification must be provided from a professional source (calibrated noise dosimeter) identifying the reduction in noise from the interior of the kennel to the exterior of the kennel so that the increase in noise from all use related sources is no greater than 10 dBA at the property line. Noise levels that exceed this standard may require further mitigation, the reduction in the number of dogs, or an alteration to the number of dogs outside at any given time.
5. The number of dogs outside at any one to time shall be restricted to six (6), usually for 10 minutes at a time depending on the weather. However, the total amount of time that dogs will be outside in the fenced area is currently unknown, and therefore the impact due to dogs barking outside the enclosed kennel is unknown.

***Incomplete Items:***

- A. The proponent must provide the following details to address the noted deficiencies in the provided information:
  1. An updated site plan showing the location and placement of the kennel, fencing, and signage accounting for the existing structures and property lines.
  2. The type of sound damping material and damping capability of the ceiling/roof of the kennel.
  3. While staff is uncertain if the proposed noise mitigation is sufficient, the proponent may provide evidence that sufficient mitigation has been accomplished such that the increase in noise no greater than 10 dBA at the property line.

***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. Public comment regarding this current proposal has been received by the Development Services Office and is available online at <https://www.cachecounty.org/pz/current/cup.html> under 2015, Wild Bunch Kennel.

**DETERMINATION AND FINDINGS OF FACT (4)**

It is the Planning Commission'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 and 13-048-0047 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.
4. As directed by the 1<sup>st</sup> District Court of the State of Utah and the State of Utah Ombudsman, the Planning Commission's review of this request has been limited to consideration of impacts

and mitigation as relates to noise and odor only as allowed under the Cache County Code as existed at the time of application.

## CONDITIONS OF APPROVAL (10)

The following conditions are 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. Prior to recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
2. The proponent shall abide by the submitted letters of intent, site plans, and construction specifications, and by the information provided by the proponent's legal counsel.
3. The proponent must provide the following details to address the noted gaps in information prior to recordation:
  - a. An updated site plan showing the location and placement of the kennel, fencing, and signage that accounts for the existing structures and property lines.
  - b. The sound damping capability and material type of the roof/ceiling of the kennel.
4. Once the kennel is constructed, verification must be provided from a professional source (calibrated noise dosimeter) identifying the reduction in noise from the interior of the kennel to the exterior of the kennel so that the increase in noise from all use related sources is no greater than 10 dBA above ambient levels at the property line. Noise levels that exceed this standard may require further mitigation, the reduction in the number of dogs, or an alteration to the number of dogs outside at any given time.
5. 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.
6. No more than 42 adult dogs shall be allowed on the site at any one time.
7. No more than 6 dogs shall be allowed outside in the fenced area at any one time.
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.
9. The applicant shall submit a copy of any required USDA permitting to the Development Services Department prior to operation of said kennel.
10. Any expansion or modification of the facility, site, or change to the breed of dog shall require the approval of the designated land use authority.

<sup>1</sup> Coppola CL, Enns MR, Grandin T. 2010. Noise in the Animal Shelter Environment: Building Design and the Effects of Daily Noise Exposure. *Journal of Applied Animal Welfare Science* 9:1-7

<sup>2</sup> Sales, G. D., Hubrecht, R., Peyvandi, A., Milligan, S., & Shield, B. (1997). Noise in dog kennelling: Is barking a welfare problem for dogs? *Applied Animal Behaviour Science*, 52. 321-329.

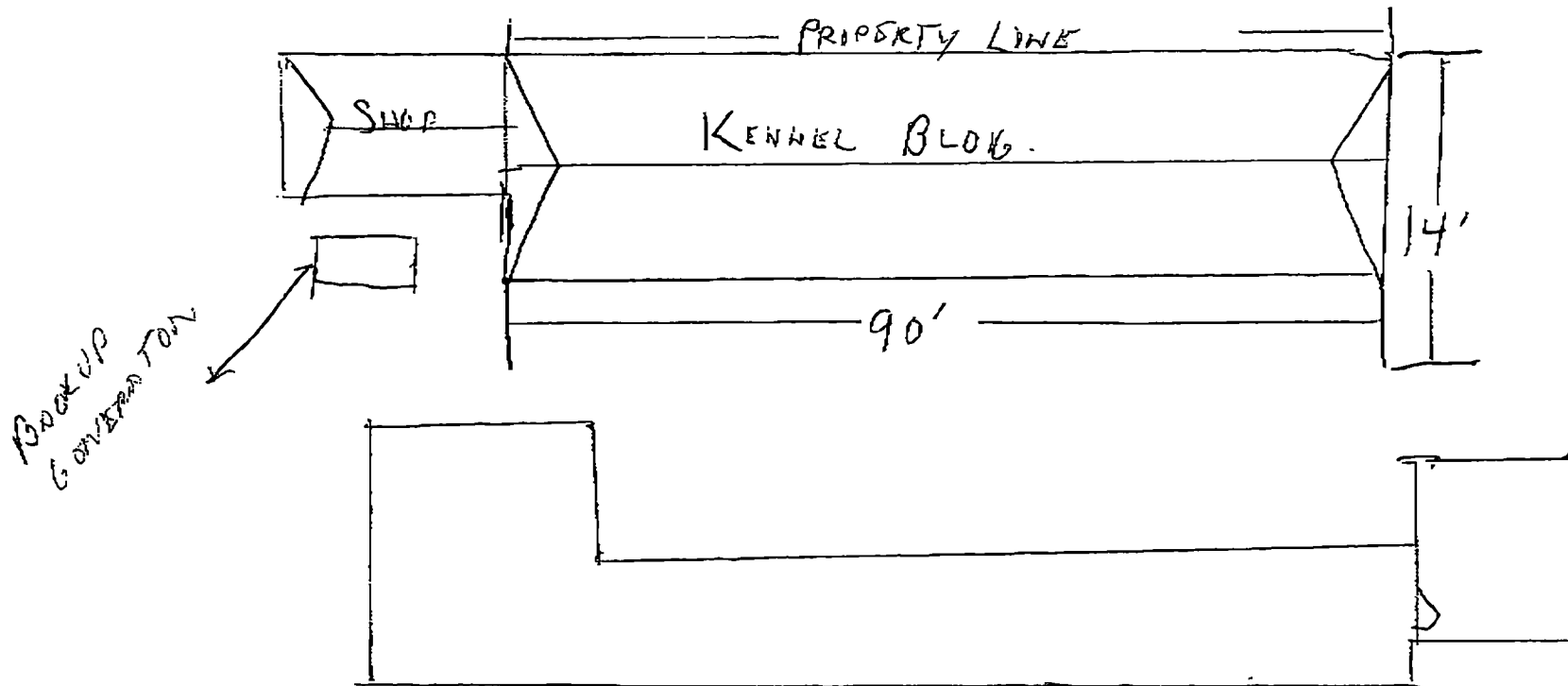
# COMPONENTS OF PROPOSED KENNEL BUILDING

OUTER SHELL - COLOR COATED GALVANIZED METAL (STEEL)

INSIDE OF BUILDING:

ALSO USED ON CEILING

- 2x6 - SUB WALLS
- 6" - LOW SOUND INSULATION - REDUCES SOUND UP TO 95%
- 1/2" - SHOOT ROCK
- 1/8" - POLY MAX - THIS MATERIAL IS USED IN CAR WASHES, HORSE ARENAS + BARN STALLS - IT IS KICK PROOF & BITE PROOF



**STAFF REPORT: NAUTICA SUBDIVISION**

04 February 2016

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:** Bob Wright

**Parcel ID#:** 01-081-0001 and 01-081-0017

**Staff Determination:** Denial

**Type of Action:** Administrative

**Land Use Authority:** Cache County Council

**LOCATION**

*Reviewed by: Chris Harrild, Senior Planner*

**Project Address:**

1550 West 6700 South

Hyrum, Utah 84319

**Current Zoning:**

Agricultural (A10)

**Acres:** 129

**Surrounding Uses:**

North – Agricultural/Residential/Rural 5 (RU5)

South – Agricultural/Residential

East – Agricultural/Residential

West – Agricultural/Residential



**PURPOSE, APPLICABLE ORDINANCE, AND SUMMARY**

**Purpose:**

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

**Land Use Ordinance:**

As per the Cache County Zoning Ordinance Table §17.10.030 Development Density and Standards Specific to Base Zoning Districts, this proposed subdivision qualifies for a development density of one (1) unit per ten (10) acres.

**Summary:**

The two existing parcels are currently restricted due to previous division of property without land use authority approval. This request would correct the existing parcel configuration and proposes to divide

parcels 01-081-0001 and 01-081-0017 into eleven (11) developable lots and one (1) agricultural remainder. This may include the realignment of county road 1600 West. The total acreage for this subdivision is 129.72 acres, minus slopes 30% or greater (18.23 acres), resulting in a total developable acreage of 111.49 acres. There have also been previous requests to develop this property, the most recent occurring at the end of 2013 with a request to rezone the said property from the A10 Zone to the RU5 Zone. That request was denied as the proposed zone was not consistent with the surrounding properties, and there were not adequate public service provisions.

**Access:**

1. The current Cache County Manual of Roadway Design and Construction Standards (Road Manual) §2.5 specifies:
  - a. Roads serving more than three dwellings must meet the minimum construction width standard of a total 24' width consisting of two 10' wide paved travel lanes, and 2' wide shoulders (1' paved, 1' gravel). The proponent must meet all roadway and design requirements for roads as specified in Road Manual.
  - b. The maximum length of terminal roads shall not be longer than 500 feet from the centerline of the adjoining road to the center of the cul-de-sac with an exception possible for roads that exceed that length due to topographical constraints. The proposed private road 6730 South Street from county road 1600 West is approximately 1,000 feet. A turn-around must also be placed at the end of 6730 South Street. Due to topographical constraints, the proponent has submitted a request for a design exception from the 500' limit for this terminal road (Exhibit A).
2. The proponent has identified that they shall make the necessary roadway improvements and shall provide the necessary dedication of ROW to meet the minimum county standards.
3. Due to the existing snowy conditions, and difficulty in obtaining accurate measures, roadway widths are based on previous development reviews and aerial imagery for the roads in this area. Additional review may be required once a more current/more accurate measure of road width can be obtained.
4. Access to the county roads serving this property, and to the property itself, may be approached from the north or from the west.
5. Access from the north must cross the Hyrum dam spillway on South 1700 West. At this location, 1700 West is a ~16' wide paved surface. This width is inadequate and widening of the roadway in this location is financially impractical.
6. The access from the west is from county roads West 6600 South, South 1800 West, West 6400 South, and South 1600 West.
  - a. West 6600 South meets the minimum county standard. At this location, 6600 South averages a 22' paved width with 4-5' wide gravel shoulders and currently serves more than 3 dwellings and provides agriculture access.
  - b. South 1800 West meets the minimum county standard. At this location, 1800 West averages a 22' paved width with 3-5' wide gravel shoulders and currently serves more than 3 dwellings and provides agriculture access.
  - c. West 6400 South meets the minimum county standard. At this location, 6400 South averages a 22' paved width with 1-2' wide gravel shoulders and currently serves more than 3 dwellings and provides agriculture access.
  - d. The paved portion of South 1600 West meets the minimum county standard. At this location, 1600 West averages a 22' paved width with 1-3' wide gravel shoulders and currently serves more than 3 dwellings and provides agriculture access. The unimproved portion of 1600 West that is south of West 6500 South does not meet the minimum county



standard. At this location, 1600 West is a 8-14' wide gravel/dirt road and provides agriculture access.

7. Right-of-way (ROW) has not been dedicated along the unimproved portions of 1600 West. Dedication of ROW along the portions of 1600 West located within parcels 01-081-0001 and 01-081-0017 is required.
8. Different alignments for the public and private roadways have been proposed. Any proposed alteration to 1600 West's alignment would require approval of the Cache County Council.

***Water & Septic:***

1. An adequate, approved, domestic water right must be in place for all buildable lots prior to final plat recordation.
2. The proposed lots are feasible for an on-site septic tank system. Additional review and permitting by the Bear River Health Department may be required prior to placement of a septic system.
3. This development shall require storm water review. Engineered site plans must include retention and detention of storm water. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan shall be required.

***Service Provision:***

1. South 1600 West has historically functioned as a farm access road. As per §16.04.100 of the Cache County Code, south of 6500 South, 1600 West does not currently receive adequate roadway maintenance services for single family dwellings, nor is a turn-around area for these services available.
2. Winter maintenance of 1600 West ends at the end of pavement at the intersection with private road 6500 South.
3. The review for a rezone to the RU5 Zone on this same property that occurred at the end of 2013 and was denied, identified that an increased roadway maintenance burden was not in the county's interest.
4. The minimum standards of the Road Manual require that given the proposed subdivision, 1600 West be paved. At present, Cache County is not accepting additional roads, paving or chip sealing roads, or expanding winter maintenance services as per Resolution 2015-020 (Exhibit B).
5. On August 25, 2015, the County Council considered the proponent's request to vacate the dead end portion of 1600 West that is south of private road 6500 South. This request was made to facilitate the Nautica Subdivision development along 1600 West in light of the Cache County policy not to extend or expand county roadway maintenance services for new development on county roads. The Council considered that request and stated that the Council is not in favor of vacating said roadway (Exhibit C).
6. Water supply for fire suppression will be provided by the Hyrum City Fire Department. Access for emergency services will require further review following the design of the private road.
7. There must be sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane on 6730 South. A Liability Waiver shall be required from Logan City.
8. A school bus stop is located at the intersection of 6400 South 1800 West.

***Sensitive Areas:***

1. Moderate and steep slopes are located within the subdivision boundary. Any development within steep slope areas is not permitted. Any development, including roadways, within moderate slope areas shall require further geotechnical review.

**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 & FINDINGS OF FACT (3)**

---

It is staff's determination that the Nautica Subdivision, a 11-lot subdivision and remainder parcel for property located at approximately 1550 West 6700 South, on parcels 01-081-0001 and 01-081-0017 is not in conformance with the Cache County Code and should be denied. This determination is based on the following findings of fact:

1. As per County Code §16.04.100[C] Suitability of Area for Subdivision, the review of the County Road Department "identifying any items related to providing adequate access to the proposed subdivision" is required. The County Road Department has identified that:
  - a. 1600 West functions as a farm access road and does not currently receive adequate roadway maintenance services for single family dwellings.
  - b. The placement of additional dwellings on 1600 West would require an increase in the level of maintenance performed.
  - c. As per the Council's determination not to vacate the road by use right-of-way of 1600 West, and as an expansion of services by the County is not feasible, no other mechanisms for providing service can suitably mitigate risk or guarantee access to the proposed subdivision.
2. As per the County Code §16.04.100[A and D] Suitability of Area for Subdivision:
  - a. The Fire District has identified that 1600 West must be a minimum of 20' wide to be able to provide adequate fire protection and suppression services for the development.
  - b. The Logan City Environmental Department has identified that due to drifting snow in this area in the winter, the road must be maintained or the collection trucks will not attempt to access the area.
  - c. Improvement of the existing road and an expansion of maintenance are required to meet the minimum requirements for fire and solid waste services. As this cannot be accomplished, the area is not currently suitable for subdivision.
3. In consideration of Resolution 2015-20 Service Provision on County Roads:
  - a. There shall be no further expansion of road services on substandard roads that do not already serve existing homes including:
    - i. No expansion of winter maintenance activities (snow plowing).
    - ii. No gravel roads be paved or "Chip Sealed".
    - iii. No acceptance of new roadways, gravel or paved.
  - b. The proposed subdivision would require the expansion of winter maintenance activities and the paving of the substandard dirt/gravel portions of 1600 West.
  - c. The County Council may grant exceptions to this policy if proposed road improvements improve the health and/or safety of existing subdivisions, homes, or businesses. This proposal does not improve the health and/or safety of existing subdivisions, homes, or businesses.



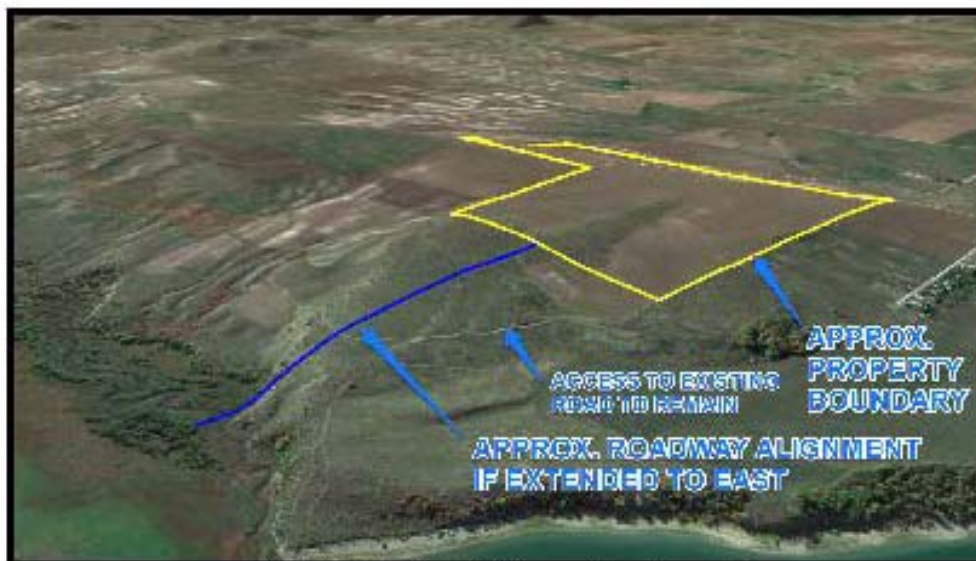
August 10, 2015

Chris Harrild  
 Cache County Development Services  
 179 North Main Street #305  
 Logan, UT 84321

**RE: Design Exception Request for Nautica Subdivision**

Dear Chris,

In connection with the current proposed Nautica Subdivision, we are writing to request an exception for 6730 South Street from Cache County Roadway Manual, Section 2.5E, requiring that dead-end roads not be longer than 500 feet in length. The current distance between the proposed dead-end with International Fire Code turn-around and 1400 West Street is nearly 1,000 feet in length. The terrain east of the turn-round abruptly drops off into the Little Bear River Bottoms, as illustrated in Figure 1, thus making it difficult to extend the road further to the east and connect with other roadways. Section 2.5A of the Roadway Manual does state that terrain should be taken into consideration when considering the layout of new roadways.



**FIGURE 1. Aerial Perspective View of Development and Topography Looking Southwest**

To provide an alternative access to the east, the plat in question proposes that access the existing road that exits the northeastern corner of the development would be maintained via a 50' easement that runs along the entire northern boundary of the Nautica Subdivision. This road

540 W Golf Course Road, Suite B1 Providence, UT 84332 | [www.CivilSolutionsGroup.net](http://www.CivilSolutionsGroup.net) | 435.213.3762



more appropriately follows the lay-of-the-land and continues to provide access to adjacent eastern parcels.

Thank you for considering our request. Please call should you have any questions.

Sincerely,

Michael Taylor, PE  
Civil Solutions Group  
[mtaylor@civilsolutionsgroup.net](mailto:mtaylor@civilsolutionsgroup.net)  
C: 435.890.4498



**RESOLUTION NO. 2015-20**

CACHE COUNTY, UTAH

**SERVICE PROVISION ON COUNTY ROADS**

A RESOLUTION OUTLINING THE COUNTY COUNCIL'S POLICY REGARDING THE EXPANSION OR CONTINUATION OF SERVICES ON COUNTY ROADS

Whereas, Cache County has reviewed the impact of new development along unimproved roadways on the safety and welfare of citizens of Cache County, and;

Whereas, Cache County has determined that within the existing budget constraints funding is not sufficient for the existing network of roadways to be properly maintained and that additional road length is a net cost to the county even considering existing Class B allocations from the State and property tax rates, and;

Whereas, it is not in the best interest for the safety and/or welfare of existing or future residents of Cache County to diminish services on existing roadways to maintain new roads or to provide substandard service on new roadways, and;

Whereas, there are nearly 200 miles of existing paved road in Cache County that can accommodate development with little to no impact on the County's ability to serve said development.

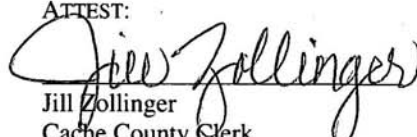
NOW, THEREFORE, BE IT RESOLVED that the County Council of Cache County, Utah, in a regular meeting, lawful notice of which has been given, finds that it is in the best interests of the citizens of Cache County to hereby adopt the following resolution:

- 1) There shall be no further expansion of road services on substandard roads that do not already serve existing homes including:
  - a. No expansion of winter maintenance activities (snow plowing).
  - b. No gravel roads be paved or "Chip Sealed".
  - c. No acceptance of new roadways, gravel or paved.
- 2) The County Council may grant exceptions to this policy if proposed road improvements improve the health and/or safety of existing subdivisions, homes, or businesses.

APPROVED AND ADOPTED this 25<sup>th</sup> day of August, 2015.

CACHE COUNTY COUNCIL  
  
 Kathy Robison, Chair  
 Cache County Council



ATTEST:  
  
 Jill Zollinger  
 Cache County Clerk

*Disclaimer: This is provided for informational purposes only. The formatting of this resolution may vary from the official hard copy. In the case of any discrepancy between this resolution and the official hard copy, the official hard copy will prevail.*

Cache County Council  
08-25-2015

- **Request for Approval of Personal Property Tax Cancellations** – Chairman Robison said Assessor Howell has requested these cancellations because the businesses have closed/liquidated and cannot be contacted.

(Attachment 6)

**ACTION: Motion by Council member Potter to approve the Request for Approval of Personal Property Tax Cancellations. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

- **Resolution No. 2015-20 – A Resolution Outlining the County Council’s Policy Regarding the Expansion or Continuation of services on County Roads** – Director Runhaar drafted a resolution following the Council’s discussion of this issue two weeks ago. This is not a permanent solution. Once he and the Council have time to review and think through the policy, it may be changed. If the Council does not approve the resolution, they will have to deal with each request separately. Council member White agreed with the proposal noting that it will alleviate possible capricious and arbitrary decisions.

(Attachment 7)

**ACTION: Motion by Council member Potter to waive the rules and approve Resolution No. 2015-20-A Resolution Outlining the County Council’s Policy Regarding the Expansion or Continuation of Services on County Roads. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

- **Discussion – Vacating 3600 West and 4300 South, north of Wellsville (Little Bear Subdivision)** – Chris Harrild said this is an informal request as the party wants some indication of whether the Council is amenable to vacating the road before starting the formal process. Harrild observed that these roads are within Wellsville City’s future annexation area.
- **Discussion – Vacating 1600 West, south of Hyrum (Nautica Subdivision)** – Bob Wright, Lewiston State Bank, said the bank owns the property and has a buyer wanting to build three houses for himself and then sell off in the next three years. This is a dead-end road. The new owner wants to create an HOA to develop and maintain the road.

Harrild said that, historically, private roads are usually asked to be returned to public entities after several years. After some discussion, Chairman Robison stated the Council is not in favor of vacating either road. Chairman Robison asked Director Runhaar if his office will generate a fact sheet explaining the “whys” of the county’s road policy to give applicants wanting to develop on substandard roads in the county.

- **Discussion – 2015-2016 Cloud Seeding State Contract** – Executive Buttars will bring the discussion to the Council by the end of September or first of October.

#### **OTHER BUSINESS**

- ✓ **River Heights City Apple Days Parade – Saturday, August 29, 2015** – Zilles, Yeates, Buttars and Robison will attend.



## DEVELOPMENT SERVICES DEPARTMENT

BUILDING | SURVEYING | ENGINEERING | GIS | PLANNING &amp; ZONING | ROADS | WEEDS

## MEMORANDUM

**Date:** 20 August 2015  
**From:** Cache County Development Services  
**To:** County Council  
**Subject:** Vacating a portion of County Road 1600 West, ~0.75 miles (RIN #142)

An informal request has been made to vacate the portion of the dead end County Road 1600 West that is south of private road 6500 South, south of Hyrum. The intent of this request is to determine Council's general position as regards the vacation of county roads, rights-of-way, or easements in order to allow roadways to function as private roads.

More specifically, this request is made to facilitate development along 1600 West in light of the Cache County policy not to extend or expand county roadway maintenance services for new development on county roads.

The authority to vacate county roads, rights-of-way, or easements rests with the Cache County Council. In addition, vacating public streets, rights-of-way, or easements is regulated by State code which provides the basic process for local jurisdictions. Within 17-27a-208, the requirements indicate the type of notice and the requirement for a public hearing. Additionally, within 72-3-108 the State requires that noticing be placed in the newspaper at least once per week for four (4) weeks prior to the public hearing.

The Development Services staff has completed a review of said request and has identified the following regarding said roadways:

- 1600 West appears to provide farm access to 16 properties consisting of approximately 530 acres of property.
- While 1600 West is a County Road, and existing legal descriptions reference the county road, a dedicated right-of-way does not exist for this portion of roadway. However, in cases where a dedicated right-of-way does not exist, the county presumes a 66' wide road by use right-of-way or easement for roadway access and maintenance.
- The portion of 1600 West that is south of 6500 South has historically functioned as a farm access road and does not currently receive adequate roadway maintenance services for additional development.
- 1600 West is currently a substandard roadways as per the county road manual. Development of property, beyond agriculture, that fronts said roadway shall require the improvement of said roadway to the minimum county requirements as specified in the county road manual. This applies to private as well as public roadways.

Given the above, and in order to provide clear and sufficient information, staff recommends that if vacation is amenable to the Council that the following items are provided at the time a formal request is made:

1. A survey of the existing roadway including a legal description of the presumed 66' wide road by use right-of-way or easement area for roadway access and maintenance to be vacated.
2. A written indication of agreement from affected property owners bearing the signatures of those who agree with the vacation of the said roadways, and establishing a shared private roadway easement for said properties.

After the noted information is supplied and reviewed, the process to begin the four (4) week notice period can be initiated and a public meeting date set. Please contact our office with questions or concerns in regards to this issue.

Christopher Harrild  
Senior Planner



