



**PLANNING COMMISSION MINUTES**

**05 MAY 2016**

<u>Item</u>	<u>Page</u>
1. Andrew Lee Subdivision 1 <sup>st</sup> Amendment .....	2
2. Public Hearing (5:40 p.m.) Kerr Basin Rezone .....	2
3. Holyoak Airport CUP .....	4
4. Pisgah Limestone CUP 1 <sup>st</sup> Amendment.....	9
5. Cherry Peak CUP 1 <sup>st</sup> Amendment.....	11

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

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

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

7  
8 **05:33:00**

9  
10 **Agenda**

11  
12 *Watterson* motioned to approve the agenda; *Sands* seconded; **Passed 5, 0.**

13  
14 **Minutes**

15  
16 *Christensen* motioned to approve the minutes; *Gunnell* seconded; **Passed 5, 0.**

17  
18 **05:35:000**

19  
20 **Consent Items**

21  
22 **#1 Andrew Lee Subdivision 1<sup>st</sup> Amendment (Jon G. Lee)**

23  
24 Mr. Jon. G. Lee is requesting a recommendation of approval to the County Council to create a  
25 new lot (Lot 1) from an existing 1 Lot subdivision on 62 acres of property at 7585 South  
26 Highway 165 (Agricultural (A10) Zone).

27  
28 **05:35:00**

29  
30 **Parker** arrived

31  
32 *Watterson* motioned to recommend the approval to the County Council of the Andrew Lee  
33 Subdivision 1<sup>st</sup> Amendment with the noted conditions and findings of fact; *Sands* seconded;  
34 **Passed 6, 0.**

35  
36 **Smith** introduced Nolan Gunnell as the newest member of the Planning Commission. Mr.  
37 Gunnell is replacing Leslie Larson.

38  
39 **05:37:00**

40  
41 **Regular Action Items**

42  
43 **#2 Public Hearing (5:40 PM): Kerr Basin Rezone (Brian Lyon)**

44  
45 **Adams** reviewed Mr. Brian Lyon's request for a recommendation of approval to the County  
46 Council for a rezone of 11.25 acres of property at 5700 South 5400 West, west of Wellsville City  
47 to add the Mineral Extraction and Excavation (ME) Overlay Zone to the existing Forest

1 Recreation (FR40) Zone. Wellsville City has been contacted regarding this application because it  
2 is within Wellsville's annexation area. The applicant has identified a 700x700 foot area for the  
3 extraction of gravel in the creation of a pond. There are several other gravel pits and ME overlay  
4 zones in this area. The main access is 5400 south and is a private a road; the road extends to 300  
5 west where it connects into Wellsville's City road network. There are no utilities in that area; the  
6 fire district has stated that until the last 100 feet, the road is acceptable for their equipment. The  
7 applicant has agreed to widen those 100 feet to meet the Fire District's requirements. This went  
8 before Wellsville City's city council last night and they stated they had no issues.

9  
10 The initial intention of the application was to create the retention pond, but because of the  
11 amount of gravel needing to be extracted, the applicant was also required to apply for gravel  
12 extraction. More detail on the project will be forthcoming with the conditional use permit  
13 application.

14  
15 **05:44:00**

16  
17 *Sands motioned to open the public hearing for the Kerr Basin Rezone; Watterson seconded;*  
18 *Passed 6, 0.*

19  
20 **Clint Kerr** I am a partial owner of the property with my dad. I don't know the reasoning for  
21 taking 11.25 acres; we were only asking for 5. It is natural drainage almost to this spot anyway.  
22 If there is a reason for taking more I would like to hear it; we don't want to take any more than  
23 we have to out of the greenbelt but need to deal with a water issue that we have had for a few  
24 years. It takes a lot of time to put the roads back in after water has washed them out which is  
25 what the pond or basin is for.

26  
27 **Smith** staff can address the acreage issue.

28  
29 **Adams** the legal language we received is where we got that number from.

30  
31 **Harrild** the outline that your engineer provided is what it is going to take for that pond. It  
32 appears that to be able to get back to the original contour lines the included acreage is required  
33 for the drainage pond. If there is less than what is planned, then we need an updated permit.

34  
35 **Mr. Kerr** I don't think we need to catch all the stuff from the way to the south.

36  
37 **Harrild** so the extraction is wholly secondary to your intent. You will need to discuss that with  
38 your engineer.

39  
40 **Mr. Kerr** I did that yesterday. The problem is right where the basin is going to be.

41  
42 **Harrild** my best guess, and you will need to check with your engineer, but the type of cut you  
43 need to create that pond is going to require that acreage.

44  
45 **Mr. Kerr** it's a problem for us.

46  
47 **White** is this NRCS?

1  
2 **Mr. Kerr** no. If we do this extraction, it's going to take a lot of time to do. It's basically  
3 something we want to do.

4  
5 **White** you are just going to use your truck?  
6

7 **Mr. Kerr** yes, and this seems way bigger than what we were planning.  
8

9 **Smith** for the purpose tonight, we are just doing the rezone and more in-depth information will  
10 come with the CUP. Who came up with the 11.25?  
11

12 **Mr. Kerr** the engineers did; but the other question is if the bottom is only going to be 2 acres  
13 then what is the purpose of pulling 11.25 acres? I don't want a cut like that. I talked to the  
14 engineers yesterday and I'm not sure why it is the way it is.  
15

16 **Harrild** the thing to note is that for the rezone if your footprint doesn't take the complete 11.25  
17 acres it isn't going to change the rezone.  
18

19 **Sands** just because the rezone is for 11.25 that doesn't mean that you are going to use the full  
20 11.25 acres.  
21

22 The lands greenbelt status was discussed. Staff will double check with the Assessor's office, but  
23 the Agricultural Zone designation is still in place because the ME is just an overlay.  
24

25 **Gunnell** do you own the road?  
26

27 **Mr. Kerr** yes.  
28

29 **05:54:00**  
30

31 *Sands motioned to close the Kerr Basin Rezone public hearing; Watterson seconded; Passed 6,*  
32 *0.*  
33

34 **Staff and Commission** discussed the application. If the rezone ends up being smaller than what  
35 the current application is, Staff does not see the need to bring the application back before the  
36 Commission.  
37

38 *Parker motioned to recommend approval based on the findings of fact; Gunnell seconded;*  
39 *Passed 6, 0.*  
40

41 **05:57:00**  
42

43 **#3 Holyoak Airport (CUP) (Nathan and Rachel Holyoak)**  
44

45 **Adams** reviewed Nathan and Rachel Holyoak's request for a conditional use permit (CUP) to  
46 allow a private airport located on 19.76 acres of property at 6523 West 200 South, northwest of  
47 Mendon. The area has been used as a runway previously. At that time the owners were contacted

1 by the county to inform them they needed a permit to operate an airfield out of this area. The  
2 property is accessed by county and private roads. The roads do not currently meet the County  
3 Road Standards, however, the subdivision was approved with the current roads and the proposed  
4 use is not going to increase the roadway use. Staff is recommending a design exemption for the  
5 roads. The applicant is running a modified Cessna 182. The applicants will be using the strip; as  
6 well as selected family and friends. The proposed airstrip is 1,300 feet long, which runs the  
7 complete north-to-south length of the property; a lot of the safety zones overlap the properties to  
8 the north and south. Those protective overlays cover almost all the property to the south and two  
9 properties to the north. The FAA suggests that the owners have some control of the land that  
10 those protective overlays cover to make sure there are no above ground obstacles. The airstrip is  
11 proposed to be 50 feet wide. The hours of operation will be 5:30 am to 10:30 pm and the  
12 applicant is willing to notify neighbors if they need to operate outside those stated hours. County  
13 code requires that the applicant meets the criteria of the FAA Airport Design Advisory Circular  
14 AC 150/5300-13A. The applicant needs to make the runway fit on their property. The code  
15 requires that the Airport Master Record be submitted to the FAA and the FAA doesn't want that  
16 submitted until the airport is built so staff just wants to see a copy of that record after it has been  
17 submitted. Staff has left it up to the Commission whether acquisition of the land in the runway  
18 protection zones is needed or if there is another way to meet that suggestion. One thing to note is  
19 that to the south there are platted lots for a subdivision.

20

21 If the CUP was granted and a surrounding landowner was to build in the departure and arrival  
22 zone, the permit may be revoked because the airport operator would no longer be able to meet the  
23 conditions of the CUP. The total width of the lot is 650 feet and from the home to the east  
24 property boundary is about 400 feet.

25

26 **Rachel Holyoak** I am the property owner. There are three conditions that staff were worried  
27 about; we are fine to state that development of any of the surrounding property would take  
28 precedence to the airport. Right now those properties are undeveloped and we don't feel like we  
29 will be a nuisance to the property owners. The distance to the house, the FAA circular does  
30 recommend 60 feet. The FAA circular is meant for any small aircraft, which includes passenger  
31 jets up to 10 passengers. It is very conservative in the overlay zones because anything that is  
32 considered a small aircraft has to meet these requirements. 60 feet wide is really wide for a small  
33 aircraft that has two passengers, the pilot and the co-pilot. The proposed 50 feet was enough;  
34 when this goes on an FAA sectional, if the pilot were to look quick and see the 50 feet and  
35 mistake the 1,300 for 13,000 feet when they see the 50 feet they are going to do a double take  
36 and any pilot is going to know it is for small aircraft. We only want people landing there that we  
37 approve and are ok with. Just in case, we felt that the off-width provided plenty of safety margin  
38 given our aircraft but also allowed for that conscious thought that something is off. As far as  
39 moving the runway, we can. We have tried to take advantage of the 20 years of compaction in  
40 this area and one of the major components of flipping a small aircraft is soft dirt. If you require  
41 us to move the runway you are asking us to give up the compaction of that dirt; we are willing to  
42 work with you on that, but in the name of safety it may be more unsafe to move it. Likewise it  
43 keeps the runway closer to our property and not the neighbors. If you think about a catastrophic  
44 event, the people most likely impacted by that would be my family and clearly we are going to  
45 operate safely but I would rather it is our family and our property in danger than a neighbor. All  
46 things considered in there. I am asking you to waive those two conditions. The planes that were  
47 not landed by us but by neighbors were on the private road that is 17 feet wide. So 50 feet is

1 three times the size of where aircraft were landing. Looking at that logistical we are three times  
2 bigger than where planes are landed currently. There is some precedence here not by us, but by  
3 the previous owner who also had a Cessna 382.

4  
5 **Gunnell** on that width, I wouldn't think we would shift the whole runway over. We would add  
6 10 feet so you would still have 50 feet of the original runway?

7  
8 **Ms. Holyoak** if you did that we would still be out of compliance, so I would ask why we would  
9 do that? It's from edge to edge and so the zone would be in to my house if you leave the current  
10 edge and to not grant the exception. I want the center line to be compacted dirt because the best  
11 spot to land is in the center of the runway in compacted dirt. I can't widen and still leave the  
12 center the compacted part and I also can't shift it and not get rid of compacted part and meet the  
13 zone that you are asking me to meet.

14  
15 **Smith** how long has it been used as a runway?

16  
17 **Ms. Holyoak** the only cease and desist letter we received was in 2013. We bought the property  
18 in 2011 and we asked that people not land here until we could legalize things and when we did  
19 that that is when people started landing on the road.

20  
21 **Smith** when you speak please state your name.

22  
23 **Bryan Gudmundson** I own the property directly across and to the south and Cookie owns the  
24 one directly in the landing path. I am also speaking on behalf of Paul Willie and he is the only  
25 one I contacted because of the short notice. Ms. Holyoak was right; the airplanes were landing on  
26 the road and previously were landing in the field. We were living out of state at that time but  
27 were invited to a meeting regarding landing any airplane in a subdivision. This is not agricultural  
28 but an 8 lot subdivision of 20 acres each with a road running down the middle with four on each  
29 side. Mr. Holyoak's current neighbor owned that home and then through bankruptcy proceedings  
30 Mr. Holyoak obtained that property. The previous owner moved next door and is a commercial  
31 pilot. When he owned the property he would fly out of his home and would go to work and when  
32 he couldn't do that anymore he would use the road. The neighbors were very concerned with that  
33 especially where children would drive four wheelers on that road. Sometimes there would be two  
34 airplanes in the curved driveway. He would taxi up the road and both would park on that and the  
35 neighbors didn't appreciate that. I don't have a house there yet but plan to have one there in the  
36 future. That approach is about level with where our windows would be. If you could imagine  
37 between 5 in the morning and 10:30 at night and having an airplane come down. We moved to  
38 Mendon for the quiet rural feel of the place and I believe the way it will impact our family is by  
39 not only destroying the quietness of the neighborhood but devalue the land as well. It will make  
40 it more difficult if we need to sell it if there is an airport there. What I've done with this very  
41 quickly put together paper is I've taken the Cache County; this is the six point criteria that you  
42 are being held to relative to making that decision. I don't believe the decision meets the criteria  
43 and would ask that you not grant an airport in the middle of a residential neighborhood. We hope  
44 to someday have a quiet existence here. I know that my neighbors in this area and in Mendon  
45 would not appreciate an airport being located here. I hope the zoning will protect those in the  
46 area as well as Mr. Holyoak's right to have an airport in a residential area if that is what you  
47 decide.

1  
2 **Debra Gudmundson** I just wanted to add that if you are going to continue to consider this that  
3 we would ask there would be a delay on this decision so more people may be notified so that  
4 there is a fair representation of the area.  
5

6 **Joe Chambers** it seems the comments were really directed towards the legislative decision that  
7 has been made by the county that has already been made and not the CUP. I think the comment  
8 that it doesn't meet the 6 criteria is contrary to Staff's report because they've stated that it  
9 already does. The third thing is that your job, as I understand it by the statute, is that once it is  
10 determined by the County Council that this property can be subject to a CUP is to mitigate the  
11 problems that are there. If there are reasonable conditions that can be set on the situation that  
12 would mitigate any concerns that you can see, then the property owner has the right to receive  
13 the CUP. Staff and I have gone that round with Ombudsman's office before and I think that is  
14 well understood. I asked my clients to go the CUP route to save on litigation costs. I actually  
15 believe there is a non-conforming use that predates your ordinance and that they complied with  
16 the letter from the county to comply but believe that a non-conforming use existed on the  
17 property already. My client has suggested some reasonable conditions, including the fact that the  
18 FAA regulation is also designed for 10 passenger jets and you have to look at what they are. You  
19 can be a little bit flexible and recommend you be a little bit flexible.  
20

21 **Ms. Holyoak** we have not talked to Gudmundsons or Mrs. Tanner due to time but have talked  
22 with the others around us and have received no negative responses. I don't think any of us can  
23 speak on behalf of other landowners. Paul Willie was mentioned and when we bought the  
24 property in 2011 and his views at that time were different. So I just ask that if we are going to do  
25 anything based on anyone speaking for anyone that we hear from those people directly or in  
26 writing.  
27

28 **Mr. Gudmundson** our point person was the Benson family which lives two lots down. That is  
29 the home we met in when we first met the Holyoak's and I know they are not interested in  
30 having an airport as far as we have been told. I know she took many pictures and a lot of  
31 complaining to the County attorney and it took the County attorney contacting them to stop it.  
32 He finally put a stop to it and that was in 2013. It has been a very quiet issue since then, thinking  
33 it had gone away. Just a little more background there and we appreciate your consideration.  
34

35 **Nathan Holyoak** I wanted to remind you that there has been an ongoing effort for legalities to  
36 accommodate airstrips. We've had several community members express their will and desire.  
37 This is not something that was done pretentiously or below public knowledge. There are also  
38 several lots around this that have not been built on and I do think it is advantageous that we have  
39 tried to work within the law with this situation. It has never been in our intent to blindside or to  
40 negatively impact our neighbors. There are some who do like this and some who don't. We tried  
41 to be reasonable with all involved and I believe that the new county codes put into place need to  
42 be part of the consideration for this and I thank the Commission for their time.  
43

44 The noticing requirements of 300 feet are based on property line, not the safety zone  
45 requirements of the runway.  
46

1 **Staff and Commission** discussed the flight path and the protection zones. For protection zones,  
2 there are supposed to be no objects in the protection zones. There are specific rules tied to the  
3 protection zones; if a home or a barn were to be built in the protection zones it would make it so  
4 the applicant cannot meet the requirements of that FAA circular and could void the CUP.  
5

6 **Joe Chambers** you approved a 40 foot runway in November and I think it was because you  
7 understood at that time is that regulation the county adopted states that aircraft capability takes  
8 precedence. Which means that smaller aircraft like the Cessna do not need the 60 feet width.  
9 Because this is a new area I just thought it needed to be clarified so that you can make the best  
10 decision.  
11

12 **White** what does friends mean?  
13

14 **Ms. Holyoak** we do have some friends that own aircraft and they would need to contact us ahead  
15 of time so there would be no surprise landings. They would need to ask to land and let us know  
16 they are coming. Right now that is less than 10 people we know, probably closer to 5 or 6. Our  
17 thoughts are that there are occasions that friends would like to fly up to our place and we would  
18 make sure that all their aircrafts meet the requirements for our runway and as of now their  
19 aircrafts have similar qualifications like our Cessna.  
20

21 **Harrild** there was a comment regarding the other runway we approved in November, that  
22 aircraft was a smaller plane so it doesn't have the same requirements as this plane but they went  
23 through this same process.  
24

25 **Ms. Holyoak** the Musselman's aircraft is 30 feet in wingspan and our wingspan is 34 feet; there  
26 is a 4 feet of difference. The table is not specific to an aircraft but is specific to all small aircraft  
27 that have an approach speed of less than 90 knots. Our plane is 70 knots and Mr. Musselman's is  
28 50. There is a different in approach speed but the table applies equal to the aircraft he was flying  
29 and our aircraft that we are flying.  
30

31 **Harrild** that is different then what we have discovered. The Cessna 182 and the Kit fox are  
32 different categories. The Kit fox qualifies as an A1 and the Cessna 182 is a B1. It's a higher  
33 qualification that has higher runway lengths, etc. If there is a disagreement there, we would need  
34 to see something to substantiate that but we haven't seen anything.  
35

36 **Staff and Commission** discussed the circular from the FAA and how the measurements for the  
37 runway and safety zones are created. Staff inputs the type of aircraft and then the FAA document  
38 populates the qualifications.  
39

40 **Mr. Gudmundson** in the past, I can see if someone is out in the middle of nowhere and there are  
41 no neighbors or residential area, sure land the plane. But in a residential area where people have  
42 paid considerable amount of money, there needs to be some room for leniency on both sides of  
43 the equations. We don't have legal counsel, but I would like to look into this more. This is a  
44 subdivision; it's not out in the middle of nowhere and is flying right past our bedroom window  
45 when we build our house. If someone wanted to have an airport across from your home, how  
46 would you feel? So if the law is to protect anybody, it should protect those in that subdivision  
47 both economically and relative to their peace and quiet. We have a zoning for airports and they



1 can land their helicopters and airplanes there and come and visit all they like. I would like to  
2 remind you that the neighbor next door originally owned the property and lost it in bankruptcy.  
3 He's the friend of the Holyoak's and he will be using that runway to come and go to work. 15  
4 times out of the year, almost every other day, we will wake up to the sound of aircraft warming  
5 up or taking off right past our home. If you can put yourself in that position, I hope you can  
6 understand how difficult that is.

7  
8 **Staff and Commission** discussed the conditions. Many members of the commission felt the  
9 conditions protected the surrounding landowners and the applicants as they were. If development  
10 were to happen in the departure or arrival areas of the runway, it would supersede the airport and  
11 the CUP may no longer be valid. The width of the runway was discussed. There needs to be a  
12 basis for changing the width of the runway from the way the code states it needs to be. The  
13 applicant can also seek a variance but there are specific requirements for a variance and staff  
14 does not anticipate that the applicant could meet the state requirements for a variance. Some  
15 Commission members felt that if the applicant can bring something in from the FAA that would  
16 support the width change they are requesting that option should be given to them. The  
17 Commission discussed the addition of language to condition 2 stating "or as otherwise approved  
18 as by the FAA" but Staff expressed concerns about changing FAA requirements when the FAA  
19 feels that once a plane has landed it is the purview of the land use authority not the FAA.

20  
21 **Staff and commission** discussed the addition of a condition regarding development on  
22 surrounding properties. The condition would become number 8.

23  
24 *Christensen* motioned to recommend approval of the Holyoak conditional use permit with the  
25 stated conditions and findings of fact and the addition of condition #8 as follows: "8. If any  
26 structures are built within the noted runway areas and zones, the Holyoak Airport Conditional  
27 Use Permit must be reconsidered by the Cache County Land Use Authority."; **Parker** seconded;  
28 **Passed 5, 1 (Sands voted nay).**

29  
30 **07:04:00**

31  
32 **#4 Pisgah Limestone CUP 1<sup>st</sup> Amendment (Mike Schugg)**

33  
34 **Adams** reviewed Mr. Mike Schugg's request for approval to amend an existing conditional use  
35 permit (CUP) to allow blasting at the Mt. Pisgah Limestone Quarry, in the Forest Recreation  
36 (FR40) Zone and Mineral Extraction and Excavation (ME) Overlay Zone. The original permit  
37 allowed for a rolling extraction area. The original CUP did not permit blasting. The applicant  
38 wishes to add blasting at this time. Access is from a private road off of the county road, Mount  
39 Pisgah Road. Both of the roads are in compliance with the current minimum county standards.  
40 County Code does not specifically regulate blasting, but has left it to state and federal standards.  
41 The applicant has included a sample blasting plan. The nearest man-made structures include a  
42 radio tower identified by the blasting company over 2,000 feet away and the UDOT facility at  
43 the summit of the canyon over 1 mile away while the nearest inhabited structure within Cache  
44 County is a home on parcel 10-056-0035 that is approximately two miles from the site. The  
45 applicant will have to follow all federal regulations provided for mitigating vibration load to  
46 nearby structures, which is the radio tower. The blasting permit from the Utah Fire Marshall will  
47 have to be submitted to staff when the applicant receives it.

1  
2 **Staff and Commission** discussed the number of trucks for the quarry. The blasting project  
3 should not affect the number of trucks entering and leaving the site. The quarry owners did have  
4 to complete a traffic study with the original CUP. Staff did receive public comment from a  
5 property owner down near Mantua with concerns about blasting. Staff relies upon state and  
6 federal standards to help regulate blasting for quarries. The applicant will have to obtain a federal  
7 permit for blasting and follow all federal guidelines.  
8

9 **Ken McCoy** I represent the owners for this project and work for Three Rivers Blasting who has  
10 been hired for this project.  
11

12 **Sands** is the work going to be focused in a particular area?  
13

14 **Mr. McCoy** yes, they are still going to work in the existing area.  
15

16 **Staff and Commission** discussed the Federal permits. Federal permits have been obtained and  
17 Three Rivers has submitted their State business permit. The Utah State Fire Marshall has a state  
18 blasting permit that they will issue and that permit will need to be submitted to staff when it was  
19 obtained.  
20

21 **White** is there a specific time of day they will be blasting?  
22

23 **Mr. McCoy** federal and state guidelines require that we blast during daylight hours. My guess  
24 would be that the blasting will be between three and five o'clock in the evening; to operate after  
25 that would require special permission on a Federal level.  
26

27 **Gunnell** will that increase the level of dust?  
28

29 **Mr. McCoy** no. There is some dust but generally it is not more than general mining or crushing  
30 creates.  
31

32 **White** are they crushing now?  
33

34 **Mr. McCoy** no.  
35

36 The County Code also regulates the hours of operation for a gravel pit. Currently extractors may  
37 operate between 6 am and 8 pm. From what the applicant representative has stated, Federal  
38 requirements are more restrictive.  
39

40 **Parkinson** motioned to approve the Pisgah Limestone CUP 1<sup>st</sup> amendment with the findings of  
41 fact and conditions; **Watterson** seconded; **Passed 6, 0.**  
42

43 **07:20:00**  
44

45 **Smith** recused himself due to a personal conflict with the next application and **Watterson** took  
46 over as chair.  
47

1 **#5 Cherry Peak CUP 1<sup>st</sup> Amendment (John Chadwick)**  
2

3 **Harrild** reviewed Mr. John Chadwick’s request for approval to amend an existing conditional  
4 use permit (CUP) to allow additional summertime uses at the Cherry Peak Ski Area in the Forest  
5 Recreation (FR40) Zone. The previous request was for winter activities and did not have specific  
6 information regarding summertime activities. There is a boundary line change in this applicant  
7 also; the size of the CUP is being reduced for this permit. The expansion of the CUP would be  
8 for multiple summertime activities. Those activities include weddings and receptions, lift-  
9 assisted mountain biking, concerts and dances, overnight youth campouts and other religious-  
10 group related activities, temporary waterslides, multiple zip lines, horseback riding, climbing  
11 wall(s), Frisbee golf, etc. The applicant’s thought process here is to cover as many activities as  
12 possible so the applicant doesn’t need to come back every time an activity is wanted. Activities  
13 like zip lines are going to require additional construction and will go through the needed reviews  
14 and processes. For access, 11000 North was improved but there are portions of the roadway that  
15 have failed. These have occurred on the steeper slope areas due to water issues, and so staff has  
16 identified that those deficient areas be improved prior to the recordation of this permit. There has  
17 been work done to help with the flow of water and its impacts on the road. In some of those  
18 places it has been very successful and in other areas additional work is going to be needed. The  
19 road department is checking the road and making sure the necessary precautions and work that is  
20 needed is completed. Erosion control is still being worked on but has not been completed yet.  
21 Staff has identified that re-vegetation of those areas needing it must be completed before  
22 recordation of the permit. Staff would like the applicant to provide a different solution than what  
23 has been tried to complete that condition. Water and septic issues were based on 1,000  
24 skiers/day. If the 1,000 people per day is exceeded, additional reviews are required. The  
25 applicant will need to go through a special events permit process to exceed that 1,000. That  
26 would also allow the Bear River Health Department (BRHD) to review the waste management.  
27 The plan so far, if they exceed 1,000 people, is to bus people up to the site and to also go through  
28 the special event permitting process. As for wildlife, the report from the previous CUP stated that  
29 the wildlife should not be impacted beyond what they already have been or less during the  
30 summertime. The areas marked in red on the site map are the existing lifts and the squiggly lines  
31 in orange are the proposed bike trails. So mountain bikers could ride the lift up to the top and  
32 then ride the bike trails down. The proposed zip line is marked in purple on the map. The intent  
33 for storm water control on the bike switchbacks is to push any water into already vegetated areas.  
34

35 **Brett Christensen** I am the contractor that built the road. John asked me to address the road and  
36 erosion questions you have. The hill has all been reseeded; we couldn’t get on the hill because of  
37 the wash outs and it’s been too wet. I tried to get with Jamie Jensen, the road superintendent, but  
38 due to ill health he wasn’t able to meet before today. We did meet today and plan to meet  
39 tomorrow to address Cherry Peak. We’ve had some issues with storm water and the particular  
40 place of the road that has settled, I fixed an area close by last year and I don’t understand why it  
41 has settle there. It’s actually in the area of the existing county road and under the existing road  
42 the grader would bounce over big boulders and lots of red clay. I dug out the boulders but it is  
43 under the original road area not where it was widened.  
44

45 **Parker** but you are going to address all of that tomorrow when you meet?  
46

1 **Mr. Christensen** yes, we are going to have to fix some asphalt and we are going to review it.  
2 I'm actually trying to do it at the same time that the Richmond Canal project. LeGrand has the  
3 contract for that and we are going to try and have them do it at the same time.  
4

5 **Runhaar** I don't think anything on the road and water issues is insurmountable; it just needs to  
6 be finished.  
7

8 **Staff and Commission** discussed the number of people allowed. During the winter time it is  
9 easier to monitor that with the sale of ski tickets. But the parking is limited. They aren't allowed  
10 to park on the side of the road. 1,000 person a day limit is when they are bringing in something  
11 that is going to generate concerts. That is when a special event permit is a good tool to use and  
12 revisit any minimum requirements.  
13

14 **John Chadwick** I don't know if we ever went over 1,000. We only have 300 parking stalls and  
15 industry standards are 2.8 visitors per vehicle. In general our average is significantly lower; the  
16 building has a capacity in excess of 1,000 people per day. Typically a skier doesn't spend the  
17 whole day up there; they spend 3 or 4 hours and are gone. We did have a couple of times where  
18 young single adult wards would come and there wasn't enough parking. What would happen  
19 would people would see there was no parking and drive back down the canyon. I don't know  
20 how to fix that unless you are going to increase it to 1,500 or more parking. In regards to the  
21 1,000 it was more just a shoot from the hip and that was a number that we never thought we  
22 would exceed. I don't know what needs to be done about that. Regarding erosion, the very worst  
23 part is what you see from the lodge because power lines had to go in and we decided we need  
24 more power poles and water lines so it had to be re-dug. Last May was the wettest May we have  
25 ever seen up there. We got 13 inches of rain in 30 days. We fought the excess water and have  
26 conquered most of it. If you go acre by acre there is 10 to 12 acres that need to be redone. If you  
27 go to the back, the vegetation is fabulous and there are no issues. The seeds that we planted last  
28 fall are coming in. It's the steeper areas where we put water bars in and some of those held and  
29 some didn't. We made the water bars deeper and those will stay there until 100% re-vegetation  
30 occurs. Any erosion Brad saw the other day when he was there, has been addressed and is gone.  
31 Additional erosion is smoothed out and reseeded as soon as possible. It's over 80% re-vegetated  
32 and we've made a lot of progress with re-vegetation. We had a very good first season for the  
33 winter but we need to keep the cash flow through the summer also. The number of people  
34 expected for mountain biking is not nearly as many as skiing but we can't people to get in the  
35 habit of coming and buying year round passes. We do plan to have a couple concerts a month.  
36 We have been in contact with the County regarding sewer and we will have to bring in port-a-  
37 potty's to help handle the extra sewer needs. The concern I have with is condition 21. We will  
38 vegetate and re-vegetate until it is done. This is an ongoing process and I anticipate being 100%  
39 done with it by the end of summer. The road was a million dollar upgrade. We anticipate the  
40 road being done in the next week or two. I hesitated putting all the activity requests on here, but  
41 Chris said I should put everything on the list so that we didn't have to come back. The things that  
42 are currently essential are the mountain biking and the concerts. The other activities are things  
43 that happen on all other resorts around the county. We are updating the storm water plan and  
44 working on the mountain bike trails. As for parking, Richmond City has been very cooperative  
45 with having people park down there. They are excited for the additional traffic and sales that will  
46 hopefully be coming.  
47

1 **07:56:00**

2

3 *Parker* motioned to extend the meeting for 15 minutes; *Gunnell* seconded; *Passed 5, 0.*

4

5 **Scott Walker** I represent the Division of Wildlife and Resources (DWR). The DWR owns the  
6 land to the south and west of this. We would like to comment with official written comment; we  
7 would have liked to been notified of this earlier. The Salt Lake office received the letter Monday  
8 and I received information on this yesterday. We haven't had time to look at this and see how  
9 summer activities will impact the wildlife management area. As an example, mountain bikes  
10 have been an issue at previous wildlife management areas. Most will stay on the trails, but if  
11 anyone comes off, it's all downhill and there is a real possibility of trespassing on the Wildlife  
12 area. There is an active shooting range on the property. There are some issues we would like to  
13 comment on with written comment from our director.

14

15 **Watterson** is that your major concern, about people coming onto the Wildlife Management Area?

16

17 **Mr. Walker** and the resource concern that they can cause and what happens when they come on  
18 to it. John has been really good to work with and manage his people and I think we can work  
19 together from a wildlife perspective. But I think there may be some issues we would like to  
20 address and have time to look at the impacts. I don't know what the impacts of a concert would  
21 be on the wildlife. I would like to take a little bit of time and really offer some official comment.

22

23 **Watterson** I think for the original proposal was major concern for the winter activities was  
24 winter range.

25

26 **Mr. Walker** yes, and that is the main reason it was purchased was for winter range, big game  
27 winter range. We do have some other species there; we have turkeys and other wildlife there  
28 during the summer. We also have a natural resource concern from a land management point of  
29 view we would like to address.

30

31 **Christensen** is mountain biking prohibited on wildlife management areas?

32

33 **Mr. Walker** it's the things they do. For example, on the Brigham Face wildlife management  
34 area, mountain bikers have been there. Riding bikes is one thing, but when you go on a hillside  
35 you dig it out and create structures; you build structures that end of being 15 feet high and 40  
36 feet long with 2x4s and those are the things we are concerned with. Not that Cherry Peak would  
37 have the control over that but it is having access. Where this is a gateway for the wildlife  
38 management area, that is a concern for us and the DWR is dealing with it in other areas.

39

40 **Parker** at this point, you're not saying this facility has any problems but you would like time to  
41 address it?

42

43 **Mr. Walker** yes just to make sure we can address how they will address their people and bring  
44 to light the issues that may have a concern to us on a wildlife management area. Like I said, I  
45 heard about this yesterday and my staff has been on spring range assessments and out and around  
46 the county and northern Utah and haven't had the time to look at this real close.

47

1 **Christensen** what did you do to mitigate skiers going on the wildlife management property?  
2

3 **Mr. Walker** define mitigate.  
4

5 **Christensen** I understand you had some signage for the shooting range?  
6

7 **Mr. Walker** yes, and as far as I know we didn't have any problems with skiers coming on to our  
8 property.  
9

10 **Jennifer Parker** I am the district ranger on the Logan Ranger district for the Forest Service. We  
11 didn't receive this letter until Tuesday in our office. We would like to have an opportunity to  
12 provide written comment. We provided written comment in response to the original permit  
13 application and we were one of the folks that asked for further definition on summer activities  
14 that would be happening. We are very supportive of the mountain biking as long as it stays  
15 contained within the boundaries of the ski area. I will echo what Scott said; we are having a lot  
16 of problems in other areas with mountain biking. They are very industrious; we can provide lots  
17 of detailed pictures of hundreds feet off the Powder Mountain Ski area of trails built with wood  
18 that we had to have people go tear out. I think lift assisted mountain biking is great and a great  
19 use of the ski area as long as we can contain it to the ski area. I want to express support to the  
20 County and to John for continuing with efforts to re-vegetate. I hope it is being done with native  
21 species and that we do that before weeds are established. A big concern would be trail  
22 construction and road construction and having weeds right up to the Mount Naomi Wilderness.  
23 We don't want to see weeds introduced there and mechanized and motorized uses are prohibited  
24 there. So mountain bikers extending trails or people going up and accessing with their ATV and  
25 taking off are a concern for us. The one thing that is a concern for the wilderness, I don't have a  
26 concern with concerts and dances because I don't think people will have time to wander into the  
27 wilderness but we do need to realize the impacts of those concerts do impact the wilderness. The  
28 wilderness was created for solitude and that experience for people in the wilderness is taken  
29 away if there is a loud concert or dance going on. The lights from night skiing and that are very  
30 visible so I'm assuming there will be impacts for night time concerts and activities. If there are  
31 ways to mitigate those issues we would like those to be considered.  
32

33 **John** in regards to trespassing, I don't even know there is trespassing, but we have done all we  
34 can to respect the properties on both sides, even to the point that I am a nazi with all employees.  
35 If they start using out of bounds properties to ski, they are fired. We have a business and we have  
36 bills to pay and we have done wildlife studies. I don't want the mountain bikers on DWR or the  
37 state's property if they don't want them there. The one boundary is incredibly thick and a  
38 mountain biker can't go through there. I have planted many pine trees along the boundary to  
39 define the boundary between us and the state of Utah. I can easily put a sign there stating if they  
40 are caught pass the boundary their pass will be revoked. There is an old horse trail that does go  
41 down to the DWR property and we can also create signage there to inform them they will lose  
42 their pass if they go down it. It's not like there is thousands of feet of open area for them to go.  
43 I've been watching the one slope and there are fewer ski tracks on it this winter and my guess is  
44 because of the runs open on the private property. The breeding grounds for the grouse are one  
45 mile to the west and straight up hill from the shooting range. It's a long ways away. In regards to  
46 mountain biking encroaching on the wildlife area, the lift is already done the wire just needs to  
47 be strung. We don't plan on operating three lifts for mountain biking. We would be depositing

1 people in two areas and the distance to the wilderness mile is about 2 ½ to 3 blocks up hill and  
2 we can put signage up warning them their pass will be revoked if they go there. We can put an  
3 end to those types of things very easily. But if this is put off, I anticipate, it will be put off and  
4 we will come to real logical conclusions that I need signage and that if someone is caught on the  
5 wilderness area their pass will be revoked. We've done a good job so far with that and I  
6 anticipate us continuing that. When you have a business and you have bills to pay time is of the  
7 essence. If we spend too much time on this it will really hurt our business model. I would urge  
8 the Commission to move this forward because we provide jobs and would like to continue to  
9 operate.

10  
11 *Sands motioned to continue the item to the next meeting to provide DWR and the Forest Service*  
12 *time to provide written comment; motion died due to lack of a second.*

13  
14 **Christensen** how do you feel about John's comments on signage and things like that?

15  
16 **Scott** if we can work with John I think we can cover most of the issues with the signage and  
17 trespassing.

18  
19 *Parker motioned to approve the Cherry Peak CUP 1<sup>st</sup> Amendment with the findings of facts and*  
20 *conditions of approval; Gunnell seconded; Passed 4, 1 (Sands voted nay).*

21  
22 **Staff and Commission** discussed condition 21 and the possible addition of 23 regarding signage.  
23 The current condition 21 states that no activity can occur on the property until the erosion issue  
24 has been taken care of. John identified that the deepening of the water bars as on solution to the  
25 problem but there could be other solutions out there that have not been discussed. Staff's issue is  
26 making sure that with the new disturbances that the applicant does what needs to be done to keep  
27 the erosion under control and keep seed there. It is not feasible to make them re-vegetate  
28 everything and have it perfect but there needs to be progress made. Condition 21 no longer is in  
29 the document and Condition 20 will be amended to include the concerns for erosion and  
30 controlling it. Condition #23 will be 22 and will state that the applicant must work with the US  
31 Forest Service and Department of Wildlife Management and Resources to address boundary  
32 management issues. If there becomes issues with boundary management Staff has the ability to  
33 recall the permit to come before this board and address it that way. The amended conditions are  
34 as follows:

- 35 "19. Prior to recordation, any failed or damaged sections of 11000 North, including the  
36 roadway surface, base, shoulders, and drainage channels, must be repaired by the  
37 proponent. An encroachment permit is required for any work in the county right-of-way.  
38 20. Prior to recordation, an updated SWPPP must be provided by the applicant to the  
39 Development Services Department that specifically addresses the areas with erosion  
40 issues, including future disturbances.  
41 21. A Cache County Special Event Permit must be obtained for any event or activity where  
42 more than 1,000 persons, including visitors and employees, are at the site.  
43 22. The proponent must work with the US Forest Service and Utah Department of Wildlife  
44 Resources to address boundary management concerns."

45  
46 **08:27:00**

1 **Staff** will do their best to bring storm water before this Commission but there is a deadline of  
2 August to be adopted. Road ordinance language is being worked on and will be brought before  
3 the commission as needed.

4

5 **08:30:00**

6

7 **Adjourned.**