



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 3 January 2019 meeting

5:35 p.m.

Consent Items

1. **Mountain View Meadows Subdivision** – A request to create a new 3-lot subdivision on 6.29 acres located at 5481 West 2000 South, Mendon, in the Rural 2 (RU2) Zone.

Continued Items

2. **Michael Burton Conditional Use Permit** – A request to operate a home based kennel located at approximately 8480 North 2200 West, Amalga, in the Agricultural (A10) Zone.

Regular Action Items

3. **Whisper Ridge Conditional Use Permit 2nd Amendment** – A request to amend an existing conditional use permit (CUP) for a recreational facility by expanding the boundary to include 29 new parcels totaling 9,512 acres in the Forest Recreation (FR40) Zone.
4. **Buena Vista Ranch Subdivision** – A request for a 6-month extension of the effective period of approval for a 6-lot subdivision located on La Plata Ranch Road in the Forest Recreation (FR40) Zone.

Board Member Reports

Staff reports

Adjourn

PUBLIC PARTICIPATION GUIDE: PLANNING COMMISSION

This document is intended to guide citizens who would like to participate in a public meeting by providing information about how to effectively express your opinion on a particular matter and the general powers and limitations of the Planning Commission.

WHEN SPEAKING ON AN AGENDA ITEM

Once the Commission opens the public hearing or invites the public to comment on a public meeting agenda item, approach the podium to comment. Comments are limited to 3 minutes per person, unless extended by the Chair of the Planning Commission.

When it is your turn to speak:

1. State your name and address and the organization you represent, if applicable.
2. Indicate whether you are for or against the proposal.
3. Make your statement.
 - a. Include all pertinent facts within your knowledge;
 - b. Avoid gossip, emotion, and repetition;
 - c. Comments should be addressed to the Commission and not to individuals in the audience; the Commission will not allow discussion of complaints directed at specific individuals;
 - d. A clear, concise argument should focus on those matters related to the proposal with the facts directly tied to the decision you wish the Commission to make without repeating yourself or others who have spoken prior to your statement.

LEGISLATIVE (PUBLIC HEARING) VS. ADMINISTRATIVE (PUBLIC MEETING) FUNCTIONS

The Planning Commission has two roles: as a recommending body for items that proceed to the County Council for final action (legislative) and as a land use authority for other items that do not proceed to the County Council (administrative).

When acting in their legislative capacity, the Planning Commission has broad discretion in what their recommendation to the County Council will be and conducts a public hearing to listen to the public's opinion on the request before forwarding the item to the County Council for the final decision. Applications in this category include: Rezones & Ordinance Amendments.

When acting in their administrative capacity, the Planning Commission has little discretion and must determine whether or not the landowner's application complies with the County Code. If the application complies with the Code, the Commission must approve it regardless of their personal opinions. The Commission considers these applications during a public meeting and can decide whether to invite comment from the public, but, since it is an administrative action not a legislative one, they are not required to open it to public comment. Applications in this category include: Conditional Use Permits, Subdivisions, & Subdivision Amendments.

LIMITS OF JURISDICTION

The Planning Commission reviews land use applications for compliance with the ordinances of the County Land Use Code. Issues related to water quality, air quality, and the like are within the jurisdiction of the State and Federal government. The Commission does not have authority to alter, change, or otherwise act on issues outside of the County Land Use Code.



Item

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Consent Agenda Items

- 1. Orton Minor Subdivision 2nd Amendment 2
- 2. Tom Pitcher Split Subdivision 1st Amendment 2

Regular Action Items

- 3. Michael Burton Conditional Use Permit 2
- 4. Amendment to Title 17.08 regarding Rural 2 and Rural 5 Zones 5
- 5. Elections for Chair and Vice Chair 5

Present: Angie Zetterquist, Chris Harrild, Josh Runhaar, Nolan Gunnell, Brady Christensen, Jason Watterson, Phil Olsen, Lee Edwards

1 **Start Time: 05:30:00**

2 **Christensen** welcomed and **Watterson** gave opening remarks.

3 **05:33:00**

4 **Agenda**

5 Approved with no changes.

6 **05:34:00**

7 **Minutes**

8 *Gunnell* motioned to approve the minutes from 6 December 2018; *Olsen* seconded; **Passed 4, 0.**

9 **05:35:00**

10 **Consent Items**

11 **#1 Orton Minor Subdivision 2nd Amendment**

12 **#2 Tom Pitcher Lot Split Subdivision 1st Amendment**

13 *Watterson* motioned to approve the consent agenda; *Gunnell* seconded; **Passed 4, 0.**

14 **05:35:00**

15 **Regular Action Items**

16 **#3 Michael Burton Conditional Use Permit**

17 **Zetterquist** reviewed the staff report for the Michael Burton Conditional Use Permit (CUP).

18 **Staff** and **Commission** reviewed locations and rough distance estimates of surrounding homes and other
19 property owners' buildings. The definition of primary use was discussed; the difference between a home
20 based kennel and a commercial kennel was explained.

21 **Brett Chambers** spoke on behalf of Mike and Karie Burton and stated there are concerns with condition
22 # 2 and explained the concerns.

23 **Gunnell** asked about the delay requested regarding a certificate of occupancy of a home.

24 **Mr. Chambers** stated the applicant needs to sell their current home before they can build the new home
25 they want to build.

26 **Edwards** asked about how the occupancy and permit would work.

- 1 **Mr. Chambers** stated yes.
- 2 **Runhaar** asked if the home is not occupied, how is the kennel secondary to the home?
- 3 **Mr. Chambers** responded that the home is being built and is a dwelling unit.
- 4 **Runhaar** responded that international building code would state the home is not a dwelling unit during
5 construction. The code states “home”, the definition of a “home” which is defined by somewhere a
6 person dwells, or lives. There is a secondary requirement of a home on site for a home based kennel, if
7 the applicant is going to exceed 12 dogs.
- 8 **Mr. Chambers** responded that he didn’t think that a home is defined by four squares of a building.
- 9 **Harrild** read the code defining home.
- 10 **Harrild** stated that Mr. Chamber’s is saying a home doesn’t have to exist but be designed. You can’t
11 have something that doesn’t exist function as a primary use. For the kennel to avoid qualifying as a
12 commercial use, a dwelling unit has to be present on the property, not conceptually designed.
- 13 **Mr. Chambers** responded that there is a disagreement about the understanding of the definition. The
14 home is being built and the applicant is asking for 8 months. If the home is not done, the permit could be
15 revoked.
- 16 **Edwards** asked if the applicant would occupy the adjacent home until a certificate of occupancy is
17 issued.
- 18 **Mr. Chambers** responded no; the applicant needs to sell the adjacent lot to finance the new construction.
- 19 **Gunnell** commented that a home is how the kennel becomes a home based kennel. If there is no home
20 there, the kennel is commercial.
- 21 **Mr. Chambers** responded he could understand that and asked if there were a well and a foundation,
22 would that qualify for the home definition?
- 23 **Harrild** asked if the intent is to sell the existing home kennel and move the applicant and the dogs to the
24 new property, where are the dogs going to be in relation to the kennel?
- 25 **Mr. Chambers** responded that it is his understanding that the kennel would be there for the dogs to move
26 to. The primary need for the 8 months is for the home to be built and 2-3 months would also be for a
27 kennel to be built.
- 28 **Christensen** stated that the dogs couldn’t be moved to the property without the full kennel being built, or
29 the kennel is in violation of the CUP.
- 30 **Staff** and **Commission** discussed the building of the new kennel, studies for the new kennel, and
31 timeline.
- 32 **Karie Burton** stated that as soon as their current residence sells, they would start construction on the
33 kennel and new home. The new kennel would only take about 1 month to complete. The hope is that the

- 1 new owner of their current home would allow the dogs to stay in the current kennel until the new kennel
2 is completed. She would then have a travel trailer, or some sort of mobile home, while the new home is
3 built.
- 4 **Edwards** asked if a foundation is required for a mobile home.
- 5 **Runhaar** responded for a mobile home to fit the definition, it needs a foundation.
- 6 **Mrs. Burton** asked about a travel trailer.
- 7 **Harrild** responded that a travel trailer does not fit the definition of a dwelling. A kennel has to be
8 secondary to a dwelling unit. If the kennel is in place before the home, the use is allowed to occur before
9 the permit conditions are met.
- 10 **Mrs. Burton** asked even if the travel trailer is temporary? The house is for sure going to be built.
- 11 **Harrild** responded that history of temporary uses in the county is not good.
- 12 **Mrs. Burton** asked if a travel trailer or home was on the Amalga side of the property.
- 13 **Harrild** responded that the current home is in a different jurisdiction, but the proposed kennel and house
14 are in the county.
- 15 **Christensen** responded that there would be no dwelling in the county at that point.
- 16 **Mrs. Burton** asked if the only way to move the dogs to the new kennel was to have the finished home.
- 17 **Harrild** responded yes. A certificate of occupancy for the new home must be obtained before the dogs
18 could be moved.
- 19 **Mrs. Burton** asked if she could move the dogs and not do business.
- 20 **Harrild** responded no; that still would violate the code.
- 21 **Mr. Chambers** commented that a trailer home, in order to qualify as a single family residence, it does
22 have to have a permanent foundation but does not require a foundation to qualify as a dwelling unit.
- 23 **Michael Burton** stated that he asked a building inspector what defined a dwelling or a single family unit.
24 The building inspector stated that a trailer cable tied down to footings could qualify as a dwelling or
25 single family unit.
- 26 **Harrild** responded that he would have to check with the building inspector to see if that would qualify.
- 27 **Gunnell** asked if the applicants could lease or rent the current facility and home until the new house is
28 built.
- 29 **Mrs. Burton** responded that would be the ideal case.

1 **Staff** and **Commission** discussed how leasing the new home would work and how it may require a
2 variance procedure as the kennel must be secondary to a home, as required by the code.

3 **Mr. Chambers** asked if the trailer cabled down would meet the primary use of the lot and if that would
4 make two primary dwellings.

5 **Harrild** responded yes.

6 **Mr. Chambers** asked if that was going to create an issue.

7 **Harrild** responded that there would need to be a permit for the first structure or trailer, in order to get a
8 permit for the second dwelling the first structure or dwelling would have to be removed.

9 **Mr. Chambers** responded that it is being read as occupied and the ordinance doesn't state that. The
10 ordinance states designed for occupation.

11 **Staff** recommended that the item be continued up to the next meeting in order for a full legal review to be
12 conducted.

13 *Watterson* motioned to continue the Michael Burton Conditional Use Permit to February 7, 2019;

14 *Gunnell* seconded; **Passed 4, 0.**

15 **6:39:00**

16 **#4 Amendment to Title 17.08 regarding Rural 2 & Rural 5 Zones**

17 **Runhaar** stated staff is trying to schedule a meeting between the County Council and the Planning
18 Commission for a discussion on the Amendment to Title 17.08.

19 **Staff** and **Commission** discussed what the County Council has expressed regarding the RU2 and RU5
20 zones, and the affects to property owners.

21 **6:57:00**

22 **#5 Elections for Chair and Vice Chair**

23 *Watterson* motioned to nominate Brady Christensen as Chair and Nolan Gunnell as the Vice Chair;

24 *Olsen* seconded; **Passed 4, 0.**

25 **7:00:00 pm**

26 **Adjourned**

STAFF REPORT: MOUNTAIN VIEW MEADOWS SUBDIVISION

7 FEBRUARY 2019

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: Sara Lemon

Parcel ID#: 11-033-0004

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Planning Commission

LOCATION

Reviewed by Angie Zetterquist

Project Address:

5481 West 2000 South
Mendon

Current Zoning:

Rural 2 (RU2)

Acres: 6.29 acres

Surrounding Uses:

North – Mendon City

South – Agricultural/Residential

East – Agricultural/Residential

West – Agricultural/Residential



FINDINGS OF FACT (19)

A. Request description

1. The Mountain View Meadows Subdivision is a request to create a 3-lot subdivision on a 6.29 acre property in the Rural 2 (RU2) Zone.
 - a. Lot 1 will be 2.0 acres,
 - b. Lot 2 will be 2.0 acres, and
 - c. Lot 3 will be 2.29 acres.

B. Parcel legality

2. Parcel status: The property is a legal lot and has been in the generally the same size and configuration since at least 1970, which shows the lot at 6.25 acres. A Zoning Clearance was issued in 1994 for a new single-family dwelling on the property. In October 2018, the applicant

submitted an application for a rezone request to change the zoning to Rural 2 (RU2). That request was approved by County Council on November 27, 2018.

C. Authority

3. §17.02.030 [E] Authority for Land Use Actions – The Planning Commission is authorized to act as the Land Use Authority for subdivision amendments. *See conclusion #1.*

D. Culinary water, septic system, and storm water

4. §16.04.080 [A] Water Requirements – A domestic, approved water right is required for each of the lots. The State Division of Water Rights has an approved water right (#25-9393) on file for the existing single-family dwelling on Lot 1. Two new domestic water rights for Lots 2 & 3 were recently approved (#25-11541/a44140).
5. §16.04.080 [B] Sewage Requirements – All proposed lots require a Bear River Health Department (BRHD) review to determine feasibility of a septic system on the subject property. Lot 1 has an existing home with a septic system and the applicant provided a copy of a septic feasibility letter from BRHD for proposed Lots 2 & 3.
6. §16.04.070 Storm Drainage Requirements – A Land Disturbance Permit is required for any future development. *See condition #1.*

E. Access

7. The subject property has frontage along and gains access from 2000 South and 5400 West, both county roads.
8. §12.02.010 adopts the Manual of Roadway Design and Construction Standards (Road Manual) for roadway improvement requirements.
9. The Road Manual specifies the following:
 - a. Local Road: Roads with approximately 40 to 1500 Average Daily Traffic (ADT). This includes roadways that have the capacity for moderate to low speeds and moderate volumes. This category provides a balance between through traffic movements and direct access. These facilities move both regional and local rural traffic with emphasis on local movements.
 - b. Local Roads must meet the minimum standard of two, 10-foot wide paved travel lanes with 2-foot wide shoulders: 1-foot paved, 1-foot gravel (24 feet total width), 14-inches depth of granular borrow, a 6-inches depth of road base, 2.5-inches of bituminous surface course (asphalt), and a 66-foot wide right-of-way (ROW).
 - c. §2.4-A-1-c: Development on inadequate roadways is not allowed, and any substandard sections of roadway access must be improved to meet the minimum standards specified in the Road Manual.
 - d. Table A-8 Typical Cross Section Structural Values: The minimum structural composition for gravel roads requires 14” depth of granular borrow, 6” depth of road base, and paved roads required an additional 2.5” depth of asphalt.
 - e. §2.4-A-4-b: The review of requests for development on existing roadways must occur through the Design Exception process.
 - f. §1.8 Authority and Design Exception: Consideration and evaluation of a design exception to the Road Manual standards requires full justification and documentation explaining the reasoning as to why the roadway standards cannot be met, why an alternative design or construction method can meet the intent of the roadway standards, and including any other relevant information.

10. A basic review of 2000 South identifies the following:
 - g. Is an existing county facility that provides access to the general public.
 - h. Is also identified as 600 South as it passes through a portion of Mendon east of State Route 23.
 - i. Currently provides access to multiple dwellings, vacant lots, and agricultural parcels.
 - j. Consists of an average 24-foot paved width with 8-foot wide gravel shoulders.
 - k. Has an unknown depth and type of material under the surface.
 - l. Is maintained year round. *See condition #3*
11. A basic analysis of 5400 West identifies the following:
 - a. Is an existing county facility that provides access to the general public.
 - b. Currently provides access to multiple dwellings, vacant lots, and agricultural parcels.
 - c. Consists of an average 26-foot paved width with 6-foot wide gravel shoulders.
 - d. Has an unknown depth and type of material under the surface.
 - e. Is maintained year round. *See condition #3*

F. Service Provision

12. §16.04.080 [C] Fire Control – The County Fire District evaluated the access road to the subdivision and determined that the access road meets fire code, but future access to the individual properties must be reevaluated and may require improvements based on the location of any proposed structure on the respective lots. Water supply for fire suppression is provided by the Mendon Fire Department.
13. §16.04.080 [F] Solid Waste Disposal – Logan City Environmental has identified that collection for the proposed lots will occur on the north side of 2000 South for Monday collection. The applicant must provide sufficient shoulder space along the highway for the refuse and recycling containers to be 3-to-4 feet apart and be placed far enough off the road for collection trucks to not interfere with passing traffic.

G. Sensitive Areas

14. §17.08.040 General Definitions, Sensitive Area; §17.18 Sensitive Area
 - a. A canal runs along north to south through Lots 2 & 3. Any development in this area must comply with code requirements and must comply with requirements from the Bear River Health Department pertaining to the distance between the canal and the septic systems and drain fields. *See condition #2*

H. Public Notice and Comment—§17.02.040 Notice of Meetings

15. Public notice was posted online to the Utah Public Notice Website on 23 January 2019.
16. Notice was published in the Herald Journal on 26 January 2019.
17. Notices were posted in three public places on 23 January 2019.
18. Notices were mailed to all property owners within 300 feet of the subject property and to Mendon City on 24 January 2019.
19. At this time, no written public comment regarding this proposal has been received by the Development Services Office.

CONDITIONS (3)

Based on the Cache County Subdivision and Land Use Ordinances, Road Manual, and on the findings of fact as noted herein, staff recommends the following conditions:

1. A Land Disturbance Permit is required for any future development. (*See D-6*)
2. Future development must comply with distance requirements from the canal per County Code and the Bear River Health Department. (*See G-14*)
3. Prior to recordation, the applicant must work with the County Engineer to determine if the depth and type of material on both 2000 South and 5400 West meets the requirements of the Road Manual. If the depth and type of materials does not meet the requirements, the applicant must

work with the County Engineer to make the necessary road improvements or submit a request for and obtain approval of a design exception. Confirmation from the County Engineer will be required to ensure issues with the roads have been resolved prior to recordation. (*See E-10, E-11*)

CONCLUSIONS (1)

Based on the findings of fact and conditions noted herein, staff recommends approval of the Mountain View Meadows Subdivision as:

1. It has been reviewed by the Planning Commission in conformance with, and meets the requirements of, the Cache County Subdivision and Land Use Ordinances.

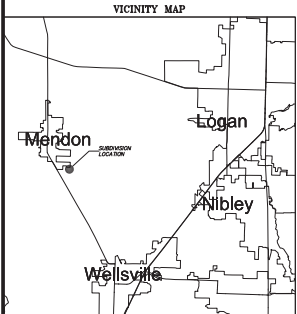
PROPOSED MOUNTAIN VIEW MEADOW ESTATES
 A PART OF LOT 8, BLOCK 17, PLAT "A" MENDON CITY FARM SURVEY
 LOCATED WITHIN THE N.W. 1/4 OF SEC. 16, T.11N., R.1W., S.L.B.&M.
 JANUARY 2019

SURVEYOR'S NARRATIVE

This Subdivision Plat was requested by Sara Lemon for the purpose of creating three lots. A record of survey, #2012-0034, of this property has previously been performed and was held for the identification of the Subdivision Boundary as shown.



| CURVE TABLE | | | | | | |
|-------------|--------|---------|---------|-----------|--------|---------------|
| CURVE | LENGTH | RADIUS | TANGENT | BELTA | CHORD | CHORD BEARING |
| C1 | 35.00' | 160.00' | 17.57' | 12°35'06" | 34.92' | N61°19'15"W |
| C2 | 17.62' | 100.00' | 8.83' | 10°05'44" | 17.60' | N40°00'19"W |
| C3 | 15.68' | 30.00' | 8.00' | 29°56'19" | 15.50' | N49°55'34"W |
| C4 | 3.93' | 50.00' | 1.75' | 4°20'17" | 3.93' | N62°38'36"W |
| C5 | 3.50' | 50.00' | 1.97' | 4°00'47" | 3.50' | N58°23'04"W |

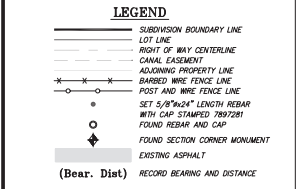


Record of Survey Number 1996-0063

Aaron J. & Andrea M. Christy
 Parcel 11-033-0003

SUBDIVISION NOTES

- CACHE COUNTY HAS NOT DETERMINED THE AVAILABILITY OR ADEQUACY OF CULINARY WATER TO ANY OF THE LOTS IDENTIFIED. ALL OWNERS ARE ADVISED OF THE REQUIREMENTS TO OBTAIN AN APPROVED CULINARY WATER SOURCE AND COMPLY WITH ALL OTHER REQUIREMENTS FOR THE ISSUANCE OF A ZONING CLAUSEMENT PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
- CURRENT AND FUTURE PROPERTY OWNERS MUST BE AWARE THAT THEY WILL BE SUBJECT TO THE RIGHTS, DUTIES, AND LIABILITIES ASSOCIATED WITH AGRICULTURAL ACTIVITIES WHICH ARE PERMITTED USES IN THE AGRICULTURAL ZONE AND THE FOREST PROFESSIONAL ZONE.
- COMPLIANCE WITH THE STANDARDS OF THE CACHE COUNTY MANUAL OF ROADWAY DESIGN AND CONSTRUCTION STANDARDS AND STATE OF UTAH STORM WATER MANAGEMENT ARE REQUIRED. THIS INCLUDES BUT IS NOT LIMITED TO ANY INCREASED LEVEL OF STORM WATER DRAINAGE FROM ANY PORTION OF ANY LOT OR REMAINDER PORTION OF THIS SUBDIVISION TO ANY ADJACENT PROPERTIES, DITCHES, CANALS, OR WATERWAYS, OR THE ALTERATION OF ANY EXISTING HISTORIC OR NATURAL DRAINAGE WAYS FROM WRITTEN AUTHORIZATION PROVIDED BY THE ERECTED PARTY OF ENTRY (MAY INCLUDE BUT IS NOT LIMITED TO ADJACENT PROPERTY OWNERS, DITCH OR CANAL COMPANY, CACHE COUNTY, OR THE STATE WATER OWNERS OFFICE).



COUNTY ATTORNEY APPROVAL

I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND APPROVE THIS PLAT AS TO FORM AS REQUIRED BY STATE LAW AND COUNTY ORDINANCE.

SIGNED THIS _____ DAY OF _____, 2019

 CACHE COUNTY ATTORNEY

DEPUTY COUNTY SURVEYOR'S CERTIFICATE

I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND THAT IT IS CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE, AND FURTHER, IT MEETS THE MINIMUM STANDARDS FOR PLATS REQUIRED BY COUNTY ORDINANCE AND STATE LAW.

SIGNED THIS _____ DAY OF _____, 2019.

 DEPUTY COUNTY SURVEYOR

BEAR RIVER HEALTH DEPARTMENT APPROVAL

THE SUBDIVISION DESCRIBED IN THIS PLAT HAS BEEN APPROVED BY THE BEAR RIVER HEALTH DEPARTMENT ON THE _____ DAY OF _____, 2019.

SIGNED THIS _____ DAY OF _____, 2019.

BY: _____
 TITLE: _____

CACHE COUNTY PLANNING COMMISSION

THIS PLAT WAS RECOMMENDED FOR APPROVAL/DENIAL BY THE PLANNING COMMISSION ON THE _____ DAY OF _____, 2019.

DATED THIS _____ DAY OF _____, 2019.

BY: _____
 CHAIR

CACHE COUNTY COUNCIL

THIS PLAT WAS APPROVED AND ACCEPTED BY THE CACHE COUNTY COUNCIL ON THE _____ DAY OF _____, 2019.

BY: _____
 CHAIR

DATED THIS _____ DAY OF _____, 2019.

ATTEST: _____
 CACHE COUNTY CLERK

SURVEYOR'S CERTIFICATE

I, DEVON J. ANDERSON, HOLDING LICENSE NUMBER 7897281 IN ACCORDANCE WITH TITLE 66, CHAPTER 23, PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT, HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH UTAH CODE TITLE 17, CHAPTER 23, SECTION 17, AND HAVE VERIFIED ALL MEASUREMENTS AND PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

SEALED AND SIGNED THIS DAY OF _____, 2019.

SUBDIVISION BOUNDARY DESCRIPTION

PART OF LOT 8, BLOCK 17, PLAT "A", MENDON CITY FARM SURVEY, LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 11 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 8, BLOCK 17, MENDON CITY FARM SURVEY PLAT "A", SAID POINT BEING SOUTH 00°11'30" EAST 1,278.84 FEET ALONG THE WEST LINE OF SECTION 17, TOWNSHIP 11 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND SOUTH 88°28'14" EAST 6,653.43 FEET FROM THE NORTHWEST CORNER OF SECTION 17, TOWNSHIP 11 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (BASE OF BEARING BEING NORTH 00°11'30" WEST BETWEEN THE WEST QUARTER CORNER AND THE NORTHWEST CORNER OF SECTION 17) RUNNING THENCE:

NORTH 88°28'14" WEST 662.19 FEET (NORTH 88°22' WEST 10.09 CHAINS PER RECORD) ALONG THE SOUTH LINE OF SAID LOT 8, TO THE EXTENSION OF A NORTH AND SOUTH FENCE LINE; THENCE

NORTH 01°08'12" EAST 410.61 FEET (NORTH 01°35' EAST 6.22 CHAINS PER RECORD) ALONG SAID NORTH AND SOUTH FENCE LINE AND ITS EXTENSION, TO THE INTERSECTION OF AN EAST AND WEST FENCE LINE; THENCE

SOUTH 88°31'12" EAST 665.02 FEET (SOUTH 88°22' EAST 10.06 CHAINS PER RECORD) ALONG THE EAST AND WEST FENCE LINE; TO THE EAST LINE OF SAID LOT 8; THENCE

SOUTH 01°31'46" WEST 415.04 FEET (SOUTH 01°35' WEST 6.22 CHAINS PER RECORD) ALONG SAID EAST LINE OF SAID LOT 8, TO THE POINT OF BEGINNING.

CONTAINING: 273,946.77 SQUARE FEET OR 6.289 ACRES

OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND DO HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND PUBLIC EASEMENTS AS SHOWN ON THE PLAT AND NAME SAID PLAT:

MOUNTAIN VIEW MEADOW ESTATES

AND DO HEREBY DEDICATE AND RESERVE UNTO THEMSELVES, THEIR HEIRS, THEIR GRANTEEES AND ASSIGNS, A RIGHT OF WAY TO BE USED IN COMMON WITH ALL LAND OWNERS WITHIN SAID SUBDIVISION ON, OVER, OR ACROSS ALL THOSE PORTIONS OR PARTS OF SAID TRACT DESIGNATED ON SAID PLAT AS PRIVATE STREETS, TO BE MAINTAINED BY AN OWNERS ASSOCIATION WHOSE MEMBERSHIP CONSISTS OF ALL LAND OWNERS WITHIN SAID SUBDIVISION SERVICED BY SAID RIGHT OF WAY, THEIR GRANTEEES, SUCCESSORS OR ASSIGNS, AND ALSO GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON, AND UNDER THE LANDS DESIGNATED ON THE PLAT AS PUBLIC UTILITY EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS _____ DAY OF _____, 2019.

ACKNOWLEDGMENT

STATE OF _____ } SS
 COUNTY OF _____ }
 THE FOREGOING INSTRUMENT WAS PERSONALLY ACKNOWLEDGED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC THIS _____ DAY OF _____, 2019, BY _____
 WHO PROVED ON BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT.
 WITNESS MY HAND AND OFFICIAL SEAL.

 NOTARY PUBLIC

Prepared By: **ANDERSON SURVEYING**
 P.O. BOX 237
 MENDON, UTAH 84325
 (435) 780-7442

Prepared For: Sara Lemon
 5481 West 2000 South
 Mendon, Utah 84325

Property Owner: Sara Lemon
 5481 West 2000 South
 Mendon, Utah 84325

CACHE COUNTY RECORDER
 FILED FOR RECORD & RECORDED
 AS ENTRY NUMBER _____
 FOR: _____
 THIS _____ DAY OF _____, 2019.
 P.L. _____ AT _____ IN BOOK _____
 OF PLATS PAGE _____ FEE _____

 CACHE COUNTY RECORDER

Found Northwest Cor. Sec. 17 Cache County, 1.6" Alum. Cap Good Condition

Found West 1/4 Sec. 17 Forest Service, 3" Alum. Cap 2010, Good Condition

Gary D. Bradshaw & Wf. Janice W. Parcel 11-033-0014

Jonathan W. Hardman Blat Parcel 11-033-0019

Randall R. & Dawna A. Cook Parcel 11-033-0008

P. O. B.

Red Fox Minor Subdivision

STAFF REPORT: MICHAEL BURTON CONDITIONAL USE PERMIT

3 January 2019

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: Michael Burton

Parcel ID#: 08-013-0006

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Planning Commission

PROJECT LOCATION

Reviewed by Angie Zetterquist

Project Address:

~8480 North 2200 West

Amalga

Current Zoning:

Agricultural (A10)

Acres: 10.0

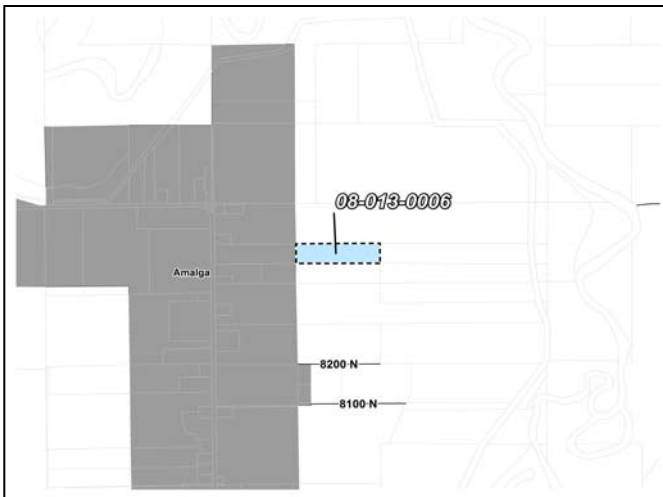
Surrounding Uses:

North – Agricultural

South – Agricultural/Residential

East – Agricultural

West – Agricultural/Residential/Amalga



FINDINGS OF FACT (29)

A. Request description

1. The Michael Burton Conditional Use Permit (CUP) is a request to operate a home based kennel, Use Type 3200, on a 10.0 acre property located in the Agricultural (A10) Zone.
2. Per the Letter of Intent (Attachment A), the applicant is proposing to operate a home based kennel with up to 50 adult dogs in a 576-square-foot building. The applicant currently operates the same type of facility on the parcel immediately to the west of the subject property in Amalga Town. The applicant has stated the Amalga property will be sold and they will build a home and shift their operation to the subject property. **See condition #1**
 - a. Construction
 - i. The applicant has provided a site plan that shows a general layout of the subject property (Attachment B).

- ii. The subject property is currently vacant. In the Letter of Intent, the applicant states a new home (approximately 2,220 square feet) will be built to accommodate the requested home based kennel and a separate 24' x 24' structure will be built to house the kennel. As the request is for a home based kennel, the new home must be constructed prior to recordation of the CUP for the kennel use. *See condition #2*
 - iii. Per the Letter of Intent, the kennel will be built per the United States Department of Agriculture (USDA) specifications and will be insulated with waterproof walls. The structure will also be equipped with heating and air-conditioning. There will be dog doors around the kennel that allows the dogs to exit the kennel into a cement run enclosed with a chain link fence. Beyond the chain link fence is a yard for the dogs surrounded by a 6-foot tall vinyl fence to ensure the dogs are confined to the area and to limit unauthorized entry.
- b. Operation
- i. The applicant states that the kennel will operate in the same manner as their current facility. The current facility, as confirmed by the facility's website (www.paradisevalleyschnauzers.com), operates as a limited liability company, Paradise Valley Schnauzers, LLC, registered with the State of Utah.
 - ii. The website is active and provides detailed information about the operation including providing lists of available puppies, prices (\$1,800-3,500/puppy), breeding pairs, and expected litters. The facility also provides genetic testing services for their puppies as well as delivery to buyers via major airlines.
 - iii. Included on the website is a copy of the facility's USDA license, which indicates that the facility is license as a Class A Breeder (Certificate #87-A-0052) under the Animal Welfare Act (7 U.S.C. 2131, et seq) (Attachment C). The Animal Welfare Act was enacted to protect certain animals from inhumane treatment and neglect and applies to dealers, exhibitors, transporters, and researchers and exempts normal farm-type operations that raise, or buy, or sell animals only for food or fiber (i.e., dairy farms). Paradise Valley Schnauzers, LLC, does not fall into any exempt business under the Act and is required to be regulated as they do not qualify as "hobby dealers" (i.e., small scale breeders with gross sales under \$500) or "retail pet stores" or "direct sales" both of which require that the pets are sold in person at a place where the seller, buyer, and animal are all physically present. Information provided on the applicant's website indicates that most puppies are sold to out-of-state customers and shipped by major airlines.
 - iv. In the letter of intent, the applicant states there will be no employees other than the residents of the new home. Additionally, customers do not visit the property.
 - v. There is no signage proposed for the proposed use and any equipment associated with the use is stated to be "regular yard equipment" in the letter of intent.
 - vi. Kennel waste will be collected in buckets with sealed lids and transported to the landfill.

B. Parcel Legality

- 3. The subject property has not changed size or configuration since August 8, 2006 and is a legal parcel. There are no existing structures on the property.

C. Conditional Uses *See conclusion #1*

- 4. §17.06.050-B, Conditional Uses, directs the Land Use Authority to review conditional use permit (CUP) requests based on the standards and criteria that are defined therein and include:
 - a. Compliance with law;

- b. Health, safety, and welfare;
- c. Adequate service provision;
- d. Impacts and mitigation.

D. Compliance with law *See conclusion #1*

5. The County Land Use Ordinance stipulates that:
 - a. The proposed conditional use must comply with the regulations and conditions specified in the County Code and other applicable agency standards for such use.
 - b. The proposed conditional use must be consistent with the intent, function, and policies of the Cache County General Plan, Ordinance(s), and land use, and/or compatible with existing uses in the immediate vicinity.
6. §17.02.060, Establishment of Land Use Authority, authorizes the Planning Commission to act as a Land Use Authority for a CUP. *See conclusion #2*
7. The parcel that is the subject of the conditional use permit request is a legal parcel zoned Agricultural (A10).
8. §17.07.030, Use Related Definitions defines this use as:

3200 HOME BASED KENNEL: Any establishment, accessory to a dwelling unit and/or adjacent to a neighboring parcel under the same ownership, at which seven (7) or more adult dogs are boarded, groomed, bred, raised, and/or otherwise kept. This excludes a single, incidental litter in a twelve (12) month period. A home based kennel must comply with the following requirements:

1. A home based kennel shall consist of no more than twelve (12) adult dogs. More than twelve (12) dogs may be permitted as a home based kennel if it is otherwise shown by the applicant that:
 - a. Impacts can be mitigated by distance, vegetation, geography, and/or structures.
 - b. The kennel is secondary to the home and the use of the property is not primarily for commercial purposes.
 2. All kennel facilities must be a minimum of fifty feet (50') from the property boundary.
 3. Noise levels from the kennel shall not exceed ten (10) decibels (dBA, Leq) above the existing ambient noise levels at the property line at any time of day or night. A sound level impact and assessment report prepared and signed by a qualified professional must be provided at the time of application to support the same.
9. §17.09.030, Schedule of Uses by Zoning District, permits this use as a CUP in the Agricultural (A10) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses as noted.
 10. Commercial kennel: Per the applicant, the number of adult dogs proposed for the requested home based kennel is between 42-50.
 - a. A commercial kennel/animal shelter (Use Type 3300), per the County Code definition, is any establishment at which the boarding, grooming, breeding, raising, and/or otherwise keeping of thirteen (13) or more adult dogs or cats is the primary use of a legal parcel or the requirements of a home based kennel cannot be met.

11. **In response to the questions regarding the definitions found in Title 17.07 that relate to 3200 Home Based Kennel, as posed by the applicant's counsel, Mr. Chambers, Attachment F has been provided.**

Health, safety, and welfare See conclusion #1

12. The County Land Use Ordinance stipulates that:
- a. Proposed CUP's must not be detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A conditional use shall be considered detrimental if:
 - i. It causes unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar risks, and/or;
 - ii. It unreasonably interferes with the lawful use of surrounding property.
13. The primary activity of the proposed home based kennel is to house and breed up to 50 adult dogs in a 576-square-foot structure located on the same property as the operators' residence. There are no employees and customers do not visit the property.
14. The proposed home based kennel facility will be located on a 10-acre property and is largely surrounded by agricultural properties. The closest residence is the applicant's existing home located approximately 400 feet west of the property line for the proposed facility.

E. Adequate service provision See conclusion #1

15. The County Land Use Ordinance stipulates that:
- a. The proposed conditional use must not result in a situation that creates a need for essential services that cannot be reasonably met by local service providers, including but not limited to: Roads and year round access for emergency vehicles and residents, fire protection, law enforcement protection, schools and school busing, potable water, septic/sewer, storm water drainage, and garbage removal.
16. Access: The subject property does not have frontage along a public or private road and is land locked.
- a. §16.04.040 [A] Roads – All roads must be designed and constructed in accordance with Title 12 of the County Code.
 - b. §12.02.010 Roadway Standards – Requirements for roadway improvement are provided in the current Manual of Roadway Design and Construction Standards (Road Manual).
 - c. §16.04.080 [E] Roads and Access – A basic road review is required and must consider:
 - i. The layout of proposed roads;
 - ii. An analysis of existing roadway compliance with the Road Manual requirements;
 - iii. Existing maintenance;
 - iv. And any additional impacts to the proposed development access roads.
17. A basic review of the access to the subject property identifies the following:
- a. The proposed kennel facility will gain access from 2400 West, an Amalga Town road, and then cross parcel 08-013-0005 along a private driveway easement to the subject property.
 - b. 2400 West:
 - i. Is an existing Amalga Town facility that provides access to the general public and is under the jurisdiction of Amalga Town.
 - ii. Per §5.6(A) of the Road Manual, no development within the unincorporated County shall be permitted to utilize a roadway for direct access that is under the jurisdiction of a municipality without express written approval from the affected municipality.
 - iii. The applicant has provided a letter from the Mayor of Amalga Town, David Wood, dated September 1, 2018, giving approval for access off of 2400 West. (Attachment E) **See condition #3**
 - c. Private driveway:
 - i. A proposed private driveway must meet all requirements of the Fire Department and the Road Manual including the construction of a turnaround. **See condition #4 & #5**

18. Parking:

- a. §17.22 Off Street Parking Standards – All uses included under Use Index 3000, Sales and Services, require either one parking space per 250 square feet or a Parking Analysis be conducted to determine the required number of parking spaces needed to demonstrate that sufficient accommodation has been made for the volume of traffic expected to be generated by the size and type of the proposed use. Additionally, if the use requires more than 5 parking stalls, a Parking Analysis that conforms to §17.07.040 General Definitions and §17.22 Off Street Parking Standards must be completed and include evidence of licensure from the State of Utah for the licensed professional who prepares the document.
 - i. Based on the square footage of the proposed kennel structure (576 square feet), 3 parking spaces would be required.
 - ii. The applicant has stated in his letter of intent that no customers at the property and they are closed to visitors at all times.
 - iii. Given that the proposed use, both based on the square footage of the kennel structure and the letter of intent, will require less than 5 parking spaces, a parking analysis prepared by a licensed professional is not required. In lieu of a parking analysis, the applicant must submit a site plan that demonstrates a parking area for three vehicles is available in the driveway for the residence or another permitted location. *See condition #6*

19. Solid Waste Disposal – Logan City Environmental currently provides collection services on Mondays along 2400 West. Sufficient shoulder space must be provided along the side of the road for all refuse and recycle containers. Containers must be placed 3 to 4 feet apart and located far enough off the road as to not interfere with passing traffic.

20. Fire Control – The County Fire District has reviewed the proposed use and did not have any concerns with the use. Any future development on the property must be reevaluated and may require improvements based on the location of any proposed development.

21. Water Requirements – Kennel facilities do not require confirmation of water rights, but proof of a domestic culinary water right is required for the single-family residence that is part of the home based kennel. *See condition #2*

22. Septic – A septic feasibility analysis is not required for kennel facilities. However, a septic system is required for the new residence associated with the home based kennel. *See condition #2*

F. Impacts and mitigation *See conclusion #1*

23. Utah Code Annotated §17-27a-506, Conditional uses, item 2-a specifies that “A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”

24. The County Land Use Ordinance stipulates that:

- a. Reasonably anticipated detrimental effects of the proposed conditional use must be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards.
- b. Examples of potential negative impacts include but are not limited to odor, vibration, light, dust, smoke, noise, impacts on sensitive areas as defined by the Code, and/or disruption of agricultural practices.

25. Known or reasonably anticipated detrimental effects of the use are as follows:

- a. The definition for a home based kennel requires that the kennel be secondary to a dwelling unit and limits the number of adult dogs to 12 unless impacts can be mitigated by distance, vegetation, geography, and/or structures.

- i. The applicant has stated in the letter of intent that a 2,200-square-foot new home is being built on the subject property; a commercial kennel does not permit a single family dwelling, although a 1,000-square-foot caretaker unit could be constructed on-site per the Code. *See condition #2*
 - ii. The subject property is 10-acres in size and generally surrounded by agricultural uses with the closest residence being the applicant's existing residence and kennel located on the parcel immediately west of the proposed site, which will be sold.
 - iii. The proposed kennel structure will be a separate building and is required to be located a minimum of fifty feet (50') from the property line.
 - iv. The proposed kennel must be accessory to the new single-family residence and meet setback and noise requirements of the Code to mitigate the anticipated detrimental effects of the proposed 42-50 dog home based kennel. If the requirements cannot be met, the applicant must apply and obtain the required approvals as a commercial kennel. *See conditions #2 & #7*
- b. Noise: The proposed use may result in negative noise impacts on the surrounding properties. A sound level impact and assessment report has been provided (Attachment D). This report identifies that measurement were taken to identify whether noise levels at the site due to the presence of a dog kennel exceeded 10 dBA (Leq) over ambient conditions at any time of the day or night. The result of the study indicated that noise level did not exceed the county requirement for a home based kennel. Any detrimental noise effect must be mitigated by the applicant so as to limit the impact on surrounding properties. *See condition #8*

G. Public Notice and Comment—§17.02.040 Notice of Meetings

- 26. Public notice was posted online to the Utah Public Notice Website on 20 December 2018.
- 27. Notice was published in the Herald Journal on 22 December 2018.
- 28. Notices were posted in three public places on 20 December 2018.
- 29. Notices were mailed to all property owners within 300 feet of the subject property and to Amalga Town on 20 December 2018.
- 30. At this time, no written public comment regarding this proposal has been received by the Development Services Office.

CONDITIONS (8)

These conditions are based on the Cache County Land Use Ordinance and on the findings of fact as noted herein:

- 1. The applicant and operator(s) must abide by the information as provided in the application and the information as identified in this report and must comply with the conditions of approval. Any expansion or modification of the proposed use must obtain the approval of the Land Use Authority. *See A-2*
- 2. Prior to recordation, a certificate of occupancy must be issued for the new single-family residence on the subject property. The new single-family residence and kennel may be constructed at the same time, but the kennel cannot operate until a certificate of occupancy has been issued for the residence and the permit recorded. Alternatively, per the Code, a kennel may be built on the subject property if the adjacent property remains owned ~~and occupied~~ by the same owner, ~~of the subject property who is the kennel operator.~~ The Code also allows a mobile home to serve as a dwelling unit on the subject property if it is constructed on a permanent foundation and connected to required utilities. In the event that the adjacent property is sold and no longer shares ownership with the subject property and there is no dwelling unit constructed on the subject property, the CUP is void and the kennel operation

must cease. If a mobile home is used as a dwelling unit on the subject property and it is removed for any reason, the CUP is void and the kennel operation must cease. Only one dwelling unit is allowed per lot. See A-2-a-ii, F-21, F-22, G-23-a-i, G-25-a-iv *2nd Revision 7 February 2019*

3. Prior to recordation, the applicant must complete any road improvements on 2400 West required by Amalga Town for the access to the subject property. The applicant must obtain any required Amalga Town permitting for access from 2400 West and provide a copy of said requirement and permitting to the Development Services Office. *See F-17-b*
4. Prior to recordation, the applicant must improve the private driveway that provides access to the subject property to meet the requirements of the Fire Department, including adding a turnaround. The plans must be reviewed and approved by the Fire Department to ensure that the turnaround meets the minimum standards for fire access. At the completion of the work, the applicant must provide written approval from the Fire Department to the Development Services staff that the driveway and turnaround meets fire requirements. *See F-17-c*
5. A copy of the recorded easement across parcel 08-013-0005 to the subject property must be provided to Development Services staff upon the sale of parcel 08-013-0005. *See F-17-c*
6. Prior to recordation, the applicant must submit a site plan that identifies a parking area for three vehicles either in the driveway for the new single-family residence or in another permitted location. *See F-18*
7. The applicant must comply with all County Code requirements for a home based kennel for up to fifty (50) adult dogs. If the use does not conform to those requirements, the applicant must apply and obtain the required approvals as a commercial kennel. *See G-25-a*
8. The applicant must mitigate the detrimental effect of noise impacts when operating the facility so as to limit the impact on surrounding properties. *See G-25-b*

CONCLUSIONS (2)

Based on the findings of fact and conditions noted herein, the Michael Burton CUP is hereby approved as follows:

1. It has been reviewed by the Planning Commission in conformance with, and meets the requirements of, the Cache County Land Use Ordinance, and; *See B,C, D, E, F, G*
2. As per §17.02.060, Establishment of Land Use Authority, the Planning Commission is authorized to act as the Land Use Authority for this CUP request. *See D-6*

LETTER OF INTENT – CONDITIONAL USE PERMIT

FOR NEW HOME AND KENNEL AT 8480 N 2200 W CACHE COUNTY, UT. (APPROX.)

1. A. This building will be used as an indoor dog kennel. It will be heated and have AC as needed. It will be 24' x 24', 576 sq. feet. It will be used to house our dogs.
- B. There are no other employees other than ourselves. *42 dogs - adults* *KB*
- C. There are no business hours as we do not have any customers, we are closed to any visitors at all times.
- D. There are no customers or employees, so no parking needed for this. We do have occasional deliveries from UPS and FEDX, so we will have a hammer head driveway.
- E. We do not have any signage.
- F. We only have regular yard equipment.
- G. We have buckets with sealed lids that we use to pick up waste and take the buckets to the land fill.

2. See attached site plan.

3. New construction:

The proposed is for a new home to built on the 10 acre parcel within Cache County limits along with a dog kennel. The new home will be approx. 2200 sq. feet and the kennel will be 24'x24'. The entire area that our home and kennel will be on will be approx. an acre of this 10 acre parcel.

The home will be built per code and the kennel will be built per USDA specification and will be insulated with waterproof walls inside per USDA requirements. There will be dog doors for the dogs to go in and out. There will be outdoor cement runs with chain link fencing. There will be a 6' high vinyl privacy fence around the entire yard surrounding the kennel to keep dogs in and other animals/people out.

The yard will be fully landscaped with grass, shrubs, trees etc.

The yard and kennel will have nice curb appeal and will hardly show the appearance of a kennel.

This 10 acre parcel within Cache county that we own and plan to build our new home and kennel on, it is completely private with no homes or buildings near it on 3 sides, with the closet home being approx. a mile away to the south. This 10 acre parcel is entirely out by itself with farm ground surrounding it...on the west side in our existing home we live in now, the proposed new kennel will be 800' to 1000' away from our

existing home and will have no impacts on it as far as noise, smells, etc. and there will no impacts on anyone else since this 10 acre parcel is so isolated. Our existing home and kennel are in Amalgam city limits on another 10 acre parcel. **The PRIMARY use of both of these two 10 acre parcels is farming of alfalfa, corn and grain.** Our current home and kennel only take up approx.. one acre of our current 10 acre parcel and then proposed new home and kennel will approx. the same which is a very small footprint on a 10 acre parcel.

Per the pictures we sent to you of our existing home and kennel which is part of our backyard, you can see what the proposed new home and kennel will look similar too in size, etc.

This 10 acre parcel is used primarily for farming, with the kennel being used secondary...it is simply part of our back yard. The new home and kennel will use approx. 1 acre of the 10 total acres of this parcel, it will be entirely fenced...please see existing home and kennel. Our small kennel is simply part of our back yard and if we took the dogs away it would be simply a backyard...our backyard is approx.. ¾ of an acre.

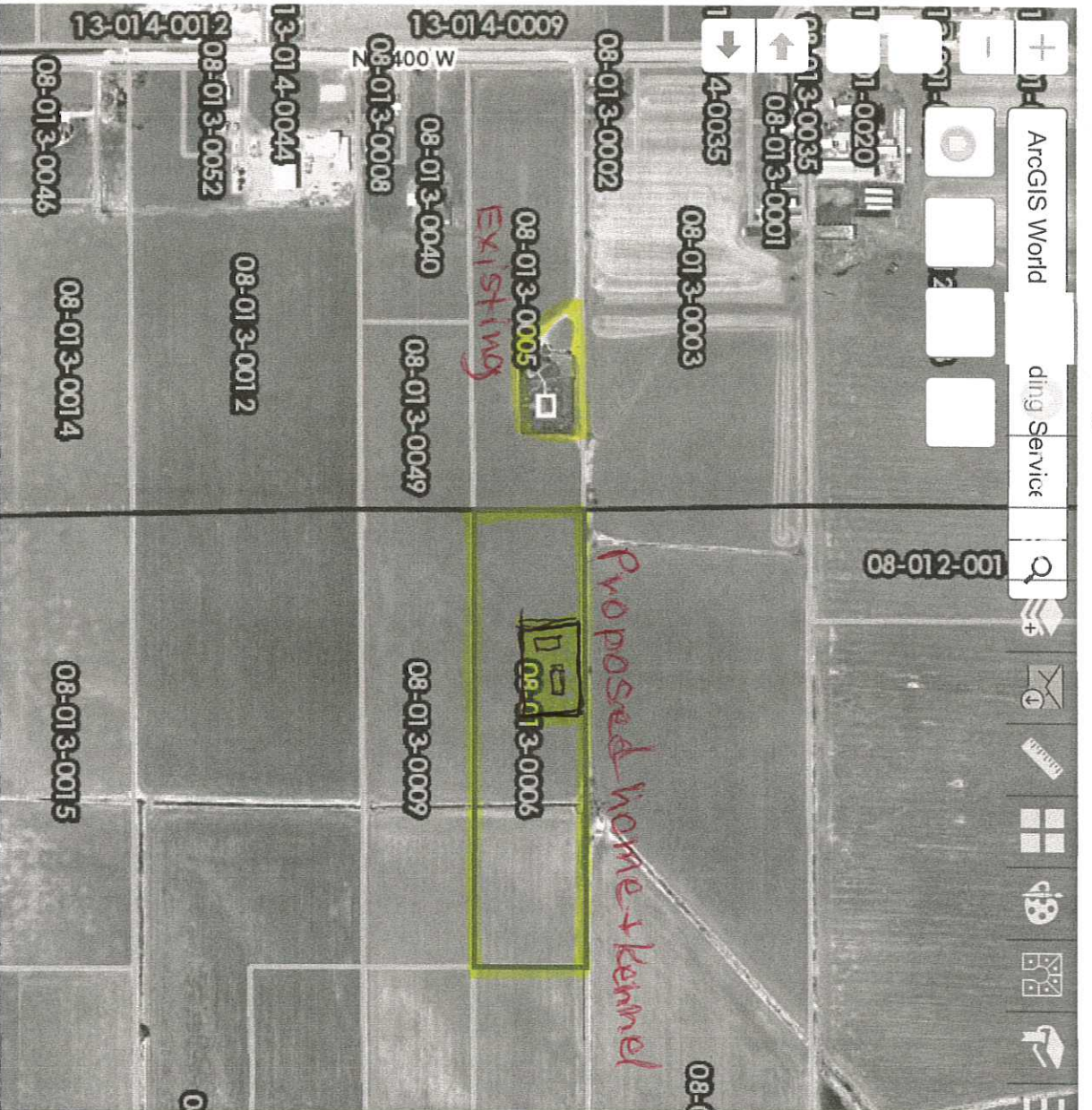
In the Cache county ordinances defining a Home Based Kennel compared to a Commercial Kennel, our place DOES NOT fall into the definition of a Commercial kennel because **our kennel is SECONDARY to our home and also the bulk of the 10 acres used for farming, it is NOT the primary use of this 10 acre parcel...**in your ordinance it states that we can apply for a Home Based kennel if we meet the listed requirements which we 100% do. Because this parcel is so private and no one would be effected by the dogs it is a perfect place for our home and kennel with no impacts on one.

Thanks,

Mike and Karie Burton

Parcel & Zoning Viewer

[clear browser's cache help /](#) [NEW 300 ft mailing list help](#)



Enhanced Search

By Shape By Value By Spatial Results

Optionally apply a search distance:

5 Feet

Search features of:

Parcels

Using one of these spatial relationships:

1390'

90'
NORTH

PRIVACY FENCE

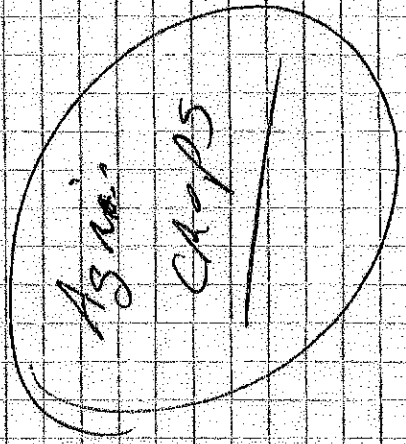
400' x 50'

KENNEL

Proposed House

Driveway

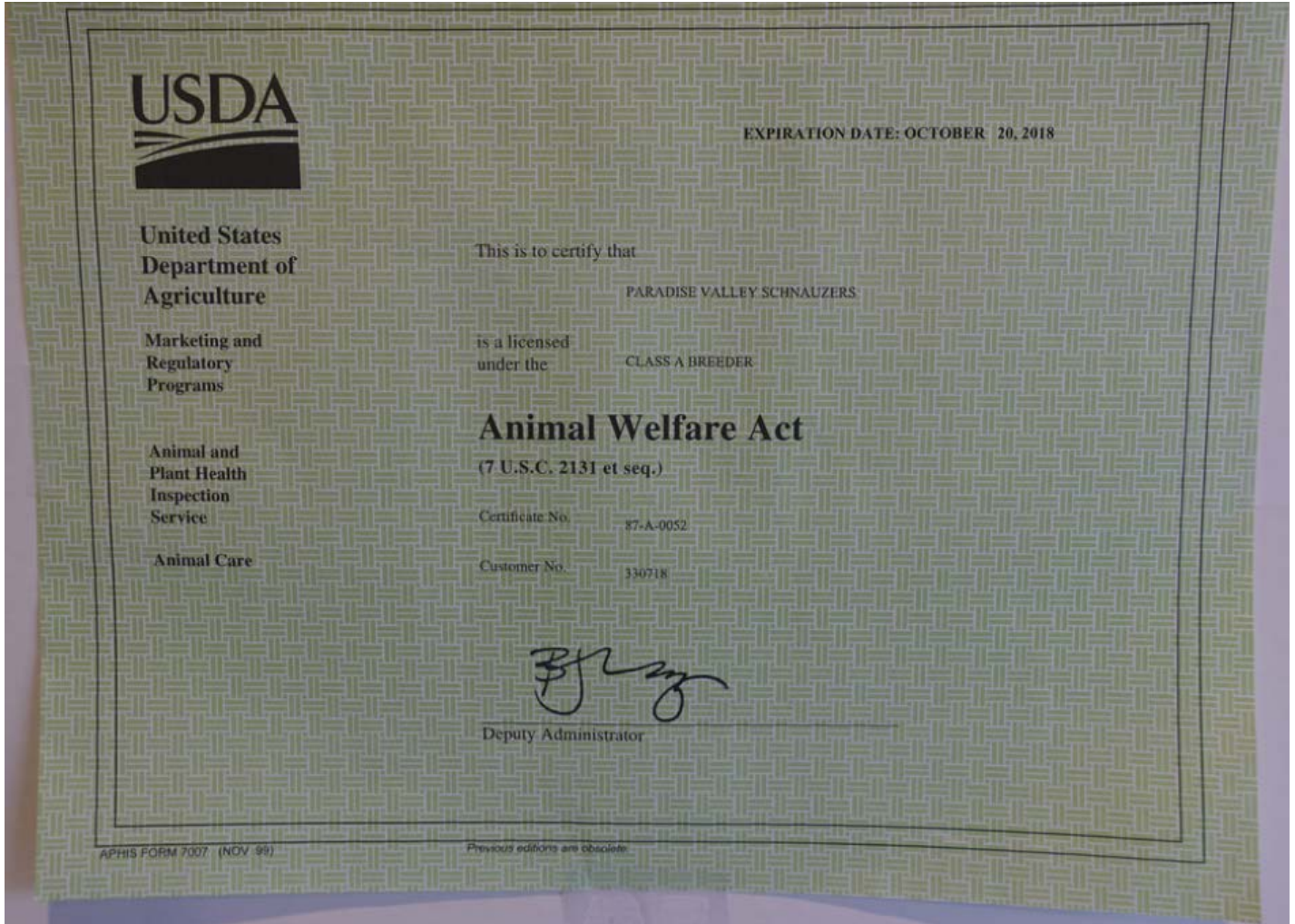
PARCEL 0006



30' Right of way

PARCEL 0005

330'



Source: <http://www.paradisevalleyschnauzers.com/>

| Certificate/Customer Type L = License R = Registrant Renewal Date | Legal Name | DBA Name | City | State |
|--|----------------------------|----------|--------|-------|
| L - Breeder Oct 20, 2019 | Paradise Valley Schnauzers | | Amalga | UT |

Source: USDA Animal and Plant Inspection Service website



December 3, 2018

Paradise Valley Schnauzers
8480 North 2400 West
Amalga, Utah 84335

Attn: Ms. Karie Burton

Re: Limited Sound Monitoring
Paradise Valley Schnauzers Property
8480 North 2400 West
Amalga, Utah

WT Job No. 6128JA207

Western Technologies Inc. has completed a limited sound monitoring survey of the above Property at the request of Karie Burton with Paradise Valley Schnauzers. WT visited the site on November 29, 2018 and monitored for 2 hours between approximately 11:30 AM and 1:30 PM with a Larson Davis Sound Track LxT1 Environmental & Occupational Noise Meter. The average decibel levels (Laeq A-weighted) during the time measured were found to be:

Measurement 001 – Average Level – 42.3 dB
Measurement 002 – Average Level – 33.7 dB
Measurement 003 – Average Level – 30.9 dB

Measurement 001 was taken at the northwestern Property line and provides the typical ambient noise level. Measurement 002 was taken at the northeastern Property corner; measurement 003 was taken at the southeastern Property corner. Readings between 50 to 70 dB would be equivalent to a quiet office or conversational speech. Readings near 80 dB would be equivalent to garbage disposal (US Department of Transportation).

According to the Home Kennels definition (3200) in Title 17.07.030 of Cache County Codes, the noise levels from the kennel must not exceed 10 decibels above the ambient noise levels at the Property line. It appears the expected kennel noise levels are below the site-specific maximum of **52.3 dB** allowed by the county code.

This report completes the agreed scope of services. If you have any questions or if we may be of further assistance to you, please do not hesitate to contact us. Thank you for allowing us to provide these services.

Sincerely,
WESTERN TECHNOLOGIES INC.

Reviewed by:

Sarah Reddinger
Environmental Technician

Robert Wenzel, PE
Director of Environmental Services

Attachments: Figure 1, Noise Level Measurement Locations
Sound Level Measurement Reports (001-003)

Measurement Report

Report Summary

| | | | |
|-------------------|---------------------|----------------------|-----------------------------------|
| Meter's File Name | LxT_Data.001 | Computer's File Name | SLM_0005532_LxT_Data_001.00.ldbin |
| Meter | LxT1 0005532 | | |
| Firmware | 2.302 | | |
| User | WT | Location | |
| Description | Dog Kennel | | |
| Note | | | |
| Start Time | 2018-11-29 11:25:47 | Duration | 0:17:48.1 |
| End Time | 2018-11-29 11:43:36 | Run Time | 0:17:48.1 |
| | | Pause Time | 0:00:00.0 |

Results

Overall Metrics

| | | | |
|--------------------|--------------------------------|--------------------------------------|---------|
| LA _{eq} | 42.3 dB | | |
| LAE | 72.6 dB | SEA | --- dB |
| EA | 2.0 $\mu\text{Pa}^2\text{h}$ | | |
| EA8 | 54.9 $\mu\text{Pa}^2\text{h}$ | | |
| EA40 | 274.3 $\mu\text{Pa}^2\text{h}$ | | |
| LZ _{peak} | 101.5 dB | 2018-11-29 11:25:52 | |
| LAF _{max} | 76.7 dB | 2018-11-29 11:25:52 | |
| LAF _{min} | 36.8 dB | 2018-11-29 11:25:58 | |
| LA _{eq} | 42.3 dB | | |
| LC _{eq} | 44.8 dB | LC _{eq} - LA _{eq} | 2.5 dB |
| LAI _{eq} | 53.5 dB | LAI _{eq} - LA _{eq} | 11.2 dB |

| Exceedances | Count | Duration |
|-------------------------------|-------|-----------|
| LAF > 85.0 dB | 0 | 0:00:00.0 |
| LAF > 115.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 135.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 137.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 140.0 dB | 0 | 0:00:00.0 |

| Community Noise | LDN | LDay | LNight | |
|-----------------|--------|--------|--------|--------|
| | --- dB | --- dB | 0.0 dB | |
| | LDEN | LDay | LEve | LNight |
| | --- dB | --- dB | --- dB | --- dB |

| Any Data | A | | C | | Z | |
|------------------------|---------|---------------------|---------|------------|----------|---------------------|
| | Level | Time Stamp | Level | Time Stamp | Level | Time Stamp |
| L _{eq} | 42.3 dB | | 44.8 dB | | --- dB | |
| LF _(max) | 76.7 dB | 2018-11-29 11:25:52 | --- dB | | --- dB | |
| LF _(min) | 36.8 dB | 2018-11-29 11:25:58 | --- dB | | --- dB | |
| L _{Peak(max)} | --- dB | | --- dB | | 101.5 dB | 2018-11-29 11:25:52 |

| Overloads | Count | Duration |
|-----------|-------|-----------|
| | 0 | 0:00:00.0 |

Statistics

| | |
|----------|---------|
| LAF 5.0 | 41.9 dB |
| LAF 10.0 | 40.7 dB |
| LAF 33.3 | 39.2 dB |
| LAF 50.0 | 38.9 dB |
| LAF 66.6 | 38.7 dB |
| LAF 90.0 | 38.4 dB |

Measurement Report

Report Summary

| | | | |
|-------------------|---------------------|----------------------|-----------------------------------|
| Meter's File Name | LxT_Data.003 | Computer's File Name | SLM_0005532_LxT_Data_003.00.ldbin |
| Meter | LxT1 0005532 | | |
| Firmware | 2.302 | | |
| User | WT | Location | |
| Description | Dog Kennel | | |
| Note | | | |
| Start Time | 2018-11-29 12:54:18 | Duration | 0:47:57.3 |
| End Time | 2018-11-29 13:42:15 | Run Time | 0:47:57.3 |
| | | Pause Time | 0:00:00.0 |

Results

Overall Metrics

| | | | |
|--------------------|-------------------------|--------------------------------------|--------|
| LA _{eq} | 30.9 dB | | |
| LAE | 65.5 dB | SEA | --- dB |
| EA | 0.4 μPa ² h | | |
| EA8 | 3.9 μPa ² h | | |
| EA40 | 19.7 μPa ² h | | |
| LZ _{peak} | 79.6 dB | 2018-11-29 12:54:18 | |
| LAF _{max} | 55.7 dB | 2018-11-29 12:54:18 | |
| LAF _{min} | 27.7 dB | 2018-11-29 13:27:24 | |
| LA _{eq} | 30.9 dB | | |
| LC _{eq} | 35.0 dB | LC _{eq} - LA _{eq} | 4.1 dB |
| LAI _{eq} | 33.9 dB | LAI _{eq} - LA _{eq} | 3.0 dB |

Exceedances

| | Count | Duration |
|-------------------------------|-------|-----------|
| LAF > 85.0 dB | 0 | 0:00:00.0 |
| LAF > 115.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 135.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 137.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 140.0 dB | 0 | 0:00:00.0 |

| | | | |
|------------------------|------------|-------------|---------------|
| Community Noise | LDN | LDay | LNight |
| | --- dB | --- dB | 0.0 dB |

| | | | |
|-------------|-------------|-------------|---------------|
| LDEN | LDay | LEve | LNight |
| --- dB | --- dB | --- dB | --- dB |

| Any Data | A | | C | | Z | |
|------------------------|---------|---------------------|---------|------------|---------|---------------------|
| | Level | Time Stamp | Level | Time Stamp | Level | Time Stamp |
| l _{eq} | 30.9 dB | | 35.0 dB | | --- dB | |
| LF _(max) | 55.7 dB | 2018-11-29 12:54:18 | --- dB | | --- dB | |
| LF _(min) | 27.7 dB | 2018-11-29 13:27:24 | --- dB | | --- dB | |
| l _{peak(max)} | --- dB | | --- dB | | 79.6 dB | 2018-11-29 12:54:18 |

| | | |
|------------------|--------------|-----------------|
| Overloads | Count | Duration |
| | 0 | 0:00:00.0 |

Statistics

| | |
|----------|---------|
| LAF 5.0 | 33.7 dB |
| LAF 10.0 | 32.3 dB |
| LAF 33.3 | 29.2 dB |
| LAF 50.0 | 28.4 dB |
| LAF 66.6 | 28.2 dB |
| LAF 90.0 | 28.0 dB |

Measurement Report

Report Summary

| | | | |
|-------------------|---------------------|----------------------|-----------------------------------|
| Meter's File Name | LxT_Data.002 | Computer's File Name | SLM_0005532_LxT_Data_002.00.ldbin |
| Meter | LxT1 0005532 | | |
| Firmware | 2.302 | | |
| User | WT | Location | |
| Description | Dog Kennel | | |
| Note | | | |
| Start Time | 2018-11-29 11:49:30 | Duration | 1:03:06.1 |
| End Time | 2018-11-29 12:52:36 | Run Time | 1:03:06.1 |
| | | Pause Time | 0:00:00.0 |

Results

Overall Metrics

| | | | |
|--------------------|------------|--------------------------------------|--------|
| LA _{eq} | 33.7 dB | | |
| LAE | 69.5 dB | SEA | -- dB |
| EA | 1.0 µPa²h | | |
| EA8 | 7.5 µPa²h | | |
| EA40 | 37.3 µPa²h | | |
| LZ _{peak} | 87.5 dB | 2018-11-29 11:49:36 | |
| LAF _{max} | 67.7 dB | 2018-11-29 11:58:14 | |
| LAF _{min} | 28.0 dB | 2018-11-29 12:40:21 | |
| LA _{eq} | 33.7 dB | | |
| LC _{eq} | 34.5 dB | LC _{eq} - LA _{eq} | 0.9 dB |
| LAI _{eq} | 41.5 dB | LAI _{eq} - LA _{eq} | 7.8 dB |

Exceedances

| | Count | Duration |
|-------------------------------|-------|-----------|
| LAF > 85.0 dB | 0 | 0:00:00.0 |
| LAF > 115.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 135.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 137.0 dB | 0 | 0:00:00.0 |
| LZ _{peak} > 140.0 dB | 0 | 0:00:00.0 |

Community Noise

| | | | |
|-------------|-------------|---------------|---------------|
| LDN | LDay | LNight | |
| -- dB | -- dB | 0.0 dB | |
| LDEN | LDay | LEve | LNight |
| -- dB | -- dB | -- dB | -- dB |

Any Data

| | A | | C | | Z | |
|------------------------|---------|---------------------|---------|------------|---------|---------------------|
| | Level | Time Stamp | Level | Time Stamp | Level | Time Stamp |
| L _{eq} | 33.7 dB | | 34.5 dB | | -- dB | |
| LF _(max) | 67.7 dB | 2018-11-29 11:58:14 | -- dB | | -- dB | |
| LF _(min) | 28.0 dB | 2018-11-29 12:40:21 | -- dB | | -- dB | |
| L _{Peak(max)} | -- dB | | -- dB | | 87.5 dB | 2018-11-29 11:49:36 |

Overloads

| | |
|--------------|-----------------|
| Count | Duration |
| 0 | 0:00:00.0 |

Statistics

| | |
|----------|---------|
| LAF 5.0 | 33.6 dB |
| LAF 10.0 | 32.0 dB |
| LAF 33.3 | 29.8 dB |
| LAF 50.0 | 29.3 dB |
| LAF 66.6 | 29.1 dB |
| LAF 90.0 | 28.7 dB |



PROJECT: Paradise Valley Schnauzers Noise Study

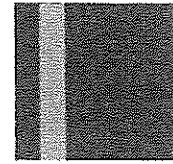
JOB NO.: 6128JA207

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*Geotechnical
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 Inspections
 Materials*

FIGURE 1 – NOISE METER PLACEMENT

Amalga Town
6590 N 2400 W, Amalga UT, 84335
Amalga6590@gmail.com



September 1, 2018

RE: Michael Burton
Parcel # 08-013-0006

The Town of Amalga approves Michael Burton access to his 10 county acres. Access will be granted through 8480 N 2400 W which is in the Town of Amalga.

The Town of Amalga will not propose an annexation at the above said property at approximately 8480 N 2200 W.

A handwritten signature in cursive script that reads "David Wood".

David Wood
Mayor

A handwritten signature in cursive script that reads "Lee Ann Barton".

Lee Ann Barton
Town Clerk



STAFF REVIEW

7 February 2019

Actions and Definitions relating to the Burton request for 3200 Home Based Business

1. First application submitted

Under the County Land Use Code (the Code) the Burtons (Applicant) qualified their use as 3200 Home Based Kennel with more than 12 dogs.

The minimum requirements of the Code state that as a Home Based Kennel with more than 12 dogs, the Applicant must also show that, 1) Impacts can be mitigated, and 2) The kennel is secondary to the home and the use of the property is not primarily for commercial purposes.

The Applicant did show that impacts can be mitigated.

The Applicant did not show that the kennel is secondary to the home.

The application was returned to the applicant as incomplete, and based on the information provided by the Applicant, and as specified under the Code, the Director of Development Services (Director) determined that the proposed use did not qualify as 3200 Home Based Kennel, but as 3300 Commercial Kennel/Animal Shelter, and that the kennel was the primary use of the property.

The Applicant did not agree with the Director's determination and requested that the Planning Commission (Commission) make a determination instead, as the Code specified that the determination can be made by the Director or the Commission.

2. Determination of Use Memo prepared by Development Services Staff

Prior to the consideration of the determination of use by the Commission, Mr. Chambers discussed the issue with the Development Services Department and it was mutually agreed that the preferred action was for the applicant to reapply with a complete application.

3. Second application submitted

Under the Code, the Applicant qualified themselves as 3200 Home Based Kennel with more than 12 dogs.

The minimum requirements of the Code state that the Applicant must show that, 1) Impacts can be mitigated, and 2) The kennel is secondary to the home and the use of the property is not primarily for commercial purposes.

The Applicant did show that impacts can be mitigated.

The Applicant described that of the three uses on the property, two of the uses are proposed and include a single family dwelling and a home based kennel, and one of the uses is an existing agricultural use.

In their letter of intent, the Applicant described the proposed construction of a home and kennel and that, “The PRIMARY use of both of these two 10 acre parcels is farming of alfalfa, corn and grain.”

In the letter of intent, the Applicant stated that, “This 10 acre parcel is used primarily for farming, with the kennel being used secondary...”

In the letter of intent, in comparing a Home Based Kennel to a Commercial Kennel, the Applicant stated that, “our kennel is SECONDARY to our home and also the bulk of the 10 acres used for farming, it is NOT the primary use of this 10 acre parcel...”

To restate, the requirement under the Code is that the Applicant bears the responsibility to show that “The kennel is secondary to the home and the use of the property is not primarily for commercial purposes.”

Outside of the noted descriptions, the Applicant’s application did not provide information to show that the proposed kennel is secondary to the home.

4. Planning Commission Staff Report sent to the Applicant and Mr. Chambers

The Applicant expressed concern regarding condition #2 of the Staff Report through Mr. Chambers.

Condition #2 read, “Prior to recordation, a certificate of occupancy must be issued for the new single-family residence on the subject property.”

In an email to the Planning Manager, Mr. Chris Harrild (Mr. Harrild), Mr. Chambers expressed the Applicant’s concern, “that the proposed conditions [in the Staff Report] would require them [the Applicant] to build their home first and then to build the kennel, after the home was built, which would cause significant logistical and practical problems.” In the same email, Mr. Chambers expressed that his understanding of the condition was, “they can be built any way they'd like, including simultaneously, so long as other conditions are met”.

Mr. Harrild emailed in response that, “Your understanding is correct. The condition limits them from recording the conditional use permit until the home has been built and a certificate of occupancy has been issued by the building department. And to address the Burton's [Applicant’s] concern, they certainly could build the dwelling and kennel structures at the

same time if they so choose, however, the operation of the business/use of that kennel on that property is not permitted until the conditional use permit has been recorded.”

Mr. Chambers emailed in response that, “It's the latter that I believe is the issue. They're going to sell their old home/property and begin building the new home and kennel immediately after. While the home is being built though, the dogs will obviously need somewhere to go.”

In the same email Mr. Chambers also shared new information regarding the proposed use, “They were planning on putting a trailer onto the property and living in it while the home is built and to take care of the dogs.”

As this proposed action was not previously presented, it had not yet been considered or reviewed by staff.

Mr. Harrild and Mr. Chambers spoke on the phone to clarify the intent of the Applicant, to discuss possible conflicts with, and minimum requirements of, the Code. Mr. Chambers argued that the Code allowed the Applicant to act in the manner the Applicant described. Mr. Harrild disagreed with Mr. Chambers' interpretation. Mr. Chambers indicated that he would contact the Applicant to discuss other options such as renting space in the existing kennel until the proposed home is built. Mr. Harrild noted that with new information regarding the proposed use and with Mr. Chambers questions regarding the interpretation of the Code, additional review is necessary.

Mr. Chambers emailed Mr. Harrild and proposed two different options to address the Applicant's concern with condition #2 of the Staff Report. “First, we'd like condition #2 to be changed to: "Within eight (8) months of recordation, a certificate of occupancy must be issued for the new single-family residence on the subject property." (changes underlined). As we discussed, the Burtons intend to sell their old home and use it to finance the building of their new home. While that's occurring, their dogs need a place to go. We can likely work out an agreement with the buyer to house the dogs for a few months, but it would probably kill any transaction to house the dogs for longer. Accordingly, while the home is being built, we'd like to house the dogs on the new (Cache) property, and would agree to get the certificate of occupancy within 8 months. That way, if the Burtons don't get the certificate of occupancy within 8 months, they'll be in breach of the conditional use permit and it can be revoked, nullified, etc. This is our first option.”

...

“Second, if for some reason the first isn't acceptable, my clients will likely utilize a trailer on the property during construction. This way, a dwelling unit exists (not a single family residence, which would need to meet different requirements). ”

In the same email, Mr. Chambers stated as follows, “I reviewed 17.07 and don't see any reason why a dwelling unit that is under construction doesn't qualify as a dwelling unit and meet the requirements of 3200. In particular, the definition of dwelling unit under 17.07.040 is simply "One (1) or more rooms in a dwelling designed for or occupied as separate living quarters which provide sleeping, sanitary facilities, kitchen or set of fixed cooking facilities, all for exclusive use by a single family maintaining a household." In other words, the ordinance takes into consideration that it is not actually occupied, but only designed for it. As we discussed this morning, I understand the county wants to ensure it is complying with its own ordinances; I appreciate that. So long as it is under construction, I feel we are meeting the spirit and letter of the ordinance, and there shouldn't be any issue. Requiring occupancy first, in our view, is not a reasonable condition to mitigate reasonably anticipated detrimental effects of the proposed use.”

Mr. Harrild emailed as follows, “We have reviewed the suggestions you have made and have attached a revised staff report that further clarifies the options available under the code. The revisions to the staff report are limited to condition #2, are in italics, and simply restate the existing code requirements. The code does not support the first suggested option. The second suggestion is allowed under the code if the trailer is a travel trailer or similar vehicle and is in place for no more than 180 days. However, such a vehicle is not a dwelling unit or primary use and therefore the operation of a home based kennel would not be permitted if a dwelling unit or adjacent neighboring parcel under the same ownership is not present.”

The amended condition #2 read as follows, “Prior to recordation, a certificate of occupancy must be issued for the new single-family residence on the subject property. *The new single-family residence and kennel may be constructed at the same time, but the kennel cannot operate until a certificate of occupancy has been issued for the residence and the permit recorded. Alternatively, per the Code, a kennel may be built on the subject property if the adjacent property remains owned and occupied by the owner of the subject property who is the kennel operator. The Code also allows a mobile home to serve as a dwelling unit on the subject property if it is constructed on a permanent foundation and connected to required utilities. In the event that the adjacent property is sold and no longer shares ownership with the subject property and there is no dwelling unit constructed on the subject property, the CUP is void and the kennel operation must cease. If a mobile home is used as a dwelling unit on the subject property and it is removed for any reason, the CUP is void and the kennel operation must cease. Only one dwelling unit is allowed per lot.*”

5. Planning Commission meeting; January 3, 2019

Mr. Chambers argued that the Code allowed the Applicant to proceed as they desired, without having to meet condition #2 as written. County staff disagreed and recommended that the Commission continue the item until the next meeting to allow staff to review the new

information provided by the Applicant, and to review the legal question posed by Mr. Chambers.

6. Staff review

Mr. Chambers questioned the definition of “Dwelling Unit” from 17.07.040 of the Code, claiming that the definition is ambiguous, and that this ambiguity would then indicate that a home based kennel may be accessory to a dwelling unit that has been designed but not built. Therefore allowing the kennel to operate prior to the construction of the home.

However, this interpretation is incomplete as it does not reflect entirety of the definition of 3200 Home Based Kennel. In its entirety, this definition does identify that a Home Based Kennel must be accessory to a dwelling unit, but additional requirements exist specific to the Applicant’s request for a Home Based Kennel with more than 12 dogs.

That definition from the Code, section 17.07.030 reads as follows: (emphasis added)

3200 HOME BASED KENNEL: Any establishment, accessory to a dwelling unit and/or adjacent to a neighboring parcel under the same ownership, at which seven (7) or more adult dogs are boarded, groomed, bred, raised, and/or otherwise kept. This excludes a single, incidental litter in a twelve (12) month period. A home based kennel must comply with the following requirements:

1. A home based kennel shall consist of no more than twelve (12) adult dogs. More than twelve (12) dogs may be permitted as a home based kennel if it is otherwise shown by the applicant that:
 - a. Impacts can be mitigated by distance, vegetation, geography, and/or structures.
 - b. The kennel is secondary to the home and the use of the property is not primarily for commercial purposes.
2. All kennel facilities must be a minimum of fifty feet (50') from the property boundary.
3. Noise levels from the kennel shall not exceed ten (10) decibels (dBA, Leq) above the existing ambient noise levels at the property line at any time of day or night. A sound level impact and assessment report prepared and signed by a qualified professional must be provided at the time of application to support the same.

These requirements for kennels with more than 12 adult dogs specify that the kennel be “secondary to the home”. Under the Code, “home” is included as part of the definition of “Residence” under section 17.07.040 and reads as follows: (emphasis added)

“RESIDENCE: Also referred to as a home or domicile; a dwelling unit where an individual is living at a given point in time and intends to remain for more than half of the calendar year, and is not a place of temporary sojourn or transient visit.”

This definition clearly states that a home is “a dwelling unit where an individual is living...”

The definition of “Dwelling Unit” can be found under section 17.07.040 and reads as follows:

“DWELLING UNIT: One or more rooms in a dwelling designed for or occupied as separate living quarters which provide sleeping, sanitary facilities, kitchen or set of fixed cooking facilities, all for exclusive use by a single family maintaining a household.”

7. Staff conclusion

Therefore, while the definition of “Dwelling Unit” is pertinent, it is an incomplete representation of the requirements and language of the Code.

Following our review, the Development Services staff recognizes that the Applicant has stated that the kennel is secondary to both the agricultural use and also to the home, and also stated that the primary use of the property is agriculture.

While the Applicant has stated this information, the Applicant has not shown that the kennel is secondary to the home and must demonstrate or establish the validity of their statement by argument or reasoning in order to meet the minimum requirements of the Code.

Staff therefore recommends that the language of condition #2 remain as currently written with minor amendment to more accurately reflect the Code language, and that it is necessary to impose this condition as the Applicant has failed to show that the kennel is secondary to the proposed home, and also necessary as the Applicant has expressed the intent to operate the kennel on the property prior to the construction of a home, which is contrary to the Code requirements.

The minor amendment to condition #2 is as follows:

“Prior to recordation, a certificate of occupancy must be issued for the new single-family residence on the subject property. *The new single-family residence and kennel may be constructed at the same time, but the kennel cannot operate until a certificate of occupancy has been issued for the residence and the permit recorded. Alternatively, per the Code, a kennel may be built on the subject property if the adjacent property remains owned ~~and occupied~~ by the same owner. owner of the subject property who is the kennel operator. The Code also allows a mobile home to serve as a dwelling unit on the subject property if it is constructed on a permanent foundation and connected to required utilities. In the event that the adjacent property is sold and no longer shares ownership with the subject property and there is no dwelling unit constructed on the subject property, the CUP is void and the kennel operation must cease. If a mobile home is used as a dwelling unit on the subject property and it is removed for any reason, the CUP is void and the kennel operation must cease. Only one dwelling unit is allowed per lot.*”

STAFF REPORT: WHISPER RIDGE CUP 2ND AMENDMENT

7 February 2019

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: Dan Lockwood

Parcel ID#: Multiple (Attachment A)

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Planning Commission

PROJECT LOCATION

Reviewed by Angie Zetterquist

Project Address:

La Plata Area

Surrounding Uses:

North – Forest/Recreation

South – Weber County

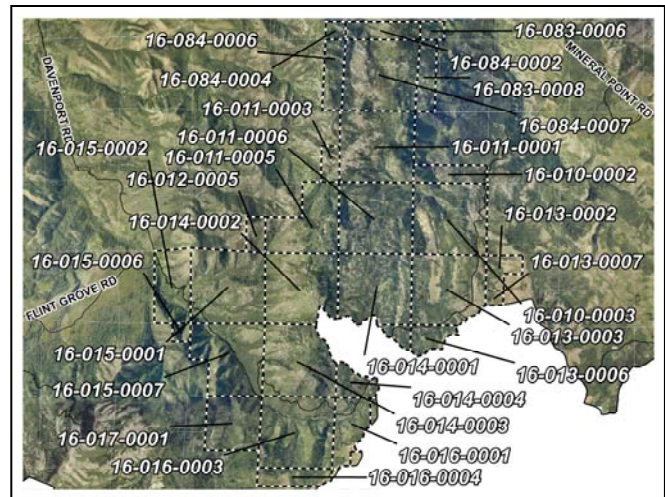
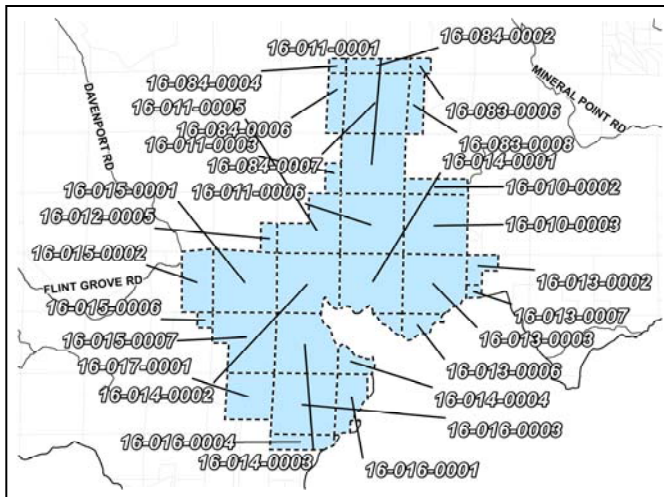
East – Forest/Recreation

West – Forest/Recreation

Current Zoning:

Acres: 9,512.06

Forest Recreation (FR40)



FINDINGS OF FACT (30)

A. Request description

1. The Whisper Ridge Conditional Use Permit (CUP) 2nd Amendment is a request to expand the boundaries of an existing CUP to operate a recreational facility, Use Type 4100. The expanded CUP area includes 29 parcels measuring approximately 9,512 acres in the Forest Recreation (FR40) Zone.
2. Per the Letter of Intent (Attachment B), the applicant recently completed the purchase of the La Plata Ranch and is proposing to expand the operation of the existing recreational facility which provides guided snow skiing via snow cat and helicopter. **See condition #1**
 - a. Construction
 - i. The applicant states in the Letter of Intent that there will be no permanent structures added to the expansion area and no changes to the existing properties. **See condition #2**

ii. In October 2016, the Planning Commission approved a number of improvements to the properties under the current CUP approval including 10 seasonal, temporary yurts that were allowed during the operating season from October to April. However, the yurts are currently out of compliance as the applicant has not removed them per the conditions of approval and the yurts have remained in place year-round without the required building permit approvals for permanent structures. *See conditions #2 & #3*

b. Operation

- i. Per the letter of intent, there are no proposed changes to the operations on the properties that were part of the original CUP approval. Subsequently, the October 6, 2016, staff report for the Whisper Ridge CUP 1st Amendment details all authorized activities on those affected parcels and conditions of approval are incorporated herein as part of the current staff report. Changes to the existing operations as well as the new operations in the expanded areas will be discussed below. *See condition #4*
- ii. The new expanded operation is proposed to be based out of Powder Mountain Ski Resort (“resort”) with traffic and parking flowing through the resort. The applicant has provided a copy of the Vendor Agreement between the applicant and the resort that provides details of joint operations between the two recreational facilities including providing cat skiing, heli-skiing, and heli-fishing at the resort and for the resort customers and using the resort as a base of operations for the applicant. The base camp operations will be located in the village area located in Weber County. In addition, the Vendor Agreement grants permission to Whisper Ridge to access its own property across the resort property by snowcat or snowmobile by the identified route. A map is attached as Exhibit A to the Vendor Agreement that identifies the Whisper Ridge use areas (Attachment C). *See condition #5*
- iii. In the letter of intent, the applicant states the number of full-time employees will increase from 21 to 25 employees including 12 guides, 9 snow cat operators, and 4 ski patrol/safety personnel. No employees will be housed on the property.
- iv. Active operation of the facility is approximately December 1 to April 15 each year, weather permitting. During the season, the facility will operate 7 days a week, including holidays, from 7:00 AM to 5:00 PM. Maintenance and snow road construction may occur at any time.
- v. Food preparation is not handled on site, instead there are daily deliveries of catered food to clients at the base and yurt sites.
- vi. The mobile shop with fuel and maintenance operations will remain on parcel 16-031-0001; there will be no new similar operations in the proposed expansion area.
- vii. Equipment necessary for the operation of the facility includes 8 snow cats with 4 housed at the existing base site in Paradise and the other 4 located at the Powder Mountain base site.
- viii. The applicant will be utilizing explosives to control avalanche risks. The applicant has provided a current Federal Explosives License/Permit as part of the application submittal, but the expiration date was January 1, 2019. The applicant must provide staff with a copy of the current explosives permit and inform the County Fire Department of the location of any new “bomb boxes”. *See condition #6*

B. Parcel Legality

3. The subject properties in the expansion area have not changed size or configuration since August 8, 2006 and are legal parcels.

C. Conditional Uses *See conclusion #1*

4. §17.06.050-B, Conditional Uses, directs the Land Use Authority to review conditional use permit (CUP) requests based on the standards and criteria that are defined therein and include:
 - a. Compliance with law;
 - b. Health, safety, and welfare;
 - c. Adequate service provision;
 - d. Impacts and mitigation.

D. Compliance with law *See conclusion #1*

5. The County Land Use Ordinance stipulates that:
 - a. The proposed conditional use must comply with the regulations and conditions specified in the County Code and other applicable agency standards for such use.
 - b. The proposed conditional use must be consistent with the intent, function, and policies of the Cache County General Plan, Ordinance(s), and land use, and/or compatible with existing uses in the immediate vicinity.
6. §17.02.060, Establishment of Land Use Authority, authorizes the Planning Commission to act as a Land Use Authority for a CUP. *See conclusion #2*
7. The subject parcels are legal parcels zoned Forest Recreation (FR40).
8. §17.07.030, Use Related Definitions defines this use as
 - a. “4100 Recreational Facility: a place, either indoor or outdoor, designed and equipped for the conduct of sports and leisure time activities that are operated as a business and/or open to the general public. These facilities are typically operated for a period of greater than 30 days per year and may also include incidental transient lodging accommodation for up to 15 rooms.”
 - b. This use also includes the following specific uses: ski facility, golf course, and campground.
 - “Ski Facility: A recreational use, with associated facilities and improvements, for downhill or cross country skiing, snowboarding, snowshoeing, snowmobiling, or other snow related activities. Associated facilities and improvements include, but are not limited to: transient lodging, food, retail, and support services; recreational and fitness facilities; parking accommodations; and other uses of a similar nature specifically authorized in conjunction with the operation of the facilities as a resort.”
9. §17.09.030, Schedule of Uses by Zoning District, permits this use as a CUP in the Forest Recreation (FR40) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses as noted.
10. The original CUP approval for Whisper Ridge was reviewed and approved by the Planning Commission on January 7, 2015 and recorded on January 8, 2016. The 1st Amendment to the CUP was reviewed and approved by the Planning Commission on October 6, 2016 and recorded on November 4, 2016.

E. Health, safety, and welfare *See conclusion #1*

11. The County Land Use Ordinance stipulates that:
 - a. Proposed CUP’s must not be detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A conditional use shall be considered detrimental if:
 - i. It causes unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar risks, and/or;
 - ii. It unreasonably interferes with the lawful use of surrounding property.

12. The primary activity of the proposed recreational facility is a ski facility. However, not all activities take place within the Whisper Ridge CUP expansion area. Access, parking, and base operations take place on property under the ownership and management of Powder Mountain Ski Resort in Weber County. *See condition #5*
13. As noted in the previous staff report, members of the snow cat staff have search and rescue training. In emergency/trauma situations air evacuation will be used. Life Flight and Air Med have been notified of the proposed operation. A smaller, rescue snow cat will also be present with a trauma pack and backboards if necessary. Emergency services for back country areas are handled by Cache County Search and Rescue.

F. Adequate service provision *See conclusion #1*

14. The County Land Use Ordinance stipulates that:
 - a. The proposed conditional use must not result in a situation that creates a need for essential services that cannot be reasonably met by local service providers, including but not limited to: Roads and year round access for emergency vehicles and residents, fire protection, law enforcement protection, schools and school busing, potable water, septic/sewer, storm water drainage, and garbage removal.
15. Access: The subject parcels are accessed from Davenport Road and La Plata Road, both county roads. As a winter recreational facility, access will be by snowcat and snowmobile from the base operations located in the resort village area in Weber County. Access to the existing CUP areas was addressed in the October 6, 2016 staff report.
 - a. §16.04.040 [A] Roads – All roads must be designed and constructed in accordance with Title 12 of the County Code.
 - b. §12.02.010 Roadway Standards – Requirements for roadway improvement are provided in the current Manual of Roadway Design and Construction Standards (Road Manual).
 - c. §16.04.080 [E] Roads and Access – A basic road review is required and must consider:
 - i. The layout of proposed roads;
 - ii. An analysis of existing roadway compliance with the Road Manual requirements;
 - iii. Existing maintenance;
 - iv. And any additional impacts to the proposed development access roads.
 - d. The Road Manual specifies the following:
 - i. §2.1-A-6 Mountain Road, Table 2.2 Roadway Typical Sections: Roads with up to 30 ADT. This includes forest access roads, mountain roads, back roads, and other special use facilities. Gravel roads (14” depth of granular borrow, and a 6” depth of road base) are most typical, but some roads have limited improvements or are “two-track” in nature. Single lane roads (12’ total width) may be permitted for Mountain Roadways.
 - ii. §2.1-A-4 Rural Road, Table 2.2 Roadway Typical Sections: Roads with up to 30 ADT. This includes roadways that have the capacity for moderate to low speeds and low volumes. This category provides access to farms, other agricultural uses, and dispersed rural residences. Gravel or chip & seal road surfacing is typically acceptable and must meet the minimum standard of two, 10’ wide gravel travel lanes with 2’ wide gravel shoulders (24’ total width), 14” depth of granular borrow, a 6” depth of road base, and chip-seal requirements as applicable
 - iii. §2.1-A-3 Local Road, Table 2.2 Roadway Typical Sections: Roads with approximately 40 to 1500 Average Daily Traffic (ADT). This includes roadways that have the capacity for moderate to low speeds and moderate volumes. This category provides a balance between through traffic movements and direct access. These facilities move both regional and local rural traffic with emphasis on local movements.

- iv. Table 2.2 Roadway Typical Sections: Local roads must meet the minimum standards of a 66-foot-wide right-of-way, two 10-foot-wide paved travel lanes with 2-foot-wide shoulders (1-foot-wide gravel and 1-foot-wide paved) for a total width of 24 feet.
 - v. §2.4-A-1-c: Development on inadequate roadways is not allowed, and any substandard sections of roadway access must be improved to meet the minimum standards specified in the Road Manual.
 - vi. Table A-8 Typical Cross Section Structural Values: The minimum structural composition for gravel roads requires 14" depth of granular borrow, 6" depth of road base, and paved roads required an additional 2.5" depth of asphalt.
 - vii. §2.4-A-4-b: The review of requests for development on existing roadways must occur through the Design Exception process.
 - viii. §1.8 Authority and Design Exception: Consideration and evaluation of a design exception to the Road Manual standards requires full justification and documentation explaining the reasoning as to why the roadway standards cannot be met, why an alternative design or construction method can meet the intent of the roadway standards, and including any other relevant information.
16. A basic review of the access to the existing and proposed properties identifies the following:
- a. The proposed recreational facility has access from multiple county roads and by snowcat and snowmobile during winter months across property owned and managed by the Powder Mountain Ski Resort as agreed to in the Vendor Agreement provided to staff.
 - b. A road review was not possible due to winter weather conditions;
 - c. Improvements may be required based on the road review by the Public Works Inspector when weather permits; required improvements must be completed prior to the recordation of the plat. *See condition #7*
17. Parking:
- a. The existing CUP recognized that 8-10 vehicles would be present at the site at any one time, and the initial staff review identified that parking areas would accommodate more than 50 vehicles. Snow cat parking was identified separately. A Parking Analysis was not required at that time, but the permit did identify that a Parking Analysis and improvements may be required with future development and/or expansion. The current request specifies that additional parking and traffic will flow through Powder Mountain Ski Resort.
18. Solid Waste Disposal – Logan City Environmental does not provide service in this area. Any refuse will be handled with a zero impact policy. All garbage will be packed out daily.
19. Fire Control – The County Fire District has reviewed the proposed plans and had no comments on the proposed CUP.
20. Water Requirements – Recreational facilities do not require confirmation of domestic culinary water rights.
21. Septic – The applicant has stated in the Letter of Intent that no permanent structures are proposed for the new expanded area and did not address restroom facilities. Per the existing CUP, restroom facilities will be mobile and consist of units containing two compostable toilets, two low volume showers, and two sinks. These facilities are completely self-contained and will not release waste or waste water. More than one unit may be placed at the yurt areas or base site to accommodate the guests as necessary.

G. Impacts and mitigation *See conclusion #1*

22. Utah Code Annotated §17-27a-506, Conditional uses, item 2-a specifies that “A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”

23. The County Land Use Ordinance stipulates that:
- a. Reasonably anticipated detrimental effects of the proposed conditional use must be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards.
 - b. Examples of potential negative impacts include but are not limited to odor, vibration, light, dust, smoke, noise, impacts on sensitive areas as defined by the Code, and/or disruption of agricultural practices.
24. Known or reasonably anticipated detrimental effects of the use are as follows:
- a. **Explosives:** The applicant did not address explosives in this application request, but has shown a “bomb box” location on a map of the new expansion area. The “bomb boxes” are stocked and utilized by ATF certified/approved technicians. A blasting permit from the Utah State Fire Marshall for avalanche control has been submitted to the Development Services Department but has an expiration date of January 1, 2019. Previously, a copy of ATF certification has been provided to the Development Services Department, and the location of the “bomb boxes” had been disclosed to the Cache County Fire District. The use of the explosives is overseen by the ATF and the State Fire Marshall. An updated ATF Federal Explosives License must be provided. *See condition #6*
 - b. **Heli-skiing:** The applicant did not provide details regarding the extent of helicopter use and activity. As included in the 6 October 2016 staff report, the County Land Use Ordinance §17.07.030, 6310 Private Airport references the definition under Federal Aviation Administration (FAA) Title 14, Part 157 regarding helicopter activity and temporary or intermittent use of a site, helicopter activity is limited to the following - *See condition #8*:
 - i. Flight operations conducted under visual flight rules (VFR) and which use is used or intended to be used for a period of less than 30 consecutive days with no more than 10 operations per day on an annual basis, or;
 - ii. The intermittent use of a site that is not an established airport, which is used or is intended to be used less than one year and at which flight operations will be conducted only under VFR. Intermittent use means:
 - i. for no more than 3 days in any one week, and;
 - ii. No more than 10 operations will be conducted in any one day at that site
25. Sensitive Areas: §17.08.040 General Definitions, Sensitive Area; §17.18 Sensitive Area *See condition #9*
- a. Steep Slopes – Steep Slopes cover the majority of the property within the expanded CUP area. The development of structures or roadways is not permitted within Steep Slope areas.
 - b. Moderate Slopes – The development of structures or roadways is permitted within Moderate Slope areas if supported by a geotechnical report as specified by §17.18 of the County Code.
 - c. Ridgelines – To the maximum extent possible, development is not permitted within 100 vertical feet of ridgelines unless approved as an exception by the Land Use Authority. Exceptions are permissible if the impact is minimized, and/or in keeping with the Purpose and Standards of §17.18 of the County Code.
 - d. Major Waterways – Davenport Creek runs along the southern boundary of the expanded CUP area. Any proposed development near waterways requires additional setback requirements.
 - e. Geologic Hazards
 - i. A Geotechnical Report is required for habited, permanent structures in landslide areas or within the immediate proximity of mapped faults.
 - ii. Landslides: There are various landslide areas as identified by the Utah Geological Survey (UGS). The UGS has also provided an update regarding the

inaccuracy of that mapping layer and it is therefore used strictly as a reference tool.

- iii. Fault Lines: There is a mapped fault line on the west end of the expanded CUP area.
- f. Historic, Prehistoric, and Cultural Resources – La Plata is known as an old silver mine area and ghost town. Any proposed development in the area will require additional review and consideration of sites or structures that may be determined to have historical or archaeological significance to the community, the region, or the State of Utah within the CUP area to evaluate possible impacts and identify possible mitigation measures.

H. Public Notice and Comment—§17.02.040 Notice of Meetings

- 26. Public notice was posted online to the Utah Public Notice Website on 23 January 2019.
- 27. Notice was published in the Herald Journal on 26 January 2019.
- 28. Notices were posted in three public places on 23 January 2019.
- 29. Notices were mailed to all property owners within 300 feet of the subject property on 24 January 2019. Weber County was notified by email on 28 January 2019.
- 30. At this time, no written public comment regarding this proposal has been received by the Development Services Office.

CONDITIONS (9)

These conditions are based on the Cache County Land Use Ordinance and on the findings of fact as noted herein:

- 1. The applicant and operator(s) must abide by the information as provided in the application and the information as identified in this report and must comply with the conditions of approval. Any expansion or modification of the proposed use must obtain the approval of the Land Use Authority. *(See A-2)*
- 2. Prior to recordation, any new structures that are temporary, mobile, or permanent, used as part of the operations of this CUP must meet all zoning and building code requirements for a recreational facility. The applicant must obtain approval for all required zoning and building permits. Written confirmation from the County Building Division must be provided to the Planning and Zoning Division to confirm code compliance. *(See A-2-a-ii)*
- 3. Prior to recordation, the applicant must bring the temporary yurts previously approved into compliance by either removing them at the end of the season or providing a copy of the Certificate of Occupancy from the Building Department indicating the yurts are permanent structures that meet minimum county requirements. *(See A-2-a-ii)*
- 4. All operational information and conditions of approval from the Whisper Ridge CUP 1st Amendment staff report dated 6 October 2016 are incorporated herein and remain in full force with the exceptions of changes noted in this staff report. *(See A-2-b-i)*
- 5. The portions of Powder Mountain Ski Resort located within Cache County are currently out of compliance with County Code and must be brought into compliance prior to the commencement of operations with Whisper Ridge. If the location of the base operations and Whisper Ridge use areas change from those identified in the Vendor Agreement (i.e., Weber County), the applicant must notify the Department of Development Services of any changes. If the location of base operations change to a location within Cache County and operated by Powder Mountain, Powder Mountain must come into compliance with County Code and obtain approval of their own CUP prior to any use of the property by Whisper Ridge. *(See A-2-b-ii, E-12)*
- 6. Prior to recordation, the applicant provide a copy of an updated Federal Explosive License/Permit for the use of the explosives in the recreational facility. The applicant must

also inform the Cache County Fire Department of the locations of all new and existing “bomb boxes”. (*See A-2-b-viii, G-24-a*)

7. Prior to recordation and when weather conditions permit, the public works inspector must complete a road review of all access roads to the existing and proposed Whisper Ridge CUP properties to determine what improvements are required on the county roads. The developer must complete any required improvements prior to recording the permit. (*See F-16-c*)
8. Prior to recordation, a plan for the anticipated number of flights must be submitted to the Development Services Department. As defined under FAA Title 14, Part 157 regarding helicopter activity and temporary or intermittent use of a site, helicopter activity is limited to the following, unless permitting for a private airport is obtained: (*See G-24-b*)
 - a. Flight operations conducted under visual flight rules (VFR) and which use is used or intended to be used for a period of less than 30 consecutive days with no more than 10 operations per day on an annual basis, or;
 - b. The intermittent use of a site that is not an established airport, which is used or is intended to be used less than one year and at which flight operations will be conducted only under VFR. Intermittent use means:
 - i. For no more than 3 days in any one week, and;
 - ii. No more than 10 operation will be conducted in any one day at that site.
9. Any proposed development in areas identified as a Sensitive Area, must comply with all additional requirements as necessitated in the Code. (*See G-25*)

CONCLUSIONS (2)

Based on the findings of fact and conditions noted herein, the Whisper Ridge CUP 2nd Amendment is hereby approved as follows:

1. It has been reviewed by the Planning Commission in conformance with, and meets the requirements of, the Cache County Land Use Ordinance, and; *See B, C, D, E, F, G*
2. As per §17.02.060, Establishment of Land Use Authority, the Planning Commission is authorized to act as the Land Use Authority for this CUP request. *See D-6*

WHISPER RIDGE CONDITIONAL USE PERMIT 2ND AMENDMENT

Parcels to be added to CUP boundary (29 parcels, 9,512.06 acres)

16-010-0002

16-010-0003

16-011-0001

16-011-0003

16-011-0005

16-011-0006

16-012-0005

16-013-0002

16-013-0003

16-013-0006

16-013-0007

16-014-0001

16-014-0002

16-014-0003

16-014-0004

16-015-0001

16-015-0002

16-015-0006

16-015-0007

16-016-0001

16-016-0003

16-016-0004

16-017-0001

16-083-0006

16-083-0008

16-084-0002

16-084-0004

16-084-0006

16-084-0007

Letter of intent- Business License

Cache Valley

As you know Whisper Ridge has been in operations for three seasons now. We have just recently (Sept 28th, 2018) completed the purchase of the La Plata Ranch from Jerry Bruce Peterson and his partners. The recording (Cache County Recorder's Office) of the the transaction has been completed. The entity that purchased the ranch is Whisper Ridge Mountain Holdings LLC a Utah company. R. Dan Lockwood is a Member and the CEO of the company.

#1 We wish to include the newly purchased property under our current CUP. There will be no permanent structures added to this property. And no changes to the properties currently permitted (Coldwater Ranch).

#2 We will be accessing the new property from the Powder Mountain Ski Resort and traveling into the property (please see route map).

#3 Acreage 10,814 acres
See attached parcels

#4 No employees will be housed on the property.
Employees (25) FTE
12 Guides
9 Snow Cat operators
4 Ski Patrollers/snow safety

#5 No structures will be added

#6 Equipment 8 snowcats
4 @ Paradise base
4 @ Powder Mountain base

#7 Active Operation: Approximately December 1-April 15 each year weather permitting.
Daily Operations will be from 7:00 AM to 5:00 PM., 7 days a week, including holidays.
Maintenance and snow road construction may take place 24 hours a day.

#8 Deliveries: Daily deliveries of catered food to clients at the base and yurt sites.

#9 Fuel and Maintenance: it is anticipated that all fuel and maintenance for operations will be located on Parcel 16-031-0001. If any fuel/maintenance structures are found to be necessary aside from this area, additional permitting and approval from Cache County is required.

#10 Summary

Major changes for this season are the additional property on the ranch properties recently purchased by Whisper Ridge Mountain Holdings LLC (see ranch maps).

Parking and traffic will flow through the Powder Mountain Ski Resort. (See attached travel Map and Parking location)



Boundary of Whisper Ridge CUP
2nd Amendment - La Plata Area

Cache County/
Weber County
boundary

Snow cat route

Powder Mountain
Village - Base
Operations &
Guest Parking area

Base Operation

© 2018 Google

6211 ft

MEMORANDUM

7 February 2019

To: Planning Commission

Subject: 6-month time extension request for the proposed Buena Vista Subdivision

A request has been made by Lonnie Bullard on behalf of the owners of the Buena Vista Subdivision for a 6-month extension of the effective period of approval for a 6-lot subdivision located on La Plata Ranch Road in the Forest Recreation (FR40) Zone (Attachment A).

The 6-lot subdivision was approved by the County Council on 13 February 2018. The effective approval date for a subdivision approval is one year; subsequently, the current expiration date for the approval is 13 February 2019. If the plat is not recorded by the expiration date, the approval and plat is void and the file closed.

Before a plat can be recorded, all conditions of approval must be met or, as necessary, an improvement agreement for required infrastructure must be in place. As of this date, the applicant still has outstanding conditions of approval related to road improvements. A full analysis of the existing road has not been completed to determine the scope of required road improvements due to winter weather conditions. In order to draft an improvement agreement, specific information including detailed construction bids are needed. Given that the road is snow covered and inaccessible at this time, it is not possible for the applicant to enter into an improvement agreement with the County before the expiration date.

In 2018, §17.02.050, Effective Period of Land Use Authority Approval, was amended to allow an approval of an administrative land use decision to be extended up to six (6) months at the discretion of the land use authority (§17.02.050(F)). The same code update to Title 17.02 also changed the land use authority for subdivision approvals from the County Council to the Planning Commission in §17.02.030 (Establishing Land Use Authority Duties, Authorities, and Powers). Consequently, the Planning Commission is the land use authority with the power to consider this extension request.

Section 17.02.050(F)(2), specifies that the applicant bears the burden of proving the conditions justifying an extension have been met and the land use authority may approve an extension request only if:

- “a. The reason for the request is not economic.
- b. The applicant has shown a clear pattern of working to record the plat or permit throughout the entirety of the approval period.”

The submitted request for a time extension provides the following reasoning:

1. A number of conditions including producing a trip generation report, inspection by Bear River Health Department, and road grading has been completed.
2. The remaining conditions related to assessing required road improvements are in process but cannot be completed prior to the expiration date.

Staff recommends that the Planning Commission approve this request to extend the effective date of approval to **13 August 2019**, the full 6-month time extension allowed per code, as:

1. The request for a time extension complies with the requirements of §17.02.050(F) and the applicant has shown a clear pattern of working to record the plat through the approval period.

Cache County Development Services Office

Chris Harrild Planning Manager

Dear Mr. Harrild

Your correspondence of February 16, 2018 confirmed the approval by the Cache County Council of the Buena Vista Ranch subdivision subject to the completion of certain requirements set forth in the letter.

The following required items have been completed;

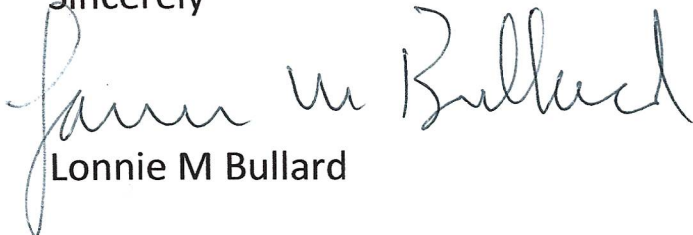
1. Trip generation report
2. Bear River Health Department onsite inspection and approval.
3. The grading of roads providing access to the proposed lots. The roadways were reviewed by a county representative.

The items called for that are in process are;

1. The import of road base as called for in accordance with the geotechnical engineer's recommendation and civil drawings.
2. Certification of right of way over the La Plata road to the subject property.

We would hereby request a six-month extension to our one-year time period to determine the actual scope of work required by the county and to complete those requirements.

Sincerely



Lonnie M Bullard

Manager

Draft agenda

COUNTY COUNCIL & PLANNING COMMISSION

12 FEBRUARY 2019

JOINT WORKSHOP REGARDING RURAL 2 (RU2) AND RURAL 5 (RU5) ZONES

1. Background and Origin of RU2 and RU5 Zones
 - a. Cache County Comprehensive Plan
 - b. County Code
2. Issues & Concerns
 - a. Lack of direction in Code
 - b. Lack of consistency in application
 - c. Lack of vision for unincorporated County
3. Review of 3 Options & Short Term Impacts
 - a. Option 1 – Existing approach
 - i. Impact – status quo, no vision or criteria to base decisions.
 - b. Option 2 – Existing approach + more specific criteria
 - i. Impact – additional criteria for decision-making, but no direction on vision.
 - c. Option 3 – Sunset clause
 - i. Impact – RU2/RU5 rezone requests end until General Plan complete with vision and criteria in place.
4. General Plan Update
 - a. Timeline & Process
 - b. RFP Status
5. Moving Forward
 - a. Revisit options?
 - b. Alternatives?