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**Present:** Angie Zetterquist, Chris Harrild, Phillip Olsen, Brady Christensen, Nolan Gunnell, Jason Watterson, Chris Sands, Lane Parker, Brandon Spackman, John Luthy

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

2 **Gunnell** called the meeting to order and gave the opening remarks.

3 **05:32:00**

4 **Agenda**

5 Approved with no changes.

6 **05:32:00**

7 **Minutes**

8 *Watterson* motioned to approve the minutes from December 9, 2019; *Olsen* seconded; **Passed 7, 0.**

9 **05:32:00**

10 **Consent Items**

11 **#1 Lutz 2-lot Subdivision 1<sup>st</sup> Amendment**

12 **Christensen** asked about a possible property dispute.

13 **Zetterquist** responded that County Surveyor is following up on that concern and the only lot being  
14 amended is lot 1.

15 *Sands* motioned to adopt the consent agenda; *Watterson* seconded; **Passed 7, 0.**

16 **05:34:00**

17 **Regular Action Items**

18 **#2 The Farm in Old Paradise Conditional Use Permit**

19 **Zetterquist** reviewed the staff report for The Farm in Old Paradise Conditional Use Permit (CUP).

20 **Casey Snider** commented on settling the jurisdictional dispute between UDOT and the County and  
21 concerns regarding improvements to the public access for a u-pick opportunity that would come first  
22 followed by building structures for the full agritourism operation.

23 **Harrild** responded that the road is being worked out with UDOT. Currently the problem lies in paying  
24 for the survey that would be required, but staff is continuing to work on a resolution.

25 **Mr. Snider** responded that he plans to continue to move forward with the application.

1 **Sands** asked if Mr. Snider understood that there could be some road improvements such as a turning or  
2 egress lane required.

3 **Mr. Snider** responded he had talked with staff and is comfortable proceeding based on the conversations  
4 with staff.

5 **Olsen** asked if Mr. Snider is sure he has enough secondary water for what he would like to do.

6 **Mr. Snider** responded yes.

7 **Olsen** asked about crossing from one piece of property to another over the canal.

8 **Mr. Snider** responded that he does have a right-of-way through the Avon cemetery to access the  
9 property. He has also talked with the canal company about installing a culvert and has received an  
10 affirmative answer.

11 **Olsen** asked if Mr. Snider understands the type of culvert the canal company would want installed.

12 **Mr. Snider** responded he did.

13 **Christensen** stated it is better for the applicant to come in and ask for everything the applicant would like  
14 to do at one time.

15 **Zetterquist** stated there have been phased CUPs in the past and conditions can be changed to have  
16 phases so the u-pick opportunity could go forward in the spring.

17 **Mr. Snider** asked how long he has to record the CUP.

18 **Zetterquist** responded one year from the land use authority's decision.

19 **Parker** responded all conditions of the CUP must need to be done within a year.

20 **Sands** stated that a six month extension can be granted if applied for in time.

21 **Harrild** stated there can be some flexibility with a conceptual CUP like this.

22 **Mr. Snider** responded he had no problem with any conditions – just concerns relative to timing.

23 **Harrild** responded conditions 3, 4, and 7 would have to be done prior to recordation for sure.

24 **Mr. Snider** asked if he could use the existing farm right-of-way or would it need to be modified.

25 **Harrild** stated it would need to be looked at for safety issues.

26 **Mr. Snider** responded that is the road the milk truck used.

27 **Harrild** stated it would need to be looked at.

28 **Gunnell** asked about parking.

1 **Mr. Snider** responded he would be fine moving forward with the parking study. The hang up right now  
2 is UDOT and Cache County regarding the road.

3 **Harrild** stated condition 2 needs to be updated to state prior to construction instead of recordation.

4 **Gunnell** asked about the sale of beef.

5 **Mr. Snider** stated everything would be raised on site and a local company would do the slaughter,  
6 cutting, and packing of the meat.

7 **Sands** asked about a temporary permit for something like a u-pick event.

8 **Harrild** stated they are trying to get away from things like that, but a special event permit could be  
9 pursued.

10 **Gunnell** asked about the condition regarding Highway 165.

11 **Harrild** stated more information is needed which should be available after the parking study to make the  
12 determination if that needs to be prior to recordation or prior to construction.

13 **Sands** asked if the CUP applied to one parcel or both parcels.

14 **Mr. Snider** responded there are some things planted on the upper piece that would be sold down on the  
15 lower piece.

16 *Christensen* motioned to approve with the change to condition #2 and the other conditions and  
17 conclusions as written; **Sands** seconded; **Passed 7, 0.**

18 **05:53:00**

19 **#3 JRB Holdings LLC Conditional Use Permit Amended (formerly the Intermountain Hydraulics**  
20 **Conditional Use Permit)**

21 **Zetterquist** reviewed the staff report for the JRB Holdings LLC Conditional Use Permit (CUP).

22 **Commissioners** and **Staff** discussed building permits and if they are needed.

23 *Olsen* motioned to approve the JRB Holdings LLC Conditional Use Permit Amended with the stated  
24 conditions and conclusions; **Watterson** seconded; **Passed 7, 0.**

25 **06:02:00**

26 **#4 Allen Larsen Gravel Pit Conditional Use Permit 1<sup>st</sup> Amendment**

27 **Zetterquist** reviewed the staff report for the Allen Larsen Gravel Pit Conditional Use Permit 1<sup>st</sup>  
28 Amendment.

29 **Commissioners** and **Staff** discussed the amount of the pit not reclaimed and where the gravel permit is  
30 out of compliance, and the screen.

1 **Troy Allen** spoke on the master plan, problems with water and the drainage required to counter that and  
2 running into clay and dealing with that problem. There is approximately 10,000 tons left in the pit and  
3 then the next step is reclamation.

4 **Gunnell** asked what type of screen will be used.

5 **Mr. Allen** stated a standard screen for the top soil.

6 **Gunnell** asked if once screened the top soil there will be adequate for reclamation.

7 **Mr. Allen** stated there should be.

8 **Olsen** motioned to approve the *Allen Larsen Gravel Pit Conditional Use Permit 1<sup>st</sup> Amendment with the*  
9 *stated conditions and conclusions; Watterson seconded; Passed 7, 0.*

10 **06:14:00**

11 **#5 Whisper Ridge Conditional Use Permit Revocation Review Update**

12 **Harrild** updated the Commission on the Whisper Ridge Conditional Use Permit Revocation Review.

13 **Commission** and **Staff** discussed the yurts being removed and reviewed the current conditions. A Storm  
14 Water Permit (SWPP) and NOI has been applied for and approved.

15 **Dayson Johnson** commented on what steps has been completed since the last meeting.

16 **Watterson** asked about the cabin use.

17 **Mr. Johnson** stated a CUP application and an NOI have been submitted requesting heli-biking be added  
18 to the recreational facility, taking out use of the Paradise road, and no use of the cabin.

19 **Zetterquist** informed the Commission that the CUP amendment due to expire in February will expire  
20 because the conditions cannot be met in time. A new CUP has been applied for and is being processed at  
21 this time.

22 **Watterson** asked if that included biking and the other items discussed at the last meeting.

23 **Mr. Johnson** stated yes.

24 **Zetterquist** responded it depends on what happens. If the permit is not revoked it could be an  
25 amendment.

26 **Mr. Johnson** commented they are hoping this is not revoked and that the new CUP being applied for  
27 replace the second amendment.

28 **Christensen** asked how an agricultural extension for the pond was being sought.

29 **Mr. Johnson** commented that BioWest stated an agricultural extension is an option but they don't know  
30 if that will be possible until a wetlands delineation is completed in the spring.

- 1 **Olsen** asked about the yurts and how they are being stored.
- 2 **Mr. Johnson** stated they are stored off-site.
- 3 **Olsen** asked about the CAT and Heli-skiing.
- 4 **Mr. Johnson** stated if that use can continue, they are still planning to make all the other areas right.
- 5 **Parker** stated they would continue skiing without the cabins and the access by the cabin.
- 6 **Mr. Johnson** said that is right.
- 7 **Gunnell** asked about the helicopter and the pilot.
- 8 **Mr. Johnson** responded he is contracted.
- 9 **Gunnell** asked about the sage grouse area and if it is being flown over.
- 10 **Mr. Johnson** stated that area has been relayed to the helicopter and it is being avoided.
- 11 **Olsen** asked where the helicopter is flying out of.
- 12 **Mr. Johnson** stated Powder Mountain.
- 13 **Gunnell** asked how many drop points are being used for skiing.
- 14 **Mr. Johnson** stated that sites are dependent on snow.
- 15 **Harrild** stated amendment 2 is going to expire and that if current ski operations are functioning through  
16 La Plata, they shouldn't be because it is not permitted and that needs to cease.
- 17 **Christensen** stated that has been the hardest part of this process.
- 18 **Luthy** stated that he was on a trip through there in the fall and has pictures of the pond area.
- 19 **Gunnell** stated the new information came too late for the Commission to really review and the  
20 overstepping of the CUP is so blatant and it's a difficult situation.
- 21 **Mr. Johnson** responded that there has been a lot of work down in the last 30 days to try and rectify the  
22 situation and there has been a show of good faith to come back into compliance and run the business  
23 within the CUP.
- 24 **Gunnell** stated the pictures show a big scar that cannot be overlooked.
- 25 **Mr. Johnson** responded they are not asking it to be overlooked.
- 26 **Gunnell** responded he feels like not revoking the permit is overlooking that.
- 27 **Mr. Johnson** commented that by coming back and reporting to the planning commission that shows that  
28 they are willing to fix the problem and to come back into compliance.

1 **Sands** stated BioWest, his company, has been retained to help with the pond issue. That can't be done  
2 during winter, but when the snow melts it will be worked on and identify ways to bring it back into  
3 compliance. He will recuse himself from voting but doesn't feel like it negates him being able to provide  
4 comment. The commission does have the right and ability to revoke the permit if that is what the  
5 commission would like to do. It would be pretty demanding to bring this item back every 30 days.

6 **Staff** and **Commission** discussed revoking the permit because it allows the process to be started over and  
7 be done right from the beginning again. There is a history of noncompliance and currently it seems like  
8 there are operations happening where they should not be happening.

9 **Spackman** asked about the bike trail.

10 **Mr. Johnson** responded they are single-wide bike trail. In review of the Google Earth review Hansen,  
11 the applicant's surveyor, stated there did not seem to be a big impact.

12 **Gunnell** asked if soil had been disturbed and equipment used up there.

13 **Mr. Johnson** responded there had been and they are not trying to negate the situation.

14 **Staff** and **Commission** discussed what needed to be addressed from the 1<sup>st</sup> amendment and the  
15 conditions that need to be met to record the second amendment. The business may continue to ski on the  
16 first CUP but not without bringing the 1<sup>st</sup> amendment into the compliance.

17 **Mr. Johnson** stated the heli-skiing out of Coldwater is in the first amendment.

18 **Staff** and **Commission** discussed what was allowed by the 1<sup>st</sup> amendment which was CAT skiing and  
19 heli-skiing on Coldwater. Skiing La Plata is not allowed because that was under the second amendment.

20 The **Commission** discussed if significant progress has been made since the last meeting to make not  
21 revoking the permit feasible.

22 **Mr. Johnson** stated that the new CUP is a way to bring everything into compliance.

23 **Watterson** commented that if additional time is granted, a reasonable time frame for staff to review the  
24 information that would be good to include.

25 **Staff** and **Commission** discussed the noncompliance and no consequence being imposed for the  
26 noncompliance. That does set a precedence of no consequence for noncompliance. If the permit is  
27 revoked no use of the Coldwater and La Plata could continue/happen until a new CUP is approved.

28 **Staff** and **Commission** discussed enforcement and revocation. There is an enforcement ordinance  
29 currently being worked on that would provide staff more options for enforcement.

30 **Mr. Johnson** stated he thinks requiring the helicopter log is a fair recommendation and a deadline for  
31 having information into staff.

32 **Zetterquist** stated information that goes out to the Commission in their packet has to be in 10 days  
33 before the planning commission meeting.

- 1 **Staff and Commission** discussed what kind of information they would like to see in 30 days.
- 2 **Christensen** asked what measuring devices besides the helicopter log can be put in place.
- 3 **Mr. Johnson** stated a waiver has been filed with the Division of Water Quality because the stream  
4 cannot be inspected right now. A system called Compliance Go is what the applicant is planning to use  
5 and explained what kind of inspections are required to be in compliance with the SWPPP. A wetland  
6 delineation is going to be required, but cannot happen at this point.
- 7 **Gunnell** asked about skiing outside of the bounds.
- 8 **Mr. Johnson** stated the skiing outside of the bounds was done in ignorance and those operations will  
9 cease. He has no problem coming back before the Commission in 30 days.
- 10 **Gunnell** asked if Mr. Lockwood was over the operations before.
- 11 **Mr. Johnson** stated Mr. Lockwood is still over the entire operation.
- 12 **Harrild** stated Mr. Lockwood is still the acting agent and Mr. Johnson is under him.
- 13 **Jason Rickards** asked if the owners using La Plata as personal use and not through the business is a  
14 violation of the CUP.
- 15 **Christensen** responded that his opinion would be no skiing outside of the area that is in compliance.
- 16 **Gunnell** commented that he agreed with Christensen's opinion
- 17 **Mr. Rickard** stated that was his question.
- 18 **Harrild** stated that it is difficult for staff to differentiate between personal use and business use. There is  
19 no way to truly distinguish between business and personal use.
- 20 **Mr. Rickards** stated he understands what is being said.
- 21 **Staff and Commission** discussed how to differentiate between personal and business use.
- 22 **Dan Lockwood** commented that the owners are known and with the helicopter manifest, legally, the  
23 owners have to be listed on that manifest.
- 24 **Commissioners** commented on their personal feelings regarding the owners using the land personally.
- 25 **Mr. Lockwood** stated the landowners bought La Plata with the purpose for skiing and no commercial use  
26 of the La Plata will be used until the CUP is done. That can be proved through the manifest and  
27 compliance is the ultimate goal.
- 28 **Olsen** commented that this is a stretch and great leeway is being given.
- 29 **Mr. Lockwood** stated that while the business has come a long way in four years the relationship with the  
30 county has not been as fully developed and he takes responsibility for that deficit.



1 **Parker** motioned to continue the Whisper Ridge CUP Revocation Review for 30 days and activity proving  
2 coming into compliance be brought at that time; **Watterson** seconded the motion; **Passed 5, 1 (Sands**  
3 **Abstained, Gunnell voted nay).**

4 **07:38:00**

5 **#6 Discussion: Title 16.01, 16.02 and 17.02**

6 **Zetterquist** reviewed the code amendments for Titles 16 and 17. The main changes to Title 16 are to  
7 update language regarding land use authority and removing 1970 parcel language.

8 **Staff** and **Commission** discussed the reason for the changes.

9 **Zetterquist** reviewed the suggested amendments for Title 17. The biggest change comes in 17.07 which  
10 deal with transient housing and recreational facilities.

11 **Staff** and **Commission** discussed if a number limit for campgrounds is necessary or if that can be  
12 controlled in the CUP.

13 **08:00:00**

14 **Sands** motioned to continue the meeting up to 15 minutes; **Watterson** seconded; **Passed 6, 1 (Olsen voted**  
15 **nay).**

16 **Staff** and **Commission** discussed the length of time allowed for transient housing.

17 **Jason Rickards** reviewed a conceptual plan for Whisper Ridge that would include a lodge with 10 rooms  
18 and 15 detached cabins. If the proposed change were to happen, this type of concept would not be  
19 allowed.

20 **Sands** asked why they are not looking at a resort.

21 **Mr. Rickards** stated that would require a rezone and more work that they would like to avoid if possible.

22 **Commissioners** expressed that the concept handed out by Mr. Rickards is more a resort than a  
23 recreational facility.

24 **08:10:00**

25 **Staff Reports**

26 **Staff** and **Commissioners** discussed appreciation luncheon dates.

27 **08:13:00**

28 **Adjourned**