

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

DECEMBER 2, 2015

REQUEST TYPE:	Conditional Use Permit
APPLICANT:	Leslie A. "Mike" Wisell
PROPOSAL:	Commercial Use: Gunsmith shop
LOCATION:	8801 W Lake Boreham Road
ZONING DESIGNATION:	R-1

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicant is proposing to operate a gunsmith shop on his property, specializing in the repair and restoration of antique and vintage firearms. He will be doing some catalog sales but there will be no inventory of guns available for sale on the property. The property is zoned Residential, R-1 due to the presence of an East Duchesne culinary water connection. The proposed use would be considered a "Home Occupation," which is defined below:

HOME OCCUPATION: An accessory use consisting of a vocational activity conducted inside a dwelling unit, conducted by the individuals who reside therein, with up to five (5) full time equivalent (FTE) of nonresident employment (provided adequate on-site parking is available); provided, that the home occupation is clearly subordinate to the use of the parcel for dwelling purposes, does not change the character of the parcel and meets the following standards:

- A. Does not include the outside storage of goods, materials or equipment. **Findings: All materials would be housed in a shop attached to the applicant's residence.**
- B. Has signage limited to a non-illuminated, flush wall mounted identification sign two (2) square feet or less in size. **Findings: The applicant has no sign plans at this time.**
- C. The following occupations are allowed by **conditional use permit** in the R-¹/₂, **R-1** and A-2.5 zones, and permitted outright in the other zones: appliance repair, cabinet making, dance instruction to more than two (2) individuals at a time, **firearms sales and services**, food catering, hair salons, unless limited to two (2) stations, motorized garden tool repair, such as, but not limited to, lawn mowers, chain saws and leaf blowers, pest control, painting of vehicles, trailers, boats, and like vehicles/vessels, photo developing, real estate or brokerage offices, upholstery and furniture repair, vehicle related uses such as, but not limited to, the cleaning, dismantling, embellishment, installation, manufacture, repair or service, sale, lease, or rental, and towing of vehicles (the dispatching of vehicles such as limousines, taxicabs, and ambulances is allowed as a home business so long as those vehicles need not regularly come into the vicinity of the subject residence), welding, nursing homes, healthcare, including physicians, psychologists, chiropractors, hypnotics and massage therapists.
- D. Complies with all required federal and state licensing requirements. **Findings: The applicant has applied for a license from the U.S. Department of Justice, Bureau of Alcohol, Tobacco and Firearms and has met with the ATF investigator, David Sprankle, to ensure that he complies with all federal regulations. He has passed the background check and the on-site inspection.**

2. HISTORY OF EVENTS

November 9, 2015	The application was submitted.
November 9, 2015	The application was deemed complete.
November 10, 2015	Notice mailed to property owners within 1,320 feet of the subject property.
November 17 & 24, 2015	Notice of Public Hearing published in the Uintah Basin Standard
December 2, 2015	Planning Commission hearing.

3. DUCHESNE COUNTY ZONING CODE

8-13-1: SCOPE AND PURPOSE:

- A. Issuance: Conditional use permits may be issued as provided by this title for any of the uses for which a conditional use permit is required as identified in the table of uses and the table of site development standards, as set forth in Chapter 6 of this title.
- B. Purpose: The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.
- C. Conditions: A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed land use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use permit may be denied.

8-13-2: APPLICATION FOR PERMIT:

All requests for a conditional use permit shall be made on the application form provided by the county, detailing the nature of the conditional use request. The applicant shall also provide the necessary information identifying the purpose of the conditional use request, and all required information shall be provided to the planning office twenty one (21) days prior to the planning commission meeting. The planning commission is authorized to render a final decision on the issuance of a conditional use permit following the review and receipt of a recommendation from the zoning administrator.

8-13-3: PUBLIC HEARING REQUIRED:

All applications for a conditional use permit shall be made in accordance with the provisions of this title, and shall be the subject of a public hearing held before the planning commission for which a minimum of fourteen (14) days' public notice has been provided and the planning staff notifying all property owners by U.S. mail within three hundred feet (300') of the proposed conditional use.

8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL:

A. Findings Required: The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.

Findings: Even though guns will be present on the property, they will be kept within a locked building and will be secured with cable locks to prevent their operation. No ammunition will be sold at the site. Ammunition used for testing will be kept in small quantities in a separate secured location from guns.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

Findings: The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. The proposal complies with this section of the general plan.

The purposes of the Zoning Ordinance are set forth below:

8-1-2: PURPOSE:

A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent of this title to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;

3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses; and
5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

Findings: If the applicant meets the Conditional Use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Findings: The home site is 1.76 acres in size and the applicant owns an abutting 5.99 acres which is sufficiently large to accommodate the residence in which the proposed business would be housed and permit the business to operate in a manner that is not detrimental to surrounding property owners.

B. Conditions:

1. In approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the county general plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. Minimum conditions shall be included for produced water disposal facilities, extraction of earth products and residential treatment or secure treatment facilities as indicated in section 8-13-5 of this chapter.
2. When approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

HOME OCCUPATION STANDARDS: An accessory use consisting of a vocational activity conducted inside a dwelling unit:

- A. Conducted by the individuals who reside therein. **Findings: The business would be conducted by the applicant, who resides at this location.**
- B. With up to five (5) full time equivalent (FTE) of nonresident employment. **Findings: No outside employees are proposed.**

- C. Adequate on-site parking is available. **Findings: The applicant estimates no more than ten customer trips to the home per week. He can provide ample parking spaces on the large home site for the expected level of visiting clientele.**
- D. The home occupation is clearly subordinate to the use of the parcel for dwelling purposes, does not change the character of the parcel. **Findings: The property will maintain its residential character.**

8-13-6: TERM OF PERMIT:

Unless there is substantial action under a conditional use permit within a period of eighteen (18) months of its issuance, the permit shall be considered null and void.

8-13-7: REVOCATION OR MODIFICATION OF PERMIT:

A. Authority: If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall hold a public hearing on the question of modification or revocation of a conditional use permit granted under the terms and the provisions of this title.

B. Conditions: A conditional use permit may be modified or revoked if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit have not been met.

C. Modification by Planning Commission: Additionally, the conditions under which a conditional use permit was originally approved may be modified by the planning commission without the consent of the property owner or operator, if the planning commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should reclamation be necessary, complete restoration, to such an extent that the area will not depreciate the surrounding property or impair the beauty of the landscape, shall be accomplished within a twelve (12) month time frame.

CONCLUSIONS

1. The request will comply with the Conditional Use Permit requirements of the Duchesne County Zoning Code, provided that conditions are imposed.
2. The request is valid.

RECOMMENDATION

Recommended Motion: I move that the Planning Commission approve the Conditional Use Permit requested by Leslie A. "Mike" Wisell, subject to the following conditions:

1. There shall be no outdoor storage of goods and materials.
2. Weapons and ammunition shall be kept stored in a safe and secure manner.
3. Future business signs shall not exceed two square feet in size and shall be flush-wall mounted and non-illuminated.
4. Applicant shall comply with all licensing requirements of the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.
5. Applicant shall obtain a Duchesne County business license.

Mike Hyde
Community Development Administrator

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