

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

JULY 6, 2016

REQUEST TYPE: Conditional Use Permit
APPLICANT: Iliel A. V. Salguero
PROPOSAL: Mechanic Shop
LOCATION: 7235 W Bluebell Road, Lot 34A, Phase 2, Unit 3 of the Cedarview Properties Subdivision
ZONING DESIGNATION: A-5

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicant is seeking approval to operate a mechanic's shop at his property on the south side of the Bluebell Road, in the Cedarview area. He has previously worked for Palmer's Tire and Thacker's Repair, but has been laid off due to the slow economy. He has an existing shop, where he is working on his own vehicles; but would like to be able to operate the shop as a business. The property is zoned A-5, which is an agricultural zone with a five-acre minimum lot size. Commercial uses are permitted in the agricultural zones of the County with a Conditional Use Permit.

2. HISTORY OF EVENTS

May 12, 2016	The application was submitted.
June 3, 2016	The application was deemed complete.
June 14, 2016	Notice mailed to property owners within 300 feet of the subject property.
June 21 & 28, 2016	Notice of Public Hearing published in the Uintah Basin Standard
July 6, 2016	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: The proposed use has the potential to be detrimental to other property owners and the public health, safety and general welfare if conditions are not imposed to regulate hours of operation, ensure compliance with health department rules and screen the view of vehicles that would be stored at the shop awaiting repair.

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. In light of these plan policies, the Conditional Use request should be approved to provide a site for a new business, provided that conditions of approval are imposed to protect rural residential interests in the area.

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 subject property is 15 acres in size and contains five existing homes and a garage. Fifteen acres is large enough to operate the proposed mechanic's shop building with no significant impact on surrounding properties. The nearest homes are located about 700 feet to the southeast, 1,600 feet to the southwest and 1,650 feet northwest of the mechanic shop building.

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.

8-13-5-5: ADDITIONAL CONDITIONS SPECIFIED:

These conditions may include:

- A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Findings: There are currently about a dozen vehicles stored outdoors on the site. Some of these vehicles are owned by individuals other than the applicant, who have abandoned them at the location. It is common for mechanic shops to have outdoor storage of vehicles waiting to be repaired or abandoned by a vehicle owner who cannot afford repairs. Such vehicles should be stored within a sight obscuring fence or wall, at least six feet in height, to obscure their view from nearby residents and from the public traveling on the Bluebell Highway. Such fencing or wall should be constructed prior to the issuance of a business license for the mechanic shop.

- B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

Findings: Access to the proposed business is via the Bluebell Highway, which is a paved county road. However, upon leaving the county road, one must travel over dirt roads that include sections of the old highway. These roadways are not maintained by the County and are not in good condition for all-weather travel. The applicant has expressed an interest in acquiring more direct access from the highway, immediately north of his property; however, that will take time to address with the property owners (Judith Hires and Bill George). In the short term, the applicant should at least provide ingress and egress over roads that meet the standard of the Wildland Urban Interface Code for all-weather public access and fire truck access to the property, as determined by the Fire Marshall.

Dirt-surfaced areas on the property used for the parking, movement and storage of vehicles should also be provided with a gravel or rock surface to provide for all-weather access and to reduce blowing dust.

- C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Findings: The subject property has frontage on the old Bluebell Road, which has a width of 20 feet according to the 1979 subdivision plat. Since the road has been relocated to the north by the County, there is no need for additional road right of way. However, these former sections of county road need to be upgraded to a standard of the Wildland Urban Interface Code for all-weather public access and fire truck access to the property, as determined by the Fire Marshall.

Water: The existing homes on the subject property receive water from a private well. The existing shop building does not have water service. If the applicant desires to connect the building to water in the future, he will need to obtain approval from the Utah Division of Water Rights to appropriate groundwater for that purpose.

Sewer: When the homes on the property were constructed, the applicant received approval of a wastewater permit from the TriCounty Health Department. If the existing shop building is provided with bathroom facilities in the future, the applicant will need to apply for another wastewater disposal permit from the health department and install a wastewater system to serve the building. A building permit will be required for any alterations or additions to the building.

There is no water system with fire hydrants in this area. Before the county issues a business license, the applicant must work with the Building Official and Fire Chief to meet code requirements for fire protection before a Certificate of Occupancy is issued for converting the building from a private garage to a commercial mechanics shop.

D. Signs: Regulation of signs.

Findings: The applicant would like to install a sign readable from the Bluebell Highway; however, he does not own any frontage on the county road. He would first need to obtain the property or a lease from the property owner. If a business sign were to be proposed in the future, the Planning Commission has generally limited such signage in agricultural-residential areas to 32 square feet in size. To maintain residential character, new signs should not be illuminated nor constructed above the roof lines of the building.

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Findings: The business has the potential to generate noise from vehicle or equipment operations in late night or early morning hours.

The Duchesne County Nuisance Ordinance contains the following regulations for vehicle and equipment noise:

G. Noise Disturbances:

1. The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:

- a. Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or

equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.

- b. The use of a motor vehicle, motorcycle or motorized vehicle, whether or not designed for use on public roads, at any time or under any condition of grade, load, acceleration, deceleration, movement, or at rest, whether or not in repair or operated in such manner as to create loud or unnecessary grating, grinding, rattling, motor winding, squealing, screeching or other tire noise, or any other unnecessary noise.**

Based on the nuisance ordinance standards, the applicant should minimize activities that produce nuisance noise later than 9:30 PM and earlier than 7:00 AM.

F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

Findings: The applicant states that normal business hours are from 8:00 AM to 5:00 PM. Such hours are within the guidelines of the Nuisance Ordinance for the generation of noise.

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 Iliel A. V. Salguero, subject to the following conditions:

1. Before opening for business:
 - A. All business access roads, driveways, parking areas and vehicle storage areas shall be provided with an all-weather surface to control dust from business vehicle movement and meet the minimum standards of the Wildland-Urban Interface Code, as determined by the Fire Marshall.
 - B. The applicant shall construct a sight-obscuring fence or wall at least six feet in height to obscure the view of all vehicles associated with the business that are stored on the property.
 - C. The applicant shall comply with all requirements of the building and fire codes as determined by the County Building Official and Fire Chief and obtain a Certificate of Occupancy to change the use of the existing private garage to a commercial mechanics shop.
 - D. The applicant shall obtain a county business license (after A, B and C above are completed).
2. If an off-premise business sign is proposed along the Bluebell Road in the future, such signage shall be limited to one sign, non-illuminated, not to exceed 32 square feet in size and the sign owner must either own or lease the sign site. On-premise signs shall also be limited to 32 square feet in size, not be illuminated and shall not exceed the roof line of the shop building.

3. Motor vehicle and equipment noise on the property shall be limited, to the hours between 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays and 9:00 A.M. to 9:30 P.M. on Sundays.
4. If the shop building will have restroom facilities in the future, the owner must first obtain a wastewater disposal permit from the TriCounty Health Department, approval to appropriate groundwater for such purpose from the Utah Division of Water Rights. A permit from the County Building Department is required for alterations or additions to the shop building.

Mike Hyde, AICP
Community Development Administrator

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