

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

SEPTEMBER 7, 2016

REQUEST TYPE: Conditional Use Permit
APPLICANT: Guy and Sandy Young
PROPOSAL: Resort Lodge
LOCATION: 43501 West Highway 35, Hanna
ZONING DESIGNATION: R-1

REPORT CONTENTS

FINDINGS OF FACT.....2

CONCLUSIONS 7

RECOMMENDATION..... 7

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicant is seeking approval to convert an existing single family dwelling to a “resort lodge” for weekly vacation rentals (maximum of 26 weeks of the year). Visitors would have access to the Duchesne River via an existing fisherman’s access on the north side of their property. The property is currently listed on the VRBO website advertising weekly rentals [with a two-night minimum stay] between May 26 and November 30, 2016. Transient room tax is collected as part of this service. The applicants intend to retire at this location in the future. The property is zoned R-1, which is a residential zone with a one-acre minimum lot size. A resort lodge is allowed in the R-1 zone with a conditional use permit.

2. HISTORY OF EVENTS

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|----------------------|---|
| July 28, 2016 | The application was submitted. |
| July 29, 2016 | The application was deemed complete. |
| August 10, 2016 | Notice mailed to property owners within 300 feet of the subject property. |
| August 23 & 30, 2016 | Notice of Public Hearing published in the Uintah Basin Standard |
| September 7, 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 maintain the residential character of the business site.

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 recreation business, provided that conditions of approval are imposed to protect rural residential interests in the area. Such businesses are required to obtain a Duchesne County business license and collect transient room taxes from guests.

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 1.5 acres in size. The property contains an existing log home that has two bedrooms, two baths and can sleep up to six guests. The home is set back about 80 feet from the north property line and a greater distance from the west, east and north lines. The nearest home is located about 220 feet north of the subject building. Another home is located about 320 feet to the east; across Highway 35. The site is large enough to accommodate the existing home and the needed parking areas for guest vehicles.

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: Site photos reveal that, while the log home is attractive and well-maintained, the grounds around the home are not. The site is covered with dry grass and weeds and does not provide for usable outdoor recreation space for resort lodge guests. Before issuance of a business license for the resort lodge, the applicants should be required to submit a site landscaping plan to the county for review and approval by the Community Development Director. This plan should include the types and locations of landscaping planned and an estimated time schedule for the installation.

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: Site photos reveal that the driveway leading from Highway 35 to the resort lodge is a rough, cobble rock road and that vehicle parking is not well-defined by an all-weather gravel surface. Before issuance of a business license for the resort lodge, the applicants should be required to submit an ingress-egress and parking plan to the county for review and approval by the Community Development Director. This plan should include the types and locations of driveway and parking improvements planned and an estimated time schedule for the installation.

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:**

Roads: The property is accessed from Utah Highway 35, which has a right of way width of 100 feet. No needs for additional right of way or highway improvements have been identified at this location.

Water: The property receives water from the Hanna Water District. The proposed business will have a very minimal impact on water usage at the property. Use of the resort lodge for a maximum of 26 weeks per year will result in less water usage than a single family dwelling occupied year-round.

Sewer: The property has an onsite wastewater disposal system. Use of the resort lodge for a maximum of 26 weeks per year will result in less sewage generation than a single family dwelling occupied year-round.

Fire: A fire hydrant has been installed on the Hanna Water system across Highway 35 from the home. However, there may be other building and fire code standards that will need to be met before the log cabin may be changed from a single family dwelling to a resort lodge. The applicants will need to discuss building and fire code requirements with the County Building Official and Fire Chief and install any required measures before the issuance of a Certificate of Occupancy for the new use and before opening for business.

D. Signs: Regulation of signs.

Findings: The applicants would like to place a banner advertising the resort lodge either on the fence along Highway 35 or attached to the deck. Due to the short height of the highway fence and the height of the grass and weeds between the pavement and the fence, a banner would likely work best on the deck. Permission to place a banner on the highway right of way fence would have to be received from Region 3 of the Utah Department of Transportation. Signage will need to be non-illuminated and kept within 32 square feet in size to protect the residential character of the area.

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 Duchesne County Nuisance Ordinance allows noise from motor vehicles between the hours of 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. Conditions should be considered to ensure that noise from guests, which could disturb surrounding residents, does not occur earlier or later than these allowed times.

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

Findings: The proposed resort lodge would operate a maximum of 26 weeks annually. Regulating hours of operation is not practical and hours of use would vary depending on the arrival and departure of guests and the frequency of rental use.

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 Guy and Sandy Young, subject to the following conditions:

1. Before opening for business:
 - A. The applicants shall obtain a Certificate of Occupancy from the Duchesne County Building Official and Fire Chief to change the use of the building to accommodate the resort lodge usage.
 - B. The applicants shall submit a site landscaping plan to the county for review and approval by the Community Development Director. This plan should include the types and locations of landscaping planned and an estimated time schedule for the installation.

- C. The applicants shall submit an ingress-egress and parking plan to the county for review and approval by the Community Development Director. This plan should include the types and locations of driveway and parking improvements planned and an estimated time schedule for the installation.
 - D. The applicants shall obtain a county business license.
2. Permission to place a banner on the highway right of way fence would have to be received from Region 3 of the Utah Department of Transportation. Signage shall be limited to one non-illuminated sign, no greater than 32 square feet in size, to protect the residential character of the area.
 3. Noise on the property, associated with resort lodge guests, 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. Such rules for “quiet time” shall be provided to guests in writing and be posted inside the cabin.
 4. The applicants shall maintain compliance with Utah State Tax Commission regulations for the collection of the transient room tax from guests.