

DUCHESNE COUNTY

PLANNING COMMISSION MEETING

OCTOBER 5, 2016

REQUEST TYPE: Conditional Use Permit
APPLICANT: Cody & Cassie Ames
PROPOSAL: Small engine and electronics repair/service business
LOCATION: 800 North 2060 West (Lot 7 of the Royal Stewart Subdivision)
located in the Hancock Cove area, northwest of Roosevelt
ZONING DESIGNATION: R-1

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The applicants are seeking approval to operate a small engine and electronics repair/service business. The electronics repair will be done inside the home. Small engine repair will be done in the garage, with starting and testing to occur outdoors. The property is zoned R-1, which is a residential zone with a one-acre minimum lot size. Commercial uses and certain home occupations are permitted in the residential zones of the county with a Conditional Use Permit.

Definition of 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 FTE of non-resident 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.**
- (B) **Has signage limited to a non-illuminated, flush wall mounted identification sign two square feet or less in size.**
- (C) **The following occupations are allowed by conditional use permit in the R1/2, R-1 and R-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, lawnmowers, 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, health care, including physicians, psychologists, chiropractors, hypnotics and massage therapists.
- (D) **Complies with all required Federal and State licensing requirements.**

2. HISTORY OF EVENTS

September 8, 2016	The application was submitted.
September 8, 2016	The application was deemed complete.
September 19, 2016	Notice mailed to property owners within 300 feet
September 20 & 27, 2016	Notice of Public Hearing published in the U.B. Standard
October 5, 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 and ensure that equipment being repaired is stored out of public view.

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 home based 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 1.21 acres in size and contains an existing home and attached garage. All of the homes in the Royal Stewart Subdivision are on lots approximately one acre in size and the homes are fairly close together. Given the small lot sizes in the area, it will be important to impose conditions to minimize noise and visual impacts to maintain the residential character of the property. If such conditions are complied with, the business should be able to function without detrimental impacts to adjoining and surrounding properties.

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 is a six foot tall privacy fence around the applicant's rear yard. Any equipment stored on the site awaiting repair must be kept behind this fence to buffer the visual impacts of the proposed use.

- 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: The lot has a three-car wide driveway and 155 feet of frontage on 2060 West, which provides plenty of parking for customers doing business at the site. 2060 West is a paved County Road that will provide adequate ingress and egress for the business.

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:**

Streets: The subject property has access from the North Cove Road to 2060 West, which are paved County roads capable of handling the traffic associated with the proposed business.

Water: The existing home on the subject property receives water from Roosevelt City.

Sewer: The existing home on the property has an onsite wastewater system that has been approved by the TriCounty Health Department. The business should not cause capacity issues with this system. The applicants will need to be cautious not to dispose of engine fluids onto the ground or into the septic system.

There is a fire hydrant located within 500 feet of all homes within this subdivision as required by the subdivision ordinance. 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 operating the repair shop in the private garage.

D. Signs: Regulation of signs.

Findings: The home occupation sign standards allow for one non-illuminated, flush wall mounted identification sign, two square feet or less in size. This standard should be applied in this case.

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 testing and running small engines. Conditions should be imposed to ensure that such noise does not occur 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 will be Monday through Friday from 7:00 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 Cody & Cassie Ames, subject to the following conditions:

1. Before opening for business:
 - A. The applicants shall comply with all requirements of the building and fire codes as determined by the County Building Official and Fire Chief to allow the use of the residential garage for a repair shop.
 - B. The applicants shall obtain a county business license.
2. Business signage affixed to the property shall be limited to that for home occupations: One non-illuminated sign, flush wall mounted to the home, not to exceed two square feet in size.
3. Noise on the property associated with the business shall be limited to the hours between 7:00 A.M and 9:30 P.M.
4. Applicants shall not allow engine fluids to drain into their septic system or onto the ground.
5. Equipment being stored and awaiting repair shall be stored in an enclosed building or behind a fenced enclosure.

Mike Hyde, AICP
Community Development Administrator