

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
July 3, 2013 - 5:00 p.m.**

In Attendance were:

Kent Olsen, Vice-Chairman, Planning Commission
John Jorgensen, Planning Commission
Edward Roberts, Planning Commission
Allen Lindsay, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Craig Kelsey
Cami Rose
Steve Puro-Uintah Basin Standard

Encore Production-CUP
Encore production-CUP

Vice-Chair Olsen opened the meeting at 5:00 PM and read the Rules of Order. He asked if any of the Planning Commission had any ex-parte contacts of conflicts of interest associated with any item on the agenda. There were none, so the hearing proceeded.

PUBLIC HEARINGS:

A. Request by Cami Rose for a Conditional Use Permit to operate a dance studio (Encore Productions) at 8786 S 23200 West in the Duchesne area.

Mr. Hyde referred the commission to their packets and some site photos of the location and stated the applicant has been operating a dance studio at this location without a county business license. She applied for a business license in January 2013; but the license has not been issued pending land use approval. The property is located in an A-2.5 zone. This zoning district allows for dance instruction as a home occupation provided that the instruction is limited to two or fewer students at a time. This studio teaches up to eight (8) students at a time so it does not qualify as a home occupation and requires a conditional use permit as a commercial use.

The criteria for approval are as follows.

- 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.**

Mr. Hyde stated the studio is located in the back half of an agricultural shop building, which was converted to a dance studio without a building permit. The studio is located on a gravel lane south of the Starvation Lake Road. One must drive by two residences

to access the studio. Small children were observed in the area when the on-site inspection was done. The lane is not a county-maintained road and the addition of dance studio traffic will accelerate the deterioration of the road. Bringing commercial traffic onto such a residential lane is potentially detrimental to public safety. There are no curbs or sidewalks along the road. There have been reports of near-accidents associated with business traffic and clients driving too fast. This criterion can be met only if conditions are imposed to make the access route to the studio safer.

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.

Mr. Hyde indicated 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 may be approved to support the creation of a new business site, only if conditions of approval can be imposed to protect rural residential interests in the area.

Purposes #3 and #4 promote public safety and protection of land owners from adverse impacts created by certain land uses in certain areas (such as commercial uses in residential areas). To comply with these purposes reasonable conditions of approval will need to be imposed to adequately mitigate impacts associated with the proposed use.

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.

Mr. Hyde stated the subject property is 4.63 acres in size; however, not all of this area is available to serve the business. There is space available to park a number of vehicles; although the parking area is somewhat constrained by the presence of two RV trailers, a horse trailer, two flatbed trailers, a boat and several vehicles. The size of the property is sufficient to accommodate the use; however, some of the afore-mentioned items may need to be relocated out of the parking area to make more parking available for clients. The building code allows up to 16 occupants in the studio at any one time; however the applicant intends to limit class sizes to eight (8).

Some additional 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.

The site photos indicate there is some white vinyl fencing on the west side of the access road, with openings defining the driveway ingress and egress points. The

applicants plan to modify the driveway location so that vehicles leaving after sunset will not shine headlights toward the home to the east. There is no landscaping around the parking area. Section 8-12-17 G of the Zoning Ordinance states that parking areas shall be landscaped as approved by the zoning administrator or planning commission. Where irrigation water is available, traditional landscaping shall be provided. On sites without irrigation water available, xeriscape landscaping is allowed. There is a vinyl fenced enclosure with gate on the south side of the shop building at the entrance to the studio. However, there is inadequate fencing to keep children from accessing agricultural uses on the property that could be hazardous (such as horse corrals and pens). The studio building is set back a sufficient distance from the access road to allow for client parking.

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.

With a studio occupant load maximum of 16, this could result in up to 16 vehicles needing parking spaces (staff plus parents waiting to pick up children). If class sizes are limited to eight (8), the parking load will be lessened. The building code requires one of these parking spaces to be ADA accessible, which requires paving and signage). With the parking of RV's, trailers, boats, private vehicles and other items in the parking area, class sizes should be limited to eight to ensure adequate parking.

Section 8-12-17 F of the Zoning Ordinance states that every parcel of land hereafter used as a public parking area shall be surfaced with asphalt, concrete or other durable and dustless surface and shall have appropriate bumper guards or curbs where needed, as determined by the zoning administrator, to protect adjacent property owners or persons using a sidewalk.

Mr. Hyde stated that ingress and egress to the studio is not adequate. Clients must drive down a gravel lane, past two homes, to access the parking area. This creates an unfair burden on residential property owners in the vicinity and generates safety and dust issues. If speed bumps or speed humps are installed on this private road, that would reduce vehicle speeds to address safety concerns and reduce the amount of dust generated.

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.

Mr. Hyde stated there is a fire hydrant at the intersection of 23200 West and the Starvation Lake Road, which serves this area. Adequate culinary water service is provided in this area by Duchesne City and TriCounty Health Department is the sanitary sewer authority for the county. TCHD had no record of an approved wastewater disposal system on this property; thus, if this permit is granted, conditions must be imposed to ensure that sewage disposal is handled appropriately given the increased usage associated with the studio.

The access road serving the studio is a private easement with a width of 60 feet. This

easement width is adequate for a private road. Comments have been sought from Region 3 UDOT since the Starvation Lake Road is a state highway. UDOT replied on June 17, 2013 that no further permitting through their office would be required to use the existing lane.

D. Signs: Regulation of signs.

The business currently has a banner sign hung on the vinyl fence at the studio entrance. The size is within the 32 square foot limit often applied to business signs in residential areas. If the permit is granted, conditions limiting the size of future signs should be considered.

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

Mr. Hyde stated the studio has the potential to generate noise from music being played inside the building. In section 8.16.100 of the county nuisance ordinance defines the following to be nuisance noise:

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

6. The use or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, television set, musical instrument, stereophonic equipment, phonograph, loud speaker, sound production or reproduction device, bell, drum or chime, between the hours of 9:30 p.m. and 7:00 a.m., so as to be plainly audible within any dwelling unit which is not the source of the sound, or use of such equipment on public property or on a public right-of-way so as to be plainly audible fifty feet (50') or more from the source of the sound. The County Sheriff may grant an exemption from this subsection to allow a person reasonable use of public property or the right-of-way to broadcast music or speech.

The studio has the potential to generate dust from vehicle use of the road and parking area. If the permit is granted, conditions should be considered regarding hours of operation and dust control to mitigate impacts on nearby residents.

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

The applicant has indicated that she will be scaling back operations to Monday – Wednesday from approximately 3 PM to 7 PM. There will be three staff people rather than the seven appearing on the business website. If operating hours are kept within those time frames, normal sleeping schedules and routine household functions should not be adversely affected.

Me. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Cami Rose, subject to the following conditions:

1. Before fall 2013 classes begin, the following improvements shall be completed:
 - a. The parking area shall be provided with a durable and dustless surface (paving or clean gravel installed). At least one parking space shall be ADA accessible. There shall be an ADA accessible route from the space to the main entrance to the studio.
 - b. Adequate fencing or barriers shall be installed to deter studio clients from accessing potentially hazardous agricultural uses on the property, such as horse corrals and pens.
 - c. The egress route shall be located so that exiting vehicles do not shine headlights directly at the home across the street to the east.
 - d. Speed bumps or speed humps shall be installed on the private access road to slow down studio traffic and reduce dust.
 - e. Xeriscape landscaping shall be installed on the east side of the parking area (other than at driveway locations) to beautify the appearance of the parking area.
 - f. A wastewater disposal system, or systems, serving the uses on the property shall be designed, permitted, inspected and issued an operating permit by the TriCounty Health Department.
2. The property owner shall apply for a building permit for the studio facility by July 12, 2013 and receive a Certificate of Occupancy from the Building Official before classes begin in the Fall of 2013.
3. Occupancy of the studio is limited to 16 persons at any one time and class sizes are limited to eight (8) students.
4. Hours of operation of the studio shall not be earlier than 9:00 AM or later than 8:00 PM.
5. Business signs shall be limited to 32 square feet per sign and shall be located on the same property as the business.

Mr. Hyde read some of the comments and concerns from letters received from Mike and McKenzie Ivie and Randy and Cherrie Ivie who live directly across from the dance studio stating their concerns about unsupervised children, noise, dust and the additional traffic along an already narrow private driveway that accesses the 5-6 homes. Not only is it a safety hazard for the dance students but for the Ivie's children and grandchildren.

Mr. Hyde asked if there were any questions of the staff report.

There was some discussion about the access of the private driveway off the state highway, the distance into the dance studio, the number of homes the lane services and concerns about the vehicles that use the lane.

There were no other questions so the applicant was invited to speak.

Cami Rose and Craig Kelsey, applicant and property owner stated they were pleased with Mr. Hyde's report and are ok with the conditions for approval. Mr. Kelsey has contacted TriCounty Health to get an inspection and approval for the septic system and has talked

with the building official about the permit needed, Mr. Kelsey is looking into the possibility of purchasing a portable speed bump and is working on improving the landscaping for the entrance. Mr. Kelsey feels this is about the kids safety and feels the parents need to take responsibility for their actions whether it be inside or out of the dance studio.

Mrs. Rose stated classes are smaller in the summer with the majority of them being finished by 7-7:30 in the evening. She had traveled to Roosevelt for many years with her own children but feels there is a lot of talent in Duchesne, you don't have the expense of gas and vehicle upkeep and she has the means and a place to teach our local girls and hopes to continue to do so.

Commissioner Olsen asked if there were any questions or comments. With no one else appearing to speak either in favor or against the request the hearing was closed.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Cami Rose, subject to the conditions stated in the staff report. Commissioner Roberts seconded the motion and it passed unanimously.

B. Consider revocation of a conditional use permit issued February 5, 2013 to Scott Hagman for a labor camp, at approximately 6000 West 6250 South, for failure to abide by the terms of the permit requiring installation of a fire hydrant.

Mr. Hyde stated on February 6, 2013 the Planning Commission approved a Conditional Use Permit for Scott Hagman to locate a labor camp on lands located on the south side of 6250 South at approximately 6000 West, northwest of Myton. After receiving concerns that the conditions of approval were not being met, the Planning Commission reviewed the permit on March 6, 2013; especially condition # 2 which states:

Prior to occupancy of any structures within this labor camp, the applicant shall:

a. Install a fire hydrant on the Johnson Water line at the labor camp entrance to provide adequate fire protection. The Fire Chief has issued a letter dated February 13, 2013 allowing Mr. Hagman 90 days to install the required fire hydrant. The 90-day period ended on May 14, 2013.

After hearing this update on March 6, 2013, the Planning Commission elected not to schedule a public hearing to consider the revocation of the conditional use permit. However, if the required fire hydrant was not installed by May 14, 2013, the Planning Commission stated that it would conduct a public hearing to consider the revocation of the permit.

Mr. Hyde stated the May 14, 2013 deadline for fire hydrant installation passed without the hydrant being completed. Around that time, Mr. Hagman was working with the Fire Department to determine if the hydrant could be located to the east, enabling it to meet fire protection needs of both the labor camp and a new building he proposes about 2000 feet to the east. That request was denied and the Fire Department stated that the

hydrant would need to be placed no more than 400 feet from the entrance to the labor camp. On May 28, 2013, the Johnson Water District notified Mr. Hagman that the fire hydrant would need to be placed at the entrance to the labor camp unless a different location was approved by the County in writing. Staff contacted Mr. Hagman on June 10, 2013 to inquire about the status of hydrant installation. Mr. Hagman indicated that he was having a hard time getting a contractor to do the job. Staff contacted Johnson Water on June 24, 2013. The tap into the water main has been completed at a location approved by the Duchesne County Fire Chief. The thrust blocks are to be installed soon. Once the job is completed and Mr. Hagman pays the associated cost, the hydrant will be activated.

Mr. Hyde stated because the deadline for hydrant installation has passed and the job is not complete, staff is referring the matter to the Planning Commission for action.

Mr. Hyde recommended that if the project is not complete and the hydrant is not activated by July 3, 2013, provide Mr. Hagman with a final deadline for completing the hydrant installation and paying the associated cost to avoid revocation of the conditional use permit. If the deadline were set for August 6, 2013, the Commission could recess the public hearing until the next meeting (August 7, 2013) and receive an update at that time.

Commissioner Olsen asked who was responsible to finish the project. Mr. Hyde stated Mr. Ken Richens has been hired by Mr. Hagman to complete the project however he is on vacation and was not able to complete it before this hearing.

Mr. Hyde stated he has requested a letter of acceptance from Johnson Water District to verify when the job is completed.

Commissioner Roberts motioned to recess the hearing until August 7, 2013. Commissioner Lindsay seconded the motion and it passed unanimously.

3. Recommendation to the County Commissioners regarding proposed Ordinance #13-314 amending the Duchesne County Zoning Ordinance to make it consistent with new laws passed during the 2013 Utah Legislative session.

Mr. Hyde reminded the commission this ordinance was reviewed at the June 5th meeting. He discussed the changes this ordinance would make and asked the commission if they had any questions or concerns.

Commissioner Jorgensen asked Mr. Hyde if these changes will be state wide. Mr. Hyde stated we are adjusting our ordinances to comply with bills passed by the State Legislature. Other jurisdictions will also need to comply.

Commissioner Jorgensen motioned that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Zoning

Ordinance as set forth in proposed Ordinance #13-314. Commissioner Lindsay seconded the motion and it passed unanimously.

4. Recommendation to the County Commissioners regarding proposed Ordinance #13-315 amending the Duchesne County Subdivision Ordinance to make it consistent with new laws passed during the 2013 Utah Legislative session.

Mr. Hyde discussed some of the changes in state law including the bonding for water and roads and some changes in the minor subdivision process. These changes will adjust the county ordinances to comply with the changes made at the 2013 State Legislative session.

Commissioner Jorgensen motioned that the Planning Commission recommend to the Duchesne County Commissioners the approval of the amendments to the Subdivision Ordinance as set forth in proposed Ordinance #13-315. Commissioner Roberts seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of June 5, 2013 minutes

Commissioner Roberts moved to approve the minutes of June 5, 2013. Commissioner Lindsay seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde stated there has been an appeal filed regarding the First Call Propane Conditional Use Permit to the County Commissioners and the hearing will be held on July 8 at 1:30 pm. The August 7th meeting could include an application for a church retreat in Cedarview and a possible amendment to the Duchesne County General plan regarding Sage Grouse .

Adjournment:

Meeting adjourned at 6:47p.m.