

Minutes of the Ogden Valley Planning Commission Regular meeting September 25, 2018, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Jami Taylor, Chair; John Howell, John Lewis, Chris Hogge, Steve Waldrip

Absent/Excused: Bob Wood, Shanna Francis,

Staff Present: Charlie Ewert, Principal Planner; Steve Burton, Planner III, Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

Chair Taylor asked if there were any ex parte communication or conflict of interest to declare. There were none.

MOTION: Commissioner Hogge moved to exclude the meeting minutes from this agenda. Commissioner Waldrip seconded. A vote was taken with Commissioners Howell, Lewis, Hogge, Waldrip, and Chair Taylor voting aye to exclude the meeting minutes from this agenda. Motion Carried (5-0)

2. Petitions, Applications and Public Hearings

2.1. Administrative Items:

a. New business

1. CUP 2018-09: Consideration and action on a conditional use permit application for a private recreational facility in the Forest 40 (F-40) Zone, located at approximately 4798 N Middle Fork Drive, Huntsville. (Prometheus Utah Land Holdings LLC, Applicant; Carson Jones, Agent)

Charlie Ewert said this is a conditional use permit that is an administrative item. When taking action on an administrative item, we have limited deference, we have to apply the rules of the law. If the applicant is entitled to the law, they are entitled to an approval. So we will be looking ways to mitigate detrimental effects but most likely he will get an approval. I wanted Courtlan Erickson, our legal advisor to discuss for the public work here, what goes into the regulation on this sort of activity. Especially where it comes to any kind of gun regulation.

Courtlan Erickson said under state law, there is a provision that says, unless specifically authorized by the legislature by statute; a local authority or state entity may not enact, establish, or enforce any ordinance regulation, rule, or policy pertaining to firearms, that in anyway limits or restricts the possession or the use of firearms on either public or private property. Essentially the state has preempted the field of regulation; they have said that counties are not allowed to regulate firearms, unless State Law specifically allows it. Now State Law does have certain regulations of firearms; such as no shooting across the road, no shooting of within 600 feet of a building or something like that, unless it's with the permission of the building owner. There are certain regulations that apply under state law; but counties are not free to impose restrictions on the use or possessions of firearms.

Steve Burton said we received a request of a conditional use permit for a private recreational facility located at 4798 N Middle Fork Drive in Huntsville. The applicant is Prometheus Utah Land Holdings, and the authorized agent is Carson Jones. The zoning of this property is Forest 40 (40-acre minimum lot size). The proposed recreational facility will include mountain bike, motorcycle trail, and snow mobile path. There is also on this site a shooting area, which aren't proposed to be regulated. The applicant is proposing hours of operation and things like berming. I will let the application do his presentation, and then I will give staff's recommendations.

Carson Jones, 1106 W 4050 N in Pleasant View, said I have been representing these landowners who purchased the ground for a number of years. We bought this ground with the intent of having a place to recreate. The owner specifically lives in Florida, and comes here a number of times during the year, because he thinks it's a pretty great place. This parcel of ground that we bought, started out 30 acres and since then has grown to 86 acres so that we can minimize any sort of issues that we have with the neighbors. In doing so, we had a couple of things in mind. We want to have a place to come because the views are phenomenal; and the other reason is because it's on top of the mountain.

One of our goals is where the owner could come and shoot. As you can see we have shooting lanes that we proposed, and have gone far and beyond the call when it comes to safety. We want to make sure that if we fire a round, that we know where that round is going. We are using ammunition that disintegrates upon impact. The reason why we are here we've had no more than two people there, and utilized the discharge of firearms no more than 4 times in the last two years. One time the owner brought a group of friends with him with military history; and there were a lot of rounds shot that day. At that time, we got a cease and desist from the county. Our main goal is to be good neighbors, so we volunteered to come here, so that everyone knows what we're doing, and make sure the county has no questions.

Commissioner Lewis said he had a concern about discharging firearms near a campground or dwelling. Mr. Courtland replied a person may not discharge any kind of dangerous weapon or firearm without written permission, to discharge a dangerous weapon from the owner or person in charge of the property within 600 feet of a house, dwelling, or any other building, or any structure with domestic animals kept or fed including a barn, poultry yard, corral, feeding pen, or stockyard.

Commissioner Waldrip said we need to clarify, is this property being used in a trade or business for its purpose. Mr. Jones replied no, not at all this is a single owner and this is strictly used for friends and family.

Steve Burton said staff recommends approval of CUP 2018-09 a conditional use permit application for a private recreational facility located at approximately 4798 N Middle Fork Drive in Huntsville. The recommendation for approval is subject to all the review agencies requirements and the following conditions as listed in the staff report. That recommendation is based on the findings. I also want to state that the applicant in the narrative has described that no more than 50 people will be on the site at any given time, and that was part of the application.

Commissioner Waldrip said this is not a trade or business, this is a voluntary application; where this is some question how enforceable these conditions are. There is some question what our scope is in being able to pass and issue a conditional use permit on a use that is not strictly governed under the statute, and doing this at the request of the applicant.

Commissioner Howell said actually the applicant doesn't have to be here at all, if he doesn't want to be. The only reason he is here, is because he wants the county know what he is doing with his property.

Steve Burton said I have received public comment, and I have distributed that to the Planning Commission.

Carson Jones said I would just like to clarify that we are here voluntarily because we do want the county to know what we're doing there; and we want to be very open publically to what we're doing.

Chair Taylor opened up for public comment.

Charles Roberts, 8191 W 2860 S, Syracuse UT, had concerns with the chain link fence, with the berms, the amount of trees plants, and having long rifles there.

Mark Hillis, 6380 Bybee Drive, Uintah UT, had concerns about the chain link fence, grading permit, safety, detrimental to the neighbors, not appropriate for the area, and there is no one in Sunridge in favor of this.

Mike Bertagnolli, 866 Windermere Lane, South Ogden UT, main concern is forest fires and the potential of fires being started by stray bullets, and people losing their cabins.

Josh Smith, 2869 N Hwy 162, Eden UT, said he is not in favor of this.

Tracy Smith, 2124 N 6700 W, had concerns with stray bullets coming from gun range and he worries about his grandchildren being killed. He has to be responsible where that bullet goes.

Trina Favero, 2230 W 3150 S, Roy UT had concerns with the chain link fence, the gun range, and the Liberty Camp being closer than 600 feet from the shooting range.

Mike Schwankl, 3543 Danish Road, Sandy Utah, had concerns with stray bullets, skeet shooting above, and not having ownership liability.

Chair Taylor closed for public comments.

Commissioner Waldrip said there were a few questions about grading permits, zoning regulations, ordinances, and that would be the first step and those are foundation questions. Chair Taylor replied there are two different phases of questions. She asked Mr. Burton to talk about things related to the fences, berms, and the trees.

Steve Burton said when it comes to grading, this is something that the Planning Department doesn't regulate grading plans except for hillside review and steep slopes. Our Engineering Division would be the department that would regulate any major grading of the site. They have gone on the project and have no issues with the project. Fencing is a point that was brought up; and there is a provision in the Ogden Valley Architectural Landscaping Standards, which is applicable to commercial and manufacturing uses in the Ogden Valley. Because the applicant has stated in the application narrative, this will not be a commercial use. Because this is not a commercial use, we feel we cannot regulate a chain link fence when a person puts one on their personal private property. When it comes to commercial, absolutely and we would not allow that. Fire was brought as a concern, and the Fire District has done a review on this, and as long as conditions have been opposed related to fire, they have to check and not shoot when there is a high fire hazard.

Chair Taylor said as it is written in the staff report, is encompassing to all uses. Mr. Burton said on high fire days, as determined by the Weber County Fire District, the applicant shall contact the Fire District prior to using the site. Commissioner Waldrip maybe we should state something about the extent we have the ability to impose a restriction.

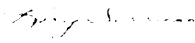
MOTION: Commissioner Waldrip approve CUP 2018-09 for a conditional use permit application for a private recreational located at approximately 4798 N Middle Fork Drive, Huntsville. This recommendation is based on the findings listed in the staff report and has the following conditions as list in the staff's recommendations 1, 2, 3, and 4; with additional condition that any high noise generation from any use be limited to the hours of 10 a.m. to 5 p.m. Recognizing that we cannot restrict the use of firearms in any sense per state law. Also, with the condition that the applicant has represented that the facility will not be used for more than 30 non-consecutive days during the year by a group larger than 15 people. Commissioner Howell seconded.

DISCUSSION: The Planning Commission, staff, and legal counsel had a discussion about the revocation of this conditional use permit would not actually impact the applicant's use of this property in any fashion. The county enforcement action if there is a call for noise violation. Per state statute we cannot go beyond what we're allow to do for firearm restrictions. We only have the power that we have been granted by the legislative bodies that govern this court. That this fundamentally changing the character of this land. To what extent that we would encourage, and they can't mandate that or govern.

VOTE: A vote was taken with Commissioners Howell, Hogge, Waldrip and Chair Taylor voting aye. Commissioner Lewis voting nay. Motion Carried (4-1)

3. **Public Comment for Items not on the Agenda:** Jerry Baker, North Ogden, said he was disappointed with this Planning Commissions decision to approved this.
4. **Remarks from Planning Commissioners:** None
5. **Planning Director Report:** Charlie Ewert said there is a Land Use training coming up at the beginning of October and one was just publicized for the end of October. We will get you the information to you and you can decide who wants to go.

6. **Remarks from legal counsel:** Courtlan Erickson said in response to that last comment, you should have no bad feeling should anything happen in the future. You are bound by state law, and you have no obligation You should have no feeling you are bound by state law. From a legal perspective, you have no obligation like you have any responsibility here, if something happens in the future.

7. **Adjournment:** The meeting was adjourned at 6:30
Respectfully Submitted,

Kary Serrano, Secretary,
Weber County Planning Commission