



PLANNING COMMISSION MEETING

**117 South Main Street, Monticello, Utah 84535. Commission Chambers
December 14, 2023 at 6:00 PM**

AGENDA

GOOGLE LINK: Google Meet joining info Video call link: <https://meet.google.com/ust-hood-zzu> Or dial: (US) +1 661-552-0879 PIN: 960 575 714#

GENERAL BUSINESS

Welcome / Roll Call

Approval of Minutes

1. Consideration and Approval of the October 26, 2023 Meeting Minutes
2. Consideration and Approval of the November 9, 2023 Meeting Minutes

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

ADMINISTRATIVE ITEMS

3. Variance Approval Update for a 150-Foot Telecommunications Tower at R22 East Radio Hill Road, Mack McDonald, Chief Administrative Officer
4. Variance Approval Update for a 125-Foot Telecommunications Tower at 4326 East Sunny Acres Lane in Spanish Valley, Mack McDonald, Chief Administrative Officer

LEGISLATIVE ITEMS

5. Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, El Rancho Development, Mack McDonald, Chief Administrative Officer
6. Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, Valley Estates Development, Mack McDonald, Chief Administrative Officer
7. Consideration and Approval of a Conditional Use Application for a Small Glamping Resort to be Located at 4040 Kane Creek Road for Solace Ranch LLC (DBA Crooked Bindi Ranch). Kenneth Denham

BUILDING PERMIT(S) REVIEW

ADJOURNMENT

****In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice****



PLANNING COMMISSION MEETING

**117 South Main Street, Monticello, Utah 84535. Commission Chambers
October 26, 2023 at 6:00 PM**

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

Public Commission Chair Trent Schafer called the meeting to order at 6:00 pm.

PRESENT

Chairman Trent Schafer
Vice-Chairman Lloyd Wilson
Commissioner Cody Nielson
Commissioner Melissa Rigg
Commissioner Ann Austin
Commissioner Shay Walker
County Administrator Mack McDonald
County Attorney Jens Nielson
Board of County Commissioner Silvia Stubbs

Pledge of Allegiance

The Public Commission conducted the Pledge of Allegiance

Approval of Minutes

1. Consideration and Approval of September 28, 2023 Planning Commission Meeting Minutes

Commissioner Rigg added a correction to Riggs name being misspelled.

Motion to approve the minutes with the corrections as was made by Commissioner Wilson, Seconded by Commissioner Austin.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

New Ordinance Process

2. Discussion of Process for New Ordinance and Map Public Engagement Process

Commissioner Wilson stated that it has been four years working on ordinances and the map. Prior to that they were working with Landmark, making changes to the presentation. They spent two years trying to create their own map and ordinances before working with Landmark.

Administrator McDonald explained that this has been the problem today and the ordinances need to be updated. He believes there should be some formal process, a process to be able to better reach out to the public. Public outreach would include smaller communities such as Eastland and some of the other communities that are impacted by the changes in zoning. If there was a Town Hall Meeting where you had several options of a map, then it would be a complete process. Looking at it now, we still don't have this feedback, nor does it have to be the final ordinance once adopted. We could hire a firm that would do the public engagement as part of their contract. We really need to get the ordinances out there, because it resolves some of the issues that we're fronted with. By having a public engagement process associated with it, what new zoning ordinances are going to look like, what does it look like for you, as members of the Planning Commission, are you willing to assist in that or is the anticipation that staff does it on their own? It's necessary to have that public engagement for ordinances and the mapping side of it. He believes in pushing it out to the public to get their feedback.

Commissioner Nielson recommended some sort of public process, I think it would have to have some kind of Advertisement. Even if it was a front page of the newspaper that San Juan County is reaching out to all the communities in the County, because of the news and that this is what we're planning, and the process is in place to clarify and clean up.

Commissioner Wilson indicated that he likes that thought and this way you're involving people within that district, and it doesn't matter if people come from another to give input. Three different nights, three different locations for the meetings. That would help break it up into three different nights to where we're getting public comment. This will help us get public views on their area and from those who do care about their opinions at the local community level.

Administrator McDonald is thinking about a facilitator, who can also bring display boards to show you holistically the changes. Have the facilitators be the face, and then we're there for the answers. Once we've had public hearings and we've solicited on our website, we can take comments. This process is still open currently to the public.

Commissioner Austin mentioned that it would be very helpful to see what's already been commented. We should be able to create a feed of all the comments so others in the public can see those comments or share them with the public.

Administrator McDonald indicated he would investigate an outlet for this kind of public feedback. What you're indicating is typically a news feed and you have everybody's comments on there, minus the inappropriate comments. We can work with the facilitator to put all the comments on a public page.

PUBLIC COMMENT

Time stamp 43:32 (audio)

Public Comment was offered for anything not on the agenda. No Public Comments were received.

PUBLIC HEARING

3. Consideration and Recommendation of the 2.5 Acres of the El Rancho Subdivision Properties Rezone Application to Residential Flex (RF) Zone, Shik Han

Time stamp 44:40 (audio)

Commissioner Wilson made a motion to enter into a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Austin seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Administrator McDonald described the staff report and reviewed the process for a rezone as well as the RF Zone and why the applicant is before the Planning Commission requesting the Rezone and their application to be allowed overnight rentals on the 2.5 Acres. Currently that 2.5 acres is Spanish valley residential. District the request from the applicant was to move this to Spanish Valley Residential Flex, just as a reminder, Spanish Valley residential district doesn't allow for the overnight rentals. In the residential flex, it does allow you to then come back, apply for the overlay district for the overnight overlay district, and then have the overnight rentals as part of that.

Mr. Shik asked if there were any questions as far as to why he is applying for a rezone request.

Commissioner Wilson pointed out on the map where the commercial land is.

Commissioner Wilson reviewed the location of the property and indicated that the Commercial District does not have overnight rentals as permitted use but within a Residential Flex allows an Overlay District on that zone which will allow overnight rentals.

Commissioner Rigg asked about the differences between density allowed in the different zones.

Administrator McDonald indicated that the applicant is not asking to increase density from what was already subdivided. He is just changing the availability of permitted uses; overnight rentals are not a permitted use currently.

The Applicant indicated that this was about preserving the value of the properties, there is no increase in density. Right now, their property is on an island surrounded by other uses not congruent with the surrounding zones. The change in zoning will also create a buffer here.

Commissioner Wilson read through the Residential Flex ordinance indicating that no residential use shall be permitted within 100 feet of an adjacent residential boundary, indicated in the development standards. Is this going to create a problem with your development? The Applicant indicated that it would. He also discussed the need to have a broader discussion about this, especially where Business Flex requires a 500 foot buffer. The entire section of Spanish Valley Residential needs to be fixed.

Commissioner Austin indicated that she is interpreting the Residential Flex Planned Community as intended within the Planned Community, the process is either for large tracts of lands or small ones. The minimum for small is 20 acres and minimum for large being 200 acres. My interpretation is that this is for large tracts of undeveloped land, not for existing unless you are removing everything. I think it is for the bigger ones and not the smaller acreage.

Commissioner Wilson indicated that it is all how you interpret the language, if you read the second paragraph, it seems to imply that this is exactly for small acreage as well. The section talks about uses and not the size. It then goes on to the requirements for a large Planned Community acreage. Commissioner Austin thinks that they mistakenly included large in that sentence. If not, everyone with small acreage would then be enticed to change their zoning to Residential Flex, that can't be the intentions of the Planned Community section. We have established that Residential Flex can occur anywhere. Can it be applied to small parcels; the Applicants second application makes sense because it is a large parcel over 20 acres. There

isn't anything applying to small parcels for a Planned Community. I do think the zoning from Spanish Valley Residential should be changed to something that is more beneficial. You can apply an overlay to all these zones to allow for the use.

A discussion then took place regarding each zone and if it applies to only larger 20+ acres and where do the small parcels come into play and the definitions of those zones.

County Attorney Nielson also read through the zoning language between the overall plan, the zoning language gives options in each zone, it includes the small pieces but also an option for the larger properties. The zoning allows for a default. If you are a small property, you can follow specific guidelines and permitted uses and then with larger pieces over 20 acres, you are in the Planned Community section. This gives you options within all of the zones whether it is a small scale or large-scale development.

Commissioner Neilson indicated that he thinks people will apply for rezoning for smaller parcels, but if it is not consistent with the zoning, then those can be denied. For it to be consistent, which is what the applicant is asking for, is valid. Our purpose is to be consistent in how we apply zoning. Here, in this situation, it is absolutely warranted.

Commissioner Austin asked if Highway Commercial would be a better choice, then we do not open the door to everyone to apply? Commissioner Wilson answered that the permitted uses are not a good fit where his property is located, and it does not give all of the other permitted uses listed under Highway Commercial in that area.

County Attorney Nielson indicated that in the permitted uses it says, a range of residential and housing are the primary uses permitted in this district. Other uses, including parks, open space, commercial business and similar uses, shall be permitted within and in proximity to the large gravel pits located in this area. It would be perfectly fine to say that in this ordinance, that's primarily intended for residential housing. If you had a flurry of people coming in with mostly commercial type things, it would be fine for this group to say, hey, we're recommending to the Commission that we've got enough commercial already in the pipeline here, so to everybody who is thinking commercial, this is our view of this ordinance. So, if you're thinking of coming with more commercial, we recommend you don't unless the County Commission says "no, we think it's OK". You have some leeway in there to approve these applications or not and pass recommendation to the County Commission.

Commissioner Wilson reminded everyone that if we turn the applicant down right now, as in we won't recommend it to the Board of Commissioners, there is an appeal process that can then take place.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

(Time Stamp) 1:22:38 Audio

Commissioner Rigg made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Austin seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

Commissioner Wilson made a motion to Recommend to the County Commissioner the Rezone of the 2.5 acres of El Rancho Subdivision to Residential Flex (RF) Zone.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, and Commissioner Walker

Abstaining: Commissioner Austin

Motion Carries.

4. Consideration and Recommendation of the 45.5 Acres of the Valley Estates Property Rezone Application to Residential Flex, Shik Han, ESP Spanish Valley, LLC

Time Stamp 1:24:46 (audio)

Commissioner Nielson made a motion to enter into a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Walker seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Administrator McDonald reviewed the application and Staff Report with the Planning Commission describing the property.

Commissioner Wilson reviewed the Planned Community guidelines for acreage over 20 acres of which this property would fall within if rezoned.

The Applicant indicated the intent here is for residential units and giving the option for overnight rentals matching the Overlay District to the north of this property.

Commissioner Austin read through the Planned Community Zone and if this property would then have to go through the Planned Community Zone. Commissioner Wilson pointed out that he would be under the 200 acres and a development agreement. The applicant mentioned he is not changing the density and this project is for residential units. This project is already underway for a portion 8.5 acres of the development.

County Attorney Nielson indicated the developer can bring in additional properties, less than the 200 acres. He can rezone the 45 acres to residential flex but can come in later for the entirety of the property under one process. The fact that you are coming and rezoning the property to Residential Flex just gives you the zoning and what is permitted for uses.

The Applicant indicated that the parcels are already ¼ acres for residential.

Commissioner Nielson asked for clarification, that if we recommend changing the zoning, he will still have to come back and make an application for the Overlay District. This does not vest him for overnight rentals. He would have to come in for the whole 8 acres that are currently underway and would have to be approved for everything under the Overlay District.

Administrator McDonald indicated that the Overlay District would require a Development Agreement and described what we have been working with the developer in discussions in conjunction with the adjacent development to the north such as the roads, landscaping, lighting, and overall process. In the Planned Community uses for a Large Planned Community, nothing in there is permitting Overnight Rentals. In Conditional Uses, it does allow for Overnight Rentals. Under the Overlay District it does permit Overnight Rentals. He would have to go through a separate process for Conditional Uses.

Commissioner Riggs, indicated that the Applicant could come in with lesser acreage under the Planned Community threshold and request uses instead of the entire parcels which would not require them to enter into the Planned Community processes.

Commissioner Wilson pointed out that in the Ordinance it indicates that each Flex under the Planned Community process the language points out that when designing a Planned Community that the language indicates that the Planned Community Zone states that it should be followed “generally” be designed according to the ordinance for each separate Flex Zone. Commissioner Austin pointed out that this is when you go to page 26, which has a one pager for each Flex Zone and then circles back to Planned Community.

County Attorney Nielson indicated that if you want to apply one of the flex ordinance to the area for a small area, this would not be the same requirements in a 20 acre Flex, if you go to the separate Flex Zone, it will have a different process for Residential or Business Flex for larger acres and a Planned Community process then you have to go that route. Commissioner Rigg asked a question about the Residential Flex intentions being close to Highway 191. County Attorney Nielson mentioned that if the Commission makes this as a pattern

throughout then it is fine, the original intent was that it would be along the highway. The Commission has some flexibility in how they interpret the ordinances. Commissioner Rigg indicated that the previous application made sense where it was so close to the highway, this one is different where it does not make sense with the distance from the highway. County Attorney Nielson indicated that the zoning gives you options for flexibility in uses where some are restrictive in uses. Commissioner Wilson mentioned that he could not see how we could not approve this one when they just approved one adjacent to this one.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

Time Stamp 1:43:50 (audio)

Commissioner Nielson made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

Chairman Shafer entertained any possible motions.

Time Stamp 1:44:27 (audio)

Commissioner Nielson made the motion that we approve making a Recommendation to the Board of Commissioners for 45.5 Acres of the Valley Estates Property Rezone Application be approved for the Residential Flex (RF) Zone and add the comment that just because we approve this tonight. It's not vesting the overnight accommodations today; those decisions and discussion will take place later. He'll have to come back.

Commissioner Austin asked if the Applicant would have to come back as an Overlay District or Planned Community. Commissioner Nielson indicated it is up to the Applicant. Commissioner Austin asked if the County would be able to require the developer of impact fees and a development agreement. Commissioner Nielson advised that we can ask any conditions within reason of the Applicant. For an Overlay District, he would follow Chapter 10 if that is what he wants. If he follows the Planned Community process, it will be the same where the Applicant would have to follow those requirements or conditions within reason.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

Commissioner Rigg asked if the other properties zoned Residential Flex came in for an Overlay District? It was indicated that it was approved for an Overlay District. The Applicant could come back and say that the other properties adjacent were zoned for the Overlay District so we should as well. I was not here for that discussion and approval, and it does seem to me that we are opening the whole area to a bunch of development that needs to be considered, so I am voting No.

Chairman Shafer, seeing no further discussion, called for the vote.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Walker and Commissioner Austin

Voting Nae: Commissioner Rigg

Motion Carries

5. Consideration and Approval [Recommendation] of the September 2023 Spanish Valley Zoning Map Updating Recent Approved Overlays and Zoning

Time stamp 1:47:20 (audio)

Commissioner Wilson made a motion to enter a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Administrator McDonald described the Staff Report and after listening to the Planning Commission comments from the previous Planning Commission meeting. The approved Planned Community approvals and in the discussion, obviously we left off the last time we considered this map. Specifically, the SITLA Planned Community was already approved, it was titled Spanish Valley Community, Planning Commission Zone or South Valley Community so that needed to be added.

There was a concern about the Controlled District Highway (CDH), where in the world did this come from in our ordinance? In our previous ordinance those uses existed, they still exist in our overarching zoning ordinance as Controlled District Highway (CDH) and Agricultural-1 (A-1). These exist in our overarching ordinance and cannot be eliminated due to the State Code protecting gravel pits. When we changed the Spanish Valley Ordinance, these should have been included, but were not, but they cannot be excluded per State Code. They cannot be rezoned.

With those properties that you discussed that have had overnight rentals prior to the zoning changes, those uses are not highlighted on the new map as an existing approved use. There is nothing referenced in the ordinance that recognizes these. There is no section that the public

can turn to and find “Existing Approved Use”. The zoning changes when the ordinance was approved in 2019 make these properties a non-conforming use. For example, if you were to look at the old map for existing use on Lloyd's properties and I flip to the ordinances, well, there's nothing defining or referencing Existing Use, the zoning that must be applied is that which was approved during the zone change. So today, under that zoning, one would have to apply for an Overlay District to add more units for overnight rentals to allow for additional units and overnight rentals. Even if you wanted to have single-family homes there, they are not permitted but overnight rentals are.

Commissioner Nielson mentioned that it would be helpful to create a map with everything that has been approved and all these uses, even non-conforming, so that we can have a clear picture about what is there already. When applicants come in, this will help create a better image of what is going on in the area.

Administrator McDonald mentioned that it's not abnormal as zones change in the future, and then we're about to do it again to property owners as those new zones come into play on their properties that there will be non-conforming uses.

Shik Han asked if it would be appropriate at this time to make changes to the Zoning Map so that we can correct some of these problems that exist. Commissioner Wilson indicated that in 2021, we amended the map to create what you see now including corrections.

Commissioner Wilson pointed out some of the Overnight Overlay Districts that were highlighted that he did not think were approved. Administrator McDonald mentioned that these properties that are highlighted were both approved in the Planning Commission and in Commission Meeting. Administrator McDonald will check to make sure that the properties pointed out were for sure approved prior to finalization.

Shik Han asked if it would be appropriate in this situation to make changes to the map and zoning with the surrounding usage, would this be the appropriate time to look at an entire overhaul for the subdivisions that fits more in line with residential flex or highway commercial as you guys are amending this map?

Administrator McDonalds indicated that if the Planning Commission wants to recommend changes to it to incorporate, they could, but it would be better to go through a complete public process notifying owners of the changes for their properties. This process is only to update the map for what has been approved by the Planning and Board of Commissioners.

Commissioner Wilson mentioned that he thinks at this point in time, knowing that the zoning is going to be changing, we should run with this for this moment, but let's get on this in November with getting the community together to get this pinpointed down. And I'm not saying we're going to wipe the slate clean from one end to the other, we are just going to fix some of these areas that need to come into compliance and those areas that do not then we

can leave alone. One of the biggest fights is the 1,000-foot highway commercial. Let's keep your highway flex in there because they don't want big commercials there. They don't want highway commercials, but a highway flex would fit in. We don't want to start at square one again. Let's just critique these changes because I think we could spend 30 minutes on them. From the Spanish Valley map and have it critiqued and fixed and done. And then we can move right up the highway. You know that we're hitting these main areas. There's a lot of places that we're not looking at because there are a lot of unincorporated areas in privately owned areas in San Juan County.

Commissioner Austin indicated the reason you're seeing these clusters of high density is because of these boundaries, that the percentage of privately owned in Spanish valley is very minut when you look at the overall ownership picture. You are seeing this cluster in this area because of the ownership because all of the smaller parcels are taken, and you are seeing a land grab for the larger parcels. I think that's why we're seeing the clusters that we are seeing, because it's the only privately owned area within Spanish Valley South.

Shik Han indicated that without larger properties, it is hard to do affordable housing and recoup costs for infrastructure and costs for construction without being able to large-scale develop allowing for more affordable housing. If not, you need subsidies.

Elise Erler, SITLA, mentioned that everything from a SITLA standpoint that the map looks fine.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

Time Stamp 2:22:56 (audio)

Commissioner Rigg made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

Chairman Shafer asked for a motion for recommendation with the changes discussed.

Time Stamp 2:24:30 (audio)

Commissioner Nielson made the motion to recommend the Zoning Map with discussed changes to the Board of Commissioners for Approval.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

ADMINISTRATIVE ITEMS

6. Consideration and Approval of the Deer Haven Park Subdivision Amendment #7, Tim Buckingham

Time stamp 2:26:27 (audio)

Administrator McDonald discussed the Staff Report and the application for the Deer Haven Park subdivision amendment #7. The applicant is requesting a boundary line change. These come to you in the Subdivision Ordinance, and so this is literally all he's wanting to do is move the boundary of his property. The adjacent property owner approves this change. The adjacent property owner has the well on her property, this change will place it all on one property but incorporate the well on the other.

Time Stamp 2:31:50 (audio)

Commissioner Nielson made the motion to recommend approval of the Deer Haven Park Subdivision Amendment #7

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

7. Preliminary Plat Review for Vizcaya Condominiums

Time stamp 2:32:09 (audio)

Administrator McDonald described the Staff Report and the application for Condominium Plats. This was the original approval of the Plat, but now because the condominiums are constructed, we've got to go through that condominium plat.

In our subdivision, it requires a letter from the Special Service District acknowledging that they do have water available and that they've applied and paid the impact fees. It's more of checking all of the boxes for the subdivision and condominium plat requirements in State Code.

Chairman Shafer asked for a motion.

Time Stamp 2:40:10 (audio)

Commissioner Rigg made the motion to Recommend Preliminary Approval of the Vizcaya Condominiums.

Commissioner Schafer asked for a second to the Motion.

Commissioner Walker seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

BUILDING PERMIT(S) REVIEW

8. September and October Building Permits Report

Time Stamp 2:40:56 (audio)

ADJOURNMENT

Time stamp 2:46:08 (audio)

Motion to adjourn was made by Commissioner Nielson.

Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Austin, Commissioner Nielson, and Commissioner Riggs



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
November 09, 2023 at 6:00 PM

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

PC Chair Trent Schafer called the meeting to order at 6:00 pm.

PRESENT

Vice-Chairman Lloyd Wilson
Commissioner Johnston
Commissioner Cody Nielson
Commissioner Melissa Rigg
Commissioner Ann Austin
County Administrator Mack McDonald
County Chief Deputy Attorney Mitch Maughn
Board of County Commissioner Silvia Stubbs

Pledge of Allegiance

The PC conducted the Pledge of Allegiance

Approval of Minutes

1. No Minutes to Approve

PUBLIC COMMENT

Public Comment was offered for anything not on the agenda. Public Comment will be allowed for individual Administrative and Legislative Items.

No public comments were provided.

LEGISLATIVE ITEMS

2. Consideration and Approval of a Temporary Conditional Use Permit Application for 78 East Markle, in Lasal, Zachary Feasby

Time stamp 02:00 (audio)

Administrator McDonald explained the recommendation for the motions to allow a similar to the last planning commission. This application is to allow for temporary housing in a RV, while construction is taking place on the main home at 78 E Markle. There are two sections in our Ordinance that covers this use. The Temporary Use Permit which has been considered, as a temporary permit, Conditional Use and allows for no longer than six months with the possibility of extension. It can be extended for a maximum period of three extensions. Including in the Staff Report are possible conditions that you may consider, such as

- Must comply with any State or Federal Fire Restrictions*
- Must comply with all building permit requirements*
- Must comply with San Juan County Health Department requirements and Utah State water system requirements.*

Administrator McDonald informed the commissioners that they would have to maintain a healthy property environment by making sure they don't dump raw sewage and maintaining the septic connection system if they had an RV. As far as the property location, the property is down the road from the main highway that comes through La Sal and the County Senior Center.

Administrator McDonald reminded the commissioners that in their staff report, if they did make a motion approving the Conditional Use Permit that they state those conditions as part of the motion. If they were to deny the Conditional Use permit they also have to state those reasons for the record for substantial evidence of why it is not been approved or have substantial evidence of why it has been approved.

Vice-Chairman Wilson asked if there were any public comment on the agenda item

Commissioner Rigg made the motion to approve it with three conditions.

- Must comply with any State or Federal Fire Restrictions*
- Must comply with all building permit requirements*
- Must comply with San Juan County Health Department requirements and Utah State water system requirements.*

Commissioner Nielson had a comment about what building permit requirements they were asking for.

Administrator McDonald explained that if they were to connect electrical and water on the property, it would need to be inspected, to prevent backflow and ensure it has the proper connections. If they have their own water system, they have to make sure it is covered, as well as if they tried to connect to the septic system for the home. If he were them, he would also be building that for the RV parking, if it has the drainage system, it was to meet the building requirements for the building inspection.

Vice-Chairman Wilson asked for a second to the Motion.

Commissioner Johnston seconds the Motion.

Voting Yea: Vice-Chairman Wilson, Commissioner Johnston, Commissioner Nielson, Commissioner Walker, Commissioner Austin, and Commissioner Rigg.

Motion Carries.

3. Consideration of an Approval of a Conditional Use Permit Allowing for a RV Park / Wedding Venue for 1515 Highway 46, Old La Sal, Timothy Lankford

Time stamp 08:16 (audio)

Administrator McDonald explained how Lankford is planning on naturalizing the existing uses that are on the property as part of the resort and will be adding twelve RV sites, a community restroom, 50 foot by 150 foot pond, and they will be naturalized for fire mitigation, and to have a backup plan for additional water. They are also establishing another 75 foot by 100 foot pond, including a pergola and barn-dominium in that design. The site is comprised of two parcels. One is usable and the other is more of easement type property. It is in an A-1 zone that is Conditional Use. The property is located by the Highway.

Vice-Chairman Wilson asked to see the map, he believes the property is commercial zoned since each property next to it is commercial. He pointed out that one of the properties in the past was close to the highway within the Highway Commercial designation, where a piece of commercial touches the lot that he was on and they did a Conditional Use on it since it was within the A1 zone where this is permissible in the Commercial Zone.

Administrator McDonald showed how the highway goes through La Sal reaching out to Old La Sal.

Vice-Chairman Wilson showed how the commercial zone (everything in the light gray) there were never any gaps. That makes the light gray a Highway Commercial Zone.

Administrator McDonald read the Highway Commercial Conditional Use list to the Commissioners. It has including restaurant or drive-in café, motels, new and used automobile agency, farm machinery and equipment sales, nurseries and greenhouses, mobile home sales, mobile home park, drive-in theater, bowling alley, other commercial recreation facilities, automobile service station, auto accessories, accessory buildings and uses, other uses approved by the Planning Commission as being in harmony with the intent of the Highway Commercial Zone and similar in nature to the above listed uses.

Vice-Chairman Wilson believes that because other uses approved by the Planning Commission as being in harmony with the intent of the neighborhood, the commercial zone is similar in nature to the above listed uses.

Administrator McDonald pointed out if you came to look at it, it is in harmony, with similar intent and purpose of adjacencies in the neighborhood and it should be within a Highway Commercial Zone. If it gets into the gray area, in that case, they will have to consider re-designating the use in the zone. Instead of Conditional Use, you would have to consider whether or not it is a permitted use. Then you would be approving that use at that time. You can approve it as a Conditional Use, that is something you might want to consider.

Administrator McDonald said that Mr. Lankford originally had more than twelve RV stalls on the property and twelve in a rural area and, according to the Wildland Interface and Fire Code, it allowed for that twelve and under to not be connected to the public system. He believes that the barn-dominium and the existing building would also be included in that count. The property would have twelve RV stalls, barn-dominium, water, and septic. The existing use is already in place and is on its own septic system. With this approval, they would have twelve RVs, restrooms, and barn-dominium's using water and drainage that would total fourteen units that will add to the water and septic systems.

Vice-Chairman Wilson mentioned that there is a lesser volume when connecting RVs and is not considered a full single use. He believes with the Division of Drinking Water that's where the change from personal well to commercial well exists, which would include sampling and testing.

Administrator McDonald explains why he is worried about the additional uses. It makes sense for him that the original twelve RV's could stay, but once you add the barn-dominium, and the public restrooms, that count would have to be included in the capacities of the current septic system.

Commissioner Nielson asked to know how big the parcel is.

Administrator McDonald informed the commission that the parcel is 11.03 acres and is really spread out. By looking at the septic considerations, percolation, and cleaning of the waste through that system, by adding more of those units on there, pushing more water, that could become an issue.

Vice-Chairman Wilson said it could actually be motion on this. It seems that the Wildland Interface code falls back on the Building Department. The water falls back into the Division of Drinking Water or Water rights.

Administrator McDonald said that if considering it as the conditional use, that's where he would indicate as one of the conditions, to coordinate with the Division of Drinking Water to avoid a public water system or the creation of public water system and pass that off through the County Administrator, that way they don't necessarily have to come back to the Planning Commission. If approved by that condition, then he can go through, do the investigation with them just to make sure that it's okay to have all those structures on one system. They might come back and say you are required to have two. Commissioners added language that it must comply with the Health Department requirements and the Utah State Water System requirements, including having an engineer design the appropriate septic system for their uses. In the past they have allowed developers or individual property owners to develop their own septic system as long as they followed the public health inspector requirements. Anywhere outside San Juan County require engineering to be done. Engineers make it formalized to where you actually have somebody that's certified to design septic systems design. If there is a situation where that wasn't the case and they have systems installed and new inspectors go in and inspect and they don't pass. Then they can ask for a complete redesign.

Vice-Chairman Wilson advised to change and get rid of the word engineer and certified designer. Certified would be fine because there is a difference between an engineer's other title such as "environmental scientist".

Administrator McDonald agreed since the environmental scientist can actually design without being an engineer. He advises that if they are going to keep it as Conditional Use, it doesn't necessarily mean it is going to create a standard going forward.

Vice-Chairman Wilson stated that in the same notion, it is permissible and is no different than what would be required as a permissible use. It is still a "go" within what you are supposed to do.

Administrator McDonald thinks that they put it more for staff as well. As they go forward with the building permit, they have this permit, tied to the property. No matter if you were to go for a building permit, he would hopefully check off all these items.

Commissioner Rigg asked Administrator McDonald if he knew what they meant by cabin sites.

Administrator McDonald told commissioner Rigg that Mr. Lankford had that on there, and then it was denoted kind of by a different square. Commissioner Rigg pointed out that there was a square in the upper left of the map. When he looked at his site plan on the map, it didn't show any additional cabins. He pointed on the corner of the map and Mr. Lankford denoted that it was the pergola and that there were no other cabin sites shown on the site plan. He figured this square in the corner represented the restrooms.

Commissioner Rigg understood that Mr. Lankford has on the right-side RV's and left cabins along with Commissioners Wilson and Nielson. Administrator McDonald read on the detail request it said RV's and Cabins. Made him think whether RV's or Cabins still qualifies as A1. It is an allowable use as a resort. Vice-Chairman Wilson meant to say that permissible is the same as conditional use. But it's permissible with conditions.

Commissioner Rigg asked McDonald why all the documents about water were included.

Administrator McDonald said that Mr. Lankford included the documents mainly to know that he does have water sources on the site. He has existing wells that are already established, that he has water rights to. In the case that it was a concern of water availability, that's the only indication that it has its own well and with additional water resources if he was watching the previous application for Ballard. Ballard had the pond up there that he was also going to be using for a resource for firefighting, if there were ever a fire in the area.

Administrator McDonald explained how it looks like it's already an established wetland area and he's going to make that more of a pond and a spring. He has firefighting capabilities with wells, and he has water capability. It just needs to be confirmed with the Division of Drinking Waters, is it a public water or a private water source. When does it meet the threshold into public water? He has water availability there.

Commissioner Nielson mentioned it was curious for him because the health department doesn't go by buildings or bathrooms, they go by bedrooms. He was just surprised it doesn't go more off a standard. Commissioner Wilson explained it is one of the last codes of the State of Utah

that goes off of the number of bedrooms. Administrator McDonald replied that it would need to get fixed, by getting someone else to design, certified, and stamp so they were more in compliance throughout the state.

Vice-Chairman Wilson asked if anyone would like to make a public comment on this item. No public comments were provided.

Commissioner Austin asked if it was A-1 or if it was Commercial. Administrator McDonald said it is classified as Agriculture, which is not necessary to imply that every property owner understands where the cutoff lines are.

Vice-Chairman Wilson said, if they are going to make a motion on it, they would continue as a Conditional Use within the A-1 as was submitted into the agenda.

Administrator McDonald informed that Zoning either way allows the Conditional Use process to be applied or Conditional Use. He doesn't see a harm being as a Conditional Use, that stays with the property. Whereas the permitted use you don't have to have does conditions, but he would worry about not having some of those conditions like mentioned. They can also permit use conditions on that; they will see that again later on the agenda. We are going to permit you this use, here are some conditions you'll have to comply with. To allow that permitted use to be in harmony with the zone.

Vice-Chairman Wilson stated that nine out of ten permitted uses don't come to them unless there is a question about it. Administrator McDonald said if you look at SB174 that just came out this last year. There is a big legislative push to get more of this into the administration's hands and less in the Planning Commission. It's not to circumvent any system, what is it, you take some applicants who take months and months to get through us, like the Overnight Overlay Districts, or you change the zone one month and the next month you're back in. We only meet twelve times a year, you figure you have to go through all those steps. That's five meetings, essentially, that they have to go through, after the zone change, to go through the process and legislatures are seeing this across the board. You will quickly see a new subdivision ordinance coming out for the county, to catch up with that. For most counties, the bigger counties, are due by the end of December to have this new zoning ordinance and new conditions placed in there. We're not on the list, but we figure we're at it, might as well get it in there and fix that as well. It's kind of the mantra, the State Legislators to stop with these arduous processes. That's why I didn't defer back to the Planning Commission to check this off. Administration can handle that or if we had that Land Use Administrator would go to them.

Administrator McDonald advised they can consider additional conditions. If they don't want to have the cabins compared to the RV stalls, they can place that on there or there's always that option to upright deny or even the table the discussion.

Vice-Chairman Wilson motioned to vote based on the Conditional Use permit with the following conditions:

- *Must coordinate with the Division of Drinking Water to avoid a public water system or the creation of a Public Water System and pass that off through the County Administrator*
- *Must comply with any state or federal fire restrictions*
- *Must comply with all building permit requirements*

- *Must comply with San Juan County Health Department requirements and Utah State water system requirements. Including having an engineer design the appropriate septic systems for the uses.*
- *Must comply with San Juan County business license requirements.*

Commissioner Johnston made the motion approving the Conditions with the change that the language “Including having an engineer design the appropriate septic system” for the uses to be changed to “including having a certified designer design the appropriate septic system”

Administrator McDonald said just a point of order Chair, you had mentioned that he wanted that engineering, engineer removed will have it removed in that language there and if you want to amend your motion to include that.

Commissioner Walker seconded the Motion.

Commissioner Johnston made the motion to make it a certified design.

Vice-Chairman Wilson clarified John has added all of administrations recommended Conditions into this motion, excluding the word engineered to certified designer for the septic systems.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

4. Consideration and Approval of a Conditional Use Permit for R22 East Radio Hill Road, Verizon Wireless Tower, Technology Associates EC

Time stamp 37:38 (audio)

Administrator McDonald explained that the County has received a request from Troy Benson (present), an agent with Verizon Wireless, for the installation of a 150-foot-tall lattice tower in the A-1 Zone. The A-1 zone ordinances do currently allow for a Conditional Use for radio and television transmission towers. The county has worked with their attorneys to come up with an additional staff report to be reviewed by the Commission. It is necessary to have a discussion of the findings of facts, as part of the approval record for the Conditional Use permit.

Administrator McDonald pointed out a few items in particular to note. It is important to remember that the general plan is supported by the public and adopted by the County Commissioners. That plan should evolve with staff direction as well as ordinances. In our General Plan, it is pointed out that broadband infrastructure is a critical need and an essential function in our county. Part of the General Plan discussions were to further economic growth and expansion. Broadband is a large part of the economic development availability. There are still missing areas within the County, and this is one of those missing areas to be able to access broadband. In our 5-year vision, broadband was identified as a key hurdle for rural businesses. In our 10-year vision, broadband would open opportunities for telework, access to telehealth services, and public education to have access to broadband. Towers bring that high-speed internet, which is your federal qualifier for access to broadband. There are 26 typical permitted uses with commercial, of which these cell phone towers would support, including basic healthcare and educational opportunities and essential services. Similar to water, power, sewer,

in our communities - the internet is now becoming an essential service to operate a community. This summary covers both cell phone tower discussions on the agenda.

Administrator McDonald went on to further explain that there is a Federal Code allowable use in Zoning as part of the Telecommunications Act which prohibits zoning from excluding cell phone towers, in essence that cell phone towers shall be allowed within zoning. There have been several court cases that have gone to trial and lost. However, there is the ability to place restrictions on cell phone tower projects, such as zoning to specific areas, height requirements, types of towers, lights, colors, etc. This Federal law pushes down to state and county ordinances and codes.

The staff report concludes findings that the proposed tower will have a positive beneficial impact on the economies, security, safety and welfare of San Juan County residents and businesses. The security aspect is important to note in the event of systems failure. For example, during the eclipse there were areas recognized as “dead zones” and those were mitigated with a temporary “cell tower” rental for the event. We also had the 800mHz State Emergency Operations System. Within just a few hours all the temporary portable cell phone towers had failed. This was a critical emergency communications break in that we had county and state Fire, EMS, Sheriffs, Highway Patrol, and FEMA. Then our 800mHz also failed. The only thing that was reliable was the old VHS system. The point of sharing this event is to stress the importance of having more of these cell phone towers to provide more access across our county. The permanency of these systems will help to avoid these types of situations in our future. The old systems, such as the 800mHz radios, lose service in concrete buildings, such as in the event of an active shooter within a school building. The new radios have a built-in automatic WiFi connection that will switch over to the building WiFi system and maintain communications. Broadband services will support emergency services, schooling and telework opportunities. The state is pushing to send more employment opportunities into our rural Utah communities.

Item #2 of the staff report states that the proposed tower has unique characteristics which are appropriately addressed with conditions as part of the conditional use permit.

Item #3 of the staff report states that the proposed tower furthers a priority objective of the 2018 San Juan County General Plan to increase broadband capacity to promote economic development and enhance public health and education.

Item #4 of the staff report states that the construction and operation of the tower will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

Item #5 of the staff report states that the construction and operations of the tower will comply with the intent, spirit, regulations, and conditions specified in the County land use code for such use and the zoning district where the use is to be located, as well be harmonious with the neighboring uses in the zoning district. Additionally, the project will comply with all federal regulations which protect and conserve San Juan County resources.

Item #6 of the staff report states that the proposed 150 feet height of the tower exceeds the maximum 35 feet in the San Juan County land use ordinance. Consequently, the tower will require a variance. We are this evening, working on that variance process.

Conditions for consideration include the following items:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.*
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.*
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.*
- The tower shall be operated in compliance with federal regulations.*
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.*
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed.*
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.*
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.*
- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35 feet.*

Vice-Chairman Wilson asked about business licenses using this tower as a tool towards their business even if their business is located in another part of the State/County. Do they need a business license for every area that they are putting in new towers?

Administrator McDonald explained that for any entity, they would need to obtain a business license from the County if it is not already in a City.

Verizon has a store in Blanding and another in Moab. But we don't have a business from Verizon itself as providing this service. In our code we allow that if they exist in a City they wouldn't have to get a County business license. But the City business license is only covering their retail stores and not the towers.

Commissioner Nielson explained the tower situation in Blanding with a red light on a radio tower, then several other towers came in also with lights. One of the towers became unmaintained for the most part, and the tower fell over. We used to drive home to the red light, they have always had a tall tower there.

Commissioner Austin asked for clarification of the "Specific Characteristics" of this tower project. Administrator McDonald reviewed the tripod design of the tower with the commission, placement of the generator, etc. Due to the nature of the tower design, it is hard to classify these communication towers as a "structure". The tower proposed in Spanish Valley had a height of 150 feet as well. Otherwise, this tower only has a generator associated with it and no out buildings.

Tony Benson stated that typically the towers are for Verizon but verified that this tower would also be available for other carries.

Commissioner Nielson commented that he had a problem with the proximity of this tower being within the same circle of another tower previously built. This tower would expand service, but it is not really closing a gap. There are so many holes in San Juan County. Across Navajo Nation Reservation there is better service than there's ever been until you hit the County. There are still huge gaps, such as the bottom of White Mesa Hill, etc. It would be nice to have something come in to fill the emergency voids in San Juan County as far as communications are concerned.

Vice-Chairman Wilson asked if there were any public comments regarding this item. There were no public comments.

Tony Benson addressed the propagation of the project being rooted in the coverage gap between Monticello and Blanding along the highway. The attorney has asked for additional information on that coverage gap, which will be provided before the variance is approved. They have Verizon's detailed information, but it has yet to be released. Administrator McDonald followed up by saying that this information is needed to justify the heights from 35 foot and up of the tower.

Commissioner Rigg stated that she had a problem with the height of both this tower and the next tower on the agenda. She doesn't see a justification of the height in either tower. If existing towers are only 50 to 80 feet, why do we now need towers that are 125 to 150 feet. Tony Benson responded that Verizon is trying to close a very large gap on the highway, which is quite a distance from the placement of this tower. In order to get the line of sight necessary for that coverage, this tower needs to be higher up. Commissioner Austin pulled a reference stating that for every 100 feet of height gives you between 1-1 ½ miles of coverage. Benson stated that it depended on the area of coverage. In denser urban environments, you'll see shorter towers. But in an area like this with a long spread between people, taller towers are needed to gain line of sight.

Commissioner Austin mentioned she found information in her research regarding the height of towers. Various Communication Towers have different information regarding tower height and interference. She looked at Anderson Engineering's documentation on height.

Commissioner Nielson referenced a point when we first got cell service in San Juan County. One of the first towers, there were problems with reception and interference. Where this tower is already on a hill may provide for better service behind Recapture.

Administrator McDonald redirected the discussions to not be too caught up on the height as much as the use itself. The variance process allows for an applicant to go through and see if they can get a higher tower outside of the 35 feet. One of the things, we want to avoid, is to deny the application based off of the height because our ordinance allows for that to go through a variance process, which doesn't involve the Planning Commission, and has its own formal State Code and regulated process. So, if it is not allowable use, that is really what we are considering at the moment. If it is allowable, under what conditions would you place this use.

Commissioner Nielson stated that he thought this was a good placement for the tower and that there had always been a tower in this location. He further went on to discuss the difference between this tower and the proposal in Spanish Valley are different in that Spanish Valley's is in the center of their community. This proposal is not that.

Commissioner Austin wanted to make sure they had assurance that Verizon is going to be able to reach the goal of closing the coverage gap. Benson stated the large investment of Verizon in such an undertaking and that there had been significant research done to ensure this area would be effectively reached. Commissioner Austin also asked about the condition of the existing tower creating redundancy. Benson explained that this tower would pick up where the old tower left off. In an urban environment, towers would be approximately every half mile apart. In this case, Commissioner Nielson estimated that the towers are 6-8 miles apart. He stated it is a substantial distance between them and that we needed more towers.

Administrator McDonald reminded the commission that the Conditional Use Permit is only good for one year. The construction of this tower would have to meet the conditions of approval within that time unless an extension is granted.

Commissioner Austin was concerned about the long-term maintenance inspections, without having County resources to complete inspections over time. Benson stated that every tower is reviewed by a structural engineer, a proper building permit application will be filed. He stated that the towers are typically over-engineered to receive a load much more than what they planned to initially be installed on it.

Administrator McDonald referenced the previous condition that the permit is null and void if the towers are not maintained for over 90-days. So that gives the company a push to always maintain as an operable tower. Commissioner Rigg would like to change the wording to be more active in that "the company must remove the tower" if in this situation.

Commissioner Nielson asked about the time period that a landowner is under contract with Verizon. Benson stated that the property owner has leased the land to Verizon for 25 years with a renewal agreement unless terminated. So, once they build a site, it's there to stay.

Commissioner Walker motioned to vote based on the conditions as follows, with the change in the language adding that if the tower is abandoned or for non-maintenance that the tower shall be removed by the Applicant/Company as presented:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.*
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.*
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.*
- The tower shall be operated in compliance with federal regulations.*
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.*
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed by the Applicant/Company.*

-Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.

-The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.

-The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35 feet.

Commissioner Austin seconded the motion.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Riggs, Commissioner Walker and Commissioner Austin

Motion carries.

5. Consideration and Determination of a Permitted Use in the Highway Commercial (HC) District for a Telecommunications Tower to be located at 4326 East Sunny Acres Lane, Tower Development.

Time stamp 1:15:30 (audio)

Administrator McDonald explained that within the staff report this was set as a Conditional Use for Spanish Valley, but it is not. It has been corrected on the Utah Public Notice website as well. The proposal is for consideration and determination of a Permitted Use in a Highway Commercial District for a telecommunications tower to be located at 4326 Sunny Acres Lane. Within the staff report, the County has received a request from Tierney Rowe, Vice President Tower Development to consider a 125-foot Telecommunications Tower to be placed in Spanish Valley located in the Highway Commercial Zone close to Highway 191 and Sunny Acrea on Parcel 26S22E34S4126 behind an existing residential use property within this zone.

Administrator McDonald further went on to discuss the uniqueness of this project. While similar to previous discussions of why there is a need for broadband, the summary of this project stated the planned telecommunications tower will be developed and owned and operated by Infra Towers LLC (not the property owner that this is being placed on), working in cooperation with Verizon Wireless. The tower will be a 125-foot monopole with a 5-foot lightning rod. The constructed tower will comply with the International Building Code, International Electrical Code, and related architectural and engineering codes and standards, and will also be regulated by the federal agency rules and requirements. Infra Towers LLC will also be subject to the San Juan Building Permit and Fire Code, business licensing requirements. The tower will mitigate a gap in services in the vicinity. The tower will enhance service in Spanish Valley within San Juan County where enhanced remote capabilities and digital connectivity has been shown to increase productivity and innovation of companies and workers, improved connection to platforms for students and teachers, help to provide access to Telehealth providers and clinicians with access to continuous real time patient conditions and analysis. These services improve patient outcomes and reduce costs. This also provides accessibility to emergency responders to fast and reliable communication with 911 and dispatchers, reducing emergency response time and allows for better call location and accuracy. In the findings we have here is the Infra Towers LLC, telecommunications tower located at 4326 Sunny Acres Lane, Spanish Valley will benefit economic development,

healthcare and emergency response services, and remote work and educational opportunities in San Juan County. The proposed tower supports the important objectives of the 2018 General Plan, as previously discussed. The proposed tower is a permitted use in the Spanish Valley Highway Commercial District for the following reasons:

The proposed tower meets the purpose of the highway commercial district which governing ordinances specifically refers to the 2018 San Juan County General Plan by improving broadband services and infrastructure in the county.

The proposed tower is similar in purpose, intent and use to the following listed permitted uses in the Highway Commercial District: general services, governmental facilities and business activities.

Specifically, the proposed tower provides an important independent general service to the San Juan County Community.

Specifically, the proposed tower as regulated and supported by the Federal Communications Committee and is associated with government services and facilities.

Specifically, Infra Towers LLC with this planned tower is part of the telecommunications industry and will be part of the San Juan County Community of business communities.

In summary, this proposal for a telecommunications tower at 4326 Sunny Acres Lane is seeking approval for permitted use in the Highway Commercial District. Administrator McDonald explained that the Spanish Valley Ordinances that we are working with right now in the Highway Commercial District, where the proposed tower is to be located, governs land uses in that district (Chapter 6) which includes a list of typical uses permitted for that zone. In here a telecommunications tower is not listed along the Highway Commercial District typical uses. However, Chapter 6 states that the list is not exclusive and that any use not listed but determined by the Planning Commission to be similar in purpose, intent, or use shall be permitted. The Planning Commission needs to determine if this use meets in harmony with that zone intended it to be in Spanish Valley.

Vice-Chairman Wilson asked if there were any public comments regarding this item. There are no public comments on the matter.

Commissioner Rigg asked if it was possible to have a public hearing? Administrator McDonald said that it was up to the Planning Commission how to move forward. He explained that on a Conditional Use it gives the ability for the Planning Commission to have a public hearing on a conditional use but was unsure on if it was possible for a permitted use. As the governing body, the Planning Commission acts on the zoning ordinance that is established by the Board of Commissioners who sets the zoning and is it possible to push towards a public comment or public hearing with notice, but it also allows the Planning Commission to consider other uses not defined in zoning as a permitted use. One of the reasons brought before the Planning Commission previously was to get further reach and notice to the public. It was previously listed as an agenda item as a discussion, which was specifically intended to alert anybody in the County that there is a tower coming, especially within Spanish Valley. We have had that process and heard the applicant through that. This is essentially the second time that this tower and location has been brought to the Planning Commission. Those who

typically pay attention to what the Planning Commission approves of, they already receive notice on the Utah Public Notice and are very active in reaching out and sending comments to Planning Commissioners. There's already been those two public meetings that have taken place. Most of the public following Planning Agendas also know that we allow for comments to be submitted in the Planning Commission meeting for agenda items. Essentially, we've already had two public processes. This has been well known and given notice. As the ordinances have already given the Planning Commission the right to determine if this use is permitted, the Board of Commissioners have already given the zone the designation for the Planning Commission to make that judgment call.

Commissioner Rigg referenced that the previous meeting and Staff Packet made it quite clear that it's not a permitted use. There was some ambiguous language about the residential zone. The language in the Highway Commercial pushes this back to the Planning Commission and goes to the variance process for height. There are very minimal height regulations in the Spanish Valley residential piece. Current zoning allows for additional uses to be added as permitted but it is up to the Planning Commission to determine that.

Vice-Chairman Wilson stated that he had spoken with 50-60 people about this project and that most were excited about the proposed tower. He himself lives in a dead zone and the potential of this tower would change everything for them.

Commissioner Austin asked to view the map again for the coverage area.

Commissioner Nielson asked for a topography comparison of various heights of towers, such as what does a 80-foot tower do versus a 120-foot tower and what coverage is lost or gained.

Vice-Chairman Wilson explained the elevation gain between Moab and Spanish Valley at about 800 feet. From the base of Spanish Valley to the edge of the map provided is estimated another 900 feet. He reinstated that he has not heard any complaints from residents about this project.

Vice-Chairman Wilson reaffirmed the importance on even his own property with such limited coverage. The use of it would be beneficial.

Administrator McDonald stated that the property owner has also spoken with neighbors in the area and she has said that there was some discussion but no one has been outright against it.

Commissioner Rigg reinforced the concern for height, but Vice-Chairman Wilson reminded all of the fact that they need to focus on the permitted use and if towers can be allowed as a permitted use.

Commissioner Austin was asked about her relevant community and if the towers there are noticeable. She stated that this was a giant obstacle right on the highway and Sunny Acres. She also referenced that the STILA parcel within Spanish Valley would need this. She further went on to state that she felt whatever they are going to build should only be built once, instead of having a bunch in the future.

Commissioner Walker commented that the location of the tower base is within an industrial park and that it fits into that.

Commissioner Nielson made a motion to approve this is in with harmony with the zoning and finds that a telecommunications tower proposed by Infra Towers the San Juan LLC at 4326 East Sunny Acres Lane in Spanish Valley is a permitted use in the Highway Commercial (HC) District.

Commissioner Johnston seconded the motion.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Walker and Commissioner Austin

Abstaining: Commissioner Rigg

Motion Carries.

Infra Towers representative, Tierney Rowe, explained on her way out that this tower would not be exclusive and the goal was to limit the amount of towers to be built by accommodating all carriers including the four major carriers: Verizon, AT&T, T-Mobile and Dish. The tower will be structurally able to accommodate all four if they wish to place equipment.

Vice-Chairman Wilson asked the representative about the bottleneck of service and coverage during times to high demand, such as Jeep Safari weekend. Rowe explained that this tower would help both with coverage as well as capacity of bandwidth.

Commissioner Nielson asked about rights of use. If the proposed towers are approved, what is the agreement between companies to have several carriers on one tower. Rowe explained that her company works a little differently in that they own the structure and then lease the space to the various carriers. There are two main models for telecommunications towers: one where the carrier themselves own the tower (as the proposal prior to this discussion) or this model of having the tower built by a third party and each carrier leases that space.

Commissioner Rigg suggested that we try to get ordinances in place for the shared space of telecommunications towers. She also questioned if a moratorium was possible at this point until those ordinances are sorted out and adopted.

Administrator McDonald advised that many of these telecommunications tower projects are being funded through federal and grant resources. Those resources are timely and a moratorium would open up the Planning Commission to potential legal issues. There was also a public comment on the height of the power lines already existing in Spanish Valley in comparison to this proposed tower. There were concerns over the expanding growth of the area and the capacities of the carriers. There are other towers with San Juan County, such as the tower near Navajo Mountain, that are not allowing collocate on their structure. Writing an ordinance to address this will have to leave room for their structural engineers to state whether or not the structure can handle it while trying to get more carriers, capacity and coverage. Funding is a critical component to many of the tower proposals coming through the Planning Commission to address the service area "Dead Zones".

Commissioner Austin asked about why it is important to know if they are using State and Federal funding. Administrator McDonald explained that the funding is not forever and for specific timeframes. Sometimes this means that the County may be leasing land for these telecommunication tower projects but timing is critical to the installation of the infrastructure using these funding sources.

Administrator McDonald also noted that the decision to permit the project this evening is allowing the project to move forward to the variance process, which would include height discussions. There is an additional step with the variance authority that evaluates the benefit or detriment of the proposal to the community.

BUILDING PERMIT(S) REVIEW

6. November Building Permits

Time stamp 1:59:40 (audio)

There are no building permits to review at this time.

ADJOURNMENT

Time stamp 2:04:00 (audio)

Motion to adjourn was made by Commissioner Walker.

Seconded by Commissioner Rigg

Voting Yea: Chairman Johnston, Commissioner Wilson, Commissioner Austin, Commissioner Nielson, Commissioner Walker and Commissioner Rigg

Motion Carries



STAFF REPORT

MEETING DATE: December 14, 2023

ITEM TITLE, PRESENTER: Variance Approval Update for a 150-Foot Telecommunications Tower at R22 East Radio Hill Road, Mack McDonald, Chief Administrative Officer

RECOMMENDATION: Informational Item Only

SUMMARY

Variance requests go through a separate process outside of a County Board of Commissioners and the County Planning Commission. In accordance with San Juan County Code §153.042 (B) the County's land use appeal authority – may grant a variance to the requirements of the Land Use Code. Our Land Use Authority is a contracted Administrative Law Judge who had the responsibility of determining whether a variance was appropriate for the proposed tower and its height.

Strict standards have to be met by the applicant in order to receive a variance which includes the following:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed, and substantial justice done.

Enclosed with this staff report is the approval of the variance from the height and set back restrictions in the San Juan County land use code for the 150-foot tower at R22 East Radio Hill Road subject to the mitigation requirements contained in the decision.

Administrative Law Judge
San Juan County, Utah

Request for Land Use Variance by	:	Decision of Administrative Law Judge
Verizon Wireless for a 150-foot	:	Lyn Loyd Creswell
Telecommunications Tower at	:	22 November 2023
R22 East Radio Hill Road	:	
Blanding, Utah	:	

Troy Benson, representing Verizon Wireless, applied for a variance to a 75-foot height restriction and a set-back requirement for “utility buildings” in the San Juan County land use code. The proposed Verizon Wireless project involves the construction and operation of a 150-foot telecommunication tower. The planned tower is 45 feet from an existing 68.3-foot-tall guyed tower, with adjacent 8’ x 10’ building. The tower is also within 150 feet of an existing power pole. The guyed tower and power pole are on the existing parcel where the proposed tower will be located.

The San Juan County Administrative Law Judge – as the County’s land use appeal authority – may grant a variance to the requirements of the land use code. San Juan County Code § 153.042 (B).

Administrative Law Judge (ALJ) Lyn Creswell requested the project applicant provide information relevant in determining whether a variance was appropriate for the proposed tower. The applicant has the burden of proving that all the conditions justifying a variance have been met. San Juan County Code § 153.042 (F).

Proposed Telecommunications Tower

The planned telecommunications tower will be developed, owned and operated by Verizon Wireless. The tower will be a 150-foot telecommunication facility.

The proposed tower at R22 Radio Hill Road is intended to fill a “gap” in wireless services in the vicinity. A coverage analysis was prepared by Technology Associates EC Inc, 136 South Main Street, Suite 400, Salt Lake City, Utah 84101.

- The proposed Verizon Wireless communications facility (near Radio Hill Road) is planned to close a 7-mile coverage gap on Highway 191 north of Blanding – between Recapture Reservoir and Devils Canyon Campground.
- The coverage area currently experiences low to no coverage.
- Due to elevation changes in the roadway, Verizon’s current tower in the town of Blanding cannot cover (“see”) the roadway in the area of the proposed tower.
- The 150-foot-tall tower is needed at Radio Hill Road to get the line of sight needed to close the seven-mile-long coverage gap.
- The proposed facility would consist of a 150-foot unmanned communication structure consisting of antennas mounted to a new lattice tower with outdoor equipment and generator. The tower structure will be mounted with a 17’ leg spread on a 26’ x 26’ underground concrete foundation. Power would be provided by Blanding City Power. The footprint of the structure and supporting equipment would be 1800 square feet or 0.041 acres. The site would be supported by a 12-foot-wide access and utility easement for the purpose of egress and ingress and installing underground utilities. The easement would be 0.045 acres.
- The supporting equipment will consist of two (2) equipment cabinets (7’- 6” tall), and a diesel generator (7’-3” tall) upon a 12’-8” x 14’ x 6” thick concrete slab with canopy.

Verizon Wireless has designed the proposed tower to limit a potential hazard associated with telecommunication hazards.

- To limit access to the tower for trespassers – who might climb and fall from the tower – Verizon Wireless will install a security fence around the tower site and remove any pegs or other devices which would allow an unauthorized person to climb the tower. The fence will be a 6-foot chain-link fence with barbed wire.

The proposed tower location at R22 East Radio Hill Road includes the following characteristics.

- The proposed tower is located in an agricultural zone and the area is mostly undeveloped.
- The tower will be located on property leased by Verizon Wireless from Jerry and Joey Holliday – who own Tax Parcel 36S22E132400 (81.28 acres) in San Juan County, Utah.
- Ground elevation of the parcel is 6354 feet A.M.S.L.
- Existing structures on the parcel owned by Jerry and Joey Holliday are a power pole, a 68.3-foot-tall guyed tower and an 8' x 10' building. The tower will be 488 feet from the east Holliday property line.
- Power poles are the only other structures within 150 feet of the tower.
- The nearest residence is approximately 1,000 feet north from the proposed site location.
- There is a horse track about 800 feet east of the project area (on parcel 36S22E134200).
- The land south of the site is owned by the United States Government.
- There is a residence on the property to the west (parcel 36S22147802) and it is approximately 1,080 feet from the future tower location.

- The proposed tower is approximately 140 feet from East Radio Hill Road, 2.25 miles northeast of Blanding City, and 15.55 miles southwest of Monticello City.

Verizon Wireless intends to construct the tower in compliance with the International Building Code, the National Electrical Code, and ANSI/TIA/EIA 222.

Verizon Wireless will comply with all local, state, and federal laws and regulations governing wireless communication facilities. In addition, all new wireless communication facilities are required to go through the National Environmental Policy Act (NEPA) screening, prior to construction, to determine whether the proposed action (construction) will have a significant environmental effect. The screening reviews impacts to wilderness areas, wildlife preserves, endangered species or designated critical habitats, historic places, Indian religious sites, floodplains, and wetlands. Verizon Wireless will not start construction of the proposed tower without a completed NEPA report indicating the facility will not result in significant environmental effect.

Once constructed, maintenance of the tower will include the following. Once a month wireless technician maintenance personnel will visit the site for routine maintenance. A standard work truck will be used for these visits. Roughly every two to three years Verizon will upgrade their equipment and antennas on the tower. This work will likely require a manlift or crane. The maintenance and upgrades the site will need will produce little noise and will create little traffic or safety concerns.

The tower will only have the identification signage required by federal regulation. No commercial or other advertising will be on the tower or facilities.

The proposed tower will not encroach or block vehicular traffic. There is a path leading to the proposed site location and the path will continue around the facility. No portion of the path will be obstructed.

The proposed tower will have no accessory buildings. However, Verizon will install two (2) 7'-6" tall equipment cabinets and a 7'-3" diesel generator, upon a 12'-8" x 14'-6" thick concrete slab, with a canopy covering the cabinets.

San Juan County Plans, Land Use Code, Other San Juan County Ordinances

San Juan County General Plan. In 2018 San Juan County updated and adopted the *San Juan County General Plan*. Of interest here is an objective repeated in the *San Juan County General Plan* – to increase *broadband* infrastructure in San Juan County. Included in the chapter titled “Economic Development” (pages 21 – 30) of the *General Plan* is the following.

“The County’s economic strategy plan has been broken into five key areas of focus, with a vision and planned development of these areas over one, five, and ten years. The five key areas of focus are: *Broadband*, Transportation, Business Expansion and Retention, Diversification, Celebration of Culture and History.

One Year Vision

BROADBAND – In partnership with the Seven County Infrastructure Coalition, the county has identified *Broadband* as one of the primary infrastructure goals. Year one includes the development of a county-wide *Broadband* plan that includes connectivity in the communities fanning the Utah Education Network projects to have Broadband in all the public schools. Planning also includes establishing right of way agreements and initiating collaboration during roadwork discussions. Healthcare, a primary industry of the County, is one example of the necessity of *broadband* expansion with the development of telemedicine programs.

...

Five Year Vision

BROADBAND – A key infrastructure hurdle for business is the cost of *Broadband* in rural Utah. A key goal would be identifying a way to reduce cost of service and creating competitive prices compatible to the Wasatch Front.

...

Ten Year Vision

BROADBAND – *Broadband* will allow for expansion of remote and telecommuting opportunities. Creation of redundancy allowing for reliability in the system.”

San Juan County Zoning Code. On 5 June 1978 San Juan County adopted its first zoning ordinance. The future tower project property (4326 East Sunny Acres Lane) was in the Agriculture District (A-10) of the 1978 Ordinance.

On 12 September 2011 San Juan County adopted an amended Zoning ordinance. The tower property was in the 2011 Zoning Code's Agricultural District¹ (re-designated A-1), which identified permitted, conditional, and prohibited uses within that District.

The 2011 Zoning Code states its "purpose" as follows. "This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of San Juan County."

The 2011 Zoning Code included several sections (or provisions) which applied to all zoning districts in San Juan County. Among these general sections are yard space requirements, relationship of dwellings and lots, private garages with side yard requirements, prohibitions against selling or leasing "required space," restrictions on sale of lots below minimum size, exceptions to unobstructed side yards, area restrictions of accessory buildings, heights for main and accessory buildings, clear view of intersecting streets, and height restrictions for public, semi-public utility buildings.

Relevant here is the following general provision of the 2011 San Juan County Zoning Code. San Juan County Code § 153.135 (Height of Buildings) (A) "Public, semi-public utility buildings, when authorized in a zone may be erected to a height not exceeding 75 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected."

The 2011 Zoning Code does not define "utility buildings." In some local government zoning codes "utility buildings" are often defined as structures for the "storage" of materials. However, with a height standard of 75 feet (or seven stories) it was the likely intent of the San Juan County Commission to include any structure which served a "utility" function in the

¹ The 2011 Zoning Code identified five "zoning districts": Multiple Use District (MU-1), Agricultural District (A-1), Rural Residential ((RR-1), Controlled District (CD), and Indian Reservation District (IR).

definition of “utility building.” It is difficult to image a “storage” building seven stories tall. Consequently, it is assumed that the height restrictions here applies to the proposed tower.²

The “Height of Buildings” provision includes a “set back” requirement. That requirement can reasonably be interpreted as requiring a set back at a distance equivalent to the height of the “utility building.” Here that distance would be 150 feet.

A-1 Agricultural District.

The proposed tower is in the A-1 Agricultural District. The San Juan County land use ordinance authorizes the Planning Commission to review and approve a conditional use permit for any conditional use – identified either in the zoning district where the use is proposed or “elsewhere” in the County zoning code. “Radio and television transmitting stations or towers” are listed as conditional uses in the A-1 Agricultural District.

San Juan County Conditional Use Permit Decision. On 9 November 2023, the San Juan County Planning Commission considered and approved the Verizon tower at R22 East Radio Hill Road as a “conditional use” in the A-1 Agricultural District. Supporting its decision, the Planning Commission made the following findings.

1. The proposed tower will have a positive, beneficial impact on the economy security, safety, and welfare of San Juan County residents and businesses. Specifically, the proposed project will support and enhance emergency services, schooling, health care services, and remote employment.
2. The proposed tower has unique characteristics which are appropriately addressed with conditions as part of a conditional use permit.
3. The proposed tower furthers a priority objective of the 2018 *San Juan County General Plan* to increase *Broadband* capacity to promote economic development and enhance public health and education.

² A New York State appellate decision involved a 400-foot cellular telephone tower which the location government and the appellate court was properly included in the definition of “public utility building.” *Payne v. Taylor*, 178 A.D.2d 979, 578 N.Y.S.2d 327 (1991)

4. The construction and operation of the tower will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
5. The construction and operation of the tower will comply with the intent, spirit, regulations and conditions specified in the County land use code for such use and the zoning district where the use is to be located, as well be harmonious with the neighboring uses in the zoning district. Additionally, the project will comply with all federal regulations which protect and conserve San Juan County resources.

On 9 November 2023 the Planning Commission approved a Conditional Use Permit with the following conditions.

- a. Prior to construction, the applicant shall apply for and receive a San Juan County building permit.
- b. The applicant shall apply for, receive, and maintain a San Juan County business license *and* be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.
- c. The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.
- d. The tower shall be operated in compliance with federal regulations.
- e. The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.
- f. This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed.

- g. Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
- h. The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.

San Juan County Variance Provisions

San Juan County land use code § 153.042 (Variances) authorizes the Appeal Authority to grant a variance of the requirements of the land use ordinance as applied to a parcel of property.

The Appeal Authority may grant a variance only if the following requirements are met.

1. The literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance. In determining whether enforcement of the ordinance would cause an undue hardship the Appeal Authority must find a) that the undue hardship is located or associated with the property where the variance is sought and b) that the hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. Also, the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone. In determining special circumstances, the Appeal Authority may find special circumstances only if the special circumstances a) relate to the hardship complained of and b) deprive the property of privileges granted to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the land use ordinance is observed, and substantial justice done.

Relevant to the findings of “unreasonable hardship” and “special circumstances” in cases of wireless communication facilities are the requirements of the federal law. Where the hardship and special circumstances claimed by a land use applicant includes a gap in wireless services, the authority considering a variance must consider the federal Telecommunications Act (TCA). The TCA “imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification” of telecommunication facilities. *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115 – 16 (2005). TCA 47 U.S.C. § 332 (c) (7) (B) (i) provides, among other things, as follows:

- (i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof –
 - (I) Shall not unreasonably discriminate among providers of functionally equivalent services; and
 - (II) *Shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*

Regarding the matter of “hardship” and “special circumstances” in variance decisions, the applicant of a proposed wireless cell tower may satisfy this requirement by showing a gap in service without necessarily demonstrating a hardship associated with the unique shape, topography, or other physical feature of the property. See *Nextel Communications of Mid-Atlantic v. Town of Wayland*³, 231 F. Supp. 2d 396 (D. Mass. 2002) (“Under the Telecommunications Act, the [local government] cannot deny the variance if in doing so it would have the effect of prohibiting wireless services. 47 U.S.C. § 332 (c) (7) (i) (II). In other words,

³ *Wayland* involved an application for a variance from a zoning law’s height restriction to build a wireless communications facility.

the need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless service, constitutes another unique circumstance when a zoning ordinance is required.”)

A recent decision of the United States Court of Appeals for the Third District affirmed the federal Telecommunications Act affect on local government approvals of telecommunication towers. “Congress passed the TCA in 1996. ‘Its primary purpose was to reduce regulation and encourage the rapid deployment of new telecommunication technologies.’ *Reno v. ACLU*, 521 U.S. 844, 857 (1997). Congress preserved local zoning authority over the ‘placement, construction, and modification of personal wireless service facilities,’ like cell towers. 47 U.S.C. § 332 (c) (7) (A). But it specified that such regulation “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.’ *Id.* § 332 (c) (7) (B) (i) (II).” *Cellico Partnership v. The White Deer Township Zoning Hearing Board*, Third Circuit Court of Appeals, decided 14 July 2023.

The Third District Court found that the following facts supported a conclusion that the denial of variance to Verizon Wireless triggered the preemptive authority of the TCA.

- Verizon Wireless provided evidence that there was a “significant gap” in its wireless coverage in the White Deer Township and that the proposed monopole cell tower would fill that gap.

Findings

Administrative Law Judge Lyn Loyd Creswell makes the following findings relevant to a determination of whether the Verizon Wireless tower at R22 East Radio Hill Road qualifies for a variance from the height and set back restrictions in the San Juan County land use code.

1. The literal application of the San Juan County height and set back requirements for “utility buildings” would cause an undue and unreasonable hardship on applicant Verizon Wireless by preventing the applicant from erecting the planned telecommunication tower designed to cover an identified gap in wireless services in San Juan County, Utah.
2. A qualified engineering company, using industry standard evaluation methodologies, has identified a wireless communication gap (seven miles) on Highway 191 north of Blanding, Utah (between the Recapture Reservoir and Devils Canyon Campground).

3. The Verizon Wireless proposed tower at R22 East Radio Hill Road was designed for and supports the objective of eliminating or reducing the identified gap in services.
4. The proposed height (150 feet) of the tower was certified by a professional communications engineer to achieve the necessary elimination or reduction of the identified gap by multiple wireless service providers.
5. The construction and operation of the Verizon Wireless tower at R22 East Radio Hill Road carries out the general purposes of the *San Juan County General Plan* and the San Juan County Zoning Code by benefitting economic development, health care, emergency response services, remote work, and education in San Juan County.
6. The proposed tower supports an important objective of the 2018 *San Juan County General Plan* by adding critical Broadband infrastructure in San Juan County.
7. The proposed Verizon Wireless tower at R22 East Radio Hill Road supports the following purposes stated in the 2011 San Juan County Zoning Ordinance: “[P]romoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of San Juan County.”
8. The undue hardship is specifically associated with the Verizon Wireless tower structure proposed and located at R22 East Radio Hill Road.
9. The undue hardship relates to and comes specifically from the peculiar technical requirements supporting the Verizon Wireless tower designed to provide gap coverage in an area with low or no coverage.
10. The special circumstances associated with the planned telecommunications tower apply to that structure as it is designed to transmit wireless communications signals and do not

apply to other “utility buildings” in the A-1 District which are not designed and intended to support wireless communications.

11. In this case, both the undue/unreasonable hardship and the special circumstances relate to the peculiar technical requirements of the planned tower designed to provide gap coverage in an area with marginal or incomplete wireless communication services.
12. The wireless communication services created by the operation of the Verizon Wireless tower will provide a much-needed service to residents and business owners in San Juan County.
13. The provided benefit is essential to the enjoyment of a substantial property right – to effectively communicate and receive government-provided emergency services, accessible health care, enhanced education opportunities, and economic security – possessed by other property owners in the A-1 Agricultural District.
14. The operation of the planned telecommunications tower is fully consistent with and does not deviate from the San Juan County General Plan.
15. The risk of physical harm to the public or adjacent property caused by the construction, operation, and maintenance of the tower is minimal.
16. Verizon Wireless has anticipated and designed the tower: to limit access to unauthorized persons who might seek to climb the tower (who might fall from the tower), and to reduce the potential for a tower collapse in event of a catastrophic event.
17. Assuming that Verizon Wireless complies the conditions of the 9 November 2023 Conditional Use Permit approved by the Planning Commission - the proposed tower will not be contrary to the public interest.

18. The construction and operation of the Verizon Wireless tower at R22 East Radio Hill Road meets the spirit of the San Juan County land use ordinance and is substantially just.
19. Based on the established wireless gap analysis and other factors, a denial of the Verizon Wireless tower variance application would violate the federal Telecommunications Act (as interpreted by federal courts) by prohibiting or having the effect of prohibiting the provision of personal wireless services to wireless service users in San Juan County, Utah.

Mitigation

To safeguard the public interest associated with the proposed Verizon Wireless tower at R22 East Radio Hill Road, the following mitigation measures are required as part of the approval of a variance.

- Verizon Wireless will comply with the “conditions” of the 9 November 2023 Conditional Use Permit adopted by the San Juan County Planning Commission.

Decision

Administrative Law Judge Lyn Loyd Creswell, acting as the San Juan County land use appeal authority, grants Verizon Wireless a variance to the “utility building” height and set back requirements of the 2011 San Juan County Zoning Code for a proposed telecommunication tower and associated equipment located at R22 East Radio Hill Road, subject to the mitigation requirements contained herein.

Administrative Law Judge Lyn Loyd Creswell shall continue jurisdiction over the subject variance for twelve months after the date the tower begins operating. Continuing jurisdiction includes assuring compliance with the mitigation requirements or modifying the mitigation measures of this decision.

A handwritten signature in dark ink, appearing to read "Lyn L. Creswell", is written over a horizontal line. The signature is stylized with a large, sweeping flourish at the end.

Lyn Loyd Creswell
San Juan County Administrative Law Judge

22 November 2023



STAFF REPORT

MEETING DATE: December 14, 2023

ITEM TITLE, PRESENTER: Variance Approval Update for a 125-Foot Telecommunications Tower at 4326 East Sunny Acres Lane in Spanish Valley, Mack McDonald, Chief Administrative Officer

RECOMMENDATION: Informational Item Only

SUMMARY

Variance requests go through a separate process outside of a County Board of Commissioners and the County Planning Commission. In accordance with San Juan County Code §153.042 (B) the County's land use appeal authority – may grant a variance to the requirements of the Land Use Code. Our Land Use Authority is a contracted Administrative Law Judge who had the responsibility of determining whether a variance was appropriate for the proposed tower and its height.

Strict standards have to be met by the applicant in order to receive a variance which includes the following:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed, and substantial justice done.

Enclosed with this staff report is the approval of the variance from the utility building, height and set back restrictions in the San Juan County land use code for the 125-foot tower at 4326 East Sunny Acres Lane subject to five (5) mitigation requirements contained in the decision.

Administrative Law Judge
San Juan County, Utah

Request for Land Use Variance by	:	Decision of Administrative Law Judge
Infra Towers LLC for a 125-foot	:	Lyn Loyd Creswell
Telecommunications Tower at	:	17 November 2023
4326 East Sunny Acres Lane,	:	
Spanish Valley, Utah	:	

Tierney Rowe, representing Infra Towers LLC, applied¹ for a variance to a 75-foot height restriction and a set-back requirement for “utility buildings” in the San Juan County land use code. The proposed Infra Towers LLC project involves the construction and operation of a 125-foot telecommunications tower. The planned tower is 28 feet from a public storage building located on an adjacent parcel. It is 115 feet from the closest residential dwelling – which is on the parcel where the tower will be erected.

The San Juan County Administrative Law Judge – as the County’s land use appeal authority – may grant a variance to the requirements of the land use code. San Juan County Code § 153.042 (B).

Administrative Law Judge (ALJ) Lyn Creswell requested the project applicant provide information relevant in determining whether a variance was appropriate for the proposed tower. The applicant has the burden of proving that all the conditions justifying a variance have been met. San Juan County Code § 153.042 (F).

¹ Infra Towers LLC submitted a variance application to San Juan County Chief Administrative Officer Mack McDonald on 20 October 2023.

Proposed Telecommunications Tower

The planned telecommunications tower will be developed, owned, and operated by Infra Towers LLC, with Verizon Wireless collaborating as the anchor tenant. The tower will be a 125-foot monopole with a 5-foot lightening rod.

The proposed tower at 4326 East Sunny Acres Lane is intended to fill a “gap” in wireless services in the vicinity. On 2 November 2023 TeleMtn Engineering² submitted to Infra Towers LLC a “coverage analysis”³ for the proposed tower. That analysis included the following.

- The wireless indoor coverage in Spanish Valley can be broadly characterized as marginal. Some areas with line of sight to existing cell sites may experience adequate service, while others may have unreliable or no service at all. Likewise, in-vehicle coverage may also be “spotty” depending on location, especially along US Highway 191 south of the Grand/San Juan County line.
- The proposed new wireless facility will provide substantial new coverage in and around Spanish Valley, as well as on US Highway 191 south of Spanish Valley. The coverage enhancements will be particularly pronounced for in-building use. This point is significant given that the latest survey released by the Centers of Disease Control and Prevention shows that about 75% of Utahns live in a “wireless only” household. In addition to the in-building coverage improvements, the proposed site will improve coverage and reliability for vehicular usage along US Highway 191 through Spanish Valley, and to the south.

² TeleMtn Engineering is a professional engineering firm. TeleMtn specializes in providing engineering services to the wireless telecommunication industry. TeleMtn has extensive experience in Radio Frequency engineering and network planning as well as in physical design.

³ The TeleMtn Engineering analysis included the following: Coverage predictions were created using an industry-standard tool, Atoll 3.5; Atoll’s Standard Prediction Model was used with slope, diffraction, and clutter loss parameters tuned for the environment; The terrain and land use/land clutter resolution was 30 meters; All site predictions were based on three-sector designs with antennas oriented so as to maximize the coverage in the desired area; and The coverage predictions depict LTE coverage in the AWS band (about 2100 MHz).

- The designed height (125 feet) of the proposed tower is necessary to provide the needed service and to allow for additional future tenants⁴.
- An analysis of five existing wireless sites within a seven-mile radius of the proposed site did not show significant coverage improvements in the desired coverage area of Spanish Valley.

Infra Towers LLC has designed the proposed tower to limit potential hazards.

1. To limit access to the tower for trespassers, Infra Towers LLC will install a security fence around the tower site and install step bolts above 10' to deter any unauthorized person from climbing the tower. The fence will be a 6-foot slatted chain-link fence with 3 strands of barbed wire for a total of 7 feet.
2. In-service failures of telecommunications towers due to weather induced overloading are very rare, but to bolster safety in the event of an in-service failure, Infra Towers LLC has designed the tower with a "zero fall zone." The theoretical failure point is at the structure midpoint or above by purposely over designing the structural component below this point. The predicted mode of wind induced failure would be local buckling of the shaft at or above the midpoint with the upper section(s) folding over onto the intact lower section(s). The result, if it were to fail, would be a theoretical "zero fall zone" at ground level.

⁴ Part of the height design involves the anticipation of multiple cell service providers with elevations on the tower that are adequate to provide the needed coverage/service for facilitating optimal interaction with the service providers' existing tower locations.

The proposed tower location at 4326 East Sunny Acres Lane includes the following characteristics.

- The tower will be located on a 50' x 50' area (0.057 acres) leased by Infra Towers LLC from Kolleen Conger – who owns and resides on Tax Parcel 26S22E3542044 (4326 East Sunny Acres Lane) in Spanish Valley, San Juan County, Utah.
- 4326 East Sunny Acres Lane is a 0.87 acres parcel, with a single-family dwelling, storage containers, a horse corral, and one accessory building. The distance from the proposed tower to the residential dwelling is 115 feet.
- The Infra Towers LLC leased area is on the southeast corner of the Kolleen Conger property – with a 20' wide access and utility easement (0.117 acres) from East Sunny Acres Lane to the Infra Towers LLC leased area.
- 4326 East Sunny Acres Lane is approximately 675 feet from US Highway 191.
- 4326 East Sunny Acres Lane is immediately south of the Grand and San Juan County line.
- The area around 4326 East Sunny Acres Lane is sparsely developed. Adjacent or nearby properties include the following.
 - o Immediately east of 4326 East Sunny Acres Lane is property owned by Earl Dwight Johnson and operated as Sunny Acres Storage (4336 East Sunny Acres Lane). The property includes a main office building with a storage facility on the south property line. The south building is at the southwest corner of 4336 East Sunny Acres Lane and 28 feet from the Infra Towers LLC tower. The distance from the tower to the office building is 110 feet.
 - o Immediately west of 4326 East Sunny Acres Lane is a parcel owned by Savage Brothers Inc. The property is undeveloped.

- Across East Sunny Acres Lane to the northwest (and on US Highway 191) is Zunich Bros Mechanical. Their services include septic tank cleaning, grease trap cleaning, and portable toilet rental. There is an industrial type building on the parcel.
 - Directly north of 4326 East Sunny Acres Lane is property operated by Moab Bronco Rentals. The property includes several buildings which support vehicles used by off-road enthusiasts.
 - The property northeast of 4326 East Sunny Acres Lane includes parking and hookups for RVs. On the property is a building which may serve as a residence or office.
- Beyond these adjacent and nearby properties are scattered residential properties and a few businesses (including auto repair, ATV rentals, an RV park, a campground, and a vineyard/winery). There are no business parks or residential subdivisions close to 4326 East Sunny Acres Lane.

Infra Towers LLC intends to construct the tower in compliance with the International Building Code, the National Electrical Code, and ANSI/TIA/EIA 222.

Infra Towers LLC will comply with all local, state, and federal laws and regulations governing wireless communication facilities. An airspace analysis was conducted and indicated that no additional consultation is necessary with the FAA or FCC for the proposed tower. In addition, all new wireless communication facilities are required to go through the National Environmental Policy Act (NEPA) screening, prior to construction, to determine whether the proposed action (construction) will have a significant environmental effect. The screening reviews impacts to wilderness areas, wildlife preserves, endangered species or designated critical habitats, historic places, Indian religious sites, floodplains, and wetlands. Infra Towers LLC will not start construction of the proposed tower without a completed NEPA report indicating the facility will not result in significant environmental effect.

Once constructed, maintenance of the tower will include the following. Twice a month wireless technician maintenance personnel will visit the site. This work is performed on the ground and technicians typically drive a truck or SUV to carry their maintenance measuring equipment. If ground measurements indicate an antenna or feedline coaxial cable fault, which happens infrequently, a boom truck may be required to facilitate technician access to the antennas and cables. The ground space will be maintained by Infra Towers LLC, as frequently as needed, to keep it clear of weeds and easily accessible by maintenance technicians. Infra Towers LLC reported that “there will be no distinguishable impact to existing traffic patterns or infrastructure, noise levels, or safety impacts created by the periodic maintenance anticipated for the proposed tower and facility.”

The tower will only have the identification signage required by federal regulation. No commercial or other advertising will be on the tower or facilities.

The proposed tower will not encroach on or block vehicular traffic. The proposed tower is in the rear of the host property. Infra Towers LLC has a 20-foot-wide access/utility easement which will accommodate ingress/egress to the proposed tower and facility.

The proposed tower will have no accessory buildings. However, tower-support equipment will be located on cement pads adjacent to the tower.

San Juan County Plans, Land Use Code, Other San Juan County Ordinances

Spanish Valley Area Plan. In 2017 San Juan County began focusing on land uses in the Spanish Valley community. In 2017 San Juan County contracted with Landmark Design (a landscape architect company) to prepare an “area plan” for the Spanish Valley community. The creation of a “Spanish Valley Area Plan” began with a presentation by Landmark Design to the San Juan County Planning Commission on 14 August 2017. This meeting was followed by interviews with select residents, neighborhood groups, and government agencies during a three-day period 18 to 20 September 2017. These interviews were followed by public scoping meetings on 20 September 2017 and two public workshops on 7 and 8 November 2017.

On 13 February 2018 Landmark Design hosted a public Open House to receive comments about a draft San Juan County Spanish Valley Area Plan. Fifty people attended the Open House. Following the Open House, the County provided a website and email address for individuals to comment on the draft Area Plan. Comments were received from 13 February to 11 March 2018. After comments were received, Landmark Design created a document with the verbatim comments from citizens about the Spanish Valley Area Plan.

After the interviews, workshops, open house, and receipt of comments from individuals, Landmark Design summarized the community ideas and concerns about the future of Spanish Valley. Among the summarized responses were the following:

- “Height limits because of fire resources/restricts? Not an issue (everything can be served)”
- “Height uses would change based on land use”
- “The area needs commercial, particularly along the highway [191]”

On 22 March 2018 the San Juan Planning and Zoning Commission received a presentation regarding a possible Spanish Valley Area Plan. After public comments, comments from San Juan County official Walter Bird, and discussion among the commissioners; the Planning and Zoning Commission moved to send the Spanish Valley Area Plan to the County Board of Commissioners.

On 17 April 2018 the San Juan County Board of Commissioners adopted the *San Juan County Spanish Valley Area Plan*. The Plan was unanimously adopted.

The *Spanish Valley Area Plan* states that it “is an official document intended to guide future development in the San Juan County portion of Spanish Valley⁵.” When adopted, the *Spanish Valley Area Plan* became a chapter of the *San Juan County General Plan*.

Relevant to the location of short-term/overnight rentals in Spanish Valley residential neighborhoods, the *Spanish Valley Area Plan* included the following guidelines.

- “Encourage and support business development and job generation through the location of well-situated business development zones adjacent to the highway [191]”
- “Locate a small commercial center – comprised of small, local businesses – in a central location and bigger, more regional-type commercial uses near Highway 191.”

San Juan County General Plan. In 2018 San Juan County updated and adopted the *San Juan County General Plan*. Of interest here is an objective repeated in the *San Juan County General Plan* – to increase *broadband* infrastructure in San Juan County. Included in the chapter titled “Economic Development” (pages 21 – 30) of the *General Plan* is the following.

“The County’s economic strategy plan has been broken into five key areas of focus, with a vision and planned development of these areas over one, five, and ten years. The five key areas of focus are: *Broadband*, Transportation, Business Expansion and Retention, Diversification, Celebration of Culture and History.

One Year Vision

BROADBAND – In partnership with the Seven County Infrastructure Coalition, the county has identified *Broadband*⁶ as one of the primary infrastructure goals. Year one includes the development of a county-wide *Broadband* plan that includes connectivity in the communities fanning the Utah Education Network projects to have Broadband in all

⁵ The San Juan County portion of Spanish Valley is approximately six miles long and 2.5 miles wide (encompassing fifteen square miles of land). The remainder of Spanish Valley is in Grand County (north of San Juan County).

⁶ San Juan County’s need for Broadband infrastructure is illustrated by the County’s experience with a 14 October 2023 eclipse event. The eclipse event was held at Gooseneck State Park the morning of 14 October 2023. The number of people allowed to attend was 200. Local lodging was reported at 100% capacity for the event. Unfortunately, the temporary rapid deployable cellular units brought in for the event did not function. The result was ineffective public safety communication in support of the event.

the public schools. Planning also includes establishing right of way agreements and initiating collaboration during roadwork discussions. Healthcare, a primary industry of the County, is one example of the necessity of *broadband* expansion with the development of telemedicine programs.

...

Five Year Vision

BROADBAND – A key infrastructure hurdle for business is the cost of *Broadband* in rural Utah. A key goal would be identifying a way to reduce cost of service and creating competitive prices compatible to the Wasatch Front.

...

Ten Year Vision

BROADBAND – *Broadband* will allow for expansion of remote and telecommuting opportunities. Creation of redundancy allowing for reliability in the system.”

San Juan County Zoning Code. On 5 June 1978 San Juan County adopted its first zoning ordinance. The future tower project property (4326 East Sunny Acres Lane) was in the Agriculture District (A-10) of the 1978 Ordinance.

On 12 September 2011 San Juan County adopted an amended Zoning ordinance. The tower property was in the 2011 Zoning Code’s Agricultural District⁷ (re-designated A-1), which identified permitted, conditional, and prohibited uses within that District.

The 2011 Zoning Code states its “purpose” as follows. “This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of San Juan County.”

The 2011 Zoning Code included several sections (or provisions) which applied to all zoning districts in San Juan County. Among these general sections are yard space requirements, relationship of dwellings and lots, private garages with side yard requirements, prohibitions

⁷ The 2011 Zoning Code identified five “zoning districts”: Multiple Use District (MU-1), Agricultural District (A-1), Rural Residential ((RR-1), Controlled District (CD), and Indian Reservation District (IR).

against selling or leasing “required space,” restrictions on sale of lots below minimum size, exceptions to unobstructed side yards, area restrictions of accessory buildings, heights for main and accessory buildings, clear view of intersecting streets, and height restrictions and set back requirements for public, semi-public utility buildings.

Relevant here is the following general provision of the 2011 San Juan County Zoning Code. San Juan County Code § 153.135 (Height of Buildings) (A) “Public, semi-public utility buildings, when authorized in a zone may be erected to a height not exceeding 75 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.”

The 2011 Zoning Code does not define “utility buildings.” In some local government zoning codes “utility buildings” are defined as structures for the “storage” of materials. However, with a height standard of 75 feet (or seven stories) it was the likely intent of the San Juan County Commission to include any structure which served a “utility” function in the definition of “utility building.” (It is difficult to image a “storage” building seven stories tall.) Consequently, it is assumed that the height restrictions here applies to the proposed tower.⁸

The “Height of Buildings” provision includes a “set back” requirement. That requirement can reasonably be interpreted as requiring a set back at a distance equivalent to the height of the “utility building.” Here that distance would be 125 feet.

Spanish Valley Development Ordinances. After the adoption of the *Spanish Valley Area Plan*, San Juan County spent several months preparing a zoning ordinance for Spanish Valley. The process of adopting a Spanish Valley land use ordinance began on 17 May 2018 when the San Juan County Planning Commission first considered proposed zoning changes for Spanish Valley. A draft ordinance was presented by Landmark Design. On 8 November 2018 the Planning Commission received another presentation relating to a draft Spanish Valley zoning ordinance. On 13 December 2018, 7 February 2019, and 30 October 2019 the Planning Commission again discussed a draft San Juan County Spanish Valley Development Ordinance.

⁸ A New York State appellate decision involved a 400-foot cellular telephone tower which the local government and the appellate court assumed was included in the definition of “public utility building.” *Payne v. Taylor*, 178 A.D.2d 979, 578 N.Y.S.2d 327 (1991)

On 19 November 2019 the San Juan County Board of Commissioners approved the Spanish Valley Development Ordinances as an amendment (or sub-ordinance) to the 2011 San Juan County Zoning Ordinance.

The Spanish Valley Development Ordinances created six (6) zoning districts which replaced the previous two districts in Spanish Valley under the 2011 Zoning Code. The six districts were: Spanish Valley Residential (SVR) District, Spanish Valley Planned Community (PC) District, Spanish Valley Residential Flex Planned Community (RF) District, Spanish Valley Business Flex Planning Community (BF), Spanish Valley Highway Flex Planned Community (HF) District, and *Spanish Valley Highway Commercial (HC) District*.

The Infra Towers LLC tower property lies within the Highway Commercial (HC) District. The HC District defines “permitted uses” within the zoning district.

San Juan County Permitted Use Decision. On 9 November 2023 the San Juan County Planning Commission considered and approved the Infra Towers LLC project as a “permitted use” in the HC District. Supporting its decision, the Planning Commission made the following findings.

1. The Infra Towers LLC telecommunications tower at 4326 East Sunny Acres Lane, Spanish Valley will benefit economic development, health care, emergency response services, remote work, and education in Spanish Valley and San Juan County⁹.
2. The proposed tower supports an important objective of the 2018 *San Juan County General Plan* by adding critical Broadband infrastructure in San Juan County.

⁹ In its decision, the Planning Commission reported the following in its “project summary” of the proposed Infra Towers LLC project.

The tower will enhance the following services in Spanish Valley and in San Juan County.

- Enhanced remote work capability. Digital connectivity has been shown to increase productivity and innovation in companies and workers.
- Improved connection to education platforms for students and teachers.
- Accessibility to telehealth providers. Wireless services provide clinicians with access to continuous, real-time information and analysis. These services improve patient outcomes and reduces costs.
- Accessibility to emergency responders. Fast and reliable connection with 911 dispatchers reduces emergency response time and allows for better call location accuracy.

Additionally, the 7 June 2022 *San Juan County Emergency Operations Plan* lists “Operational Communications” as a core capability for emergency response.

San Juan County Variance Provisions

San Juan County land use code § 153.042 (Variances) authorizes the Appeal Authority to grant a variance of the requirements of the land use ordinance as applied to a parcel of property.

The Appeal Authority may grant a variance only if the following requirements are met.

1. The literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance. In determining whether enforcement of the ordinance would cause an undue hardship the Appeal Authority must find a) that the undue hardship is located or associated with the property where the variance is sought and b) that the hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. Also, the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone. In determining special circumstances, the Appeal Authority may find special circumstances only if the special circumstances a) relate to the hardship complained of and b) deprive the property of privileges granted to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the land use ordinance is observed, and substantial justice done.

Relevant to the findings of “unreasonable hardship” and “special circumstances” in cases of wireless communication facilities are the requirements of federal law. Where the hardship and special circumstances claimed by a land use applicant includes a gap in wireless services, the authority considering a variance must consider the federal Telecommunications Act (TCA). The TCA “imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification” of telecommunication facilities. *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115 – 16 (2005). TCA 47 U.S.C. § 332 (c) (7) (B) (i) provides, among other things, as follows:

- (i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State of local government or instrumentality thereof –
 - (I) Shall not unreasonably discriminate among providers of functionally equivalent services; and
 - (II) *Shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*

Regarding the matter of “hardship” and “special circumstances” in variance decisions, the applicant of a proposed wireless cell tower may satisfy this requirement by showing a gap in service without necessarily demonstrating a hardship associated with the unique shape, topography, or other physical feature of the property. See *Nextel Communications of Mid-Atlantic v. Town of Wayland*¹⁰, 231 F. Supp. 2d 396 (D. Mass. 2002) (“Under the Telecommunications Act, the [local government] cannot deny the variance if in doing so it would have the effect of prohibiting wireless services. 47 U.S.C. § 332 (c) (7) (i) (II). In other words, the need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless service, constitutes another unique circumstance when a zoning ordinance is required.”)

A recent decision of the United States Court of Appeals for the Third District affirmed the federal Telecommunications Act affect on local government approvals of telecommunications towers. “Congress passed the TCA in 1996. ‘Its primary purpose was to reduce regulation and encourage the rapid deployment of new telecommunication technologies.’ *Reno v. ACLU*, 521

¹⁰ *Wayland* involved an application for a variance from a zoning law’s height restriction to build a wireless communications facility.

U.S. 844, 857 (1997). Congress preserved local zoning authority over the ‘placement, construction, and modification of personal wireless service facilities,’ like cell towers. 47 U.S.C. § 332 (c) (7) (A). But it specified that such regulation “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.’ Id. § 332 (c) (7) (B) (i) (II).” *Cellico Partnership v. The White Deer Township Zoning Hearing Board*, Third Circuit Court of Appeals, decided 14 July 2023.

The Third District Court found that the following facts supported a conclusion that the denial of variance to Verizon Wireless triggered the preemptive authority of the TCA.

- Verizon Wireless provided evidence that there was a “significant gap” in its wireless coverage in the White Deer Township and that the proposed monopole cell tower would fill that gap.

Findings

Administrative Law Judge Lyn Loyd Creswell makes the following findings relevant to a determination of whether the Infra Towers LLC proposed telecommunications tower qualifies for a variance from the height and set back restrictions in the San Juan County land use code.

1. The literal application of the San Juan County height and set back requirements for “utility buildings” would cause an undue and unreasonable hardship on applicant Infra Towers LLC by preventing the applicant from erecting the planned telecommunication tower designed to cover an identified gap in wireless services in Spanish Valley, San Juan County, Utah.
2. A qualified engineering company, using industry standard evaluation methodologies, has identified a wireless communication gap in Spanish Valley and south of Spanish Valley along US Highway 191.
3. The Infra Towers LLC proposed tower at 4326 East Sunny Acres Lane was designed for and supports the objective of eliminating or reducing the identified gap in services.
4. The proposed height (125 feet) of the tower was certified by a professional communications engineer to achieve the necessary elimination or reduction of the identified gap by multiple wireless service providers.
5. The construction and operation of the Infra Towers LLC tower at 4326 East Sunny Acres Lane carries out the general purposes of the *San Juan County General Plan* and the San Juan County Zoning Code by benefitting economic development, health care, emergency response services, remote work, and education in Spanish Valley and San Juan County.
6. The proposed tower supports a primary objective of the 2018 *San Juan County General Plan* by adding critical Broadband infrastructure in San Juan County.
7. The proposed Infra Towers LLC tower at 4326 East Sunny Acres Lane supports the following purposes stated in the 2011 San Juan County Zoning Ordinance: “[P]romoting

the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of San Juan County.”

8. The undue hardship is specifically associated with the Infra Towers LLC tower structure proposed and located at 4326 East Sunny Acres Lane.
9. The undue hardship relates to and comes specifically from the peculiar technical requirements supporting the Infra Towers LLC tower designed to provide gap coverage in an area with marginal or incomplete wireless communication services.
10. The special circumstances associated with the planned telecommunications tower apply to that structure as it is designed to transmit wireless communications signals and do not apply to other “utility buildings” in Spanish Valley which are not designed and intended to support wireless communications.
11. In this case, both the undue/unreasonable hardship and the special circumstances relate to the peculiar technical requirements of the planned tower designed to provide gap coverage in an area with marginal or incomplete wireless communication services.
12. The special circumstances associated with the technical requirements of the Infra Towers LLC structure at 4326 East Sunny Acres Lane allow the tower to participate as a business and commercial service along with other business and commercial enterprises in the Highway Commercial (HC) District in Spanish Valley.
13. The wireless communication services created by the operation of the Infra Towers LLC tower will provide a much-needed service to residents and business owners in the Highway Commercial (HC) District.
14. The provided benefit is essential to the enjoyment of a substantial property right – to effectively communicate and receive government-provided emergency services, accessible health care, enhanced education opportunities, and economic security – possessed by other property owners in the HC District.

15. The operation of the planned telecommunications tower is fully consistent with and does not deviate from the *San Juan County General Plan*.
16. The risk of physical harm to the public or adjacent property caused by the construction, operation, and maintenance of the tower is minimal.
17. Infra Towers LLC has anticipated and designed the tower to limit access to unauthorized persons who might seek to climb the tower, and to reduce the potential for a tower collapse in event of a catastrophic in-service failure.
18. If Infra Towers LLC complies with all federal and state requirements; applies for and obtains a San Juan County building permit; applies for and maintains a San Juan County business license; and maintains the subject property in good condition – the proposed tower will not be contrary to the public interest.
19. The construction and operation of the Infra Towers LLC tower at 4326 East Sunny Acres Lane meets the spirit of the San Juan County land use ordinance and is substantially just.
20. Based on the established wireless gap analysis and other factors, a denial of the Infra Towers LLC tower variance application would violate the federal Telecommunications Act (as interpreted by federal courts) by prohibiting or having the effect of prohibiting the provision of personal wireless services to wireless service users in Spanish Valley, San Juan County, Utah.

Mitigation

To safeguard the public interest associated with the proposed Infra Towers LLC tower at 4326 East Sunny Acres Lane, the following mitigation measures are required as part of the approval of a variance.

1. Infra Towers LLC will provide San Juan County (through the County's Chief Administrative Officer) a copy of a completed National Environmental Protection Act (NEPA) screening report, indicating the tower and facility will not result in a significant environmental effect, prior to applying for a building permit.
2. Prior to construction, Infra Towers LLC shall apply for and receive a San Juan County building permit. If requested by San Juan County, Infra Towers LLC will contract and pay for the services of an independent and qualified engineer to inspect and certify to San Juan County that the tower and associated equipment were constructed in compliance with the International Building Code, the National Electrical Code, and any other governing engineering or related codes or standards.
3. Prior to operating the tower, Infra Towers LLC shall apply for and receive – and continue to maintain – a San Juan County business license and be subject to regular inspection associated with the business license, to include a review of compliance with the mitigation requirements of the approved variance.
4. Any neighbor or person reasonably expected to be at or near the tower site during construction, maintenance, or equipment upgrades or replacement which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
5. The tower lease areas shall be kept clean and free of rubbish, flammable waste materials or other noxious or nuisance substances.

Decision

Administrative Law Judge Lyn Loyd Creswell, acting as the San Juan County land use appeal authority, grants Infra Towers LLC a variance to the “utility building” height and set back requirements of the 2011 San Juan County Zoning Code for a proposed telecommunication tower and associated equipment located at 4326 East Sunny Acres Lane, subject to the five (5) mitigation requirements contained herein.

Administrative Law Judge Lyn Loyd Creswell shall continue jurisdiction over the subject variance for twelve months after the date the tower begins operating. Continuing jurisdiction includes assuring compliance with the five (5) mitigation requirements or modifying the mitigation measures of this decision.

A handwritten signature in dark ink, appearing to read "Lyn L. Creswell", is written over a horizontal line. The signature is stylized with a large, sweeping flourish at the end.

Lyn Loyd Creswell
San Juan County Administrative Law Judge

17 November 2023



STAFF REPORT

MEETING DATE: December 14, 2023

ITEM TITLE, PRESENTER: Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, El Rancho Development, Mack McDonald, Chief Administrative Officer

RECOMMENDATION: Consideration and Approval

SUMMARY

El Rancho Development, Shik Han, is applying for the Spanish Valley Overnight Accommodations Overlay (SVOAO) for 2.5 acres of private property in Spanish Valley as described below:

Property:

Parcel 1: 00056000003B
 Parcel 2: 00056000003C
 Parcel 3: 00056000003D
 Parcel 4: 00056000003E
 Parcel 5: 00056000003F
 Parcel 6: 00056000003G
 Parcel 7: 00056000003H

Collectively 2.50 acres

Current Zoning:

These parcels are in the Residential Flex Planned Community District (RF). The rezone of the property was approved at the November 7, 2023 Board of Commissioners Meeting.

This application is a request to both apply the Spanish Valley Overnight Accommodations Overlay to these parcels and attach the approval to their El Rancho Subdivision development plans. In the past the Planning Commission has approved Spanish Valley Overnight Accommodations Overlay applications in three steps. Step one applies the overlay to the property, and step two attaches it to the specific project or development, and step three is development agreement, project plan, or subdivision plats. The applicant is seeking to consider both step one and step two together.

This three-step consideration process is outlined in Chapter 10 of the Spanish Valley Development Ordinances, and has established somewhat of a precedent, and to be consistent in the way we handle

these applications, the Planning Commission would consider this application in two steps rather than one.

HISTORY/PAST ACTION

At the October 26, 2023 Planning Commission Meeting the Planning Commission held a public hearing on this rezone application. The Planning Commission voted to recommend approval of the rezone application. The positive recommendation passed with 5 voting yea and 1 voting nay.

At the November 7, 2023, the Board of County Commissioners Meeting, the County Commission approved the rezone request with a unanimous vote.



Final Plat

El Rancho Estates Subdivision

Amendment No. 4

Within Section 1, T27S, R22E, SLB&M

Line Table			Line Table		
Line #	Length (ft)	Direction	Line #	Length (ft)	Direction
L1	15.00	N0°01'00"W	L12	16.40	N89°39'44"W
L2	15.00	N0°01'00"W	L13	16.22	N89°39'44"W
L3	86.54	N89°39'44"W	L14	8.23	N89°39'44"W
L4	67.55	N89°39'44"W	L15	126.00	S0°01'00"E
L5	15.00	S0°00'10"W	L16	15.00	N89°39'44"W
L6	15.00	S0°00'10"W	L18	15.00	N89°39'44"W
L7	37.77	S10°05'08"W	L22	126.00	S0°01'00"E
L8	31.77	N89°39'44"W	L23	15.00	S89°39'45"E
L9	37.70	N9°59'06"W	L24	163.00	S0°01'00"E
L10	86.53	N89°39'44"W	L25	15.00	N89°58'09"W
L11	86.54	N89°39'44"W			

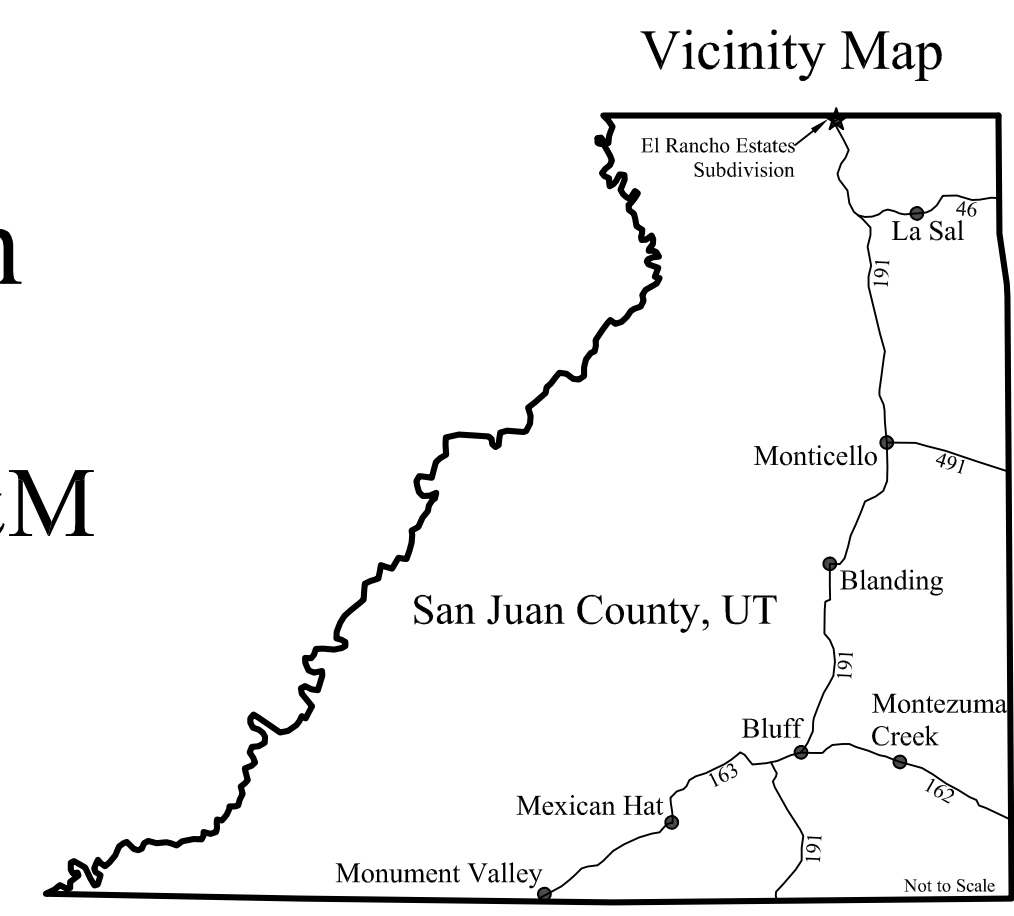
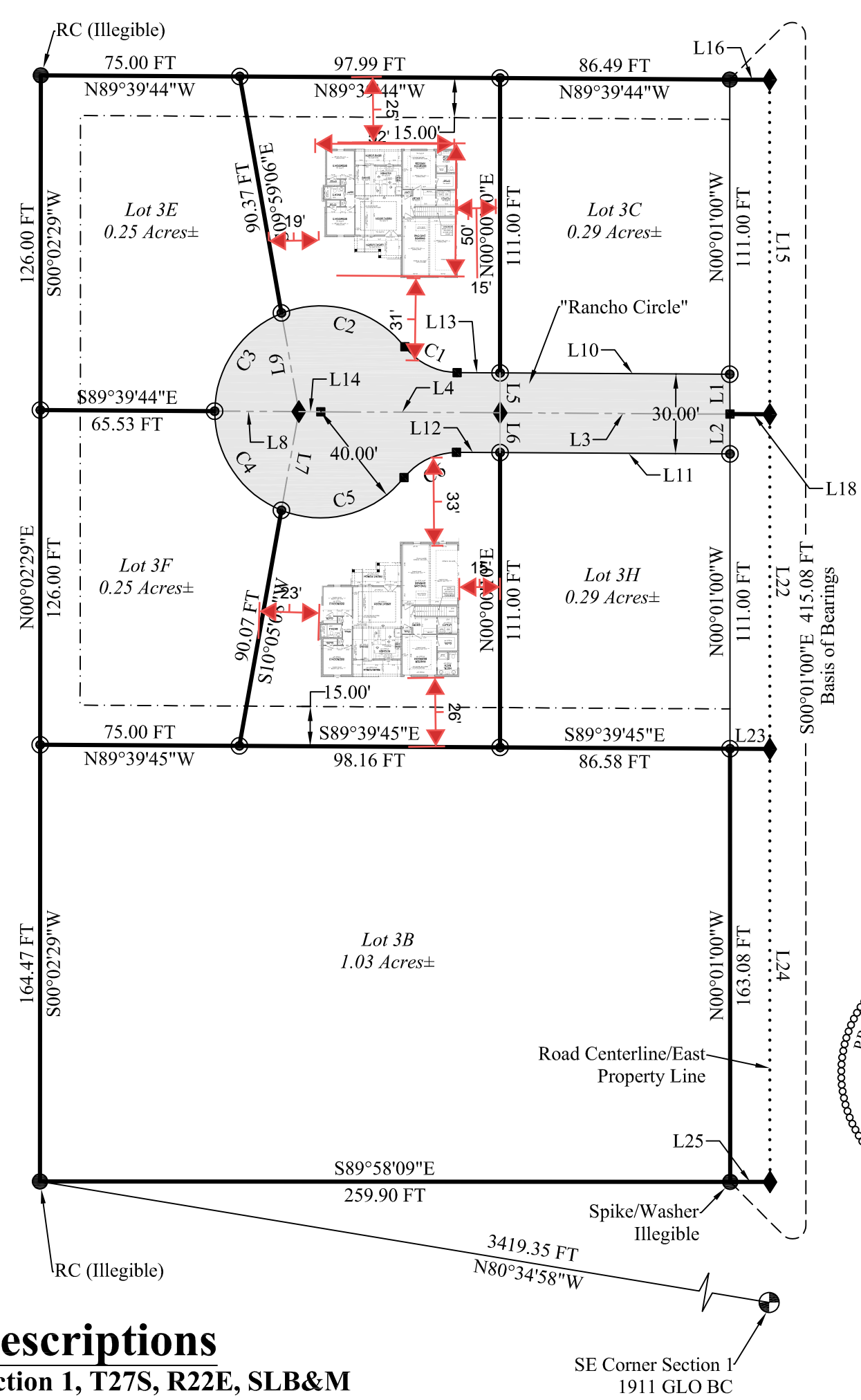
Curve Table					
Curve #	Length(ft)	Radius(ft)	Delta	Chord Direction	Chord Length(ft)
C1	22.70	25.00	52.02°	S63°39'08"E	21.93
C2	51.68	40.00	74.02°	N74°39'14"W	48.16
C3	47.47	40.00	68.00°	S34°20'09"W	44.73
C4	47.86	40.00	68.55°	S33°56'15"E	45.05
C5	51.29	40.00	73.47°	N75°03'09"E	47.85
C6	22.70	25.00	52.02°	S64°19'39"W	21.93

Legend

- Found section monument as labeled
- Found rebar/cap (LS171004) or as labeled
- Set rebar/cap monument (LS 4769309)
- Found monument as labeled
- Calculated lot corner location (not set)
- Road centerline
- Existing and amended utility easement
- BC Brass cap
- RC Rebar and cap monument
- GLO General Land Office

Descriptions

Section 1, T27S, R22E, SLB&M
El Rancho Estates Subdivision
Amendment No. 4
Lot 3C, Lot 3D, Lot 3E, Lot 3F, Lot 3G, Lot 3H



Narrative

The purpose of this survey was to amend Lot 3B of the El Rancho Estates Subdivision as shown hereon. New lots will be known as 3C, 3D, 3E, 3F, 3G, 3H, and 3I in order to not confuse them with other subdivision amendment lot identification.

The basis of bearings for this survey is S00°01'00"E between the found rebar and cap monument labeled RC-1 on the north line of Lot 3C and the rebar and cap monument labeled RC-2 on the south line of Lot 3B as shown hereon. This is the same bearing for the same line per the original subdivision.

Notes

- The road easement area for Rancho Circle is included as part of Lots 3C, 3D, 3E, 3F, 3G, and 3H as indicated by the dashed lines within the roadway area.
- The east property lines for Lots 3C, 3H, and 3B coincide with the centerline of the utility and access easement as shown on the original El Rancho Estates Subdivision.
- The road labeled "Rancho Circle" along with the cul-de-sac is intended to be a shared access and utility easement for lot owners.
- Existing fences located per this survey are not shown hereon for clarity purposes. All perimeter fences were found to be along property lines.

Surveyor's Certificate

I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described hereon in accordance with section 17-23-17. I hereby certify that all prepared descriptions and measurements are correct. Monuments will be set as noted hereon. I also certify that this record of survey has been prepared under my direction at the request of Shik Han.

Brad D. Bunker Utah P.L.S. #4769309
6/3/2020 Date

San Juan County Surveyor

I have reviewed this plat and find it to meet the minimum statutory requirements of Utah Code, Title 17, Chapter 23 Utah Code, Title 17, Chapter 27a-6

SJC Surveyor Date

Final Plat

El Rancho Estates Subdivision

Amendment No. 4

Within Section 1, Township 27 South, Range 22 East, SLB&M

County Recorder
State of Utah, County of San Juan, Recorded at the request of _____
Filed: _____ Date: _____ Time: _____
Book: _____ Page: _____ Fee: _____

Form Approval
Approved this _____ Day of _____, 20____

Attorney

Health Department
Approved this _____ Day of _____, 20____

Health Official

Owners Dedication
Know all men by these presents that we, the undersigned owners of the above described lots of land, having caused the same to be divided and amended hereafter to be known as the El Rancho Estates Subdivision Amendment No. 4.
In witness whereof I have hereunto set my hand this _____ Day of _____, 20____
By: _____ Hyon Shik Han _____ Owner

Acknowledgement
State of Utah, County of San Juan, on the _____ Day of _____, 20____
_____ personally appeared before me _____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.
My commission expires _____ 20____
Residing in _____ County _____
Notary Public

Bunker Engineering
965 South Creek Road, Monticello, UT 84535
P.O. Box 432, Monticello, UT 84535 (435) 459-9152
Date: 6/3/2020 Drawn By: B.D. Bunker Scale: 1" = 50'
Drawing Name: Survey Reference Number: BF992 Sheet: 1 of 1

San Juan County Planning Commission
Approved by the San Juan County Planning Commission this _____ Day of _____, 20____

Chairman

San Juan County Commission
The amendment hereon was presented to the San Juan County Commission this _____ day of _____, 20____, and was accepted and approved.

Commissioner

Overnight Accommodations Overlay Application

Shik Han,

El Rancho Development

11/7/2023

It is requested that the following property be considered for the San Juan County, UT Overnight Accommodations Overlay. If approved for consideration, the developer shall provide specific information regarding the layout of the structures, number of units and proposed primary uses, as well as a summary outlining how this development helps accomplish the objects set forth in the Spanish Valley General Plan.

Parcel IDs: 00056000003B, 00056000003C, 00056000003D, 00056000003E, 00056000003F, 00056000003G and 00056000003H

Approximately 2.50 Acres

Residential Flex Zoning



Spanish Valley OAO Residential Flex

San Juan County, Utah
Shik Han - Applicant
El Rancho Subdivision

This document shall address the Spanish Valley Overnight Accommodations Overlay District Requirements as requested by the SJC Staff, “Section 5 Site Master Plan Required”. In addition to the Site Plan, the following commentary shall provide rationale for OAO approval and vesting the project with overnight accommodations being a permitted use. If project is approved for Overnight Accommodations consideration on November 17th, 2023 San Juan County Planning Commission Meeting.

Overnight Accommodations Overlay Checklist

- ☒ Proposed Primary Uses
- ☒ Number of rooms/units
- ☒ Design and development conditions
- ☒ Special conditions and requirements (None)
- ☒ Other uses and development requirements
- ☒ Statement of how the proposed development provides benefit to Spanish Valley
- ☒ Map and description of sensitive lands (None)
- ☒ Site planning features and how they will be addressed
- ☒ Description of beneficial public services and goods the project provides
- ☒ Documentation of utilities and how infrastructure designs will conserve resources
- ☒ Narrative and graphic presentation of the development
- ☒ Traffic Study
- ☒ Site Plan (Attachment)
- ☒ Statement of how the proposed development is consistent with the area plan
- ☒ Other relevant information as requested by the County.

Location and Intended Design

The proposed project is in San Juan County, Utah approximately 2.5 acres located between SITLA master community plan, gravel pit, industrial, agriculture, and nightly rental residential usages. The parcel ID is 00056000003B, 00056000003C, 00056000003D, 00056000003E, 00056000003F, 00056000003G and 00056000003H. The parcels are currently zoned Residential Flex. The San Juan County Spanish Valley Area Plan (SJCSVAP) provides guidelines and principles to be considered for all development activities in the area.

In addition to industry best practices, the SJCVAP provides some key criteria including the need for “residential and destinations”. The proposed development uses this guidance to create a design that adds intentionality and resource preservation to the community.

This includes:

1. The residential type and design incorporated in the attached site plan is an approved product as outlined in the SJCSVAP plan. This includes a “Wide range of residential uses and types to meet the full range of socio-economic and life-cycle needs” (SJCSVAP, 2018, pg. 30-33).
2. The proposed location of the development is in harmony with the surrounding land uses. In this location, overnight accommodation will not disrupt or negatively harm adjacent properties since the usages in the area are broad from agriculture, industrial, to existing nightly and long-term rentals. The design also includes designated housing to support growth of the area as referenced in the Area Plan.
3. The residential use product set forth in the site plan conforms to the examples set forth in the Area Plan (SJCSVAP, 2018, pg. 30).
4. The economic benefits of overnight accommodations will provide valuable revenue for the county to aid their limited resources and manpower. This growth will provide resources for infrastructure and a larger variety of services to attract visitors and permanent residents to further the responsible growth of the county. (SJC General Plan, 2018, pg. 140)

Proposed Usages and Densities

The project proposes 10 residential units with overnight accommodation. This mirrors the Spanish Valley Plan for Flex Development Areas by “incorporating a flexible development approach that allows a range...specialty residential uses” (SJCSVAP, 2018, pg. 30). Sample of Housing Types show in the Spanish Valley Area Plan (SJCSVAP, 2018, pg. 30-31) The project will mirror this style and spirit.



Economics

As part of their 10 year vision, the county is prioritizing Diversification and Business Expansion (SJC General Plan, 2018, pg. 29). In an effort to generate more, higher paying jobs in the area, and in order to support tourism expansion, the area will need its own service providers such as restaurants, shops, and accommodations for visitors.

In addition to the sales and income taxes generated by these businesses, local transient room tax will also be created. It is estimated that gross revenue from this tax alone could be \$297,481 a year as of 2018. (SJC General Plan, 2018, pg. 63). The San Juan County General Plan states that “Tourism can become one of the county’s primary industries because it imports dollars.” And “The County’s natural amenities can be tourism assets if managed properly” (SJC General Plan, 2018, pg. 64). As discussed in the State’s Travel and Tourism Industry Report, “Domestic and international travelers and tourists visit Utah year-round to participate in a wide range of activities. Since 2015, visitor spending in Utah’s economy has increased by an average 5.1% annually. In 2019, travelers directly spent a record \$10.06 billion in Utah, generating an estimated 141,500 total Utah jobs, and \$1.34 billion in state and local tax revenue. Utah’s national parks and state parks experienced record visitation in 2019 as well.” (The State of Utah’s Travel and Tourism Industry, 2019, Cover Page).

The proposed site plan avoids the “Corporate Hotel or Motel” style and instead presents a thoughtful and respectful design that not only incorporates the area’s rich heritage and culture, but also provides economic drivers and revenue sources for the county.

By using intentional colors and designs, the project will mirror the environment around it and provide a safe and comfortable place for residents to enjoy the Spanish Valley area.

Ecological Guidelines and Concerns

Traffic and Road Design:

Safe and Efficient Traffic flow will be a priority to the project. The existing subdivision does not impact traffic needs.

Sensitive Lands:

The project does not contain any sensitive lands.

Energy:

The project designs will reduce Heating, Cooling, and Lighting loads through Climate-Responsive Design and Conservation Practices such as daylighting, the use of photovoltaic panels, and smart controls. Buildings will utilize energy efficient insulation and exteriors to meet or exceed federally approved energy modeling standards. Electric vehicle charge stations may be provided in a thoughtful and intentional manner.

Dark Skies:

Exterior Lighting shall follow the San Juan County Dark Skies requirements. Interior lighting fixtures visible from the property boundaries shall have fixtures directed to the interior of rooms to minimize light pollution.

Water Conservation:

The project will use a few water conservation strategies.

These include:

1. System Optimization (efficient water system design, leak detection, and repair)
2. Water-efficient plumbing fixtures (low-flow urinals, toilets, sinks and showerheads as well as water-efficient dishwashers and washing machines).
3. Irrigation and Landscape Methods beyond the requirements of the Spanish Valley Water Efficient Landscape Requirements. (water efficient, low evaporation irrigation systems, smart irrigation control systems, limited turf in landscape design, water-efficient scheduling practices, and Xeriscape)
4. Water recycling or reuse measures (Water Catchment, low impact HVAC systems, and gray water reuse where possible and approved by the Health Department)
5. Bio-Retention and Bio-Infiltration systems to manage storm runoff.

Site Planning Features

Using industry recognized best-practices, the site plan will implement modern techniques and designs to promote a seamless transition between the site and its surroundings. One of the biggest features being implemented in the project's plans is foresight. The project can be ready to meet the needs of the County revenue and future residential usage to the area. This includes intentional road layouts and setbacks which future-proof the Spanish Valley corridor. Being thoughtful of future weather events, the project can utilize water retention and detention methods to limit the storm water runoff to historic levels. Lastly, by incorporating the surrounding colors, lines, and layouts of the red rock, the project will limit its visual impact and make for a comfortable addition to the area.

The following project statistics are provided per the San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance.

Gross acreage: approx. 2.5 Acres

Residential – 4 Units per Acre

Total overnight accommodation units: 10 Units

Overnight accommodations unit density expressed as a per-acre ratio: 4 Units per Acre



STAFF REPORT

MEETING DATE: December 14, 2023

ITEM TITLE, PRESENTER: Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, Valley Estates Development, Mack McDonald, Chief Administrative Officer

RECOMMENDATION: Consideration and Approval

SUMMARY

Valley Estates Development, Shik Han, is applying for the Spanish Valley Overnight Accommodations Overlay (SVOAO) for 45.5 acres of private property in Spanish Valley as described below:

Property:

Parcel 1: 27S22E011800

Parcel 2: 27S22E010002

Collectively 45.5 acres

Current Zoning:

These parcels are in the Residential Flex Planned Community District (RF). The rezone of the property was approved at the November 7, 2023 Board of Commissioners Meeting.

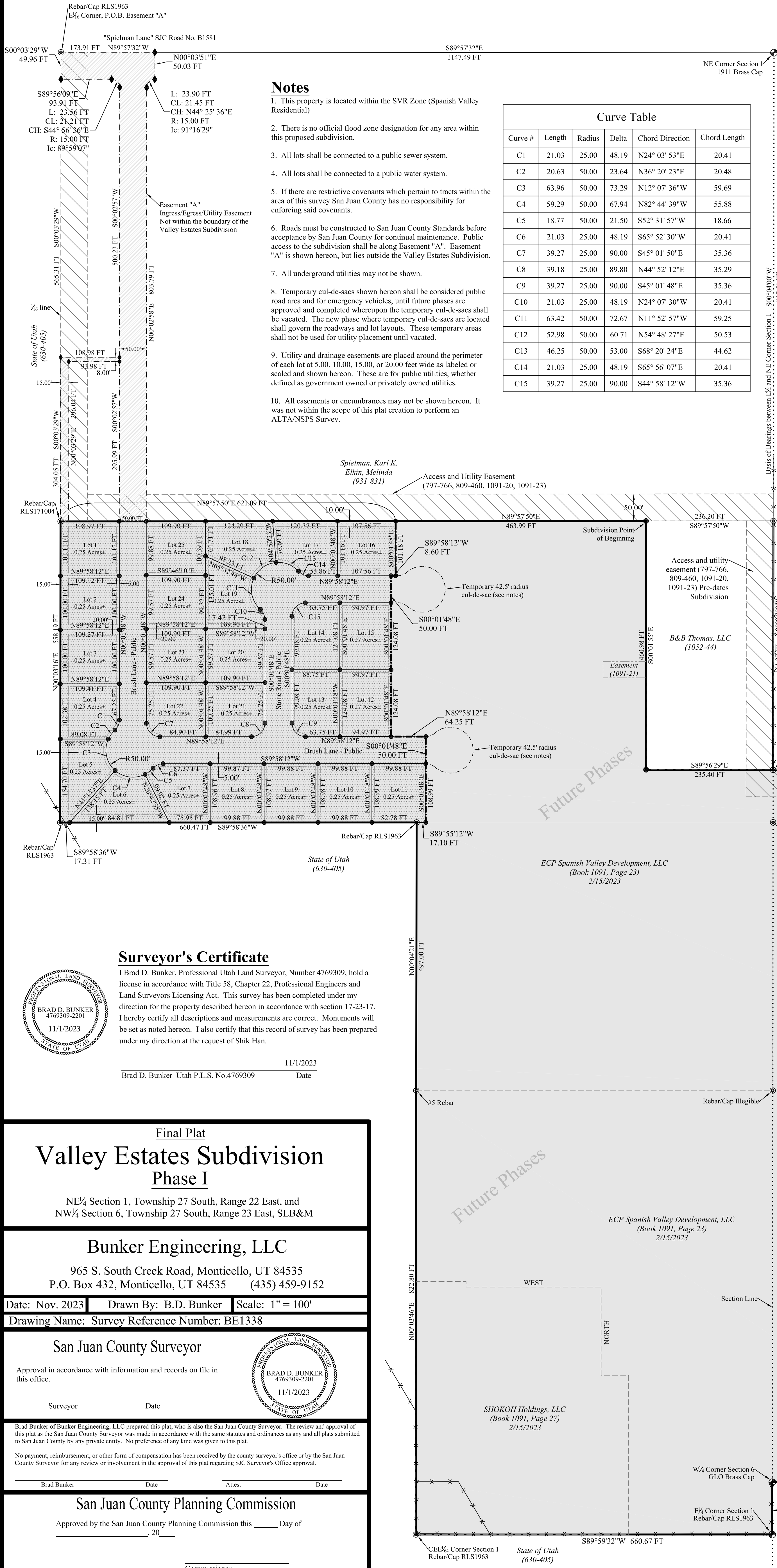
This application is a request to both apply the Spanish Valley Overnight Accommodations Overlay to these parcels and attach the approval to their Valley Estates Development plans. In the past the Planning Commission has approved Spanish Valley Overnight Accommodations Overlay applications in three steps. Step one applies the overlay to the property, and step two attaches it to the specific project or development, and step three is development agreement, project plan, or subdivision plats. The applicant is seeking to consider both step one and step two together.

This three-step consideration process is outlined in Chapter 10 of the Spanish Valley Development Ordinances, and has established somewhat of a precedent, and to be consistent in the way we handle these applications, the Planning Commission would consider this application in two steps rather than one.

HISTORY/PAST ACTION

At the October 26, 2023 Planning Commission Meeting the Planning Commission held a public hearing on this rezone application. The Planning Commission voted to recommend approval of the rezone application. The positive recommendation passed with 5 voting yea and 1 voting nay.

At the November 7, 2023 Board of County Commissioners Meeting, the County Commission approved the rezone request with a unanimous vote.



- Notes**
- This property is located within the SVR Zone (Spanish Valley Residential).
 - There is no official flood zone designation for any area within this proposed subdivision.
 - All lots shall be connected to a public sewer system.
 - All lots shall be connected to a public water system.
 - If there are restrictive covenants which pertain to tracts within the area of this survey San Juan County has no responsibility for enforcing said covenants.
 - Roads must be constructed to San Juan County Standards before acceptance by San Juan County for continual maintenance. Public access to the subdivision shall be along Easement "A". Easement "A" is shown hereon, but lies outside the Valley Estates Subdivision.
 - All underground utilities may not be shown.
 - Temporary cul-de-sacs shown hereon shall be considered public road area and for emergency vehicles, until future phases are approved and completed whereupon the temporary cul-de-sacs shall be vacated. The new phase where temporary cul-de-sacs are located shall govern the roadways and lot layouts. These temporary areas shall not be used for utility placement until vacated.
 - Utility and drainage easements are placed around the perimeter of each lot at 5.00, 10.00, 15.00, or 20.00 feet wide as labeled or scaled and shown hereon. These are for public utilities, whether defined as government owned or privately owned utilities.
 - All easements or encumbrances may not be shown hereon. It was not within the scope of this plat creation to perform an ALTA/NSPS Survey.

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	21.03	25.00	48.19	N24° 03' 53"E	20.41
C2	20.63	50.00	23.64	N36° 20' 23"E	20.48
C3	63.96	50.00	73.29	N12° 07' 36"W	59.69
C4	59.29	50.00	67.94	N82° 44' 39"W	55.88
C5	18.77	50.00	21.50	S52° 31' 57"W	18.66
C6	21.03	25.00	48.19	S65° 52' 30"W	20.41
C7	39.27	25.00	90.00	S45° 01' 50"E	35.36
C8	39.18	25.00	89.80	N44° 52' 12"E	35.29
C9	39.27	25.00	90.00	S45° 01' 48"E	35.36
C10	21.03	25.00	48.19	N24° 07' 30"W	20.41
C11	63.42	50.00	72.67	N11° 52' 57"W	59.25
C12	52.98	50.00	60.71	N54° 48' 27"E	50.53
C13	46.25	50.00	53.00	S68° 20' 24"E	44.62
C14	21.03	25.00	48.19	S65° 56' 07"E	20.41
C15	39.27	25.00	90.00	S44° 58' 12"W	35.36

Final Plat

Valley Estates Subdivision

Phase I

NE¼ Section 1, Township 27 South, Range 22 East, SLB&M and NW¼ Section 6, Township 27 South, Range 23 East, SLB&M

Area within Subdivision: 46.32 Acres±
Area within Phase I: 8.11 Acres±

Narrative

The purpose of this survey was to identify the bounds of the tracts of land as shown hereon and prepare a subdivision plat.

The basis of bearings for this survey is N00°04'00"E between the E¼ corner and the northeast corner of Section 1, Township 27 South, Range 22 East, SLB&M. This is in accordance with the basis of bearings of a previous survey which is filed in the San Juan County Surveyor's Office as "Record of Survey No. 948"

Subdivision Boundary Descriptions

"As Surveyed"

A tract of land within the NE¼ of Section 1, Township 27 South, Range 22 East and the NW¼ of Section 6, Township 27 South, Range 23 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:

Beginning at a point located S00°04'00"W 867.58 feet along the section line and S89°57'50"W 236.20 feet from the northeast corner of said Section 1; thence S00°01'55"E 460.98 feet, thence S89°56'29"E 235.40 feet, thence S89°56'29"E 390.57 feet, thence S00°00'15"W 552.75 feet, thence S00°00'46"W 767.62 feet, thence N89°53'41"W 391.90 feet to the W¼ corner of said Section 6, thence S00°04'00"W 97.04 feet to the E¼ corner of said Section 1, thence S89°59'32"W 660.67 feet to the CEE¼ corner, thence N00°03'46"E 822.80 feet, thence N0°04'21"E 497.00 feet, thence S89°58'36"W 660.47 feet, thence N00°03'16"E 558.19 feet, thence N89°57'50"E 1085.08 feet to the point of beginning, containing 46.32 acres more or less.

Phase I Boundary

A tract of land within the NE¼ of Section 1, Township 27 South, Range 22 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:

Beginning at a point located S00°04'00"W 867.58 feet along the section line and S89°57'50"W 700.19 feet along the north line of the ECP Spanish Valley Development, LLC Tract as recorded in Book 1091 Page 23; thence S00°01'48"E 101.18 feet, thence S89°58'12"W 8.60 feet, thence S00°01'48"E 298.15 feet, thence N89°58'12"E 64.25 feet, thence S00°01'48"E 158.99 feet, thence S89°55'12"W 17.10 feet, thence S89°58'36"W 660.47 feet, thence N00°03'16"E 558.19 feet, thence N89°57'50"E 621.09 feet to the point of beginning, containing 8.11 acres more or less.

Easement "A" Description

An easement within the NE¼ of Section 1, Township 27 South, Range 22 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:

Beginning at the E¼ corner on the north line of said Section 1, said point is also the northwest corner of the Spielman/Elkin Tract as recorded in book 931 page 831 and is located N89°57'32"W 1321.40 feet from the northeast corner of said Section 1; thence S00°03'29"W 49.96 feet along the ½ line, thence S89°56'09"E 93.91 feet to the beginning of a 15.00 foot radius curve to the right whose chord is 21.21 feet and bears S44°56'36"E, thence along said curve 23.56 feet, thence S00°02'57"W 500.23 feet, thence West 108.98 feet to the ½ line, thence S00°03'29"W 304.05 feet to the northwest corner of the Valley Estates Subdivision, thence N89°57'50"E 15.00 feet along the north line of said Subdivision, thence N00°03'29"E 296.04 feet, thence East 93.98 feet, thence S00°02'57"W 295.99 feet to the north line of said Valley Estates Subdivision, thence N89°57'50"E 50.00 feet along the north line of said Valley Estates Subdivision, thence N00°02'58"E 803.79 feet to the beginning of a 15.00 foot radius curve to the right whose chord is 21.45 feet and bears N44°25'36"E, thence along said curve 23.90 feet, thence N00°03'51"E 50.03 feet to the section line, thence N89°57'32"W 173.91 feet to the point of beginning.

Surveyor's Certificate

I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described hereon in accordance with section 17-23-17. I hereby certify all descriptions and measurements are correct. Monuments will be set as noted hereon. I also certify that this record of survey has been prepared under my direction at the request of Shik Han.

Brad D. Bunker Utah P.L.S. No.4769309
11/1/2023
Date

Valley Estates Subdivision Phase I

NE¼ Section 1, Township 27 South, Range 22 East, and NW¼ Section 6, Township 27 South, Range 23 East, SLB&M

Bunker Engineering, LLC

965 S. South Creek Road, Monticello, UT 84535
P.O. Box 432, Monticello, UT 84535 (435) 459-9152

Date: Nov. 2023 Drawn By: B.D. Bunker Scale: 1" = 100'
Drawing Name: Survey Reference Number: BE1338

San Juan County Surveyor

Approval in accordance with information and records on file in this office.

Surveyor Date

Brad Bunker of Bunker Engineering, LLC prepared this plat, who is also the San Juan County Surveyor. The review and approval of this plat as the San Juan County Surveyor was made in accordance with the same statutes and ordinances as any and all plats submitted to San Juan County by any private entity. No preference of any kind was given to this plat.

No payment, reimbursement, or other form of compensation has been received by the county surveyor's office or by the San Juan County Surveyor for any review or involvement in the approval of this plat regarding SIC Surveyor's Office approval.

Brad Bunker Date Attest Date

San Juan County Planning Commission

Approved by the San Juan County Planning Commission this ____ Day of ____ 20__

Commissioner

Health Department

Approved this ____ Day of ____ 20__

Health Official

Approval as to Form

Approved this ____ Day of ____ 20__

Attorney

San Juan County Commission

The subdivision hereon was presented to the San Juan County Commission this ____ day of ____ 20__, and was accepted and approved.

Commissioner

Attest

San Juan County Road Department

Approved this ____ Day of ____ 20__

Road Department

Owners Dedication

Know all men by these presents that we, the undersigned owners of the above described tracts of land, having caused the same to be subdivided into lots and streets hereafter to be known as the Valley Estates Subdivision, Phase I and do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use. In witness whereof I have hereunto set my hand as dated at the signature below.

Elan Spanish Valley, LLC,
a Utah limited liability company
By: Its Manager, Elan Capital Partners, LLC, a Utah limited liability company

By: _____ Date: _____
Kevin C. Bradburn, Manager

SHOKOH Holdings, LLC

By: _____ Date: _____
Michael I. Dibble, Member of Shokoh Holdings, LLC

By: _____ Date: _____
Troy L. Walker, Member of Shokoh Holdings, LLC

Acknowledgement (for Kevin C. Bradburn)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__
Residing in ____ County Notary Public

Acknowledgement (for Troy L. Walker)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__
Residing in ____ County Notary Public

Acknowledgement (for Michael I. Dibble)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__
Residing in ____ County Notary Public

Overnight Accommodations Overlay Application

Shik Han, Elan Spanish Valley, LLC

Valley Estates Development

11/7/2023

It is requested that the following property be considered for the San Juan County, UT Overnight Accommodations Overlay. Below we have provided specific information regarding the layout of the structures, number of units and proposed primary uses, as well as a summary outlining how this development helps accomplish the objects set forth in the Spanish Valley General Plan.

Parcel IDs: 27S22E011800, 27S22E010002

Approximately 45.5 Acres

Residential Flex Zoning



Spanish Valley OAO Mixed Use Community

San Juan County, Utah

Shik Han - Applicant

Valley Estates Development

This document shall address the Spanish Valley Overnight Accommodations Overlay District Requirements as requested by the SJC Staff, "Section 5 Site Master Plan Required". In addition to the Site Plan, the following commentary shall provide rationale for OAO approval and vesting the project with overnight accommodations being a permitted use If project is approved for Overnight Accommodations consideration in the November 17th, 2023 San Juan County Planning Commission Meeting.

Overnight Accommodations Overlay Checklist

- ☒ Proposed Primary Uses
- ☒ Number of rooms/units
- ☒ Design and development conditions
- ☒ Special conditions and requirements (None)
- ☒ Other uses and development requirements
- ☒ Statement of how the proposed development provides benefit to Spanish Valley
- ☒ Map and description of sensitive lands (None)
- ☒ Site planning features and how they will be addressed
- ☒ Description of beneficial public services and goods the project provides
- ☒ Documentation of utilities and how infrastructure designs will conserve resources
- ☒ Narrative and graphic presentation of the development
- ☒ Traffic Study
- ☒ Site Plan (Attachment)
- ☒ Statement of how the proposed development is consistent with the area plan
- ☒ Other relevant information as requested by the County.

Location and Intended Design

The proposed project is in San Juan County, Utah approximately 45.5 acres located between SITLA master community plan and Balanced Rock development. The parcel ID is 27S22E011800 and 27S22E010002. The parcel is currently zoned Residential Flex. The San Juan County Spanish Valley Area Plan (SJCSVAP) provides guidelines and principles to be considered for all development activities in the area.

In addition to industry best practices, the SJCVAP provides some key criteria including the need for “residential and destinations” that “transcend preconceived notions of what new development should look like and how it can fit with the surroundings”. The proposed development uses this guidance to create a design that adds intentionality and resource preservation to the community.

This includes:

1. The residential type and design incorporated in the attached site plan is an approved product as outlined in the SJCSVAP plan. This includes a “Wide range of residential uses and types to meet the full range of socio-economic and life-cycle needs” (SJCSVAP, 2018, pg. 30-33).
2. The proposed location of the development is in harmony with the surrounding land uses. In this location, overnight accommodation will not disrupt or negatively harm adjacent properties but will rather create a community center staying at the adjacent Balanced Rock Development to the north, and the SITLA Development West and South. The design also includes designated housing to support growth of the area as referenced in the Area Plan.
3. The residential use product set forth in the site plan conforms to the examples set forth in the Area Plan (SJCSVAP, 2018, pg. 30).
4. The economic benefits of overnight accommodations will provide valuable revenue for the county to aid their limited resources and manpower. This growth will provide resources for infrastructure and a larger variety of services to attract visitors and permanent residents to further the responsible growth of the county. (SJC General Plan, 2018, pg. 140)

Proposed Usages and Densities

The project proposes 180 residential units with overnight accommodation. This mirrors the Spanish Valley Plan for Flex Development Areas by “incorporating a flexible development approach that allows a range...specialty residential uses” (SJCSVAP, 2018, pg. 30). Sample of Housing Types show in the Spanish Valley Area Plan (SJCSVAP, 2018, pg. 30-31) The project will mirror this style and spirit.



Economics

As part of their 10 year vision, the county is prioritizing Diversification and Business Expansion (SJC General Plan, 2018, pg. 29). In an effort to generate more, higher paying jobs in the area, and in order to support tourism expansion, the area will need its own service providers such as restaurants, shops, and accommodations for visitors.

In addition to the sales and income taxes generated by these businesses, local transient room tax will also be created. It is estimated that gross revenue from this tax alone could be \$297,481 a year as of 2018. (SJC General Plan, 2018, pg. 63). The San Juan County General Plan states that “Tourism can become one of the county’s primary industries because it imports dollars.” And “The County’s natural amenities can be tourism assets if managed properly” (SJC General Plan, 2018, pg. 64). As discussed in the State’s Travel and Tourism Industry Report, “Domestic and international travelers and tourists visit Utah year-round to participate in a wide range of activities. Since 2015, visitor spending in Utah’s economy has increased by an average 5.1% annually. In 2019, travelers directly spent a record \$10.06 billion in Utah, generating an estimated 141,500 total Utah jobs, and \$1.34 billion in state and local tax revenue. Utah’s national parks and state parks experienced record visitation in 2019 as well.” (The State of Utah’s Travel and Tourism Industry, 2019, Cover Page).

The proposed site plan avoids the “Corporate Hotel or Motel” style and instead presents a thoughtful and respectful design that not only incorporates the area’s rich heritage and culture, but also provides economic drivers and revenue sources for the county.

By using intentional colors and designs, the project will mirror the environment around it and provide a safe and comfortable place for residents to enjoy the Spanish Valley area.

Ecological Guidelines and Concerns

Traffic and Road Design:

Safe and Efficient Traffic flow will be a priority to the project. Concept Study for traffic studies, counts, and design criteria applicable to integrate with future SITLA Development. The project will work closely with both Balance Rock and SITLA.

Sensitive Lands:

The project does not contain any sensitive lands.

Energy:

The project designs will reduce Heating, Cooling, and Lighting loads through Climate-Responsive Design and Conservation Practices such as daylighting, the use of photovoltaic panels, and smart controls. Buildings will utilize energy efficient insulation and exteriors to meet or exceed federally approved energy modeling standards. Electric vehicle charge stations may be provided in a thoughtful and intentional manner.

Dark Skies:

Exterior Lighting shall follow the San Juan County Dark Skies requirements. Interior lighting fixtures visible from the property boundaries shall have fixtures directed to the interior of rooms to minimize light pollution.

Water Conservation:

The project will use a few water conservation strategies.

These include:

1. System Optimization (efficient water system design, leak detection, and repair)
2. Water-efficient plumbing fixtures (low-flow urinals, toilets, sinks and showerheads as well as water-efficient dishwashers and washing machines).
3. Irrigation and Landscape Methods beyond the requirements of the Spanish Valley Water Efficient Landscape Requirements. (water efficient,-low evaporation irrigation systems, smart irrigation control systems, limited turf in landscape design, water-efficient scheduling practices, and Xeriscape)
4. Water recycling or reuse measures (Water Catchment, low impact HVAC systems, and gray water reuse where possible and approved by the Health Department)
5. Bio-Retention and Bio-Infiltration systems to manage storm runoff.

Site Planning Features

Using industry recognized best-practices, the site plan will implement modern techniques and designs to promote a seamless transition between the site and its surroundings. One of the biggest features being implemented in the project's plans is foresight. The project can be ready to meet the needs of the County revenue and future residential usage to the area. This includes intentional road layouts and setbacks which future-proof the Spanish Valley corridor. Being thoughtful of future weather events, the project can utilize water retention and detention methods to limit the storm water runoff to historic levels. Lastly, by incorporating the surrounding colors, lines, and layouts of the red rock, the project will limit its visual impact and make for a comfortable addition to the area.

The following project statistics are provided per the San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance.

Gross acreage: approx. 45.5 Acres

Residential – 4 Units per Acre

Total overnight accommodation units: 180 Units

Overnight accommodations unit density expressed as a per-acre ratio: 4 Units per Acre

The project is adjacent to future public open-space.



STAFF REPORT

MEETING DATE: December 14, 2023

ITEM TITLE, PRESENTER: Consideration and Approval of a Conditional Use Application for a Small Glamping Resort to be Located at 4040 Kane Creek Road for Solace Ranch LLC (DBA Crooked Bindi Ranch). Kenneth Denham

RECOMMENDATION: Make a motion approving the Conditional Use using the Findings and Conditions after finding substantial evidence described in the Conditional Use Permit Document created by Staff

Make a motion denying the Conditional Use based on findings of fact described Make a motion denying the Conditional Use Permit due to the following reasons: (Statement of Findings for Substantial Evidence)

SUMMARY

The County has received a Conditional Use Application from Kenneth Denham with Solace Ranch LLC (DBA Crooked Bindi Ranch for a Glamping Resort to be located on their property located at 4040 Kane Creek Road, Parcel Number 26S21E328400. The resort includes three (3) tent sites, a 17 foot x 14' awning, a 17 foot by 7 foot storage shed with an awning. A 1,000 gallon and two (2) 300 gallon water storage tanks to accommodate the tent sites and restrooms connected to individual septic systems.

This property is located within the Multiple Use (MU-1) zone just in from the boarder of Grand County. Under the Multiple Use District, Private Park or recreational grounds or private recreational camp or resort, including accessory or supporting dwellings or dwelling complexes and commercial service uses which are owned by or managed by the recreational facility to which it is accessory are permitted as a Conditional Use.

By definition, a Conditional Use is: A land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

In authorizing any conditional use, the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such to establish:

- (1) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- (2) That the proposed use will comply with intent, spirit, regulations, and conditions specified

in this Ordinance for such use and the zoning district where the use is to be located, as well as make the use harmonious with the neighboring uses in the zoning district.

(3) The Planning Commission shall itemize, describe, or justify the conditions imposed on the use.

Possible Conditions to Consider:

- *Must protect existing well water sources from contamination by campers or hikers within the area by enclosing the well within a fenced area.*
- *Must comply with all building code and permit requirements including interior fire protection for glamping units' compliance.*
- *Carbon monoxide, smoke alarms, gas detectors, fire exists, and other fire protection devices shall comply with applicable Building Codes including each glamping unit containing one (1) appropriate fire extinguisher.*
- *Must comply with the Utah Division of Drinking Water requirements for water storage tanks*
- *Must provide campers with safety guidelines for dangers present in surrounding areas to include falling, hiking, climbing, off-roading, location of first-aid, heat stroke, dangers of severe weather conditions and flooding.*
- *Must comply with San Juan County Health Department requirements.*
- *Must comply with San Juan County business license requirements.*

HISTORY/PAST ACTION

N/A

SAN JUAN COUNTY CONDITIONAL USE PERMIT APPLICATION

Type of Application (check all that apply):

- ☒ New Construction ☐ Land Use Change
☐ Addition ☐ Appeal

Subject Property Location or Address: 4040 Kane Creek

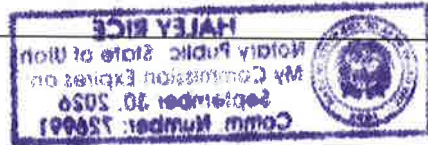
Parcel Identification Number: 26S 21E 328400

Parcel Area: 80AC (1,321.98 SF. x 1,318.015 Ft.) Current Use: _____

Floor Area: _____ Zoning Classification: AG Land Use FFA Unimproved

Applicant Name: Kenneth Denham

Mailing Address: 4040 Kane Creek Blvd.



City, State, ZIP: Moab Utah 84532

Daytime Phone #: 801 440 4498 Fax#: _____

Email Address: crookedbindiranch@gmail.com

Business Name (If applicable): Solace Ranch LLC DBA Crooked Bindi Ranch

Property Owner's Name (If different): _____

Property Owner's Mailing Address: _____

City, State, ZIP: _____

Daytime Phone #: _____ Fax#: _____

Describe your request in detail (use additional page(s) if necessary):

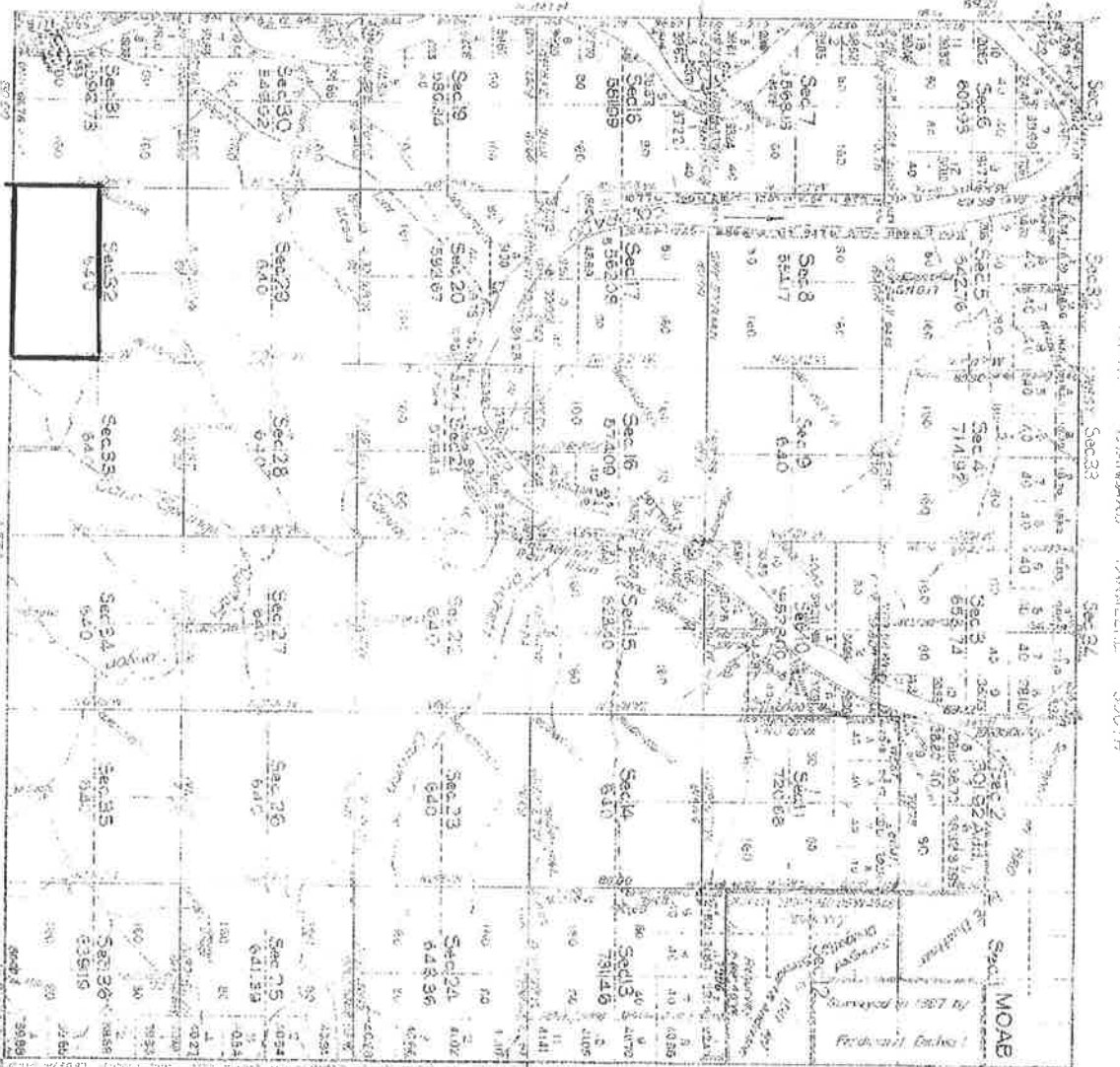
To operate a small glamping concern.

Authorized Signature: _____

Date: September 28th, 2023

TOWNSHIP N° 26 SOUTH RANGE N° 21 EAST OF THE SALT LAKE BASE AND MERIDIAN UTAH.

FIFTH STANDARD PARALLEL SOUTH



Area: 640.00 ac.

Sec. 28 640.00 ac.

Surveyed by: J. H. ...

Surveyed by: J. H. ...

Surveyed by: J. H. ...

Surveyed by: J. H. ...

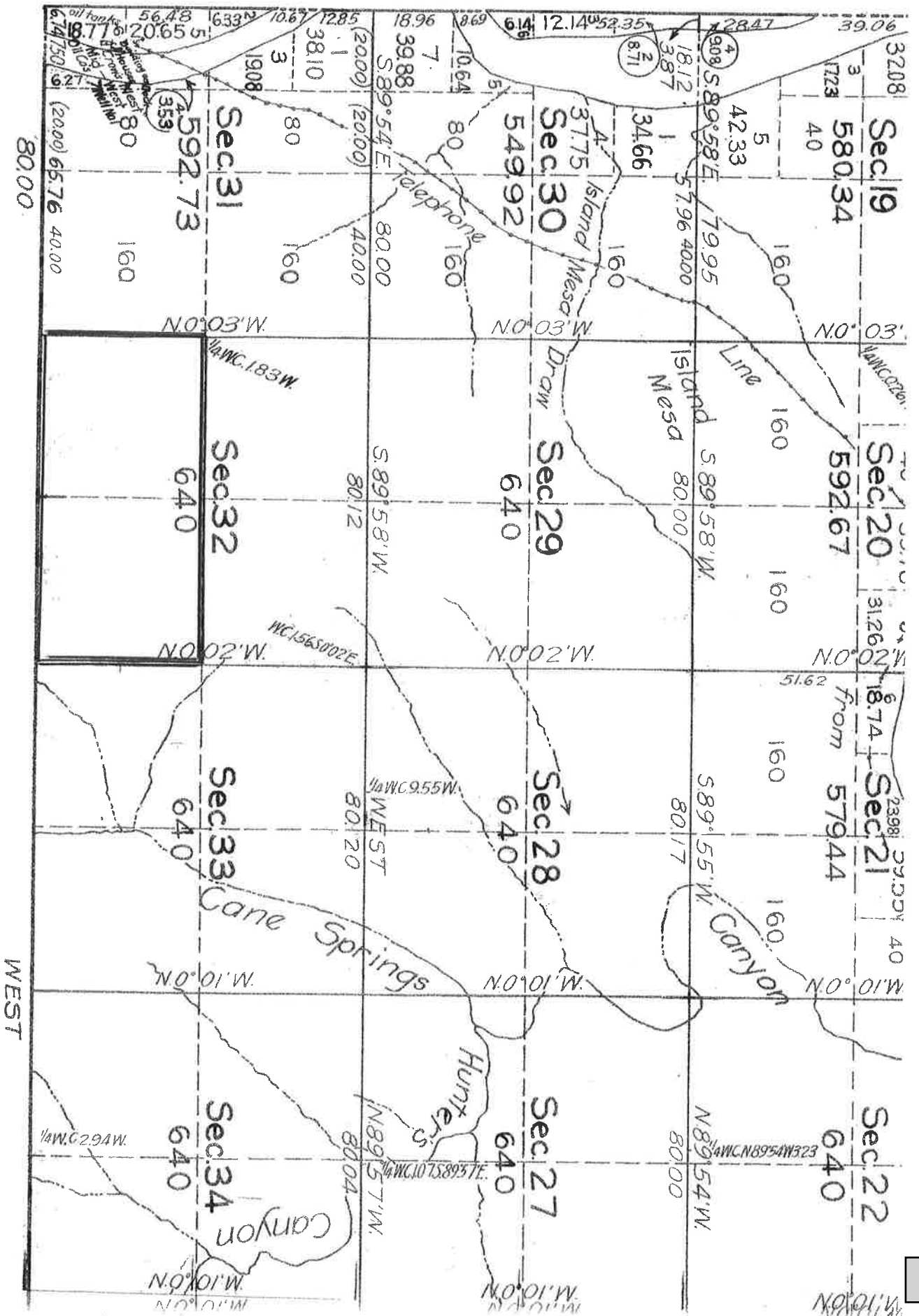
Surveyed by: J. H. ...

Surveyed by: J. H. ...

NAME OF CLAIMANT	SECTION	ACRES	DATE	BY
JAMES H. ...	28	640.00	1908	J. H. ...
...

Surveyed by: J. H. ...

Surveyed by: J. H. ...



Tent Site #2
16' x 16' Wall Tent w/
6' Porch

Throne
Site Septic

Tent Site #2
16' x 16' Wall Tent w/
6' Porch

Throne
Site Septic

Shed 17' x 14'
Shed 17' x 7' w/
17' x 8'

Water Storage Tank
300 gal.

Water Storage Tank
300 gal.

Water Storage Tank
1,000 gal.

Water Storage Tank
700 gal.

Tent Site #3
12' x 16' Wall Tent w/
12' x 6' Porch

Bathroom
Tent Site Septic

Item 7.

North →

