



STAFF REPORT

To: Eastern Summit County Planning Commission
From: Amir Caus, County Planner
Date of Meeting: July 18, 2019
Type of Item: Conditional Use Permit – Public Meeting, Possible Action
Process: Administrative

RECOMMENDATION: Staff requests that the Eastern Summit County Planning Commission conduct a public hearing and provide staff and the applicant with direction on the proposed Conditional Use Permit request.

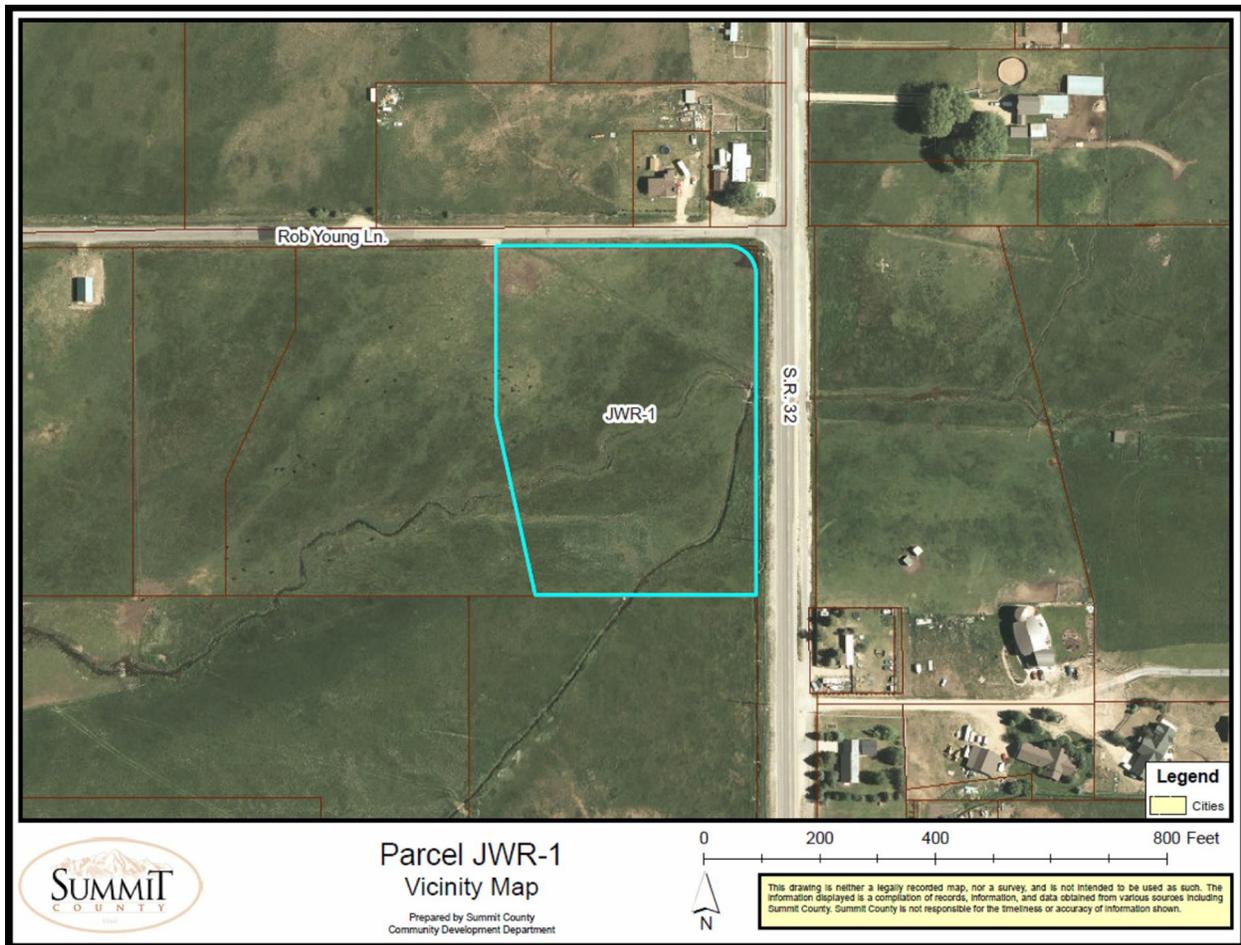
Project Description

Project Name: Leavitt Contractor's Yard Conditional Use Permit
Applicant(s): Michael Leavitt
Property Owner(s): Michael Leavitt
Location: 23 W Rob Young Ln, Oakley, Summit County, Utah
Zone District: AG-10
Parcel Number and Size: JWR-1, 6.00 acres
Type of Process: Administrative
Final Land Use Authority: Eastern Summit County Planning Commission

Proposal

The applicant, Mike Leavitt, is requesting to receive approval for a Contractor's Yard with a 4,500 sq. ft. building. The proposed contractor's yard and the building would be used as equipment storage and maintenance associated with the excavation business owned and operated by the applicant/owner. As part of the request the applicant is requesting parking for equipment, parking for trucks, storage and maintenance building, and fuel storage (up to 1,000 gallons).

Vicinity Map



Background

The JW Ranches Subdivision is located on the southwest corner of Rob Young Ln. and S.R. 32 and was recorded in 2018. The subdivision consists of 3 lots ranging from 2.9 acres to 6 acres in size. Based on the 2018 Final Subdivision Plat file, lots in the JW Ranches Subdivision were intended for “single family residences and associated accessory uses.” Lot 1 is currently unoccupied and is under the agricultural Greenbelt designation. Access to the property is proposed via a driveway from Rob Young Lane, no access from HWY 32 is proposed.

There is a year-round stream running through the southern part of the property, surrounded by wetlands. The applicant has provided a delineation of the wetlands and is proposing all development be located at least 100 feet from the stream and 40 feet from the wetlands per Development Code requirements.

In February of 2019, the County Code Enforcement officer received a complaint that a Contractor’s Yard was being operated on the site. The Officer approached the property owner and informed him that the use was not allowed unless a Conditional Use Permit was obtained.

The Officer then directed the property owner to clean up the site until an appropriate permit approval was received. The property owner complied with the Code Enforcement order. On May 10, 2019, Staff received a complete application for a Conditional Use Permit for a Contractor’s Yard use. The proposal can be found in Exhibit A of this Staff Report.

The Planning Commission held and closed a public hearing on June 20, 2019. During the meeting the public expressed concerns with visual impact, water table infiltration, storm water runoff, noise, and dust. The Planning Commission closed the June 20, 2019 public hearing, continued the item to the July 18, 2019 meeting and directed Staff to return with negative Findings of Fact and Conclusions of Law for the proposed Conditional Use Permit.

Analysis and Findings

Section 11-3-16 of the Eastern Summit County Development Code requires that a Contractor’s Yard in the AG-10 zone be reviewed as a Conditional Use Permit. Before an application for a conditional use is approved by the Planning Commission, it shall conform to the following criteria:

1. The proposed use shall be appropriate in the particular location, taking into account the nature of the use, its relationship to surrounding land uses and its impact on the natural environment.

Analysis: The surrounding uses are mostly residential and agricultural. The nature of the proposed use is not consistent with the surrounding uses; however, the proposed use is allowed through a Conditional Use Permit in the AG-10 zone. The proposed Contractor’s Yard would be located on Lot 1 of the JW Ranches Subdivision which was approved as a residential subdivision.

During the June 20, 2019 meeting, the Planning Commission found that the proposed use is not compatible with the existing agricultural and residential uses and that the uncharacteristic negative impacts the proposed use would generate could not be mitigated by conditions of approval. **DOES NOT COMPLY**

2. The proposed use shall be in general compliance with the Development Evaluations Standards in Chapter 2 of the Eastern Summit County Development Code.

Analysis: Staff has reviewed the application for compliance with the standards established in chapter 2 of the Eastern Summit County Development Code, and found the following:

Code Requirement	Analysis	Finding
1. Agriculture	The surrounding uses are mostly residential and agricultural. The nature of the proposed use is not consistent with the surrounding uses; however, the proposed use is allowed through a Conditional Use Permit in the AG-10 zone.	DOES NOT COMPLY

	During the June 20, 2019 meeting, the Planning Commission found that the proposed use is not compatible with the existing agricultural uses and that the uncharacteristic negative impacts the proposed use would generate could not be mitigated by conditions.	
2. Water and Sewage	Per the Building Department requirement, the proposed structure is required to provide restrooms. The Health Department has reviewed the proposed application and has stated that they will require that a septic system be installed.	COMPLIES [ADDITIONAL CONDITIONS WOULD BE REQUIRED SHOULD POSITIVE FINDINGS BE FOUND]
3. Natural Resources	Wetlands have been confirmed on the property. The USACE has stated that they have no concerns or comments on this proposal. The proposed buildings and storage areas are setback at least 40 feet from the wetland. There is a year-round stream on the property, and all structures are setback at least 100 feet from the stream. During the June 20, 2019 meeting, the Planning Commission found that the natural resources would negatively be impacted by the proposed use and that negative impacts could not be mitigated by conditions in order to protect the natural resources. The Planning Commission found that the proposed use would be detrimental to public health, safety, and welfare.	DOES NOT COMPLY
4. County Infrastructure, Facilities and Services	Access to the property is from Rob Young Ln. The applicant is not requesting access from S.R. 32. The Engineering Department has reviewed the proposed application and has not expressed any negative comments which would warrant for postponement or denial of this application.	COMPLIES [ADDITIONAL CONDITIONS WOULD BE REQUIRED SHOULD POSITIVE FINDINGS BE FOUND]
5. Infrastructure Design and Maintenance	Infrastructure is available for this property. The proposed use is allowed through a Conditional Use Permit in the AG-10 zone. The proposed use is a commercial use and additional requirements will need to be met as part of the Building Permit review. Staff does not anticipate an unexpected traffic volume.	COMPLIES [ADDITIONAL CONDITIONS WOULD BE REQUIRED SHOULD POSITIVE FINDINGS BE FOUND]

- The proposed use will not be in violation of any county, state, or federal laws.

Analysis: During the June 20, 2019 meeting, the Planning Commission discussed; screening, buffer, dust, traffic, employee parking, waste/debris, disposal of fluids,

parking within setback, vehicle repair, retail sales, and mining of earth. The Planning Commission found that not all of the aforementioned items could be conditioned to mitigate negative impact generated by the proposed use. **DOES NOT COMPLY**

4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, applicant shall submit proof of ownership.

Analysis: The applicant is the owner and has signed the application form. **COMPLIES**

5. The applicant shall demonstrate that it possesses the requisite skills and experience to ensure that the particular use will be conducted in a safe and orderly manner.

Analysis: During the June 20, 2019 meeting, the Planning Commission found that the applicant has not demonstrated that they can operate a Contractor's Yard at this location (Parcel JWR-1) through conditions that would mitigate the impacts of the Contractor's Yard on adjacent property owners. **DOES NOT COMPLY**

6. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.

Analysis: During the June 20, 2019 meeting, the Planning Commission found that the proposed use is near a residential and agricultural area, and that it would have negative impacts on those uses as well as the natural environment. Commissioners stated that the proposed use is within an approved residential subdivision and that people who purchased lots had a reasonable expectation that adjoining properties would be strictly residential. The creation of a Contractor's Yard along with all the impacts that come with it (dust, noise, traffic, visual) is something that could not be mitigated through the conditions of approval. To mitigate the visual impacts, it would require significant screening such as an uncharacteristically tall fence due to size of the equipment which would be a visual impact in and of itself. The possible impacts of the use on the nearby streams and irrigation ditches would require paving and retention basins that are out of character with a residential use. The coming and going of the large trucks and equipment cause an impact that is not compatible with a residential neighborhood. Per the Section 11-3-16 of the Eastern Summit County Development Code analysis, the Planning Commission found that the proposed use would be detrimental to public health, safety, and welfare. **DOES NOT COMPLY**

7. The length and size of the proposed structure must be compatible with the residential uses in the area and must also meet the setback requirements for the zone in which it is located.

Analysis: The minimum front setback for this property in the AG-10 Zone is 25 feet from the County designated right of way, 12 feet from the side and rear yards, 100 feet from the stream and 40 feet from wetlands. All setbacks are being met with the proposed

structures on site. Nonetheless, the Planning Commission found that this is an intensive commercial use within a generally residential and agricultural neighborhood and that it is not compatible with the surrounding uses. Concerns were raised that because of the industrial nature of the use, and the possibility of harmful substances getting into the water (oil, gas, etc.) the negative impact of the use cannot be adequately mitigated.

DOES NOT COMPLY

Recommendation

Staff recommends that the Eastern Summit County Planning Commission review Staff's analysis regarding the proposed Leavitt Contractor's Yard Conditional Use Permit. Per the direction of the Planning Commission and comments expressed at the June 20, 2019 meeting, Staff has included a draft of negative Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact:

1. The subject property is located at 23 W Rob Young Ln. (Parcel JWR-1, 6.00 acres), Oakley, Summit County, Utah, in the AG-10 Zone.
2. Parcel JWR-1 is located in the JW Ranches Subdivision.
3. The JW Ranches Subdivision was recorded in 2018.
4. The subdivision consists of 3 lots ranging from 2.9 acres to 6 acres in size.
5. Based on the 2018 Final Subdivision Plat file, lots in the JW Ranches Subdivision were intended for "single family residences and associated accessory uses."
6. The surrounding uses are mostly residential and agricultural.
7. Parcel JWR-1 is currently unoccupied and is under the agricultural Greenbelt designation.
8. The subject property is currently undeveloped and is under the agricultural Greenbelt designation.
9. County records confirm that the applicant, Michael Leavitt is the owner of the subject property.
10. In February of 2019, the County Code Enforcement officer received a complaint that a Contractor's Yard was being operated on the site.
11. The Officer approached the property owner and informed him that the use was not allowed unless a Conditional Use Permit was obtained. The Officer then directed the property owner to clean up the site until an appropriate permit approval was received.
12. The property owner complied with the Code Enforcement order.
13. Per Section 11-3-16 of the Eastern Summit County Development Code, "Contractor's Yard" uses are reviewed under a Conditional Use Permit within the AG-10 zone.
14. On May 10, 2019, Staff received a complete application for a Conditional Use Permit for a Contractor's Yard use.
15. The applicant is requesting to receive approval for a Contractor's Yard with a 4,500 sq. ft. building.
16. The proposed Contractor's Yard and the building would be used as equipment storage and maintenance associated with the excavation business owned and operated by the applicant/owner.

17. As part of the request the applicant is requesting parking for equipment, parking for trucks, storage and maintenance building, and fuel storage (up to 1,000 gallons).
18. Access to the property is proposed via a driveway from Rob Young Lane, no access from HWY 32 is proposed.
19. The Planning Commission held a public hearing on June 20, 2019.
20. During the June 20, 2019 meeting the public expressed concerns with visual impact, water table infiltration, storm water runoff, noise, and dust.
21. The Planning Commission discussed; screening, buffer, dust, traffic, employee parking, waste/debris, disposal of fluids, parking within setback, vehicle repair, retail sales, and mining of earth.
22. There is a year-round stream running through the southern part of the property, surrounded by wetlands.
23. The applicant has provided a delineation of the wetlands and is proposing all development be located at least 100 feet from the stream and 40 feet from the wetlands per Development Code requirements.
24. The USACE has stated that they have no concerns or comments on this proposal.
25. The proposed structures and storage areas are setback at least 40 feet from the wetland.
26. All proposed structures are setback at least 100 feet from the stream.
27. The minimum front setback for this property in the AG-10 Zone is 25 feet from the County designated right of way, 12 feet from the side and rear yards, 100 feet from the stream and 40 feet from wetlands. All setbacks are being met with the proposed structures on site.
28. Nonetheless, the Planning Commission found that this is an intensive commercial use within a generally residential and agricultural neighborhood and that it is not compatible with the surrounding uses.
29. The Planning Commission found that not all of the aforementioned items could be conditioned to mitigate negative impact generated by the proposed use.
30. The Planning Commission found that the proposed use is not compatible with the existing agricultural and residential uses and that the uncharacteristic negative impacts the proposed use would generate could not be mitigated by conditions of approval.
31. The Planning Commission found that the natural resources would negatively be impacted by the proposed use and that negative impacts could not be mitigated by conditions in order to protect the natural resources. The Planning Commission found that the proposed use would be detrimental to public health, safety, and welfare.
32. The Planning Commission found that the applicant has not demonstrated that they can operate a Contractor's Yard at this location (Parcel JWR-1) through conditions that would mitigate the impacts of the Contractor's Yard on adjacent property owners.
33. The Planning Commission found that the proposed use is near a residential and agricultural area, and that it would have negative impacts on those uses as well as the natural environment.
34. The proposed use is within an approved residential subdivision and that people who purchased lots had a reasonable expectation that adjoining properties would be strictly residential.

35. The creation of a Contractor's Yard along with all the impacts that come with it (dust, noise, traffic, visual) is something that could not be mitigated through the conditions of approval.
36. In order to mitigate the visual impacts, it would require significant screening such as an uncharacteristically tall fence due to size of the equipment which would be a visual impact in and of itself.
37. The possible impacts of the use on the nearby streams and irrigation ditches would require paving and retention basins that are out of character with a residential use. The coming and going of the large trucks and equipment cause an impact that is not compatible with a residential neighborhood. Per the Section 11-3-16 of the Eastern Summit County Development Code analysis, the Planning Commission found that the proposed use would be detrimental to public health, safety, and welfare.
38. The Planning Commission closed the June 20, 2019 public hearing, directed Staff to return with negative Findings of Fact and Conclusions of Law for the proposed Conditional Use Permit, and continued the item to the July 18, 2019 meeting.

Conclusions of Law:

1. The proposed project does not meet the requisite standards set forth in Section 11-3-16 (Conditional Use Permit) of the Eastern Summit County Development Code

Attachments

Exhibit A – Proposal