

ROUTT COUNTY PLANNING COMMISSION AGENDA

**Canceled - February 6, 2020
6:00 PM**

County Commissioners Hearing Room, Historic Courthouse
522 Lincoln Avenue, 3rd Floor, Steamboat Springs, Colorado
Live audio is available by calling (970) 870-5499

1. CALL TO ORDER

2. PUBLIC COMMENT

Members of the public may address the Planning Commission on items not on the agenda. (Comments regarding items on the agenda will be taken during that agenda item.)

3. ITEMS FOR CONSIDERATION

A. The Carpenter Ranch Preserve - Tabled From October 17, 2019

Activity #: PL-19-109
Petition: Review and amendment of Permit #PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural.
Applicant: The Nature Conservancy
Legal: 8 parcels located in Secs 5, 6, 7, 8 and 9 of Township 6 North, Range 87 West
Location: 13250-C US HIGHWAY 40, HAYDEN
Documents:

[PC Staff Report 2.6.20.pdf](#)

B. Moore Vehicle Storage Home Industry

Activity #: PL-19-200
Petition: Special Use Permit for a Motor Vehicle Storage Home Industry
Applicant: Todd Moore
Legal: Lot 1 Seneca Savage Truck Terminal MDSE
Location: 13475 County Road 51B
Documents:

[Staff Report - Moore Home Industry PL-19-200.pdf](#)

4. ADMINISTRATOR'S REPORT

Administrator's Report may include the reading of future Planning Commission agendas and recent Board of County Commissioner decisions.

5. ADJOURNMENT

WiFi access is available in the Hearing Room, and agenda packets can be accessed at www.co.routt.co.us/AgendaCenter.

All programs, services and activities of Routt County are operated in compliance with the Americans with Disabilities Act. If you need a special accommodation as a result of a disability, please call the Commissioners' Office at (970) 879-0108 to assure that we can meet your needs. Please notify us of your request as soon as possible prior to the scheduled event. Routt County uses the Relay Colorado service. Dial 711 or TDD (970) 870-5444.



Memorandum

To: Planning Commission

From: Kristy Winser, Assistant Planning Director

Date: February 05, 2020

Subject: Tabled discussion to review and amendment of Permit # PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural. Uses and permit boundary have changed to a degree that merits a review and amendment of the permit.

Attachments:

- Staff Packet dated 10/17/2019
- PC minutes from 10/17/19
- Amended Narrative for 12/19/19 hearing
- Request to table the application
- Staff response to Amended Narrative
- TNC response dated
- Letter of Support, Carpenter Family dated
- Revised amended narrative with permit boundary map.

History

Review and amendment of CUP Permit#PP1996-016 were considered and tabled on October 17, 2020. Please review the attached staff packet and minutes for details. To summarize, the application was tabled for the following reasons:

- Staff and the Planning Commission were clear on the County's position that all land uses within the permit boundary, whether public or private use, were subject to county review and needed to be included in the permit boundary.
- Planning Commission also directed both parties to collectively come up with a reasonable proposal to address potential off-site impacts, specifically to address trespass and liability and have staff assist in this process.

Both Parties and staff have collaborated since the October meeting that ensued the revised, amended permit. Details of the amendment are listed below and outlined in orange on the aerial map:

- The permit boundary excludes co-tenancy streambed areas or co-tenancy Island 1B.
- The Permit boundary does not include any of the ranch lying west of the ranch access road or north of the Yampa River.
- All land uses requested as listed in the COA's that occur within the permit boundary, whether public or private use, are included in the permit boundary. Exclusions are the agricultural operation, currently leased to a private ranching operation and occupancy of the Ranch Manager's House for the property manager.

- TNC will construct and maintain a perimeter fence along the northern boundary of the CUP. The fence will be marked with "no trespassing" or similar language to alert visitors that there is no access to the riparian forest or the Yampa River beyond this fenced area.
- Discontinue allowing unscheduled public visits to the ranch. All visitation are by appointment only.
- Although not appropriate for consideration of the amendment, it is important to note that ongoing negotiations on mutual indemnification are continuing to address liability concerns further.
- A revised amended narrative with a permit boundary map is included for your consideration.

The proposed amendment provides more detail and clarity of activities and uses in the permit boundary. Revisions also address trespass and liability concerns.

Staff provided **FINDINGS OF FACT** that may be appropriate if the Conditional Use Permit is approved:

1. The proposal, with the following conditions, meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, and 6 and of the Routt County Zoning Regulations.
2. Although overnight accommodations would require review as a Special Use Permit under current regulations, since the existing permit made allowances for overnight guests under a CUP, the amendment should follow the same review process as the original CUP.

CONDITIONS that may be appropriate may include the following:

General Conditions:

1. The CUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, and 6.
2. Any complaints or concerns that may arise from this operation may be cause for review of the CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
3. In the event that Routt County commences an action to enforce or interpret this CUP, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
4. No junk, trash, or inoperative vehicles shall be stored on the property.
5. This permit is contingent upon the acquisition of and compliance with any required federal, state and local permits. The operation shall comply with all federal, state and local laws. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to commencement of operations.
6. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
7. All exterior lighting shall be downcast and opaquely shielded.
8. All trash shall be stored either inside a structure or inside Interagency Grizzly Bear Committee (IGBC) certified receptacles.
9. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence. Permittee shall notify the Routt County Planning Department of any claims made against the policy. Routt County shall be named as an additional insured on the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.

10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director, without notice.
11. The permit shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this CUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, transferee shall submit written consent for the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.
13. The Permittee shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan.

Specific Conditions:

14. The CUP for a Recreational Facility, Outdoor Rural with Overnight Accommodations is limited to uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or amended application. The approved project plan consists of uses in the following table:

<p>Education center – interpretive exhibits, museum, meeting space for community and school groups/programs. Groups and programs may include guided walks/skis on portions of the property, including birding events. Hours Mon-Friday 8am-8pm, year-round.</p>
<p>Historic Barn - for users/groups directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis. Visits by community or school groups are coordinated by the Ranch Manager on a year round basis.</p>
<p>TNC Donor Visits- are organized no more than 10 visits/year with no more than 10 individuals at a time.</p>
<p>Scientific and Agricultural Research- users/groups are directly connected to the work/mission of the organization on a year-round basis no more than 10 trips per year.</p>
<p>Wildlife Preserve- for users/groups directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</p>
<p>Interpretive Trails for users/groups directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</p>
<p>Housing-All overnight use is directly connected to the work/mission of the organization on a year round basis. Guests include TNC staff members, volunteers, donors, researchers, and interns within the following 5 buildings: Main House, Bunk House, Intern House and Manager House. Rooms are not for rent.</p>
<p>Private non-commercial fishing for users directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</p>
<p>Private, non-commercial hunting for users directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</p>
<p>Special Events No more than 5 events annually and are directly related to the work/mission of the organization. No more than 125 people per event. Events are held year round and do not go past 8pm.</p>

15. Prior to issuance, the site plan shall be amended to clearly define the CUP permit boundary, trails and uses.
16. The CUP is valid for the life of the use provided it is acted upon within one year of approval. The CUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year.
17. Permittee shall construct and maintain a fence along the northern perimeter of TNC's land, as depicted on WMR's attached Exhibit. "No Trespassing" signs shall be placed and maintained upon the fence at 150 foot intervals.
18. Regarding the railroad crossing on the ranch access road. At a minimum, either a stop sign in the middle of the road before the crossing, a flashing caution light, or another strategy will be proposed, and approved by Planning Staff, which will meet the intention of the condition, will be installed prior to the commencement of the activities.

The Carpenter Ranch Preserve

Amendment and Review of

Conditional Use Permit

ACTIVITY #: PL-19-109

HEARING DATES: Planning Commission (PC): 10/17/2019 at 6:00pm

Permitee: The Nature Conservancy

PETITION: Review and amendment of Permit # PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural. Uses and permit boundary have changed to a degree that merits a review and amendment of the permit.

LEGAL: 8 parcels located in Secs 5, 6, 7, 8 and 9 of Township 6 North, Range 87 West

LOCATION: The Carpenter Ranch is located approximately 5 miles east of Hayden, Colorado on U.S. 40.

13250-C US HIGHWAY 40, HAYDEN

ZONE DISTRICT: AF

AREA: 978.65 acres

STAFF CONTACT: Kristy Winser kwinser@co.routt.co.us

ATTACHMENTS:

- 1996 Project Plan
- 1996 CUP Permit and Minutes
- Exhibit A Complaint File Doc.
- Aerial Site Plan
- Ranch Compound Facilities Site Plan
- <http://www.co.routt.co.us/190/Pending-Applications>

History:

Since 1996, The Nature Conservancy has been operating the Carpenter Ranch Preserve as a nature preserve and cattle ranch. The Nature Conservancy (TNC) obtained a Conditional Use Permit from the County for the Carpenter Ranch in 1996. The CUP Permit# PP1996-016 is for Public Facilities: an education center relating to agriculture, ecology, and history in the former ranch house of Farrington R. Carpenter, and interpretive trails to the river and ranch operations. The project plan allowed for accommodations for sixteen overnight guests for use by researchers, educators, and staff use. The permit is valid for the life of use.

Subsequently, in 2004, ten workshops were administratively approved, with an overnight accommodation option. The workshop series is intended to educate participants about conservation, agriculture, and ecology. The workshops would continue in the field season each year if they were successful. It is staff's understanding that TNC continues to host workshops year-round.

In early 2019, the owner of Wolf Mountain Ranch, an adjacent landowner, submitted a request that the County conduct a formal review of TNC CUP Permit # PP1996-016. The complaint states that circumstances at the Carpenter Ranch have changed substantially since the permit was approved 23 years ago. Notably, the quantity of visitors and the number of public events and uses throughout the year have increased, and issues have arisen regarding co-tenancy of land included in the permit boundary. The owner of Wolf Mountain Ranch contends that co-tenancy of the streambed and of a parcel that extends south of the river within the TNC permit boundary poses a potential risk of liability.

The complaint and how the County addressed the situation is included as Exhibit A of the attachments. The County's findings on page 45 of the staff packet, was that with corrective actions taken by TNC posting No Trespassing signs, staff determined that there are no current violations of the permit conditions. However, staff agreed, that uses and changes with ownership within the permit boundary have changed to a degree that merits a review and amendment of the permit to clarify ranch activities and uses.

Site Description:

The Carpenter Ranch Preserve permit boundary outlined below in green encompasses three areas: a section of the Yampa River Preserve, Carpenter Ranch, and the Historic Ranch House and Education Center Area.

- **The Yampa River Preserve** includes what is referred to as "former Islands 2 and 3" (see original 1996 project plan) at the north end of the Preserve which is covered by the existing Conditional Use Permit issued in 1996. The Yampa River Preserve does not include any buildings but does have interpretive trails.

The current amendment application permit boundary **excludes**, and does not cover:

a. The 1.4-acre parcel of land called "Island 1B" or "Feature 1B", which The Nature Conservancy co-owns, as tenants in common, with Pirtlaw Partners, Ltd. (which owns Wolf Mountain Ranch—located north and northwest of the Carpenter Ranch Preserve); and

b. Any part of the active streambed of the Yampa River (i.e., areas generally covered by flowing river water).

- **The Carpenter Ranch** includes livestock sheds, corrals, and outbuildings for ranch use.
- **Historic Ranch House and Education Center (Ranch Compound Area)** includes:
 - Historic Ranch House, which was constructed in 1902 as the primary ranch residence, and was renovated in the 1940's and in 1996. It can sleep up to 10 people. The Education Center is located in a wing of the house.
 - Historic Barn
 - Ranch Manager's House (constructed in 1997)
 - Intern House which can sleep up to 4 people- (original Ranch Manager's House).
 - Bunk House which can sleep up to 2 people

Except for the Ranch Manager's residence, which TNC constructed in 1997, the other Ranch buildings were built between 1902 and the 1940s or 1950s. Those buildings pre-date the County's initial adoption of Zoning Regulations on March 7, 1972. The original Ranch Manger's house, as proposed, was to be torn down and rebuilt. Instead, the old Ranch House got converted into the Intern House, and a new Ranch Manager House was built in 1997.

Project Description:

The permit review is to discuss amendments regarding uses and permit boundary changes that that merit a review and modification of the permit.

The Nature Conservancy (TNC) submitted an application for an Amended Conditional Use Permit to provide current and updated information to the County about the Carpenter Ranch Preserve, including the current property boundaries.

TNC is not planning to change the types of uses that have occurred on the Ranch during the past 23 years (e.g. meetings by local community partners and daytime outdoor use, such as for the annual Yampa Valley Crane Festival). TNC plans to continue these events if the County approves an amendment.

TNC manages the property as a working cattle ranch to explore ways to simultaneously pursue agricultural production and the conservation of streamside and wetland habitats. Part of the historic ranch house serves as an Education Center, both for Nature Conservancy meetings and projects, and for local community partner meetings.

All the houses and the Education Center are winterized and used during all seasons of the year. TNC has preserved the historic barn and uses it for the cattle operation, including a tack room for storage. Educational groups sometimes visit this barn. The people who stay overnight at the Ranch are the ranch manager and his family's guests, TNC employees and their family members, students, TNC donors, volunteers, and interns. Some guests reimburse TNC after using bedroom space for the approximate cost to TNC to pay a local cleaning person to clean the area (currently about \$50/room).

TNC's Ranch Manager and his family live full-time at the Ranch in the Ranch Manager's house. During a typical year, TNC has a total of approximately 4 to 8 interns and researchers living and working at the Ranch to learn about and assist with its conservation mission. Small groups of TNC donors and volunteers visit the Ranch several times each year, including for occasional TNC member events held in the Education Center. Educational and school groups visit the Ranch to learn about its conservation work approximately 5-10 times per year, usually in the summer and fall. TNC organizes picnic lunches with catered meals for some of those groups. At one time, there are no more than 16 people who stay overnight in rooms at the Ranch.

Access to the site is from Highway 40 to a gravel road for about one-quarter mile to reach the Carpenter Ranch buildings. That access road crosses railroad tracks just before reaching the buildings. There are stop signs at the railroad crossing approved by the UP Railroad, which was a condition of approval of the original permit. There is a public parking area with parking for about 35-40 vehicles next to or near the Ranch buildings for visitors.

Staff Comments:

Original permit conditions need to be considered based on COA 3. *"Any complaint or concerns that may arise from this operation may be a cause for review of the CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary."*, the basis for this

review. In addition, there needs to be discussion to clarify what was approved in the project plan and permit.

The permit required fencing along the northwest portion of the property. COA 6. *"Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing."*

The intent of this condition, which includes the posting of "No Trespassing" signs, was to deter and minimize trespassing onto neighboring properties. Except for a small section with overgrown shrubs and a steep slope, there is a fence. TNC admits that "no trespassing" signs were not posted for some time, but are there now, including along the break in the fence and other locations that will be referenced at the meeting. Also, noted is the location of the trail along the interior boundary of the fence. Staff suggests that an amendment should clarify whether signs in place of a fence for that portion of the boundary and location of the trail satisfies the intent of the condition (Issue for Discussion.)

Staff believes that more explanation and review of all uses and activities is appropriate and should be revisited by the Planning Commission through an amendment of COA #2. *"The Conditional Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities must be applied for in a new or amended application."* In particular, intensity of use. For example, public visitation during the field season falls within the original scope of the permit, but the permit is unclear regarding public events or year-round uses and activities of the ranch outside of the field season. Another example is 16 persons is what was presented in the original project plan. The ranch compound area now includes an additional building because the original manager's house was proposed to be taken down and rebuilt but has been converted to an intern house, adding additional intensity to the permit (Issue for Discussion.)

Also, TNC argues that nearly all of the current and planned uses of the Ranch qualify, or should qualify, as uses by right in the AF zone district and, therefore, are not subject to a permit. The table below summarizes existing and proposed uses, as categorized by TNC, and staff comments regarding the 1996 project plan and permit. Staff's position is (consistent with all other applications presented to the Planning Commission) that uses are considered from a whole parcel point of view for cumulative impacts, not how each use fits into the Land Use Chart. To be consistent, the Planning Commission should determine the use of the entire permit boundary, then apply that overall use to the Land Use Chart.

Existing and proposed uses	Land use category and process as per TNC	96' Project Plan and Approval	Staff Comments
Education center – interpretive exhibits, museum, meeting space for community and school groups.	Public building-requires a CUP.	All uses were included as part of the CUP.	An education center is not a category listed in the land use chart. At the time, the closest land use category to the proposal was a school/public facilities, which is the term used in the narrative. Based on the understanding of the use of the site, the most comparable current use is a Recreational Facility with overnight accommodations, not a public building.

Ranching	Ranching is a use-by-right, and should not be included in the review of a CUP.	Yes, ranching was included in the review of the original project plan to educate the public about agriculture.	By itself ranching is a use-by-right. However, as it was presented, ranching is an integral part of the ranch's agricultural and educational mission. Ranching is tied into the museum, educational component, research and interpretive trails to river and ranch operations.
Historic Barn	Agricultural buildings are a use-by-right, and should not be included in the review of a CUP.	Yes, the barn was included in the review of the original project plan to educate the public about agriculture.	By itself the barn is a use-by-right. However, as it was presented, the historic barn is part of the ranch's agricultural and educational mission. The barn is tied into the museum, educational component, and group visits.
Wildlife Preserve	Wildlife Preserve is a use-by right and should not be included in the review for a CUP.	No, a wildlife preserve was not specifically called out in the project plan as its own use. Instead interpretive trails that meandered through the Yampa Preserve Area is what was included in the review of the original project plan.	By itself a preserve is a use-by-right. However, as it was presented, the project plan included interpretive trails to the river and ranch operations to promote the ranch's agricultural and educational mission. The preserve is tied into the museum, educational component and research.
Interpretive Trails	Parks & Rec Lands are a use-by- right and should not be included in the review for a CUP.	Yes. Maps were included that depicted the interpretive trails that would be self guided and meandered through the Yampa Preserve Area.	The trails are part of the educational component to educate the public on the biodiversity within the permit area.
Housing for people who stay overnight. They include Ranch manager, TNC staff members, volunteers, donors, researchers, and interns within the: <ul style="list-style-type: none"> Main House Bunk House Intern House Manager House 	Single Family, Secondary dwelling, employee housing for ranching operations and researchers of the preserve. All uses- by-right and should not be included in the review for a CUP.	Yes and all considered as part of the overall project plan and permit. <ul style="list-style-type: none"> Main House 5 bedrooms Bunk House- 3 interns Manager House-3 people (to be torn down and rebuilt). 	No longer a use- by-right when the overnight accomadations are used to support and promote the ranch's agricultural and educational mission. <ul style="list-style-type: none"> Main House 5 bedrooms Ranch Managers House (constructed in 1997) Intern House sleep up to 4 people (original Ranch Manager House) Bunk House 2 people 16 persons is what was presented in the original

			project plan. The ranch compound area now includes an additional building (the original manager's house was proposed to be taken down and rebuilt but has been converted to an intern house).
Trails, hiking, x-country ski, Birdwatching	All uses-by-right for Parks & Rec Lands and should not be included in the review for a CUP.	Yes, trails and hiking were included in the original project plan and permit. Cross country and birdwatching were not.	These uses are conducted to help promote the ranch's agricultural and educational mission. They are accessory uses of a Recreational Facility.
Private non-commercial fishing	Private non-commercial fishing is a use-by-right and should not be included in the review for a CUP.	Yes, included in the original project plan and permit.	An accessory use of a Recreational Facility and part of the the ranch's agricultural and educational mission.
Private, non-commercial hunting	Private, non-commercial hunting is a use-by-right and should not be included in the review for a CUP.	No	An accessory use of a Recreational Facility ranch's agricultural and educational mission.
Chili Ski Day	By-right and should not be included in the review for a CUP.	No events were discussed or considered.	Disagree. Chili Ski day is an organized commercial Special Event and either needs a Special Event Permit or needs to be considered under the CUP.
Crane Festival	By-right and should not be included in the review for a CUP.	No events were discussed or considered.	Disagree. The Crane Festival is an organized commercial Special Event and either needs a Special Event Permit or needs to be considered under the CUP.
Family Reunion	By-right and should not be included in the review for a CUP.	No events were discussed or considered.	A typical "family reunion" is a use by right. However, if it is a family union sponsored by TNC for their employees and families and donors, this would be an organized event and should be included in the amendment.

The Planning Director determined that all land uses and activities described, including the uses-by-right considered by the applicant, should be processed under an Amended Conditional Use Permit as a Recreational Facility, Outdoor Rural.

Although staff agrees there are by-right uses in the Agricultural Forestry zone district, the exception is when those uses support the overall operation within a permit boundary. Those uses collectively need to be evaluated for off-site impacts, and the land uses described at the Ranch are no exception. Land uses at the Ranch function together to promote the Ranch's agricultural and educational mission and, therefore, should be reviewed comprehensively as a Recreational Facility, Outdoor Rural. This approach is consistent with how the department evaluated the original

application. It is also how similar operations with accessory uses that support the primary purpose of the property are evaluated.

It should be clarified that under current regulations the overnight accommodations component would require review as a Special Use Permit. However, since the existing permit made allowances for overnight guests under a CUP, the amendment should follow the same review process as the original CUP.

In reviewing this application, staff requests consideration of Section 1.9 of the Regulations in the evaluating the uses-by-right listed in the Uses By Zone Chart, as described by the applicant.

1.9. Conflict: Whenever the requirements of these Regulations are in conflict with the requirements of any other ordinance, rule, or regulation of the County, the more restrictive or that imposing the higher standard shall govern.

It is staff's opinion that the higher standard applies to all land uses and activities described, including the uses-by-right described by the applicant, and that the application should be processed under an Amended Conditional Use Permit as a Recreational Facility.

*****Issues for Discussion*****

- COA 6. "Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing."
 - The amendment should clarify whether signs in place of a fence for that portion of the for that portion not fenced along the northwest portion of property and the location of the trail satisfy the intent of the condition.
 - Based on the new information of co-tenancy lands, should fencing requirements be reevaluated for other areas of the permit boundary?
- Intensity of use should be discussed with the increased number of buildings in the Ranch compound area and year-round activities and events not clearly identified in the 1996 review. The number of Special Events should be clearly defined and that number included in the conditions with a cap on the number of guests and hours clearly identified. Staff included draft language based on information provided in the narrative.
- Is the list of people who stay overnight in rooms in the other Ranch buildings appropriate (TNC staff members, volunteers, donors, researchers, and interns?)

Compliance with the Routt County Master Plan, Sub Area Plans and Zoning Resolution

The Routt County Master Plan, Sub Area plans and Zoning Resolution contain dozens of policies and regulations regarding land use. Section 5 of the regulations are designed to limit or eliminate conditions that could negatively impact the environment and/or use of surrounding properties, and shall apply in all Zone Districts and to all land uses unless otherwise noted. Section 6 Regulations

apply to all Minor, Administrative, Conditional or Special uses allowed by permit only, PUD plans, Site plans, and Subdivisions.

The following checklist was developed by Planning Staff to highlight the policies and regulations most directly applicable to this petition. The checklist is divided into six (6) major categories:

1. Health, Safety and Nuisances
2. Regulations and Standards
3. Community Character and Visual Impacts
4. Roads, Transportation and Site Design
5. Natural Environment
6. Mitigation

Interested parties are encouraged to review the Master Plan, Sub Area plans and Zoning Regulations to determine if there are other policies and regulations that may be applicable to the review of this petition.

Staff Comments are included at the end of each section, highlighting items where the public, referral agencies, or planning staff have expressed questions and/or comments regarding the proposal. **Staff comments regarding compliance with regulations and policies are noted in bold below.**

Public Health, Safety and Nuisances

Applicable Regulations – Routt County Zoning Resolution

- 5.1.1 Every use shall be operated so that it does not pose a danger to public health, safety or welfare.
- 5.1.2 Every use shall be operated in conformance with all applicable federal, state and local regulations and standards. Failure to comply with any and all applicable federal, state and local regulations and standards may be cause for review and/or revocation of any Land Use Approval granted pursuant to these regulations.
- 6.1.7.C Natural Hazards
- 6.1.7.H Wildland Fire
- 6.1.7.I Noise
- 6.1.7.L Odors
- 6.1.7.M Vibration

Staff comments: There is no known danger to public health, safety, or welfare based on the proposed amendment. Also, GIS mapping of the revised permit boundary indicated no natural hazard or wildland fire concerns. The current and historical use of the property consists of a working cattle ranch and hay operation on over 900 acres where there have been an acceptable amount of noise odor and vibration, in addition to the uses approved in the 96' permit. The amendment does include public events that may present noise concerns, but noise from such events can be mitigated.

Is the application in compliance with the Policies and Regulations outlined above? **Yes or No

Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

- 5.2 Dimensional Standards:
- 6.1.2 The proposal shall be consistent with applicable Master Plans and sub-area plans.
- 6.1.5 The proposal shall meet or exceed accepted industry standards and Best Management Practices (BMP's).

Applicable Policies – Routt County Master Plan

- 5.3.B While respecting private property rights, the County will not approve development applications or special use permits that would lead to the degradation of the environment without proper mitigation that would bring the proposal into compliance with the Master Plan, appropriate Sub-area Plans, Zoning Resolution, and Subdivision Regulations.
- 5.3.D Require Best Management Practices and grading plans and strongly discourage overlot grading.

Staff comments: This is an existing site, and no new buildings or structures are requested. The proposal appears to be generally in conformance with the RC Master Plan and Zoning Regulations. The application does not appear to degrade the environment, and no impacts to water, wetlands, or air are anticipated. No grading is proposed.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Community Character and Visual Impacts

Applicable Regulations – Routt County Zoning Resolution

- 5.1.4 Outdoor storage of materials which might cause fumes, odors, dust, fire hazard, or health hazards is prohibited unless such storage is within enclosed containers or unless a determination is made that such use will not have a detrimental impact on the environment
- 5.9 Sign Standards
- 6.1.6 Outdoor Lighting: The proposal shall comply with the Outdoor Lighting Standards in Section 6.3 of these Regulations.
- 6.1.7.G Visual Amenities and Scenic Qualities.
- 6.1.7.K Land Use Compatibility.
- 6.1.7.O Historical Significance.

Applicable Policies – Routt County Master Plan

- 5.3.E Routt County requires that all new developments do not contribute to light pollution.

- 5.3.F Routt County will continue to consider the impacts of development and uses on view corridors, water, wetland, and air.

Staff comments: Agricultural lands surround the Carpenter Ranch. The Nature Conservancy obtained a Conditional Use Permit located at the Carpenter Ranch from the County in 1996. The CUP Permit # PP1996-016 is for Public Facilities: an education center relating to agriculture, ecology, and history in the former ranch house of Farrington R. Carpenter. Except for the Ranch Manager's residence, which TNC constructed in 1997, the other Ranch buildings were built between 1902 and the 1940s or 1950s. Those buildings pre-date the County's initial adoption of its Zoning Regulations on March 7, 1972.

The Nature Conservancy manages the property as a working cattle ranch to explore ways to simultaneously pursue agricultural production and the conservation of streamside and wetland habitats. Part of the historic ranch house serves as an Education Center, both for Nature Conservancy meetings and projects, and for local community partner meetings.

No newsigns, lighting, or structures are requested although the existing # of buildings and dwellings exceeds the approved # by one. There are outdoor lights on, or next to, the buildings and a security light in the parking area. No light pollution concerns or impacts on view corridors, water, wetland, or air are expected from the use.

Is the application in compliance with the Policies and Regulations outlined above? **Yes or No

Roads, Transportation and Site Design

Applicable Regulations – Routt County Zoning Resolution

- 5.4 Parking Standards
- 5.7 Right of Way Access Standards: A Right of Way Access Permit is required prior to construction of any new access point onto a County Road or other Local Public Road or Right of Way.
- 6.1.4 Public Road Use Performance Standards: The proposal shall comply with the Public Road Use Performance Standards in Section 6.2 of these Regulations.
- 6.1.7.B Road Capacity, traffic, and traffic safety
- 6.1.7.N Snow Storage

Applicable Policies – Routt County Master Plan

- 4.3.D Rural developments and uses should be limited to areas that have adequate access to accommodate the projected traffic.
- 4.3.K Driveways and roads shall be designed to minimize erosion, cuts and scarring. When scarring of hillsides is unavoidable, prompt revegetation shall occur with native plant species.
- 6.3.I Usable open space required for developments should provide active and passive recreational environments.

- 11.3.F New rural residential developments should be encouraged to occur in areas that have improved access to accommodate the projected traffic. Proposed developments should have traffic analysis to ensure that adequate access exists.
- 11.3.J Trail systems can be a major community transportation asset. New development proposals shall include provisions to create and link trail systems both as an alternative to the automobile and for recreational use.
- 11.3.O Ensure that future development occurs where roads can accommodate projected traffic volumes and patterns.

Staff comments: Access to the site is via highway 40 along an existing ranch road. There is a CDOT access permit, but staff sent a referral to CDOT as part of the amendment process. The road crosses railroad tracks just before reaching the ranch compound area. Parking is available for about 35-40 vehicles located next to or near the Ranch buildings, for people attending public meetings or programs at the Ranch. The site contains ample land for snow storage.

The Ranch is used for passive and active forms of recreation (e.g., birdwatching) and includes some trails used for hiking and cross-country skiing. These uses are conducted to help promote the Ranch's agricultural and educational mission. They are accessory uses of a Recreational Facility.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Natural Environment

Applicable Regulations – Routt County Zoning Resolution

- 5.11 Waterbody Setback Standards
- 6.1.7.D Wildlife and Wildlife Habitat.
- 6.1.7.E Water Quality and Quantity.
- 6.1.7.F Air Quality.
- 6.1.7.J Wetlands.
- 6.1.7.P Reclamation and Restoration.
- 6.1.7.Q Noxious Weeds.

Applicable Policies – Routt County Master Plan

- 5.3.B While respecting private property rights, the County will not approve development applications or special use permits that would lead to the degradation of the environment without proper mitigation that would bring the proposal into compliance with the Master Plan, appropriate sub-area plans, Zoning Resolution, and Subdivision Regulations.

Staff comments: The Nature Conservancy manages this historic, biologically significant property as a working cattle ranch to explore ways to simultaneously pursue agricultural

production and the conservation of streamside and wetland habitats. No new buildings or structures are part of this amendment. No degradation of the environment is expected from this use.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or N*

PLANNING COMMISSION OPTIONS:

1. **Approve the Amended Conditional Use Permit request without conditions** if it is determined that the petition will not adversely affect the public health, safety, and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties and uses and the proposal is in compliance with the Routt County Zoning Regulations and complies with the guidelines of the Routt County Master Plan.
2. **Deny the Amended Conditional Use Permit request** if it is determined that the petition will adversely affect the public health, safety, and welfare and/or the proposed use is not compatible with the immediately adjacent and nearby neighborhood properties and uses and/or the proposed use is not in compliance with the Routt County Zoning Regulations and/or the Routt County Master Plan. Make specific findings of fact citing specific regulations or policies by number from the Routt County Master Plan and the Routt County Zoning Regulations.
3. **Table the Conditional Use Permit request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.
4. **Approve the Conditional Use Permit request with conditions and/or performance standards** if it is determined that certain conditions and/or performance standards are necessary to ensure public, health, safety, and welfare and/or make the use compatible with immediately adjacent and neighborhood properties and uses and/or bring the proposal into compliance with the Routt County Zoning Regulations and Routt County Master Plan.

FINDINGS OF FACT that may be appropriate if the Conditional Use Permit is approved:

1. The proposal, with the following conditions, meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, and 6 and of the Routt County Zoning Regulations.

CONDITIONS that may be appropriate may include the following:

General Conditions:

1. The CUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, and 6.
2. Any complaints or concerns that may arise from this operation may be cause for review of the CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
3. In the event that Routt County commences an action to enforce or interpret this CUP, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.

4. No junk, trash, or inoperative vehicles shall be stored on the property.
5. This permit is contingent upon the acquisition of and compliance with any required federal, state and local permits.; The operation shall comply with all federal, state and local laws. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to commencement of operations.
6. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
7. All exterior lighting shall be downcast and opaquely shielded.
8. All trash shall be stored either inside a garage or inside Interagency Grizzly Bear Committee (IGBC) certified receptacles
9. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence. Permittee shall notify the Routt County Planning Department of any claims made against the policy. Routt County shall be named as an additional insured on the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.
10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director, without notice.
11. The permit shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this CUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, transferee shall submit written consent for the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.
13. The Permittee shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan.

Specific Conditions:

14. The CUP is limited to uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or amended application. The approved project plan consists of uses in the following table:

<p>Education center – interpretive exhibits, museum, meeting space for community and school groups. Hours Mon-Friday 8am-5pm, year-round.</p>
<p>Ranching. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Historic Barn. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Wildlife Preserve. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Interpretive Trails. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Housing for no more than 16 people who stay overnight include Ranch manager and family, TNC staff members, volunteers, donors, researchers, and interns within the following 5 buildings: Main House, Bunk House, Intern House and Manager House. Rooms are not for rent.</p>
<p>Trails locations are shown on the approved site plan, hiking, x-country skiing, snowshoeing and birdwatching. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Private non-commercial fishing. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Private, non-commercial hunting. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.</p>
<p>Special Events No more than 3 events annually with no more than ____ people per event. Events are held year round and do not go past 8pm.</p>

15. Prior to issuance, the site plan shall be amended to clearly define the CUP permit boundary, trails and uses.
16. The CUP is valid for the life of the use provided it is acted upon within one year of approval. The CUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year.
17. Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing.
18. Regarding the railroad crossing on the ranch access road. At a minimum, either a stop sign in the middle of the road before the crossing, a flashing caution light, or another strategy will be proposed, and approved by Planning Staff, which will meet the intention of the condition, will be installed prior to the commencement of the activities.
19. Ranch hours for public visits are by appointment on Thursday, Friday and Saturday, from May 15 to September 1 from 9:00 a.m. to noon.

CONDITIONAL USE PERMIT
ROUTT COUNTY REGIONAL PLANNING COMMISSION

Permit No.: 96-P-228 / PP1996-016

Project Name: Education Center and interpretive trails at the Carpenter Ranch

Permittee: The Nature Conservancy

Address: P.O. Box 775528, Steamboat Springs, CO 80477 (TNC Office)

Property Owner: The Nature Conservancy

Location: Five miles east of Hayden on U.S. 40, known as the Carpenter Ranch

Legal Description: Lands in Sections 5,6,7,8 and 9, T6N, R87W

Description of Use: Education center relating to agriculture, ecology and history in the former ranch house of Farrington R. Carpenter. Also interpretive trails to river and ranch operations.

Period of Permit: Life of Use

Planning Commission Approval Date: April 21, 1996

Conditions of Approval:

1. The Nature Conservancy shall comply with the railroad's final decision, when it is issued, regarding the railroad crossing on the ranch access road. At a minimum, either a stop sign in the middle of the road before the crossing, a flashing caution light, or another strategy will be proposed, and approved by Planning Staff, which will meet the intention of the condition, will be installed prior to the commencement of the activities.
2. The Conditional Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities must be applied for in a new or amended application.
3. Any complaints or concerns which may arise from this operation may be cause for review of the Conditional Use Permit, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. The Conditional Use Permit is valid for the life of the project provided it is acted upon within one year of approval.

5. All applicable standards set forth by the Colorado Department of Health and the Routt County Department of Environmental Health shall be complied with. The operation shall comply with all Federal, State and local laws.
6. Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing.
7. The operator shall prevent the spread of weeds to surrounding lands, and comply with the Undesirable Plant Management Act, adopted in 1990.
8. The permittee shall be responsible for any court and attorney fees if Routt County deems it necessary to enforce any of the conditions of the Conditional Use Permit and is successful in such court action.
9. No junk, trash, or inoperative vehicles shall be stored or allowed to remain on the property.
10. the permittee shall provide evidence of liability insurance, in the amount of no less than \$600,000 per occurrence with either unlimited aggregate or a policy endorsement requiring notice to Routt County of all claims made. Routt County shall be named as an additional insured on the policy.

PERMIT ISSUED BY:

SIGNED:

John Eastman
Staff Planner

Chal Philby
Planning Administrator

01/23/04
Date

01/23/04
Date

ACCEPTED:

Michael Stewart
Permittee

1/20/04
Date

The Nature Conservancy - Conditional Use Permit for the review of educational activities in the existing buildings at the Carpenter Ranch. Located in lands in Section 5, 6, 7, 8, and 9, township 6 North, Range 87 West and east of Hayden, Colorado and known as the Carpenter Ranch.

Commissioner Studer announced a potential conflict of interest. He said he has been working on modification of the existing building. Commissioner Studer does not know if the work will continue. He holds an opinion regarding the petition because of his recent involvement but he does not believe it to be a conflict. Chairman Maddox stated that unless someone has a specific objection, Commissioner Studer can remain seated.

Jamie Williams introduced Geoff Blakeslee as the new Carpenter Ranch manager.

Mr. Williams reiterated facts contained in the Staff Comments section of the fact packet. He spoke about the purchase of the Carpenter Ranch, conservation efforts, public education, and Farrington R. Carpenter.

Mr. Williams continued his presentation by explaining the Education Center and interpretive trails. Mr. Williams spoke of the parking area and signage. A Carpenter Ranch sign will remain on Highway 40. There is the possibility for small discreet signs along the self-guided trails. Mr. Williams stated that the trails may be closed during sensitive biological periods of the year.

The Carpenter Ranch site plan was displayed.

It is the intention to have the Ranch open to the public three days a week from April until October. School groups can arrange for specific programs and guided tours on an appointment basis.

Geoff Blakeslee stated that his primary responsibility will be to operate the agricultural portion of the ranch. Based upon his past experience, Mr. Blakeslee stated that he does not anticipate that this operation will be any different than any other working ranch. It is the intent to educate school children about agricultural production practices and how this relates to conservation practices. Mr. Blakeslee stated that it is a typical situation for a ranch to have visitors due to the interest in agriculture. Mr. Blakeslee will be living on the ranch full-time once the housing is complete to monitor the site and public access.

Mr. Williams added that public education is important but since this is a working ranch, the public will not have free rein of the property and will be required to register at the main house.

Andy Baur stated that no public comments have been received other than comments made by formal agencies. He said no formal written comments have been received from the railroad. Mr. Williams stated that a legal railroad crossing exists, however, he has been unable to get comments concerning public use. He said the railroad has

expressed that the existing stop sign is more effective than lights. Mr. Williams hopes to hear more detail from the railroad in the near future.

Commissioner Holly stated that it is inappropriate not to have more signalization at the crossing. He would like a flashing caution light at the crossing regardless of what the railroad requires. Commissioner Brookshire agreed. Mr. Williams stated that the Conservancy has had many discussions about this. He said the railroad is requiring that any improvement must be done by the railroad and paid for by the Nature Conservancy. A light will cost approximately \$100,000 and installation of a gate is between \$120,000 and \$160,000. Mr. Williams stated that there have been discussions about mounting an additional stop sign in the middle of the drive. The railroad owns the 50 ft. wide right-of-way. Concerned about safety, Commissioners Holly and Brookshire reiterated that something significant should be done at the crossing.

Mr. Williams said the Nature Conservancy has liability insurance close to 1 million dollars for this type of use.

Mr. Williams stated that he does not anticipate the level of use to increase significantly. He said the Carpenter's always had many people visiting the ranch.

Commissioner Studer spoke of the Legacy grants, commercial boat tours, and trespass. Mr. Williams stated that there will not be any boating access from the Ranch property. He said there is a boating access at the Public Service site. He said he has no issue with this but may have some concerns about foot or fishing access. Mr. Williams stated that the only concern about floating on this portion of the Yampa River is the bald eagles in the area along river.

Commissioner Brookshire asked about food service and the kitchen. Andy Baur stated that the new kitchen is not to provide public food service but will be used by researchers, intern and staff. Mr. Williams added that rooms will not be rented. The kitchen will be a small free use cooperative kitchen used. Mr. Williams said any planned events will be catered.

In response to a question from Commissioner Brookshire, Mr. Blakeslee stated that an intern is a volunteer laborer. An intern may be attending a university and be interested in learning more about agriculture or environmental studies. This person could perform research at the ranch while earning college credit. Mr. Williams added that they may help with restoration and irrigation.

At this time, the facilities will not be rented for weddings or private parties. Any change in use will require amendment of the permit.

Public Comment:

Tony Lettunich, representative of Robert Waltrip, stated that his client is concerned with unattended commercial activity adjacent to an agricultural operation. Mr. Waltrip would

like perimeter fencing installed to guarantee there will not be trespassing into his property.

Mr. Williams referred to the site plan maps and pointed out the main house and the trail routing. He referred to a small section which is fenced that would be of concern to the trespass issue. He said most of this section is fenced and the Nature Conservancy will cooperate with installing additional fencing. Mr. Lettunich stated that he would like those areas accessible to the public fenced off to discourage the public from trespassing into the adjacent private land.

In response to a question from Commissioner Holly, Mr. Williams stated that he could post "Keep Out" signs.

Jane Grogan stated that if the property is sold, Section 6 of the Routt County Zoning Resolution states that the permit may transfer to the new landowner if the new owner submits a letter that the CUP permit has been reviewed and the new owner agrees to abide by the permit. Again, any use change in the operation would require another permit.

Mr. Williams stated that the entire ranch is held under title of The Nature Conservancy.

Roundtable Comments:

Commissioner Fred Wolf did not express any problems with the petition. He said conditions should address fencing, no public food service, and a sign in the middle of the road.

Commissioner Kathy Briggs had no problems with the proposal. She said requiring a lighted sign outside the railroad right-of-way may not be feasible. She said the stop sign in the middle of the road may make more sense. Commissioner Briggs pointed out that all school buses are required to stop at all RR crossings. She would have concerns about the ranch becoming a tourist home for paid guests, but supports the proposal as presented.

Commissioner Arnold Holly stated that he is concerned with the fencing between the Waltrip property and proper signage about trespassing. He is also concerned about the food service issue and would like a lighting system at the RR crossing.

Commissioner Troy Brookshire agreed with the comments made at this point. He said he is concerned with the safety at the crossing but finds it awkward with the on-going ranch operations if there is a light or gate. However, Commissioner Brookshire would like more than a stop sign on the side of road because he wants to avoid problems with school buses or other drivers.

Commissioner Bob Golub stated that this is a wonderful project and The Nature Conservancy has had to overcome a lot of mistrust within the ranching community. He

said this project is an exciting model particularly with the ranching community actively involved on the steering committee. Commissioner Golub stated that there are legitimate functions where The Nature Conservancy might want to serve food on the ranch to their guests at fund raisers or special programs. He said a condition that requires The Nature Conservancy to meet the expectations and follow the rules of Environmental Health Department would bring a level of comfort. Commissioner Golub stressed that the ranch would not be appropriate as a Bed & Breakfast. Regarding the RR crossing, he said he would support a cautionary sign outside the right-of-way. Concerning perimeter fencing, Commissioner Golub sees some irony with the issue, but the petitioner is willing to pacify the neighbor and the neighbor's legal representative is satisfied. He is hopeful that the solution to the trespass issue does not lead to sign pollution on the ranch. He suggested that any signage be kept simple and at a minimum.

Chairman Maddox concurred with Commissioner Golub's comments about The Nature Conservancy, their role in the community, and cooperative effort with the local ranching community. Chairman Maddox has concerns with the RR crossing and is confident that this can be addressed.

Commissioner Jean Garren does not want a Bed & Breakfast operation. She supports inexpensive small "No Trespassing" signs. Commissioner Garren is concerned with the RR crossing issue, but believes \$100,000 is not in the best interest of The Nature Conservancy.

Commissioner Luke Studer supports the project and the good work by the Nature Conservancy.

Commissioner Brookshire learned that there are no cattleguards on either side of the RR crossing.

MOTION

Commissioner Fred Wolf made a Motion to approve the Nature Conservancy Conditional Use Permit for an Education Center and Interpretive Trails subject to the following conditions:

1. The Nature Conservancy shall comply with the railroad's final decision, when it is issued, regarding the railroad crossing on the ranch access road. At a minimum either a stop sign in the middle of the road before the crossing, a flashing caution light, or another strategy will be proposed, and approved by Planning Staff, which will meet the intent of the condition, will be installed prior to the commencement of the activities.
2. The Conditional Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities must be applied for in a new or amended application.

3. Any complaints or concerns which may arise from this operation may be cause for review of the Conditional Use Permit, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. The Conditional Use Permit is valid for the life of the project provided it is acted upon within one year of approval.
5. All applicable standards set forth by the Colorado Department of Health and the Routt County Department of Environmental Health shall be complied with. The operation shall comply with all Federal, State and local laws.
6. Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing.
7. The operator shall prevent the spread of weeds to surrounding lands, and comply with the Undesirable Plant Management Act, adopted in 1990.
8. The permittee shall be responsible for any court and attorney fees if Routt County deems it necessary to enforce any of the conditions of the Conditional Use Permit and is successful in such court action.
9. No junk, trash, or inoperative vehicles shall be stored or allowed to remain on the property.
10. The permittee shall provide evidence of liability insurance, in the amount of no less than \$600,000 per occurrence with either unlimited aggregate or a policy endorsement requiring notice to Routt County of all claims made. Routt County shall be named as an additional insured on the policy.

Commissioner Jean Garren seconded the Motion.

Friendly Amendment:

Commissioner Brookshire wanted to add that the fencing on the northwest side of the property be constructed during the Summer of 1996. Commissioners Wolf and Garren accepted this friendly amendment and incorporated it into their Motion for approval.

Commissioner Holly stated that appropriate "No Trespass" signage should be placed on fence. Commissioners Wolf and Garren accepted this friendly amendment and incorporated it into their Motion for approval.

There was a discussion about the signage at the RR crossing. Commissioner Golub offered as a friendly amendment that a sign, a yellow flashing light, or another strategy be proposed, and approved by Planning Staff, which will meet the intent of the condition. This sign should be installed prior to the commencement of the public

activities. Commissioner Brookshire would like to apply a time frame to the installation of the crossing signage. Commissioners Wolf and Garren accepted this friendly amendment and incorporated it into their Motion for approval.

Commissioner Brookshire would like the RR crossing signage issue reported back to Planning Commission and if deemed unsatisfactory by Planning Commission there is the option to request an alternative solution.

Commissioner Golub stated that the intent is if Planning Staff has any questions or reservations about the petitioner's compliance, the issue will come back to Planning Commission.

Commissioner Briggs asked about the legality of the secondary housing units on the ranch. Commissioner Studer said these units have probably existing forever and are grandfathered in and well as the issue of a working ranch and the size of acreage.

**Vote: Yes - 8, with the Chair voting Yes.
No - 0**

Motion carried.

R. L. Waltrip
P. O. Box 130548
Houston, TX 77219-0548

January 25, 2019

Routt County Planning Department
Chad Phillips, Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Request for Review of Conditional Use Permit (CUP) Public Facilities - #96-P-228 (archived as PP 1996-016) THE NATURE CONSERVANCY (TNC) - EDUCATION CENTER AND INTERPRETIVE TRAILS AT THE CARPENTER RANCH – approved April 21, 1996.

Dear Mr. Phillips,

This letter is a formal request from Pirtlaw Partners, Ltd., the owner of Wolf Mountain Ranch (“WMR”), that the above Conditional Use Permit be formally reviewed by the County. The CUP was issued 23 years ago and time has proven the need for review. Violations of the Conditions of Approvals have occurred as well as changes as to the people involved, the intent of the Permit, and the title to and management and uses and of the permitted property. Our concerns revolve primarily around our agricultural/ranching ability, but the need to minimize conflicts with non-agricultural uses occurring on The Carpenter Ranch is critical. Trespass upon our ranch, liability issues and livestock protection are our greatest areas of concern. Our request is that the County conduct a complete review of all Conditions of Approval and potentially suspend the existing permit and require a new submittal of an Application for CUP from The Nature Conservancy.

Background Information:

1. The southwestern portion of the 20,200+ acres that comprise Wolf Mountain Ranch (“WMR”) borders The Carpenter Ranch along the Yampa River. This location hosts WMR’s Cattle Headquarters, which is our key operations area. Pirtlaw Partners has placed 16,000 + acres of our ranch under Conservation Easement. The Nature Conservancy has been the steward of Phases 1 through 3 consisting of 6,000+ acres directly across the Yampa River since 2005. (See Exhibit A.) (Exhibit B shows a closer view of the subject properties and certain land features that are discussed in this letter.)
2. Wolf Mountain Ranch is an active working cattle and horse operation and hosts one of the top Ranching for Wildlife programs in Colorado in conjunction with Colorado Parks and Wildlife. We have tried on numerous occasions to communicate and work directly with TNC on basic ranch matters such as fencing, irrigation practices, boundaries, river

management, hunting and general common courtesies. Unfortunately, none of the issues have been resolved which has created a disruption of agricultural practices. TNC's CUP activities have added to and created additional issues and liabilities.

3. There had been disagreement regarding the property boundary between the two ranches and finally Pirtlaw Partners filed a Quiet Title action with TNC in an effort to define the proper boundary. The boundary dispute continued until August 2018 when the Routt County District Court entered an Order finding that the streambed of the active channel of the Yampa River is owned in co-tenancy. (This co-tenancy situation arises from a 1954 deed from Ferry Carpenter to his neighbor across the river.) Unlike many river-based boundaries, the boundary between the ranch lands owned in fee ownership by Pirtlaw and TNC is not the centerline of the Yampa. Judge Hill's ruling confirms Pirtlaw Partners' ownership in co-tenancy of all lands within the entire 'streambed' of the main channel of the Yampa River adjacent to Carpenter Ranch. TNC's fee ownership of the Carpenter Ranch only extends up to the south edge of the River. TNC's lack of fee ownership of the streambed of the Yampa was not recognized in 1996 when the CUP was reviewed and approved.

Specific Conditions of Approval ("COAs") that are of concern:

COA #2 – *The Conditional Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities must be applied for in a new or amended application.*

COMMENT #1 – Reviewing the original application, narrative letter and exhibits, the legal description supplied to Routt County for this CUP was incorrect, as it only included the lands conveyed from Carpenter (Grantor) to TNC (Grantee) in 1996. Carpenter in 1995 had placed these lands in a conservation easement with Yampa Valley Land Trust. TNC's 1996 CUP application did not include the Legal Description of lands referred to as Island number 2 and Island number 3, totaling 50+ acres, that had been deeded to TNC from Upper Yampa Water Conservancy District, in 1986. The CUP, as issued, does not even apply to Islands 2 and 3. This technical error is not the basis of this letter, but illustrates a lack of detailed review at that time.

More importantly, Islands 2 and 3 are the location of the majority of the "interpretive trails" that were permitted at the Carpenter Ranch. These trails invite TNC guests and the general public to guide themselves across the old south channel and out onto the Islands to hike down to the River, and to explore streambed lands that are actually co-owned by WMR. This exploration of the streambed areas without WMR's permission appears to be a trespass.

As previously mentioned, WMR has a co-tenant ownership of the entire streambed of the main channel of the Yampa River and that includes up to the high water mark on the north banks of Islands 2 and 3. This situation creates a genuine risk of vicarious liability for Pirtlaw Partners, Ltd and an attractive nuisance for Wolf Mountain Ranch. In TNC's Application for the CUP and the

Routt County Regional Planning Commission Staff Report, it is mentioned several times that the self-guided trails will take visitors from the ranch (TNC) house east to the Yampa River. This activity invites the trespass and liability issues. The CUP should not allow these activities without the express permission of the co-tenant, WMR.

COMMENT #2 -- Referring to the main ranch house at the Carpenter Ranch, the original application states that there are no plans to rent these rooms out to the general public. In 2004, eight years after the public hearing on the CUP, TNC sent a letter requesting staff approval to hold 10 workshops each field season hosting 10 guests for 2 nights each session. That equates to 100 people visiting the ranch for 2 to 3 days which does invite potential liability issues while these folks are exploring the interpretive trails and the Yampa River. Providing overnight housing should have been an additional use requiring a review and an amendment, not simply an informal approval from County staff. Overnight housing is now being offered throughout the year.

COA #3 -- Any complaints or concerns which may arise from this operation may be cause for review of the Conditional Use Permit,....

COMMENT #1 -- As discussed above, trespassing on WMR co-tenancy lands creates a huge liability and has created a conflict with TNC. WMR has seen active trespass by people coming from TNC's side of the River and fishing/hiking/exploring the streambeds on numerous occasions. WMR does not regularly monitor the coming and goings of TNC's visitors or guests, nor should it be WMR's duty to do so.

COMMENT #2 -- Livestock fencing and boundary fencing is a major issue which will be further addressed below in COA #5 and #6. A perimeter fence is required for a number of reasons.

COA #4 -- The Conditional Use Permit is valid for the life of the project provided it is acted upon within one year of approval.

COMMENT #1 -- Evidence shows the 1996 CUP was not signed for some reason until January 23, 2004 (most likely when TNC requested overnight housing -- email dated 1/23/04).

COA #5 -The operation shall comply with all Federal, State and local laws.

COMMENT #1 -- Like many other western states, Colorado is a "fence out" State for cattle meaning, landowners preferring not to have livestock on their property are responsible for fencing them out. We have tried to work with TNC on a fencing solution to no avail. We have email evidence of our request to fence out and proposals for temporary fencing during Fall grazing.

COA #6 -- Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed on fencing.

COMMENT #1 – TNC did not and has not provided appropriate fencing nor has TNC posted “No Trespassing” signs as required by Condition #6. At this point in time, simply placing fencing on the northwest side of the property near the ranch house is not adequate. Perimeter fencing along the entire south stream bank of the Yampa should be required. Fencing is not just to protect WMR from trespassers but also to protect WMR livestock and its ability to ranch. This particular COA needs to be re-evaluated and reviewed in detail. In the Minutes from the 3/21/1996 PC hearing, concerns about foot and fishing access were expressed by several planning commissioners. During ‘Public Comment’ Tony Lettunich, attorney representative for Robert Waltrip, principal in Pirtlaw, stated that his client was concerned with unattended commercial activity adjacent to WMR’s agricultural operation. Mr. Waltrip desired perimeter fencing be installed to guarantee there not be any trespassing onto his property. At that time, Mr. Williams (TNC manager) stated that TNC will cooperate with installing additional fencing. Mr. Lettunich stated that he would like those areas accessible to the public fenced off to discourage the public from trespassing into the adjacent private land. (This included posting No Trespass signs). Again, several Commissioners stated concern with the fencing and possible impacts on WMR’s agricultural operations. One Planning Commissioner stated that “...the petitioner is willing to pacify the neighbor (WMR) and neighbor’s legal representative is satisfied”. To our knowledge no new fence or trespass signs have ever been installed on any portion of the perimeter of TNC since the CUP issued in 1996. WMR has never been satisfied with the fencing situation.

COMMENT #2 – Regarding the ‘fencing out’ of livestock, WMR has tried on numerous occasions to work with TNC about fencing along the Yampa River so that cattle cannot enter TNC lands. WMR has suggested a number of ideas/plans for fencing but TNC will not build any fence, temporary or otherwise. The south boundary of WMR’s co-tenancy lands is the south edge of the streambed of the Yampa River. WMR has offered to pay for and install a fence, even something temporary, but TNC said “NO”. Last year with the river flows being low WMR cattle were able to cross the river from WMR pastures and go over to TNC lands. WMR had to stop grazing WMR’s entire pasture area, which adversely affected the ranching operation. TNC suggested we fence the northern banks of the Yampa River, but the top of the banks is not our boundary and due to man made changes in Yampa River, the northern banks in that area are being highly eroded and washed downstream. WMR has already lost large amounts of land, fences, and infrastructure due to the River being pushed north through anthropogenic activities. To build a fence in those areas would be futile. The majority of WMR’s 20,800 acres are perimeter fenced. This is the one area that has been in dispute and now that the legal boundaries of WMR have been confirmed, it is time for TNC to build a fence on the boundary of its fee ownership lands to protect WMR against trespassing guests and respect WMR’s adjacent agricultural operation.

Despite the statements submitted by TNC in its 1996 application that it intended to continue to operate the Carpenter Ranch as a working ranch, it should be noted that TNC conducts no agricultural operations on the 50 acres of Islands 2 & 3. The conflict between TNC’s non-ag activities under its CUP and WMR’s cattle operation is very real.

COA #10 – *The permittee shall provide evidence of liability insurance, in the amount of no less than \$600,000 per occurrence...*

COMMENT #1 – With the potential liability issues being exposed in this CUP and health and safety of the general public, the liability insurance requirement should be much higher.

OTHER AREAS OF CONCERN

1. In the letter dated January 25, 1996 from Mark Burget (TNC) to Caryn Fox (Routt County), TNC states that 'we are not putting in a pedestrian bridge or any other improvements along the Yampa River. Therefore, Susan Nall with the Army Corps indicated over the phone that we will not need a 404 permit to proceed with the project.' And, according to the Staff Report, TNC thought that a primitive crossing on the beaver dam would be sufficient and therefore no Army Corps permits will be required. Aerial photography shows a foot bridge was installed dating back to 1996 and the 1997 Monitoring Report from Yampa Valley Land Trust shows a foot bridge across the south channel of Islands number 2 and 3, which was an active flowing channel during that time. The current image of Islands number 2 and 3 on the Routt County GIS shows a foot bridge in place.
2. In the Narrative that accompanied the Application for CUP, TNC stated the ranch would be open to the general public 3 days a week, Friday, Saturday, and Sunday, and only during the summer months from mid-May through September. Then in the Minutes dated March 21, 1996, it states the ranch being open to the public April through October. Perhaps this time frame needs clarification.
3. As noted in the March 21, 1996 Routt County Planning Staff Report, there is a check list for topics that had to be adhered to from the Zoning Code and County Masterplan.

Item #10 states – *Aggravation of existing flood hazards or increase of flood hazard to upstream or downstream properties.*

The head gate to the Walker Ditch is on streambed co-tenancy lands and extends into lands owned by TNC. Pirtlaw owns the roughly 100 acre parcel of land known as Elk Island which is directly across the streambed from this head gate. TNC has given access to the Walker Ditch to place gravel dams across the channel to divert water into the head gate. This dam has blocked flows in the channel on the south side of Elk Island and the practice has gone on for years, often with no notice from TNC to WMR. Some years the gravel dam has not even been removed during the winter months. By simple observation, this channel has been completely blocked impeding flows in this channel (on the south side of Elk Island) and encouraging flows to the north channel creating major erosion on the northern Yampa River banks owned by Pirtlaw. We realize the Walker Ditch is allowed to place gravel dams in the river to receive their water but the

practice of not removing the dams creates obstructions and inadvertently affected the course of the Yampa. We have had positive conversations with the Walker Ditch people and have no complaint with them. However, we have also had conversations with TNC manager Geoff Blakeslee that the push up dams must come out in the winter. Mr. Blakeslee/TNC has objected to Pirtlaw removing such dams. Mr. Blakeslee has stated that TNC's intent would be to dry up this channel to keep the river away from the Carpenter house.

In the original Conservation Easement Management Plan for the Elk Island area, TNC stated a desired condition being the '*natural*' progression of creating wetlands in this area. There is nothing '*natural*' about a gravel push up dam that is not properly removed and impedes river flows. This activity has basically hampered flows of the Yampa River on the south side of Elk Island pushing flows to the north channel of the Yampa creating damage to WMR. TNC does not desire to allow any bypass flows of water around the push up dam, which lack of flow is extremely damaging to fish habitat in this channel of the Yampa.

Similarly, aerial photography shows channel blockages in the south streambed of Islands number 2 and 3. TNC has admitted filling in holes on the beaver dam crossing point (Was this filling of holes an improper placement of fill in a wetlands?) prior to installing the footbridge, discussed above. It is a curious question if other blockages shown through aerial photography had any man-made influences.

4. As noted in the March 21, 1996 Routt County Planning Staff Report: Zoning Code and County Masterplan, Item #12 states other '*objectionable influences beyond the boundaries of the property, ...disruption of agricultural uses*'. We feel that TNC has disrupted agricultural uses of Pirtlaw's grazing lands due to their refusal to 'fence out' livestock and the general manner of operation of their non-agricultural CUP activities. Any other ranch neighbor would work with Wolf Mountain Ranch to solve the problem of fencing livestock. For more detail on this point, See Comment #2 to COA# 6, above.

In conjunction with Routt County Resolution No. 95-86, Pirtlaw Partners also agrees with the Right to Farm and Ranch in Routt County. This Resolution proposes to conserve, enhance and encourage ranching and farming throughout Routt County and minimize potential conflicts between Ag users and non-Ag users. TNC's commercial uses of The Carpenter Ranch pursuant to the subject CUP does create a significant conflict between these users. The CUP should be amended to prevent such conflicts.

Wolf Mountain Ranch simply wants to run their agricultural operation and not take on increased liability issues created by their neighbor. In the least, TNC should do what they said they would do in 1996 and satisfy the request for perimeter fencing and trespassing signage to protect WMR from trespassers, protect cattle from crossing onto TNC lands and protect the riparian environment TNC deems so important. TNC's request for a County Permit to conduct commercial activities at the Carpenter Ranch imposed a great deal of responsibility on TNC and

oversight upon Routt County that must be reexamined in the planning process. Important topics were frankly not adequately recognized or were the subject of a minimal imposition of conditions with limited oversight after the CUP issued. In retrospect, TNC was perhaps given a very favorable review in 1996, rather than the type of objective, in depth review that would be the norm today.

In summary, Pirtlaw Partners is requesting the entire Conditional Use Permit and all Conditions of Approval be reviewed and re-evaluated. The current uses and activities by TNC at Carpenter Ranch, twenty-two years after TNC's purchase and the issuance of the CUP, should be reviewed. It is only reasonable that County planning review the subject CUP given the clear violations of TNC's original commitments and the conditions of approval regarding fencing and No Trespassing signs. The recent Court ruling that TNC is not the sole owner of the south edge of the River or the south half of the streambed presents new and significant liability concerns to Pirtlaw, resulting from TNC inviting the general public, school children, donors, interns and guests to come explore the River. These concerns were not addressed in 1996. A perimeter fence along the south bank of the River is a necessity as well as other appropriate conditions if the CUP is to continue in effect.

We regret having to bring this matter forward and greatly appreciate the Planning Department taking time to consider this request for review.

Sincerely,



Robert L. Waltrip
Principal of Pirtlaw Partners, Ltd.
Owner of Wolf Mountain Ranch

Exhibit A

20,226 acres Routt County, Colorado

Wolf Mountain Conservation Easements

Legend

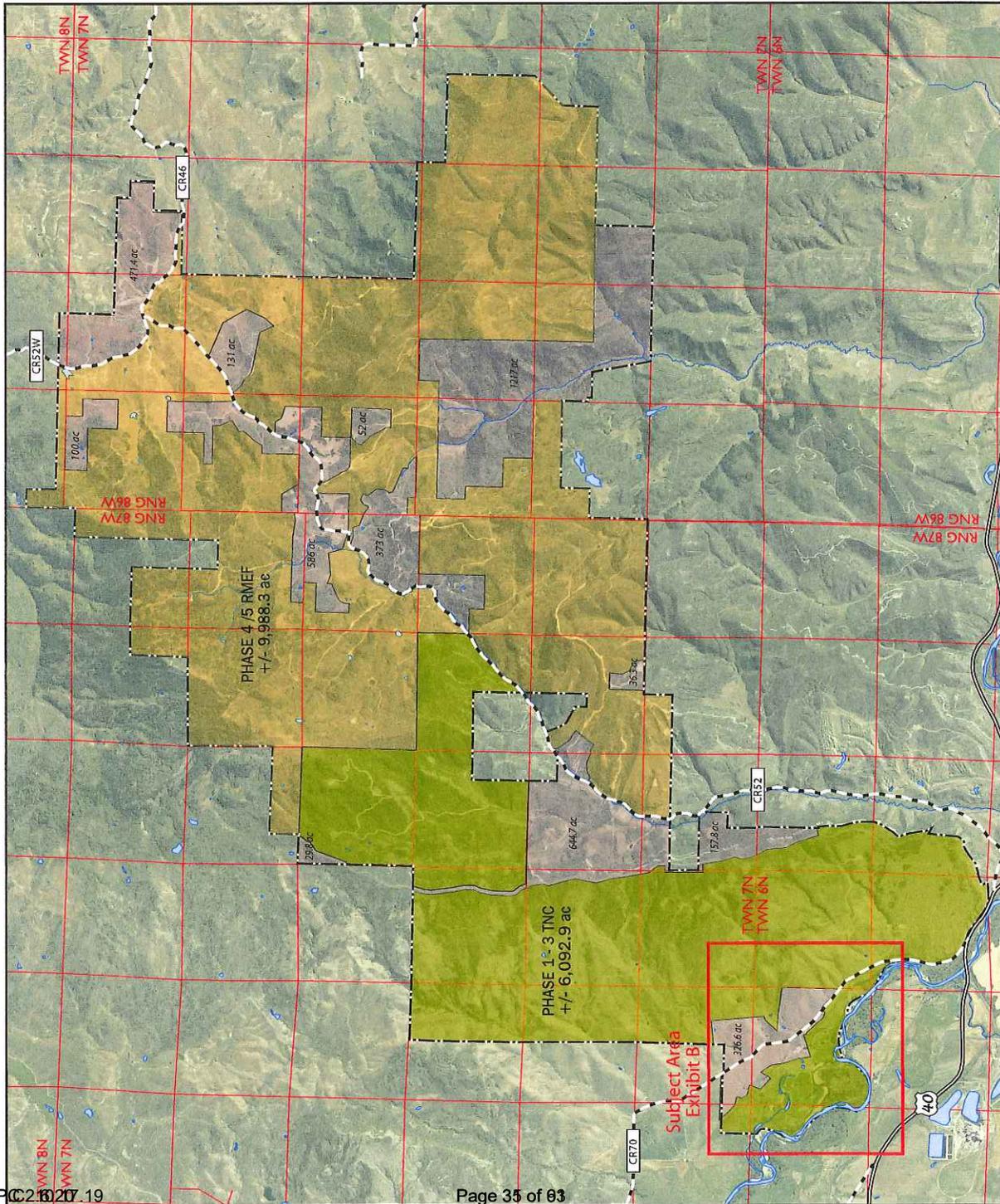
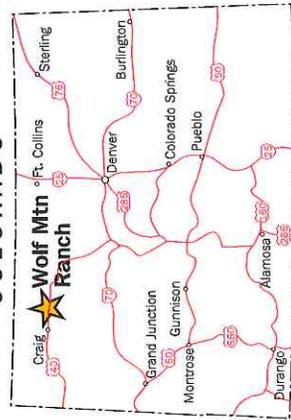
- Phase 1 - 3 TNC Held CE (6,092.9 ac)
- Phase 4-5 RMEF Held CE (9,988.3 ac)
- Not under CE (4,125.6 ac)

- Highway
- County Road
- Ranch Road
- Township/Range/Section



January 2019

COLORADO



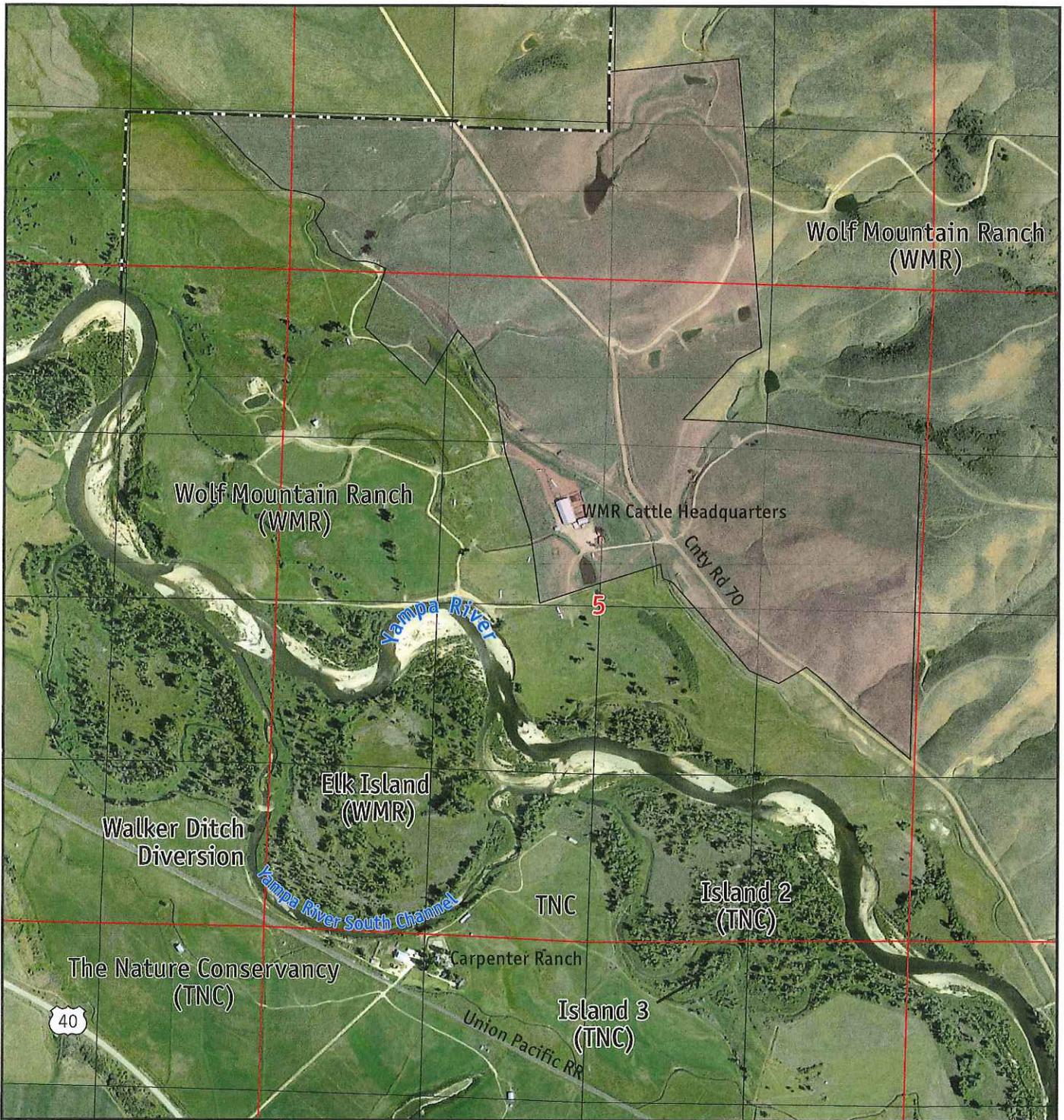


Exhibit B

Routt County, Colorado

Legend

- Wolf Mountain Ranch Boundary
- Section
- Quarter Quarter Section

January 2019

— 1000 feet —





P.O Box 955, Hayden, CO 81639

March 12, 2019

Routt County Planning Department
Kristy Winsor, Assistant Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Response to Request for Review of Conditional Use Permit 96-P-228/PP1996-016, Education Center and Interpretive Trails at the Carpenter Ranch, initiated by R. L. Waltrip on behalf of Pirtlaw Partners Ltd., in letter dated January 25, 2019.

Dear Ms. Winsor,

This letter is a response by The Nature Conservancy ("TNC") to a formal request from Pirtlaw Partners, Ltd., asking Routt County Planning Department to formally review the above Conditional Use Permit (CUP). The Pirtlaw Partners letter asserts that because the permit was issued 23 years ago, time has proven a need for review. The Pirtlaw letter also asserts that violations of the CUP have occurred. In general, TNC disagrees with many of the factual contentions made by the Pirtlaw complaint but given the nature of the County's review of this matter, we have not pointed out each and every such incorrect statement by Pirtlaw. The Nature Conservancy's responses to the specific contentions in the Pirtlaw Complaint are as follows:

Condition of Approval (COA) #2

Comment 1: The contention is that the original 1996 CUP application did not include a legal description of Islands 2 and 3. It is not clear to us that the "application" omits Islands 2 and 3. Regardless, those areas are indicated on numerous maps that were part of the petition unanimously approved by the Planning Commission on March 21, 1996. I see no problem with providing a legal description of lands that make up the Ranch, including the islands.

The complaint asserts that there is a trespass issue due to a co-tenancy ownership of the streambed of the Yampa. We do not believe there is any trespass issue. The streambed is under water. As cotenant of the streambed, TNC and its invitees may make reasonable use of the lands owned as a tenant in common. This would include wading in the river for fishing or other purposes that do not degrade the cotenancy lands. The contention by Pirtlaw that TNC or its invitees must have Pirtlaw's permission to access the cotenancy lands is an incorrect statement of the law of tenants in common ownership of property.

Comment 2: The complaint asserts that TNC has violated the CUP by hosting overnight guests at the ranch, as the original application states that there are no places to rent rooms to the general public. Rooms are not rented. Overnight use is exclusively to facilitate the educational, research and agricultural purposes of the Ranch.

COA#3

Comment 1: Pirtlaw filed a quiet title action to clarify the boundary between our properties. The Judge recently ruled on Pirtlaw's complaint, and Pirtlaw's assertion of the boundary between the properties was found to be incorrect. Use of the riverbank on the south side of the Yampa River by TNC's invitees and the general public is not trespass.

Comment 2: Fencing to be addressed below.

COA #4

Comment 1: The CUP was approved by unanimous vote according to the Planning Commission minutes from March 21, 1996.

COA #5

Comment 1: Fencing: Part of the stewardship of the Carpenter Ranch is an effort to maintain its natural character. Pirtlaw's desire to have TNC install fencing to control Pirtlaw's cattle is not in the best interest of the management of the Carpenter Ranch for its uses and purpose. TNC has no obligation to fence out Pirtlaw cattle. TNC contends that if Pirtlaw wishes to have its cattle restricted to its own property, then the burden of installing appropriate fencing is on Pirtlaw and such fencing should be installed on Pirtlaw-owned property. TNC fences its own cattle out of the riparian area on the Carpenter Ranch.

COA #6

Comments 1 and 2: In accordance with the Condition of Approval, TNC installed fencing along the northwest portion of the property soon after the permit was issued. We recently installed "No Trespassing" signs along that fence. Despite the request from the Pirtlaw representative at the 1996 hearing, the Planning Commission required fencing only along the northwest portion of the property. There has been no change in conditions that would require TNC to now fence its entire perimeter. TNC disagrees with the conclusion by Pirtlaw that because of Pirtlaw's staff preference and problems on Pirtlaw property, that fencing to control Pirtlaw cattle for Pirtlaw purposes should be installed on TNC property.

TNC's use of the riparian areas for public trail use and ecological research is lawful and a community asset. Again, TNC disagrees with Pirtlaw's contention that because Pirtlaw would prefer to have fencing on TNC property on the south side of the river to control Pirtlaw cattle, that such fencing should be required by Routt County.

COA #10

Comment 1: TNC is willing to provide proof of Insurance. At the time of the CUP approval, TNC notes that it carried upwards of \$1,000,000 in insurance, an amount that far exceeded the \$600,000 requested.

Other Areas of Concern:

1. The Footbridge was removed in 2016.
2. Public visitation is allowed Thursdays, Fridays and Saturdays, from May 15 to Sept. 1. A TNC staff person provides visitors with a trail guide. Carpenter Ranch hosts community meetings for the purpose of education, research and outreach on a year-round basis.
3. TNC does not control Walker Ditch operations. TNC allows access through its property for normal historic ongoing agricultural operations pursuant to Colorado law.

Thank you for the opportunity to respond to Pirtlaw's assertions regarding The Nature Conservancy's CUP on Carpenter Ranch. We would be happy to answer any questions that you may have regarding this issue.

Sincerely,



Geoff Blakeslee

Yampa River Project Director

PIRTLAW PARTNER, LTD.

P. O. BOX 130548

HOUSTON, TX 77219

April 23, 2019

Chad Phillips
Kristi Winser
Routt County Planning Department

Hand Delivered

Re: Review of Conditional Use Permit
Permittee: The Nature Conservancy ("TNC")
Permit Number: 96-P-228/PP1996-016

Dear Mr. Phillips and Ms. Winser,

Thank you for asking us, the owners of Wolf Mountain Ranch ("WMR"), to provide additional information regarding our request that the County conduct a formal review of the above Conditional Use Permit (the "CUP") that was approved by Planning Commission on April 21, 1996.

You recently provided us with TNC's letter of March 12, 2019 authored by Geoff Blakeslee. TNC's letter was in response to our letter to County planning dated January 25, 2019 and our formal Complaint and Summary Description of violations submitted in February. Our submittals request that the County conduct a formal review of the subject CUP for the multiple reasons set forth therein, including, but not limited to, the non-compliance/disregard by TNC of conditions of approval ("COAs"), the expansions of uses and the year round activities that exceed what was presented to the Planning Commission, the significant impact of TNC's non-agricultural operations on its agricultural neighbor, the lack of any oversight or review of the CUP, and the clear changes of circumstance over the past 23 years. Finally, the recent Court rulings as to our co-tenancy ownership of the streambed and of a parcel that extends south of the River clearly increase the risk of liability to which WMR is exposed by TNC's permitted activities.

In addition to the comments contained in this letter, we respectfully ask you to carefully review our January letter and February formal complaint and Summary Description of violations.

TNC's brief and rather dismissive response letter gives little regard to the multiple serious issues that were discussed in our submittals. TNC's response is unfortunately consistent with our experience trying to co-exist with TNC over the past decade. TNC is a massive international company that operates as a non-profit and no doubt does many positive things world wide. We

at Wolf Mountain Ranch feel that we have an unmatched record as an environmentally conscious Routt County rancher with 16,000 acres of our land dedicated to conservation easements. Neither of our respective backgrounds or reputations are relevant to your review of our complaints as the neighboring landowner/ranch operator nor are they relevant to the clear necessity for a formal review by the Planning Commission of this CUP. TNC has disregarded its own commitments as to limitations on uses and violated the COAs imposed by the Planning Commission. Circumstances have changed substantially. The density of visitors and number of public events and uses throughout the year have greatly increased since 1996. This CUP must be set for a formal review and considered as a new CUP request would be reviewed for any other applicant in 2019 and all relevant topics should be considered. Both COA #3 and Zoning Resolution sections 3.2.11 and 3.2.12 provide the clear basis for invoking this process.

In retrospect, it is obvious that TNC's original submittals, the 1996 review of the permit and the COAs were all limited in scope, favorable to TNC's reputation, and lacking in detail. The follow up and oversight after the permit hearing was virtually non-existent. As a simple example, the legal description submitted by TNC in 1996 listed only the Carpenter Ranch acreage purchased in 1995 and omitted the lands typically referred to as Islands 2 and 3 that TNC had acquired from Upper Yampa Water Conservancy District ("UYWCD") ten years earlier in 1986. It should be clarified that Islands 2 and 3 have never been burdened by a conservation easement, just by a contractual agreement involving UYWCD and Army Corps of Engineers ("ACOE") that TNC would maintain the 54 acres of Islands 2 and 3 as wetlands (to satisfy a UYWCD wetlands mitigation requirement involving Stagecoach Reservoir.) TNC promised ACOE that it would maintain and preserve these wetlands by preventing cattle from grazing on Islands 2 and 3 by installing fencing. The details of this arrangement with UYWCD or ACOE were not even mentioned in TNC's 1996 submittal to County planning. The Staff Fact packet implied that the all of TNC's lands requesting a CUP were subject to a conservation easement.

In order to get their visitors safely across the former south channel of the Yampa that separates Islands 2 and 3 from the Carpenter Ranch, TNC initially considered installing a pedestrian bridge and other options. TNC's 1/25/96 cover letter to Caryn Fox and the Staff's Fact Packet for Planning Commission stated that after discussing costs and regulatory issues with Sue Nall of ACOE, TNC decided not to put in a pedestrian bridge so they would not need to obtain a 404 permit. TNC informed the County that the public would cross the channel on a beaver dam crossing to avoid wetlands permitting. TNC did not inform the County or ACOE that fill material would be placed in the beaver dam (wetlands) to improve this crossing without obtaining a 404 permit. (During our court proceeding to try to determine our common boundary, Geoff Blakeslee testified in his sworn deposition that fill was placed in the beaver dam to improve this 30-35' wide crossing.)

The attached photo from TNC's files shows that by 1997 TNC had already installed a bridge across this channel near the beaver dam without any notice to the County. When our January 25th complaint letter informed the County about the improper placement of fill and about the bridge, TNC did not comment on the placement of fill and simply dismissed these issues by saying "*the bridge was removed in 2016.*" TNC didn't mention that it had been there for 19 years in violation of TNC's representations. It is clear that once TNC had the 1996 approval from the Planning Commission, it often operated as it wished.

During the early period after TNC purchased Carpenter Ranch, WMR had no significant problems with TNC. At the 1996 CUP hearing, WMR did not object to its new neighbor's CUP application, but did request at the hearing that "perimeter fencing be installed by TNC" to prevent TNC's visitors from trespassing onto adjacent WMR lands. The impact of TNC's non-agricultural activities upon WMR's ranching operations was a concern. As discussed in detail in our complaint submittals, Planning Commission imposed COA #6 that fencing and no trespassing signs be installed on the northwest side of the property to avoid the public trespassing into neighboring properties.

TNC's response letter dismissively states that "*In accordance with the Condition of Approval, TNC installed fencing along the northwest portion of the property soon after the permit was issued. We recently installed "No Trespassing" signs along that fence.*" In his 2018 deposition, Geoff Blakeslee acknowledged that the section of fence that was installed along the northwest side of the property in 1996 did not tie to anything, and he agreed that there were areas on the northwest side that were not fenced. For the past 23 years there has been no effort by TNC to discourage the public from trespassing onto WMR's Elk Island.

When asked if it was a fair statement that the fence TNC had installed contained no signs and was not continuous to prevent people from trespassing onto WMR's adjacent Elk Island, Mr. Blakeslee replied "it doesn't encourage or prevent." Mr. Blakeslee also testified in his deposition that TNC did not post "No Trespassing" signs on this fence because "it just doesn't make sense". Blakeslee also testified that the fence requirement was "not very clear", so in 2018 (22 years after the PC hearing), he called the County to inquire and claims that he was told over the phone by Alan Goldich "as far as we are concerned, you're in compliance." Mr. Goldich has told our attorney that he does not recall any such conversation. It is clear that TNC intentionally disregarded the fencing and no trespassing sign posting condition, COA #6.

Although TNC stated that its operations would be an environmentally sensitive ranch, it became obvious that Islands 2 and 3 and other TNC lands adjacent to the river would have no agricultural uses. These lands would become the center of public trails and river access points to be used by unaccompanied and accompanied visitors and groups on what has apparently now become a year round basis. Over time, TNC became quite a different type of neighbor than WMR's dozens of other ranching neighbors. Betsy Blakeslee was once quoted as saying that good fences make good neighbors. Nevertheless, TNC has refused to ever cooperate with us on the installation of fencing along TNC's north boundary adjacent to the River.

The level of activity, traffic, density and visitors to Carpenter Ranch has certainly expanded beyond what Jamie Williams, TNC project director, suggested would be the case at the 1996 CUP hearing. Mr. Williams stated that the traffic would likely not be more than when the property was a ranch operated by the Carpenters. The Staff Fact Packet indicated that TNC represented that no marketing effort will be directed to attracting tourists to the site. Today, information about Carpenter Ranch as a public destination is visible across the internet.

Let me point out a few additional points and identify issues not addressed in TNC's recent response letter that need to be considered by the County during a full review.

Mr. Blakeslee's response letter contends that the CUP allows TNC to host "*community meetings for the purpose of education, research and outreach on a year round basis*". These activities do not involve typical agricultural/ranch traffic. We do not understand what is meant by "outreach" and we did not understand that the CUP anticipated nor approved these or any other winter time activities on the property.

Subsequent to the 1996 hearing, review of TNC's operations and compliance with COAs has unfortunately been very limited. One of the key topics of discussion at the hearing was safety concerns relating to Railroad crossing. At the time of the hearing no decision had been made by the Railroad as to a necessary railroad crossing plan. COA#1 appears to have been completely forgotten, as there is no mention in the planning file of a Railroad decision or a strategy approved by Planning Staff. This major topic of discussion should be revisited.

From the 1996 Minutes and the Planning file, it is also not clear if CDOT ever submitted a letter concerning the access from Highway 40. Given the current level of activity, traffic counts should be obtained and fire district access standards should be also considered as they would be currently for any other CUP applicant.

Although the Planning Commission approved the CUP with conditions in 1996, the actual permit did not issue until January 23, 2004. This happens to be the date that TNC contacted County planner John Eastman to let him know that TNC intended to conduct up to ten 2-day workshops per year that interested persons could sign up for at a cost of \$380 per session. These workshops were to include overnight lodging at the Carpenter Ranch. Although paid overnight visitors were clearly not authorized per the Planning Commission approval, TNC was told by Mr. Eastman, without any review or amendment to the CUP, that these workshops could be operated under the CUP. Kitchen use, food service and overnight stays for paying guests were all topics of discussion and were not approved by Planning Commission. The workshop attendees staying two nights at the Ranch would presumably be using a kitchen that was not approved as a commercial kitchen by the CUP. TNC represented that all such food services would be catered.

It should also be noted that the attached 2016 aerial photograph illustrates the fixed boundary of WMR's 2005 Conservation Easement, which is held by TNC. This boundary follows the centerline of the Yampa River as it existed in the fall of 2004, when field surveyed by Gordon Dowling for TNC and WMR during low water conditions. This photograph not only shows how the river has moved since 2004, but also shows that the gravel areas within the streambed of the Yampa north of Island 2 that are explored and used by TNC's visitors include lands subject to the Conservation Easement. This type of public access and use is not consistent with the terms and conditions of our Conservation Easement.

You may ask why WMR has not complained sooner about TNC's activities under the CUP. We have generally minded our own business and attempted to work with TNC until recent years. During our recent boundary dispute, we first reviewed the County planning files and the final CUP.

We contended in the recent boundary dispute that we owned the streambed of the Yampa in co-tenancy north of Island 2, as a result of a 1954 deed from Ferry Carpenter, whereby he sold our ranch lands north of the river to our predecessor and established the co-tenancy in the streambed. TNC contended that the boundary between our properties moved north with the movement of the river, but recognized that co-tenancy existed in the active channel streambed of the river, pursuant to Carpenter's 1954 deed. We disagreed on the extent of the active channel "streambed." The case also involved technical issues of river movement/boundary law known as accretion and avulsion.

The attached 2016 aerial photograph shows Elk Island and the south channel of the Yampa that is the boundary between TNC's Carpenter Ranch and WMR's Elk Island. It is important to understand that the ownership of Elk Island was not one of the issues involved in the boundary dispute last year. WMR owns Elk Island and that section of the Yampa River lying to the north of Elk Island, not in co-tenancy, but rather as the sole owner. TNC has no rights of ownership of Elk Island and no right to allow visitors to go onto Elk Island or into the river or riparian areas lying to the north of Elk Island. To the contrary, it is TNC's duty under the current CUP to prevent its visitors from going onto Elk Island or into the river or riparian areas lying to the north of Elk Island. TNC has not fulfilled this duty.

As our attorney John Vanderbloemen has explained, Judge Hill determined that WMR is the co-tenant owner of the streambed of that section of the Yampa River lying adjacent to and north of the Carpenter Ranch and Island 2. The boundary between our ranches generally has moved with historic River movement, but the Court specifically ruled that a parcel of land that was an island in the River in the 1960s, (known as Island 1B, see attachment), is owned in co-tenancy in perpetuity, regardless of how the River may move in the future. As shown on the attached 2016 aerial, this co-tenancy-owned Island 1B extends south of the River onto vegetated land that is populated with mature cottonwood trees. This treed land is not fenced off from TNC's lands or posted with no trespassing signs. The paths that are visible on the ground illustrate that the public crosses all over the lands adjacent to the Yampa, apparently including Island 1B.

Our increased liability exposure is obvious. As an example, in late September 2018 our ranch manager Brent Romick observed school children playing down in the river north of Island 2 and called Geoff Blakeslee to express his concern with their safety and our risk exposure. Geoff told Brent that he would call Betsy Blakeslee, TNC's activities manager, and that Geoff would then call Brent to discuss. Brent never received a call back. If a child or other TNC visitor is injured in the river, a law suit would be filed not just against TNC, but also against WMR as co-owner of the land.

TNC contends that the Court's ruling as to co-tenancy in no way affects TNC's right to operate its quasi-commercial, public trails system. TNC claims it has the legal right as a co-tenant to allow its guests, invitees and apparently the unaccompanied public to explore out into the river bottom and the legal right to seek and obtain a permit from Routt County to do so, without our consent to the permit. This position is simply incorrect. The County has no legal authority to

issue a permit to one co-tenant to make use of co-tenancy land without the consent of the other co-tenant.

If TNC (or anyone else) came in today and requested a CUP involving lands where it was not the sole owner, the County would not even process the application unless and until the other co-owner joined in the permit application. If the County considers issuing an amended CUP to TNC, the permit must include a condition of approval that a fence and no trespassing signs be installed along not just the northwest, but also along the north boundary of TNC's fee lands to prevent visitors from accessing WMR's co-tenancy lands. The County should not issue a permit that authorizes TNC to invite and encourage public use of our co-tenancy lands in and along the Yampa River as such permit clearly increases the liability exposure to WMR and potentially to the County.

A full and complete 2019 CUP review should be viewed as a positive opportunity for both the County and TNC. We respectfully request that the process be invoked and that this CUP be scheduled for a full review by the Planning Commission. We would ask that no activity be allowed to resume on May 15 on the land adjacent to the river, due to the high water risks, pending such further review.

Sincerely,



Robert L. Waltrip, President
Pirtlaw Partners
Owner of Wolf Mountain Ranch

Cc: Brent Romick, Manager, Wolf Mountain Ranch
John Vanderbloemen
Erick Knaus, Routt County Attorney

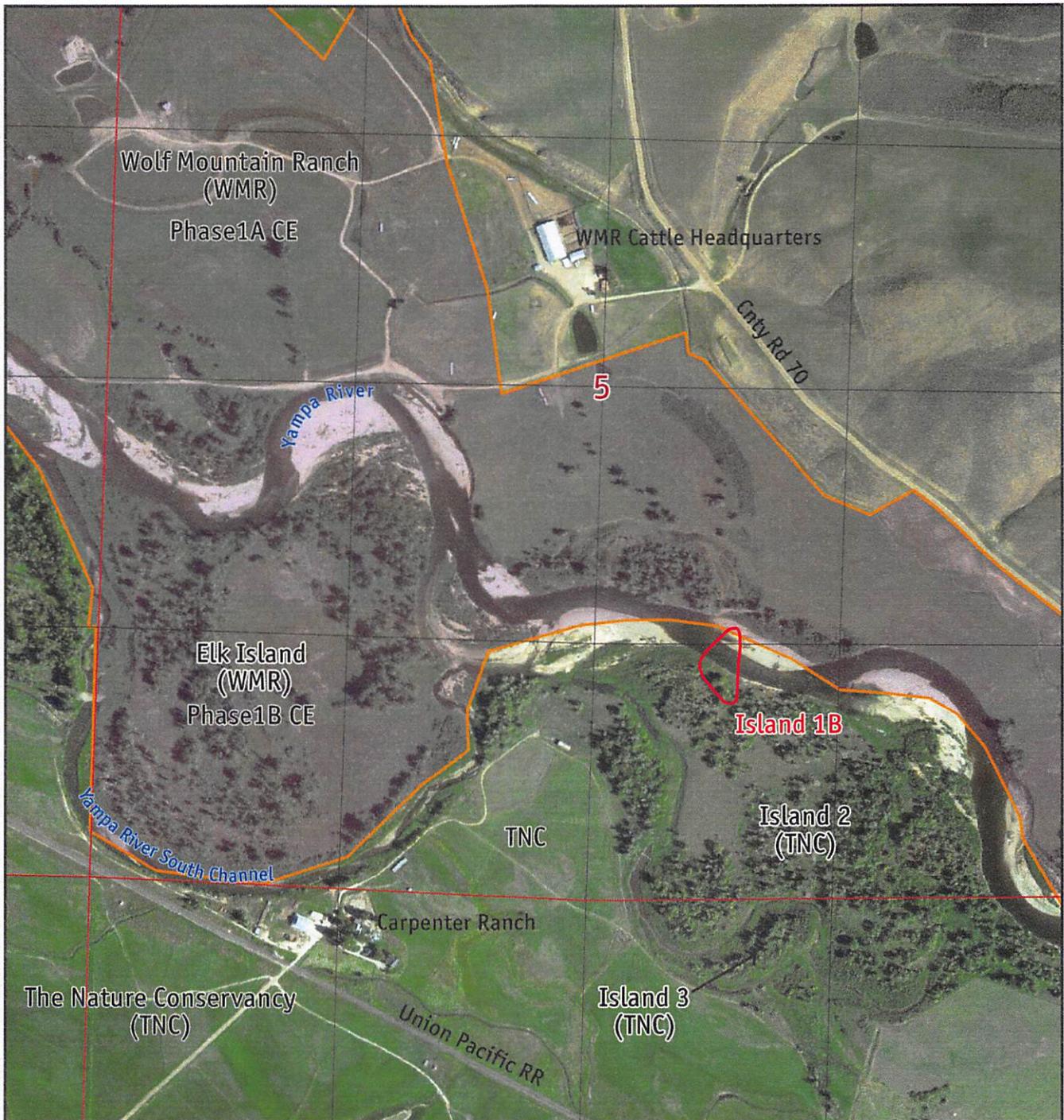
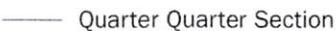


Exhibit 1

Routt County, Colorado

Legend

- | | |
|---|---|
|  Conservation Easement 1A & 1B |  Section |
|  Island 1B |  Quarter Quarter Section |

Aerial Image Source: 2014 Google Earth





m97#30

m97#31



Blakeslee
EXHIBIT #16

12.7.2017 TLH
AGREN BLANDO REPORTING



M97# 28
M97#29

Carpenter Ranch
9/24/97 - Monitor

p. 4



TNC003077



May 14, 2019

Robert L. Waltrip, President
Pirtlaw Partners
1929 ALLEN PKWY FL 12
HOUSTON, TX 77019-2506

Dear Mr. Waltrip,

I am writing in response to your request that the County conduct a formal review of The Nature Conservancy (TNC) CUP Permit# PP1996-016 for a Public Facility: an education center relating to agriculture, ecology and history, located in the former ranch house, and interpretive trails to the river and ranch operations.

The complaint focuses on, but is not limited to, the claim that circumstances have changed substantially since the permit was approved 23 years ago and that since that time the density of visitors and number of public events and uses throughout the year have increased. A summary of the complaint as it relates to the permit is as follows:

1. Non-compliance/disregard by TNC of conditions of approval (“COAs”) and lack of any oversight or review of the CUP by the County; and changes in the uses and the year-round activities that exceed what was presented to the Planning Commission in 1996;
2. The recent Court rulings regarding co-tenancy ownership of the streambed and of an area that extends south of the River, and potential risk of liability to which Wolf Mountain Ranch (WMR) is exposed by TNC’s permitted activities on the co-tenancy land.

Complaint No. 1: Non-compliance/disregard by TNC of conditions of approval (“COAs”) and lack of any oversight or review of the CUP. Specific Conditions of Approval (“COA’s”) that are of a concern are:

- Staff: This is the first formal complaint the county has received regarding compliance issues with the CUP permit at the Carpenter Ranch. Staff has completed a thorough review of the permit conditions and the file in question below.

COA#1: *TNC shall comply with the Railway’s final decision, when it is issued, regarding the railroad crossing on the Ranch accesses road. At a minimum, either a stop sign in the middle of the road before the crossing, a flashing caution light, or another strategy will be proposed and approved by*

Planning Staff which will meet the intention of the condition, will be installed prior to the commencement of activities.

- *WMR:* One of the key topics of discussion at the hearing was safety concerns relating to the railroad crossing. At the time of the hearing no decision had been made by the Railroad regarding the necessity of a railroad crossing plan. COA#1 appears to have been completely forgotten, as there is no mention in the planning file of a decision by the Railroad or a strategy approved by Planning Staff. This major topic of discussion should be revisited.
- *Staff:* There are stop signs posted at the site, therefore, the applicant has met the minimum requirement of a stop sign.

COA#2: *The Conditional Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities must be applied for in a new or amended application.*

- *WMR:* The original 1996 CUP application did not include a legal description of Islands 2 and 3. It is not clear to us that the “application” omits Islands 2 and 3. Referring to the main ranch house at the Carpenter Ranch, the original application states that there are no plans to rent these rooms out to the general public. There has been an expansion of uses and the year round activities that exceed what was presented to the Planning Commission. As it were presented, the Ranch would be open to the general public 3 days a week, Friday, Saturday, and Sunday, and only during the summer months from mid-May through September. TNC installed a pedestrian bridge without any notice to the County. When our January 25th complaint letter informed the County about the improper placement of fill and about the bridge, TNC did not comment on the placement of fill and simply dismissed these issues by saying “*the bridge was removed in 2016.*” TNC didn’t mention that it had been there for 19 years in violation of TNC’s representations.
- *TNC:* Those areas in question (Islands 2 & 3) are indicated on numerous maps that were part of the petition unanimously approved by the Planning Commission on March 21, 1996. Updated legal descriptions will be provided. The complaint also asserts that TNC has violated the CUP by hosting overnight guests at the ranch, as the original application states that there are no places to rent rooms to the general public. Rooms are not rented. Overnight use is exclusively to facilitate the educational, research and agricultural purposes of the Ranch. Public visitation is allowed Thursdays, Fridays and Saturdays, from May 15 to Sept. 1. A TNC staff person provides visitors with a trail guide. Carpenter Ranch hosts community meetings for the purpose of education, research and outreach on a year-round basis. Regarding other areas of concern, TNC acknowledged the pedestrian footbridge and stated that it was removed in 2016.
- *Staff:* While it is true that a legal description submitted as part of the 1996 application did not include the areas in question (Islands 2 and 3), these lands were shown on maps in the submittal and identified in the Fact Packet that was discussed during the public hearing and used as the basis for a decision. TNC has provided documentation that describes the areas of the Carpenter Ranch subject to public visitation under the CUP. Regarding public use of the ranch, as it was presented in the permit application, the ranch would be open to the public 3 days a week from April to October and school groups would arrange for specific programs and guided tours on an appointment basis. It is not clear if all activities were intended to be only during the field season as there is no documentation to suggest otherwise. Staff did, however, find a request from 2004 to host 10 workshops with overnight accommodations for the purposes of education in the

areas of conservation, agriculture and ecology. The request stated that the 2nd floor would not be rented and the new kitchen would be used by researchers, interns and staff only. The kitchen would not be used for public food service and any planned events would be catered. It was suggested that if successful, these workshops would continue to be held in the field season each year. In the past, staff found the request to be within the scope of the permit. While staff agrees that current use of the ranch during the field season for public visitation falls within the original scope of the permit, it is unclear if public use/events of the ranch outside of the field season are within the scope of the original permit. Staff believes that more explanation and a review of all activities is appropriate and that the CUP should be revisited by Planning Commission through a request for an amendment of COA #2. A pedestrian bridge was not part of the approved project plan. The Permittee would have needed to either remove the structure or request an amendment to consider allowing this structure. TNC has stated that the bridge was removed in 2018 and this was verified by staff.

COA # 6: *Appropriate fencing will be provided during the Summer of 1996 along the northwest side of the property to avoid the public trespassing into neighboring properties. Appropriate "No Trespassing" signage will be placed onto the fencing.*

- WMR: At the 1996 CUP hearing, WMR did not object to its new neighbor's CUP application, but did request at the hearing that "perimeter fencing be installed by TNC" to prevent TNC's visitors from trespassing onto adjacent WMR lands. The impact of TNC's non-agricultural activities upon WMR's ranching operations was a concern. As discussed in detail in our complaint submittals, Planning Commission imposed COA #6 that fencing and no trespassing signs be installed on the northwest side of the property to avoid the public trespassing into neighboring properties.
- TNC: In accordance with the Condition of Approval, TNC installed fencing along the northwest portion of the property soon after the permit was issued. We recently installed "No Trespassing" signs along that fence. Despite the request from the Pirtlaw representative at the 1996 hearing, the Planning Commission required fencing only along the northwest portion of the property. There has been no change in conditions that would require TNC to now fence its entire perimeter. TNC disagrees with the conclusion by Pirtlaw that because of Pirtlaw's staff preference and problems on Pirtlaw property, that fencing to control Pirtlaw cattle for Pirtlaw purposes should be installed on TNC property. TNC has no obligation to fence out Pirtlaw cattle. TNC contends that if Pirtlaw wishes to have its cattle restricted to its own property, then the burden of installing appropriate fencing is on Pirtlaw and such fencing should be installed on Pirtlaw-owned property. TNC fences its own cattle out of the riparian area on the Carpenter Ranch.
- Staff: Staff agrees that the Planning Commission required fencing only along the northwest portion of the property. The required fencing was installed with the exception of a small section of overgrown shrubs and wetland habitat with a steep slope. The intent of this condition along with "No Trespassing" signage was to avoid and minimize trespassing from the permitted use onto neighboring properties. TNC admits that signs were not put on the fence when the permit was issued, but have since been posted including along the break in the fence. Procedurally, when a violation of a permit condition is found, staff gives the applicant an opportunity to correct the violation. Posting these signs corrects the violation. Staff suggests that an amendment to the permit also specify if the posting of signs in lieu of a fence along the

inaccessible section satisfies the intent of the condition. Clarification of COA #6 appears to be in order due to the recent District Court decision regarding ownership of certain boundary areas. This information in ownership was not a consideration during the 1996 review and should be included in the amendment request.

COA #3: *Any complaint or concerns that may arise from this operation maybe a cause for review of the CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.*

- *WMR:* Submitted a formal complaint regarding the CUP permit with a formal request to review the intent and scope of the permit.
- *Staff:* This is the first formal complaint the County has received regarding this permit. Procedurally, TNC (the Permittee) was notified about the complaint and was given an opportunity to address the claims. After which, WMR provided additional information addressing TNC's responses to those claims. During this time, staff researched the file and inspected the site. It was clear that there was a violation of COA #6 (see above) which TNC acknowledged and addressed. A review of the minutes and planning file from 1996 indicates that the original submittals by TNC as well as the review of the application and the COAs were limited in scope. It would appear that the level of activity and the number of visitors to the Carpenter Ranch has expanded beyond what was presented to the Planning Commission in 1996. Also, the recent court rulings of co-tenancy could impact the permit boundary.

COA #10: *The Permittee shall provide evidence of liability insurance.*

- *TNC-* TNC is willing to provide proof of Insurance. At the time of the CUP approval, TNC notes that it carried upwards of \$1,000,000 in insurance, an amount that far exceeded the \$600,000 requested.
- *Staff-* proof of insurance has been submitted.

Complaint No. 2 The change in circumstance regarding co-tenancy ownership of the streambed and of a "parcel" 1b that extends south of the River (see attached).

WMR: WMR is the co-tenant owner of the streambed of that section of the Yampa River lying adjacent to and north of the Carpenter Ranch and Island 2 (see attached). The boundary between our ranches generally has moved with historic River movement, but the Court specifically ruled that a parcel of land that was an island in the River in the 1960s, (known as Island 1B), is owned in co-tenancy in perpetuity, regardless of how the River may move in the future. As shown on the attached 2016 aerial, this co-tenancy-owned Island 1B extends south of the River onto vegetated land that is populated with mature cottonwood trees. This treed land is not fenced off from TNC's lands or posted with no trespassing signs. The paths that are visible on the ground illustrate that the public crosses all over the lands adjacent to the Yampa, apparently including Island 1B.

TNC contends that the Court's ruling as to co-tenancy in no way affects TNC's right to operate its quasi-commercial, public trails system. TNC claims it has the legal right as a co-tenant to allow its guests, invitees and apparently the unaccompanied public to explore out into the river bottom and the legal right to seek and obtain a permit from Routt County to do so, without our consent to the permit. This position is simply incorrect. The County has no legal authority to issue a permit to one co-tenant to make use of co-tenancy land without the consent of the other co-tenant.

TNC: Pirtlaw filed a quiet title action to clarify the boundary between our properties. The Judge recently ruled on Pirtlaw's complaint, and Pirtlaw's assertion of the boundary between the properties was found to be incorrect. Use of the riverbank on the south side of the Yampa River by TNC's invitees and the general public is not trespass. The complaint asserts that there is a trespass issue due to a co-tenancy ownership of the streambed of the Yampa. We do not believe there is any trespass issue. The streambed is under water. As cotenant of the streambed, TNC and its invitees may make reasonable use of the lands owned as a tenant in common. This would include wading in the river for fishing or other purposes that do not degrade the cotenancy lands. The contention by Pirtlaw that TNC or its invitees must have Pirtlaw's permission to access the cotenancy lands is an incorrect statement of the law of tenants in common ownership of property.

Staff: It is apparent through a review of the meeting minutes and various maps that Islands 2 and 3 were intended to be included in the approved permit boundary for interpretive walking trails and use by TNC visitors. This area includes the streambed and an area known as 1B, now owned in co-tenancy. Staff have consulted with the County Attorney's Office regarding the legal use of the land. While TNC may use the land it owns in co-tenancy and allow its invitees to similarly use the land in question, County standards and practices require approval of all owners of land subject to a permit. WMR does not approve of the permitted use on lands it owns in co-tenancy. Therefore, the court's determination of property ownership requires a review and/or amendment of the permit boundary.

Conclusion: With the corrective actions recently taken by TNC, staff has determined that there are no current violations of the permit conditions. However, staff believes that based on the above information, circumstances have changed to a degree that merits a review and amendment of the permit, including but not limited to the uses and permit boundary. As discussed with TNC, this is an opportunity for the permittee to check in with the community, to clarify ranch activities, and to amend the permit boundary in light of the recent court ruling. At this time, staff has received a request by TNC for an amendment of their permit. Staff will coordinate scheduling this item before Planning Commission as soon as possible. You will be notified of hearing dates when scheduled. As always, please do not hesitate to contact me with questions.

Sincerely,

Kristy Winser

Assistant Director

Routt County Planning

970-879-2704

PO Box 773749

Steamboat Springs, CO 80477

Kwinser@co.routt.co.us

CC: Geoff Blackslee, The Nature Conservancy
County Attorney
John Vanderbloemen, Attorney

From: Kristy Winser
To: ["Kerwin, Gregory J."](#)
Cc: [Geoff Blakeslee](#)
Subject: FW: Carpenter Ranch Preserve: application for amended CUP: email 1 of 3
Date: Friday, July 19, 2019 11:54:00 AM
Attachments: [image001.png](#)
[permit.pdf](#)
[96PCminutes.pdf](#)

Good afternoon,

I realize that you are out of town so I am attaching a copy of the current CUP for your records. I am also attaching minutes from the 1996 hearing of the permit approval if you don't already have them. To further clarify the bullet to address history of the current permit and compliance with existing conditions of approval, history and compliance of the existing permit will let the decision makers better understand the amendment request. Basically, what is the reason for the amendment? Change in the permit boundary, has the operation morphed from what was originally approved and you want to make sure the permit accurately reflects the current operation or just for clarification of the original permit? Regarding compliance, this is something that was part of the original complaint regarding compliance concerns. For example, we know that no trespassing signs were not put up until recently. I brought this up to Geoff during review of the current permit and he addressed it right away. How it was addressed should be included in the narrative.

Feel free to call or email me if you have a question regarding this letter. I look forward to hearing from you.

Kristy Winser

*Assistant Director
Routt County Planning
970-879-2704
PO Box 773749
Steamboat Springs, CO 80477
Kwinser@co.routt.co.us*



From: Kristy Winser
Sent: Monday, July 15, 2019 4:53 PM
To: 'Kerwin, Gregory J.' <GKerwin@gibsondunn.com>
Cc: Geoff Blakeslee <GBLAKESLEE@TNC.ORG>; Chad Phillips <cphillips@co.routt.co.us>
Subject: RE: Carpenter Ranch Preserve: application for amended CUP: email 1 of 3

Dear Mr. Kerwin

Thank you for the submittal of the Nature Conservancy's application for an amended Conditional Use Permit (CUP). After review and consideration of the documents provided,

staff has determined that all land uses and activities described, will be processed and reviewed under the permit for a Recreational Facility, Outdoor Rural.

Although staff agrees that some of the uses you describe in your narrative for the Agricultural Forestry Zone District are considered a use-by-right, the exception is when those uses are dependent of the other to support the overall operation of the Carpenter Ranch. As presented and historically how the ranch continues to operate is in a holistic manner for the purposes of educating the public on the history, education, and preservation of a working ranch and preserve. Therefore, the application for an amendment should be reviewed comprehensively as well. This is consistent with how the department has reviewed similar operations that have several uses supportive of the other and their potential impact was considered under one permit. This is also how the original permit was reviewed. Since the existing permit made allowances for overnight guests under a CUP, that the amendment should follow the same review process as a CUP, and not a Special Use Permit as recently discussed.

In order for staff to be able to deem the application complete, the following list of information is needed. Please provide this information by July 29, 2019.

Please provide a bulleted list of all proposed uses and activities that are included in the permit boundary area. Such list will be included in the amended permit as the project plan. To assist you in creating this list, staff has taken all existing uses and those mentioned in your most recent narrative.

- Education center – interpretive exhibits, museum, meeting space for community and school groups.
- Ranching
- Historic Barn, educational group tours
- Wildlife Preserve
- Employee & guest housing
- Interpretive Trails
- Trails for hiking, x-country ski and birdwatching
- Private non-commercial fishing and hunting
- Chili Ski Day
- Crane Festival
- Family reunion

Address history of the current permit and compliance with existing conditions of approval.

Describe the change in overnight accommodations that differs from the CUP. During

the original permit review of the Carpenter Ranch it was stated that overall max overnight guests on sight would be 16. The breakdown was:

- o Main House 5 bedrooms (2 beds each)
- o Bunk House-3 interns,
- o Manager House-3 people *to be torn down and rebuilt.

It appears that the above has changed. Please describe the change and how many overnight guests are being proposed so it can be included in the staff report

Proposed seasonal use for public activities. Are appointments outside of posted hours including before May 15th and after September 1st? Please clarify what public activities include. Do they include workshops, TNC member events/special events etc.? Are year round public activities being requested as part of the amendment?

Include how you will prevent the public from wandering beyond the permit boundary to address trespassing concerns.

We look forward to processing your application and scheduling it for review with Planning Commission. Contact Chad or myself with any questions.

Thank you.

Kristy Winser

Assistant Director

Routt County Planning

970-879-2704

PO Box 773749

Steamboat Springs, CO 80477

Kwinser@co.routt.co.us



From: Kerwin, Gregory J. [<mailto:GKerwin@gibsondunn.com>]

Sent: Tuesday, June 25, 2019 4:54 PM

To: Kristy Winser <kwinser@co.routt.co.us>; Chad Phillips <cphillips@co.routt.co.us>

Cc: Geoff Blakeslee <GBLAKESLEE@TNC.ORG>

Subject: Carpenter Ranch Preserve: application for amended CUP: email 1 of 3

Email 1 of 3

To: Chad Phillips/Kristy Winser with copy to Geoff Blakeslee:

Attached, in three separate emails, is The Nature Conservancy's application for an

amended Conditional Use Permit for the Carpenter Ranch Preserve in Routt County.

Email 1 contains:

- The signed application with a certificate of authority and the narrative in support of the application without the exhibits (Exhibits A through D)
- A completed copy of the County checklist
- A list of the names and addresses of adjacent property owners (I am also mailing to you today two sets of mailing labels with these names/addresses).
- Exhibit A: the site plan superimposed on an aerial photo

Email 2 contains:

- A zip file with Exhibits B and C (copies of the relevant deeds and property record cards).

Email 3 contains:

- A zip file with Exhibit D and D-1 to D-6: a letter from the Gibson Dunn firm about the Pirtlaw boundary dispute lawsuit, and exhibits relating to that lawsuit.

Please let me know if you do not receive all three emails, or if you need other information at this time.

Greg Kerwin,
Counsel for The Nature Conservancy

Gregory J. Kerwin

GIBSON DUNN

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July 29, 2019

Routt County Planning Department
Chad Phillips, Planning Director and Kristy Winser, Assistant Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Carpenter Ranch Preserve: Response to Planning Department request for information to supplement The Nature Conservancy's application for an amended Conditional Use Permit

Dear Mr. Phillips and Ms. Winser,

Thank you for taking the time to review The Nature Conservancy's (TNC) application for an amended Conditional Use Permit (CUP). We appreciate that the County recognizes that an application for a Special Use Permit is not appropriate for the Carpenter Ranch Preserve and hope that the information provided below adequately supports the CUP amendment. This letter responds to Ms. Winser's July 15, 2019 email to Greg Kerwin requesting additional information.

Before I provide the requested information, I want to reiterate what our counsel contended in the June 2019 CUP application regarding the uses on the Ranch Preserve that should be uses by right and not subject to any permitting. We feel strongly that the CUP amendment, as the original application, should address only those uses that require a permit and none of the uses by right associated with rural property ownership. Contrary to Ms. Winser's assertion in her July 15th email, the Carpenter Ranch's primary purpose is not "educating the public on the history, education, and preservation of a working ranch and preserve". Rather, and as documented in the minutes from the 1996 CUP application hearings and committee meetings, Carpenter Ranch is a working agricultural operation and nature preserve.

As reflected in the County Planning Staff Comments at the March 21, 1996 Planning Commission meeting, "The Conservancy bought the ranch with hopes of keeping it a viable working ranch while maintaining and enhancing benefits to the abundant wildlife habitat that exists on the ranch. The Ranch will be used to research ways that ranching and biodiversity can be maintained in balance." In the Conclusion on page 2 for the "Narrative" that TNC submitted in February 1996, it states: "Despite the importance of public education to the overall program at the ranch, visitor activities will be managed so as to be compatible with the ranching and research operations that are the main focus of the project."

We maintain that TNC does not need a Conditional Use Permit for its core operation of the Carpenter Ranch Preserve as a wildlife preserve, and operating cattle and hay ranch, and related overnight use of the ranch by TNC employees, researchers, interns, and volunteers, which are all uses by right for which no county permit or authorization is required. The only activities that the CUP amendment should address are those associated with public uses that qualify as conditional uses under the Zoning Regulations, such as occasional use of the Education Center in the 1902 Historic Main Ranch House, and adjacent outdoor space by community partners as a "public building."

I again request that we limit the scope of the amended CUP just to conditional uses that go beyond activities in which TNC can engage as a matter of right at the Carpenter Ranch Preserve. I am advised by counsel that if Planning Department staff do not agree to so limit the amendment of the CUP, our appropriate recourse is to request a hearing before the Planning Commission, and the Board of County Commissioners to the extent necessary, to correct the record on these important points.

Response to Specific Questions:

1. Provide a bulleted list of all proposed uses and activities included in the permit boundary area:

The following uses are uses by right and should not be considered in the CUP assessment:

- Wildlife Preserve
 - Protecting and maintaining the land, plant life, and animal life, including fish and birds
 - Overnight housing for staff members, volunteers, donors, researchers, students and interns assisting with or studying the wildlife preserve
 - Carpenter Family Reunion (non-commercial one time per year by Carpenter Family members who set up the wildlife preserve)
- Parks and Recreation Land
 - Non-commercial hiking and cross-country skiing
 - Interpretive and guided walks during visiting hours
 - Birdwatching
 - Chili Ski day: recreational cross-country skiing/snowshoeing one day per year, limited to ski trails in the hay pastures. This is an invite-only event for TNC supporters.
- Ranching
 - Operating a cattle ranch, growing hay, raising cattle
 - Housing for the ranch manager, and occasional guests staying with the ranch manager
 - Preservation of the historic Barn and other ranch-related buildings
- Private non-commercial fishing and hunting

Conditional Uses: Only the following uses should be considered in the County's assessment of an update to the existing CUP.

- Public Building
 - Allowing local community and school groups to meet in the facilities and on fields
 - Hosting groups for educational purposes, including school children
 - No overnight accommodations associated with these uses
 - Museum and interpretive exhibits
 - Crane Festival
- Recreational Facilities, Outdoor Rural
 - Snow Drawings: Presented in conjunction with the library, a one day/once a year event for the public to participate in creating snow drawings using snowshoes. Takes place in the hay meadows near the ranch buildings.

2. Address the history of the current permit and compliance with existing conditions of approval.

On page 5 of its May 14, 2019 letter to Robert Waltrip, the County relayed its findings regarding its formal review of TNC's Conditional Use Permit #PP1996-016 that governed the Carpenter Ranch Preserve, and correctly found no violations of any permit conditions. We do not believe it is appropriate to re-open this issue now; instead, we have followed the County's recommendation to apply for an amended Conditional Use Permit to clarify activities on the Preserve and align the permit with current and anticipated conditional uses of the property. Nevertheless, TNC has complied with each of the numbered conditions in the 1996 permit, as follows:

CoA 1 – Compliance with railroad's decision regarding signposting of the railroad crossing: TNC and Union Pacific Railroad have posted stop signs at the railroad crossing in compliance with the railroad's decision.

CoA 2 – Additional uses and facilities to the ones listed in the original project plan must be approved in an amended CUP: Although we believe all facilities and uses fit within the original project plan, the County has asked that we clarify our existing and anticipated uses with an amended CUP. The Ranch has evolved in the years since 1996, and some public uses that were anticipated are no longer applicable. For example, TNC did request permission to host 10 overnight workshops at the Ranch in 2004. However, after hosting three workshops, no overnight workshops have been held in the last ten years, and no overnight workshops are anticipated in the future. The uses listed on our application more closely align with current and anticipated used of the ranch than those listed on the 1996 permit.

CoA 3 – Complaints or concerns may lead to review of the CUP: No action required.

CoA 4 – CUP is valid for the life of the project provided it is acted upon within one year of approval: No action required.

CoA 5 – Operation shall comply with Federal, State, and local law, as well as standards set forth by the Colorado Department of Health and the Routt County Department of Environmental Health: TNC has complied with all relevant laws and regulations.

CoA 6 – Appropriate fencing and "No trespassing" signage: Fencing was erected in 1996, and the "No Trespassing" signage was added recently in response to a request by the County. It is not necessary to put up fencing along the Yampa River, because the river itself, and the dense riparian vegetation, provides a natural boundary that is not easily crossed by hikers. It is also impractical and undesirable to erect fencing along the Yampa River, which is subject to annual flooding that would take out the fence. The 1.4 acre "Feature 1B" parcel that TNC owns as tenants in common with Pirtlaw is not accessible from existing trails and currently is bisected by the River, so fencing is not practical or necessary for that parcel.

CoA 7 – Preventing spread of weeds and compliance with the Undesirable Plant Management Act, adopted in 1990: TNC has complied with the Undesirable Plant Management Act and prevented the spread of weeds to surrounding lands.

CoA 8 – *TNC is responsible for legal fees if Routt County determines it necessary to enforce the conditions of the CUP and is successful in court action: No action required.*

CoA 9 – *No junk, trash, or inoperative vehicles shall be stored on the property: No such objects are being stored on the property.*

CoA 10 – *TNC shall obtain liability insurance of at least \$600,000 per occurrence and provide evidence to Routt County, who shall be named as an additional insured on the policy: TNC currently holds liability insurance with limits in excess of \$600,000 per occurrence.*

3. Describe the change in overnight accommodations that differs from the CUP.

TNC does not believe that overnight accommodations were included as a conditional use under the 1996 Conditional Use Permit. Rather, the description of overnight use associated with primary uses by right was noted as part of the overall description of the property. Current and future use of overnight accommodations will be related to the primary uses by right described above, not conditional uses covered by a CUP.

Page 3 of the minutes from the 1996 CUP Permit discussion shows that the County recognized that TNC had already decided not to tear down the old ranch manager’s house. See Routt County Regional Planning Commission Comments on March 21, 1996, p. 3. Instead, TNC has converted that house into the “Intern House” that is listed on our amended CUP application. This house can sleep up to four people. The “Bunk House” can sleep up to two people. The “Historic Main Ranch House” can sleep up to ten people. Therefore, outside of the Ranch Manager’s House, which was constructed in 1997 and serves as the Ranch Manager’s year-round home, the maximum overnight capacity is about 16 people. This is the same capacity that existed in 1996. The capacity and the purposes for overnight accommodations have not changed.

4. Describe proposed seasonal uses for public activities.

TNC does not offer seasonal public uses outside the uses listed in the application and reiterated in the answer to Question 1. Public use is largely limited to summer months due to the natural weather-related obstacles during the rest of the year. To the extent that members of the public meet during the winter, such activities take place indoors in the Education Center meeting space at the Historic Main Ranch House, except for the Snow Drawing Event, which takes place in the hay meadows near the main house.

5. Describe how you will prevent the public from wandering beyond the permit boundary.

As the County noted on the bottom of page 3 of its May 14, 2019 letter to Mr. Waltrip, “the Planning Commission required fencing only along the northwest portion of the property” and no trespassing signs “have been posted including along the break in the fence.” TNC is planning to install by September 30, 2019 three new post-mounted signs that will be placed along the northern and northwestern part of the existing hiking trails directing trail users not to go across the River. In addition, the Yampa River itself and the dense wetland vegetation that lines the river make it difficult for anyone to safely attempt to cross the river into neighboring properties. There is virtually no risk of members of the public walking

across the River from the Carpenter Ranch Preserve to Mr. Waltrip's land. TNC believes any such encroachments in the last 23 years have been extremely rare and involved people hiking along the railroad tracks or from the Colorado Parks & Wildlife boat ramp or the county road.

Once again, we thank the County for its effort and diligence in reviewing this application and hope that we can move swiftly through this process.

Please let me know if you have any further questions.

Sincerely,



Geoff Blakeslee
Yampa River Project Director



August 12, 2019

The Nature Conservancy
Attention: Geoff Blakslee
P.O. Box 955
Hayden, CO 81639

Dear Mr. Blakslee,

I am writing in response to your July 29, 2019 supplement to your application for an amended Conditional Use Permit.

After review of the original complaint, site inspection, and consideration of the requested amendment application, staff has found that a formal review of Permit# PP1996-016 is necessary in addition to processing your amendment application. The authority by which a review is warranted is Condition of Approval No. 3 ***“Any compliant or concerns that may arise from this operation maybe a cause for review of the CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.”*** It will be scheduled before Planning Commission on October 3, 2016 at 6pm.

Although we have received a request for an amendment, staff has a difference of opinion with your interpretation of what you consider uses-by-right or the scope of uses that should be included as part of the review. Therefore, Planning Commission will decide on the uses and information submitted to include in their consideration for an amendment as part of the review.

Sincerely,

Kristy Winser
Assistant Director
Routt County Planning

CC: County Attorney



August 14, 2019

The Nature Conservancy
Attention: Geoff Blakslee
P.O. Box 955
Hayden, CO 81639

Dear Mr. Blakslee,

I am writing in response to your July 29, 2019 supplement to your application for an amended Conditional Use Permit.

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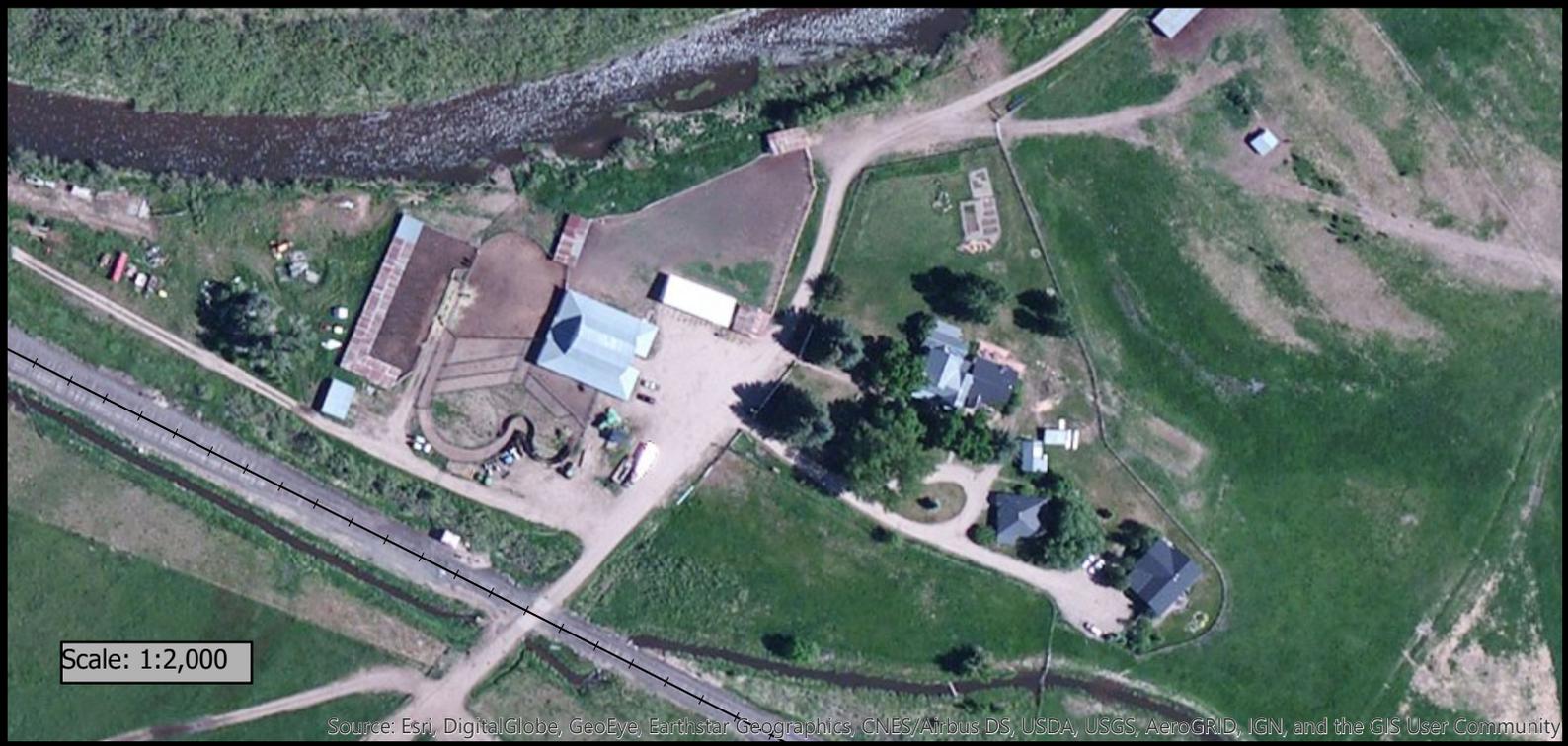
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Sincerely,

Kristy Winser
Assistant Director
Routt County Planning

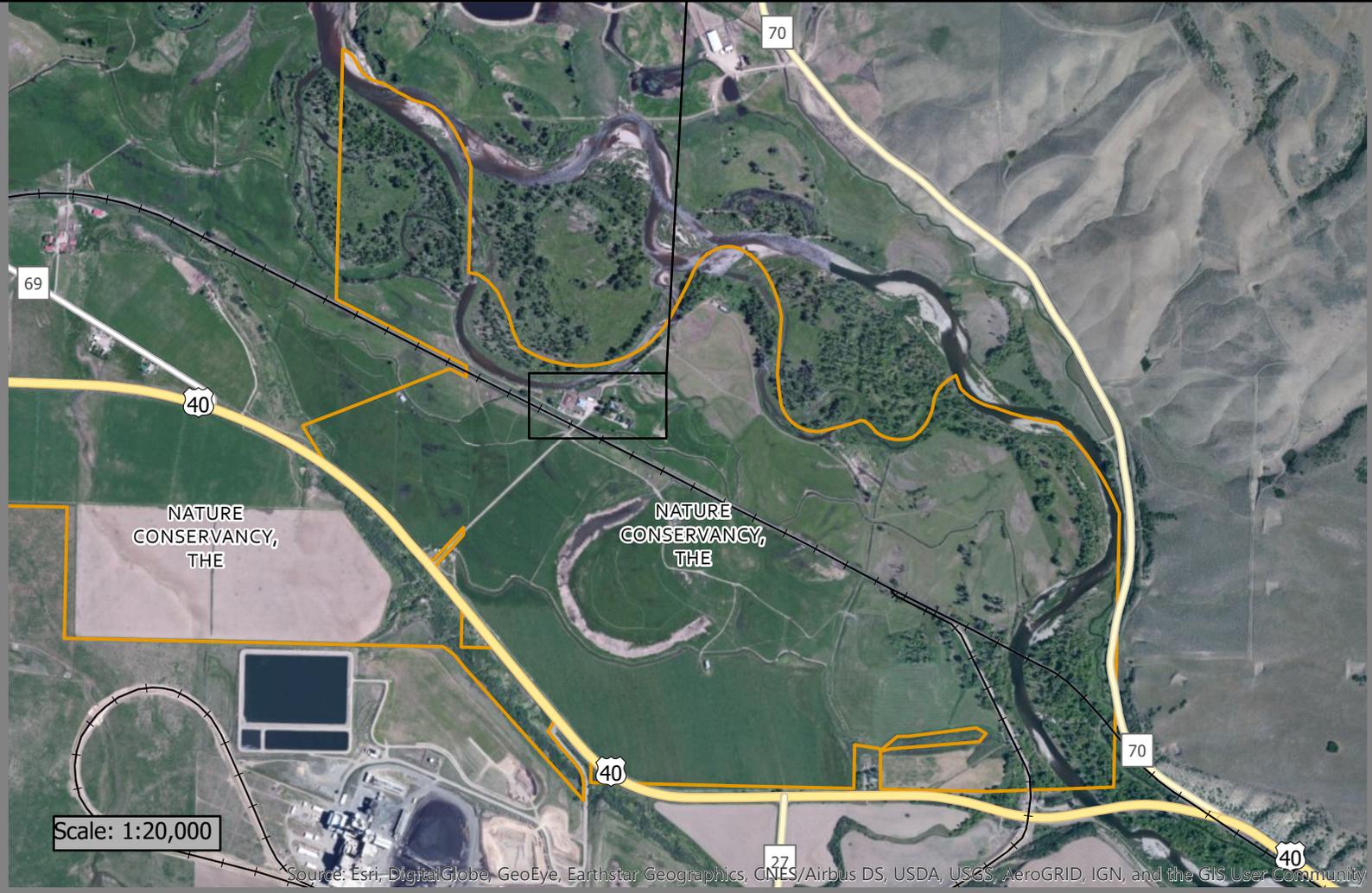
CC: County Attorney

The Carpenter Ranch



Scale: 1:2,000

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Scale: 1:20,000

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

ROUTT COUNTY
GEOGRAPHIC INFORMATION SYSTEM

This map is for planning purposes only. It was prepared from publicly available information. Any other use or republication of the information is the sole responsibility of the user. This map should not be used to establish legal title, boundary lines, locations of improvements or utilities, or relied upon in any flight activity. Routt County expressly disclaims all liability regarding accuracy or completeness of this map.

Date Saved: 10/10/2019 1:08 PM
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- Carpenter Ranch Property
- Highway
- Primary Public Road
- Local Public Road
- Railroads

ROUTT COUNTY PLANNING COMMISSION

MINUTES

OCTOBER 17, 2019

The regular meeting of the Routt County Planning Commission was called to order at 6:00 p.m. with the following members present: Chairman Steve Warnke, Bill Norris, Troy Brookshire, John Merrill, Roberta Marshall, and Brian Kelly. Commissioners Greg Jaeger, Peter Flint and Andrew Benjamin were absent. Planning Director Chad Phillips and Assistant Planning Director Kristy Winser also attended. Planning Staff prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES – September 5, 2019

Commissioner Marshall asked that the page 5, paragraph 7 be corrected as follows:

Commissioner Marshall stated that the proposed landscaping is inadequate. Mr. Buccino said that every effort was made to minimize water usage. He agreed that a fence along the north side would provide desirable screening but he suggested that xeriscaping might be appropriate but resisted the idea of planting a lot of trees. The consensus of the Planning Commission was the proposed landscape plan was adequate.

Commissioner Marshall also requested an edit clarifying that the applicant agreed fencing would be a good idea but stating the HOA could install it later.

Commissioner Marshall moved to approve the minutes of the Routt County Planning Commission meeting above with the changes provided. Commissioner Kelly seconded the motion. **The motion carried 6-0.**

MINUTES – September 19, 2019

Commissioner Marshall moved to approve the minutes of the Routt County Planning Commission meeting above as written. Commissioner Kelly seconded the motion. **The motion carried 6-0.**

MINUTES – October 3, 2019

Commissioner Marshall moved approve the minutes of the Routt County Planning Commission meeting held on the above stated date, as written. Commissioner Kelly seconded the motion. **The motion carried, 6 – 0.**

ACTIVITY: PL-19-109

PETITIONER: The Nature Conservancy

PETITION: Review and amendment of Permit # PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural. Uses and permit boundary have changed to a degree that merits a review and amendment of the permit.

LOCATION: The Carpenter Ranch Preserve is located approximately 5 miles east of Hayden, Colorado on U.S. 40.

Chairman Warnke discussed the site visit and provided an overview and who was present. Commissioner Brookshire, Planning Director Chad Phillips, and Assistant Planning Director Kristy Winser attended from the County. Mr. John Vanderbloemen, Brent Romick, and Joan Romick representing Wolf Mountain Ranch and Geoff Blakeslee, Sally Ross, and Steve Cann of the Nature Conservancy were also in attendance.

Commissioner Merrill disclosed that his wife, Nancy, heads the Crane Festival, an event held at the Carpenter Ranch. Commissioner Merrill added that he is a neighbor and shares a ditch with the Carpenter Ranch. He stated that he felt that there was no conflict of interest and that he could make an unbiased decision on the matter. As there were no objections, Chairman Warnke stated that Commissioner Merrill would remain seated.

Commissioner Kelly stated that he had been unable to make the scheduled site visit, but he did stop by on his own. While at the site, he encountered no one.

Ms. Winser reviewed the memorandum dated October 17, 2019 including information about the original permit and correspondence between the County, Wolf Mountain Ranch (WMR), and the Nature Conservancy (TNC) regarding a quiet title suit. She noted that there also is a supplemental packet of two letters from WMR that did not make it into the staff packet. The staff emailed the supplemental information to the Planning Commission ahead of the meeting. Ms. Winser noted that tonight's presentation would be a two-part discussion. The first part would be a review of the 1996 permit and approved project plan, and the second part would be a presentation on the amendment request. Ms. Winser stated that TNC had obtained a Conditional Use Permit (CUP) from the County for the Carpenter Ranch in 1996. The CUP is for Public Facilities: an education center relating to agriculture, ecology, and history located in the former ranch house of Farrington R. Carpenter, and interpretive trails to the river and ranch operations. The permit is valid for the life of use.

Ms. Winser presented the site plan approved in 1996 and referred to it while explaining the areas visited on the site visit, the location of a fence described in condition of approval (COA) #6, the location of a gap in the fence noted in the staff packet, and the locations of no-trespassing signs. The intent of COA #6 was to deter and minimize trespassing of TNC guests onto neighboring properties. The location of the trail along the interior of the fence with no-trespassing signs on the outside was noted. She stated that an issue for discussion is whether these methods, as described, satisfy the intent of the condition.

Ms. Winser discussed the proposed changes and uses of the permit, including the permit boundary. She presented additional aerial maps identifying areas included in the original permit that included the Yampa River Preserve, Carpenter Ranch Preserve, and the Historic Ranch House and Education Center Area. She referred to a map of the Ranch Compound Area and noted the Intern House, which was formerly the ranch manager's house. As presented during the 1996 review, the original ranch manager's house was to be torn down and rebuilt. Instead, the old ranch manager's house was converted into the Intern House, and a new Ranch Manager House was built in 1997.

Ms. Winser then explained that the purpose of the current review was to amend the 1996 permit to provide clarity, transparency, and to make sure that any amendment is an accurate depiction of uses and activities at the ranch. She noted that the proposed amendment submitted by TNC includes uses that have occurred on the ranch for several years, without written complaints until January of last year. Complaints made in January of 2018 resulted in this review.

Ms. Winser presented a Process Comparison Chart of other Recreational Facilities with shared amenities permitted in the County that are either public, not for profit, or private operations. She summarized that the

request from the Carpenter Ranch is similar to those and should be processed as a Conditional Use Permit for a Recreational Facility with Overnight Accommodations.

Ms. Nancy Fishbein, representing the petitioner, thanked Planning Commission and then requested that the Commissioners table their decision to allow TNC and the County Planning staff time to clarify a number of outstanding issues. She then provided an overview of TNC and its mission. She explained that TNC is a science-based organization and clarified the importance of the globally-rare riparian cottonwood forest found at Carpenter Ranch. She also mentioned the long local history of the Carpenter Ranch and noted that TNC is honored to be the current steward of the property. She then reviewed the amendment request. She noted the hours of operation, identified who stays overnight (seasonal interns, host researchers, TNC staff and invited guests) and clarified that there are no public/paying overnight guests. She explained that the historic house museum/meeting area and trails are open to the public. She described the activities that are geared toward the public: seasonal, limited, public drop-in access, the Crane Festival, and school-groups led by Yampatika, a naturalist education non-profit. She added that occasionally community groups hold meetings in the Education Center, but typically these uses must be directly related to TNC's work. She noted that the examples in the comparison chart presented by Planning staff were not applicable because the Carpenter Ranch is not primarily a recreational facility and it is unique. She also clarified that the amount of public use of the ranch since the original CUP was issued has not increased significantly.

Ms. Fishbein again requested that Planning Commission table the application to provide more opportunity to work with Planning staff. She added that should the Commission decide not to table the decision, TNC counsel would like the opportunity to explain TNC's legal objections to the staff recommendations and why TNC is not ready to agree to them at this time.

In response to a question from Commissioner Brookshire regarding the primary agricultural component of the Ranch as presented in 1996, Ms. Fishbein stated that currently the primary purpose of the Ranch is conservation and the nexus between agriculture and conservation. The agricultural land/hayfields are leased to a local operator. Commissioner Brookshire expressed his disappointment that the management of the agricultural operation had declined, noting the poor state of the hay meadow.

Mr. Geoff Blakeslee, representing TNC, provided clarification in response to questions from Chairman Warnke regarding current uses. He noted that overnight stays by donors are limited to 2 - 3 times per year, that the Crane Festival attendance was approximately 150 people, and that the Chili Ski Day event and the snow shoe event were by invitation only and limited to staff and friends of TNC. He also responded that the Yampatika school events had about 10 - 20 kids per visit, with approximately 4 - 5 visits per year.

Mr. Gregory Kerwin, an attorney representing TNC, corrected two statements made in the staff report for the record. First, TNC no longer hosts educational workshops, has not done so for the past ten years and does not anticipate holding future overnight workshops, as explained on page 3 of Mr. Blakeslee's July 29, 2019 letter (page 56 of the hearing packet). This corrects a misstatement on page two of the staff report. Ms. Winser confirmed the correction. Second, the proposed use chart on the bottom right box of page 5 implies overnight accommodations are used to support an "educational mission," which is not accurate because there is no overnight use by members of the public. Ms. Winser responded that the reference stating that overnight accommodations are used to support and promote the ranch's agricultural mission referred to the people who stay there on a regular basis, such as the Ranch Manager, TNC Staff members, volunteers, donors, researchers and interns, as noted in the narrative. .

Commissioner Marshall requested clarification of the property ownership, stating that the graphics in the staff report were difficult to understand.

Planning Commission had no further questions for the petitioner.

Public Comment

Mr. Brent Romick, representing Wolf Mountain Ranch, stated the issue is an intensity of use issue with commercial activity, not conservation. He stated that the 1996 permit did not include Islands 1 and 2 or a quasi-commercial operation. He provided details of the changes in the operation, specifically the increase in capacity for people. He also noted that, in his opinion, there are clear violations of the permit. Mr. Romick referenced Section 6.1.7 of the Routt County Zoning Regulations and how this operation involved the potential for significant negative impacts. He provided feedback about previous visits to the Carpenter Ranch and described how there was no oversight or direction to guests to stay on the trails, which was a concern. Mr. Romick expressed concern regarding liability with the public being allowed on the lands owned in co-tenancy and noted a time he saw school children playing in the river with no oversight.

Mr. John Vanderbloemen, representing Wolf Mountain Ranch, discussed the 1996 permit boundary and liability issues. He presented several photos taken of the trail and signs, noting the trail is located outside of the required fencing cited in COA #6 and that the no-trespassing signs can't be read by people on the trail. Specifically, the signs were on the fence facing the meadow, not the trail. He presented several pictures of the co-tenancy land, particularly the streambed, noting areas easily accessible for TNC guests to cross the Yampa River during low water onto WMR, establishing concerns regarding trespassing and liability. Mr. Vanderbloemen described how fencing could be installed in the riparian area south of the Yampa River that would serve as a deterrent to TNC guests who might otherwise want to cross the river or trespass on WMR land.

Ms. Joan Romick, representing Wolf Mountain Ranch, reiterated that density and uses are a concern and create potential liability issues for both co-tenants.

Planning Director Chad Phillips stated that the staff report and this hearing reflect an attempt to provide clarity regarding the permitted uses on the Carpenter Ranch. He stated that staff had requested a map of the permit boundary in the spring so the County could properly evaluate the uses within a clear boundary area. Mr. Kerwin stated that TNC is considering narrowing the permit boundary to encompass only the Education Center.

Roundtable Discussion

Chairman Warnke offered that COA #6 regarding the fence was about compromise and encouraged TNC and WMR to collaborate with planning staff. He further noted that Planning Commission, via this process, has the ability to clarify and revise COA #6 in order to remove any ambiguities, and that this could mean identifying specifically where fencing is and isn't required.

Commissioner Marshall stated that she found it difficult to interpret who owns what and suggested that a map of just the area within the permit boundary under review to be submitted. She also agreed with a compromise on a fence. Noting that WMR had suggested that TNC provide indemnification for the County and WMR under the CUP, Commissioner Marshall also requested that staff research whether or not the County had routinely included indemnification requirements in their CUPs.

Commissioner Kelly stated the existing fence was weak and expressed support for additional fencing. He also stated that the use is not just a ranch and that current and proposed uses and activities should be regulated under the CUP.

Commissioner Brookshire agreed that the permit boundary needs to be graphically defined. If uses and activities are presented in the original permit boundary, then those uses should be regulated. He stated that the location of the fence is not in compliance with COA #6 and agreed that there are permit violations. Commissioner Brookshire requested staff to check with the County Attorney regarding fence law, in particular regarding fencing out, and any shared responsibilities between neighbors along a common boundary. He further suggested that TNC should keep the public away from the river, amending the permit boundary away from the river and riparian area along the existing fence. He agreed also that the applicant should provide a map with all uses and their locations on it. Commissioner Brookshire added that he would like to see a more accurate account of the number of people that visit the Carpenter Ranch.

Commissioner Merrill suggested that there could be a meeting of the minds between TNC and WMR and that the two parties could jointly draft a proposed amendment, including a fence location and submit it to staff for review.

Commissioner Norris agreed with Commissioner Brookshire's comments.

MOTION

Commissioner Kelly moved to table the application to December 19, 2019.
Commissioner Norris seconded the motion.

The motion carried 6 - 0, with the Chair voting yes.

ADMINISTRATOR'S REPORT

Mr. Phillips reviewed the upcoming agendas.

The meeting was adjourned at 8:45 p.m.

December 2, 2019

Via email: kwinser@co.routt.co.us and cphillips@co.routt.co.us

Routt County Planning Department
Chad Phillips, Planning Director and
Kristy Winsor, Assistant Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Carpenter Ranch Preserve: Updated information for amended Conditional Use Permit

Dear Mr. Phillips and Ms. Winsor,

This letter provides updated information for The Nature Conservancy's (TNC) application for an amended Conditional Use Permit (CUP) based on public comment and discussions with the Routt County Planning Commission at its October 17, 2019 meeting. The information in this letter is based on further discussions with the Planning staff and with counsel for Wolf Mountain Ranch (WMR).

1. Narrowed permit boundary for amended Conditional Use Permit.

Based on comments from the Planning Commission and Planning staff, TNC has decided to narrow the geographic boundary of the amended Conditional Use Permit to designate the portions of the Carpenter Ranch Preserve where conditional uses by members of the public would occur in the future under the CUP.

The narrowed geographic boundary is outlined in orange in the attached aerial photo. It encompasses approximately 224.42 acres—much less than the total of approximately 1,000 acres that comprise the Carpenter Ranch Preserve and adjacent Yampa River Preserve. The area within the narrowed boundary includes:

- a) The gravel access road from US 40.
- b) A portion of the irrigated cattle/hay pasture located south and east of the ranch buildings including a gravel ranch road leading east along the south side of the railroad tracks, which invited birdwatchers may use to access the Yampa River riparian area where the tracks cross the river. (TNC owns both sides of the Yampa River in this location.)
- c) The first floor of the historic 1902 Carpenter homestead (Historic Main Ranch House) except the staff office (this includes the Education Center and bathrooms on the main floor, but excludes the bedrooms and bathrooms located on the second floor), the front yard and parking area on the south side of the Historic Main Ranch House.
- d) The Historic Barn, which education groups sometimes visit.

- e) The hay meadows and pastures north of the Ranch Buildings bounded by the pasture fence at the edge of the riparian area.

The boundary for the proposed amended CUP excludes all the other buildings on the Carpenter Ranch Preserve including the Intern House, Bunk House, the Ranch Manager House, and the outbuilding structures TNC uses for its ranching operations. No public use of those buildings occurs now, or will occur in the future. Visits by members of the public will be limited to pre-arranged day-use only, with no overnight use. As in the past, the only people who will stay overnight at the Ranch are the ranch manager and his/her family and their guests, TNC employees and their family members, students, TNC donors, volunteers, and students/interns.

To minimize potential future conflicts between public access to the Carpenter Ranch Preserve and WMR, the narrowed boundary does not include the Yampa River Preserve riparian area northeast of the Ranch buildings. TNC will not allow members of the public to access this sensitive riparian area from its property. TNC's future private use of this riparian area will involve visits by TNC's scientific researchers and staff members. TNC also may allow small groups of its invited guests to access the riparian area when accompanied by a TNC employee or trained volunteer, who will ensure that such groups remain on TNC's property on the south side of the Yampa River and do not cross onto "Elk Island" or any part of WMR that lies adjacent to the Carpenter Ranch Preserve or Yampa River Preserve. All non-TNC visitors to the Carpenter Ranch Preserve will be required to sign a liability waiver. All such non-TNC public visitation and use will be documented.

TNC and its employees and invited guests (including students, donors, volunteers, interns, and researchers) will continue to use both the area within the amended CUP boundary and the remainder of the Carpenter Ranch Preserve and Yampa River Preserve outside the amended CUP boundary for the same primary uses that have existed since TNC purchased the property in 1996, as a working cattle and hay ranch and nature preserve. TNC's primary private uses include: a wildlife/nature preserve; ranching; non-commercial fishing and hunting; and accessory uses to those uses.

2. Conditional uses within narrowed permit boundary.

The conditional uses listed in the County's Zoning Regulations that would apply to public use of the area within the amended CUP boundary are: Public Buildings (for indoor use of the Education Center and adjacent first-floor rooms in the Historic Main Ranch House) and Recreational Facilities, Outdoor—Rural.

The conditional uses by members of the public that TNC currently contemplates will occur within the amended CUP boundary are as follows. This is not an exhaustive list and TNC reserves the right to add other planned events, similar in size and scope, as appropriate:

- Allowing local community and school groups to meet in the facilities and on fields (approximately 10 times per year, mostly between May and October).
- Hosting groups for educational purposes, including school children (approximately 6 times per year, mostly between May and October).
- Invite-only events for TNC supporters that are not open to the public.

TNC anticipates that the annual Crane Festival may continue to use part of the area within the amended CUP boundary, but it will rely on the Festival organizers to outline the details of their planned use in the special use permit they obtain from the County.

TNC does not provide overnight accommodations to members of the public in connection with any of these uses.

TNC will discontinue accepting any unscheduled public visits to the Ranch without an appointment, including the public visitation days that it had allowed in the past.

3. Fencing and barriers to delineate the CUP boundary.

The perimeter of the geographic area within the amended CUP boundary is already surrounded by a boundary fence, which contains the cattle that graze on the agricultural fields. The public use under an amended CUP will occur inside that existing fully fenced area. TNC will post additional signs around the perimeter of the amended CUP area to inform visiting members of the public not to cross the fence.

To address Wolf Mountain Ranch's concerns about its potential liability to members of the public who visit the Carpenter Ranch Preserve, in the future TNC will require members of the public who visit to sign a liability waiver that releases liability of both TNC and WMR. In return, TNC will request that WMR employees execute a liability waiver in favor of TNC to cover times when WMR employees cross onto TNC's property to retrieve cattle who have crossed the Yampa River.

WMR has asked TNC to indemnify WMR for any personal injury claims that might be asserted against WMR by members of the public who visit the Carpenter Ranch Preserve. TNC does not believe such an indemnity agreement is appropriate or normally required between owners of neighboring ranch properties. Instead, TNC has agreed to narrow the geographic area for the amended CUP boundary to keep members of the public away from the WMR property boundary, and to obtain liability waivers in favor of WMR and TNC, which should suffice to address WMR's reasonable concerns.

WMR sometimes grazes its cattle in the area along the north side of the Yampa River main channel, north of the Carpenter Ranch Preserve. The property boundary between the Carpenter Ranch Preserve and the Wolf Mountain Ranch in this area is the active riverbed of the Yampa River. WMR has elected not to place temporary or permanent fencing on its own side of the Yampa River to keep its cattle from entering or crossing the River, and there is no fence within the riparian area on the Carpenter Ranch Preserve side of the River.

To accommodate WMR's concerns about having its cattle wander onto the Carpenter Ranch Preserve, TNC has offered to allow WMR, at its own expense, to install temporary electric fencing on the south side of the Yampa River active streambed during times when WMR is grazing its cattle in the area, and then remove the electric fencing when the cattle are removed. As an alternative, TNC has also offered to consider cost-sharing the construction of a permanent fence on the north side of the River on WMR property.

Despite these alternate suggestions, WMR continues to request that TNC erect permanent fencing on the south side of the Yampa River to keep WMR's cattle from trespassing across the River onto the Carpenter Ranch Preserve. TNC believes that constructing a permanent fence on the south side of the active riverbed runs contrary to the conservation goals for preserving the sensitive riparian areas that

are part of the Carpenter Ranch Preserve and Yampa River Preserve. TNC acquired the Carpenter Ranch Preserve in 1996 specifically to protect the globally rare riparian forest in that area dominated by narrowleaf cottonwood, box elder and red-osier dogwood, and the wildlife that use the riparian area. That conservation goal represents TNC's primary purpose for owning and operating the Carpenter Ranch Preserve and Yampa River Preserve and is a core value that we must sustain and protect.

In addition, TNC does not believe that it is practical to place permanent fencing in the active floodplain of the Yampa River. It is likely that such fencing would be damaged or washed away during annual spring floods.

4. Status of Intern House (former Ranch Manager's house)

County Planning staff members asked whether TNC plans to keep the Intern House. The answer is yes.

TNC notes that it had already notified the County in 1996 of its plan to retain that building and build a new Ranch Manager's residence when the County issued the original Conditional Use Permit. Page "3" of the Staff Comments for the 1996 CUP Permit discussion shows that the County recognized that TNC had already decided not to tear down the old ranch manager's house. See Routt County Regional Planning Commission Staff Comments on March 21, 1996, p. 3. ["The ranch manager's house is in poor condition and has little historical value. It is scheduled to be torn down and a new home built in its place. (This has changed since the narrative was written. The new home has been approved by the Colorado Historical Society as it will actually enhance the ranch's character.) The existing [intern house - former ranch manager's house] which sleeps up to three people, will also be fixed up for possible use by summer interns."].

Once again, we thank the County for its effort and diligence in providing comments on TNC's application for an amended CUP. We will do our part to move swiftly through the remainder of this process.

Please let me know if you have any further questions.

Sincerely,



Geoff Blakeslee
Yampa River Project Director

LAW OFFICE OF JOHN A. VANDERBLOEMEN, LLC

ATTORNEY AT LAW

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JOHN A. VANDERBLOEMEN

December 17, 2019

Routt County Planning Commission
Chad Phillips, Planning Director, and Kristy Winser, Assistant Director
P.O. Box 773749
Steamboat Springs, CO 80477

Re: The Nature Conservancy
Review of Conditional Use Permit-PP1996-016
PL-19-109

Members of the Planning Staff and Planning Commission,

As you may know, my office represents Pirtlaw Partners ("Pirtlaw"), the owner of Wolf Mountain Ranch ("WMR"). The current planning process was initiated by a complaint letter that Pirtlaw submitted to planning staff almost a year ago. Pirtlaw's initial letter dated January 25, 2019 requested a formal review of the Conditional Use Permit ("CUP") that was issued to TNC in 1996. Planning Commissioners are probably tired of reading our letters, but TNC's disingenuous and misleading December 2, 2019 letter (copy attached) leaves us with no choice but respond briefly.

Pirtlaw, as a ranch operator and property rights advocate, has never desired to oversee the activities of its neighbors, or in this case to file a complaint with the County. All Pirtlaw has ever desired is to have a ranching neighbor across the river that acts and cooperates like WMR's many other agricultural neighbors. Pirtlaw did not oppose TNC's initial CUP application in 1996, instead merely asking that a boundary fence be required to keep TNC's visitors and operations separate from WMR. Today, the impacts and risks to WMR arising from its neighbor create an even greater concern.

Over the past year, TNC's reaction has been to deny its numerous CUP violations, and to deflect and delay the review of the CUP, instead claiming the permit is vague and requesting an update/amendment. TNC has claimed that it is unique and should receive special treatment. In its June 2019 application, TNC and its attorney essentially claimed that TNC's activities, events and uses at Carpenter Ranch are uses by right and that TNC doesn't even need a CUP.

In its October staff report to Planning Commission ("PC"), Staff disagreed with TNC's position that it is unique and is not subject to County planning regulations. The Staff report recognized multiple issues to be discussed, including our complaints regarding fencing and the construction of a new ranch

manager's home after the 1996 permit issued without removing the old manager's home, as TNC had represented.

On the day before Planning Commission's October 17th hearing, TNC telephoned planning staff and requested an 11th hour tabling without appearing before PC. Staff, to its credit, refused to table the matter without an appearance.

At the October 17th hearing, TNC, appearing with its retained Denver attorney, and its Boulder staff attorney together with Boulder staff representative Nancy Fishbein and local TNC employees, made a presentation and requested tabling. On behalf of WMR, we presented clear evidence of TNC's violations of its conditions of approval (COA #6 fencing/signage and COA #2 increase in capacity/number of dwellings.) TNC's presentation focused on its global mission, downplayed the nature and extent of its uses and volume of visitors at Carpenter Ranch, and ignored the violations of its CUP that began soon after its issuance in 1996.

TNC also seemed to refuse to acknowledge that TNC's non-agricultural operations with a large volume of visitors to the ranch, whether the unattended public or TNC's donors, preferred guests or invitees, or birdwatchers and schoolchildren pose legitimate liability concerns to my client. In 1996, WMR requested that the Planning Commission require that TNC build a boundary fence to prevent visitors from trespassing onto WMR lands. At the October hearing, WMR again requested a fence as it had requested in 1996. Since 1996, the number of visitors has increased and WMR's risk of liability has also increased with the 2018 ruling that WMR holds co-tenancy ownership of the "streambed" of the river and of a parcel south of the River. At PC, WMR also pointed out the County's Right to Farm Resolution and its long standing Master Plan concept that any permitted use in the Ag-Forestry District should not adversely impact its agricultural neighbors.

At the October PC hearing, WMR submitted proposed findings of fact regarding obvious violations of the conditions of approval of the 1996 CUP and an aerial illustration of a logical and reasonable fence plan with two proposed revised COAs. WMR committed to share annual fence maintenance expenses on a 50/50 basis consistent with Ag practices and Colorado fence law. The Planning Commission seemed to recognize WMR's legitimate concerns and tabled its decisions to December 19th to allow TNC to consult with staff and with our client to see if an agreement could be reached on conditions of approval ("COAs") that would satisfy County planning concerns and mitigate the impacts upon our client.

After the October hearing, our client, and perhaps Planning Staff, was cautiously optimistic that TNC finally recognized that it is subject to County regs, that the PC had recognized that TNC had not complied with its COAs, and that WMR was being impacted and at increased risk resulting from the operation. WMR ranch managers Romick met in person and conferred by phone numerous times with TNC's new ranch managers, Sally and Matt Ross, about fence design, cost, mutual concerns re operations, risk management, etc.

Romicks suggested several wildlife friendly fence designs to Ross that WMR has developed, currently uses on WMR, which have been approved by CPW. Any of these designs would seem to fit with TNC's focus on conservation rather than agriculture and satisfy WMR's concerns. The fence would be located as shown on aerial photo on the south side of the river but not down in the active streambed where it might be subject to washing away. TNC's December 2 letter claims that TNC submitted alternative fence proposals to the Romicks, which frankly did not happen.

Planning staff apparently had numerous conversations and several meetings with TNC Boulder staff and with the new local managers and in late November with newly retained local attorney Paul Sachs. It is my understanding from staff that staff was somewhat optimistic that TNC would abide by County regulations, and consider appropriate COAs.

Then just two weeks prior to the December 19th meeting, all that changed when TNC submitted its attached December 2nd letter. This disingenuous and misleading letter gives the incorrect impression that TNC has bent over backwards to work with WMR and that WMR is the villain. The letter starts out by giving the reader the impression that TNC's proposals in the letter were discussed with and supported by County Staff and WMR's attorney. I can't speak for Staff but can say that since the October hearing, I have received no contact whatsoever from TNC, except for one introductory call from local attorney Paul Sachs on November 15. Mr. Sachs told me that he was entering this "complicated" situation and would like to initiate some discussions. I explained that WMR has spent a massive amount of time and money in fruitless "discussions" with TNC and that I would ask that he reduce his client's proposals to writing. I indicated that I would discuss any such written proposals with my client. I didn't receive any proposal in writing or via email.

In the attached letter, TNC has reverted to its baseline position that TNC knows best and will determine what, if any, permit it might need and on what portions of its property. TNC's "proposal" is totally vague and contradictory as to its intended uses and how it will control the multitude of visitors and frankly who might go where. TNC unilaterally decided that it will carve out certain areas of its ranch and not include them in the CUP boundary. TNC apparently believes that if the multiple buildings are not within their self determined CUP boundary, the County can't regulate the activities.

TNC's letter opposes an indemnification agreement and contends that WMR should have no concern, that all of TNC's visitors will sign release forms and stay away from the river and riparian areas, but that is not really what the letter says or history has shown. TNC has never had the staff or any method to control its visitors. TNC suddenly wants the County and its neighbor to trust them to comply with their representations when past performance would suggest that it is not advisable. If all TNC visitors will sign a release form, then TNC should have no risk arising from the proposed indemnification. Two old adages that come to mind are "Trust but verify" and "Good fences make good neighbors". WMR longs for the days when Carpenter Ranch was a ranch and

not a quasi-commercial event and activity center / corporate retreat with a third party ag operation as window dressing.

Finally, TNC's letter continues to ignore the ongoing violations of the 1996 CUP, gives only lip service to the County process and makes a mockery of County planning. The letter even contains a blatant misrepresentation on the final page, where it claims to provide a quotation from the 1996 staff report. The last sentence of the quotation has been changed to suit the narrative of the letter regarding TNC's retention/remodel rather than the demolition of the former ranch manager's house.

When planning staff informed TNC that Staff would recommend denial of the "proposal", TNC again requested another tabling to "refine its narrative". The hearing is now set for February 9th. It is impossible to predict what TNC will next propose. If TNC is unwilling to abide by the proposed reasonable COAs, then denial of the proposed amendment and revocation of the existing CUP appear to be the only logical course of action for Planning Commission.

Thank you in advance for your consideration of this important planning matter.

Sincerely,



John A. Vanderbloemen

cc: Pirtlaw Partners
Brent and Joan Romick
Erick Knaus, Routt County Attorney

December 2, 2019

Via email: kwinser@co.routt.co.us and cphillips@co.routt.co.us

Routt County Planning Department
Chad Phillips, Planning Director and
Kristy Winser, Assistant Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Carpenter Ranch Preserve: Updated information for amended Conditional Use Permit

Dear Mr. Phillips and Ms. Winser,

This letter provides updated information for The Nature Conservancy's (TNC) application for an amended Conditional Use Permit (CUP) based on public comment and discussions with the Routt County Planning Commission at its October 17, 2019 meeting. The information in this letter is based on further discussions with the Planning staff and with counsel for Wolf Mountain Ranch (WMR).

1. Narrowed permit boundary for amended Conditional Use Permit.

Based on comments from the Planning Commission and Planning staff, TNC has decided to narrow the geographic boundary of the amended Conditional Use Permit to designate the portions of the Carpenter Ranch Preserve where conditional uses by members of the public would occur in the future under the CUP.

The narrowed geographic boundary is outlined in orange in the attached aerial photo. It encompasses approximately 224.42 acres—much less than the total of approximately 1,000 acres that comprise the Carpenter Ranch Preserve and adjacent Yampa River Preserve. The area within the narrowed boundary includes:

- a) The gravel access road from US 40.
- b) A portion of the irrigated cattle/hay pasture located south and east of the ranch buildings including a gravel ranch road leading east along the south side of the railroad tracks, which invited birdwatchers may use to access the Yampa River riparian area where the tracks cross the river. (TNC owns both sides of the Yampa River in this location.)
- c) The first floor of the historic 1902 Carpenter homestead (Historic Main Ranch House) except the staff office (this includes the Education Center and bathrooms on the main floor, but excludes the bedrooms and bathrooms located on the second floor), the front yard and parking area on the south side of the Historic Main Ranch House.
- d) The Historic Barn, which education groups sometimes visit.

e) The hay meadows and pastures north of the Ranch Buildings bounded by the pasture fence at the edge of the riparian area.

The boundary for the proposed amended CUP excludes all the other buildings on the Carpenter Ranch Preserve including the Intern House, Bunk House, the Ranch Manager House, and the outbuilding structures TNC uses for its ranching operations. No public use of those buildings occurs now, or will occur in the future. Visits by members of the public will be limited to pre-arranged day-use only, with no overnight use. As in the past, the only people who will stay overnight at the Ranch are the ranch manager and his/her family and their guests, TNC employees and their family members, students, TNC donors, volunteers, and students/interns.

To minimize potential future conflicts between public access to the Carpenter Ranch Preserve and WMR, the narrowed boundary does not include the Yampa River Preserve riparian area northeast of the Ranch buildings. TNC will not allow members of the public to access this sensitive riparian area from its property. TNC's future private use of this riparian area will involve visits by TNC's scientific researchers and staff members. TNC also may allow small groups of its invited guests to access the riparian area when accompanied by a TNC employee or trained volunteer, who will ensure that such groups remain on TNC's property on the south side of the Yampa River and do not cross onto "Elk Island" or any part of WMR that lies adjacent to the Carpenter Ranch Preserve or Yampa River Preserve. All non-TNC visitors to the Carpenter Ranch Preserve will be required to sign a liability waiver. All such non-TNC public visitation and use will be documented.

TNC and its employees and invited guests (including students, donors, volunteers, interns, and researchers) will continue to use both the area within the amended CUP boundary and the remainder of the Carpenter Ranch Preserve and Yampa River Preserve outside the amended CUP boundary for the same primary uses that have existed since TNC purchased the property in 1996, as a working cattle and hay ranch and nature preserve. TNC's primary private uses include: a wildlife/nature preserve; ranching; non-commercial fishing and hunting; and accessory uses to those uses.

2. Conditional uses within narrowed permit boundary.

The conditional uses listed in the County's Zoning Regulations that would apply to public use of the area within the amended CUP boundary are: Public Buildings (for indoor use of the Education Center and adjacent first-floor rooms in the Historic Main Ranch House) and Recreational Facilities, Outdoor—Rural.

The conditional uses by members of the public that TNC currently contemplates will occur within the amended CUP boundary are as follows. This is not an exhaustive list and TNC reserves the right to add other planned events, similar in size and scope, as appropriate:

- Allowing local community and school groups to meet in the facilities and on fields (approximately 10 times per year, mostly between May and October).
- Hosting groups for educational purposes, including school children (approximately 6 times per year, mostly between May and October).
- Invite-only events for TNC supporters that are not open to the public.

TNC anticipates that the annual Crane Festival may continue to use part of the area within the amended CUP boundary, but it will rely on the Festival organizers to outline the details of their planned use in the special use permit they obtain from the County.

TNC does not provide overnight accommodations to members of the public in connection with any of these uses.

TNC will discontinue accepting any unscheduled public visits to the Ranch without an appointment, including the public visitation days that it had allowed in the past.

3. Fencing and barriers to delineate the CUP boundary.

The perimeter of the geographic area within the amended CUP boundary is already surrounded by a boundary fence, which contains the cattle that graze on the agricultural fields. The public use under an amended CUP will occur inside that existing fully fenced area. TNC will post additional signs around the perimeter of the amended CUP area to inform visiting members of the public not to cross the fence.

To address Wolf Mountain Ranch's concerns about its potential liability to members of the public who visit the Carpenter Ranch Preserve, in the future TNC will require members of the public who visit to sign a liability waiver that releases liability of both TNC and WMR. In return, TNC will request that WMR employees execute a liability waiver in favor of TNC to cover times when WMR employees cross onto TNC's property to retrieve cattle who have crossed the Yampa River.

WMR has asked TNC to indemnify WMR for any personal injury claims that might be asserted against WMR by members of the public who visit the Carpenter Ranch Preserve. TNC does not believe such an indemnity agreement is appropriate or normally required between owners of neighboring ranch properties. Instead, TNC has agreed to narrow the geographic area for the amended CUP boundary to keep members of the public away from the WMR property boundary, and to obtain liability waivers in favor of WMR and TNC, which should suffice to address WMR's reasonable concerns.

WMR sometimes grazes its cattle in the area along the north side of the Yampa River main channel, north of the Carpenter Ranch Preserve. The property boundary between the Carpenter Ranch Preserve and the Wolf Mountain Ranch in this area is the active riverbed of the Yampa River. WMR has elected not to place temporary or permanent fencing on its own side of the Yampa River to keep its cattle from entering or crossing the River, and there is no fence within the riparian area on the Carpenter Ranch Preserve side of the River.

To accommodate WMR's concerns about having its cattle wander onto the Carpenter Ranch Preserve, TNC has offered to allow WMR, at its own expense, to install temporary electric fencing on the south side of the Yampa River active streambed during times when WMR is grazing its cattle in the area, and then remove the electric fencing when the cattle are removed. As an alternative, TNC has also offered to consider cost-sharing the construction of a permanent fence on the north side of the River on WMR property.

Despite these alternate suggestions, WMR continues to request that TNC erect permanent fencing on the south side of the Yampa River to keep WMR's cattle from trespassing across the River onto the Carpenter Ranch Preserve. TNC believes that constructing a permanent fence on the south side of the active riverbed runs contrary to the conservation goals for preserving the sensitive riparian areas that

are part of the Carpenter Ranch Preserve and Yampa River Preserve. TNC acquired the Carpenter Ranch Preserve in 1996 specifically to protect the globally rare riparian forest in that area dominated by narrowleaf cottonwood, box elder and red-osier dogwood, and the wildlife that use the riparian area. That conservation goal represents TNC's primary purpose for owning and operating the Carpenter Ranch Preserve and Yampa River Preserve and is a core value that we must sustain and protect.

In addition, TNC does not believe that it is practical to place permanent fencing in the active floodplain of the Yampa River. It is likely that such fencing would be damaged or washed away during annual spring floods.

4. Status of Intern House (former Ranch Manager's house)

County Planning staff members asked whether TNC plans to keep the Intern House. The answer is yes.

TNC notes that it had already notified the County in 1996 of its plan to retain that building and build a new Ranch Manager's residence when the County issued the original Conditional Use Permit. Page "3" of the Staff Comments for the 1996 CUP Permit discussion shows that the County recognized that TNC had already decided not to tear down the old ranch manager's house. See Routt County Regional Planning Commission Staff Comments on March 21, 1996, p. 3. ["The ranch manager's house is in poor condition and has little historical value. It is scheduled to be torn down and a new home built in its place. (This has changed since the narrative was written. The new home has been approved by the Colorado Historical Society as it will actually enhance the ranch's character.) The existing [intern house - former ranch manager's house] which sleeps up to three people, will also be fixed up for possible use by summer interns."].

Once again, we thank the County for its effort and diligence in providing comments on TNC's application for an amended CUP. We will do our part to move swiftly through the remainder of this process.

Please let me know if you have any further questions.

Sincerely,



Geoff Blakeslee
Yampa River Project Director

From: Kristy Winser
To: ["Sally Ross"; Nancy Fishbein](#)
Cc: [Geoff Blakeslee](#)
Subject: RE: Tabled Application
Date: Thursday, January 2, 2020 3:16:00 PM
Attachments: [image001.png](#)

Sally and Nancy,

Thank you for the quick response and clarifications you both pointed out. I think the information you provided below is great and shows the initiative and steps you have taken since the meeting.

Sally, I appreciate your continued communications with Brent and myself, and I look forward to this relationship to continue with hopes for a desired outcome for all. If there is anything that I can do to help mediate communications, I am more than happy to do so. I also can review your submission and provide feedback before you formally submit. My goal is to provide as much guidance to get your amendment approved while limiting any potential off-site impacts. I am optimistic that this can be achieved, especially with the information you provided below, and steps you and I discussed. My only suggestion is to include this detail in your narrative to support your due diligence, which I believe the Planning Commission will appreciate.

Thanks again.

Kristy

Kristy Winser

Assistant Director

Routt County Planning

970-879-2704

136 6th Street, suite 200

Steamboat Springs, CO 80487

Kwinser@co.routt.co.us



From: Sally Ross [mailto:sally.ross@TNC.ORG]
Sent: Thursday, January 2, 2020 1:01 PM
To: Nancy Fishbein <nfishbein@TNC.ORG>; Kristy Winser <kwinser@co.routt.co.us>
Cc: Geoff Blakeslee <GBLAKESLEE@TNC.ORG>
Subject: RE: Tabled Application

Hi Kristy,

Thanks for your clear guidance below. To address your feedback:

- I have reached out to Paul to schedule a sit-down with John and Brent to review our updated

submission prior to the next hearing.

- I think you should know that Brent and I did sit down together prior to the last submission to discuss the terms; however, it was likely my mistake in not formalizing this sit down to include John. This meeting wasn't mentioned in John's letter.
- I called a fencing contractor to conduct a site visit prior to Christmas; Top Notch Fencing will be onsite next Tuesday, January 7 to provide an estimate and feedback on fence construction along the Hein Island area. TNC will have this feedback to make next step decisions about a fence.
 - I also think it's important that you know that Brent and I did communicate extensively this past fall about a permanent fence line (~1600') in one portion of TNC's side to prevent cattle from crossing into an especially cumbersome area. We were moving forward with this, but (understandably) the Romick's needed to implement quicker action given the time of year and came up with a different solution. Brent and I plan to resume this conversation soon, so that we don't run into a time conflict similar to this past fall. This also wasn't mentioned in John's letter, as it is an area where the public doesn't visit and may not be of high importance to WMR interests.
- I have example tracking logs I can send to you to present at the hearing as a COA (you and I had discussed this). I will also send you an outline Guidance Document to present that will be completed by May 2020 as a COA (you and I also discussed this). The Guidance Document will provide use protocol and procedures, as well as program intent. This will also include safety guidelines. We have both of these items mentioned in the amendment proposal. Do you suggest I email these to you directly to share at the hearing?

Thanks again Kristy. Looking forward to hearing from you,
Sally

From: Nancy Fishbein <nfishbein@TNC.ORG>
Sent: Thursday, January 2, 2020 10:06 AM
To: Kristy Winser <kwinser@co.routt.co.us>
Cc: Sally Ross <sally.ross@TNC.ORG>; Geoff Blakeslee <GBLAKESLEE@TNC.ORG>
Subject: RE: Tabled Application

Kristy,
Happy New Year back at you. I have high hopes for 2020!

Thanks for the summary below. Just to make sure we are totally accurate, I did not ask to have the proposal tabled. Rather, Chad suggested that given the timing it was prudent to postpone the discussion until February to give TNC time to reassess its proposal. While I readily agreed, I want to make sure that we characterize this correctly as Wolf Mountain Ranch has suggested through its attorney that TNC unilaterally and somewhat nefariously requested the second tabling.

As to the specific content of our amendment proposal for the February meeting, our team is working on it and should have a draft to share with you in a week or so. It would be great to get your feedback prior to our official submission if that is possible. I believe that we now understand the

County's position and will do our best to come up with a workable proposal.

Thanks for your continued patience with us. We do want to get to a place that can work for all concerned. I hope that we are getting close.

Nancy

From: Kristy Winser <kwinser@co.routt.co.us>

Sent: Thursday, January 2, 2020 9:54 AM

To: Nancy Fishbein <nfishbein@TNC.ORG>

Cc: Sally Ross <sally.ross@TNC.ORG>; Geoff Blakeslee <GBLAKESLEE@TNC.ORG>

Subject: Tabled Application

Nancy, Happy New Year.

I wanted to take this opportunity to follow up after your request to table your application to February 6th, 2019, about your revised narrative and a deadline to submit information for a streamlined process and productive meeting.

As Chad explained in your conversation, staff and the Planning Commission were clear on the County's position that all land uses within the permit boundary, whether public or private use, were subject to county review. Planning Commission also directed both parties to collectively come up with a reasonable proposal and have staff assist in this process. I'm attaching the staff report and minutes for your review, and my summary below from follow up meetings with your staff.

As you know, I met with Sally and Geoff twice after the October meeting was tabled, and your local attorney Paul Sachs was present at the last meeting. The group discussed two amendments.

- Option one proposed to take the preserve area (Islands 1&2) out of the permit boundary all together with no more public access to that area. There was no discussion about removing uses in the ranch compound area from the permit boundary. The only question presented was clarification on the use of the area if removed from the permit boundary. I cautioned this option would be a slippery slope and difficult to track with the list of private users (TNC employees and their family members, students, TNC donors, volunteers, and students/interns,) all the while having a permit covered for an adjacent area of the property. Paul Sachs agreed with me, and we focused on option two below.
- Alternately, option two suggested keeping the preserve area in the permit boundary (with the amendment to remove only the co-tenancy lands from the permit.) Then focus on addressing liability, trespass, and fence concerns through a management plan of this area with details that outline the use of this area for the Planning Commission to consider. In particular, we discussed possibly fixing and utilizing the existing fence, with better oversight and TNC guides for the preserve area beyond this fence. We also discussed having quotes if the Planning Commission were to require a new fence as initially intended in the 1996 permit. Paul agreed with this approach and added he would reach out to WMR's attorney to feel him out and go from there on negotiations.

Although the narrative submitted suggests information is based on further discussions with planning staff and with counsel for Wolf Mountain Ranch (WMR), this is not accurate. It's my understanding that WMR did not have the opportunity to discuss the amendment, as suggested by Planning Commission, before the submission. Also, planning staff expected to review option two based on the above and likely would have endorsed it. Instead, staff was disillusioned with the narrative as written, specifically with removing uses considered "as-right" within the permit boundary and disclosed to you a recommended denial. We anticipate after your conversation with Chad, Sally, and Geoff, Paul Sachs, and this email you consider the parameters in option two. Please have a revised narrative, with a detailed map of the permit boundary submitted for review by noon on January 17th. Also, as Chad explained, this application will not be tabled again and will be considered regardless on February 6th. I will coordinate the public notice, mailings, and have Sally locate a new poster for the new hearing date.

If you have any questions or need further clarification, please don't hesitate to reach out before January 17th.

Thank you.
Kristy

Kristy Winser
Assistant Director
Routt County Planning
970-879-2704
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Steamboat Springs, CO 80487
Kwinser@co.routt.co.us



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January 15, 2020

Dear Routt County Planning Commission,

I am writing to support the Nature Conservancy in their application for a conditional use permit – and whatever additional permissions they need to operate the Carpenter Ranch in a manner consistent with past traditions.

Please indulge me as I share a little local and family history that I feel is relevant to the current questions about how the Carpenter Ranch welcomes guests and members of the public.

My grandfather, Ferry Carpenter, took the position as ranch manager for the Colorado Anthracite Coal Company in 1925. My grandmother, Eunice Pleasant Carpenter, lived in Hayden with my uncle Ed, and my mother, Rosamond, and didn't move to the ranch until 1927 when certain improvements to the ranch house, like running water, were complete.

My grandparents moved into a ranch that was already somewhat of a public place. JB Dawson, the cattleman from New Mexico, who assembled the ranch from several small homesteads, was famous for his hospitality. He and his family had friends all over the country. When the railroad forced its way across the ranch in 1912-1913, the agreement was that a stop would be added – named Dawson – so that visitors could request the train stop in front of the ranch house. Dawson sold the ranch to the coal company in 1915 but these traditions lived on.

As many of you may know, my grandparents operated the Carpenter Ranch as a welcoming, hospitable home for decades. There was never a gate on the lane between US 40 and the ranch house. The doors to the house, barn, foreman's house or bunkhouse were never locked. The concept of trespasser never seems to have crossed anyone's mind.

During the Great Depression the presence of the railroad attracted hobos – mainly homeless and hungry men. My mother had many stories of giving food to hobos, and she and her brothers sneaking out at night to join others around a campfire by the tracks. That's where she and my uncles learned to play and sing so many songs.

One round my family sang recently came to mind:

Hey, Ho, nobody home
Meat nor drink nor money have I none
Still I will be
Me-e-rr-y
Hey, ho, nobody home.

I have the guest books that many visitors signed to commemorate their visit to the ranch. From 1927 until 1980 – and beyond while my mother lived alone in the ranch house, there was a steady stream of visitors. Sometimes it was a flood. When I was a kid, my brothers and I rode the train over from Denver and sometimes Grandpa asked the train to stop at the ranch to drop us off. I hardly remember a single meal that the “family” ate alone. Grandpa could see the lane from where he sat in the front room. “Put another place at the table,” he would tell my grandmother as yet another vehicle full of visitors came unexpectedly down the lane.

Ferry Carpenter was especially generous. If someone came by who was moving to Hayden he would say, “Go out to the barn and see if there is anything you can use!”

I tell you these stories to help explain the current situation and the expectations, the traditions, and some might acknowledge, the burdens the Nature Conservancy has inherited.

Over a hundred years of hospitality have flowed from the Carpenter Ranch. Generations have grown up with stories of a family member working at the ranch, or grandparents who knew Ferry or Eunice, or later Rosamond (FRC’s second wife whom he married after Eunice died) or their children, or their many friends.

The ranch has been an open and welcoming place for a century. It is one of the only places in the country where these traditions have held on so long. Where else can you visit an historic ranch without running into NO TRESPASSING signs and locked gates? Where else can you go to have a feeling for what a working cattle ranch is like? Where else is so much history preserved onsite – and open, without any charge, to school children, passerby, birders, and for people for an appreciation for that less fearful, more open and welcoming way of life?

Our family had several choices after my grandparents died. We hung onto the ranch for ten years after grandpa died, to earn enough money to pay the inheritance taxes, and partly because my mother and her two brothers were divided in their vision for the ranch’s future. There were offers from coal companies to mine the rich seam of coal under the ranch. There were proposals for trailer courts, subdivisions and a golf course. And there were “trophy” ranch investors.

What everyone finally agreed to was to sell/convey the ranch to the Nature Conservancy with a conservation easement on the entire property so that the ranch could never be subdivided into small plots.

We also hoped that the ranch would continue to be a glorious place, an inspiring place, a place to learn about and appreciate the Yampa Valley.

I know the Nature Conservancy has faced many crosswinds as the county and the region have changed. Throughout they have been steady stewards of the ranch. And they’ve kept an open door and a welcoming presence.

We hope these traditions of hospitality will continue with the blessing of Routt County. The Carpenter Ranch is a county treasure, perhaps our very own heritage site. We urge you to support those traditions and the gifts they have bestowed on so many.

Warm Regards,

Belle Zars with Willis V. Carpenter
For the Carpenter family

January 17, 2020

Via email: kwinser@co.routt.co.us and cphillips@co.routt.co.us

Routt County Planning Department
Chad Phillips, Planning Director and
Kristy Winsler, Assistant Director
PO Box 773749
Steamboat Springs, CO 80477

RE: Carpenter Ranch Preserve: Updated information for amended Conditional Use Permit

Dear Mr. Phillips and Ms. Winsler,

This letter provides updated information for The Nature Conservancy's (TNC) application for an amended Conditional Use Permit (CUP) based on public comment and discussions with the Routt County Planning Commission at its October 17, 2019 meeting and subsequent conversations with Planning staff and representatives of Wolf Mountain Ranch. We appreciate the thorough feedback provided and hope that the actions we have taken since the October meeting, coupled with our modified proposal, reflect our commitment to maintain Carpenter Ranch Preserve as an important place for both the community and conservation. Key changes detailed below include:

- Expansion of the CUP boundary to include all areas with public use
- Discontinuation of public drop in hours
- Construction of a fence along the northern CUP boundary posted with "no trespassing" or similar language
- Potential mutual indemnification with Wolf Mountain Ranch of co-tenancy area

Please see below for a more detailed description of our proposal. We thank you for your patience as we work through this process and we hope that our proposal adequately addresses any remaining issues.

1. Boundary for amended Conditional Use Permit.

Based on comments from the Planning Commission and Planning staff, TNC proposes to include in the amended Conditional Use Permit the area outlined in orange on the attached aerial photograph. This area encompasses approximately 515 acres. Please note that it does not include any of the ranch lying west of the ranch access road or north of the Yampa River and expressly eliminates the area known as feature 1B and the active river channel north of the Hein Island area. The public will not be allowed in these areas.

2. Proposed Uses within permit boundary.

The Carpenter Ranch is primarily a nature preserve, held by The Nature Conservancy to protect the outstanding natural values found in the rare riparian habitat and surrounding uplands. The Carpenter Ranch also has a strong agricultural heritage and continues to be managed in part for ranching purposes. Since acquiring the property, The Nature Conservancy has also provided public access to the Carpenter

Ranch that would otherwise be unavailable to the community in order to promote an understanding of the importance of conservation, to build support for our mission, to provide a venue for special community events, to offer opportunities for agricultural education and scientific research, and to encourage collaboration among the Yampa Valley's many interest groups.

TNC proposes to continue to provide limited public access to the property. Specifically, TNC proposes the following uses under the CUP:

1. Planned Community Events, such as the Crane Festival. We anticipate 3-5 events/year although typically this number is smaller. The number of attendees participating in these events range from 25-125 individuals. The events center around the Education Center and the historic Barn but may include guided walks/skis on portions of the property, including birding events.
2. TNC Donor Trips. We anticipate approximately 10 trips/year. The number of attendees range from 2-10 individuals.
3. School Programs administered through third party, such as Yampatika and Rocky Mountain Youth Corps. Yampatika currently leads 3-4 trips of 20-30 students/trip. Rocky Mountain Youth Corps provides the ranch with much needed volunteer work every Thursday morning for 2 months during summer. The groups range in size from 5-10 youths and work is primarily done with full supervision and in proximity to the ranch facilities.
4. Partner/Community use of meeting space in Education Center (located in the Historic Main Ranch House/Education Center) and adjacent outdoor space. Meetings average 2-5/month with attendees ranging from 5-20 individuals. While more meetings occur during the summer months, meetings take place throughout the year. Meetings held at the ranch mostly relate to conservation and the Conservancy's mission and include groups such as the Integrated Water Management Plan team, Maybell Ditch Project, Leafy Spurge Group and Sustainable Grazing forum.
5. Scientific and Agricultural Research. We anticipate approximately 10 trips/year. The number of invitees average 5 individuals/group. Invitees are university professors, undergraduate and graduate students and research scientists. Activities may occur year-round but are most common in the summer.
6. Year-round overnight accommodations for TNC staff, donors, visiting researchers in the following buildings. Note that TNC does not rent these rooms to the general public. All overnight use is directly connected to our work/mission:
 - a. Historic Main Ranch House
 - b. Intern House
 - c. Bunkhouse

TNC's continued private uses of the property that we do not believe should be subject to the County's jurisdiction under the CUP include the following:

1. The agricultural operation, currently leased to a private ranching operation.
2. Occupancy of the Ranch Manager's House for property manager.

TNC reserves the right to use all portions of the property outside the CUP for private uses.

3. Conditions of Use:

The Nature Conservancy recognizes that its use of Carpenter Ranch Preserve and the area within the CUP boundary is unique and may be challenging to fit within County zoning. We understand that some

uses of the property have raised concerns from our neighbor for potential trespass and liability. We propose the following actions to mitigate this possibility:

1. TNC will discontinue allowing unscheduled public visits to the Ranch. All visitation will be made by appointment only.
2. TNC will construct and maintain a perimeter fence along the northern boundary of the CUP. The fence will be marked with “no trespassing” or similar language to alert visitors that there is no access to the riparian forest or to the Yampa River beyond this fenced area. As part of our due diligence we have an estimate of the cost of fence construction and are currently exploring funding through a Colorado Parks and Wildlife cost-share program. The fence and the proposed CUP boundary will generally follow the high-water mark of the Yampa River in the Hein Island area and connect to an existing pasture fence. Please see the attached map for the approximate location of the proposed and existing fence. Wolf Mountain Ranch and TNC have discussed the proposed fence location and agree with the placement.

TNC has requested feedback from its corporate office to understand if we can agree to mutual indemnification with WMR in the area held in co-tenancy. We should receive direction prior to the February 6 hearing. Negotiations on mutual indemnification are ongoing with WMR, but we believe that this issue is best dealt with between the neighbors and would not be appropriate for inclusion in the amended CUP as a Condition of Approval.

Once again, we thank the County for its effort and diligence in providing comments on TNC’s application for an amended CUP. We will do our part to move swiftly through the remainder of this process.

Please let me know if you have any further questions.

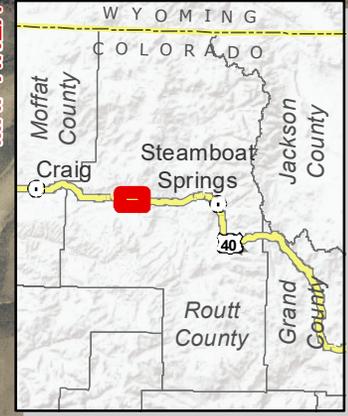
Sincerely,



Nancy Fishbein
Director of Land & Water Protection
The Nature Conservancy - Colorado

Carpenter Ranch Preserve CUP Boundary - January 2020

MAP AREA



Feature 1B

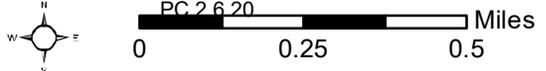
Carpenter Ranch Preserve

Property Boundary

County Hwy-27

40

- Carpenter Ranch Preserve
- Proposed CUP Boundary
- Feature 1B
- Proposed Fence
- State Highway
- County Road



Moore Vehicle Storage

Home Industry

ACTIVITY #: PL-19-200

HEARING DATES: Planning Commission: Feb 6, 2020 at 6:00pm
Board of County Commissioners: Feb 25, 2020 at 1:30 pm

PETITIONER: Todd Moore

PETITION: Special Use Permit for a Motor Vehicle Storage Home Industry

LEGAL: Lot 1 Seneca Savage Truck Terminal Subdivision

LOCATION: Approx. 1,000' SW from the intersection of CR 27 and CR 51B

ZONE DISTRICT: Agriculture / Forestry

AREA: 10 acres

STAFF CONTACT: Tegan Ebbert Tebbert@co.routt.co.us

ATTACHMENTS:

- Applicant narrative
- Site plan
- Site visit photos
- Referral responses

History:

January 7, 1982

Savage Brothers, Inc. applied for a Special Use Permit to construct a building for truck maintenance and service on 10 acres on the Seneca Mines Property zoned Agriculture and Forestry. The petition was reviewed and approved on February 16, 1982. The permit expired 25 years from its issuance on February 16, 2007.

August 8, 1983

Savage Brothers, Inc. and Peabody Coal Company entered into a lease and purchase option agreement on the above named property.

October 10, 2003

Peabody Coal Company conveyed the above named property to Savage Brothers, Inc. It continues to be used as a truck maintenance and service facility.

December 1, 2003

Pirate Trucking purchased the 10 acre parcel.

June 22, 2004

The Board of County Commissioners approved the Seneca Truck Terminal Minor Development Subdivision Exemption (MDSE). The MDSE included two lots, one 10 acre lot for the existing truck terminal and a 60 acre lot. The MDSE was designed to allow Seneca to convey the truck terminal property to an independent contractor. The plat and Development Agreement were reviewed, approved and recorded by the BCC (PX2004-005). A development agreement was approved indicating Lot 1 can construct one single family residence and one secondary dwelling unit.

January 1, 2007

Pirate Trucking was renamed by the new owner, Jared Williams, to Links Freight Management, LCC.

February 16, 2007

A Special Use Permit application was submitted by Links Freight Management, LCC requesting a renewal of the Savage Brothers, Inc. Special Use Permit approved in 1982 (PP1981-015). The BCC approved the Special Use permit for Life of Use (PP2007-011). Excel changed its permit in 2011 to only include coal transportation by railway. The operation ceased in 2015 and the site has been vacant for the last five years. As a result, the most recent permit has expired.

Site Description:

The subject property is a 10 acre parcel, of which approximately 5 acres is fenced and contains a gravel surface. All of the activities and structures being proposed will be located within the 8' tall chain-link fence. The parcel is void of trees or significant vegetation. The adjacent parcels located to the south, west, and east are zoned Agriculture / Forestry and are vacant. The adjacent parcel located to the north is zoned Industrial and is the site of the Hayden Station power plant. The nearest residence to the subject parcel is approximately 0.75 miles, as the crow flies, from the site.

Currently the site contains one warehouse, formerly used as a trucking terminal, which is approximately 11,980 sq.ft. in area.

The existing structure is partially visible from the nearest residence however entrance to the site, lighting, and proposed additional structures are located on the opposite side of the existing structure from the visible home.

Project Description:

The applicant is proposing to create a dwelling unit on the 10 acre parcel, either contained within the existing structure or adjacent to it within the fenced area, and to convert the existing warehouse into a storage facility for campers, trailers, RVs, vehicles, and other similar items. The residential unit will be occupied full time by an individual who also acts as the manager for the storage facility.

The applicant has calculated that the existing 11,980 square foot structure has an approximate capacity of 20 RVs or vehicles.

The applicant is also proposing a future addition of three storage structures, all to be located within the fenced area. The proposed pole barn style structures will provide additional vehicle / RV storage and are 10,000 sq.ft., 6,000 sq.ft., and 5,000 sq.ft. in area. The three proposed structures will have individual stalls with capacity for an additional 42 vehicles, RVs, or campers collectively. No outdoor storage is being proposed.

With the proposed three new structures and the one existing structure, the applicant anticipates the capacity for approximately 62 vehicles. The applicant is expects each client will make approximately four trips annually to the storage facility therefore resulting in an anticipated traffic count of 248 trips annually generated by the storage facility if at full capacity.

The proposal includes a 24 hour self-service gate for clients to access or drop off their stored vehicles therefore they have not identified specifically set business hours. Only one employee, the onsite manager, is being proposed.

Staff Comments:

The historically permitted trucking terminal operation averaged daily trips of 15 semi-trucks, 30 semi-trailers, and approximately 50 employees. Additionally the trucks ran continually 24 hours daily with two 10 hour shifts from Monday-Saturday each week.

The trucking terminal operation ceased in 2015 as the result of changes in the coal industry and the requirements for rail transportation of coal that disallowed trucking.

The applicant intends to convert the existing office and employee lounge areas within the truck terminal into a dwelling unit however if he finds that retrofitting that space will be more costly than he would like to elect to add a free standing single family residence instead.

*****Issues for Discussion*****

Will a landscaping plan be required for this proposal?

Compliance with the Routt County Master Plan, Sub Area Plans and Zoning Resolution

The Routt County Master Plan, Sub Area plans and Zoning Resolution contain dozens of policies and regulations regarding land use. Section 5 of the regulations are designed to limit or eliminate conditions that could negatively impact the environment and/or use of surrounding properties, and shall apply in all Zone Districts and to all land uses unless otherwise noted. Section 6 Regulations apply to all Minor, Administrative, Conditional or Special uses allowed by permit only, PUD plans, Site plans, and Subdivisions.

The following checklist was developed by Planning Staff to highlight the policies and regulations most directly applicable to this petition. The checklist is divided into seven (7) major categories:

1. Health, Safety and Nuisances
2. Regulations and Standards
3. Home Industry Regulations and Standards
4. Community Character and Visual Impacts
5. Roads, Transportation and Site Design
6. Natural Environment
7. Mitigation

Interested parties are encouraged to review the Master Plan, Sub Area plans and Zoning Resolution to determine if there are other policies and regulations that may be applicable to the review of this petition.

Staff Comments are included at the end of each section, highlighting items where the public, referral agencies, or planning staff have expressed questions and/or comments regarding the proposal. **Staff comments regarding compliance with regulations and policies are noted in bold below.**

Public Health, Safety and Nuisances

Applicable Regulations – Routt County Zoning Resolution

- 5.1.1 Every use shall be operated so that it does not pose a danger to public health, safety or welfare.
- 5.1.2 Every use shall be operated in conformance with all applicable federal, state and local regulations and standards. Failure to comply with any and all applicable federal, state and local regulations and standards may be cause for review and/or revocation of any Land Use Approval granted pursuant to these regulations.
- 6.1.7.I Noise
- 6.1.7.L Odors
- 6.1.7.M Vibration
- 8.4.4 Central sewage collection system that includes secondary treatment and disinfection facilities as approved by the Colorado Department of Public Health and the Environment and the local health authority are required for all new building and uses.

Staff comments: The applicant is proposing storage only of the vehicles. Traffic of vehicles, RVs, Campers, etc. have the potential to cause some noise and/or vibration however once the items are onsite and placed in storage they are no longer being utilized. Additionally, the approximate 248 trips annually is significantly less than the historic use of the parcel when it was a trucking terminal. The applicant is not proposing vehicle maintenance or repairs to occur onsite nor are they requesting any outdoor storage. Management will live onsite and monitor the storage operation for any safety or nuisance issues.

The applicant is working with the Routt County Environmental Health Department regarding the existing septic system in order to verify it is in appropriate working order.

Is the application in compliance with the Policies and Regulations outlined above? **Yes or No

Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

- 5.2 Dimensional Standards:
- 5.3 Secondary Dwelling Unit Standards
- 6.1.5 The proposal shall meet or exceed accepted industry standards and Best Management Practices (BMP's).

Applicable Policies – Routt County Master Plan

- 3.3.A New residential, commercial and industrial developments and uses should occur within the vicinity of designated growth centers and in compliance with the adopted comprehensive plans of those areas.
- 4.3.B Use Permits that significantly alter the historical use, intensity of use, or character of an area may be deemed incompatible with this plan.
- 4.3.C Use Permits for projects located on traditional ranch lands may be approved when the petitioner has demonstrated that the historic operation and stewardship of the land will be maintained or enhanced.
- 4.3.D Rural developments and uses should be limited to areas that have adequate access to accommodate the projected traffic.
- 5.3.A The County encourages the use of “green” building techniques that lead to the conservation of energy and overall reduction of pollution in our environment.
- 5.3.D Require Best Management Practices and grading plans and strongly discourage overlot grading.
- 6.1.2 The proposal shall be consistent with applicable Master Plans and sub-area plans.

Staff comments: The subject parcel is located within the Town of Hayden’s Three Mile Area Plan however the plan does not recommend limits to the uses on this parcel. The plan indicates that “annexation near the airport (YVRA) is feasible” however no plans to pursue annexation of this parcel exist and the parcel on its own is not eligible The Town of Hayden responded to a referral request indicating that they do not have any comments other than “there are very limited facilities throughout Routt County for this type of RV storage and is needed”.

Although this proposal is for a commercial use on a parcel zoned Agriculture / Forestry it is not proposing to significantly alter the historical use, intensity of use, or character of an area. When the Minor Development Subdivision Exemption was approved in 2004 it was designed to allow Seneca Mine to convey the truck terminal to an independent contractor however now the trucking operation is no longer a viable business.

This property had been in use as a trucking terminal for over 30 years and has had an industrial appearance for nearly 40 years. The location of this site is directly adjacent to Industrial zoned property, in the shadows of the Hayden Power Plant, and less than one mile from the boundary limits of the Town of Hayden.

The improvements on the parcel currently meet the Dimensional Standards in section 5.2 and the proposed improvements do as well.

*****Is the application in compliance with the Policies and Regulations outlined above? Yes or No***

Home Industry Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

- 8.17.A The owner or manager shall be a full-time resident of, and operate the home industry.

- 8.17.B All activity related to the home industry must be conducted within or adjacent to the Dwelling unit or within an accessory structure. Limited outdoor storage is permitted in accordance with the regulations of Section 6.
- 8.17.C In the A/F Zone District a maximum of 8 on-site employees, including those residing in the Dwelling Unit, are permitted to work in connection with the home industry. In all other Zone Districts a maximum of 3 on-site employees, including those residing in the Dwelling Unit, are permitted to work in connection with the home industry.

Staff comments: The applicant is proposing to have a full-time onsite manager to live in either a converted portion of the existing structure or in an adjacent structure. The applicant is currently weighing building costs versus remodel costs before making a decision. The dwelling unit will be required to be properly permitted by the Routt County Building and Environmental Health Departments.

All activities associated with the vehicle storage facility will occur within the existing and proposed structures, no outdoor storage or outdoor operations are being proposed.

The applicant has indicated that the storage facility operation will have a maximum one employee who will also reside on the parcel as the onsite manager.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Community Character and Visual Impacts

Applicable Regulations – Routt County Zoning Resolution

- 5.1.4 Outdoor storage of materials which might cause fumes, odors, dust, fire hazard, or health hazards is prohibited unless such storage is within enclosed containers or unless a determination is made that such use will not have a detrimental impact on the environment
- 5.9 Sign Standards
- 6.1.6 Outdoor Lighting: The proposal shall comply with the Outdoor Lighting Standards in Section 6.3 of these Regulations.
- 6.1.7.G Visual Amenities and Scenic Qualities.
- 6.1.7.K Land Use Compatibility.
- 6.1.7.O Historical Significance.

Applicable Policies – Routt County Master Plan

- 5.3.E Routt County requires that all new developments do not contribute to light pollution.
- 5.3.F Routt County will continue to consider the impacts of development and uses on view corridors, water, wetland, and air.
- 10.3.C Approval of development should be kept in or near growth centers.

Staff comments: Due to discontinuance of trucking operations, the trucking terminal SUP is no longer valid therefore this site is considered to be out of conformance with the Routt County Zoning Regulations because of the existing warehouse and lack of a dwelling unit.

If approved, the proposed Home Industry Special Use Permit will bring this parcel back into conformance. The proposed use is similar but less intensive than the use that has been allowed on this parcel for nearly 40 years.

The applicant is not proposing outdoor storage and the additional storage structures will be in the style of pole barns. The existing lighting onsite is downcast and opaquely shielded and any new lighting will follow the Outdoor Lighting Standards. Additionally, any proposed signage will meet the Sign Standards.

At present a landscaping plan has not been provided and was not required in the submittal materials. The previous Special Use Permits did not have landscaping plans and the site is void of any significant vegetation.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Roads, Transportation and Site Design

Applicable Regulations – Routt County Zoning Resolution

- 5.4 Parking Standards
- 5.7 Right of Way Access Standards: A Right of Way Access Permit is required prior to construction of any new access point onto a County Road or other Local Public Road or Right of Way.
- 6.1.4 Public Road Use Performance Standards: The proposal shall comply with the Public Road Use Performance Standards in Section 6.2 of these Regulations.
- 6.1.7.A Public Roads, Services and Infrastructure
- 6.1.7.B Road Capacity, traffic, and traffic safety
- 6.1.7.N Snow Storage

Applicable Policies – Routt County Master Plan

- 11.3.O Ensure that future development occur where roads can accommodate projected traffic volumes and patterns.
- 11.3.P Discourage new use permits and zone changes that increase density that will exceed acceptable traffic levels.

Staff comments: The parcel was previously subjected to review and approval for the significantly more impactful trucking terminal operation in both 1982 and 2007. The anticipated traffic for the proposed vehicle storage facility is a downgrade from the historic use. The applicant intends to only utilize the existing entrance to the parcel located on County Road 51B. The site and entranceway was originally designed to accommodate tractor trailers and therefore is appropriate for camper and RV access.

Routt County Road and Bridge provided a referral response that is included in this staff packet.

Even with the addition of three more storage structures on the site, there is ample parking space for clients as well as snow storage area. In section 5.4 of the Routt County Zoning

Regulations self-service storage facilities required one parking space per 20 units with a minimum of five parking spaces. The dwelling unit requires a minimum of two parking spaces. Collectively the site is required to have a minimum of seven parking spaces.

The applicant anticipates that the majority of the traffic associated with the storage will take place in the spring and fall. Overall the bulk of the traffic on the site will be associated with the residential unit onsite as the onsite manager makes personal trips to and from their home on a daily basis.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Natural Environment

Applicable Regulations – Routt County Zoning Resolution

- 6.1.7.D Wildlife and Wildlife Habitat.
- 6.1.7.E Water Quality and Quantity.
- 6.1.7.F Air Quality.
- 6.1.7.J Wetlands.
- 6.1.7.P Reclamation and Restoration.
- 6.1.7.Q Noxious Weeds.

Applicable Policies – Routt County Master Plan

- 5.3.B While respecting private property rights, the County will not approve development applications or special use permits that would lead to the degradation of the environment without proper mitigation that would bring the proposal into compliance with the Master Plan, appropriate sub-area plans, Zoning Resolution, and Subdivision Regulations.

Staff comments: The proposal includes the construction of three additional structures therefore seeding of any disturbed areas and noxious weed prevention measures will be suggested conditions of approval.

The subject parcel is in an area of low wildfire. The only water usage being proposed will be associated with the dwelling unit or restroom facilities for clients.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

PLANNING COMMISSION / BOARD OF COUNTY COMMISSIONERS OPTIONS:

1. **Approve the Special Use Permit request without conditions** if it is determined that the petition will not adversely affect the public health, safety, and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties and uses and the proposal is in compliance with the Routt County Zoning Regulations and complies with the guidelines of the Routt County Master Plan.

2. **Deny the Special Use Permit request** if it is determined that the petition will adversely affect the public health, safety, and welfare and/or the proposed use is not compatible with the immediately adjacent and nearby neighborhood properties and uses and/or the proposed use is not in compliance with the Routt County Zoning Regulations and/or the Routt County Master Plan, Make specific findings of fact; cite specific regulations or policies by number from the Routt County Master Plan, and the Routt County Zoning Regulations.
3. **Table the Special Use Permit request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.
4. **Approve the Special Use Permit request with conditions and/or performance standards** if it is determined that certain conditions and/or performance standards are necessary to ensure public, health, safety, and welfare and/or make the use compatible with immediately adjacent and neighborhood properties and uses and/or bring the proposal into compliance with the Routt County Zoning Regulations and Routt County Master Plan.

FINDINGS OF FACT that may be appropriate if the Home Industry is approved:

1. The proposal with the following conditions meets the guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, 6 and 8.17 of the Routt County Zoning Regulations.

CONDITIONS that may be appropriate may include the following:

General Conditions:

1. The Special Use Permit is contingent upon compliance with the applicable conditions of the Routt County Zoning Regulations including but not limited to Sections 5, 6, and 8.17.
2. The Special Use Permit is limited to the uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or amended application.
3. Any complaints or concerns that may arise from this operation may be cause for review of the Special Use Permit, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. In the event that Routt County commences an action to enforce or interpret this Special Use Permit, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
5. No junk, trash, or inoperative vehicles shall be stored on the property.
6. This approval is contingent upon the acquisition of and compliance with any required federal, state and local permits; the operation shall comply with all federal, state and local laws. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to the commencement of operations.
7. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
8. All exterior lighting shall be downcast and opaquely shielded.
9. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence. Permittee shall notify the Routt County Planning Department of any claims made against the policy. Routt County shall be named as an additional insured on the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.

10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director, without notice.
11. Permits/Approvals shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this Special Use Permit may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, transferee shall submit written consent for the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.
13. The Permittee shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan.

Specific Conditions:

14. The Special Use Permit (SUP) is valid for the life of the use provided it is acted upon within one year of approval. The SUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year. The approved project plan shall include:
 - Home Industry for a Camper, RV, trailer, and vehicle storage facility
 - Hours of operation are 24 hours a day / 7 days a week
 - One dwelling unit to be occupied by the onsite manager
 - Storage structures are limited to four (4) and are limited to the following sizes:
 1. Existing structure not to exceed 12,000 sq. ft. in area
 2. One new pole barn not to exceed 10,000 sq. ft. in area
 3. One new pole barn not to exceed 6,000 sq. ft. in area
 4. One new pole barn not to exceed 5,000 sq. ft. in area
15. Revegetation of disturbed areas shall occur within one growing season with a seed mix that avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.
16. Prior to operation, permittee shall submit to Routt County proof of a Sales Tax Account /License.
17. The owner or manager shall be a full-time resident of, and operate the home industry.
18. All activity related to the home industry must be conducted within or adjacent to the Dwelling Unit or within an accessory structure.
19. A maximum of 8 on-site employees, including those residing in the Dwelling Unit, are permitted to work in connection with the home industry.

20. No uses approved in this SUP shall commence until a Certificate of Occupancy is granted for the dwelling and the dwelling is inhabited by the on-site manager.
21. This permit is for storage only: No maintenance, repairs, or client camping are allowed onsite.

Cari Hermacinski
PO Box 774543
Steamboat Springs, CO 80477
970.846.1066
hermoboat@gmail.com

December 23, 2019

Tegan Ebbert
Routt County Planning
PO Box 773749
Steamboat Springs, CO 80477

RE: Application for a Special Use Permit (Home Industry) for Property located at 13475 CR 51B, Hayden, Colorado

Dear Ms. Ebbert:

Attached to this cover letter please find an application submitted on behalf of Todd Moore for a Special Use Permit (Home Industry) for property located at 13475 CR 51B, Hayden, Colorado. The subject property is located immediately south of and adjacent to the Hayden Station (zoned Industrial) and .87 miles east of the Yampa Valley Regional Airport (Town of Hayden). Other than the Hayden Station there are only two other properties that are adjacent to the subject parcel. Both of those properties are zoned AF and used for farming.

In 1982 a Special Use Permit (SUP) was issued to Savage Brothers to construct a building for truck maintenance and service on the subject parcel. The trucks that were maintained and serviced on the property were used for trucking coal from the Twentymile mine to the Hayden Station. The property retained its AF zoning designation. For the life of that SUP the subject parcel was continuously used as a truck maintenance and service facility for the hauling of coal. The 1982 permit was good for 25 years and in 2007, upon expiration of the 1982 SUP, Links Freight Management applied for another SUP. The 2007 SUP was approved by the County with the finding that the truck maintenance and service facility was in compliance with all applicable provision of the Routt County Zoning Regulations and the Routt County Master Plan. The 2007 SUP has expired.

The applicant proposes to convert the use to Home Industry – vehicle storage, which requires a SUP in the AF zone district, and use the property for the storage of vehicles including RVs, boats, motorcycles, automobiles and other similar vehicles. There is one existing 11,980 square foot building on the property. That existing building contains an office that is currently plumbed, has several rooms and a kitchen/break facility. Mr. Moore is working with Routt County Building Department to convert that office to a residential unit where an on-site manager will live. Clients storing vehicles on the property will be able to access the property through a self-service gate 24 hours a day. Access will be off County Road 51B and no new access will be required. Approximately 5 acres of the 10 acres parcel is currently fenced and gated and will remain that way so that the facility is secure. As demand grows the applicant would like to add one 10,000 square foot pole barn, one 6,000 square foot pole barn and one 5,000 square foot pole barn for additional storage. These three structures would fit within the existing 5 acre fenced area.

All of the following items address specific applicable provisions of the Routt County Zoning Regulations:

A. Section 5.1.5 – Outdoor storage of non-hazardous materials – the applicant proposes that the majority of storage will occur under covered structures and within the existing 5 acre fenced area.

B. Section 5.2 – Dimensional standards – the proposed use meets all dimensional standards.

C. Section 5.4 – Parking standards – Home Industry requires 1 space for every 500 square feet of floor space devoted to the Home Industry. The current building will require 21 spaces and the three additional buildings would require an additional 46 spaces. There is plenty of space to accommodate all these spaces on the property but it is not anticipated that customer parking will be utilized since customers will dropping off vehicles for storage and immediately departing.

D. Section 6.1.7 – Significant negative impacts - Since 1982 the property has been used as a truck maintenance and service facility for coal hauling between the Twentymile mine to the Hayden Station and the County determined that the truck maintenance and service facility was in compliance with all applicable provision of the Routt County Zoning Regulations and the Routt County

Master Plan. The proposed use of vehicle storage is of a lesser impact. The two residences nearest the subject property are both over ¼ mile from the subject property and on the other side of a small hill so the facility is to only one other property. It is expected that the traffic on County Road 51B will be significantly less than the coal haul operation. A typical customer will make four trips per year to deliver the vehicle in the fall and retrieve it in the spring. Approximately 20 RVs can fit into the existing building.

E. Section 8.3.1 – Insurance requirements – the applicant will provide certificates of insurance to meet Routt County requirements.

F. Section 8.3.2 – Dwelling units – the applicant will be converting the existing office into a manager's residence. Additionally there is a Development Agreement recorded on the property in 2005 which limits this property to one Dwelling Unit and one Secondary Unit.

G. Section 8.17 – Standards for a Home Industry – the manager of the vehicle storage will live on-site and all activity will occur within or adjacent to the existing building and proposed future structure. The use will not ever require more than 8 employees allowed in the AF zone district.

If you need any additional materials prior to our first hearing you may reach me via the contact information above.

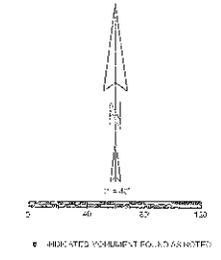
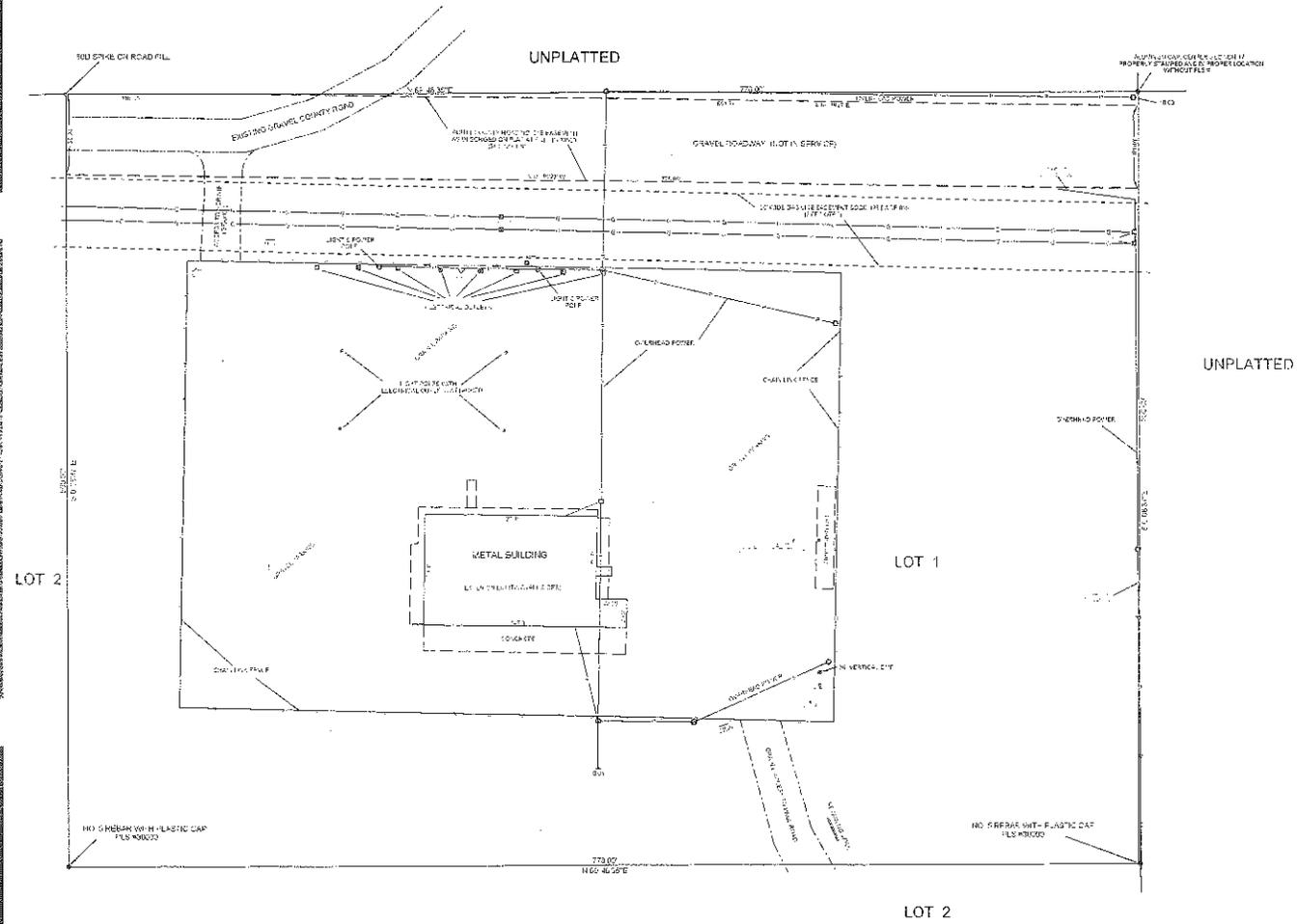
Regards,



Cari Hermacinski
Agent for Todd Moore

EXISTING CONDITIONS SITE PLAN

Lot 1, Seneca/Savage Truck Terminal Minor Development Subdivision Exemption,
as filed at File No. 13503, County or Rout, State of Colorado.



- NOTES
1. LOT 1 IS SUBJECT TO A DEVELOPMENT AGREEMENT RECORDED AT RECEPTION NO. 102774.
 2. THE WESTERN SLOPE GAS LINE BASEMENT RECORDED IN BOOK 32 AT PAGE 616, WILL NOT CLOSE. THE LOCATION IS BY FIELD CORRECTION ONLY.
 3. THE OVERHEAD POWER ALONG THE NORTH - AND EAST PROPERTY LINE APPEARS NOT TO BE COVERED BY EASEMENT.
 4. THE PLAT AT FILE NO. 134966 IS PROBABLY 100' FROM A COUNTY ROAD RIGHT-OF-WAY THAT IS NOW WATERSHED.
 5. PROPERTY IS ZONED AS AGRICULTURE (F01001). SEE FRONT SETBACKS AND 50' SIDE AND REAR SETBACKS.
 6. PRIOR TO ANY EXCAVATION, UTILITY LOCATES SHOULD BE OBTAINED.

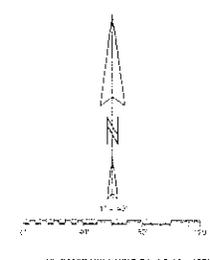
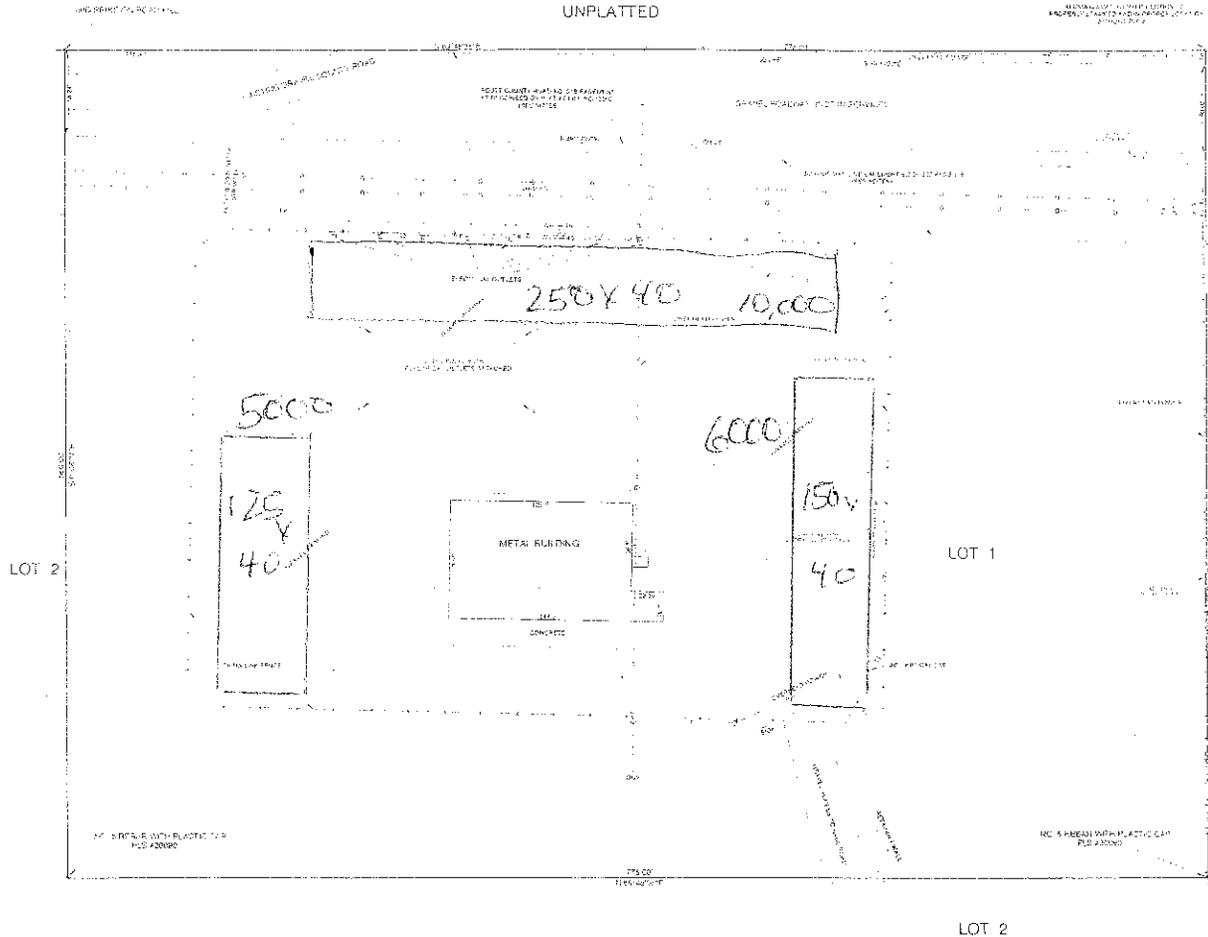
TRUDD MARRILL					EXISTING CONDITIONS SITE PLAN
LOT 1, SENECA/SAVAGE TRUCK TERMINAL ADDS					
ROUIT COUNTY, COLORADO					DOWLING LAND SURVEYORS P.O. BOX 864 HAYDEN, CO. 81639 (970) 278-2613 FAX 278-4665
SCALE	DATE	BY	REV.	FILE	
1"=40'	08/27/14	DM		13503	

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST CONVEY ANY LEGAL ACTION BASED ON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT, UNLESS YOU MAY ANY ACTION BE CONVEYED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

IMPROVEMENT LOCATION CERTIFICATE

Lot 1, Seneca/Savage Truck Terminal Minor Development Subdivision Exemption, as filed at File No. 13503, County or Routt, State of Colorado.

Also described as:
 A part of land located in the NE 1/4 SW 1/4 of Section 17, Township 6 North, Range 67 West, 6th P.M., Routt County, Colorado, being, more particularly described as follows:
 Beginning at an aluminum cap at the Center of Section 17;
 Thence S 00°06'37" L along the East line of said NE 1/4 SW 1/4 a distance of 560.00 feet;
 Thence S 89°48'36" W a distance of 776.00 feet;
 Thence N 00°08'37" W a distance of 560.00 feet to a point on the North line of said NE 1/4 SW 1/4;
 Thence N 89°48'36" E along said North line, a distance of 776.00 feet to the Point of Beginning.



UNPLATTED

- NOTES:
1. THIS CERTIFICATE OF LOCATION AND DEVELOPMENTAL NUMBER IS SUBJECT TO THE
 2. LOT 1 SHALL BE SUBJECT TO A DEVELOPMENT AGREEMENT RETAINED BY THE COUNTY
 3. THIS DEVELOPMENT SHALL BE SUBJECT TO RECORDATION IN BOOK 307 PAGE 156. DATED THE 10TH DAY OF JULY 2019.
 4. THE IMPROVEMENTS SHOWN ALONG THE NORTH AND EAST PROPERTY LINE ARE TO BE CONSIDERED EASEMENTS AND NOT ERECTED BY A LOT
 5. THE LOT 1 DEVELOPMENT SHALL HAVE IMPROVEMENTS MANIFEST AT THE
 6. THE PLAT AND RECORD NUMBER(S) SHOWN INCLUDES HOMEOWNERS OF ACCOUNTS OF RIGHT OF WAY THAT IS NOW NOT LEFT
 7. ALL IMPROVEMENTS SHOWN ON THIS CERTIFICATE IS AN UNPAID ARCHITECTURAL LOCATION OF AN IMPROVEMENT SURVEY BUT NOT FACTS BY THE

CERTIFICATION
 I hereby certify that the IMPROVEMENT LOCATION CERTIFICATE of the above described project, was prepared by
 DOWLING LAND SURVEYORS, P.C., 111 E. HAYDEN AVENUE, HAYDEN, CO. 81424, and I am a duly licensed
 and DREW H. DOWLING, who is a LAND SURVEYOR PLAT or a PROFESSIONAL SURVEY PLAT, who shall not be
 held liable for the accuracy of any building or other improvements shown thereon, and I hereby certify that the
 improvements on the above described property are in compliance with the 2019 subdivision regulations, and
 comply with the provisions of the subdivision regulations, and I hereby certify that the improvements shown on this
 certificate, except as excluded, and that there is no apparent violation or sign of any subdivision violation or violation
 of any part of the subdivision regulations.

Drew H. Dowling
 PLS 42599C

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED ON ANY DEFECT
 WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT, OR NO EVENT LATER THAN
 ACTION BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

DREW H. DOWLING		IMPROVEMENT LOCATION CERTIFICATE
LOT 1, SENECASAVAGE TRUCK TERMINAL, M.D.S.E.		
ROUTT COUNTY, COLORADO		DOWLING LAND SURVEYORS P.O. BOX 354 HAYDEN, CO. 81430 (970) 276-2913 FAX 276-4586
SCALE	OWN	
P.L. 17	010	



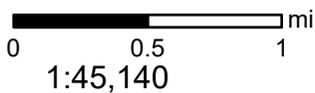
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Author:
Date Saved: 12/31/1969 5:00 PM

Planning



- Highway
- Primary Public Road
- Primary Public Road
- Primary Public Road
- Local Public Road
- Local Public Road
- Local Public Road
- Private
- Routt County Boundary
- Town
- Town Boundaries

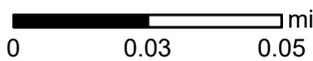


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Planning



1:2,257



- Primary Public Road
- Private
- Rouff County Boundary
- Parcels

Site Visit Photos

View of existing structure



View looking north from subject property / Indicates fenced area



View from CR 27 looking north



Interior photos of existing structure





Old employee break rooms & offices / proposed to be converted into living space





Proudly Serving Rural Routt County * City of Steamboat Springs * Town of Hayden * Town of Oak Creek * Town of Yampa * Routt County School

Plan Review Comments for Application TPL-19-200

Date: 01/06/2020

Subject Property Address: 13475 CR 51B Hayden, CO
Project Name: SUP Home Industry Vehicle/Boat/Motorcycle/Camper Storage
Applicant: Todd Moore

Dear Applicant,

The Routt County Regional Building Department has provided the following Plan Review Comments for your application with the Routt County Planning Department.

1. This application is being reviewed under the 2015 ICC Building Codes and the 2017 NEC State Adopted Electrical Code.
2. The Building Department permitted this Building in 1982 to construct a S-1 Storage Building used to store and perform light maintenance on trucks used at the Twentymile Coal mine. Your application submitted to the Routt County Planning Department concurs you would like to continue to use a portion of this Building for Storage of vehicles, campers, boats, motorcycles and similar items. Your application also mentions you would like to use a portion of this building to create a new Occupancy, and Residential or R-3 Occupancy space would be created within this building.

The Building Department would refer to this as a Mixed Occupancy Use Building, with a portion being used as S-1 Occupancy, and a portion being used as R-3 Occupancy. The 2015 IBC Table 508.4 Required Separation of Occupancies, would require a 2-Hour Fire Separation between the S-1 Occupancy and R-3 Occupancy, this would be both for walls that separate the uses or floor assemblies that separate the uses. The fire separation details of the walls would need to be designed per Section 708 in the IBC, while floors would be designed in accordance with Section 711 in the IBC. If the building had an active Sprinkler System, then the required separation would be reduced to 1-Hour versus 2-Hours.

3. In your Planning Application your proposing to convert a section of the existing Building into a Residential Dwelling unit, from your application it appears you would like to use the breakroom and bathroom area of this existing building to be converted to the residential unit. The Building Department would have no issues with this proposed conversion of space, except for the below comments as they relate to your Business Plan for the Storage Buildings.

(3.1) The proposed current Business Plan does not specify completely the Type of Storage Business you are proposing to offer the public in regards to this being self-served storage versus Employee Supported Storage. However you do mention a minimum of one employee being on-site who would live in the residential dwelling, in the future you mention additional employees being hired to support this business, and more building being constructed. When you operate a Storage Business with employees on-site on a daily basis, then you would need to provide these employees restrooms and a break room, all of which would need to be ADA compliant as well. Or if you operate a Storage Business that also has an Business Office area where the public would enter to be provided services, then a restroom would be required for the public as well, or a shared ADA compliant restroom for the public and employees as well.

As the applicant I would suggest considering building a separate residential dwelling detached from the Existing S-1 Occupancy Building, and leaving the existing Storage Building as is, due to the fact this Building was previously approved to be a storage building where employees also had a breakroom and restrooms. It may be easier for you to actual convert a small section of the existing building into an office area, where the public could enter and employees would work as well, as no fire separation would be required potentially between an S-1 Occupancy and a B-Occupancy under Section 508.2 Accessory Occupancies.

(3.2) Future Buildings were also discussed in your application, we assume these future buildings would be more Storage Buildings to offer additional storage rental space to your customers. Distances from one building to another should be planned out in advance depending upon the Type of Construction and Occupancy Use as well, this is all contained inside Chapter 5 of the IBC as well.

(3.3). We assume no floor drains or any type of plumbing would be offered inside the actual Storage Spaces being rented out, however if there were to be proposed floor drains or plumbing fixtures inside the storage spaces then we would need to discuss the need for a Sand/Oil Separator in advance. A possible other topic on the new buildings would be if the storage buildings were to be conditioned or heated, this would then introduce the Energy Code to your construction review.

The Building Department is willing to meet in advance of the Permit Application submittal to discuss any design questions or concerns to help the professional and owner save time on the design. We look forward to working with you on this project and appreciate your time in reading this letter.

Sincerely,



Todd Carr, Building Official

Routt County Regional Building Department

Routt County Regional Building Department

136 Sixth Street, PO Box 773840 Steamboat Springs, CO 80477 PH: 970-870-5566 Fax 970-870-5489



**PO Box 773598
Steamboat Springs, CO 80477
970-870-5552**

January 23, 2020

Tegan,

The Routt County Road and Bridge Department would like to submit the following Conditions of Approval for the permit application numbered TPL-19-200. This is for the SUP regarding a home industry for vehicle storage facility located at 13475 CR 51B. The following are the conditions of approval as submitted by the Routt County Road and Bridge Department.

1. Routt County has the authority to close any county road at its sole discretion if damage to the road may occur by its use. To the extent that a road closure may affect Permittee's operations, Routt County will cooperate with Permittee to allow operations to be continued in a safe and practicable stopping point.
2. Routt County roads shall not be completely blocked at any time. If traffic regulation is deemed necessary, the Permittee shall notify the Routt County Road and Bridge Director, or designee thereof, in advance (if possible), who may then require:
 - a. A method of handing traffic in accordance with the Manual on Uniform Traffic Control Devices and approved by the Road and Bridge Director.
3. Routt County roads affected by this SUP will be inspected by the Routt County Road and Bridge Department at intervals determined by same. Any road damage repair or maintenance needs above and beyond typical maintenance, attributable to this use, shall be made by the County, or a third-party contractor as selected by the Routt County Road and Bridge Department and on a schedule determined by same. Road and Bridge shall inform permittee of such maintenance or repair activities prior to work being performed. Permittee shall solely bear the costs of repairs.
4. Permittee shall use and maintain the existing access to the property to minimize impacts to the County road system during the life of the Operations. No

additional accesses will be granted. If another access is desired, an amendment to the permit shall be required.

5. There shall be no parking on County Road 51B or the corresponding right-of-way at any time. Parking shall be onsite only.

Please let me know if you have any questions.

Thanks,

A handwritten signature in blue ink, appearing to read "Mike Mordi". The signature is fluid and cursive, with the first name "Mike" and last name "Mordi" clearly distinguishable.

Mike Mordi, P.E.
Assistant Director
Routt County Public Works