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. APPROVAL OF MINUTES
   A. Minutes From The January 16, 2020 Planning Commission Meeting
      Documents:
      011620-pc-corrected.pdf

4. ITEMS FOR CONSIDERATION
   A. Moore Vehicle Storage Home Industry - Rescheduled From 2/6/20
      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:

   B. The Carpenter Ranch Preserve - Tabled From 10/17/19
      Activity #: PL-19-109
      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:
      Revised PC memo.2.20.20.pdf

   C. Lucky 8 Ranch
ROUTT COUNTY PLANNING COMMISSION AGENDA
February 20, 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

CALL TO ORDER

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.

APPROVAL OF MINUTES

Minutes From The January 16, 2020 Planning Commission Meeting

011620-pc-corrected.pdf

ITEMS FOR CONSIDERATION

Moore Vehicle Storage Home Industry
- Rescheduled From 2/6/20

Staff Report

The Carpenter Ranch Preserve
- Tabled From 10/17/19

Staff Report
- Revised PC memo.2.20.20.pdf

Lucky 8 Ranch

Staff Report
- Lucky 8 Ranch 2-20-20 SUP PL-19-200.pdf

5. ADMINISTRATOR'S REPORT

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

6. 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.
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, Peter Flint, Billy Mitzelfeld, Roberta Marshall, Greg Jaeger and Andrew Benjamin. Commissioners Brian Kelly was absent. Planning Director Chad Phillips and staff planners Alan Goldich and Tegan Ebbert also attended. Sarah Katherman prepared the minutes.

PUBLIC COMMENT
There was no public comment.

MINUTES – November 7, 2019
It was noted that Mr. Phillips was omitted from the attendance. Commissioner Benjamin moved to approve the minutes of the Routt County Planning Commission meeting cited above, as amended. Commissioner Norris seconded the motion. **The motion carried 9 - 0.**

MINUTES – December 5, 2019
It was noted that a commissioner’s name was omitted from a motion on page one. Commissioner Benjamin moved to approve the minutes of the Routt County Planning Commission meeting cited above, as amended. Commissioner Norris seconded the motion. **The motion carried 9 - 0.**

MINUTES – December 19, 2019
Commissioner Benjamin moved to approve the minutes of the Routt County Planning Commission meeting cited above, as written. Commissioner Norris seconded the motion. **The motion carried 9 - 0.**

CONSENT AGENDA
Chairman Warnke presented the consent agenda.

MOTION
Commissioner Norris moved to approve the consent agenda, as presented. Commissioner Benjamin seconded. **The motion carried 9 - 0, with the Chair voting yes.**

ACTIVITY: PL-19-184
PETITIONER: King Creek Ranch, LLC
PETITION: Special Use Permit for a Private Recreational Facility with Overnight Accommodations
LOCATION: Approximately 3.5 miles south of Toponas lodge

Ms. Ebbert presented a site plan and indicated the parcel and permit boundaries and the locations of the Hall, the driving range, the cabins and other amenities that are uses-by-right. She described and presented photos of the agricultural facilities and the Bison Hall, which contains overnight accommodations for guests of the owners. She presented photos of the driving range, the skeet/trap shooting stand, and the cabin for day use at the Washburn area and described and presented photos of the camping cabins, bath house, kitchen pavilion and camping platforms at the Chester camp. Both the Chester camp and the facilities at the Washburn area are used only in the summer. They are shut down and winterized in the fall.

Most of the use of the ranch occurs during the summer. There is some fall hunting and occasional snowmobile trips in the winter. The ranch facilities are not open to the public and no payment is taken for the use of the facilities by guests. The agricultural operation is year-round.

Commissioner Jaeger asked about employee housing. Ms. Ebbert said that employee housing could be allowed through a large lot agreement or through the separation of 35-acre parcels, but because it is associated with the agricultural operation, it does not need to be included in the Special Use Permit (SUP).

Mr. Brian Ripley, the former ranch manager, noted the remote location of the ranch in far south Routt County. He stated that the ranch operation was never designed to be anything other than an exclusive, private property to be used by the owners. There is no intention to expand operations beyond what they currently are. Mr. Ripley stated that the majority of the ranch is held in a conservation easement that would not allow further development. He also noted that every owner is an equal partner in the operation. He stated that the owners use the property primarily in the summer and fall, with very occasional winter use. He presented a site plan and indicated the adjacent public lands. Mr. Ripley noted that all of the facilities already exist. He stated that the owners are very conservation minded, and have a desire to comply with the County’s regulations. In response to a question from Chairman Warnke, he stated that the petitioners have reviewed the suggested conditions of approval (COAs) and are fine with them all.

Commissioner Flint asked what motivated the King Creek Ranch to seek and SUP at this time. Mr. Ripley said that because the operation is entirely private the owners/managers did not know that they needed a permit. He said that when they applied for a building permit to replace an old cabin, the property had been flagged by the Building Department. Ms. Ebbert added that a neighbor had also inquired about the property, and this had triggered the review process. She noted that the inquiry was not a complaint. She said that it was discovered that several
of the structures on the ranch did not have building permits. Mr. Phillips said that the applicant is working with the Building Department to obtain the necessary permits and with the Environmental Health Department to obtain permits for the septic systems. In response to a question from Commissioner Merrill, Ms. Ebbert reported that the applicant has not obtained building permits for the camping cabins, as they are waiting to find out if an SUP will be granted. If it is not, the applicant will have to find a way to convert the structures into a use-by-right. Mr. Ripley noted that the Bison Hall and the other major structures on the ranch do have a building permits.

Commissioner Merrill asked about the use of the Chester camp. Mr. Ripley said that the camp was used in the summer for “glamping,” but was shut down for the winter. The road to the Chester camp is not plowed or maintained in the winter. Ms. Ebbert stated that the cabins will have to be designated as temporary, meaning that they will have to be moved. She said that this will be possible because they are not on permanent foundations. She said that the temporary designation was determined to be the best work-around for the situation, as there is nothing in the building code that allows a dwelling to exist that does not have a bathroom. Mr. Phillips noted that COA#16 was included in lieu of a bonding requirement.

Commissioner Norris asked about the conservation easements. Mr. Ripley indicated on a site plan the areas of the ranch that are covered by a conservation easement. He said that Colorado Open Lands monitors the property.

Commissioner Brookshire asked about the trap/skeet shooting facility. Mr. Todd Morgan, the longtime head of maintenance on the ranch, said that only steel fowl loads and only bio-degradable clay pigeons are used. These are purchased in bulk; the owners do not bring in their own ammunition or targets.

There was no public comment.

There was a discussion of the camping cabins. Mr. Phillips noted that there was some uncertainty regarding how to handle the camping cabins, as there is nothing in the building code that addresses this type of arrangement, with individual cabins and a shared bathhouse. Commissioner Brookshire suggested that the applicant should not be charged any punitive penalties for the lack of building permits. He cited the environmental sensitivity of the operation. Commissioner Marshall agreed, and added that it was a bit silly to require that the cabins be moved. She suggested that they could be described as “movable.” Ms. Ebbert said that categorizing the cabins as temporary structures (which requires that they be moved) would enable them to exist without building permits. Requiring building permits would be far more complicated, as the only structures that are allowed to exist without bathrooms are commercial. Commissioner Marshall said that a provision for this type of facility should be created in the code.
Commissioner Merrill offered that if the SUP is approved, many of the issues addressed in the COAs would need to be enforced, citing COAs #15, #16 and #20. Mr. George Eck, an attorney representing the applicant, stated that failure to comply with the COAs would result in an enforcement action by the County. Chairman Warnke offered that COA#20 could be amended to allow for an extension to be granted administratively. Following a discussion Planning Commission agreed to amend COA#15.C.iv to state that the cabins must comply with Building Department standards.

Commissioner Brookshire asked staff to forward the request that no punitive penalties be charged.

**MOTION**
Commissioner Marshall moved to recommend approval of the Special Use Permit for a Private Recreational Facility with Overnight Accommodations with the findings of fact that 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 of the Routt County Zoning Regulations.

This approval is subject to the following conditions:

**General Conditions:**

1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, and 6.

2. The SUP 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.

3. Any complaints or concerns that may arise from this operation may be cause for review of the SUP, 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 SUP, 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. All trash shall be stored either inside a garage or inside Interagency 
   Grizzly Bear Committee (IGBC) certified receptacles 

10. 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. Routt County shall be named as an additional insured on the 
    policy. Permittee shall notify Routt County Planning Department of any 
    claims made against the policy. Certificate of liability insurance shall 
    include all permit numbers associated with the activity. 

11. Accessory structures/uses associated with this permit may be 
    administratively approved by the Planning Director, without notice. 

12. 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. 

13. Transfer of this SUP 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 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. 

14. 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: 

15. 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. Approved uses are identified in the project 
    plan and narrative. Uses and structures approved that required this 
    Special Use Permit include: 
    
    A. Bison Hall Hall; Used for private guest accommodations, common 
       cooking, dining, and lounging amenities. 
    
    B. Golf driving range; located in the Washburn Area.
C. Chester camp - Used for recreation and private overnight accommodations. Consisting of the following structures:
   i. Generator house structure
   ii. Bath house structure
   iii. Cooking and dining pavilion
   iv. Four (4) one room cabins that comply with Building Department standards
   v. Six (6) tent platforms

16. Any structures deemed to be non-conforming without this permit must be removed, converted to a conforming use, or seek the necessary permit to allow the structures if this permit ceases to exist.

17. Any accidents shall be reported to the Planning Department.

18. 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.

19. The activities and amenities approved in this permit are limited for the use of only the property owners and their private guests. No nightly rentals, memberships, or public access is permitted.

20. All structure and on site waste water systems must obtain proper permitting by July 1, 2020. An extension to this deadline may be granted administratively.

21. Any Special Events may be approved through an amendment to this permit or through a separate Special Events permit.

Commissioner Norris seconded the motion.

The motion carried 9 - 0, with the Chair voting yes.

ACTIVITY: PL-19-194
PETITIONER: Precision Excavating, Inc.
PETITION: Renewal of Special Use Permit #PP2010-001 with a modification of Condition of Approval #17
LOCATION: Approximately 2,700 ft. southeast of the Town of Milner

Mr. Goldich reviewed the petition to renew the Special Use Permit (SUP) for the gravel pit and to amend Condition of Approval (COA) #17 (COA #39 in the revised list of suggested conditions contained in the staff packet). He presented a site plan and aerial photo of the pit and the surrounding area and indicated the pit boundary. He reviewed the history of the pit and described the successive expansions that have occurred. He indicated the location of the power line, the equipment and facilities, stock piles and sediment settling ponds. Mr. Goldich
reviewed the suggested changes to COA #17. He described the groundwater cut-off walls and indicated their location on the aerial photo. He also indicated the location of the groundwater monitoring wells. Mr. Goldich noted that COA #17 only applies to the original pit area. He stated that because no policies or regulations have changed since the pit was last permitted, the staff comments are limited to the requested changes to the permit.

Mr. Goldich indicated the stand of cottonwood and willow trees to which COA #17 refers. He said that the operators have no plan to mine this area in the near future. He said that because no mining of the area adjacent to the stand of trees is planned at this time, the applicant is asking for relief from the bi-weekly monitoring of the groundwater wells and the associated reporting requirement. Mr. Goldich cited the letter submitted by Colorado Parks and Wildlife, stating support for a relaxation of the COA, provided that the 100 foot setback is maintained, that the groundwater levels be maintained, that corrective action be taken when the monitoring wells indicate a decrease in water level of 12” - 18”, and that dewatering cease when levels drop more than 18”. CPW stated that monitoring and reporting could be relaxed. Mr. Goldich noted that the trigger for reinstating the existing monitoring and reporting would be when mining occurs in the area within the original pit near the cottonwoods.

Mr. Goldich stated that the floodplain along this area of the Yampa River was mapped by FEMA in 2005. In 2009, when the pit was expanded, the floodplain was left out of the review and no floodplain development permit was obtained. He said that a floodplain development permit will be required for the expansion area but not for the original pit area, which was permitted prior to the area being mapped. Mr. Goldich added that a weed management plan needs to be submitted and approved. He said that the Division of Reclamation and Mine Safety (DRMS) last visited the site in 2016 and found no issues. DRMS plans to visit again this year.

Mr. David Zehner of Precision Excavating (PEI) said that they had been operating the pit since 2001. He explained that all of the equipment and stockpiles at the pit are located in the original pit area, and will remain there while the harder areas to access are mined. He said it would be many years before any mining occurs in the area near the cottonwoods. Mr. Zehner reviewed the operation of the settling ponds. Samples of the water for discharge are sent to the Colorado Department of Public Health and the Environment (CDPHE) weekly. He also described the ground water cut-off walls that slow the seepage into the pit. He said that mining occurs while the cottonwood trees are dormant, and the groundwater level is allowed to rise when the trees are active. He said that because no mining is occurring in the vicinity of the cottonwoods, nothing should change from the way it has been for the past ten years. He said that the monitoring has shown that the ground water level does not drop. He said that this is why they are requesting a relaxation of the monitoring and reporting. Mr. Zehner stated that Western Bionomics will continue to provide an annual report on the health and vigor of the cottonwood stand. The trigger for additional monitoring would be if this report
indicates any lack of vigor in the vegetation. There was a discussion among Planning Commission members on when it would be best to monitor the ground water wells. Mr. Goldich said that staff would consult with CPW regarding the suggested June 1st, August 1st and September 1st dates.

There was no public comment.

In response to a question from Chairman Warnke, Mr. Zehner indicated the resource reserves on an aerial photo. Chairman Warnke asked about the 3¢ per ton fee and how it is used. Mr. Zehner said that the money had been spent on the overlay of the road into Milner.

In response to a question from Commissioner Mitzelfeld, Mr. Goldich reviewed the floodplain mapping issue. The floodplain development permit would show if there is any increase to flood risk upstream and downstream as a result of mining activity. The mapping will analyze the risk based on the changes to the landscape. Mr. Zehner stated that in the past 20 years there have been several high water events. The area across Trout Creek remained dry during those events. The water did flow slightly into the cottonwoods along the Yampa River one time in the past 20 years. Mr. Zehner said that PEI had constructed a berm just inside the permit boundary to prevent flooding of the mine.

Commissioner Brookshire noted the lack of public attendance at the meeting in comparison to past hearings for this pit. Mr. Zehner said that PEI works closely with the community. Mr. Ed Camilletti, the property owner, added that Milner residents really like the by-pass road that eliminates gravel truck traffic through town. Commissioner Brookshire offered that the lack of complaints and concerns is testament to the quality of the operation.

**MOTION**
Commissioner Marshall moved to recommend approval of the Special Use Permit for the Camilletti Milner #2 Gravel Pit with the following findings of fact:

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, 6 and 9 of the Routt County Zoning Regulations.
2. The Special Use Permit with the following conditions will not adversely affect the public health, safety, and welfare.
3. The proposal with the following conditions is compatible with the immediately adjacent and neighboring properties.
4. Due to the time of year this application was processed, staff was unable to conduct a thorough inspection of the site and operation.

This approval is subject to the following conditions:

**General Conditions** :
1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 4, 5, 6, and 9.

2. The SUP is limited to uses and facilities presented in the approved project plans. 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 SUP, 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 SUP, 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. 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. Any spills of fuels or hazardous materials shall be reported to the Routt County Planning Department within three days of occurrence.

7. All exterior lighting shall be downcast and opaquely shielded.

8. 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. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.

9. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director without notice.

10. Transfer of this SUP 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 to 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.

11. The permittee shall prevent the spread of weeds to surrounding lands and shall comply with the Colorado Noxious Weed Act as amended in 2013 and the Routt County approved noxious weed management plan. A weed mitigation plan shall be developed by the Permittee and reviewed and approved by the Weed Supervisor prior to issuance of the Special Use Permit.
12. This permit is contingent upon any required permits being obtained and complied with from all involved agencies including, but not limited to the following:
   a) Division of Reclamation, Mining and Safety (DRMS) 112 Construction Materials Permit
   b) Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division (APCD) Air Quality Permit
   c) CDPHE Stormwater Management Plan
   d) Army Corps of Engineers (ACOE) wetland permits
   e) Routt County Public Works Grading & Excavating permit
   f) Colorado Department of Transportation (CDOT) access permit

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 operations.

13. Copies of all financial guarantees related to the project shall be submitted to the Planning Director prior to issuance of the Special Use Permit.

**Specific Conditions:**

14. The Special Use Permit (SUP) is valid for ten years from the BCC approval date, 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.

15. Approved uses include:
   a) Extraction of gravel deposits
   b) Crushing and processing of gravel deposits
   c) Stockpiling of topsoil, overburden, and extracted and processed gravel
   d) Scale, scale house (approximately 500 sq ft), office building (approximately 1,000 sq ft), a maintenance shed (40’x60’), fuel tanks, crusher, conveyance system and related equipment, and toilet
   e) Recycling of soil and concrete rubble
   f) Reclamation

20. The operation consists of:
   a. Sales from the gravel pit shall not exceed 850,000 tons in any twelve consecutive months.
   b. Hours of operation for loading and hauling shall be from 7:30 am a.m. to 7:00 p.m. Monday through Saturday. Hours of operation for operation of the crusher shall be 7:00 a.m. to 7:00 p.m. Operation, as used in this condition, shall include the firing up and operation of the crusher, loading, hauling, extraction, sorting and crushing of gravel and other materials, reclamation activities, and shipping and receiving of non-aggregate materials.
c. There shall be no operation on Sundays and national holidays, which are Christmas Day, Thanksgiving Day, New Year's Day, Fourth of July, Presidents Day, Memorial Day, and Labor Day.

d. Warming of equipment is allowed 15 minutes prior to startup.

e. A waiver of hours and/or days of operation for public projects or for projects with special technical requirements may be approved by the Planning Director without notice.

16. Permittee shall continue to contribute $0.03 per ton fee for each ton hauled out of the Milner Pit #2 for the costs of maintenance, dust control or improvements to the County Road 179, the bridge over the Yampa River, and County Road 178.

17. A maximum of 60 acres, 35 acres in the Existing Pit and 25 acres in the Expansion Area, shall be disturbed at any time. Disturbed acreage is defined as all areas not covered by water, pavement or substantially noxious weed free vegetation, but does not include areas of temporary disturbance related to construction of cutoff walls in advance of mining. Reclamation according to approved plans including grading, topsoiling and seeding shall occur concurrently with mineral extraction in each area.

18. Any proposed amendments to the DRMS permit must be approved by Planning Administrator and may be cause for a review of the SUP.

19. Soil and vegetation shall not be stripped in excess of an area required for one year of mining except as required to construct cutoff walls in advance of mining.

20. Topsoil and overburden stockpiles shall have a minimum of 3:1 slopes, and shall be revegetated if left undisturbed for more than six months.

Reporting:

21. Operator shall submit DRMS Annual Report for the pit to the Planning Department by August 15th of each year for compliance verification.

22. The operator shall submit an annual report to the Planning Department and the Assessor's office that details total materials hauled, remaining reserves, and total number of truck trips by February 15th of the following year.

23. Permittee shall conduct an annual inventory of weeds on site each spring including but not limited to species identification and map locations. Inventory shall be submitted to Routt County Weed Program (RCWP) supervisor within 30 days of conducting the survey.

24. Permittee shall submit an annual report prior to December 31 of each year to document all weed control measures undertaken, including herbicides used, rates of application, and total gallons of mixed herbicide solution applied.

25. Permittee shall notify the Routt County Environmental Health Department of any written or verbal notice of violation or citation issued to the Permittee by DRMS, CDPHE, or any other permitting agency. Copies of inspection reports, annual reports, asphalt plant and crusher relocation notices, and any other
documentation required to be submitted to DRMS, CDPHE, or any other permitting agency for any permits obtained through those agencies shall be submitted to the Routt County Environmental Health Department.

Access and Traffic:
26. Permittee shall coordinate with the school districts to eliminate truck hauling from the pit south on County Road 179 during school bus hours.

27. The operator shall immediately remove all products, fill material or sediments spilled, dropped, washed, or tracked onto County Roads 178 and 179.

28. Overweight and over length permits for vehicles shall be obtained from the Routt County Road and Bridge Director prior to the use of such vehicles.

29. All trucks and equipment accessing from the private access drive shall be able to exit and be located on private property and off of State Highway road right of way before encountering a fence, gate, or cattleguard. At a minimum, the distance from the County road right of way to any gate, fence, or cattleguard shall be 1.5 times the length of the longest vehicle.

The following conditions only apply to the Original Pit:
30. Expansion of the pit into an area affecting the cottonwoods and willows on the east side of the property shall not take place within 600 feet of the cottonwoods and willows on the east side of the property until there is documented evidence that the cutoff walls or other measures are effective in preserving the health and vigor of the cottonwood stands.

31. Permittee shall ensure landscaping used to provide a visual screen to CR 179 is alive and healthy. Permittee will be required to replace any vegetation that dies.

32. Minimum setback of the disturbed area from County Road 179 shall be 100 feet from the edge of the widened pavement but in no case shall be less than that shown on the approved mine plan.

33. Minimum setbacks to all cottonwood and willow stands outside the mine area shall be 100 feet. Permittee shall monitor groundwater monitoring wells on June 1st, August 1st and September 1st, annually, and submit such data to the Planning Department. Permittee shall continue the cottonwood health-monitoring program, as approved by the Planning Administrator. Minimum setbacks may be increased or decreased by the Planning Administrator based on the results of the monitoring programs. In no case shall the setbacks be reduced to less than 100 feet. Permittee shall endeavor to maintain groundwater levels at the seasonal baseline levels established through the approved monitoring program. If the monitoring wells show a groundwater level decrease under the cottonwoods of 12"-18", corrective action by the permittee shall be required. If the monitoring wells show a decrease of 18" or more the permittee shall cease dewatering as soon as is practical or within 7 days whichever is sooner.
34. Permittee shall inform the Planning Department of its intent to mine the northern area of the original pit on the east side of Trout Creek. Once this activity begins, permittee shall undertake a biweekly groundwater monitoring program as previously instituted per COA #17 of Permit PP2009-006. Groundwater levels shall be submitted annually to the Routt County Planning Department.

35. The applicant shall implement a revised landscape plan for all of those portions of the riparian area to the north of mine block 2 covering the area between the Yampa River and the north portion of the mine pit area where cottonwood seedlings will be transported into those areas currently devoid of cottonwoods or willows. The density of these plantings shall be based upon monitoring data collected in connection with #16 above and shall be determined based upon the naturally occurring spacing between mature cottonwood trees found in this area. Survival of these transplanted seedlings will be reported to the Planning Administrator in the Annual Report.

36. Permittee shall continue to implement the irrigation plan for the cottonwood and wetland areas outside of the mine area.

37. Permittee shall maintain a 50' undisturbed buffer from all jurisdictional wetlands outside the mine boundary. Permittee is required to maintain existing wetlands vegetation through irrigation or other means. The Planning Administrator may increase the setback if required to maintain wetlands in pre-mining condition.

38. A minimum 50' undisturbed buffer shall be maintained from the wetlands surrounding Trout Creek. No mining activity or equipment shall be allowed in the buffer area. Light vehicle use within this buffer along the existing ranch road to access the property to the west of this site or to maintain and service the electric pumps located in the sediment pond in the southwestern portion of the mine area shall not be considered to meet the definition of mining activity or equipment.

39. No berms or stockpiles associated with the perimeter drainage ditch located outside the active mine area shall be permitted.

40. A maximum of 1000 lineal feet of disturbed high wall is allowed at any time, except as necessary to construct cutoff walls in advance of mining. All other high wall areas shall have either permanent or temporary revegetation actively in progress. This requires the placement of suitable soils and seeding. Irrigation will be required as necessary to establish vegetation.

41. All stockpiles and equipment, except for the scale, office trailers, toilet, maintenance shed and scale house shall be located below the top of the pit highwall dependent on the area available on the pit floor where the equipment is visually screened.

Reclamation:

42. The permittee shall be responsible for reclamation as set forth by DRMS gravel mining guidelines and approved reclamation plan. All buffer zones
required by the DRMS permit shall be included as a part of this permit, if they are more stringent than those set forth herein.

Air and Water Quality

43. A Floodplain Development permit shall be obtained by July 1, 2020. This deadline may be extended administratively without notice if due diligence on obtaining the permit has been demonstrated that is acceptable to the Planning Director.

44. The Special Use Permit is contingent upon the petitioner complying with the applicable requirements of Regulation 1, Section III.D.1.b of the Colorado Air Quality Control Commission, as a minimum standard. The operation shall maintain a State-approved fugitive dust control plan for the sand and gravel operation. In addition, no off-site transport of visible dust emissions shall be allowed. The Planning Administrator may require temporary closure of the facility if dust control measures are not effective. All haul roads and disturbed sites shall be watered and/or chemically stabilized to minimize dust. Watering operations shall be increased immediately in response to periods of high wind. The operator shall take all appropriate actions to mitigate and control dust from all sources, including stockpiles. Environmental Health Director may require temporary closure of facility if dust control measures are not effective.

Noise

45. Noise from associated equipment and trucks shall be muffled as much as possible. Operations plan shall include a loop system for trucks and equipment to reduce backup requirements. Trucks entering County Road 178 from US Highway 40 shall avoid using “jake brakes” except in cases of emergency. Operator shall encourage drivers to not use their “jake brakes” while entering or leaving the site.

46. Noise from all on-site sources and from haul trucks shall be in compliance with the performance standards in the State noise statute (C.R.S. 25-12-103). Violations of performance standards shall be enforceable by the Routt County Planning Department and may be cause for a review of the SUP by Planning Commission and/or the Board of County Commissioners.

47. Emphasis shall be placed on using only electric pumps connected to line power. In the event of a power failure or other emergency condition, or during the construction of cutoff walls in advance of mining, engine-driven diesel pumps may be used, provided that the Planning Administrator is notified before such pumps are installed. In the Expansion Area, if line power is not available, one diesel electric generator may be used provided that the installation plan of the generator, which may include additional noise suppression and other requirements, is approved by the Planning Director.

Miscellaneous:

48. The operator shall use the use of the mostly technologically advanced and proved procedures and equipment to mitigate the significant impacts of mining operations and associated uses.
49. County staff shall conduct a thorough and complete inspection of the site and operation by July 1, 2020. Any issues identified in the inspection may be cause for review by Planning Commission and/or the Board of County Commissioners.

Commissioner Jaeger seconded the motion.

**The motion carried 9 - 0, with the Chair voting yes.**

**ADMINISTRATOR’S REPORT**

Mr. Phillips reviewed the upcoming agendas and Master Plan Update public outreach meetings. He reviewed the update process.

**The meeting was adjourned at 8:00 p.m.**
Moore Vehicle Storage
Home Industry

<table>
<thead>
<tr>
<th>ACTIVITY #:</th>
<th>PL-19-200</th>
</tr>
</thead>
<tbody>
<tr>
<td>HEARING DATES:</td>
<td>Planning Commission: Feb 20, 2020 at 6:00pm</td>
</tr>
<tr>
<td></td>
<td>Board of County Commissioners: March 3, 2020 at 10:55 am</td>
</tr>
<tr>
<td>PETITIONER:</td>
<td>Todd Moore</td>
</tr>
<tr>
<td>PETITION:</td>
<td>Special Use Permit for a Motor Vehicle Storage Home Industry</td>
</tr>
<tr>
<td>LEGAL:</td>
<td>Lot 1 Seneca Savage Truck Terminal Subdivision</td>
</tr>
<tr>
<td>LOCATION:</td>
<td>Approx. 1,000' SW from the intersection of CR 27 and CR 51B</td>
</tr>
<tr>
<td>ZONE DISTRICT:</td>
<td>Agriculture / Forestry</td>
</tr>
<tr>
<td>AREA:</td>
<td>10 acres</td>
</tr>
<tr>
<td>STAFF CONTACT:</td>
<td>Tegan Ebbert <a href="mailto:Tebbert@co.routt.co.us">Tebbert@co.routt.co.us</a></td>
</tr>
<tr>
<td>ATTACHMENTS:</td>
<td>• Applicant narrative</td>
</tr>
<tr>
<td></td>
<td>• Site plan</td>
</tr>
<tr>
<td></td>
<td>• Site visit photos</td>
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<tr>
<td></td>
<td>• Referral responses</td>
</tr>
<tr>
<td></td>
<td>• BCC minutes and Development agreement from MDSE</td>
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</table>

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

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**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.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.

**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 is 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.
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
This map is for planning purposes only. It was prepared from publicly available information. Any direct or indirect use of this information is the sole responsibility of the user. This map should not be used to establish legal lines, boundaries, or rights in any flight activity. Routt County expressly disclaims all liability respecting accuracy or completeness of this map.

Planning

Primary Public Road
Private
Parcels

Routt County Boundary

Author: Haul Rd
ESRI, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Soileus, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, GeoEye, Ikonos, GAO, IGN, and the GIS User Community.

Date Saved: 12/31/1969 5:00 PM
Site Visit Photos

View of existing structure

View looking north from subject property / Indicates fenced area
Old employee break rooms & offices / proposed to be converted into living space
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
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,

Mike Mordi, P.E.
Assistant Director
Routt County Public Works
of the lot and serving the Cole Ranch Preservation Parcel are located within the Building Envelope.

**Wildlife Conditions**

22. The LPS Development Agreement shall require that all areas and facilities used for the feeding of, or housing of feed for, livestock shall be protected from wildlife. Covenants for the Bushy Creek Ranch LPS shall also include this provision.

23. The LPS Development Agreement shall require that domestic predators be controlled appropriately to limit wildlife harassment including restricting animals to buildings, fenced areas, restraint, and accompanied by an owner. Effective enforcement provisions shall also be provided.

24. The LPS Development Agreement shall require that the developer provide initial owners with a copy of the “Guide to Small Scale Agriculture & Rural Living” at real estate closing.

25. The LPS Development Agreement shall require that any fencing within the Cole Ranch Preservation Parcel be either open rail fence not exceeding 42 inches in height or wire fences with a smooth bottom wire (not barbed) and a spacing of the wires at 16, 22, 28, and 40 inches from the ground surface. All fencing shall be well-constructed and meet the minimum standards of a “lawful fence” as defined at Colorado Revised Statutes Section 35-46-101.

Commissioner Stahoviak seconded.

Under discussion, Commissioner Monger commended the collaborative efforts of SPOA and the petitioners and noted that while the petition might not meet all of the requirements of an LPS, the intent of the LPS has been met in this petition.

The motion carried 3-0.

**EN RE: SENeca COAL COMPANY (PX2004-005)**

Caryn Fox and John Eastman, Planning, and George Wagner, Peabody Coal representative, were present.

Mr. Eastman said that the petition was for a Minor Development Subdivision Exemption (MDSE) to divide 70 acres that are currently part of a 1,350-acre parcel into two lots on property located southeast of Hayden on the south side of County Road 51B. Lot 1 would be a ten-acre parcel for an existing truck terminal; Lot 2 would be a 60-acre parcel with a Development Agreement that would restrict future development on a 25-acre portion of the property. Mr. Eastman said that the truck terminal area was in a low area so visual impacts were not an issue. He noted that the Planning Director had determined that the Design Criteria of an MDSE were satisfied. He said that no public comment had been made regarding the petition and reviewed suggested changes and additions to the conditions of approval.
Mr. Wagner asked whose responsibility it would be to pay for further lot line adjustments and an easement road survey. Mr. Eastman said that the cost would be paid by the applicant. He said that if an easement were needed, no further surveying would be necessary; if a dedication were required, an easement dedication would take the parcel below 70 acres, which would necessitate a lot line adjustment. He said that the determination of whether an easement or a dedication were needed would be after the title commitment had been received and reviewed.

Commissioner Stahoviak asked whether it would be important to ask for a one-half mile dedication of County Road 51B that was covered by the plat being presented this day if other portions of the road had not been dedicated. Commissioner Ellison said that it might be important at some time in the future if a different use were proposed. Mr. Wagner said that Western Coal Carriers had no intention of changing the use or expanding the facility, and it anticipated less traffic in the future. Mr. Eastman said that the existing Special Use Permit would only cover use of the ten-acre parcel even if the parcel were extended to a thirty-five acre piece.

MOTION—SENECA COAL COMPANY MINOR DEVELOPMENT SUBDIVISION EXEMPTION

Commissioner Stahoviak moved to approve the Seneca Coal Company Minor Development Subdivision Exemption petition to divide 70 acres that are currently part of a 1,350-acre parcel into two lots, Lot 1 a ten-acre parcel and Lot 2 a sixty-acre parcel, on property located southeast of Hayden on the south side of County Road 51B, with the findings of fact that the conditions imposed on the MDSE will bring the project into compliance with the Design Criteria, and this subdivision exemption as proposed is not within the spirit or intent of the Routt County Subdivision Regulations or the State subdivision statute, and therefore, might be exempted from the application of the County’s subdivision regulations.

This approval is subject to the following conditions:

1. The plat shall contain the following note, in addition to any other notations that might be required on the Minor Development Subdivision Exemption plat:

   The availability of water and permits for wells on these lots has not been established.

2. The Final Plat shall contain a note that the County and West Routt Fire Protection District shall be held harmless from any injury, damage, or claim that may be made against the County by reason of the County’s or the West Routt Fire Protection District’s failure to provide ambulance, fire, rescue, or police protection to the property described on the Final Plat, provided that the failure to provide such services is due to inaccessibility to the property by reason of internal roads being impassable. This condition shall not relieve the County or West Routt Fire Protection
District of their responsibility to make a bona fide effort to provide emergency services should the need arise.

3. The petitioner shall enter into a Development Agreement with Routt County that requires County approval of any further subdivision of the properties and which limits each lot to one primary dwelling unit and one secondary dwelling unit in conformance with the then current County Zoning and Subdivision Regulations.

4. Prior to submittal of the Final Plat, the petitioner shall file a plat creating the seventy-acre parcel or deed to create the 70-acre parcel to be subdivided by this MDSE. A copy of the plat or deed and an up-to-date title insurance policy for that parcel shall be submitted with the Final Plat for the MDSE.

5. The Final Plat and Development Agreement shall be submitted within ninety days of the Board of County Commissioners’ approval, unless a written extension is requested and granted by the Board prior to expiration.

6. The applicant shall coordinate with the County to ensure that an adequate right-of-way or easement is dedicated to the County for those portions of County Road 51B covered by the MDSE plat. Minor adjustments to the outside boundaries of the plat may be made in order to accommodate any right-of-way dedication.

Commissioner Monger seconded; the motion carried 3-0.

EN RE: PERSONNEL / CHRIS HENSEN

John Merrill, County Attorney, was also present.

Mr. Merrill requested that the Board enter executive session to conference with the County Attorney.

Commissioner Stahoviak’s telephone connection was terminated at this point so she was absent when the following motion was made. Commissioner Stahoviak rejoined the meeting after the Board had entered executive session.

MOTION—EXECUTIVE SESSION

At 5:12 p.m., Commissioner Monger moved to enter executive session with the County Attorney and the Personnel Director to discuss acceptance of a report from Mountain States Employers Council pursuant to C. R. S. Section 24-6-402(4)(b), to conference with an attorney for the purpose of receiving legal advice on specific legal questions, and C. R. S. Section 24-6-402(4)(f), to discuss personnel matters. Commissioner Monger noted that part of the discussion would be tape-recorded; the other portion of the discussion would not.

Commissioner Ellison seconded; the motion carried 2-0. Commissioner Stahoviak was absent due to a telephone disconnection.

The executive session adjourned at 5:35 p.m. No minutes or formal actions were taken during the executive session.

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June 22, 2004
Routt County Board of County Commissioners’ Minutes
Clerk and Recorder: Please index in real property transfer records with Routt County, Colorado, a body corporate and politic, as Grantee and Seneca Coal Company as Grantor. Affects title to: Property described in Recital A, below.

SENeca/Savage Truck Terminal
Minor Development Subdivision Exemption
Development Agreement

This Development Agreement (the “Agreement”) dated as of June 14th, 2005, is between Seneca Coal Company, a Delaware Corporation, ("Landowner") and Routt County, Colorado ("County"), acting by and through its Board of County Commissioners.

Recitals

A. Landowner submitted an application (the “Application”) under Section 11.2.1E of the Routt County Subdivision Regulations with respect to an approximately 70-acre parcel of land located in the North 1/4 SouthWest 1/4 of Section 17, Township 6 North, Range 87 West, of the 6th P.M., Routt County Colorado, more particularly described as all property shown on the Seneca/Savage Truck Terminal Minor Development Subdivision Exemption (the "Plat"), filed for record at File No. 135-03, Reception No. 620773 of the official records of the Routt County Clerk and Recorder (the “Land”).

B. All capitalized terms used in this Agreement not otherwise defined herein shall have the definitions assigned to those terms in the Routt County Zoning Resolution and Routt County Subdivision Regulations, as the same may be from time to time amended.

C. The Application requested approval of the subdivision of the Land into two (2) separate parcels, which includes a 10-acre lot (Lot 1) and a 60-acre lot (Lot 2). The proposed Minor Development Subdivision Exemption (the “MDSE”) will be identified as “Seneca/Savage Truck Terminal Minor Development Subdivision Exemption.”

D. The Board granted approval of the MDSE subject to certain conditions, including the condition that, pursuant to the Routt County Subdivision Regulations, the Landowner enter into a Development Agreement setting forth certain restrictions on the use and development of the Land which were established during the review of the Application or which are required by the Routt County Subdivision Regulations.

E. Landowner and County intend this Agreement to be the Development Agreement required as a condition of the approval of the MDSE.
Terms and Conditions

1. The Land shall be subdivided into not more than two (2) separate parcels designated as Lot 1 and Lot 2, to have the following approximate acreages:

   Lot 1  
   10.0± acres

   Lot 2  
   60.0± acres

Lot 1 and Lot 2 are identified on the Plat. The Plat and all terms and conditions thereof are incorporated herein by this reference. Except as otherwise approved by the County, Lot 1 and Lot 2 shall not be further subdivided.

2. a. One Dwelling Unit and one Secondary Dwelling Unit which shall be an Attached Unit may be constructed on Lot 1. Accessory or other structures may be permitted in accordance with the Routt County Zoning Resolution.

   b. Operation of a truck terminal is subject to the provisions of the Routt County Zoning Resolution and the Special Use Permit approved by Resolution of the Board of County Commissioners on February 16th, 1982. The expiration date of that Special Use Permit shall not be affected by this Agreement and shall remain February 16th, 2007.

3. One Dwelling Unit and one Secondary Dwelling Unit may be constructed on Lot 2. Accessory or other structures may be permitted in accordance with the Routt County Zoning Resolution.

4. Each owner of any Buildable Lot shall be responsible for maintaining, to the extent that such owner has any obligation for fence maintenance pursuant to the Colorado Fence Law and any agreements with adjacent landowners, that portion of the fence around the perimeter of such Buildable Lot. For the purposes of interpreting the Colorado Fence Law, each Buildable Lot shall be considered to be "agriculture or grazing lands," regardless of whether they are used as such.

5. In the event of a breach or threatened breach of this Agreement, Landowner agrees (1) immediate irreparable injury will result from any breach, (2) such injury can be prevented by injunctive relief, (3) the County lacks a plain, speedy and adequate remedy at law, (4) money damages are inadequate to remedy the injury or threatened injury, and (5) injunctive relief preserving the status quo will not disserve the public interest. Landowner further agrees that the County shall be entitled to injunctive relief to prevent the breach or threatened breach of this Agreement, and the County shall be so entitled without a showing that it would be entitled to an order or judgment requiring specific performance of the terms of this Agreement. In addition, the County shall be entitled to enforce the provisions of its Zoning Resolution and Subdivision Regulations either by civil action or criminal process and to recover such fines, assessments and penalties as provided in such regulations and resolutions or by Colorado law.

6. In the event either the Landowner, his heirs, successors, or assigns, or the County brings suit to enforce or interpret any portion of this Agreement, the party prevailing in such action shall be entitled to recover all costs incurred in such action, including without limitation reasonable attorney fees.

7. This Agreement shall run with the Land and shall be a perpetual burden on Lot 1 and Lot 2 as provided herein and on the Plat. This Agreement shall be enforceable only by the
County, Landowner, the owners of Lot 1 or Lot 2, or a homeowners association established for the representation of the owners of Lot 1 and Lot 2. This Agreement shall not be enforceable by any third party.

8. This Agreement is to be recorded in the records of the Office of the Clerk and Recorder of Routt County, Colorado.

9. This Agreement shall be enforceable in perpetuity and may be amended only in accordance with the provisions of Section 11.4 of the Routt County Subdivision Regulations, as they are currently in effect as of the date of recording of this Agreement, or as a condition of approval of any amendment to the MDSE approved under Routt County Subdivision Regulations Section 11.2.5.H. or Section 11.2.5.I.

10. The rights of County pursuant to this Agreement shall be automatically transferred to any successor governmental entity with authority to regulate the subdivision or zoning of the Land.

11. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without reference to choice of laws rules. Landowner agrees that venue for any action on this Agreement shall be in the Colorado judicial district in which Routt County, Colorado is located at the time of such action.

LANDOWNER

[Signature]

Seneca Coal Company

STATE OF COLORADO
City of St. Louis
COUNTY OF ROUTH

The foregoing Development Agreement was acknowledged before me this 6th day of June, 2005, by Seneca Coal Company.

Witness my hand and seal.
My Commission expires:

Notary Public

KAREN M. SENSEL
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis City
My Commission Expires: Feb. 6, 2009
Commission #05668848

ATTEST:

Kay Weinland
Routt County Clerk
To: Planning Commission
From: Kristy Winser, Assistant Planning Director
Date: *Revised Memo February 12, 2020
Subject: Tabled discussion to review and amend 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:
- Letter by Wolf Mountain Ranch, with proposed conditions 2/12/220
- Ted Floyd Letter 2/5/2020
- Email by Nancy Fishbein 2/4/2020
- Planning Memorandum 2/5/2020
- Revised amended narrative with permit boundary map 1/17/20
- Letter of Support, Carpenter Family, dated 1/15/20
- TNC response dated 1/2/20
- Staff email response to tabling an amended (12/2/19) narrative 1/2/20
- Letter response Wolf Mountain 12/17/19
- Amended Narrative for 12/19/19 hearing, dated 12/2/19
- PC minutes from 10/17/20
- Staff Packet dated 10/17/2019

*Please note:
Based on new information submitted by Nancy Fishbein of The Nature Conservancy (TNC) dated February 4, 2020, and information by Wolf Mountain Ranch (WMR) dated February 11, 2020, the staff memorandum dated 2/5/20 has been revised.

Background
The application before you is a full review of the CUP arising from a January 2019 complaint and subsequent correspondence. Through review of the review process it was determined that the uses and the permit boundary had changed to the degree that merits a review and amendment of the permit. Therefore, a permit review was scheduled for October 17, 2019. The result of the review was a proposed amendment by the applicant that included current and updated information on land uses, as well as a property boundary change that came out of a court ruling regarding the co-tenancy ownership of land included in the 1996 permit. At a minimum, a change in ownership of land within the permit boundary warrants an amendment. It should be noted that part of the current review is the consideration of TNC’s proposed amendment, the most recent version of which is outlined in TNC’s 1/17/20 narrative (see full staff report and minutes dated from 10/17/20 in the attachments.)
Key changes included in the most recent proposed amendment, as stated in TNC’s 1/17/20 narrative, are listed below and outlined in orange on the aerial map they provided (attached):

- The permit boundary excludes co-tenancy streambed areas and co-tenancy Island 1B.
- The permit boundary does not include any of the property lying west of the ranch access road or north of the Yampa River.
- 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” signs or similar language
- Potential mutual indemnification with Wolf Mountain Ranch of co-tenancy area

Staff Comments
The previous staff memorandum dated 2/5/2020 (included as an attachment) was written with the understanding that both parties were in agreement on a proposed fence and its location. That understanding was based on TNC’s revised narrative dated January 17, 2020, that stated: “WMR and TNC have discussed the proposed fence location and agree with the placement.” Staff was also under the impression that both parties worked to resolve trespass and liability concerns via mutual indemnification. While staff recognizes that the County does not typically get involved with indemnification matters, it is essential to understand the off-site impacts and evaluate mitigating factors for Special and Conditional Use Permits. Therefore, under the assumption that WMR and TNC collaborated on a proposal at the direction of the Planning Commission, staff was supportive of the amendment discussed in the most recent edition of the narrative, dated 1/17/20. However, after considering recent correspondence by TNC dated 2/4/20 and by WMR dated 2/12/20, staff now has a serious concern regarding the potential off-site impacts. Staff is also concerned about the time already spent by staff assisting with the negotiations between the two parties. Planning Commission had directed TNC and WMR to collectively come up with a reasonable proposal to address potential off-site impacts, specifically the trespass and liability concerns.

The following is a brief summary of the reasons the matter was tabled from 10/17/19 to December 12/19/20:

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

History
After the tabling, an amended narrative dated 12/2/19 did not address the above listed concerns. Specifically, TNC requested a “donut hole” permit boundary that excluded certain uses from the permit boundary. As a courtesy, staff reached out to Nancy Fishbein and explained that the staff report would not be supportive of the request, based on the revised narrative, as noted in a follow-up email to the conversation dated 1/2/20. Subsequently, TNC submitted an improved narrative, dated 1/17/20, which included uses within the permit boundary and acknowledge an agreement regarding a fence and its location along the north boundary line.

Staff was also told that TNC had agreed to a request by WMR to install another fence along the eastern edge of the island known as Lewis and Clark that would further reduce potential off-site impacts. This information was relayed to staff through ongoing discussions and in Nancy’s 2/4/20 email and the map she provided.

The additional fencing, even though outside of the proposed permit boundary, is viewed as a belt and suspender mitigation. This addition significantly reduced concerns regarding trespass onto
the adjoining property via the Walker Ditch that provides access to Elk Island, which is owned by WMR. From a County perspective, the concern with removing the Lewis and Clark area from the permit boundary without assurance of a fence is due to the back and forth between the County and TNC about land uses that should be included within the permit boundary. The County's position is that all land uses within the permit boundary, whether public or private uses, are subject to County review and needed to be included in the permit. If the Planning Commission considers a reduction to the permit boundary area, there needs to be clarity regarding the uses within that boundary. The areas outside of the permit boundary are for the agricultural operation, and are currently leased to a private ranching operation and not part of the permit uses directly connected to the work/mission of the organization. If the intent is to allow uses in the Lewis and Clark area that support and are related to the work/mission of TNC, such as research and educational walks or bird watching, then this area needs to be included within the permit boundary. If not, then the installation of a fence, as TNC suggested it would build anyway, is recommended.

It is staff’s position that a deadline for the completion of the review and the negotiations needs to be set. Staff recognizes the history and acknowledges the efforts made thus far to mitigate the concerns. Still, if WMR and TNC cannot agree on a reasonable solution, a decision must be made by the Planning Commission. Staff strongly suggests that Planning Commission consider the following options:

- Consider modification of conditions or revocation of Permit # PP1996-016 under Condition of Approval #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.” Findings of fact are included in the denial option below.
- Deny the request for an amendment of Permit # PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural. Findings of Fact that you might want to consider are the following:
  - TNC has not complied with the original CUP (PP1996-016) condition of approval (“COA”) #6 that required a fence with no trespassing signs along the northwest side of the property to deter the public from trespassing onto neighboring properties. Some sections of fence may have been installed, but a continuous fence has not, and TNC’s public trail was and is on the wrong side of the fence between WMR and TNC land, so the fence clearly would not “deter trespassing.”
  - Additionally, TNC did not place the required no trespassing signs on the northwest side fence until 2019 when WMR submitted its complaints. TNC then claimed to have complied in 2019 by placing some signs on its fence. However, the signs were placed on the east side of the fence facing the cattle in the pasture and would not “deter trespassing.”
  - TNC’s historic uses since 1996 exceed what was approved in 1996. TNC’s current uses and amendment proposed do not adequately protect the neighboring agricultural operator against the risk of trespass and the associated liability nor adequately mitigate the impacts on the adjacent property owner’s agricultural operation.
  - TNC failed to comply with the 1996 COA #2 by adding uses or facilities or additional overnight accommodations without seeking an amendment to the 1996 CUP when it built the new Ranch Manager’s house without removing the former Ranch Manager’s house as represented to the Planning Commission in 1996.

- Approve the amendment request with conditions to adequately mitigate off-site impacts, specifically conditions that address trespass and liability concerns. Suggested additional conditions are provided below, along with findings of fact:
  - The CUP for a Recreational Facility, Outdoor Rural with Overnight Accommodations is limited to uses and facilities presented in the approved project plan. The
approved project plan uses listed below may only occur within the CUP boundary. Uses of Carpenter Ranch outside the CUP boundary will be limited to the agricultural operation, currently leased to a private ranching operation, as stated in TNC’s 1/17/20 narrative.

- There needs to be further discussion of hours of operation and seasonal use for the educational center. Proposed hours are Monday-Sunday 6am-8pm year round as per Nancy’s email of 2/4/20. Planning Commission may consider this request if there are other mitigating factors required.
- TNC shall require all visitors to, and occupants of, the Carpenter Ranch to execute liability waivers that release both TNC and WMR from any claim for injury or damage occurring on Carpenter Ranch or on co-tenancy lands and shall retain the original waivers for inspection by the County or WMR upon request.
- TNC staff shall submit quarterly reports, including copies of the activity logs, to Planning Staff. TNC shall submit an annual report to Planning Staff by December 1 each year to document compliance with the Permit and the COAs.
- Permitee shall construct and maintain a fence along the northern border of TNC’s land. *Two fence plans are included in the attached correspondence for your consideration.* The fence shall be completed no later than July 1, 2020. TNC shall submit to County staff proof of timely completion.
- “No Trespassing” signs shall be placed and maintained upon the fence at 150 (or another # found to be appropriate) foot intervals.

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. Overnight accommodations would require review as a Special Use Permit under current regulations, but because the existing permit included 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. The approved project plan uses listed below may only occur within the CUP boundary. Uses of Carpenter Ranch outside the CUP boundary will be limited to the agricultural operation, currently leased to a private ranching operation, as stated in TNC’s 1/17/20 narrative. 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:
Education center – interpretive exhibits, museum, meeting space for community and school groups/programs. Groups and programs may include guided walks/skis and birding events within the permit boundary.

Hours: Mon-Sunday 8am-8pm, year-round.

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.

TNC Donor Visits - visits shall be scheduled; no more than 10 visits/year with no more than 10 individuals at a time.

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.

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.

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.

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 4 buildings: Main House, Bunk House, Intern House and Manager House. Rooms are not for rent.

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.

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.

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.

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. Permitee shall construct and maintain a fence along the northern border of TNC’s land. “No Trespassing” signs shall be placed and maintained on 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 safety measure that will meet the intention of the condition shall be proposed, and approved by Planning Staff. The approved mitigation measure will be installed prior to the commencement of the activities.
February 11, 2020

Routt County Planning Commission
Kristy Winser, Interim Planning Director
P.O. Box 773749
Steamboat Springs, CO 80477

RE: Review/Revocation of Conditional Use Permit (CUP) Public Facilities - #96-P-228 (archived as PP 1996-016) THE NATURE CONSERVANCY (TNC) and denial of proposed Amendment

Dear Members of the Planning Commission and Ms. Winser,

This letter is a formal request by my client, Pirtlaw Partners/Wolf Mountain Ranch that the County Planning Commission on February 20, 2020 conclude its Review of TNC’s CUP and formally revoke TNC’s Conditional Use Permit and deny TNC’s proposed Amendment, both referenced above. (This request does not arise in any way from the recent hearing cancellation due to the blizzard. The cancellation was totally understandable.) TNC’s response to the County Review and behavior throughout this process is not. It is time for Staff and Planning Commission to conclude this matter with a revocation or the imposition of clear and enforceable limitations and Conditions of Approval (“COAs”) on all TNC activities at Carpenter Ranch.

Our client’s formal complaint letter was filed over a year ago on January 22, 2019. The chronology of events and TNC’s disregard for and non-compliance with the 1996 CUP is well documented in our Complaint and subsequent letters. TNC’s response over the past year is well known. TNC has never taken the County’s review process seriously. TNC feels that it deserves special treatment and that County zoning authority does not apply to TNC. TNC denies or disregards the impacts that its operation has on neighboring agricultural operations. Through its attorney, TNC even questioned the County’s authority to regulate TNC’s uses and activities at Carpenter Ranch, and threatened to go to Court if they did not like the outcome. Incredibly, as set forth below, TNC has now requested the right to conduct more intensive and impactful activities and events on a year round basis, something never before contemplated.

Our letter dated December 17, 2019, copy attached, documents the actions of TNC and its counsel in the summer of 2019 and before, during and after the October 2019 Planning Commission hearing. The attached letter also spells out TNC’s incredible response to Planning
Commission’s tabling motion that was submitted by Geoff Blakeslee in his misleading letter of December 2, 2019. Our attached letter also discusses Staff’s telephone call on December 3, 2019 to inform Nancy Fishbein that the TNC/Blakeslee 12/2/19 letter/“proposal” was so non-responsive and dismissive of the County review authority that Staff would recommend denial. TNC requested that the upcoming 12/18/19 hearing be continued and that TNC’s 12/2/19 “proposal” be withdrawn so TNC could submit “an improved narrative”. The 12/18/19 hearing was tabled to 2/6/20 and Staff informed TNC that this would be the final tabling.

Subsequent to the Staff phone call and our 12/17/19 letter, my client and I were cautiously optimistic that TNC would acknowledge County authority and work with us and Staff to reach an agreed set of Conditions of Approval and avoid a contested hearing on February 6th. We were asked/informed by TNC that we should meet and negotiate with local TNC representatives and Carpenter Ranch managers, Sally and Matt Ross, and new TNC attorney Paul Sachs. (Please indulge me by reading a summary of what ensued.)

On January 9, 2020, the undersigned, together with WMR ranch managers, Brent and Joan Romick, met with TNC’s designated representatives and reached a tentative agreement to resolve the agricultural impacts and liability concerns expressed by WMR. We were told that Ross and Sachs would have to discuss this agreement with TNC management in Boulder.

On January 15th, TNC’s attorney informed the undersigned that TNC would agree to build a fence with no trespassing signs and assured us that improved management at Carpenter Ranch would insure that visitors to TNC’s lands executed liability waivers. I was also told that our proposal for cross indemnifications was “under discussion” by TNC. On January 16th, I was informed via email from TNC’s attorney that TNC was “able and willing to enter into a mutual indemnification with WMR over the tenants in common area”. Because attorney Sachs was going out of the country, it was agreed that the undersigned would draft a simple Agreement for Sachs/TNC to review upon his return, to document the fence, signs, waivers and indemnification points and to resolve our objections to TNC’s CUP. A simple Agreement was provided to Sachs upon his return on Monday January 25. Sally Ross replied that the Agreement looked “great” and thanked us for putting it together. The undersigned asked that the Agreement be finalized and executed by Friday, January 31.

Meanwhile, Staff was told that the parties’ disagreements were being resolved and Kristy Winser published her Staff Memo/Fact Packet on 1/30/20. The Staff Memo mistakenly implied that TNC’s latest plan submitted by Nancy Fishbein on 1/17/20 was the result of a collaboration of both Parties and Staff. Fishbein’s new “plan” that purports to reduce the CUP area and eliminate lands and fence to the west of the access road had never been seen by WMR. The west side fence is a critical part of the Fence Plan that was discussed with Planning Commission in October and with TNC’s authorized representatives in January. TNC indicated to Staff that the west side fence and liability waivers would be addressed “separately” and not as part of the CUP review since TNC decided unilaterally to remove the west area from its CUP boundary.
During the week of 1/25/20-1/31/20 we were first told that there were a lot of people and attorneys at TNC Boulder that would have to review our proposed Agreement before it could be signed. When we did not hear anything from TNC by 1/31, Mr. Waltrip, as the owner of WMR, executed the Agreement and we emailed it to TNC’s attorney. We never received even a courtesy call to discuss the content of our simple 3 1/2 page Agreement or an email with redlined language or comments on our Fence Plan. Instead, over a week later on Monday afternoon, 2/3/20, three days before last week’s hearing, we received a completely different Fence Plan that had never been discussed and two separate very rough agreements that did not cover the agreed topics. We had once again fallen for TNC’s “Boulder bait and switch”. It was clear that TNC would not sign any agreement with WMR. We then had no choice but to hurriedly prepare for the 2/6 hearing and we submitted to Winser proposed revisions to her suggested COAs for Planning Commission to consider at the hearing. We sent a copy to TNC. Again, no response from TNC.

Just prior to the hearing, Nancy Fishbein amazingly emailed Kristy Winser, (but not copying WMR or the undersigned) and suggested that 8am-8pm 5 days per week year round was not enough, and asked if TNC could allow outdoor visitors from 6am-8pm-365 days per year. (The 1996 CUP had limited outdoor uses to daytime hours, and visiting public to 3 days per week in the summer months.) The Fishbein email made no commitment regarding liability waivers and said the west side fence was in negotiations.

Please understand, we are not saying TNC’s Permit should be revoked and its “new improved narrative” denied because TNC’s senior staff and former Carpenter Ranch manager Mr. Blakeslee have subverted all attempts to reach an agreement and avoid the upcoming hearing, or because of the massive waste of staff, Planning Commission and WMR’s time and money, or because TNC won’t sign our simple Agreement. (The Agreement that Mr. Waltrip has signed and submitted to TNC over a week ago is attached for your information.)

The permit should clearly be revoked on February 20, 2020, because TNC has never complied with the Permit’s COAs since 1996, e.g. COA#6-TNC says the condition was vague, that it installed the necessary fence, although as Planning Commissioners saw on their site review, TNC’s trail is on the outside of the fence; for 24 years the fence contained no “No Trespassing” signs; after our 2019 complaint, TNC installed a few No Trespassing signs, but only on the inside of the fence where they can only be seen by cows. TNC still claims compliance with COA#6.

TNC installed and for 18 years used a bridge over a channel in its wetlands area trails system, despite promising the County in 1996 that the trail will cross a beaver dam and no bridge will be installed, due to ACOE permitting requirements. TNC also admits to placing fill dirt in the wetlands/beaver dam and TNC contends that it’s all okay now since they have quit using the bridge. Finally, TNC has violated COA#2 with its misleading claim that the overnight capacity has not changed since 1996. TNC has continued to show that they will try to push the envelope as to what they do, try not to be discovered and dare the County to do something about it, if they are discovered.
This astounding process needs to come to an end. I regret having to spend Planning Commission’s time once again with this letter, but also regret that my client has had to endure this treatment by TNC. Notwithstanding our request for revocation of the CUP, WMR is still willing to live with an approval of the amended CUP, but only if WMR’s proposed amended COA’s and Fence Plan are made conditions of approval, and it is clear that TNC’s rights to use lands outside the CUP boundary are limited to the private agricultural uses currently contracted out to Doug Carlson, as stated in Nancy Fishbein’s January 17 letter proposal at page 2 and in Kristy Winser’s Staff Memo. The County and my client deserve to know that this episode is over and that County planning will enforce its zoning regulations and protect neighboring agricultural operations from impacts arising from quasi-commercial operations.

Thank you for all the time you have spent and thank you in advance for your consideration of this important matter. If you have any questions for me in advance of the hearing, please do not hesitate to contact me.

Sincerely,

[Signature]
John A. Vanderbloemen

Cc: Robert L. Waltrip
Brent and Joan Romick
AGREEMENT REGARDING CO-TENANCY LANDS

THIS AGREEMENT REGARDING CO-TENANCY LANDS ("Agreement") is made and entered into this 4th day of February, 2020 by and between PIRTLAW PARTNERS, LTD., a Texas Limited Partnership, ("PIRTLAW") and THE NATURE CONSERVANCY, a District of Columbia Nonprofit corporation ("TNC"). Pirtlaw and TNC are also referred to collectively as the "Parties", or individually as a "Party".

A. Pirtlaw is the owner of rural lands in Routt County that lie primarily to the north of the Yampa River, where Pirtlaw operates a ranch under the name of Wolf Mountain Ranch ("WMR").

B. TNC is the owner of rural lands in Routt County that are adjacent to a portion of WMR and lie generally to the south of the Yampa River, and are often referred to as the Carpenter Ranch. Carpenter Ranch is operated as a nature preserve and managed in part for ranching purposes.

C. TNC holds a Conditional Use Permit ("CUP") from Routt County which is currently in a review and amendment process, with a hearing set for February 6, 2020 before the Routt County Planning Commission.

D. The Parties have been neighbors for over twenty years. An aerial photo/map is attached as Exhibit A to illustrate the approximate location of pertinent portions of WMR, Carpenter Ranch and the Yampa River.

E. According to the Parties’ vesting deeds, the majority of the common boundary between of the lands of WMR and Carpenter Ranch is the centerline of the Yampa River. However, a 1954 Deed from TNC’s predecessor in title, the Carpenter Estate, to Pirtlaw’s predecessor in title, the Clarke family, created a co-tenancy in the “streambed” of the Yampa River, as to certain lands shown on Exhibit A. This 1954 Deed is recorded in the public records of Routt County at Book 260 at Page 40. Court orders entered in a quiet title action, Case No. 2016CV30087, have confirmed the Parties’ co-tenancy ownership of certain “streambed” lands and also ruled that a parcel, shown as Feature 1B in the approximate location as shown on Exhibit A, is also owned in co-tenancy by the Parties.

F. Neither this Agreement nor the Map attached as Exhibit A are intended to be a Boundary Agreement or to in any way whatsoever determine, modify, affect or be used as evidence as to the Parties’ common boundary, property lines, or the Parties’ respective ownership of lands discussed herein, or shown on Exhibit A. The Map, Exhibit A, is attached solely for illustration purposes.
G. This Agreement is entered into in good faith by the Parties and is simply intended to contain agreements regarding the construction and maintenance of fences and signs to be located on fences on Carpenter Ranch, to provide mutual indemnification provisions for the benefit of both Parties, and to resolve Pirtlaw's objections to TNC's pending CUP application.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. TNC agrees to construct new fences in the locations shown in yellow on the Fence Plan, Exhibit A. TNC agrees to repair or replace existing fences in the locations shown in orange on the Fence Plan, Exhibit A. All fences, whether new or existing, shall be livestock proof lawful fences. The Parties agree that the design for the fences may differ in one section of the fence to another, at TNC's option. For example, certain section(s) of the fence may be existing fence of typical local ranch design that include(s) barbed wire and/or vinyl clad smooth wire, while other section(s) of fence may be wildlife friendly livestock proof fencing, consistent with design parameters from Colorado Parks and Wildlife ("CPW") or from some other agency that assists TNC with the funding for the fence construction. TNC's construction and improvement of the fences shown on Exhibit A will be concluded by July 1, 2020.

2. The cost of annual maintenance and repair of the fences will be shared 50/50 between the Parties.

3. TNC will attach and maintain “No Trespassing” signs along the TNC (primarily south) side of the fences at 150’ intervals.

4. TNC will have no obligation to install or maintain the seasonal fences shown in red on Exhibit A. These seasonal fences will be installed and maintained by Pirtlaw, at Pirtlaw’s option, but will only be installed during the fall when WMR turns cattle out onto pastures that have already been hayed. Details of the design of these seasonal fences will be agreed upon by the managers of WMR and Carpenter Ranch.

5. The Parties agree that the existence and location of the fences shown on Exhibit A is pursuant to this mutual agreement between the Parties. The fences and signs shall not be used as the basis of any claim of adverse possession or prescriptive easement by either Party and may not be used as evidence in any title or boundary dispute between the Parties.

6. This Agreement is being entered into by and between the Parties in a good faith attempt to resolve differences regarding TNC’s uses and activities on the Carpenter Ranch, including, but not limited to, public and private uses, activities and events conducted pursuant to TNC’s CUP, and the impact of such uses upon WMR. Upon TNC’s execution of this Agreement, Pirtlaw agrees to represent to County Planning that
this Agreement providing for fencing, signage and cross indemnification resolves the objections that have been voiced by Pirtlaw during the current CUP review. Both parties understand that the fence and sign commitments of this Agreement will be agreed conditions of approval of the CUP amendment.

7. Each Party agrees to require all of their respective employees and contractors, including fencing contractors, and temporary help, and all visitors, whether invitees or licensees, and all donors, researchers, students, interns, event attendees, or other individuals who enter upon either WMR or Carpenter Ranch to execute liability waivers that release any claim that may be asserted against either of the Parties.

8. The Parties agree that the existence of co-Tenancy ownership in the streambed lands and as to Feature 1B creates an increased potential for liability claims against one or both Parties for injuries or property damage that allegedly occurred on the co-Tenancy lands. It is recognized that the location of the co-tenancy streambed will likely change over time and the precise location of Feature 1B in the field may be difficult to ascertain. This Agreement does not attempt to define or reach agreement on the location or extent of co-tenancy lands, but does intend to agree as to how to handle any such claims for injury or damage that may be presented in the future.

9. The Parties agree to the following cross indemnification provisions set forth in sections 10-12, below.

10. Pirtlaw’s Obligation to Indemnify. Pirtlaw agrees to indemnify, defend, and hold harmless TNC, its officers, directors, employees, members, managers, successors, and assigns (collectively referred to as the “TNC indemnified parties”) from and against all demands, claims, actions, losses, damages, liabilities, costs, and expenses (including reasonable attorneys’ fees) asserted against or incurred by TNC indemnified parties to the extent such claim arises from (a) a claim for injury, damage or loss that allegedly occurred on the Parties’ co-tenancy lands and was incurred by a person(s) who entered upon the Parties’ co-tenancy lands from Wolf Mountain Ranch.

11. TNC’s Obligation to Indemnify. TNC agrees to indemnify, defend, and hold harmless, Pirtlaw, its partners, officers, directors, members, managers, and all members of the Waltrip Family, successors, and assigns (collectively referred to as the “Pirtlaw indemnified parties”) from and against all demands, claims, actions, losses, damages, liabilities, costs, and expenses (including reasonable attorneys’ fees) asserted against or incurred by Pirtlaw indemnified parties to the extent such claim arises from (a) a claim for injury, damage or loss that allegedly occurred on the Parties’ co-tenancy lands and was incurred by a person(s) who entered upon the Parties’ co-tenancy lands from Carpenter Ranch.

12. No Obligation to Indemnify. Neither party shall have any obligation to indemnify the other for any demands, claims, actions, losses, damages, liabilities, costs, and expenses (including reasonable attorneys’ fees) that are asserted by a person(s) who did not enter upon the Parties’ co-tenancy lands from either Wolf Mountain Ranch or
Carpenter Ranch, but rather entered upon the Parties’ co-tenancy lands from the Yampa River up or downstream of the Parties’ co-tenancy lands.

13. This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof and all prior agreements, understandings, or negotiations shall be deemed merged herein. No representations, warranties, promises, or agreements, express or implied, shall exist between the parties, except as stated herein.

14. In the event of a dispute between the Parties arising out this Agreement, the Court shall award reasonable attorneys fees to the prevailing party.

15. No amendments or modifications to this Agreement shall be made unless in writing executed and delivered by the party to be bound thereby.

16. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado. Venue for any dispute shall be in Routt County, Colorado.

17. Neither party shall assign or otherwise transfer or dispose of its rights under this Agreement without the prior written consent of the other party.

18. The Parties agree that this Agreement may be executed simultaneously in one or more counterparts, each of which may be deemed an original, all which together shall constitute one and the same instrument. Signature pages may be detached and reattached to physically form one document.

18. The Parties agree that this Agreement shall not be recorded in the public records of Routt County, Colorado.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first set forth above.

PIRTLAW PARTNERS, LTD., a Texas Limited Partnership

By: Pirlaw Management, LLC, its General Partner

By: ________________________________
Robert L. Waltrip, President

THE NATURE CONSERVANCY, a District of Columbia Nonprofit corporation

By: ________________________________
Its authorized representative
To whom it may concern:

I am writing in support of the Carpenter Ranch in its efforts to be granted a conditional use permit.

I have led many bird and nature walks at the Carpenter Ranch since 2002, and all of our outings have always stayed on the trails on the Carpenter Ranch property. Our bird walks adhere to the American Birding Association’s Code of Birding Ethics, restricting off-trail activities by birdwatchers. Even while on the Carpenter Ranch, I rarely see birdwatchers going off-trail, and I have never witnessed or heard of an instance of a birdwatcher trespassing on the Wolf Mountain Ranch.

The birdwatching community, especially in Colorado, is highly sensitive to landowner concerns. For example, Colorado Field Ornithologists, on whose board I served for nine years, prizes good relations with landowners across the state, working directly with landowners for access and other permissions. I make this point because Colorado Field Ornithologists members have been prominent users of the Carpenter Ranch.

The unique wildlife value of the Carpenter Ranch is well known, and I don't need to repeat much of it here. Suffice it to say, the ranch is one of the most admired working ranches on the entire Colorado birdwatching circuit. The birds and other wildlife are part of the attraction, but another part is the Carpenter Ranch’s reputation for fostering good will between ranching interests and the broader wildlife watching community.

Finally, I want to address the critical scientific issue of grazing per se. While grazing in upland habitats in Colorado and elsewhere is generally well managed, the unanimous scientific consensus is that grazing is immediately destructive to sensitive and specialized riparian habitats. Creative solutions like stream-bank fencing would be acceptable, in my view, along the Yampa River at the Carpenter Ranch; but extensive use by cattle would substantially alter, and probably destroy, a complex community of birds and plants that occurs nowhere else on Earth.

Sincerely yours,

Ted Floyd, Ph.D.
Editor, Birding magazine
Kristy Winser

From: Nancy Fishbein <nfishbein@TNC.ORG>
Sent: Tuesday, February 4, 2020 5:03 PM
To: Kristy Winser
Cc: Sally Ross
Subject: RE: Staff memo
Attachments: CarpenterRanch_CUP_012020(7.5x11) Final Map.pdf; Carpenter Fencing proposal with Lewis and Clark.pdf

Kristy,
Thanks so much for sharing the staff memo. I noticed a couple of things that I wanted to clarify with you.

- Under the Specific Conditions section #14, in the table, the hours of the Education Center are listed as Mon-Friday 8am-8pm, year round. I'm not sure where those hours came from, but events that make use of the Education Center often take place on the weekends and potentially could start earlier (for example for a birding walk). Could this be modified to say Monday-Sunday 6am-8pm?
- Under Specific Conditions section #17, it is stated that Permittee shall construct and maintain a fence along the northern perimeter of TNC’s land, as depicted on WMR’s attached Exhibit.
  - The map referenced should be the map TNC attached to our application, not one provided by WMR. I have attached it here again (CarpenterRanch_CUP_012020(5x11) Final Map.pdf). Please note that outside the CUP process, TNC has also agreed to construct a fence along the eastern edge of the island known as Lewis and Clark and maintain the fence along the south side of Elk Island, both at the request of WMR. This does not show up on the attached map because it is not within the CUP boundary. I’ve attached a second map with the Lewis and Clark fence drawn in (Carpenter Fencing proposal with Lewis and Clark.pdf). Again, it is outside the CUP but part of a fencing agreement we continue to negotiate with WMR.
  - The map shows a fence along the northern perimeter of the CUP, not TNC’s land. There is TNC land between the CUP boundary and the river. I reference that in my January 17, 2020 letter. See that language below.

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.

Lastly, in the spirit of full disclosure, we have reached a bit of an impasse with WMR. WMR had provided to TNC a fencing and indemnification agreement that had a few provisions that we could not agree to. We proposed a counter that met with disagreement from WMR. I actually think we are very close on most items that relate to the CUP, but the back and forth has ruffled feathers. I just wanted to alert you to the fact that the hearing may run less smoothly than we had anticipated because WMR is unhappy that we could not accept everything in their proposal. I’m happy to chat with you if it would be helpful.

Thanks for all your help with this matter. I remain hopeful that it will be completed soon. See you on Thursday, provided the snow doesn’t interfere with my travel plans.
All the best,
Nancy

Nancy Fishbein  
Director of Land & Water Protection  
nfishbein@tnc.org  
(720) 974-7007 (office)  
(303) 569-5303 (cell)  
nature.org/colorado

From: Kristy Winser <kwinser@co.routt.co.us>
Sent: Thursday, January 30, 2020 4:23 PM
To: Sally Ross <sally.ross@TNC.ORG>; Nancy Fishbein <nfishbein@TNC.ORG>
Subject: Staff memo

Good afternoon,

I attached the staff memo for the hearing next week. I tried my best to provide conditions that I feel still allow flexibility. As always please contact me with any feedback or clarifications.

Thank you.

Kristy Winser  
Assistant Director  
Routt County Planning  
970-879-2704  
136 6th Street, suite 200  
Steamboat Springs, CO 80487  
Kwinser@co.routt.co.us

Disclaimer

The information contained in this communication is confidential and intended solely for use by the recipient(s). If you are not the recipient, understand that any disclosure or distribution of the contents is strictly prohibited and may be unlawful. This email has been scanned for viruses and malware, and may have been automatically archived.
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:

<table>
<thead>
<tr>
<th>Use Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Education center</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Historic Barn</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>TNC Donor Visits</strong></td>
<td>are organized no more than 10 visits/year with no more than 10 individuals at a time.</td>
</tr>
<tr>
<td><strong>Scientific and Agricultural Research</strong></td>
<td>users/groups are directly connected to the work/mission of the organization on a year-round basis no more than10 trips per year.</td>
</tr>
<tr>
<td><strong>Wildlife Preserve</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Interpretive Trails</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Housing</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Private non-commercial fishing</strong></td>
<td>for users directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</td>
</tr>
<tr>
<td><strong>Private, non-commercial hunting</strong></td>
<td>for users directly connected to the work/mission of the organization and guests and family of the Ranch Manager on a year-round basis.</td>
</tr>
<tr>
<td><strong>Special Events</strong></td>
<td>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.</td>
</tr>
</tbody>
</table>
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. Permitee 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.
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 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 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
Kristy Winser

From: Nancy Fishbein <nfishbein@TNC.ORG>
Sent: Thursday, January 2, 2020 10:06 AM
To: Kristy Winser
Cc: Sally Ross; Geoff Blakeslee
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
136 6th Street, suite 200
Steamboat Springs, CO 80487
Kwinser@co.routt.co.us

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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 17\textsuperscript{th} hearing, TNC telephoned planning staff and requested an 11\textsuperscript{th} hour tabling without appearing before PC. Staff, to its credit, refused to table the matter without an appearance.

At the October 17\textsuperscript{th} 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 19\textsuperscript{th} 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).


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
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.
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

<table>
<thead>
<tr>
<th>Permitee:</th>
<th>The Nature Conservancy</th>
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</thead>
<tbody>
<tr>
<td><strong>PETITION:</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>LEGAL:</strong></td>
<td>8 parcels located in Secs 5, 6, 7, 8 and 9 of Township 6 North, Range 87 West</td>
</tr>
<tr>
<td><strong>LOCATION:</strong></td>
<td>The Carpenter Ranch is located approximately 5 miles east of Hayden, Colorado on U.S. 40. 13250-C US HIGHWAY 40, HAYDEN</td>
</tr>
<tr>
<td><strong>ZONE DISTRICT:</strong></td>
<td>AF</td>
</tr>
<tr>
<td><strong>AREA:</strong></td>
<td>978.65 acres</td>
</tr>
<tr>
<td><strong>STAFF CONTACT:</strong></td>
<td>Kristy Winser <a href="mailto:kwinser@co.routt.co.us">kwinser@co.routt.co.us</a></td>
</tr>
</tbody>
</table>
| **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](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 Tresspassing 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 Manager’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 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.

<table>
<thead>
<tr>
<th>Existing and proposed uses</th>
<th>Land use category and process as per TNC</th>
<th>96’ Project Plan and Approval</th>
<th>Staff Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education center – interpretive exhibits, museum, meeting space for community and school groups.</td>
<td>Public building requires a CUP.</td>
<td>All uses were included as part of the CUP.</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Ranching</strong></td>
<td>Ranching is a use-by-right, and should not be included in the review of a CUP.</td>
<td>Yes, ranching was included in the review of the original project plan to educate the public about agriculture.</td>
<td>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.</td>
</tr>
<tr>
<td>---</td>
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<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Historic Barn</strong></td>
<td>Agricultural buildings are a use-by-right, and should not be included in the review of a CUP.</td>
<td>Yes, the barn was included in the review of the original project plan to educate the public about agriculture.</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Wildlife Preserve</strong></td>
<td>Wildlife Preserve is a use-by-right and should not be included in the review for a CUP.</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Interpretive Trails</strong></td>
<td>Parks &amp; Rec Lands are a use-by-right and should not be included in the review for a CUP.</td>
<td>Yes. Maps were included that depicted the interpretive trails that would be self guided and meandered through the Yampa Preserve Area.</td>
<td>The trails are part of the educational component to educate the public on the biodiversity within the permit area.</td>
</tr>
<tr>
<td><strong>Housing for people who stay overnight. They include Ranch manager, TNC staff members, volunteers, donors, researchers, and interns within the:</strong></td>
<td>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.</td>
<td>Yes and all considered as part of the overall project plan and permit.</td>
<td>No longer a use- by-right when the overnight accomadations are used to support and promote the ranch’s agricultural and educational mission.</td>
</tr>
<tr>
<td>- Main House</td>
<td></td>
<td>- Main House 5 bedrooms</td>
<td>- Main House 5 bedrooms</td>
</tr>
<tr>
<td>- Bunk House</td>
<td></td>
<td>- Bunk House 3 interns</td>
<td>- Ranch Managers House (constructed in 1997)</td>
</tr>
<tr>
<td>- Intern House</td>
<td></td>
<td>- Manager House 3 people (to be torn down and rebuilt)</td>
<td>- Intern House sleep up to 4 people (original Ranch Manager House)</td>
</tr>
<tr>
<td>- Manager House</td>
<td></td>
<td></td>
<td>- Bunk House 2 people</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>16 persons is what was presented in the original</td>
</tr>
</tbody>
</table>
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

<table>
<thead>
<tr>
<th>Activity</th>
<th>Uses-by-right Considered in Original Project Plan and Permit</th>
<th>Uses-by-right Considered in the Current Project Plan</th>
<th>Review Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trails, hiking, x-country ski, Birdwatching</td>
<td>All uses-by-right for Parks &amp; Rec Lands and should not be included in the review for a CUP.</td>
<td>Yes, trails and hiking were included in the original project plan and permit. Cross country and birdwatching were not.</td>
<td>These uses are conducted to help promote the ranch’s agricultural and educational mission. They are accessory uses of a Recreational Facility.</td>
</tr>
<tr>
<td>Private non-commercial fishing</td>
<td>Private non-commercial fishing is a use-by-right and should not be included in the review for a CUP.</td>
<td>Yes, included in the original project plan and permit.</td>
<td>An accessory use of a Recreational Facility and part of the ranch’s agricultural and educational mission.</td>
</tr>
<tr>
<td>Private, non-commercial hunting</td>
<td>Private, non-commercial hunting is a use-by-right and should not be included in the review for a CUP.</td>
<td>No</td>
<td>An accessory use of a Recreational Facility and part of the ranch’s agricultural and educational mission.</td>
</tr>
<tr>
<td>Chili Ski Day</td>
<td>By-right and should not be included in the review for a CUP.</td>
<td>No events were discussed or considered.</td>
<td>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.</td>
</tr>
<tr>
<td>Crane Festival</td>
<td>By-right and should not be included in the review for a CUP.</td>
<td>No events were discussed or considered.</td>
<td>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.</td>
</tr>
<tr>
<td>Family Reunion</td>
<td>By-right and should not be included in the review for a CUP.</td>
<td>No events were discussed or considered.</td>
<td>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.</td>
</tr>
</tbody>
</table>
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 were 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.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.
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 new signs, 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.

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:
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:

John Eastman
Staff Planner

01/23/04
Date

SIGNED:

Chad Phillips
Planning Administrator

01/23/04
Date

ACCEPTED:

Michael L. Lease
Permittee

01/30/04
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 rain 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


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 Pirlaw 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 Pirlaw and TNC is not the centerline of the Yampa. Judge Hill’s ruling confirms Pirlaw 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 Pirlaw 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. Pirlaw 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 Pirlaw. 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 such as ‘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,

[R.L. Waltrip]

Robert L. Waltrip
Principal of Pirtlaw Partners, Ltd.
Owner of Wolf Mountain Ranch
Exhibit B
Routt County, Colorado

Legend

- Wolf Mountain Ranch Boundary
- Section
- Quarter Quarter Section

January 2019
March 12, 2019

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


Dear Ms. Winser,

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
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,

R.L. Waltrip

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
- Island 1B
- Section
- Quarter Quarter Section

Aerial Image Source: 2014 Google Earth

April 2019
1000 feet
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 compliant 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 Permitee 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 compliant 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
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 <GBLAKESELEE@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 site would be 16. The breakdown was:

- Main House 5 bedrooms (2 beds each)
- Bunk House-3 interns,
- 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

Gibson, Dunn & Crutcher LLP
1801 California Street, Suite 4200, Denver, CO 80202-2642
Tel +1 303.298.5739 • Fax +1 303.313.2829
GKerwin@gibsondunn.com • www.gibsondunn.com

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Please see our website at https://www.gibsondunn.com/ for information regarding the firm and/or our privacy policy.
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 use 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 Pirllaw 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.

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 17, 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
The Carpenter Ranch
Lucky 8 Ranch
Amendment to Guest Ranch Special Use Permit PL-17-102

ACTIVITY #: PL-19-195
HEARING DATES:
Planning Commission: February 20, 2020 at 6:00pm
Board of County Commissioners: March 24, 2020 at 1:30pm

PETITIONER:
Lucky 8 Ranch
Nicholas Osadchuk

PETITION:
Amendment to Guest Ranch Special Use Permit PL-17-102
1) Change to property boundaries
2) Revise Current Operations

LEGAL:
Tracts in Sections 31 & 36, T5N R86W; Sections 7 & 12 T4N R85W
BLM lease of Tracts in Sections 35-5-86, Sections 11&14-5-86

LOCATION:
Located 6-7 miles North of Oak Creek, CO accessing from CR 29

ZONE DISTRICT:
Agriculture/Forestry (A/F)

AREA:
Private property: 1,366+ acres
Private leases: 232+ acres and 323 acres (see below for future changes)
BLM lease: 1,029+ acres

STAFF CONTACT:
Chris Brookshire, cbrookshire@co.routt.co.us

ATTACHMENTS:
• Narrative
• Site Plan Narrative
• L8R Site Plan Map
• Mitigation Plan
• Routt County Area Boundary Map
• Covered arena elevations, site plan & aerial location
• Pavilion elevations, floor plan, site plan
In 2017, Lucky 8 Ranch was approved for a Special Use Permit for a Guest Ranch. The ranch contained approximately 506 acres of rural ranch land and contains portions of the reclaimed Chevron Mine.

The ranch leases adjoining properties to be used in the ranching operations and for the guest ranch operations for a total of approximately 1,165 acres.

Lucky 8 has approximately 106 acres leased from adjoining private properties and also has a lease on adjoining BLM property to the west of approximately 1,029 acres. The BLM property will be used for tours and the applicant must meet the stipulations of this lease. The original SUP included a 323-acre private property lease, but that property has been offered for sale, which may result in the lease expiring in March, 2020. Lucky 8 is currently working with the owner to purchase the property. More information should be available at the meeting. Lucky 8 has acquired an adjoining 700+ acres (referred to as the SW parcel) and will have more land area than the first application even with the loss of the 323 acre lease from the original permit.

Site Description:

The area is located on both sides of CR 29. The land is a mixture of hay meadows, reclaimed mined property, rolling hills and steep hillsides with mixed vegetation, oak brush and trees. Trout Creek bisects the property on the east side of CR 29 travelling north/south through the center of the land.

The ranch compound is located east of CR 29 on the north side of the property off of Tobiano Trail and consists of the main house (lodge), three cabins, barns and ag buildings. There are also two homes located west of the main house, which are accessed from Tobiano Trail, but with separate driveways. One of the homes is referred to as the ‘bunk house’ and is located on the north side of Tobiano Trail. The other home is privately owned (Wille), but the land is leased to Lucky 8 Ranch. See attached headquarters map.

The primary use of the ranch is grazing, hay production and raising bison.
Project Description:

The ranching operations of the Lucky 8 Guest Ranch will continue.

The COA’s of the 2017 SUP will remain as approved with the exception of proposed changes to Conditions #16 and #18. These conditions are listed below with the proposed changes identified.

There are attached maps showing the revised permit boundary. If this amendment is approved, the permit will show the change of legal description and will include a map. The main acreage change is the additional SW parcel and possibly the change to the leased 323-acre parcel.

The newly acquired SW parcel is proposed to have three new sites for staging areas and amplified music for events. This parcel will be used for tours, weddings and special events. The uses on the SW parcel will be located further away from residences located on the north side of Lucky 8 Ranch. The closest residence to the south is owned by Linda Long and is located approximately 430 feet from the south property line. The proposed staging area is approximately 0.42 mi. to the northwest and the amplified music site is approximately 0.60 miles to the northwest of the Long property.

The locations of the following new proposed facilities are shown on the L8R Site Plan map:

- Covered Riding Arena
- Seasonal events area
- Bison handling facility
- Pole barn/pavilions (referred as mom’s retreat & dad’s retreat)

Covered Riding Arena – The construction of a riding arena is a use by right, but the applicant would also like to use the facility as part of the Special Use Permit. The building would be 100’ x 200’, and used for year-round riding lessons, rodeo training and special events. The building would have to be constructed to meet current building codes if used in commercial operations.

Seasonal events – The applicant would like to offer seasonal events such as a haunted house/hay maze in the fall and lighted sleigh rides/holiday lights events.

Bison Handling Facility – This would be an area with a small barn to contain bison that are being corralled while working with the animals. The applicant anticipates that this area could be incorporated into tours to further educate clients. It is also proposed to be used for special/seasonal events. If the public uses this structure it would have to meet building codes.

Pole Barn/Pavilions – The barn/pavilions would be constructed for various public uses associated with the recreational uses at the property. They would be used as shade/picnic areas associated with tours, small weddings, or as places to retreat if there
is a change of weather during tours to shield or protect clients. If food is served with these uses it would be catered.

Note: The following events/facilities are further described starting on Page 5 of the attached narrative.

Current Operations

Lucky 8 Guest Ranch has three cabins for overnight guests, used exclusively for family, business clients, corporate retreats and hunters (not hunting on the Lucky 8 Ranch, but in other areas of Routt County). These guests will stay at the ranch headquarters in the main house, three cabins or the bunk house. Parking is provided at each site. There is a total capacity of 24 overnight guests. The guests will be offered transportation, but can travel to the ranch by private vehicle. These facilities are private and not used by the public or associated with the public recreational tours or events.

Private overnight guests will be offered skiing, snowboarding, cross country skiing, and snowshoeing. There is a ‘bunny’ hill located at the ranch headquarters which will be groomed for skiing and snowboarding. Private guests will be transported up the hill by ATV’s with tracks, snow cats or snowmobiles. Groomed trails will be located in the pastures for cross country skiing or snowshoeing. In the future, these activities will also be offered to elite athletes as a training center. The guests will also be able to participate in any activities offered to the public described below. No rope tow or lift is proposed for skiing.

The Ranch is approved through the SUP for summer and winter activities, but no overnight accommodations are currently approved. The activities are:

Ranch tours, hay rides and sleigh rides
Horseback rides
ATV tours
Snowmobile tours
Special Events
Horsemanship clinics

All tours require orientation and training prior to operation of mechanized equipment. The training area is located adjacent to the barn. Equipment and bathrooms or portalets are also located adjacent to or within the barn.

The Special Events include weddings, reunions, retreats, educational seminars, etc. The areas for Special Events are designated on the enclosed Lucky 8 Ranch site plan. The map also indicates the changes that are proposed with this application. The ranch provides the location, parking area and portable tents. The operator/organizer of the Special Event is responsible for all other details such as food service, portalets, transportation, etc. All sites are accessible by interior roads to the designated areas so that service personnel can drive to the sites. If approved, the access road to the event sites will be upgraded and areas will be established for the event sites and tents.
The ranch offers Horsemanship Clinics, Lessons and Horse Boarding to the public. The boarding is offered year round with the capacity of 10 horses on pasture including 3 horses in private stalls.

Lucky 8 Ranch employs six full-time employees and hires additional staff seasonally as needed for ranching and permit operations. Two of the employees reside at the ranch.

Shuttle service is offered to pick up and drop off clients wanting to participate in special events and tours. Weddings use shuttle service for their guests, but other services, such as caterers, use their own vehicles to transport employees and food. Clients for horsemanship training, lessons and clinics usually travel by private vehicles.

No food is provided by Lucky 8 Ranch for any events or tours. Any drinks or water is bottled and purchased from a store to have available. Guests can bring their own water bottle or purchase one at the ranch.

**Proposed changes to COA #16 and #18**

**NOTE:** Requested changes are indicated by cross-out and **Boldface** as newly proposed.

**NOTE:** There are special events listed and proposed *seasonal events* listed.

#16. Tours open to the public can be operated from 9 a.m. to sunset; Tues – Sunday. 7:00 a.m. – 9 p.m. **Seven days a week.** There will be a minimum of two guides per tours. **Hours of operation for tours shall be as follows:**

**Ranch tours, hay rides and sleigh rides**

- Tours are offered year round
- 20 people maximum **per tour** in summer
- 8 people maximum **per tour** in winter
- One tour per day – 3 days per week

**Horseback trail rides**

- Tours offered year round
- 10-14 people maximum **per tour
- Two **three** tours per day/5 days per week

**UTV ATV tours**

- Tours offered Spring, Summer and Fall
- Hay pastures will be used for off trail
- 40 people **10 machines** maximum tour (5 vehicles)
- 1 hour to full day **tours**
Snowmobile tours

- Trails will be groomed along interior roads and trails and through fields
- Hay pastures will also be used for off trail travel
- 10 people, 10 vehicles maximum tour
- Three tours per day – 5 days per week

**Covered Riding Arena (under Special Events requirements (COA #18))**

- Number of guests allowed: 400
- Amplified music hours: 8 a.m. – 11 p.m.
- Hours of operation: 8 a.m. – midnight
- Special events allowed: 25 per year as allowed under Special Events requirements
- Sanitation facilities must be provided.
- Food service must be catered or supplied by event participants.
- All operations are to be held within the riding arena.

**Riding lessons in Covered Riding Arena (Not under Special Events requirements COA #18)**

- Conducted year round
- Access by private vehicle allowed
- Riding trails can be used for advanced training

**Bison Handling Facility/Barn**

- To be used as part of tours associated with the ranch in the education of farm husbandry. This facility may also be used in the season events below.

**SEASONAL EVENTS (Not under Special Events Requirements COA #18)**

- Haunted house/hay maze
  - Dates: October 1-31
  - Hours: 4 p.m. – 10 p.m.
  - Guests: 60-80 per session – three events per evening
- Winter lights
  - Dates: December 15 – January 15
  - Hours: 5 p.m. until 10 p.m.
  - Guests: 60-80 per session – two events per evening

The Seasonal Events can be associated with hay rides, sleigh rides and horseback rides. Shuttle service must be provided for Seasonal Events.

**Pole Barn/Pavilions**

- Two pole barn/pavilions
- To be used for weddings or events with no amplified music
- Weddings or events 25 times per year (under Special Events requirements)
Used for recreational tours as a resting/lunch/snack area or inclement/emergency weather shelter

#18. Special Events shall be as follows:
   a. All events shall have port-a-lets/sanitation facilities
   b. Food services shall be provided by the client.
   c. Hours of operation shall be 8:00 a.m. to midnight
   d. Adequate off-street parking shall be provided. Any use of CR 29 for transport of guests must meet Road and Bridge requirements.
   e. Events are limited to one per week/25 per year
   f. All amplified music will cease at 10:00 11:00 p.m. and shall take place within the two five areas designed on the map, and included in the conditions of the special use permit, and all music will occur in tents.
   g. Shuttle service to the site is required for all Special Event guests (caterers, musicians, wedding party and special exceptions are not part of shuttle service).
   h. The number of guests allowed at outdoor Special Events is 200. Events in the covered arena are limited to 400 guests.
   i. If there is no amplified music, the Special Events may take place outside of the designated areas indicated on the map

Additional proposals

The applicant would like to receive approval for administrative approval to amend the permit boundary as land is acquired through purchase or lease or if leases are terminated. Currently, if a permit boundary is changed the permit must be amended through the same process through which it was approved. In this case, a change to the permit boundary would require a SUP Amendment. Staff is concerned that the public would not be notified and that a public review would not occur if there were a substantial change, e.g., the BLM lease was not renewed, or a lease or purchase of a parcel could take place that could affect the public, wildlife, landscape, etc. If Planning Commission or the Board of Commissioners feels that this request is appropriate a condition should be added.

Staff Comments:
The closest private residence is the R. Wille home, which is located approximately 489’ south from Tobiano Trail. The Wille property is leased by Lucky 8 Ranch. There are two other homes located in the area adjoining the ranch. To the west of CR 29 is the Kellner 35 acre parcel with the residence 0.14 miles from CR 29 and 1.9 mi. from the lodge. The Kellner home is higher in elevation than the Lucky 8 Ranch and looks down on the lodge. The Orton home is located 0.33 mi. to the north.

***Issues for Discussion***

- Change in hours of operation for amplified music
- Increased events – Seasonal Events: Haunted House/hay maze and Winter lights
- Additional special event areas
• Events proposed in the covered arena
• Proposed staging sites; additional amplified music sites
• Nighttime lighting associated with winter lighting event
• Increase in days of operation
• Proposed request of administrative approval to amend the permit boundary with change of leases or land ownership

Consideration of the above should be per the suggested Master Plan sections:

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.
6.3.A   Recreation and Tourist-based development and use intensity should be comparable to traditional agricultural use intensity. Intensity of permitted use should be proportional to permitted acreage.

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. Recreation and Tourism
4. Community Character and Visual Issues
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.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: The amenities and tours offered could potentially pose a danger to the public. The petitioner has explained that during tours guests must remain in the vehicles when near livestock or wildlife. The operators will conduct safety education and training prior to tours. All employees are first-aid and/or CPR certified. There will be a guide in the front and rear of each tour. Guests will not be allowed to approach wildlife or buffalo. There have been no safety issues or accidents filed with the Planning Department.

This area is not mapped for natural hazards or high wildfire area. There will be noise associated with motorized tours. The snowmobiles have 4-stroke engines for reduced noise. The closest residence is located south of Tobiano Lane (489’) (Wille) and behind the ‘bunny hill’. Tours will not be conducted near Mr. Wille’s home although he will have traffic travel past his driveway. Mr. Wille has renewed the lease for use of his land for Lucky 8 operations.

Special Events will occur in designated areas and all events are proposed to be conducted between 8 a.m. to midnight depending on the event. The applicant is proposing to extend the hours of amplified music from ending at 10 p.m. to 11 p.m. It is not known if the newly proposed staging areas and amplified music sites will affect adjoining properties. There are no residences currently located next to the newly acquired SW parcel with the exception of the Long residence located to the southeast. There are other residences to the north and if complaints are received the applicant will be contacted and the hours of operations or the location of tours will be reviewed for possible mitigation measures or amendment. No complaints have been received from property owners that have homes in the area. Routt County did receive a complaint from the owner of the leased 323 acres about the wedding tent location. This complaint was reviewed by the Planning Department and an investigation of the site and letter sent to the owner Mr. Redd on 10.10.20 (see attached).

Some tours will cross CR 29 to access lands to the west; this crossing has a permit issued by the Routt County Road and Bridge Department. There will be no change to this crossing and no new crossings are proposed. The Road and Bridge Department has reviewed the amendment and has commented that COA’s from the previous SUP still apply. They are not requesting any changes to the current conditions of approval.
**Is the application in compliance with the Policies and Regulations outlined above?  Yes or No**

### Regulations and Standards

**Applicable Regulations – Routt County Zoning Resolution**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2</td>
<td>Dimensional Standards:</td>
</tr>
<tr>
<td>5.3</td>
<td>Secondary Dwelling Unit Standards</td>
</tr>
<tr>
<td>6.1.2</td>
<td>The proposal shall be consistent with applicable Master Plans and sub-area plans.</td>
</tr>
<tr>
<td>6.1.5</td>
<td>The proposal shall meet or exceed accepted industry standards and Best Management Practices (BMP’s).</td>
</tr>
</tbody>
</table>

**Applicable Policies – Routt County Master Plan**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.A</td>
<td>The County encourages the use of “green” building techniques that lead to the conservation of energy and overall reduction of pollution in our environment.</td>
</tr>
<tr>
<td>5.3.D</td>
<td>Require Best Management Practices and grading plans and strongly discourage overlot grading.</td>
</tr>
</tbody>
</table>

Staff comments: Any future construction will have to meet any permit requirements from the Routt County Building Department if required. A condition is included to address this.

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

### Community Character and Visual Concerns

**Applicable Regulations – Routt County Zoning Resolution**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1.4</td>
<td>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</td>
</tr>
<tr>
<td>5.9</td>
<td>Sign Standards</td>
</tr>
<tr>
<td>5.10</td>
<td>Standards for Structures within mapped Skyline Areas</td>
</tr>
<tr>
<td>6.1.6</td>
<td>Outdoor Lighting: The proposal shall comply with the Outdoor Lighting Standards in Section 6.3 of these Regulations.</td>
</tr>
<tr>
<td>6.1.7.O</td>
<td>Historical Significance.</td>
</tr>
</tbody>
</table>

**Applicable Policies – Routt County Master Plan**

<table>
<thead>
<tr>
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<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.E</td>
<td>Routt County requires that all new developments do not contribute to light pollution.</td>
</tr>
<tr>
<td>5.3.F</td>
<td>Routt County will continue to consider the impacts of development and uses on view corridors, water, wetland, and air.</td>
</tr>
<tr>
<td>6.3.A</td>
<td>Recreation and Tourist-based development and use intensity should be comparable to traditional agricultural use intensity. Intensity of permitted use should be proportional to permitted acreage.</td>
</tr>
</tbody>
</table>
6.3D Encourage the use of shuttles by recreation operator to minimize the traffic impacts of their businesses.

6.3E When appropriate, commercial recreational businesses should be immediately accessed by US 40, Colo State Hwy 131 and 134 and County Road with Primary and Rural classification. Discourage commercial recreational development that crate traffic on County roads other than Primary and Rural.

Staff comments: There is a change to the evening tours for the proposed seasonal events. There will be lighting in the tents for Weddings or Special Events. The request of a lighting event for the holidays has been submitted and may be associated with tours or a walking event. Conditions limiting the duration of these events are suggested. There will be lighting at the cabins, lodge and bunkhouse for safety. Tours include the history of the reclaimed Chevron mine along with the ranching operations and bison viewing. Adjoining lands within the permit boundary are leased. The application should be reviewed if leases are not continued to determine if operations meet 6.3.A. The property is located off of CR 29 which is designated as a primary road. If accessed from Steamboat, CR 33 is paved until it intersects at CR 29 which is a gravel road. Clients using the property for horsemanship clinics/lessons and horse boarding will travel by private vehicle. The applicant will offer free shuttle pick up and drop off in Steamboat, but private vehicles can also be used to access the site for the tours. Special Events using property on the east side of Trout Creek can access the area from CR 179. The access is graded and is a good all weather road.

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

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**Roads, Transportation and Site Design**

**Applicable Regulations – Routt County Zoning Resolution**

- 5.4 Parking Standards
- 5.5 Addressing Standards
- 5.6 Access to Buildable Lot Standards
- 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**

- 11.3P Discourage new use permit and zone changes that increase density that will exceed acceptable traffic levels.

Staff comments: There is adequate parking at the lodge, cabins and bunkhouse and if additional parking is needed there is parking at the barn. Special events are limited to 200 people and a designated parking area will be provided. If the covered arena is approved, the applicant proposes that events in this facility be limited to 400 people and be allowed to have amplified music until 11 p.m. The large events would be held within the arena and adequate parking would be developed. Clients can reserve the hay wagon to transport their guests from parking areas to the wedding or reception sites. CR 29 is crossed for tours and wedding guests under a permit issued by the Routt County Road and Bridge Department. There is adequate snow storage. Many events such as weddings require transportation of guests.
**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.

**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.

9.3E Review the impacts on wildlife caused by recreational use, residential developments, and other developments and permits, than adjust, amend, terminate, or revoke as may be deemed beneficial to wildlife.

Staff comments: A condition has been included with CPW comments and will remain if the proposed SUP amendment is approved. The applicant has installed waterbody crossings across Trout Creek, under a permit issued by Routt County. The property is also used for grazing of bison and a newly acquired herd of alpacas. There are other ranching operations such as haying, irrigation, fencing, etc.

**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 Amendment 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 Amendment to 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 Amendment to 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 Amendment to 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 Special 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, 6 of the Routt County Zoning Regulations.

CONDITIONS that may be appropriate may include the following:

**General Conditions:**

1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, and 6.

2. The SUP 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.

3. Any complaints or concerns which may arise from this operation may be cause for review of the SUP, 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 SUP, 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 any required federal, state and local permits being obtained and complied with; 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 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. This does not include seasonal winter lights event listed under COA #16

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. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against 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 permits/approval 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 SUP 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 to 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 that all leases are renewed and provided it is acted upon within one year of approval. If leases are not renewed the application should be reviewed to determine if operations meet Section 3.2.10 of the Routt County Zoning Regulations. The SUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year (except for uses that a customarily operated seasonally or periodically).

15. The Special Use Permit for private overnight guests will consist of the following:
   a. Overnight accommodations are for private guests and not offered to the public. Guests will be offered skiing, snowboarding, cross country skiing or snowshoeing and use of the ‘bunny hill’ for skiing. They can also participate in tours offered to the public described below.
   b. Skiing, snowboarding, cross country skiing or snowshoeing for elite athletes will be offered. A rope tow, lift or other similar type of uphill transport is not approved as part of this permit.

16. Tours open to the public can be operated from 9 a.m. to sunset; Tues – Sunday. 7:00 a.m. – 9 p.m. Seven days a week. There will be a minimum of two guides per tours. Hours of operations for tours shall be as follows:

   Ranch tours, hay rides and sleigh rides
   • Tours are offered year round
   • 20 people maximum per tour in summer
   • 8 people maximum tour in winter
   • One tour per day – 3 days per week

   Horseback trail rides
   • Tours offered year round
   • 10-14 people maximum per tour
   • Two-three tours per day/5 days per week
UTV ATV tours

- Tours offered Spring, Summer and Fall
- Hay pastures will also be used for off trail travel
- 10 people 10 machines maximum tour (5 vehicles)
- 1 hour to full day tours

Snowmobile tours

- Trails will be groomed along interior road and trails and fields
- Hay pastures will be used for off trails
- 10 people 10 vehicles maximum tour
- Three tours per day – 5 days per week

Covered Riding Arena (under Special Events requirements (COA #18)
Number of guests allowed: 400
Amplified music hours: 8 a.m. – 11 p.m.
Hours of operation: 8 a.m. – midnight
Special events allowed: 25 per year as allowed under Special Events requirements
Sanitation facilities must be provided.
Food service must be catered or supplied by event participants.
All operations are to be held within the riding arena.

Riding lessons in Covered Riding Arena (Not under Special Events requirements COA #18)
Conducted year round
Access by private vehicle allowed
Riding trails can be used for advanced training

Bison Handling Facility/Barn
To be used as part of tours associated with the ranch in the education of farm husbandry. This facility may also be used in the Seasonal Events below.

SEASONAL EVENTS (Not under Special Events Requirements COA #18)
Haunted house/hay maze
Dates: October 1-31
Hours: 4 p.m. – 10 p.m.
Number of Guests: 60-80 per session – three events per evening

Winter lights
Dates: December 15 – January 15
Hours: 5 p.m. until 10 p.m.
Number of Guests: 60-80 per session – two events per evening
The Seasonal Events can be associated with hay rides, sleigh rides and horseback rides. Shuttle service must be provided for Seasonal Events.

Pole Barn/Pavilions

Two pole barn/pavilions
To be used for weddings or events with no amplified music
Wedding or events are allowed 25 times per year (under Special Events requirements)
To be used for recreational tours as a resting/lunch/snack area or inclement/emergency weather shelter

17. Horsemanship Clinics are limited to 25 clients. If the clinics are proposed as a larger event it shall be conducted as a Special Event. Clinics, lessons and horse boarding clients shall travel to the site by private vehicle.

18. Special Events shall be as follows:

a. All events shall have port-a-lets/sanitation facilities
b. Food services shall be provided by the client.
c. Hours of operation shall be 8:00 a.m. to midnight
d. Adequate off-street parking shall be provided. Any use of CR 29 for transport of guests must meet Road and Bridge requirements.
e. Events are limited to one per week/25 per year
f. All amplified music will cease at 10:00 11:00 p.m., and shall take place within the five areas designed on the map included within the conditions of the Special Use Permit, and all music will occur in tents.
g. Shuttle service to the site is required for all Special Events guests (caterers, musicians, wedding party and special exceptions are not part of shuttle service).
h. The number of guests allowed at Special Events is 200. Events in the covered arena are limited to 400 guests.
i. If there is no amplified music, the Special Events may take place outside of the designated areas indicated on the map

19. Prior to operation, permittee shall submit to Routt County proof of a Sales Tax Account/License.

20. Permits from the Routt County Road and Bridge Department or Building Department shall be obtained and any inspections completed before operations commence.

21. 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.

22. 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 (MUTCD) and approved by the Road and Bridge Director.

23. 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.

24. Prior to issuance, permittee shall obtain an access permit for the access serving the ceremony site. Permittee shall use and maintain such access to minimize impacts to the County road system during the life of the operations. Maintenance of the access may include sweeping, cleaning, and/or repair. If any improvements to the access are needed or desired, a Work in the Right of Way permit shall be obtained from the Routt County Road & Bridge Department prior to commencing work.

25. There shall be no parking on County Road 29 or the corresponding right-of-way for any events. Parking shall be limited to designated areas onsite only.

26. Permittee shall install snowmobile warning signs in advance of the snowmobile crossing at the county road per the MUTCD when snowmobile tours are operating.

27. All employees shall be first aid certified and be trained on emergency procedures. Radios or cell phones shall be provided to guides in case of emergency.

28. Any accidents requiring emergency service response shall be reported to the Planning Department.

29. Any wildlife encountered along or near the tours shall not be disturbed and given time to move away from any tours. The applicant shall work with the DPW to determine if there are any Sharpe-tailed leks on the property and mitigation measures placed to protect the leks. No pets or firearms shall be allowed.

30. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.

31. All snowmobiles shall have 4-stroke engines.

32. Horse boarding will be limited to no more than 20 horses at any one time.
Lucky 8 Ranch Special Use Permit Application
Written Narrative

Contact Info:
Physical & Mailing Address: 23850 Tobiano TRL, Oak Creek, CO 80467
Contact Email: nick@lucky8ranchco.com
Contact Phone: (970) 846-5592
Website: www.lucky8ranchco.com

Description of Use:

Lucky 8 Ranch’s primary mission is:

The revival of a once endangered species and the reclamation of the American farmland, by practicing Holistic Management while being environmentally conscious and involving the community. We will provide the highest quality Original American Red Meat, other products & services!

Currently we raise over 270 head and growing of Bison on 2,944 acres. We use our land primarily for agriculture use. We graze and/or hay all our properties, owned & leased. Along with our agriculture operation we operate an agritourism operation out of the ranch. We offer ATV tours, snowmobile tours, hayrides, ranch tours, horseback rides, special events & weddings, and horsemanship clinics. All of our tours are an educational journey around the ranch with informative history and stories about Routt County’s History & Heritage and the American Bison Tale. We received our permit on December 9th, 2017, PL-17-102. A copy of this permit with the current conditions of approval are attached.

We are now applying to change our permit boundary by adding 36.5 acres of newly leased property and 721 acres of newly purchased property. All shown on the site plan. We will also be terminating a land lease from our original permit, subtracting 323 acres from the permit.
boundary. This would increase our current permit boundary from 1165 acres to 1599 acres. Increasing our current permit boundary by about 37%.

We would like to change our hours of operation, to the Routt County Standard, to Monday – Sunday, 7am-9pm.

We would like to increase our days of operation to 7 days per week.

We would also like to change the wording on Condition 16 in the current Special Use Permit PL-17-102:

UTV Tours:
Change UTV to ATV Tours, change the 10 people max to 10 vehicles max per tour.

Snowmobile Tours:
We would like to change the 10 people maximum per tour to 10 snowmobiles maximum per tour.

For special events we would also like to add 3 designated amplified music areas in the proposed property addition, noted on the attached map. These are only potential sites, with no current plan to use in the near future. We would also like to add another allowed amplified music area in the proposed covered horse area. We would like to extend out amplified music cut off time to 11 PM.

We would also like to add seasonal events to the permit. We would like to be able to host community events such as a haunted hayride, haunted house, hay maze, lighted winter sleigh ride/walk, and similar events.

Proposed accessory structures currently to be used & permitted for private use but would like to have the ability to use them for public use if the occasion arise. All structures are being over engineered for public and safety:

1) 100’ by 200’ Covered Riding Arena for year-round riding lessons, rodeo training, and Special Events.
2) 2 – Pole Barn Style Pavilions as Recreational/Accessory Structures, both noted on the site plan and in the process of permitting.
3) Bison Handling Facilities with a Small Barn, potential for a haunted house attraction in the fall.

We would also like to get prior approval to increase or decrease the permit boundary as more land is acquired or land leases are terminated. The approval is for changing the land area
ONLY without changing the “current” use. We propose this to be completed administratively rather than going through the full Special Use Permit process again.

**Description of Each Activity:**

**Agritourism:**

What is agritourism? Routt County defines agritourism as, “an activity conducted on a working farm or ranch and offered to the public for the purpose of recreation, education, or active involvement in the farm or ranch operation.” Colorado legislature defines agritourism as, “the practice of engaging in activities, events, and services that have been provided for consumers for recreational, entertainment, or educational purposes at a farm, ranch or other agricultural, horticultural, or agribusiness operation in order to allow consumer to experience, learn about, and participate in various facets of agricultural industry, culinary pursuits, natural resources, and heritage.” All of our activities and services follow these definitions. Lucky 8 Ranch is a working bison ranch and a hay contractor. Our activities are offered to the public to enjoy the ranch/country life they may not have access to at home. Along our journeys they learn about Routt County’s history and heritage, agriculture in Routt County, and the American Bison tale. The practice of agritourism began gaining popularity in the 1920’s when families or friends would travel to family or friends’ farms. Back then nearly everyone had a relative or friend on a farm. Today there are fewer and fewer farms having to supplying more food, where people have become disconnected from their food source. During multiple tours we have asked children where their steak comes from. Multiple have replied the grocery store, not understanding that it comes from an animal. Our goal is to bring people more connected to their food source and how the animals are raised. Lucky 8 Ranch currently complies with the standards stated in the Routt County Zoning Regulations Section 8.26.

**Horseback Riding:**

Horseback riding has been a long-standing tradition in agriculture community as well as in Routt County. When travelers come to the area and want the Colorado experience, they seek out horseback riding. When our guests book a trip with us, they take a trip back in time of how it felt to the pioneers of the west to travel on horseback. They learn about local fauna, Routt County history and heritage, and take in breathtaking views that Routt County has to offer.

Currently the ranch offers 2 tours per day, 5 days a week, with a maximum capacity of 10 participants. We offer a 1-hour, a 2-hour horseback ride, and the occasional overnight pack trip.

We would like to change our tours offered per day from 2 to 3 and change the number of days offered per week from 5 to 7. We would also like to change the number of participants from 10 to 14. The increase would happen over time as the ranch acquires more horses.

Other local ranches in the area offer their rides 6 days per week with a capacity of 10-15 riders, 2-3 times per day.
**ATV Tours:**

Our ATV Bison Adventure tours have been a big success to visitors and locals of Routt County. After a getting equipped with safety gear, a short safety briefing, and an introductory safety track, then they embark on an educational journey with 20 miles of trail system. By being able to cover more ground on the tour guests are able to enjoy more views of Routt County and learning about its history and heritage at each stopping point. Guests also get to sit amongst the bison herd, in their vehicle, while a guide tells them about the American Bison Tale and the joy & challenges of being part of agriculture in Routt County.

We currently offer ATV tours 5 days per week with a maximum capacity of 10 participants.

We would like to change the number of days offered per week from 5 days to 7 days and change the wording of Condition 16 in the current Special Use Permit PL-17-102 to 10 vehicles max per tour instead of 10 participants. We want to offer more participants, because some of our ATV’s are 4 or 6 seaters. Our guide to vehicle ratio will remain the same at 1 guide per 5 vehicles. We usually always have 2 guides when more that 2 vehicles are booked.

Other local outfitters offer 2-3 tours per day with an unknown number of participants, 7 days per week.

**Snowmobile Tours:**

Snowmobiling is a big winter sport alternative in Routt County with the many areas to explore. Our tours are a family friendly adventure around the ranch taking in the great views of Routt County, where they also learn a bit about its History and Heritage. Our trails are groomed for ease of navigation, and we let the guests play in our ungroomed hay fields to feel what the deeper snow is like. We guide the guests through a safety track before they embark on the tour to makes sure everyone is safe and comfortable on the machine.

We currently offer snowmobile tours 5 days per week with a maximum capacity of 10 participants.

We would like to increase the number of days offered per week to 7 days. We would like to change the wording on Condition 16 in the current Special Use Permit PL-17-102 to maximum 10 snowmobiles rather than 10 participants, because the snowmobiles are 2 seaters and we could cater to more pairs and families. Our tour guide ration would remain the same at 5 vehicles per 1 guide. We usually always have 2 guides when more than 3 machines are booked.

Other local ranches and outfitters offer 2-8 tours per day with a capacity of 10-20+ participants, 7 days per week.

**Special Events:**

We have made a large investment in our current Special Event Site, which gives guests the “Colorado” experience. The location is also historical, located on the Edna/Haybro mine. With almost 100 years of Routt County history and heritage. The sites are fenced in with a huge lawn to relax and enjoy the scenery. The wooden fencing looks like you are in an animal corral
or paddock, keeping the ranch feel. Hay bales are commonly used for decoration around the site. Large boulders sourced from various areas of the mine are used as decoration along the road/trail to the site. During events guests come up to staff and ask questions about the land, the county, and the bison. Once you start talking to one, more join in and are intrigued by the information we share and the place we live. We have multiple event tents to choose from for events. Our current inventory is a 50’x100’, 40’x40’, 20’x40’, 20’x20’ tents. Along with general pop up tents. Power for the events is supplied by a whisper watt generator. Sanitation facilities include a restroom on a trailer that is pumped out by a local pump service. Trash and rubbish are added to our bear proof dumpster.

We would like to add three (3) additional special event sites with amplified music allowed in the newly proposed property addition. One site is in an aspen grove, which will help reduce sound travel from the events to neighboring houses, a beautiful location for any type of special event. The location is also located 1 mile away from the nearest neighboring house. The other 2 site are located on a mesa with scrub oak trees and about a +100’ ridge blocking any visual or sounds before reaching the nearest neighbor, .75 miles and 1.1 miles away. These two areas have beautiful views that capture the “Colorado and Routt County” picture. We currently do not have any proposed plans for these new sites but would like to have the option to move our special events around to different areas on the property if needed. We would also like to add another amplified music area in the proposed indoor riding arena. Adding the option to host events in the covered horse area could harbor more non-profit style events and fundraisers as well as business convention/conference, meetings/dinners/barn dances, etc. If this location is approved, we would like to be able to increase the capacity of guests at this location to a maximum of 400 guests. We would also like to extend our amplified music cut off time to 11 PM. We have had no noise complaints from current events and neighbors have expressed they didn’t know when we had events happening.

**Proposed Accessory Structures:**

*100’ by 200’ Indoor Riding Arena:*

This structure could have many purposes. The main purpose would be to offer winter riding lessons, rodeo training grounds, and agriculture storage which is a use by right. Accessory uses can be for special events, such as: fundraisers, non-profits, conventions/conferences, educational seminars, barn dances, pond hockey tournaments, sand volleyball tournaments, weddings, etc.

*Pole Barn/Pavilions:*

We are building 2 Pole Barn/Pavilions on the property and would like to have the added option to use them for public use. These structures could also have many uses. Currently the primary intended use would be used for shade when doing private activities at the pond or fishing by the creek and overflow agriculture storage of hay or equipment. Accessory uses could be a ceremony site for a small wedding, a place to stop and have a picnic along one of our tours,
emergency structures in case of extreme weather during a tour, etc. The current name associated with one permit of these structures that has been submitted to Routt County is named “Mom’s Retreat.”

*Bison Handling Facility with a Small Barn:*

The current primary intended use of this structure is to work our animals, sort animals, administer medication, take animal records, other agricultural uses. Accessory uses could be used during ranch tours to describe how bison are handled and cared for in the area, an animal sales yard, a haunted attraction in the fall, a visual light spectacle in the winter, etc.

*Seasonal Events:*

We would like to be able to offer a haunted hayride/haunted house/hay maze in the fall and a lighted sleigh ride/walk in the winter. Each event would have multiple trips for a certain amount of time per day. We could limit the admissions per day to a designated number of participants. This idea is still in the basic planning stage and are willing to hear ideas on admission capacity and transportation. Or we could apply for a Special Event Permit yearly.

**Hours of Operation:**

Monday – Sunday
7am – 9pm

**Anticipated number of employees:**

Lucky 8 Ranch currently has 6 full time members on staff (1 General Manager, 1 Ranch Manager, 1 Barn Manager, and 3 Ranch Hands). We hire seasonal workers currently as ranch hands to help with the entire operation.

Each activity will have a different number of employees.

ATV, Snowmobile, and Horseback Rides will have a minimum ratio of 1 guide per 5 vehicles or horses.

**Anticipated & Current Traffic:**

*Horse Back Riding:*

In 2018 we offered horseback rides at 2 tours per day and 5 days per week we had 200 availabilities for 20 weeks. Of those 200 availabilities only 64 tours were booked. Giving us a tour booking rate of 32% of our current maximum allowed. On average we ran 4 tours per week of the 10 tours allowed. We averaged 4 participants per tour out of the 10 maximum participants offered per tour, making the participant booking rate 13% of the maximum allowed.
We did not offer horseback riding in 2019.

ATV Tours:
We offered 144 tours from May to October 31st, 2018. Of those 144 tours only 49 of those tours were booked, giving a tour booking rate of 34%. Of those booked tours we average 6 participants per tour of the 10 allowed, making the participant booking rate 20% of our maximum. On average we ran 2 tours per week of the 5 tours offered for 28 weeks. Only 24 of those weeks had at least 1 tour booking.

In 2019 we offered 227 tours from May to September 30th, of those tours we booked 77 tours. Giving us a booking rate of 34%.

Snowmobile Tours:
We offered 235 tours from December 11th, 2018 to March 31st, 2019. Of those tours offered, 116 tours booked, resulting in a 49% tour booking rate. On average we ran 6.6 tours per week of the 15 tours offered. Of the 116 tours booked, we average 5.3 participants per tour, making the overall participant booking rate 26.2%.

This upcoming season we will be running 2 tours per day and if approved offer them 7 days per week.

Special Events & Weddings:
In 2019 we had 3 Special Events, with 150 guests, 181 guests, and 60 guests.

The anticipated traffic would remain the same as the original permit. 1 event per week with a maximum capacity of 200 guests. All events used a local shuttle service for majority of their guests. By shifting the original amplified music designated area to the west and adding other areas in the proposed property, this will help keep the events further away from adjacent property owners with houses to help mitigate noise and visual impact.

Vehicular traffic was minimal compared to our maximum amount allowed. Majority of our clients used our shuttle service, decreasing the number of vehicles trips on the road per day.

To mitigate traffic out to the ranch, we will continue to offer shuttle pick up and drop off in town.

Access to the Property:

Guests can access the property with their private vehicles, or we will offer a shuttle pick up and drop off service.

There are two main access points to Lucky 8 Ranch. One is from 20 Mile Road and the other is from County Road 33/County Road 179.
From Downtown Steamboat Springs (Google Maps shows three routes)

33 min (17.7 miles)
via Co Rd 33
30 min without traffic

- Head northwest on Lincoln Ave toward 8th St
- Turn left onto 13th St
- Continue onto Co Rd 33/H Routt County Rd 23
  - Continue to follow Co Rd 33
  - 17.7 mi
- Continue straight onto Co Rd 179/Co Rte 179/Co Rte 29
  - 6.4 mi
- Continue onto Co Rd 29
  - 3.3 mi
- Turn left onto Teiabana Trail
  - 0.5 mi

From Oak Creek

16 min (9.7 miles)
via Co Rd 27 and Co Rd 29
15 min without traffic

- Head west on CO-121 N/W Main St toward Bell Ave
  - Continue to follow CO-121 N
  - 0.2 mi
- Turn left onto Co Rd 27
  - 0.5 mi
- Turn right onto Co Rd 29
  - 3.1 mi
- Turn right onto Teiabana Trail
  - 0.5 mi

23855 Teiabana Trail
Oak Creek, CO 80467
From Hayden (Google Maps shows 2 routes)

Type of Equipment and Vehicles:

Our Current Inventory intended for guest ranch use:

1 Bombardier Snow Cat with an 8-person cab for winter tours
1 Tucker SnoCat Seats 4 persons for tours
1 John Deere Model A Tractor in restoration phase for agriculture & agritourism
1 Massey Fergusson 285 Tractor for agriculture & agritourism
1 Kubota Tractor for agriculture & agritourism
1 Case Tractor for agriculture & agritourism
6 1940’s-1950’s GMC Grain Truck in restoration phase for tours
1 1926 Model T Truck in restoration phase for tours
6 UTV’s used for ranch use with the ability to be used for tours
4 ATV’s used for ranch use with the ability to be used for tours
4 Snowmobiles used for personal use with the ability to be used for tours
6 UTV’s Polaris Ranger for guided tours
3 UTV’s Arctic Cat HDX for guided tours, personal & ranch use
10 Ski Doo 4 Stroke Grand Touring Snowmobiles
1 Haglin Snow Cat with two Passenger Bays
3 14-Passenger Shuttle Buses
2 Chevy Tahoe’s
1 GMC Denali
Multiple Pick Ups

Future Inventory (not limited to):
25 total 4 Stroke Snowmobiles used for tours.
20 total 4 Stroke Side by Sides used for tours.
1 Snow Cat for Grooming Trails
Lucky 8 Ranch Special Use Permit Application
Site Plan Narrative

Existing/Future Buildings, Structures, Fencing:
We currently have 2 houses, 3 cabins, and 1 barn that the public will be allowed to access for sanitation facilities, not overnight guests. We currently have fences up in multiple pastures and are currently in the process of fencing off the entire perimeter of our owned and leased properties. We are also in the planning phase of our livestock handling facilities, which one-day will be opened to the public for agriculture tours.

There are 3 proposed accessory structures currently being permitted for private use, but we would like to add them to the SUP. An indoor horse arena located next to the barn (number 5) and 2 Pole Barn/Pavilions used as a recreation building, not a dwelling, located at number 9 on Site Plan.

Outdoor Storage, Trash Enclosures, Staging Areas, and Outdoor Use Areas:
We currently have a bear proof trash enclosure in the barn yard and have had no problems with wildlife encounters. We will have a staging area for all tours located near or in the barn, eventually the animal working facility location, on the new northern property addition, and on the new southern property addition. Additional staging areas are annotated number 13 on the site plan. Since we are a ranch most areas will be outdoor use. Staging areas are used to get ready for tours or other activities. All staging areas have ample parking associated with the locations.

Parking Areas:
We have parking areas in front of all houses, cabins, the barn, livestock handling facility location, and all staging areas. Any of our fields can be used for overflow parking.

Snow Storage:
We do not store any snow. All plowed roads get the snow blown into the adjacent pasture.
Sanitation Facilities:
We have restrooms on a trailer for tour guests to use. All buildings except the barn have sanitation facilities inside. The trailers are pumped when needed by a local pump service.

Utilities:
We use grid power from Yampa Valley Electric or whisper watt generators. We use propane for heating of the houses. All buildings have existing septic systems for sanitation. Water is sourced from multiple wells.

Water Bodies, Drainages, and Ditches.
We have multiple ponds, 2 irrigation ditches in use, 2 irrigation ditches not in use, and 1 Creek.
Irrigation Ditches:
In Use: Homestead Ditch and Koll Ditch Number 1
Not in Use: Historic Mine Ditch & Connel Ditch

Wetlands, Floodplains, and Steep Slopes:
We currently have no known areas classified as wetlands. The floodplain runs adjacent with trout creek. There are a couple areas of steep slopes that are greater than 30%, which lead into the trout creek valley floor and on the ridge in our leased properties and a small portion of the new additional property to the south.

Sidewalks & Trails:
We do not have any built sidewalks. There are many established trails throughout our property from the old Chevron mining operation and various utility companies. We have rebuilt and maintained the old existing trails and roads.

Hazardous Materials Storage:
We currently use a sealed shipping container for all our hazardous materials storage located next to the barn.

How to Access the new property around the subtracted property:
Lucky 8 Ranch holds the BLM Special Recreation Permit for tours. During all tours the new property addition can be accessed from the trails approved to use on the BLM permit properties. The current BLM permit is attached with a map of the approved trail systems.
As always, we at Lucky 8 Ranch put Safety first. We will make sure our property is always in good standing for the Health, Safety, and Welfare of our lands and visitors. The entire property is our home and we will maintain and preserve it to the highest standards.

**Public Roads, Service & Infrastructure, Road Capacity, Traffic & Traffic Safety**

To minimize impacts to our public roads, road capacity, and traffic leading to the ranch we will offer a shuttle service that will pick up and drop off to various locations around Routt County. This will reduce the number of daily vehicles traveling along these roadways. For special events we require the use of shuttles to transport majority of the guests, otherwise they will need a permit from Road and Bridge.

**Natural Hazards**

We do not have any known avalanche, landslide, rock fall, mudflow, unstable slopes, seismic, or radioactive areas on the ranch.

To help minimize wildfire areas, we graze our livestock and hay areas to keep the grass to an appropriate level. We also maintain and mow within a 50-foot radius of any structure.

To help fight possible fire, fire extinguishers are located in all structures and vehicles located on the ranch. We also have multiple water pumps and water tanks to pump water if needed to specific areas.

There are no known existing flood hazard areas.
For public safety, we will not have tours if there is extreme weather, especially lightning. If lightning does strike within a 5-mile radius during a tour, we will have a plan in place to bring people inside safe structures.

**Wildlife & Wildlife Habitat**

To avoid disturbing the local wildlife, we will avoid known breeding grounds, nesting areas, dens, and other high concentrated animal habitats, to not disturb these animal species.

During tours, we will avoid making unnecessary noise and disturbing the animal’s natural habitat.

Since our property lines will be fenced off, we will add gates in pasture areas to allow wildlife migration when livestock is not present.

We have a covered bear proof 30ft dumpster to keep animals out of the trash.

**Water Quality & Quantity**

We will maintain and preserve the water that runs through or under our ranch.

To minimize impact to the creek during tours we have bridges in place to allow vehicles to travel over the creek without impacting it. We will also observe the water flow and use the preexisting creek crossing only when suitable to cross when the water is at or below half the tire height.

**Air Quality**

To reduce the amount of dust stirred up from the county road we have already started to treat our roadways within our property limits with magnesium chloride, applied by Routt County Road & Bridge. We will also use water during dry periods to wet our driveways when increased traffic is expected and high winds.

For the Health of our guests we hand out dust masks to minimize exposure to dust and other particles.

**Visual Amenities and Scenic Qualities**

To minimize impact to the overall ranch, tours shall be conducted primarily on the existing roadways and dual-purpose trails.
To minimize impact to the ground surface during winter, snowmobile tours will not start until there is a minimum of 6 inches of snowpack on the ground.

We are currently reclaiming all our land especially where the Chevron Mine use to exist.

Noise

To minimize noise impact from motorized vehicle tours we will offer tours between 9am and 1 hour after sunset. We will also restrict the amount of time traveling near neighboring houses.

During winter operations of grooming we will minimize the time of night grooming near neighboring houses. Note: The nearest house is 800-ft away from closest trail and is blocked by a hill and vegetation.

To minimize the noise from special events, we abide by the Colorado Noise Statute.

Wetlands

To minimize impact to any wetlands that may exist, we will avoid them during tours.

Other

To prevent human-livestock contact, fence will be constructed for guest safety. Also, during tours guest will remain in the vehicle when near livestock or wildlife.

Before motorized tours, we will have a safety speech and/or training session for guest safety.

All employees will be first aid and CPR certified. One employee currently has been trained as an EMT.

Lucky 8 Ranch currently employs the mitigations techniques in the Routt County Zoning Regulations of Section of 6.12 and 6.13.

Lucky 8 Ranch will adhere to any of the proposed mitigation techniques set forth in Section 6 of the Routt County Zoning Regulations as decided by the planning commission.

Concerns from the Previous Permitting Process:

Taking Away from Routt Counties History & Heritage:
Lucky 8 Ranch shares Colorado and Routt County’s history and heritage to all of our guests. Each tour is a scenic educational journey. Special events also embody the history and heritage of Routt County. The current Routt County Master Plan states in Section 10.1, “Routt County’s industries of ranching, mining, and recreation have ebbed and flowed throughout its history. All have created a base of support for the citizens of this area.” Lucky 8 Ranch embodies all three of these key industries at our ranch. Lucky 8 Ranch is an agriculture operation with a portion of the property located on the historic Enda/Haybro mine and offers recreational activities for the public to enjoy that history and culture.

Routt County Road 29 being “unsafe”:
Routt County Road 29 has been engineered, inspected, and is well maintained. ASCE Code of Ethics Cannon 1, “Engineers shall hold paramount the safety, health, and welfare of the public.” In 2015 RCR 29 was a major detour around road construction on RCR 27 for a whole summer. Routt County Road and Bridge deemed RCR 29 acceptable for an increased traffic load. Lucky 8 Ranch cannot fix any issues motorists have with regards to the design of RCR 29.

Winter Driving/Drivers:
Colorado Department of Transportation has very strict traction laws that motorists must follow with hefty fines. To keep unfamiliar drivers off of the roads in the winter we HIGHLY suggest all participants use our shuttle service. All shuttles have either four-wheel drive or studded winter tires.

Speeding:
Routt County Road 29 has a speed limit of 30 miles per hour. Our shuttles maintain the speed limit or drive under the speed limit to maintain safety of our passengers. Lucky 8 Ranch cannot enforce the speed limit on RCR 29 to other motorists.

Wildlife Impact:
We like the wildlife and it is a large part of “Holistic Land Management” to increase biodiversity. Our goal is to also increase the wildlife populations in the area.

Sandhill Cranes:
Sandhill cranes habitat is in open wetlands surrounded by shrubs or trees. They nest in marshes, bogs, wet meadows, prairies, burned over aspen stands, and other moist habitats, preferring those with standing water. The key word here is “preferring those with standing water,” such as flood irrigated fields. When we are flood irrigating our hay fields, we do not drive through or in them, because we do not want to damage the crops or cause ruts in our fields. Currently we only flood irrigate 85 acres of the property. We avoid any known breeding or nesting grounds during all activities on the ranch.
Grouse:
Currently we do not have any known permanent leks on the property. CPW visits the ranch yearly to do a grouse count. CPW submitted conditions of approval with our last permit.

Elk:
CPW has also made statements and given areas to avoid during tours. Most of the areas noted are inaccessible by motor vehicle or horseback. We love the elk and want to bring more to the area. The area has been over hunted for years, and with taking over management of specific areas we have lowered the number of hunters and are trying to bring the elk population up. On a side note, we currently have a new herd of pronghorn that have made their home at the ranch over the past few years. Pronghorn are not known to be in our area. A few years ago it started with 2 that took shelter within the bison herd for protection and has grown to 15-20 animals in 2019.

Noise:
Lucky 8 Ranch currently follows Colorado Noise Statute to measure potential noise disturbance. We measure the noise with a decibel meter. During Special Events, we have called our closest neighbor to see if they can hear the noise. They have stated they cannot hear the noise inside the house, but when they go outside, they can hear something is going on, but it is not a nuisance. We have also had no noise complaints.

Concerns with the 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.”
This was in reference to the special event component of the permit. Currently of all ranch style event venues in Routt County, zero (0) are within designated growth centers. However, there is a difference between being open to public and commercial. Marriam-Webster Dictionary currently defines commercial as, “1) occupied with or engaged in commerce or work intended for commerce. 2) viewed with regard to profit. 3) emphasizing skills and subjects useful in business. 4) supported by advertisers.” With commerce defined as, “1) interchange of ideas, opinions, and sentiments. 2) the exchange of buying and selling of commodities on a large-scale involving transportation from place to place.” If one takes the second definition of “commercial,” all ranching operations are technically commercial as we all hope to turn a profit to keep our ranches in business. The Routt County Master Plan also states ins Section 4.1 “These often create a need for an individual ranch or farmer to have an additional source of income. Selling a portion of a ranch or using it for tourist-based related recreational uses can often satisfy the need of additional income.” Special Events sought after in the country are currently trending. The main reason individuals or entities want to host their events in Rural Routt County is to give their guests the “Colorado” experience. The Routt County Master Plan
also states in Section 1.2, “The County’s heritage as a rural and western is largely due to the agricultural lands and ranches that shape its landscape. A high level is placed on the preservation of agricultural lands and heritage.” Our mission statement is a testament to this. We want to preserve and reclaim the American farmland, as well as share it with those who do not have the ability.

4.3.B: “Use permits that significantly alter the historical use, or character of an area may be deemed incompatible with this plan.”
This was also in reference of the “Special Events”. This use does not alter the historical use or the character of the area. Lucky 8 Ranch will always be an agriculture operation, allowing public to enjoy life and place we get to live. We are not proposing any structures that alter the zoning of Agriculture and Forestry rights of use. Lucky 8 Ranch is preserving the historical use and character of the area. Some may not know that the original property owners of our lands had plans to subdivide the parcels we currently own, which would have changed the character of the area.

6.3.A: “Recreation and Tourist-based development and use intensity should be comparable to traditional agricultural use intensity. Intensity of permitted use should be proportional to permitted acreage.”
This too was in reference to the “Special Events.” Walden Mills Group stated in A Three-Year Plan For Promotion of Agritourism in the State of Colorado, “Agriculture is a vital part of Colorado’s heritage. Both agritourism and heritage tourism offer opportunities to help preserve important components of Colorado’s heritage, whether it is saving a historic building, revitalizing cultural traditions, and ways of life, or making it possible to keep farms, ranches and other land in agriculture use.” The Walden Group also states, “As Colorado looks at ways to promote agritourism and heritage tourism experience, the words ‘agritourism’ and ‘heritage tourism’ may be less important than the underlying concept of experiencing Colorado’s real and authentic heritage through seeing, hearing, touching, smelling, and last but not least tasting.” A “special event” held at a ranch or in the country touches on all of these points. Special events may not be a traditional agriculture us, but they do have roots in agriculture. Before there were large event venues most events were carried out in agriculture buildings a long time ago. Community events, barn dances, fairs, and weddings use to take place primarily on agriculture lands or at a country church. Rodeo was started as a competition between cowboys, ranchers, farmers on various agriculture lands to see who had the best skills for their trade. Special events may not be a current traditional use, but they have always been a part of agriculture. Other ranching events that increase the intensity of use on the lands can be cattle drives, branding times, selling animals, harvest, etc. With regards to acreage and special events. There are currently 3 special event venues with much less acreage than Lucky 8 Ranch.
6.3.J: "New permitted recreational uses should avoid the construction of new, permanent structures."

Routt County Zoning Regulations Section 2.3 Definitions state:

Accessory Uses and Structures:
A use or structure naturally and normally incidental to a use by right or permitted use.
Accessory uses and structures shall comply with all of the following criteria:
1) Is clearly incidental and customary to and commonly associated with the operation of the use by right or permitted use;
2) Is built and/or conducted only in conjunction with the use by right or permitted use;
3) Is operated and maintained under the same ownership as the use by right or permitted use;
4) Includes only those structures or structural features consistent with the use by right or permitted use.

Indoor Riding Arena or stable:
An enclosed structure with a footprint over 5,000 square feet used for riding lessons, exercising horses, riding competitions, stabling horses, or other similar uses.

Community or commercial: An enclosed structure with over 5,000 square feet of commercially leasable space available to the public on a fee basis or is owned and operated by a homeowner (or similar) association for use by members of the association.

Private: A non-commercial facility for the use of the owner or occupant of the property where the facility is located.

Currently a "private" indoor riding area is a use by right in areas zoned Agriculture and Forestry. The accessory use of the proposed indoor riding arena fits Routt Counties standards and definitions of being "incidental."
SPECIAL USE PERMIT
Routt County, Colorado

 Permit No.       PL-17-102
 Project Name:    Lucky 8 Ranch Guest Ranch
 Permitee:        Lucky 8 Ranch LLC
 Address:         23850 Tobiano Tr.
                  Oak Creek, CO 80467
 Type of Use:     Special Use Permit for Guest Ranch with Recreational Facilities
 Location/Legal Description: Tracts in Sections 31 & 36 T5N R86W; Sections 7 & 12 T4N R85W
                  Located 6-7 miles North of Oak Creek, CO accessing from CR 29
 Period of Permit: See Specific Condition #14
 Board Approval Date: September 26, 2017
 Conditions of Approval:

 General Conditions:

 1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, and 6.

 2. The SUP 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.
3. Any complaints or concerns that may arise from this operation may be cause for review of the SUP, 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 SUP, 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 any required federal, state and local permits being obtained and complied with; 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 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 opaque 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. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against 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 permits/approval 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 SUP 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 to 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 that all leases are renewed and current fee ownership is maintained or converted to a lease and provided it is acted upon within one year of approval. If leases are not renewed or fee ownership is not maintained or converted to a lease the application should be reviewed to determine if operations meet Section 6.3A of the Routt County Zoning Regulations. The SUP shall be
15. The Special Use Permit for private overnight guests will consist of the following:
   a. Overnight accommodations are for private guests and not offered to the public.
      Guests will be offered skiing, snowboarding, cross country skiing or snowshoeing and
      use of the ‘bunny hill’ for skiing. They can also participate in tours offered to the public
      described below.
   b. Skiing, snowboarding, cross country skiing or snowshoeing for elite athletes will be
      offered. A rope tow, lift or other similar type of uphill transport is not approved as part
      of this permit.

16. Tours open to the public can be operated from 9 a.m. to sunset; Tues - Sunday. There will be
    a minimum of two guides per tour. Hours of operations for tours shall be as follows:

- **Ranch tours, hay rides and sleigh rides**
  - Tours are offered year round
  - 20 people maximum tour in summer
  - 8 people maximum tour in winter
  - One tour per day – 3 days per week

- **Horseback rides**
  - Tours offered year round
  - 10 people maximum tour
  - Two tours per day/5 days per week

- **UTV tours**
  - Tours offered Spring, Summer and Fall
  - 10 people maximum tour (5 vehicles)
  - 1 hour to full day

- **Snowmobile tours**
  - Trails will be groomed along interior roads and trails
  - Hay pastures will be used for off trail
  - 10 people maximum tour
  - Three tours per day – 5 days per week

17. Horsemanship Clinics are limited to 25 clients. If the clinics are proposed as a larger event it
    shall be conducted as a Special Event. Clinics, lessons and horseboarding clients shall travel
    to the site by private vehicle and shall not bring a horse trailer.

18. Special Events shall be as follows:
   a. All events shall have port-a-lets.
   b. Food service shall be provided by the client.
   c. Hours of operation shall be 8:00 a.m. to midnight.
   d. Adequate off-street parking shall be provided. Any use of CR 29 for transport of guests must
      meet Road and Bridge requirements.
   e. Events are limited to one per week.
   f. All amplified music will cease at 10:00 p.m., shall take place within the two areas designated
      on the map included within the conditions of the special use permit, and all music will occur in
      tents.
   g. Shuttle service to the site is required for all Special Events.
   h. The number of Special Events shall be limited to 25 per year.
   i. The maximum number of guests allowed at Special Events is 200.
   j. If there is no amplified music, the special event may take place outside of the designated
      areas indicated on the map.
19. Prior to operation, permittee shall submit to Routt County proof of a Sales Tax Account /License.

20. Permits from the Routt County Road and Bridge Department or Building Department shall be obtained and any inspections completed before operations commence.

21. 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.

22. 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 (MUTCD) and approved by the Road and Bridge Director.

23. 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.

24. Prior to issuance, permittee shall obtain an access permit for the access serving the ceremony site. Permittee shall use and maintain such access to minimize impacts to the County road system during the life of the operations. Maintenance of the access may include sweeping, cleaning, and/or repair. If any improvements to the access are needed or desired, a Work in the Right of Way permit shall be obtained from the Routt County Road & Bridge Department prior to commencing work.

25. There shall be no parking on County Road 29 or the corresponding right-of-way for any events. Parking shall be limited to designated areas onsite only.

26. Permittee shall install snowmobile warning signs in advance of the snowmobile crossing at the county road per the MUTCD when snowmobile tours are operating.

27. All employees shall be first aid certified and be trained on emergency procedures. Radios or cell phones shall be provided to guides in case of emergency.

28. Any accidents requiring emergency service response shall be reported to the Planning Department.

29. Any wildlife encountered along or near the tours shall not be disturbed and given time to move away from any tours. The applicant shall work with the DPW to determine if there are any Sharpe-tailed grouse leks on the property and mitigation measures placed to protect the leks. No pets or firearms shall be allowed.

30. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.

31. All snowmobiles shall have 4-stroke engines.
PL-17-102

Lucky 8 Ranch
Special Use Permit

32. Horse boarding will be limited to no more than 20 horses at any one time.

Permit Issued by the Routt County Board of Commissioners:

[Signature]
Timothy Corrigan, Chair
Date

ATTEST:

[Signature]
Kim Bonner, Routt County Clerk and Recorder

ACCEPTED:

[Signature]
Date

Printed Name: NICHOLAS OSARCHUK

Permittee

Title

AM
January 31, 2019

Nick Osadchuk
Lucky 8 Ranch
23850 Tobiano Trail
Oak Creek, CO 80467

RE: Request for Minor Change to Special Use Permit PL-17-102

Dear Nick:

Routt County has received your request for a Minor Change to your Special Use Permit to move one of your special events sites to a new location per Section 3.2.10.

The original special events site located on the south side of the property on the east side of the access road will be eliminated and new site established on the west side of the road as shown on the attached map submitted by your request. This request is deemed to be in compliance with the Routt County Zoning Regulations Section 3.2.10 A. and is consistent with the approval of the Special Use Permit.

Any additional changes to the Special Use Permit will be reviewed as a full amendment to the Special Use Permit.

Sincerely,

Chad Phillips
Planning Director
To Whom It May Concern,

After surveying the land and estimating excavation and building cost to put a special event site at the current proposed location (circled on the attached map), we at Lucky 8 Ranch decided it would disturb too much land and cost too much to make a special event site at the current proposed location. We would like to exchange this site for a site more suitable and conducive to construct a special event site. The new site remains near our southernmost property line to keep away from neighboring properties. It is shown by a black box on the attached map. By moving this location to a lower site, it will aid in building ease, lower costs, and reduce the amount of ground disturbance than that of the originally proposed site. It will also help with the visual aspect of seeing the special event site from neighboring properties. The location is hidden from neighbors in lower elevations, by a small hill, but remains visible to the neighbors who live at the higher elevations located west of CR29.

Let me know if you have any questions.

Thanks,

[Signature]

Lucky 8 Ranch
Nicholas Osadchuk
General Manager
Date: 1-30-2019
Permittee  Lucky 8 Ranch, LLC.

Authorized Representative Nicholas Osadchuk

Address  23850 Tobiano TRL
Oak Creek, CO. 80467

Phone Number  (970) 846-5592
Email Address nick@lucky8ranchco.com
Web Site www.lucky8ranchco.com

Permit is for (check all that apply):  ☑ Commercial  ☐ Competitive  ☐ Organized Group  ☐ Vending

Date Issued 06/17/2019  Date Expires 06/17/2020  (Terms greater than one year subject to annual authorization.)

Seasonal or other period of use limitations

Permit Fee Formula  Commercial: Greater of $110/year or 3% of gross revenue

Assigned Sites (commercial only):  ☑ None  No. of Assigned Sites subject to fees

Special Area Fees Apply:  ☐ Yes  ☑ No  Special Area Fee

Minimum insurance coverage requirements  Moderate Risk: $500,000 per occurrence, $1,000,000 annual aggregate

Permit is valid only if a current Certificate of Insurance, listing the United States as additional insured, is on file with the issuing BLM Office.

Post use report due date(s) 07/17/2020  Bond Requirement:  ☑ None  Bond Amount

Purpose and activities authorized
ATV Tours, Snowmobile Tours, Horseback Riding, Guided Hiking, Guided Snowshoeing, Guided Cross Country Skiing

Approved Area of Operation
ATV, foot, and horseback traffic are limited to routes on map attached to this permit.

Certification of Information:  I certify use of this permit will be as per the operations plan on file with BLM.  I acknowledge I am required to comply with any conditions or stipulations required by the BLM including the General Terms listed on page two of this form and any additional stipulations which may be attached.

Additional Stipulations are attached:  ☑ Yes  ☐ No

[Signature]
(Permittee Signature)

7-2-19
(Date)

Approved and issued for the conduct of permitted activities and locations shown on this permit and in conformance with the operating plan. Permit is subject to General Terms and any additional stipulations attached.

[Signature]
(BLM Authorized Officer Printed Name)

7/10/19
(Date)
Lucky 8 Ranch, LLC Tours, Permit #CO-100-19-140

Additional Stipulations

The following additional stipulations apply to Lucky 8 Ranch tour activities.

1. Participants and staff must stay on existing roads and trails shown on permit map during ATV, foot, and horseback activities.

2. Over-the-snow vehicle travel is allowed if snow depth is equal to or greater than two feet.

3. Tours will not occur if unusually muddy conditions exist.

4. Camping is not allowed with this permit.

Certification:

I have read these additional stipulations and understand that I must abide by them while performing activities in connection with the permitted operations.

Date: 7-2-19
Signature: [Signature]
Print Name: Nicholas Osarenika
Company Name: Lucky 8 Ranch
October 10, 2019

Mr. John Redd
7410 Sandy Lane
Mechanicsville VA 23111-3534

RE: Lucky 8 Ranch SUP PL-17-102
   Special Events Site

Sent via email: jreddcpa@hotmail.com

Dear Mr. Redd:

The Routt County Planning Department has reviewed your complaint with regard to the Special Event Site for the Lucky 8 Ranch. You have concerns about visibility of the tent and noise from the site.

Planning staff contacted Nick Osadchuk of Lucky 8 Ranch to speak with you as a neighbor and lease holder to discuss your concerns. After this conversation you informed the Planning Department by email of September 26, 2019 that you would only consider two options to withdraw your complaint: 1) Move the event site to a location not visible from your property, and 2) the owners of Lucky 8 Ranch purchase your property so that you have no standing in the issue. Mr. Nick Osadchuk confirmed that this was the discussion and that a solution or other mitigation could not be reached other than purchase of the property.

Staff conducted a site visit on October 1, 2019 to assess your complaints. The event site exceeds required 50’ setbacks for structures from property lines and has been levelled, seeded (or sod placed) and fenced. A white, enclosed tent on a cement foundation is placed at the site. The area was clear of any debris and well maintained.

The tent area was moved from the original location which was approved by the Board of County Commissioners and revised through a Minor Change to the Special Use Permit. The tent was moved downhill and lower in elevation to a site that was more level and less visible overall compared to being located higher up on the hill. The new site resulted in a reduction in ground disturbance, hill side disturbance, road cuts and visibility of the tent site to properties to the north and from county roads. Residences are located to the north and northwest of Lucky 8 Ranch. There are conditions associated with events to mitigate noise and extent of use.

It was suggested by you in a previous email that you would be in agreement to the site being moved to parcels owned by Lucky 8 Ranch in the Trout Creek Subdivision which adjoin lots that you own in the same subdivision. Staff also toured these lots, but it was determined that this is not a good site due to steep access and placing the tent on the upper most land area as you suggested would create skyline visibility concerns for the neighbors and from county roads, possible increased noise concerns and safety to the clients.
The majority of the Lucky 8 Ranch is visible from your property and without having a residence on your property it could not be clearly determined how to assess your concerns. During the land use permit process, the County strives to protect view corridors as seen from the travelling public and public gather places, not necessarily from private residences.

The Planning Department has reviewed the Special Use Permit has determined that there is no violation associated with this permit and the process and approval of the tent site was conducted and approved appropriately under the Routt County Zoning Regulations. Lucky 8 Ranch has met conditions for all uses associated with the permit.

We hope that you can work with your neighbor if you feel that there could be another type of mitigation for the site.

Sincerely,

Chris Brookshire
Staff Planner

Cc: Lucky 8 Ranch:nick@lucky8ranchco.com
View from CR 29 facing south. White tents on left are hay storage. Main headquarters are on the left and not pictured.

West edge of event site. Looking west. CR 29 bisecting center of pic. Trout Creek Subd. is located in center.. BLM property on the backside of hill.
View from CR 29 property looking southeast. Cliff area is on east site of Trout Creek which is from reclaimed mine. Event tent site under arrow

Main barn on left. Facing SW
Facing West.
"Bunk house" in center.
"Kellner house under arrow.

Staging area.
Barn on left.
Reception/event site. The tent has a cement floor; electricity supplied by generator.

Wedding ceremony site. Note sprinkler system. Looking north.
Telephoto of wedding site from Lot 9 Trout Creek Subd facing east. The surrounding area is reclaimed mining and the foreground is ‘cliff’ area of reclamation that drops down to Trout Creek.

Outside seating at reception/event tent. Note fire extinguisher. Access road in background.
Date: 12/9/2019

This office has received a request for the following activity and seeks your input as a referral agency.

**ACTIVITY#:** TPL-19-195

**PROJECT:** Lucky 8 Guest Ranch

**PETITIONER:** Dwayne M Osadchuk Trust

**PETITION:** Amendment to Special Use Permit PL-17-102 to change property boundaries and add/revise current operations

**ADDRESS:** 23700 Tobiano TRL, Oak Creek

**LOCATION/LEGAL:**
Located 6-7 mi. N of Oak Creek, CO accessing from CR 29
Tracts in Sections 31 & 36 T5N R86W; Sec 7, T4N R85W; Secs 11,12 T4N R86W and adj BLM lease Sec 35-5-86; Secs 11 & 14-4-86 1,922 acres

The matter will be reviewed on:

**Scheduled Review:**
- **Routt County Planning Commission** 1/16/2020 at 6:00
- **Routt County Board of Commissioners** 2/11/2020 at 1:30

Please submit comments by

**December 30, 2019** to **Chris Brookshire**

**Referral Agency Response:** [ ] No

[ ] Will send a memo by the comment due date.
[ ] Will attend hearing because there is technical complexity associated with this petition.

**Comment:**

All comments from previous SUP still apply

Reviewed by: **[Signature]** Date: **12/19/19**

If no comments are received by the due date, staff must assume you have no concerns on this project.

The Planning Department has placed the application on the Routt County website for your review. You can access this site at: [www.co.routt.co.us/planning/pending](http://www.co.routt.co.us/planning/pending).
Plan Review Comments for Application PL-19-195

Date: 12/17/2019

Subject Property Address: 23850 Tobiano Trail
Project Name: Lucky 8 Ranch LLC
Applicant: Lucky 8 Ranch LLC

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 would request County Planning to review our items, and where Building Permit Applications are required with any of the new proposed uses we would simply request that County Planning Approval letters if they shall be provided list out all the Conditions of Approval required from all other County Departments for all of the new proposed uses.

3. 2-Pole Barn Style Pavilions: Recreational Accessory Structures are currently under review by the Building Department.

The Building Department would like to remind the applicant that most recently you submitted a permit application and plans for a Building called “Moms Retreat” with County Planning, Building, and Environmental Health Departments. Permit Number is TB-18-512. The Building Department would like to remind the applicant and all other County Departments this building is not to be used or associated with any public use or special events or ATV/Snowmobile tours held on your property at this time. If you intend to switch the intended use of the structure under the County Special Use Permit, they you will need to re-submit new plans to call this out as Commercial Use Structure associated with your SUP Permit, this will change the review of this structure from a Building Code Standpoint. We are glad to work through this change with you, and we cans simply accept a addendum to recognize this change versus a new permit application.

4. Proposed Covered Riding Arena: This Building Department would like to remind the applicant and their professional that this proposed building would need to be designed as an A-4 Occupancy as Public/Commercial Riding Arena. A-4 Occupancy has specific requirements
based on the proposed use and number of occupants that would be allowed inside the building. This would drive the design requirements along with type of construction of the building for Egress and Exiting of chapter 10, Fire and Smoke protection within Chapter 7, Accessibility within Chapter 11, and Plumbing Facilities per Chapter 12 and 29. You additionally will want to review this project with Oak Creek Fire District, as per Chapter 9 of the IBC this currently proposed building would need to have sprinklers installed due to being greater than 12,000 Square Feet, however this decision is at the discretion of the Fire District. If the Fire District was not to require this Building to have sprinklers installed, then you will need to work through the design in the IBC as a non-sprinkled building. You additionally mention other types of events in the future to be held in this Riding Arena, for your benefit I would plan ahead in advance for these other types of events, as an example if you were to hold wedding receptions or other types of public events that have a high volume of occupants attending, then I would design in advance for this Occupant Load number, to cover any possible event you may wish to offer in the future saving you time and money on resubmittals to increases this Occupant Load number. The Building Department can review the total number of Plumbing Fixture required by code with you and the owner, and can work through reviewing special requests to reduce the total number of fixtures potentially based on the type of events and number of events to be held per year, or the reduction could potentially be made up with delivery of portable restrooms for large events.

6. Bison Handling Facilities and Small Barn for Potential Haunted House: The Building Department would need more information on this proposed use, specifically the total number of Occupants to be inside the Haunted House tour at one time. This type of use by Building Code would be considered an A-Occupancy, most commonly viewed as a A-3. However if you were to design this to have 49 or less persons in the building at any given time you could be viewed as a B-Occupancy for this type of use which may be better or easier on design requirements.

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
REFERRAL

TO: Routt County Planning Department

FROM: Rick Melzer-Routt County Department of Environmental Health

RE: TPL-19-195: Special Use Permit Lucky 8 Ranch

Review of Special Use Permit for Lucky 8 Ranch

- If food service is provided for guests for overnight pack trips it must be from a Retail Food Establishment. In Routt County, Retail Food Establishments, including catering, temporary/special events, and mobile food service, are required to have a State of Colorado Retail Food Service license. Retail Food establishments are also required to use water from an approved source. If guests provide their own food and water, no license is required.
January 3, 2020

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

Re: Lucky 8 Ranch LLC
Special Use Permit
Activity # PL-19-195

Dear Sir or Madam:

I am a landowner whose property (323 acres) is completely encircled by property owned and/or leased by Lucky 8 Ranch. I am opposed to the significant changes that Lucky 8 is proposing in their application for Special Use Permit; changes that will alter the character of the area.

On the cover page of the SUP application (in Section V), Lucky 8 states the proposed use as “Same Use with More Acreage”, that is a gross understatement of what is proposed in the application. Please read the application closely and it will be obvious to an informed reader that Lucky 8 is smooth in their presentation, but they are significantly impacting the agricultural character of the area and reshaping it into a tourist amusement attraction. My analysis, observations, and objections are presented herein.

Lucky 8 states on page 1 (Description of Use) that “we use our land primarily for agriculture use”. Don’t be deceived; the primary reason for the SUP is to substantially increase “tourist” activities. My objection to their so-called agritourism activities prompted me to terminate my lease of 323 acres to Lucky 8 effective 4/30/2020. I want nothing to do with their commercial activities which they have chosen to identify as agritourism. I have offered to sell my land to Lucky 8 at a very reasonable price, but Lucky 8 has chosen not to buy it. The Routt County “Master Plan” is intended to protect landowners, like me, from this type of commercial encroachment. I bought the property because of the tranquil, peaceful, agricultural attributes that it offered; but all of that has changed since Lucky 8 arrived in the area.
The tranquility has already been negatively impacted but with this application, I’d like to point out what further impacts Lucky 8 will have.

- The current permit allows Lucky 8 to operate their tourist activities 5 days per week - 9AM-sunset – they have requested an increase to 7 days per week, 7AM-sunset – that is a significant increase in times of noisiness from the operation of UTVs and snowmobiles. They have also requested to double the number of vehicles allowed from 5 UTVs to 10 UTVs per tour and change the snowmobile tours from 10 guests to 10 machines. An increase in the number of machines strung out over at least 500 to 1000 feet will increase the noisiness and will reduce the ability of guides to supervise the guests that are operating the machines; also, the “educational” aspect that Lucky 8 purports to be conducting during the tours could not possibly be achieved with 10 machines in service. There appears to be no need to increase the noisy times by 2 additional hours per day and 2 additional days per week when page 7 of the application indicates that ATV tours had a booking rate of 34% and snowmobile tours had a booking rate of 26.2%; they have sufficient hours already permitted. I respectfully request that you deny the change in hours and the change in the number of vehicles allowed.

- The current permit provides for 2 amplified music sites; they would like to add 3 additional amplified music sites. They are also asking to extend the music cut-off from 10 PM to 11 PM. How much is enough? Sound from amplified music in this rural valley can travel more than a mile. The current constructed special events site is directly across the creek from a proposed home site on my property; and now they want 3 more sites. If you review the map of current and proposed sites, you will observe that the current sites (2 sites at #11 on the map) are along my property lines and the one of the additional 3 sites that they would like for you to permit is also along my property lines (proposed site #12). I am opposed to the current site with the noise and visual impact that it has; I am even more appalled and opposed that Lucky 8 is requesting an additional site along my property lines. If approved, there will be amplified music sites on 3 sides of my property. If you approve additional sites, you will be allowing Lucky 8 to significantly alter the historical use and character of this area – according to Routt County regulations – “use permits that significantly alter the historical use or character of an area may be deemed incompatible with this plan”. According to their application, Lucky 8 had only 3 special events in 2019, so the impact of amplified music on the neighbors is yet to be determined. Lucky 8 states that they have not had any complaints about the music (can that be verified with the Ortons, Spillanes, Guirkins, and others on RCR 29); but will the neighbors complain when the number of events grows to the maximum of 25 allowed – there could be an event every weekend of the summer -- the impact has yet to be felt. I respectfully request that you deny additional special events sites and deny the extension of time for amplified music to 11 PM.
Lucky 8 is asking to add seasonal events to the permit. This sounds innocent enough; however, are they asking to have these events in addition to the 25 special events under review in the current permit? The point is this – how long do “seasonal events” last? What if they have a “fall festival” in September with a hay maze, a “Halloween festival” in October with a haunted house, a “Thanksgiving festival” with hay rides in November, a “Christmas festival” in December with lighted sleigh rides, and on & on. At some point, they could construe their permit to allow for some type of event every week of the year. I respectfully request that you deny additional seasonal events; require that Lucky 8 adhere to a maximum number of events to be held in their special events site, or their proposed “covered riding arena”. Please do not allow events to be scattered over the expanse of the ranch (and in particular, along my property lines at accessory structures like the Pole Barns and/or Bison Handling Facilities).

Lucky 8 is asking to be granted administrative approval rather than going through the full SUP process to increase or decrease the permit boundary as land is acquired or land leases are terminated. I have no objection to administrative approval if it is solely for an increase or decrease in permitted acreage. I have hopes that Lucky 8 will buy my ranch and we can part ways. However, administrative approval should not be allowed if there is any change in the location of facilities/structures. A couple of months ago, I had a dispute with the Planning Department over an administrative approval of the location of a special events site for Lucky 8 which was “administratively” moved closer to my property. I wish to avoid that type of conflict in future dealings with Lucky 8 and the Planning Department.

Horseback riding was an approved activity in the current SUP; however, Lucky 8 did not offer horseback riding in 2019. Lucky 8 is now requesting to increase the number of days horseback riding is offered from 5 days to 7 days a week and rather than 2 tours a day, they wish to increase the tours to 3 tours per day. They are also asking to increase the number of participants per tour from 10 to 14. Essentially, these requests increase the number of allowable tours per week from 10 tours to 21 tours; and the potential number of horse trips traveling on the trails from 100 per week to 294 per week. I believe that is excessive; the trails will incur substantial damage (ruts) from overuse. Erosion will occur during periods of rain, dust will become an issue during periods of drought and a trail on public land (BLM leased property) will bear the brunt of the damage since the public land along my western property line is the only connection that Lucky 8 has to access their new property to the south with their property to the north. The public land is their only off-highway access around my property. (Note that the 323 acres of property being subtracted from the permit belongs to me – my property separates Lucky 8 deeded acres to the north from the deeded acres to the south). This is a huge issue for all the tours – ATV and horseback. The ATVs & horseback tours must use that trail, the only trail available to circumnavigate my property on which I have terminated the lease with Lucky 8. The BLM permit allowing Lucky 8 to use that trail expires 6/17/2020. It is my
hope that BLM will find that renewal of the permit is not in the best interest of the public. I trust that the BLM will not renew the permit. I respectfully request that you deny additional horseback tours.

- Use of roads & infrastructure; the current permit requires that shuttle service to the site is required for all “special events”. However, I notice on page 1 of the “mitigation plan”, Lucky 8 states that “we require the use of shuttles to transport majority of the guests”. With the current limitation on number of guests being 200 for a special event, Lucky 8 could infer that the majority would be 101 guests that must be shuttled in and 99 could drive in on their own. The wording gives too much latitude to Lucky 8 to circumvent the intent of the permit. The mining road to the current special events site is certainly not conducive for public access using a standard highway vehicle. The road from CR179 to the top of the mountain is a steep, narrow, rock strewn, high clearance off-road vehicle road which is susceptible to rock fall on the south side. The access to the special events site via this road should never have been approved in the initial SUP. I am requesting that the Planning Commissioners and Road & Bridge inspect the road and confirm that the road is conducive to public travel before allowing any further use of the road for public access. Another separate access issue is public access to 2 of the additional special events sites proposed on the newly acquired property. Those sites on a mesa have no access road suitable for public use; I believe the only way to get there is with an ATV or a high-clearance 4x4. I highly recommend that Commissioners check out the access if they are considering allowing additional special events sites. The access issue alone is enough to turn down the request; that is in addition to the noise issue and the issue of significantly altering the historical use and character of the area.

- Wildlife & Wildlife Habitat; Lucky 8 states that they will avoid “disturbing local wildlife”. They further state, “during tours, we will avoid making unnecessary noise”. What is unnecessary noise? Is there such a thing as “necessary noise”? The sound of multiple UTVs racing through the BLM land connecting disjointed Lucky 8 parcels will undoubtedly disturb the elk and drive them out of the area. Lucky 8 will profit from the UTV & horseback tours, but the local landowners who have hunted the mesa and BLM land will be hurt. Too many tours, too much noise, too much activity; the wildlife will move away. I feel the same way!

- Hours of operation; on page 2 of the Description of Use, Lucky 8 requests a change in their hours of operation to increase to 7 days a week from 7 AM to 9 PM. However, on page 3 of the Mitigation Plan, Lucky 8 addresses “noise” as follows; “to minimize noise impact from motorized vehicle tours we will offer tours between 9 AM and 1 hour after sunset. There is an inconsistency there. Are they wishing to operate beginning at 7AM or 9 AM. Sunset is an ever-changing time depending on the season. Let’s set a definitive cut-off time that can be overseen by the neighbors; sunset is too variable.
Concerns with the Master Plan; Lucky 8 uses some slick wording in an attempt to describe the difference between “open to public” and “commercial”. Lucky 8 would like to convince you that the operations of the ranch are “commerce” and not “commercial”. Most of us have enough common sense to differential between the two words. Surely, a ranch is involved in commerce – the sale of hay, cattle, grains, etc is commerce. Commercial operations take on a different meaning to most people. Lucky 8 is attempting to fall outside of the “commercial operations” definition of the Master Plan so that they can continue to grow their commercial operations. It is my feeling that Lucky 8 has crossed the line and are in “commercial operations”; if all of their requests were granted they would be trending toward operating an “amusement park” – ATV rides, horseback rides, hay rides, snowmobile rides, hay maze, winter sleigh rides, amplified music venues, multiple activities 7 days a week from 7 AM to 11 PM. At that point, the “Colorado” experience is lost; you may as well live in a suburb of Denver. If you allow Lucky 8 to “smooze” their way past the intent of the Master Plan and good common sense ag use of ranch land, then it is a loss for Routt County. I don’t want any part of it.

I have no objection to adding 38.5 acres of newly leased property, and 721 acres of newly purchased property to the permit and subtracting my 323 acres of leased property from the permit. I do object to the other provisions which, in my opinion, are a flagrant violation of the wording and intent of the “Master Plan” which states in part “new...commercial...uses should occur within the vicinity of designated growth centers and in compliance with adopted comprehensive plans of those areas”. In addition, the “Master Plan” states “use permits that significantly alter the historical use, or character of an area may be deemed incompatible with this plan”.

Lucky 8 has filed this professionally prepared, smoothly worded SUP in order to disguise their operation as an “agritourism” operation subordinate to the bison ranching operation. However, their plans for the agritourism activities rise to the level of a commercial enterprise. The future inventory list shown in this SUP of motorized recreational vehicles indicates 25 snowmobiles, 20 UTVs, and a snow cat – and the parenthetical phrase after the heading on the inventory list says – “not limited to” – and I suppose that list of future vehicles does not take into account the vehicles they currently operate. How many snowmobiles and UTVs will it take for this operation to be classified a “commercial operation”? Lucky 8 has applied to conduct commercial agritourism 7 days a week; they have applied for a total of 5 amplified music special events sites; doesn’t appear to me that the tourist operations are subordinate to the bison ranching, they appear to be a primary function at the ranch. The bison ranching is an attraction that Lucky 8 is using as an in-road into commercial tourism; a way to sell UTV and snowmobile tours; a way around zoning issues. There is no doubt in my mind that the activities planned at Lucky 8 are commercial; I hope you, the Planning Commissioners, will see through the “smoke screen” that Lucky 8 has laid down.

If you fail to deny the Lucky 8 proposals, they will be allowed to conduct commercial operations that will significantly alter the historical use and character of the area. The historical use of the area has been ranching (grazing,
haying, livestock, fly fishing); the character of the area has been rural (tranquil, peaceful, sounds from livestock & wildlife, creek flowing over the rocks).

I trust that you will give my analysis careful consideration before making recommendations to the Board of Commissioners. The future of rural areas in Routt County depends on you.

I respectfully request that you deny all of the changes requested and investigate the concerns that I have brought to your attention with the current permit.

Sincerely,

John E. Redd, Jr.

John E. Redd, Jr., CPA
Chris Brookshire

From: Ronee Blake
Sent: Monday, January 13, 2020 2:09 PM
To: Chris Brookshire
Subject: FW: Lucky 8 Ranch

This was sent to me. 😊

Veronica 'Ronee' Blake
Routt County Planning
Office Manager
970-879-2704

From: Jim Spillane <spillane25@gmail.com>
Sent: Monday, January 13, 2020 1:27 PM
To: Ronee Blake <rblake@co.routt.co.us>
Subject: Lucky 8 Ranch

Dear Planning Department,

It has come to my attention that the Lucky 8 Ranch is requesting numerous extensions of operating hours for their commercial ATV, snowmobile and horse back tours and has also requested to extend the permitted hours and more than double the number of allowed amplified music sites for wedding receptions and special events. I am a nearby neighbor and wish to make the following comments:

It is my understanding that the 2019 participant booking rate for their ATV tours was 20% and 26.2% for snowmobile trips and that there were only three weddings. I am pleased to say that, to the best of my knowledge, none of these operations caused disturbances of any consequence.

While this is good news, these small samples shed only a minimum of light upon how well issues of traffic and noise will be mitigated as the Lucky 8 Ranch business grows and nears the currently allowed capacity. We simply do not yet know the degree to which these issues can be effectively managed at higher numbers.

Therefore, I submit to the Planning Department that it is premature to allow an extension to a higher level of use. It seems to me that it would be far more prudent on the part of the Planning Department, and in the best interest of all property owners in close proximity to these operations, to wait until there is further evidence on which to make a fair and appropriate judgment. It is simply too soon to authorize extended use that might come back to haunt effected parties later. Let's see what happens at the currently permitted levels first.
From: Matt Keyser <Matt.Keyser@sheratonsteamboatreort.com>
Sent: Wednesday, January 29, 2020 3:16 PM
To: Ronee Blake <rblake@co.rott.co.us>
Subject: Lucky 8 Ranch

Hello Ms. Blake,

If you would be so kind to forward this over to the Routt County Planning Department that would be most appreciated.

We have been working with Nick and his wife Alicia and Lucky 8 Ranch for the last 2 years. They have provided a wonderful guest experience both during summer and winter months. Our guests comment on how the experience with the Bison is so unique, fun and interesting. They have given the experience a double thumbs up each and every time. We sincerely recommend granting them the permit renewal so they can continue to provide this wonderful and unique Routt County experience. It really showcases the beauty, heritage and history of the North American Bison and how it played such a interesting part in Routt County’s history.

All the best,

Matthew Keyser

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Thanks,
Kristy

From: Nancy Spillane [mailto:nancyspillane25@gmail.com]
Sent: Tuesday, February 4, 2020 4:51 PM
To: Kristy Winser <kwinser@co.routt.co.us>
Subject: Lucky 8 Application for Expansion

February 4, 2020

TO: Routt County Planning
    Routt County Commissioners

FROM: Nancy Spillane, 23855 County Road 29, Oak Creek, CO 80467
      970.756.1488

RE: Lucky 8 Ranch Application for Expansion of Commercial Business

My husband, Jim, and I are property owners on County Road 29. We live about a mile and a half down the road from the Lucky 8 Ranch. We have lived in Routt County for 40 years. I did come, in good faith, to attend the meeting of the Planning Commission on January 15. However, when I arrived I learned that the Lucky 8 application had been moved to February 20. I will be out-of-state on that day, thus I am now submitting my concerns.

In general, I am in agreement with everything written in the letter you received from our neighbor, John Redd, which outlines his opposition to the expansion of the Lucky 8 commercial operations. More particularly, I support Mr. Redd’s comments regarding his opposition to the expansion the business’ numbers are substantially below the current permitted capacity.

As well, my opposition is the same as it was when this commercial entity asked for its original permits in 2017. Some of you might recall that many neighbors showed up for those hearings. NOT ONE neighbor was in support of this commercial enterprise being located in a neighborhood designated as an agricultural zone. NOT ONE. The only people in the room who supported the commercial operation in an agricultural zone were the applicants, their family members, and their current and prospective employees. Not one neighbor voiced support. As far as I am aware, there still are no neighbors in support of this commercialism on our rural county road.

When the commissioners originally voted for the commercial operation permit, they voted against the Routt County Master Plan. Two commissioners pointed this out at the time, and their clarifications were ignored. Like Mr. Redd, I am in agreement that the provisions for which Lucky 8 is asking are a violation
of the wording and intent of the Master Plan. In the Master Plan you will find these words: “New...commercial... uses should occur within the vicinity of designated growth centers and in compliance with adopted comprehensive plans of those areas.” Additionally, the Master Plan states that “use permits that significantly alter the historical use, or character of an area may be deemed incompatible with this plan.”

Is County Road 29 in a designated growth center? No, it is not. Does the Lucky 8 commercial business alter historical use of County Road 29? Yes, it does. Historically, County Road 29 has never been home to commercial operations other than agricultural ones. Lucky 8 states that its intent is to promote agri-tourism. I fail to understand how wedding and entertainment venues are related to the agricultural industry in any manner. Historically the area has been used for ranching, haying, grazing, and livestock. Does a commercial operation of this type alter the character of our area? Yes it does. The character of our area is rural and tranquil. Adding snowmobiles, ATVs, shuttle buses, wedding and entertainment venues is not compatible with the rural tranquility we all want to preserve. Is the Lucky 8 commercial expansion compatible with the Master Plan designation of agricultural use? No, it is not.

When a commercial use permit was originally gifted to Lucky 8 in 2017, Lucky 8 owners agreed to bring all shuttle bus traffic to its location via Highway 131 (from a southern direction so as to avoid a traffic increase for most of the houses on CR 29). Numerous and many shuttles have not followed that agreement. Many shuttle buses have been coming from County Road 33 (from a northern direction) and completely ignore what was agreed to with the Routt County Planning Commissioners. This presents a dangerous road situation given that many spots on our road are one lane and inappropriate for two-way traffic when shuttle buses are on the road. It is especially dangerous in the winter months. Also, many sections of the road are one lane; when people who do not know this road drive down it, it presents a less than safe scenario for those of us who live on this road. Monitoring the agreement with Lucky 8 to bring traffic from Highway 131 seems to have gone by the wayside.

I, along with our other concerned neighbors, respectfully request that you deny the changes requested by the Lucky 8 Ranch.

Thank you.
Nancy Spillane

_We can easily forgive a child who is afraid of the dark; the real tragedy of life is when men are afraid of the light._

_-Plato_