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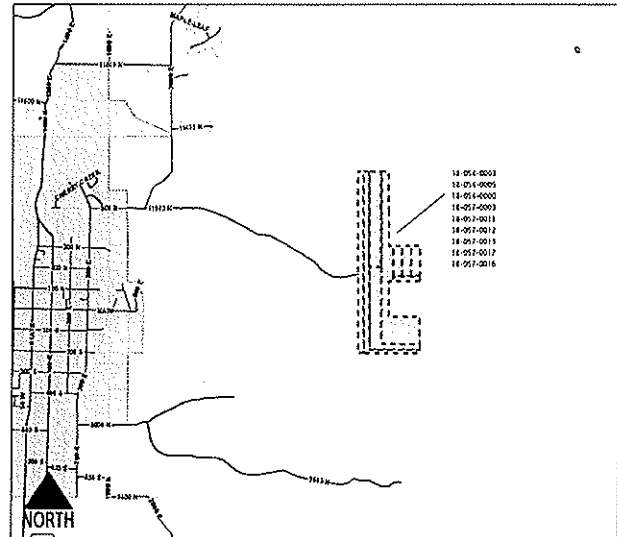
Project Name: Cherry Peak Ski Area

Agent: Logan Checketts
Request: Master Plan CUP
Tax ID: 18-057-0003, 0011, 0012, 0013, 0016
 0017, 18-054-0003, 0005, 0006

Current Zoning: Forest Recreation (FR-40)
Project Address: 3200 East 11000 North
 Richmond, Utah 84333

Surrounding Uses: North – Forest Recreation/USFS
 South – Forest Recreation/DNR/USFS
 East – Forest Recreation/USFS
 West – Forest Recreation/DNR

Type of Action: Final Decision
Staff Advisement: Continue



Reviewed by: Christopher S. Harrild, Planner II

PURPOSE: To review the request of a conditional use permit for a master plan for the proposed Cherry Peak Ski Area.

PROJECT SUMMARY

The site is located at approximately 3200 East 11000 North, 3 miles east of Richmond, up Cherry Creek Canyon in the Forest Recreation (FR-40) Zone. The surrounding area is mostly undeveloped land consisting of DWR and USFS land.

This request was previously brought before the Planning Commission as Rainey Ranch. The previous applicant withdrew the request prior to a decision by the Planning Commission. The current proposal is essentially the same with some modification to the site layout; however, a master plan and wildlife study have now also been completed.

The Cherry Creek Ski Area proposal anticipates a peak accommodation of 1,000 skiers per day on 203 acres of property with a 10,000 square foot lodge, four ski lifts, a terrain park, zip line, a cable tow for a tubing hill, maintenance facilities, and a warming hut. Portions of the proposed area will also be used for night skiing. The lighted hillsides for the night skiing will be down lit and will address light trespass issues. The development will have some summer activity, but most of the activity will occur during the winter ski season.

Services provided at the lodge and base area include ticket sales, a small restaurant, a ski repair shop, small retail sales, restrooms, and ski storage facilities.

A master plan has been submitted to indicate the location of the ski lifts, tubing hill, lodge site, parking lot, and existing trails. There is an existing trailhead located at the end of the county road. Year round access will need to be maintained to this trailhead. The proposal is to allow the ski runs to be placed over a small portion of the county road. This section of road is not maintained and winter access on this road is currently limited to pedestrian or snow vehicle traffic. The proposal would make the county road temporarily inaccessible on the portion of the road crossed by ski runs. The applicant will need to provide the public with an alternate access to the trailhead and other adjacent properties during the winter months while this road is temporarily inaccessible.

The master plan includes a 5 year plan which will commence in the fall of 2011; construction is anticipated to be finished by 2016. As a method of oversight toward the completion of the master plan, staff will provide the Planning Commission a review of what has been applied for and staff's action on each item as the elements of the master plan are developed.

The Cherry Peak Ski Area master plan anticipates the following phases (see master plan for more details):

Phase I: 0-2 years:

- Roadway improvements
- Electrical, utility system
- Septic system installation
- Lower parking lot (100 stalls)
- Skier lodge
- Mid-mountain water storage reservoir
- Tubing hill and warming hut
- Base area Lift A and Lift B
- Terrain park
- Wind fence
- Entry sign

Phase II: 2-5 years:

- Mid-mountain Lift C and Lift D
- Upper parking lot (200 stalls)
- Zip line
- Lower water storage reservoirs
- Ski patrol shack
- Maintenance facilities
- Private cabin sites

Access:

- Access to the site is from Highway 91 and from there will follow the route through Richmond City streets from Main Street to 300 East to 500 North which then becomes county road 11000 North as it continues east across the Richmond City line.
- The Richmond City streets are outside the County's jurisdiction, but are deemed adequate by County standards.
- County road 11000 North is inadequate. It is initially a 20' wide paved road from the Richmond City line for about 700'. 11000 North then becomes an approximately 20' wide gravel road that continues for approximately one mile to the turn around point where county maintenance ends; 11000 North next continues east for approximately one mile as a 13' wide gravel road across DWR property and then continues for approximately one half mile on private property to the point where 11000 North ends at the USFS boundary.
- The gravel portion of 11000 North is impacted by erosion due to water flowing down the road and the width often narrows due to the runoff.
- The DWR has contested the County right-of-way across their property. The County attorney has provided a memorandum that states that this is a 66 foot wide right-of-way for the entire length of County Road 11000 North; this includes the portion that crosses DWR land.
- The increase in traffic will exceed what is appropriate for service levels on a gravel road.
- The applicant has recognized that 11000 North is substandard for the proposed use, has completed a traffic impact study (TIS), and has made recommendations for improvements in the master plan.
- The County engineer has reviewed and accepted the TIS and noted that the applicant's proposed improvements to county road 11000 North are adequate. These proposed improvements include:
 - a. Widening the road from the intersection of 11000 North and 1850 East to the proposed site to a minimum width of 20 feet with a 2 foot shoulder (typical) and a 1 foot shoulder in areas where the a 2 foot shoulder is not possible (between the stream bed and steep slope). A minimum roadway surface of 22-24 feet.
 - b. Paving the 20 foot width with a minimum pavement of double chip seal surfacing.
 - c. The adjustment to grade at the intersection of 11000 North and 1850 East to correct the rutting and super elevation.
- The engineer also noted that while the percent increase in the number of cars is considerable, the increase in the number of cars that would potentially use the anticipated route is appropriate for the existing roadway.

Water & Septic:

- The applicant has identified a need for a culinary water supply of approximately 1 million gallons of water per year. The applicant has provided evidence of a contract to secure water rights that will meet the culinary need. The transfer of said water rights to a culinary use must occur prior to recordation. The applicant has also identified a need for 7.5 million gallons of water for snowmaking from September to February. The applicant will secure additional water rights for snowmaking; however, a guarantee of water for snowmaking is not required.
- The applicant will be required to connect to the Richmond City sewer system as this site is located within zone 2 of a water source protection area. No septic tanks are permitted within zones 1 or 2 of a water source protection area as per §17.05.130 [B] of the Cache County Ordinance.

Service Provision:

- The Logan City Environmental Department anticipates that the proposed project will require front load dumpsters; this will require a minimum of 60' of unimpeded access to the front of the dumpster. No parking is allowed in front of the dumpster. If a dumpster is not initially needed, residential carts can be provided until the waste stream increases to warrant a dumpster.
- Temporary roll-off containers can also be made available for the construction phase.
- The Cache County Fire District will evaluate each proposed building prior to construction to confirm that the minimum requirements of the 2009 International Fire Code and Wildland Urban Interface Code have been met.
- The Cache County Fire District requires that the access to the site is a minimum 20' wide all weather surface road with proper turnarounds as per the 2009 International Fire Code.

ORDINANCE:

This proposed use is best defined as a "Resort" under Cache County Ordinance §17.07.020 Definitions, and as per §17.09.030 Schedule of Uses by Zone, this use is permitted as a conditional use in the Forest Recreation (FR-40) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses. These procedures are detailed under §17.06.060 Conditional Uses and §17.06.070 Standards and Criteria for Conditional Use.

PRELIMINARY CONDITIONS AND OTHER ITEMS OF SIGNIFICANCE

Staff has identified preliminary conditions of approval, mitigation, and items of significance in regard to the proposed ski area:

Preliminary Conditions:

1. The applicant must abide by the site plan and construction specifications as submitted to the Cache County Zoning Office.
2. Any further expansion or modification of the facility, site, or of the business shall require a review by the Land Use Authority and shall meet the requirements of the Cache County Ordinance including necessary permits.
3. Prior to recordation, adequate, approved, domestic water rights shall be in place for all culinary and sanitation uses for all developable properties.
4. The properties with parcel ID#'s 18-057-0011, 18-057-0012, 18-057-0013, and 18-057-0016 are illegal, restricted parcels and must be recombined prior to recordation.
5. Prior to the commencement of any site development activities, approval from the Utah Division of Air Quality must be obtained and a copy of the approval must be submitted to the Development Services Office.
6. All facilities requiring sanitary sewage needs must be connected to the Richmond City sewage system.
7. Approval from the Utah Division of Drinking Water for the culinary water system must be obtained and a copy of the approval must be submitted to the Development Services Office.

8. Engineered plans for roadway improvements site grading and drainage shall be submitted to the Cache County engineer for review and approval.
9. A Zoning Clearance and all other applicable department reviews shall be obtained by the property owner prior to any construction or the placement of any structures on the subject parcel.
10. The applicant shall meet all applicable requirements of the 2009 International Fire Code.

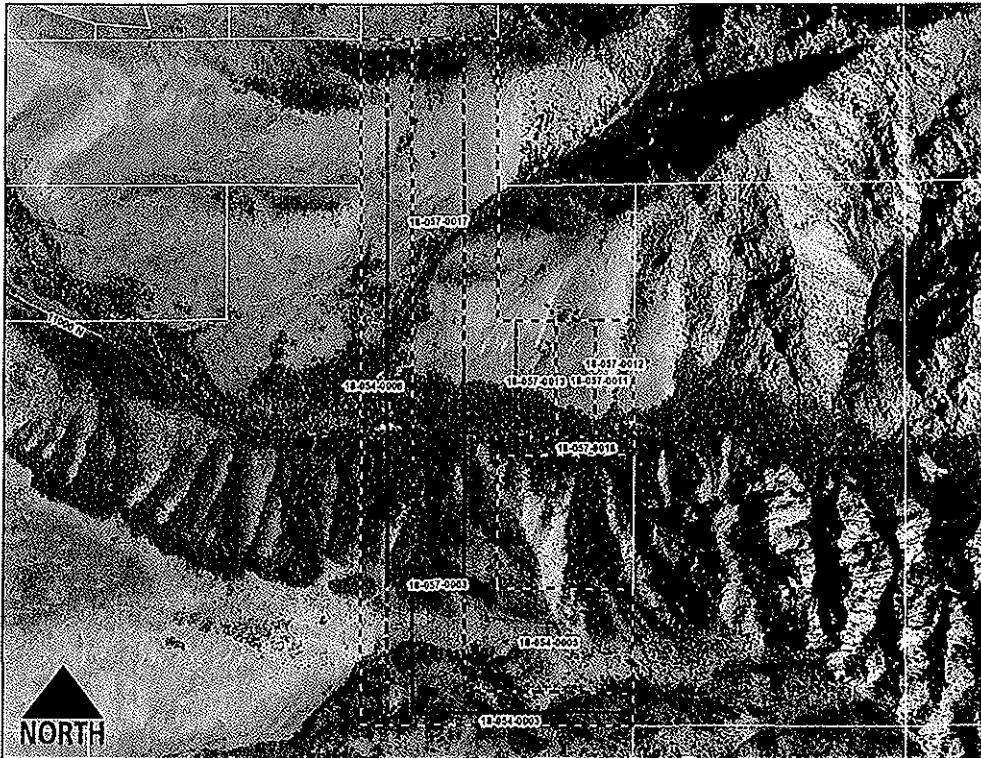
Other Items of Significance:

11. Mitigation of impacts on wildlife and vegetation.
12. Mitigation of impacts to Richmond City roadways.
13. Construction of all buildings in a manner, location, and color scheme appropriate to the scenic quality of the area.
14. Light trespass from lighting for the ski area for night skiing and other activities.
15. County road right-of-way across DWR property.
16. Additional concerns have also been noted in the official and public comment provided in the attached memorandum.

STAFF DETERMINATION

The applicant has submitted all requested information for consideration by the Planning Commission. The purpose of this discussion is to review the project information and to allow the applicant to address any questions or concerns that the public or Planning Commissioners may have.

Staff has identified preliminary conditions and other items of significance in regard to drafting final conditions of approval for the proposed ski area for the Planning Commission's review. At this time, staff is recommending continuation of the request to allow staff to assemble findings of fact and a final list of conditions that will incorporate Planning Commission's input, staff's concerns, and any other items of significance.



17.06.060: CONDITIONAL USES:

- A. The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of those uses which may be suitable in specific locations or if such uses are designed, arranged or conducted on the site in a particular manner.
- B. Conditional use permits may be approved by the planning commission as provided by this title for any of the uses for which a conditional use permit is required as identified in chapter 17.09, "Schedule Of Zoning Uses", of this title. The planning commission is also authorized to impose such other reasonable conditions as provided in section 17.06.070 of this chapter. (Ord. 2004-10, 8-10-2004)

17.06.070: STANDARDS AND CRITERIA FOR CONDITIONAL USE:

- A. The planning commission shall review a conditional use request with the following general standards and criteria:
 - 1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the county;
 - 2. Compatibility of the proposed use with the intent, function and policies established in the Cache countywide comprehensive plan;
 - 3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;
 - 4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;
 - 5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - 6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the planning commission may deny the request for a conditional use permit.
- B. In approving a conditional use permit, the planning commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, time limits, and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with. (Ord. 2004-10, 8-10-2004)

Water Rights Purchase Contract

Cherry Peak Ski Area, LLC ("Buyer") agrees to purchase a total of 4.0 acre-feet of water from Estancia, LLC ("Seller") in the form of existing water right 25-6114. The purchase price will be [REDACTED] and will be handled as follows:

- Settlement services will be handled by American Secure Title in Logan, Utah.
- Once water has been conveyed to the Buyer, Seller will assist Buyer in submission of a Change Application to change use and point of diversion of the water. Seller will pay all title transfer, conveyance, segregation, and change application fees.
- Seller guarantees approval of the change application, or will buy back the water rights for the purchase price paid, less any initial segregation, conveyance, and change application fees that have been incurred.

Hereby agreed upon on this 17 day of November, 2011.


Buyer


Seller