



Weber County Planning Division

WEBER COUNTY AGENCY REVIEW OF BOARD OF ADJUSTMENT

<u>PAPER</u>	<u>ELECTRONIC</u>	<u>AGENCY</u>
<input type="radio"/>	<input type="radio"/>	ENGINEERING
<input type="radio"/>	<input type="radio"/>	BUILDING INSPECTION
<input type="radio"/>	<input type="radio"/>	ASSESSORS
<input type="radio"/>	<input checked="" type="radio"/>	ATTORNEYS
<input type="radio"/>	<input type="radio"/>	HEALTH
<input type="radio"/>	<input type="radio"/>	FIRE
<input type="radio"/>	<input type="radio"/>	ANIMAL CONTROL SERVICES

OTHER AGENCY REVIEW

<u>PAPER</u>	<u>ELECTRONIC</u>	<u>AGENCY</u>
<input type="radio"/>	<input type="radio"/>	<u>ROCKY MOUNTAIN POWER</u>
<input type="radio"/>	<input type="radio"/>	<u>UTAH DEPT OF TRANSPORTATION</u>
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____

--If processing by paper, please respond to this review request **by returning this form** and the attached plan **within 14 days** to:

Weber County Planning Commission, 2380 Washington Blvd., Ste 240, Ogden, UT 84401-1473

--If processing through Miradi, submit your response **within 14 days**

-- If you have any questions or need further information, please call 399-8791, Fax 399-8862

Thank You, Kary Serrano

Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use) BOA 2011-4
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Property Owner Contact Information

Name of Property Owner(s) BRET BARRY		Mailing Address of Property Owner(s) POB 1074 EDEN, UT 84310	
Phone 801-745-3400	Fax		
Email Address COWSRUS@GMAIL.COM		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Mail	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

- A variance request:
 ___ Lot area ___ Yard setback ___ Frontage width ___ Other: _____
- A Special Exception to the Zoning Ordinance:
 ___ Flag Lot ___ Access by Private Right-of-Way ___ Access at a location other than across the front lot line
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- Other: REFER TO ATTACHED DOCUMENTS - 3 PAGES

Property Information

Approximate Address 3788 E 4100N LIBERTY, UTAH 84310	Land Serial Number(s) 220100001
Current Zoning AV-3	

Existing Measurements		Required Measurements (Office Use)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Variance Request (continued...)

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.





1. Lots not having frontage on a street as required by this ordinance, but having access to such street by means of fee title access strips may be approved as "Special Exceptions" by the Board of Adjustment in any zone, provided that:
 - A. The Board of Adjustment determines that it is not feasible or desirable to extend a street to serve such lot or lots at that time. Criteria to be used in determining feasibility or desirability of a street shall include, but not be limited to, topography, boundaries, and/or an area in which a road would not open an area of 5 acres or more for development.
 - B. The access strip shall have a minimum width of 20 ft., a maximum width of 30 ft., a maximum grade of 15%, and a minimum vertical clearance of 14.5 ft.
 - C. The area of the access strip shall not be included within the minimum lot area requirement.
 - D. The lot shall meet all minimum yard and area requirements of the zone in which it is located, exclusive of the access strip.
 - E. Buildings shall be setback a minimum of 30 feet from any property line and 30 feet from the extension of the flag lot access strip. The depth of the front yard shall be the distance between the front line of the building and the property line or nearest line of the access strip, which the building faces.
 - F. The lot address shall be displayed in a prominently visible location at the street entrance to the access strip.
 - G. Each lot shall access a street by means of its own access strip. Successive stacking of lots on the same access strip is not permitted.
 - H. No building, structure or parking is allowed in the access strip, which is to be used solely as access to the lot.
 - I. The Board of Adjustment shall impose such other conditions to ensure safety accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area.
 - J. No access strip shall exceed 800 feet in length.
 - K. A maximum of two flag lot access strips may be adjacent to each other.
 - L. A minimum turnout measuring at least 10 feet by 30 feet be provided adjacent to the traveled surfaces of the access strip at a maximum distance of 200 feet from the public street.
 - M. A turn-around area be provided at the home location to allow firefighting equipment to turn around. This area shall be a year round surface, capable of supporting fire equipment (a minimum inside turning radius of 30 feet and an outside turning radius of not less than 45 feet.)
 - N. Bridges, including decking and culverts shall be capable of supporting a minimum 20-ton weight capacity.
 - O. Switchback turns in sloped areas shall have a minimum 75-foot radius.
 - P. Road surfaces on private access ways shall have a minimum 12-foot finished road surface capable of supporting a 20-ton weight capacity with a surface approved by the County Engineer.
 - Q. A fire hydrant or other suppression method MAY be required by the Fire Chief.
 - R. The home location shall be shown on a plan submitted to the Fire District.
2. No flag lot shall be allowed which proposes to re-subdivide or include within it (including the access strip) any portion of an existing lot in a recorded subdivision.
3. The lot area exclusive of the access strip shall be a minimum of 3 acres.
4. The flag lot shall meet the minimum lot width requirements for the zone in which the lot is located, at the end of the access strip.



3. Each appeal, filed in proper form shall be placed upon the calendar of the Board and shall be heard in the order in which they appear on the calendar, unless advanced for hearing by order of the Board for good cause shown. The calendar of cases to be heard shall be posted in five days before the meeting at which the hearing is scheduled.

4. A Letter or Decision or any other action of the Board shall be sent to the applicant informing him/her that the minutes of such meeting are available at the Planning Commission Office upon the Board's approval of the minutes. The minutes shall contain findings as the basis for the Board's decision or action and the vote of each member of the Board, those absent being so marked.

Review Criteria

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; provided, that before any variance may be granted it shall be shown that:

1. The variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

2. Special circumstances attached to the property covered by the application, which do not generally apply to the other property in the same zone.

3. That because of said special circumstances, property covered by application is deprived of privileges possessed by other property in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

4. That the condition and/or circumstances are not considered economic or self-imposed hardships.

For Your Information

This application can be filled out online at the following Planning Division web site: www.co.weber.ut.us/planning
Copies of the applicable Weber County Zoning Ordinances and other helpful information are also available at this web site.

Dear Weber County Board of Adjustment,

This appeal has been prepared to request a Board of Adjustment hearing and public comment on the Land Use Permit (LUP64-2011) issued by Weber County for parcel number 220100001 located at 3788 E 4100 N in Liberty, Utah. The parcel is listed under "Jones, Richard Ralph &" on the Land Use Permit.

I, and various neighbors adjoining and in close proximity to the property, believe there are requirements which may have been overlooked in the approval process which may be due to incomplete and inaccurate information provided by by Rulon Kent and Garet Kent Jones in their narrative and drawings submitted with the Weber County Land Use Permit Application. The drawing provided by the Jones' did not show the adjacent properties or dwellings.

- I bring your attention to 5B-3 of the Weber County zoning ordinances Agriculture Valley Zone AV-3 titled "5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area specifically points 5 and 6. Please see the permit language below.

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

- 1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises*
- 2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver*
- 3. Fruit and vegetable storage and packing plant for produce grown on premises.*
- 4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.*
- 5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:*
 - 1. not exceed a density of twenty-five (25) head per acre of used and;*
 - 2. be carried on during the period of September 15 through April 15 only;*
 - 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,*
 - 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation*

Point 5B-3-5-3 specifically states "be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land". The proximity of the home/dwelling on the adjoining property of Bret Barry at 4221 N 3800 E, Liberty, UT 84310 is less than two hundred (200) feet from the proposed building. The proximity of this adjoining dwelling creates non-compliance with the ordinance.

- Additionally, the proximity of the home/dwelling of Clay Poulter, 4170 N 3800 E, Liberty, UT 84310 is also less than two hundred (200) feet from the proposed building.
- Point 5B-3-5-4 specifically states “**not to include** the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation”. There are permanent fences, structures and buildings on this site. This is also stated in the “Agricultural Description of Property”. “The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter to be worked”. It seems that these buildings create violations of the ordinance.
- The meat packing slaughter house is contrary to the neighborhood interest. While it may be in an agricultural zone AV-3, this area has been, for over four decades, a subdivision where agriculture is practiced for family use. There are certainly no other commercial facilities. The waste products of blood and offal are a strong attractant to predators. There have been multiple incidents with animal killings by predators in the area since the elk have been on the property. We expect the processing of meat would increase predators in the area.
- This facility is not in harmony with the area which is principally family housing on large parcels and animals are kept as “pets”. Concern for odors from the facility, other pollutants and disposal of waste products is of great concern. Additionally this will bring more traffic to a very quiet street with children. Additional traffic and the need for more parking to provide for the delivery and pickup of elk can also be expected to create undue hardship on neighbors and local residents.

In summary, we believe the Land Use Permit (LUP64-2011) is not in compliance with Weber County Ordinances for Agriculture Property Zone AV-3 and may have been issued because of incomplete and inaccurate information supplied by the Jones’ on their Weber County Land Use Permit Application.

- Distance to dwellings on adjoining properties is not two hundred (200) feet thus not in compliance with Ordinance 5B-3.
- The site includes permanent fences, corrals, chutes, structures and other buildings normally associated with a feeding operation thus not in compliance with Ordinance 5B-3.
- Nothing within the narrative nor drawings provides guidelines, plans or definition of Environmental Impact, waste handling and disposal plan, waste water plan, harmony with surrounding neighbors and harmony with purpose of the residential area.
- Quoting Weber County Board of Adjustment Application Review Document (current as of 05/01/10) page 2 of 5 point 3 “To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the Ordinance will result in

unnecessary hardship; provided, that the spirit of the Ordinance shall be preserved and substantial justice done” We submit that the proposed facility is “contrary to the public interest” and “will result in unnecessary hardship” to both adjoining properties and other residents in the area.

Thus we request according to point 4 (“to interpret the zoning map and zoning ordinance”) that the Board of Adjustment hear this appeal which is brought forth by Bret Barry and other local residents.

Sincerely,

Bret Barry
Property Owner
4221 N 3800 E
Liberty, Utah 84310

Attached please find multiple photos of the Jones property where the proposed slaughterhouse meat processing facility is intended to be located.

I bring your attention to such inaccurate statements documented by photos:

“Weeds are controlled and the land is replanted when needed.”

Additionally, the Board of Adjustment will see the proximity of the facility to the Barry, Poulter, McFarland, Tuck and Rohde dwellings.

Finally, the Board of Adjustment will see the general condition of the property including multiple human and animal hazards in the “working facilities” thus providing evidence of the lack of stewardship and care for animals, facilities and land at the Jones property.

Agricultural Description of Property

This 6.15 acre piece of property located on the North West corner of 4100n and 3800e in Liberty has and will be used for agriculture. Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on this property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter and be worked. The new calves are ear-tagged and micro-chipped in compliance with the Utah Department of Agriculture rules. All the animals are vaccinated once a year to maintain health.

The meat cutting building will be used to butcher and package the elk meat for consumption. It will have a meat grinder to make hamburger, cutting and packaging areas. There will also be freezers to freeze and store the processed meat.

The property is irrigated with the Liberty secondary water system that is in place. It is irrigated during the spring and summer months and any excess hay is harvested and stored. Weeds are controlled and the land is replanted when needed.

There is also an apple orchard, raspberry patch and a garden which are also part of the agricultural use of the property.







Weber County Public Works Department Official Receipt

Receipt Date 13-JUL-11

02:22:23 PM

Description BOA APPEAL FEE

From Client BRET BARRY

CHECK 225

Total Received: 225

Empl Id / Receipt Nbr: SM - 21034

Signature

*** Please Retain This Receipt For Your Personal Records ***



Cows Rus <cowsrus@gmail.com>

Additional Information to submit to Land Use Permit Appeal of Bret Barry

Cowsrus <cowsrus@gmail.com>

Fri, Jul 15, 2011 at 12:58 PM

To: smendoza@co.weber.ut.us

Good Afternoon Scott,

Please find additional information which I would like to submit to my appeal to the Board of Adjustment regarding Land Use Permit LUP64-2011.

Thank you,
Bret Barry



Weber County Adjustment Review Submission Additions - July 2011.pdf

192K



Cows Rus <cowsrus@gmail.com>

Site Work - Rulon Jones - Parcel 220100011

Cowsrus <cowsrus@gmail.com>

Sun, Jul 24, 2011 at 7:33 AM

To: smendoza@co.weber.ut.us

Bcc: claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>

Dear Scott,

As it is the weekend and Monday is a holiday, I find the only way to document work at the Jones' parcel 220100011 is via email.

I am writing to document that work has been again been undertaken by the Jones' on Friday (22 July 2011) and Saturday (23 July 2011). There were trucks and men inside the buidling from mid-morning on Friday until evening and all day on Saturday. This can be confirmed by several neighbors. Blaine Cutler red-tagged this project and thus the Jones' are in violation of the red tag order to stop work. I truly hope that something will be done regarding this complete disrespect of Blaine Cutler's stop work order, your office, Weber County and county ordinances.

Bret Barry



Cows Rus <cowsrus@gmail.com>

Site Work - Rulon Jones - Parcel 220100011

Clay Poulter <clay.poulter@relia.net>

Sun, Jul 24, 2011 at 12:26 PM

To: Cowsrus <cowsrus@gmail.com>, smendoza@co.weber.ut.us

Dear Scott

Attached is a short video taken on Friday July 22rd.

Best Regards

Clay Poulter

4170 N. 3800 E.

Liberty, ut. 84310

From: Cowsrus [mailto:cowsrus@gmail.com]

Sent: Sunday, July 24, 2011 7:34 AM

To: smendoza@co.weber.ut.us

Subject: Site Work - Rulon Jones - Parcel 220100011

[Quoted text hidden]

 **CIMG2238.MOV**
3245K



Cows Rus <cowsrus@gmail.com>

Site Work - Rulon Jones - Parcel 220100011

Mendoza, Scott P. <smendoza@co.weber.ut.us>

Tue, Jul 26, 2011 at 10:38 AM

To: Clay Poulter <clay.poulter@relia.net>, Cowsrus <cowsrus@gmail.com>

Gentlemen,

I spoke with Blaine this morning and he told me that the Building Official (Craig Brown) visited the Jones property last Friday, 7-22-2011. It sounds like the Jones are working with Craig in order to continue some level of work. If you have any questions related to electrical/building permit(s) you can call the Building Inspections Office at 399-8374. Craig may be out of the office but you could ask to speak to someone else for information.

Thanks.

Scott

From: Clay Poulter [mailto:clay.poulter@relia.net]
Sent: Sunday, July 24, 2011 12:27 PM
To: 'Cowsrus'; Mendoza, Scott P.
Subject: RE: Site Work - Rulon Jones - Parcel 220100011

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

Issues with Rulon Jones Property - Parcel 220100011

Cowsrus <cowsrus@gmail.com>

Thu, Jul 28, 2011 at 4:02 PM

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us

Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net

Dear Sirs and Madam:

Please see the attached letter and email.

Thank you for your prompt attention to this matter.

Sincerely,

Bret Barry

2 attachments

28 July 2011 - Letter to Weber County Commissioners and Weber County Attorney - RE Jones Property

 **220100011.docx**

16K

 **Gmail - Site Work - Rulon Jones - Scott Mendoza Correspondence.pdf**

78K



Cows Rus <cowsrus@gmail.com>

Issues with Rulon Jones Property - Parcel 220100011

Cowsrus <cowsrus@gmail.com>**Tue, Aug 2, 2011 at 9:49 AM**

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us

Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net

Bcc: lisalynne2002@yahoo.com

Dear Sirs and Madam,

I am resending this email as I have not received an acknowledgment of receipt of my original email of 28 July 2011.

Since sending my email on 28 July 2011, I would like to make all of you aware that the construction work which approved on the Jones Building by Mr. Craig Brown on 22 July 2011 was red tagged by Mr. Craig Brown yesterday, 1 August 2011. I am curious why did Mr. Brown not keep Mr. Blaine Cutler's red tag of 12 July 2011 in effect? Why would Mr. Brown have allowed the Jones to re-start work on the building and then red tag the same building work ten days later. In those ten days the Jones have managed to complete many days of illegal work. The strange thing is that the red tag seems to have come about immediately after the phone call of Mrs. Sandra Tuck to Mr. Craig Brown on the morning of 1 August 2011. All of these events cannot be seen just mere coincidence.

Thank you for your confirmation of receipt and prompt investigation into this matter.

Bret Barry

----- Forwarded message -----

From: **Cowsrus <cowsrus@gmail.com>**

Date: Thu, Jul 28, 2011 at 4:02 PM

Subject: Issues with Rulon Jones Property - Parcel 220100011

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.usCc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>,
tuck4family@digis.net

[Quoted text hidden]

2 attachments

 **28 July 2011 - Letter to Weber County Commissioners and Weber County Attorney - RE Jones Property 220100011.docx**
16K

 **Gmail - Site Work - Rulon Jones - Scott Mendoza Correspondence.pdf**
78K



Cows Rus <cowsrus@gmail.com>

Issues with Rulon Jones Property - Parcel 220100011

Cowsrus <cowsrus@gmail.com>**Fri, Aug 5, 2011 at 9:19 AM**

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us
Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net, lisalynne2002@yahoo.com

Hello,

I am resending this information for the third time as I am unsure if it has been received as there has been no response from any Weber County official. I have sent this information on 28 July 2011, 2 August 2011 and now 5 August 2011.

Bret Barry

----- Forwarded message -----

From: **Cowsrus <cowsrus@gmail.com>**

Date: Tue, Aug 2, 2011 at 9:49 AM

Subject: Fwd: Issues with Rulon Jones Property - Parcel 220100011

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us

Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net

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Bret Barry

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From: **Cowsrus <cowsrus@gmail.com>**

Date: Thu, Jul 28, 2011 at 4:02 PM

Subject: Issues with Rulon Jones Property - Parcel 220100011

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us

Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net

Dear Sirs and Madam:

Please see the attached letter and email.

Thank you for your prompt attention to this matter.

Sincerely,

Bret Barry

2 attachments

 **28 July 2011 - Letter to Weber County Commissioners and Weber County Attorney - RE Jones Property 220100011.docx**
16K

 **Gmail - Site Work - Rulon Jones - Scott Mendoza Correspondence.pdf**
78K



Cows Rus <cowsrus@gmail.com>

Issues with Rulon Jones Property - Parcel 220100011

Dearden, Craig <cdearden@co.weber.ut.us>

Fri, Aug 5, 2011 at 9:33 AM

To: Cowsrus <cowsrus@gmail.com>, "Smith, Dee" <dsmith@co.weber.ut.us>, "Zogmaister, Jan M." <jzogmaister@co.weber.ut.us>, "Gibson, Kerry" <kgibson@co.weber.ut.us>
Cc: "Mendoza, Scott P." <smendoza@co.weber.ut.us>, "Browne, Craig Clark." <cbrowne@co.weber.ut.us>

Mr. Barry,

I have spoken with the other commissioners and planning about this issue. My last discussion was actually 10 minutes prior to receiving this latest email. It is my understanding that the issue is before the Board of Adjustment on August 25th. Also, it is my understanding that no work should be under way at the site until a decision is made. We have asked planning and the building inspection department to monitor the situation closely to make sure nothing further takes place without the proper authorization. I have been told the planning department has been working to keep you informed of the progress on the issue.

I am sorry it took three emails to get a response. There was a communications breakdown and we thought someone had responded earlier.

Craig

From: Cowsrus [mailto:cowsrus@gmail.com]

Sent: Friday, August 05, 2011 9:19 AM

To: Smith, Dee; Dearden, Craig; Zogmaister, Jan M.; Gibson, Kerry

Cc: Mendoza, Scott P.; claypoulter@relia.net; Richard Rohde; tuck4family@digis.net; lisalynne2002@yahoo.com

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[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

Issues with Rulon Jones Property - Parcel 220100011

Browne, Craig Clark. <cbrowne@co.weber.ut.us>

Fri, Aug 5, 2011 at 5:32 PM

To: "Dearden, Craig" <cdearden@co.weber.ut.us>, Cowsrus <cowsrus@gmail.com>, "Smith,Dee" <dsmith@co.weber.ut.us>, "Zogmaister, Jan M." <jzogmaister@co.weber.ut.us>, "Gibson,Kerry" <kgibson@co.weber.ut.us>

Cc: "Mendoza, Scott P." <smendoza@co.weber.ut.us>

Mr. Bret Barry

I am giving you a courtesey email to inform that the stop work order on the Jones project has been removed the Jones's provided me a copy of a valid septic tank permit this afternoon. It appears to me that I have nothing to justify maintaining the stop work order at this time

They are aware that they are proceeding at their own risk until the outcome of your appeal. Please feel free to contact me Monday with any questions.

Respectfully

Craig Browne

Building Official

Weber County

[801-399-8055](tel:801-399-8055)

From: Dearden, Craig

Sent: Friday, August 05, 2011 9:34 AM

To: Cowsrus; Smith,Dee; Zogmaister, Jan M.; Gibson,Kerry

Cc: Mendoza, Scott P.; Browne, Craig Clark.

Subject: RE: Issues with Rulon Jones Property - Parcel 220100011

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

BOA Staff Report

Mendoza, Scott P. <smendoza@co.weber.ut.us>

Fri, Aug 19, 2011 at 4:39 PM

To: Cowsrus <cowsrus@gmail.com>

Bret,

According to your Board of Adjustment application, your preferred method of communicating is via mail but I wanted to get you a copy of the Staff Report sooner rather than later. Your mailed copy includes all exhibits and should arrive very soon.

Please let me know if you have any questions.

Thanks.

Scott Mendoza, Planner
Weber County Planning Commission
2380 Washington Blvd, Suite 240
Ogden, Utah, 84401-1473
[801-399-8769](tel:801-399-8769) (office)
[801-399-8862](tel:801-399-8862) (fax)

**Staff Report_Bret Barry Appeal of Land Use Permit Issuance_8-15-2011.pdf**892K

Correction

In the October 1, 2011 issue of *The OGDEN VALLEY NEWS*, in an article titled "Controversy Divides Liberty Neighborhood," a letter written by a Liberty resident's attorney to the state of Utah Office of the Property Rights Ombudsman was quoted. The letter was quoted as saying, "Tourists pay between \$4,000 and \$6,000 for the outfitting, lodging, guides, hunting experience, and custom cut and wrapped meat." While the statement was correctly quoted from the letter, the Jones family has clarified that the custom cut and wrapping of meat in the new Liberty meat cutting business is not part of any package deal associated with a separate family business that owns and manages large game hunting ranches and facilities in Idaho and Liberty, and that the two businesses are completely separate entities though the meat cutting property and ranches have a common owner.

NEIGHBORHOOD cont. from page 12

cutting and wrapping" use in the AV-3 zone; and that the "agriculture" use designation did not allow the Land Use Authority to interpret what it has characterized as conflicting land use designations in the Weber County Code. Without ordinance-based authority, staff simply circumvented the authority of the Planning Commission to authorize a result-oriented interpretation of the Weber County Code.

The letter to the Ombudsman also states, "Annually, approximately 100 elk, or other big game animals, are shot for sport by tourists on the two ranches. It is these elk, along with a few moose and many mule deer that will be processed in the "meat cutting building," . . . in Liberty, Utah.

Tourists pay between \$4,000 and \$6000 for the outfitting, lodging, guides, hunting experience, and custom cut and wrapped meat."

Controversy Divides Liberty Neighborhood

By Shanna Francis

Controversy has been brewing in a Liberty neighborhood since petitioner Garet Jones of Eden applied for a Land Use Permit from Weber County in February 2011 to proceed with a meat-processing facility in Liberty at 3788 E. 4100 N. in Liberty, which is a 6.15-acre parcel situated right off of North River Dr. and owned by Rulon Jones.

Neighbors have been battling with Weber County, the State of Utah, and the Weber-Morgan Health Department to ensure all required permits have been legally processed and issued, citing concerns over satisfactory water and waste water permits and appropriate commercial use of the property in a residential neighborhood.

According to petitioners and neighbors, a large agricultural building, approximately 1,200 square feet, will be used to butcher and package elk meat for consumption. The operation will have a meat grinder to make hamburger, and cutting and packaging areas. There will also be freezers to freeze and store processed meat.

The meat will come from elk that are slaughtered on another parcel of property owned by the Jones family, also located in Liberty, where a commercial lodge is located and has been in operation for the past 15 years. Clients come to the lodge located on hillside and mountainous property to hunt domesticat-

NEIGHBORHOOD cont. on page 12

NEIGHBORHOOD cont. from page 1

ed and corralled elk that are planted at the site. After elk are killed, tagged, and slaughtered, petitioners plan to bring the quartered meat to the Valley floor in Eden at the meat-cutting facility for butchering and wrapping, allowing the Jones' clients to then conveniently transport their processed elk meat.



Shown above is a domesticated elk located on one of two ranches owned by the Jones family in Liberty.

Facility manager Travis Jones stated in an interview on September 23, "We have satisfied all of the legal requirements to operate the meat-cutting facility. We have the necessary business license and permits from the state and county. While some may think of the operation as a commercial business, we have a permit from the Utah State Department of Agriculture for running a Custom Meat Exempt operation. Under this permit, we can even sell

meat from here, though this is not our intent. This operation will be used seasonally—mid-August through mid-November—to facilitate elk-hunting customers."

Travis further explained, "I can understand the neighbors' concerns, but they haven't tried to talk to us about them. In my opinion, everyone that I know who has a problem with our operation doesn't know the facts. I know they don't have the facts because they haven't come and talked to us directly; they have just gone and hired an attorney."

Several neighbors have hired an attorney to stop the butchering and meat packaging operation in their neighborhood. Their attorney has sent a letter to Brent Bateman with the Office of the Property Rights Ombudsman. The letter requests an opinion from their office on two legal issues:

1. Does the Weber County Zoning Code prohibit a new custom meat cutting, processing and wrapping and shipping operation in the Agricultural Valley-3 zone?

2. Can Weber County Planning Staff usurp the Ogden Valley Township Planning Commission's designation as the Land Use Authority and render a final interpretation of the Weber County Code that can be appealed only to the Board of Adjustment?

Attorney Jodi Hoffman of Hoffman Law out of Park City claims, in summary, that a general "agriculture" use designation in the AV-3 zone includes a custom meat packing plant and thereby supersedes the Weber County code's specific and clear prohibition of a "meat

NEIGHBORHOOD cont. on page 13



Cows Rus <cowsrus@gmail.com>

Business Permit for Jones

Cowsrus <cowsrus@gmail.com>**Tue, Oct 4, 2011 at 3:05 AM**

To: kgibson@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, dsmith@co.weber.ut.us
Cc: jhoffman <jhoffman@xmission.com>, Richard Rohde <utahrohdes@gmail.com>, claypoulter@relia.net, "Poulter, Clay" <clay.poulter@atk.com>, tuck4family@digis.net, lisalynne2002@yahoo.com

Dear Ladies and Gentlemen,

I am writing this mail to continue to confirm my position on the actions taking place at the Jones property in Liberty. The entire commercial business created by the Jones has been, from the start, full of deception, bullying and outright disregard for rules and regulations. It is not necessary to further detail the events as you have these in my previous emails and in Ms. Jodi Hoffman's legal brief. At this time, the Jones current commercial processing business has been on-going for several weeks which has been and is continuing to be witnessed and documented by local neighbors in Liberty.

On 22 August 2011 at 16:56 Mr. Scott Mendoza added to the record that Ms. Jodi Hoffman was representing my interests in our case against the issuance of a land use permit and that Ms. Hoffman had submitted information to the Ombudsman on my behalf. As I understand, the ombudsman has forwarded his request for information some weeks ago and there has been no response.

At this juncture, I find it very hard to believe that the county would listen to, let alone consider issuing a business permit to a business that has been illegally operating in a building under dispute. It is also clear that the Jones have no respect for Weber county rules, regulations or the officials which are in office to represent the regulations and interests of all citizens of Weber county.

Finally, it is troubling that numerous government agencies and officials know what is happening but seem to allow the Jones to do as they please as there has been no respect for a timely reply to the Ombudsman's request for information nor is there an active effort to cause a cessation of operations until such answers are presented and a decision provided by the Ombudsman.

Regards,
Bret Barry

From: **Richard Rohde** <utahrohdes@gmail.com>

Date: Mon, Oct 3, 2011 at 10:03 AM

Subject: Business Permit for Jones

To: kgibson@co.weber.ut.us

Cc: cowsrus@gmail.com, jhoffman@xmission.com, tuck4family@digis.net, claypoulter@relia.net, [Richard Rohde <utahrohdes@gmail.com>](mailto:Richard.Rohde@gmail.com), "Poulter, Clay" <clay.poulter@atk.com>

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

Business Permit for Jones

Clay Poulter <clay.poulter@relia.net>**Tue, Oct 4, 2011 at 5:14 AM**

To: kgibson@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, dsmith@co.weber.ut.us
Cc: jhoffman <jhoffman@xmission.com>, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net, lisalynne2002@yahoo.com, Cowsrus <cowsrus@gmail.com>, crwendell@digis.net

Dear Mr. Gibson and Commissioners

The situation that is occurring within 150 feet of my residence has gotten out of hand. It is extremely disturbing to me that our County/State officials would allow for such a complete disregard for the activities that have taken place in the last several months. This is a residential neighborhood where families live and children play. This is not the stockyards down across the 24th street viaduct.

From the beginning in April of this year (2011), the construction of the slaughterhouse and meat processing facility seems to me to have been accomplished completely in the reverse order that any other tax paying citizen of Weber County would normally follow.

I also am unable to attend today meeting but would like to express my concerns here in an email to ask that you do not grant any business license to the Richard Ralph and Rulon Jones' for the purpose of conducting a business at the location of 3788 E 4100 N Liberty Utah, 84310.

As I understand in Title 5 under county code, it is unlawful to operate such a business without a license. They have been processing Elk and Buffalo through this facility for the last 2 weeks.

Please inform us if the information to apply for a business license at this address is in error or has been misunderstood. I personally asked Garrett Jones last weekend if he had a business license and he replied "Yes, and we also have all the county, state and federal permits to operate a meat processing slaughter house at this location".

Sincerely

Clay B. Poulter

4170 N 3800 E

Liberty Utah, 84310

From: Cowsrus [mailto:cowsrus@gmail.com]

Sent: Tuesday, October 04, 2011 3:05 AM

To: kgibson@co.weber.ut.us; cdearden@co.weber.ut.us; jzogmaister@co.weber.ut.us; dsmith@co.weber.ut.us

Cc: jhoffman; Richard Rohde; claypoulter@relia.net; Poulter, Clay; tuck4family@digis.net; lisalynne2002@yahoo.com

Subject: Fwd: Business Permit for Jones

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

Issues Concerning the Jones

Poulter, Clay <Clay.Poulter@atk.com>

Tue, Oct 4, 2011 at 6:41 AM

To: "cdearden@co.weber.ut.us" <cdearden@co.weber.ut.us>

Cc: jhoffman <jhoffman@xmission.com>, Richard Rohde <utahrohdes@gmail.com>, "claypoulter@relia.net" <claypoulter@relia.net>, "tuck4family@digis.net" <tuck4family@digis.net>, "lisalynne2002@yahoo.com" <lisalynne2002@yahoo.com>, Cowsrus <cowsrus@gmail.com>, "kgibson@co.weber.ut.us" <kgibson@co.weber.ut.us>, "jzogmaister@co.weber.ut.us" <jzogmaister@co.weber.ut.us>, "dsmith@co.weber.ut.us" <dsmith@co.weber.ut.us>

Dear Mr. Dearden

In a previous communication email from you dated August 8th (included below for reference), you stated that we would be kept informed of the progress on this issue. Also stated is the no work would continue at this location, however, they have since finished the construction and have now begun operations of the facility beginning the 22nd of September as Elk and Buffalo have been brought into the facility.

Myself and neighbors have not heard or been provided any information on this issue from Weber County since that date (2 months ago).

Clay B. Poulter

4170 N. 3800 E

Liberty, Utah, 84310

----- Forwarded message -----

From: **Dearden, Craig** <cdearden@co.weber.ut.us>

Date: Fri, Aug 5, 2011 at 9:33 AM

Subject: RE: Issues with Rulon Jones Property - Parcel 220100011

To: Cowsrus <cowsrus@gmail.com>, "Smith, Dee" <dsmith@co.weber.ut.us>, "Zogmaister, Jan M." <jzogmaister@co.weber.ut.us>, "Gibson, Kerry" <kgibson@co.weber.ut.us>

Cc: "Mendoza, Scott P." <smendoza@co.weber.ut.us>, "Browne, Craig Clark." <cbrowne@co.weber.ut.us>

Mr. Barry,

I have spoken with the other commissioners and planning about this issue. My last discussion was actually 10 minutes prior to receiving this latest email. It is my understanding that the issue is before the Board of Adjustment on August 25th. Also, it is my understanding that no work should be under way at the site until a decision is made. We have asked planning and the building inspection department to monitor the situation closely to make sure nothing further takes place without the proper authorization. I have been told the planning department has been working to keep you informed of the progress on the issue.

I am sorry it took three emails to get a response. There was a communications breakdown and we thought someone had responded earlier.

Craig

From: Cowsrus [mailto:cowsrus@gmail.com]
Sent: Friday, August 05, 2011 9:19 AM
To: Smith,Dee; Dearden, Craig; Zogmaister, Jan M.; Gibson,Kerry
Cc: Mendoza, Scott P.; claypoulter@relia.net; Richard Rohde; tuck4family@digis.net; lisalynne2002@yahoo.com

Subject: Fwd: Issues with Rulon Jones Property - Parcel 220100011

Hello,

I am resending this information for the third time as I am unsure if it has been received as there has been no response from any Weber County official. I have sent this information on 28 July 2011, 2 August 2011 and now 5 August 2011.

Bret Barry

----- Forwarded message -----

From: Cowsrus <cowsrus@gmail.com>
Date: Tue, Aug 2, 2011 at 9:49 AM
Subject: Fwd: Issues with Rulon Jones Property - Parcel 220100011
To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us
Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, tuck4family@digis.net

Dear Sirs and Madam,

I am resending this email as I have not received an acknowledgment of receipt of my original email of 28 July 2011.

Since sending my email on 28 July 2011, I would like to make all of you aware that the construction work which approved on the Jones Building by Mr. Craig Brown on 22 July 2011 was red tagged by Mr. Craig Brown yesterday, 1 August 2011. I am curious why did Mr. Brown not keep Mr. Blaine Cutler's red tag of 12 July 2011 in effect? Why would Mr. Brown have allowed the Jones to re-start work on the building and then red tag the same building work ten days later. In those ten days the Jones have managed to complete many days of illegal work. The strange thing is that the red tag seems to have come about immediately after the phone call of Mrs. Sandra Tuck to Mr. Craig Brown on the morning of 1 August 2011. All of these events cannot be seen just mere coincidence.

Thank you for your confirmation of receipt and prompt investigation into this matter.

Bret Barry

----- Forwarded message -----

From: **Cowsrus** <cowsrus@gmail.com>

Date: Thu, Jul 28, 2011 at 4:02 PM

Subject: Issues with Rulon Jones Property - Parcel 220100011

To: dsmith@co.weber.ut.us, cdearden@co.weber.ut.us, jzogmaister@co.weber.ut.us, kgibson@co.weber.ut.us

Cc: smendoza@co.weber.ut.us, claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>,

tuck4family@digis.net

Dear Sirs and Madam:

Please see the attached letter and email.

Thank you for your prompt attention to this matter.

Sincerely,

Bret Barry

From: Cowsrus [mailto:cowsrus@gmail.com]

Sent: Tuesday, October 04, 2011 3:05 AM

To: kgibson@co.weber.ut.us; cdearden@co.weber.ut.us; jzogmaister@co.weber.ut.us; dsmith@co.weber.ut.us

Cc: jhoffman; Richard Rohde; claypoulter@relia.net; Poulter, Clay; tuck4family@digis.net;

lisalynne2002@yahoo.com

Subject: Fwd: Business Permit for Jones

Dear Ladies and Gentlemen,

I am writing this mail to continue to confirm my position on the actions taking place at the Jones property in Liberty. The entire commercial business created by the Jones has been, from the start, full of deception, bullying and out right disregard for rules and regulations. It is not necessary to further detail the events as you have these in my previous emails and in Ms. Jodi Hoffman's legal brief. At this time, the Jones current commercial processing business has been on-going for several weeks which has been and is continuing to be witnessed and documented by local neighbors in Liberty.

On 22 August 2011 at 16:56 Mr. Scott Mendoza added to the record that Ms. Jodi Hoffman was representing my interests in our case against the issuance of a land use permit and that Ms. Hoffman had submitted information to the Ombudsman on my behalf. As I understand, the ombudsman has forwarded his request for information some weeks ago and there has been no response.

At this juncture, I find it very hard to believe that the county would listen to, let alone consider issuing a business permit to a business that has been illegally operating in a building under dispute. It is also clear that the Jones have no respect for Weber county rules, regulations or the officials which are in office to represent the regulations and interests of all citizens of Weber county.

Finally, it is troubling that numerous government agencies and officials know what is happening but seem to allow the Jones to do as they please as there has been no respect for a timely reply to the Ombudsman's request for information nor is there an active effort to cause a cessation of operations until such answers are presented and a decision provided by the Ombudsman.

Regards,
Bret Barry

From: **Richard Rohde** <utahrohdes@gmail.com>

Date: Mon, Oct 3, 2011 at 10:03 AM

Subject: Business Permit for Jones

To: kgibson@co.weber.ut.us

Cc: cowsrus@gmail.com, jhoffman@xmission.com, tuck4family@digis.net, claypoulter@relia.net,

Richard Rohde <utahrohdes@gmail.com>, "Poulter, Clay" <clay.poulter@atk.com>

Dear Mr. Gibson,

I understand that the Commission meeting of October 4 will consider granting a business license to the Jones' operation here in Liberty on 3800 East. I cannot understand how a license can be granted to operate a business at a location zoned for agricultural use. It is not zoned commercial.

Be assured this looks like a commercial business operation to us neighbors. In the past couple of weeks, we have seen animal carcasses taken into the facility and heard loud sawing and seen boxes being removed. We have also seen people standing around in white (not clean) butcher's aprons. We wonder, since elk season is not open in Utah, is where these carcasses are coming from? They are certainly not taken from the elk ranch at the Liberty location, for which the Commission permitted a 'family slaughterhouse'.

From my perspective some things seem plain. The Jones' have been operating a business without the license that they have requested you to approve tomorrow. They are operating a business in an agricultural zone, not a commercial zone. And apparently, they are not presenting the Commission with all the facts. A clear example is in their request for a permit for the 'family slaughterhouse' in a agricultural area. They neglected to inform the Commission that the facility is located about 100 feet from one residence and about 140 feet from another home. As I read the zoning regulations, 200 feet from any neighboring residence is required. I'm not an expert, but I can tell the difference between 100 and 200 feet. Moreover, it seems they do not have adequate sanitary facilities in the slaughterhouse building. There is a "porta potty" sitting outside and has been for a month. I know it is used. I saw a pump truck empty it a few days ago. **How are**

hands being washed and blood being cleaned up?

What's going on? I expected, when I moved here, that the rules and regulations governing property use in this area would be observed. Seems they are being trampled upon to me.

Thanks very much for your consideration. I ask you to reject this business license.

If it were possible I would be at the Commission meeting to comment. Unfortunately I must be out of town. Thus the email.

Dr. Richard W. Rohde

4252 N 3800 E

Liberty, Utah 84310



Cows Rus <cowsrus@gmail.com>

12 Oct 2011 - Rulon Jones Commercial Meat Processing - Sandra Tuck Phone Call

Cowsrus <cowsrus@gmail.com>

Thu, Oct 13, 2011 at 4:46 PM

To: zjogmaister@co.weber.ut.us, tuck4family@digis.net

Cc: cdearden@co.weber.ut.us, kgibson@co.weber.ut.us, dsmith@co.weber.ut.us, Richard Rohde <utahrohdes@gmail.com>, "Poulter, Clay" <clay.poulter@atk.com>, lisalynne2002@yahoo.com, slfrancis@digis.net, crwendell@digis.net, "andilicious@gmail.com" <andilicious@gmail.com>, "stxroadrunner@msn.com" <stxroadrunner@msn.com>, "Bill.green@ngc.com" <Bill.green@ngc.com>, "grow1895@yahoo.com" <grow1895@yahoo.com>, "brent.weil@sunh.com" <brent.weil@sunh.com>, "ccbatach@gmail.com" <ccbatach@gmail.com>, "j.chris36@yahoo.com" <j.chris36@yahoo.com>, "sjohnson@futuraind.com" <sjohnson@futuraind.com>, "christinagranath@yahoo.com" <christinagranath@yahoo.com>, "clemj21@gmail.com" <clemj21@gmail.com>, "dave@goode.com" <dave@goode.com>, "dawn@goode.com" <dawn@goode.com>, "deja_us@yahoo.com" <deja_us@yahoo.com>, "dodagreg@msn.com" <dodagreg@msn.com>, "majortwee@aol.com" <majortwee@aol.com>, "dktriplett@email.com" <dktriplett@email.com>, "admin@collisioncraft.com" <admin@collisioncraft.com>, "fsmullin@fredsmullin.com" <fsmullin@fredsmullin.com>, "gary@sogmusic.com" <gary@sogmusic.com>, "glel62@gmail.com" <glel62@gmail.com>, "glen.calder@atk.com" <glen.calder@atk.com>, "greganderson500@gmail.com" <greganderson500@gmail.com>, "utschrodes@msn.com" <utschrodes@msn.com>, "jim.truett@millerwelds.com" <jim.truett@millerwelds.com>, "joverhaal@hotmail.com" <joverhaal@hotmail.com>, "joyjoeclm@gmail.com" <joyjoeclm@gmail.com>, "kathyp@wasatchdist.com" <kathyp@wasatchdist.com>, "lauralong59@gmail.com" <lauralong59@gmail.com>, "csnielson@gmail.com" <csnielson@gmail.com>, "msnixx@gmail.com" <msnixx@gmail.com>, "miniassranch@aol.com" <miniassranch@aol.com>, "Bendedkneefarm@msn.com" <Bendedkneefarm@msn.com>, "mholley7@msn.com" <mholley7@msn.com>, "mikemgrow@msn.com" <mikemgrow@msn.com>, "vernonmessengerly@gmail.com" <vernonmessengerly@gmail.com>, "RBertoldi@bertoldiarchitects.com" <RBertoldi@bertoldiarchitects.com>, "rtcblc@gmail.com" <rtcblc@gmail.com>, "rsor@msn.com" <rsor@msn.com>, "rcw1010@msn.com" <rcw1010@msn.com>, "rogerstitt@yahoo.com" <rogerstitt@yahoo.com>, "xcfllying@gmail.com" <xcfllying@gmail.com>, "sdclarke@ovalley.net" <sdclarke@ovalley.net>, "jazzfanzzofutah@aol.com" <jazzfanzzofutah@aol.com>, "w84me2ck@hotmail.com" <w84me2ck@hotmail.com>, "hebert@relia.net" <hebert@relia.net>, "victoriamalmborg@hotmail.com" <victoriamalmborg@hotmail.com>, "wsverhaal@msn.com" <wsverhaal@msn.com>, "dhitman@aol.com" <dhitman@aol.com>, "jkimballnutt@yahoo.com" <jkimballnutt@yahoo.com>, "john.primbs@hill.af.mil" <john.primbs@hill.af.mil>, "johnpsix@earthlink.net" <johnpsix@earthlink.net>, "kthompso8@msn.com" <kthompso8@msn.com>, "basinlancer@aol.com" <basinlancer@aol.com>, "sstts@aol.com" <sstts@aol.com>, "christina.r.granath@irs.gov" <christina.r.granath@irs.gov>, "frankc@xmission.com" <frankc@xmission.com>

Dear Commissioner Zogmaister,

I want to thank you for speaking to Mrs. Sandra Tuck yesterday, 12 October 2011. In your discussion, I was told you advised Mrs. Tuck that you would be sending county enforcement to the Jones Property where they are illegally undertaking commercial meat processing. As I understood from Mrs. Tuck, you advised that the Jones were issued a commercial business license for their meat cutting operation but you also advised Mrs. Tuck that you understood the Jones were NOT to operate until the Land Use Permit issue had been resolved. We do appreciate your understanding, help and enforcement.

Mrs. Tuck also told me that you were unaware that the Jones were commercially processing meat for some weeks. I am a bit surprised that you did not know that they were already operating the business since 22 September 2011 as I did prepare and send an email to all commissioners and the county attorney prior to the business license hearing that was held on 4 October 2011. Various other neighbors Richard Rohde (3 October 2011), Clay Poulter (4 October 2011) and my attorney Ms. Jodi Hoffman (4 October 2011) also prepared and sent emails to Commissioner Gibson requesting that the business license hearing be postponed until after the OPRO had issued his findings (I can provide copies of these emails which are date and time stamped by the services which sent them and by my mail which received them). It seems that this advice was not taken into consideration as none of us received any word

from any commissioner as to the status of the hearing. You will understand that the neighbors, my attorney and I were shocked to learn that a business license was issued on 4 October 2011. Again, as was described in our various emails the Jones were operating the business for weeks prior to being officially granted a business license. A license which I understood yesterday from Mrs. Tuck after her discussion with you which was conditional on the outcome of the Land Use Appeal Decision by the OPRO. To restate, Ms. Tuck told me that you advised her that you understood the commissioners granted the license duly informing the Jones that they could not operate until the Land Use Permit was settled.

In the October 1, 2011 edition of The Ogden Valley News (volume XIX Issue XII) I bring your attention to Page 12, column 3 where on 23 September 2011 Mr. Travis Jones, facility manager, states "We have satisfied all of the legal requirements to operate the meat cutting facility. We have all necessary business license and permits from the state and county." As you will understand, Mr. Jones is clearly telling a lie. How could he have a business license by 23 September 2011 when your records will show there was no hearing for a business license until 4 October 2011? This is just one in a long list of intentional false statements that have been made, verbally and in writing, to commissioners, individuals and citizens of Weber county.

We as concerned citizens have tried to keep you, our elected commissioners, informed and are disappointed that no one from the County Commissioners office offered a courtesy email reply to any of our emails. Commissioner Dearden has replied to me in the past so I do believe everyone received the emails.

The Jones have been operating in the building today. Thus as we believe no one from enforcement has visited the building to stop the processing operations as you promised Mrs. Tuck yesterday. I ask that you please complete this by tomorrow as the Jones are clearly in violation of your direction.

Bret Barry



Cows Rus <cowsrus@gmail.com>

12 Oct 2011 - Rulon Jones Commercial Meat Processing - Sandra Tuck Phone Call

Zogmaister, Jan M. <jzogmaister@co.weber.ut.us>
To: Cowsrus <cowsrus@gmail.com>

Fri, Oct 14, 2011 at 1:52 PM

Mr. Barry,

I write to correct some misinformation in your email and assure you that the county commission is aware of your concerns and we have instructed staff to ensure that their actions are consistent with the law and our policies.

First, after considering the information provided by Ms. Hoffman, we were advised by our legal department that there is no legal basis to deny the business license if the applicant has met the requisite criteria. Because it was represented to us at the meeting that the application was complete, we granted the business license. Moreover, neither I or the county commission has made any commitment to stop operations pending receipt of the OPRO. Once we receive the OPRO we will look to our planning staff and legal department to review the opinion and make a recommendation to accept or reject it. That decision may have bearing on the business license status at that time.

In the meantime, I have asked zoning enforcement to visit the site and make an inspection. However, I want to make it clear so there is no misunderstanding that operations will not be stopped because of the pending OPRO but may be stopped if there is a violation that requires a stop work order. We look to our staff to make those decisions based upon the law, their expertise and experience.

This course of action may not be satisfactory to you, but our goal is to have the county follow the law, our ordinances and policies and be fair and objective in that process. Please contact me if I haven't answered your questions.

Respectfully

Jan M Zogmaister

From: Cowsrus [mailto:cowsrus@gmail.com]
Sent: Thursday, October 13, 2011 4:47 PM
To: Zogmaister, Jan M.; tuck4family@digis.net

Cc: Dearden, Craig; Gibson,Kerry; Smith,Dee; Richard Rohde; Poulter, Clay; lisalynne2002@yahoo.com; slfrancis@digis.net; crwendell@digis.net; andilicious@gmail.com; stxroadrunner@msn.com; Bill.green@ngc.com; grow1895@yahoo.com; brent.weil@sunh.com; ccbatach@gmail.com; j.chris36@yahoo.com; sjohnson@futuraind.com; christinagranath@yahoo.com; clemj21@gmail.com; dave@goode.com; dawn@goode.com; deja_us@yahoo.com; dodagreg@msn.com; majortwee@aol.com; dktriplett@email.com; admin@collisioncraft.com; fsmullin@fredsmullin.com; gary@sogmusic.com; glel62@gmail.com; glen.calder@atk.com; greganderson500@gmail.com; utschrodes@msn.com; jim.truett@millerwelds.com; joverhaal@hotmail.com; joyjoeclem@gmail.com; kathyp@wasatchdist.com; lauralong59@gmail.com; csnielson@gmail.com; msnixx@gmail.com; miniassranch@aol.com; Bendedkneefarm@msn.com; mholley7@msn.com; mikemgrow@msn.com; vernonmessengerly@gmail.com; RBertoldi@bertoldiarchitects.com; rtcblc@gmail.com; rsor@msn.com; rcw1010@msn.com; rogerstitt@yahoo.com; xcflying@gmail.com; sdclarke@ovalley.net; jazzfanzzofutah@aol.com; w84me2ck@hotmail.com; hebert@relia.net; victoriamalmborg@hotmail.com; wsverhaal@msn.com; dhitman@aol.com; jkimballnutt@yahoo.com; john.primbs@hill.af.mil; johnpsix@earthlink.net; kthompso8@msn.com; basinlancer@aol.com; ssttts@aol.com; christina.r.granath@irs.gov; frankc@xmission.com

Subject: 12 Oct 2011 - Rulon Jones Commercial Meat Processing - Sandra Tuck Phone Call

Dear Commissioner Zogmaister,

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

12 Oct 2011 - Rulon Jones Commercial Meat Processing - Sandra Tuck Phone Call

Cowsrus <cowsrus@gmail.com>

Sat, Oct 15, 2011 at 9:13 AM

To: "Zogmaister, Jan M." <jzogmaister@co.weber.ut.us>

Bcc: jhoffman@xmission.net

Dear Commissioner Zogmaister,

Thank you for replying to my email.

I appreciate your dedication, service and management goal to have the county follow the law, our ordinances and policies and be fair and objective in that process.

Sincerely,
Bret Barry

[Quoted text hidden]



Cows Rus <cowsrus@gmail.com>

Business Permit for Jones

Cowsrus <cowsrus@gmail.com>

Mon, Oct 17, 2011 at 2:19 PM

To: lhennon@co.weber.ut.us

Ms. Hennon

This was my letter to the commissioners on 4 October 2011 asking them not to issue a business permit. This email was never answered. Nor were the emails of Clay Poulter, Richard Rohde or my attorney Jodi Hoffman. A business license was approved as you know.

[Quoted text hidden]

PRIME CUTCO. ↑

435-313-0138

Wild Game, Beef etc.
Cut and Packaged
Certified / Licensed

10/24/2011 6:11 pm



Weber County Planning Division

November 21, 2011

Mr. Richard Ralph and Rulon Kent Jones
3788 E 4100 N
Liberty, Utah 84310

RE: Elk Cutting Building

Dear Sirs:

As you are aware, the Weber County Planning Division's decision, to issue a Land Use Permit (LUP #64-2011) for your proposed meat cutting building, has been appealed to the Weber County Board of Adjustment. The appeal has not taken place because of a request, received from the appellant, to postpone the hearing subsequent to the appellant obtaining an Advisory Opinion from the State of Utah's Department of Commerce – Office of the Property Rights Ombudsman.

The Office of the Property Rights Ombudsman has reviewed the appellant's request and has rendered its opinion which is that your particular meat cutting operation goes beyond what is permitted, is not simply ancillary to the agricultural use on your property, and *"is inescapably of that type of business prohibited in the zone."*

After careful consideration of all matters at hand, the Planning Division, on behalf of Weber County, has determined that it will comport with the Ombudsman's opinion. Accordingly, the Land Use Permit issued to you on June 27th, 2011 is rescinded effective December 6, 2011. If you feel that the retraction of this Land Use Permit is in error, you may appeal this decision to the Weber County Board of Adjustment.

If you have any questions or have an interest in the appeal process, please call the Weber County Planning Office at (801) 399-8791.

Sincerely,


Scott Mendoza
Planner

- Cc: Board of Weber County Commissioners
- Christopher F. Allred, Deputy Weber County Attorney
- L. Nate Pierce, Operations Director
- Robert O. Scott, Planning Director
- Iris Hennon, Code Enforcement
- Craig C. Browne, Building Official
- Michael Tuttle, Weber County Engineering (Business Licence)
- Jason K. Nelson, Nelson Law Office, P.C.
- Jodi Hoffman, Hoffman Law
- Bret Barry, Appellant
- Brent Bateman, Office of the Property Rights Ombudsman



Cows Rus <cowsrus@gmail.com>

Elk Commercial Processing

Cowsrus <cowsrus@gmail.com>

Tue, Dec 20, 2011 at 8:37 AM

To: "Zogmaister, Jan M." <jzogmaister@co.weber.ut.us>, cdearden@co.weber.ut.us, kgibson@co.weber.ut.us, dsmith@co.weber.ut.us, "Mendoza, Scott P." <smendoza@co.weber.ut.us>

Cc: claypoulter@relia.net, Richard Rohde <utahrohdes@gmail.com>, "Family, Tuck" <tuck4family@digis.net>, lisalynne2002@yahoo.com, "Poulter, Clay" <clay.poulter@atk.com>

Dear Lady and Gentlemen,

I want to take this opportunity to thank you for your support of the Ombudsman's ruling regarding the case I had against Rulon and Richard Jones and their commercial processing operation. I understand your work can at many times be thankless but please know that the people of our subdivision, Liberty and Ogden Valley thank you for your efforts and continued oversight of this matter.

I wish you and your families a Merry Christmas.

Regards,
Bret Barry



Cows Rus <cowsrus@gmail.com>

Elk Commercial Processing

Zogmaister, Jan M. <jzogmaister@co.weber.ut.us>

Tue, Dec 20, 2011 at 1:18 PM

To: Cowsrus <cowsrus@gmail.com>

Mr. Barry

I appreciate you taking your time to say thanks.

Merry Christmas to you

Sincerely

Jan Zogmaister

From: Cowsrus [mailto:cowsrus@gmail.com]

Sent: Tuesday, December 20, 2011 8:38 AM

To: Zogmaister, Jan M.; Dearden, Craig; Gibson, Kerry; Smith, Dee; Mendoza, Scott P.

Cc: claypoulter@relia.net; Richard Rohde; Family, Tuck; lisalynne2002@yahoo.com; Poulter, Clay

Subject: Elk Commercial Processing

[Quoted text hidden]

Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use) BOA 2011-4
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Property Owner Contact Information

Name of Property Owner(s) BRET BARRY		Mailing Address of Property Owner(s) POB 1074	
Phone 801-745-3400	Fax	EDEN, UT 84310	
Email Address COWSRUS@GMAIL.COM		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Mail	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

A variance request:
 ___ Lot area ___ Yard setback ___ Frontage width ___ Other: _____

A Special Exception to the Zoning Ordinance:
 ___ Flag Lot ___ Access by Private Right-of-Way ___ Access at a location other than across the front lot line

An Interpretation of the Zoning Ordinance

An Interpretation of the Zoning Map

A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance

Other: REFER TO ATTACHED DOCUMENTS - 3 PAGES

Property Information

Approximate Address 3788 E 4100N LIBERTY, UTAH 84310	Land Serial Number(s) 220100001
Current Zoning AV-3	

Existing Measurements		Required Measurements (Office Use)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Variance Request (continued...)

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.





GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN Request for an Advisory Opinion:

Street Address:

160 East 300 South, Second Floor
Salt Lake City, UT 84111

Mailing Address:

PO Box 146702
Salt Lake City, UT 84114

(801) 530-6391
1-877-882-4662 (Toll-free statewide)
(801) 530-6338-Fax

Person Requesting the Advisory Opinion: Bret Barry c/o Jodi Hoffman, Hoffman Law

Mailing Address: 1887 Gold Dust Lane, Suite 303

City, State, Zip: Park City, UT 84060

Telephone - Day: 435.901.0805 Telephone - Evening: 435.901.0805

Best time to call: 8:00-6:00 M-F Email (if available) jhoffman@xmission.com

The person making the Request is:

Municipality Applicant Other (Specify) neighbor

Property: Where is the property located? (complete street address, if available)

3187 East 4100 North, Liberty, UT 84301

Briefly state the question to be examined by this Advisory Opinion:

Is a custom butchering and meat packing business that cuts, grinds, processes, wraps, stores and transports the carcasses of 100 elk or other big game, that have been shot by tourists, on either a large Idaho or a large Utah sport hunting preserve, allowed on a 6 acre parcel, that is zoned AV-3, when the County has specifically designated that a Meat Custom Cutting use is appropriate in only 3 of 5 commercial zones, and has not listed such use as allowed in the AV-3 zone?

Does the Weber County Code authorize planning staff to serve as the Land Use Authority to interpret the character of the land use proposed, when opponents have raised a code interpretation issue?

Facts: Attach an additional sheet describing the facts involved in the issues that are the subject of this request. What action has been taken by the government entity or may be contemplated by the government entity that has given rise to the issues?

Municipality or County Involved:

Weber County

Mailing Address: 2380 Washington Blvd., Suite 240

City, State, Zip: Ogden, UT 84401-1473

Telephone: 801 399 8791 Email (if available) _____

Local Contact: What official at that government entity should be contacted about this matter? (Provide title and contact information)

Telephone: Scott Mendoza, Planner 801-399-8769 Email (if available) smendoza@co.weber.ut.us

Name of Property Owner as Shown at the County Recorder's Office. (Be sure to be specific and note exact name of trust, partnership, corporation, multiple owners, etc.)

Richard Ralph and Rulon Kent Jones

Mailing Address: 3985 West 3773 East

City, State, Zip: Liberty, UT 84310

Telephone: 208.346.6631 Email (if available) rulon@utahelkhunt.com

Other Essential Parties (attach additional sheets if necessary):

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

Issues: An advisory opinion is requested for the issue(s) indicated:

- Impact Fees Act
- Conditional Use Permits.
- Conditions and exactions on development.
- Whether an applicant is entitled to approval of a land use application because the application conforms to the local land use maps, zoning maps, and land use ordinances (Vesting).
- Whether a local government entity has imposed on the holder of an issued land use permit a requirement that is not expressed in the land use permit, documents on which the land use permit is based, the state land use statutes, or the local ordinances.
- Whether a local government entity has withheld issuance of a certificate of occupancy because of the applicant's failure to comply with a requirement that is not expressed in the land use permit, documents on which the land use permit is based, the state land use statutes, or the local ordinances.
- Whether a municipality is complying with the mandatory provisions of applicable land use ordinances.
- Whether a local government has provided substantive review within a timely manner and with reasonable diligence of land use applications, required improvements, and warranty work.
- Limits on fees for review and approving building plans.
- Nonconforming uses and noncomplying structures.

Process: At what stage is the local government entity in the process of reviewing this application or issue? Check all that apply:

- Staff or other local government officials are discussing the issue.
- A formal application has been filed and the staff is reviewing it.
- We have had a meeting before a planning commission.
- We have had a meeting before the city council, county commission, or county council.
- A final decision has been made by the final decision maker prior to an appeal.
- We are considering filing a local land use appeal from the final decision.
- We have filed an appeal but no hearing has been held.
- An appeals authority has announced a final decision, but has not reduced it to writing.
- The appeals authority has issued a final decision in writing.

NOTE: An advisory opinion cannot be requested after a local appeals authority has issued a final decision. It cannot be requested if no one filed a necessary appeal before the deadline to file and the local decision therefore cannot be appealed to an appeal authority or court. Those involved in requesting an advisory opinion must be sure to file timely appeals or the issues involved will be rendered moot. Please call the ombudsman for more information.

Who is to Prepare the Advisory Opinion:

An attorney from the Office of the Property Rights Ombudsman will prepare the Advisory Opinion at no additional cost (other than the \$150.00 application fee). Any party to an Advisory Opinion may request that an approved outside attorney prepare the Advisory Opinion. If an outside attorney is chosen, the parties will be responsible to pay that attorney's charges and fees. A list of attorneys approved to prepare Advisory Opinions is attached.

In some circumstances, the OPRO may choose to appoint an outside attorney to prepare an Advisory Opinion. In those cases, the parties must also bear the costs for the outside attorney. No outside attorney will be appointed unless the parties are notified and agree to be responsible for the additional costs.

Please check here if you want the Advisory Opinion prepared by the OPRO staff.

Please check here if you want to propose an attorney other than the OPRO staff to prepare the Advisory Opinion. In addition, please provide the name(s) and address(es) of professionals from the attached list who are acceptable to the person making the request and who could prepare the Advisory Opinion.

Name: _____

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

As the person making this request, I hereby understand and agree as follows:

- The ombudsman's office will work to mediate a solution to this dispute in lieu of issuing an advisory opinion, but the opinion will be issued if the party requesting it prefers that the opinion be issued.
- If the ombudsman's office appoints a professional to provide the opinion, I will pay an equal share of the cost of professional services with the other parties to the dispute and provide financial assurances of the payment.
- If the ombudsman's office determines that the issue is not appropriate for an advisory opinion, then none will be provided.

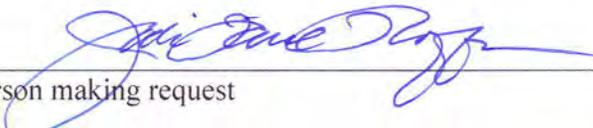
Please submit this form to the Office of the Property Rights Ombudsman, along with application payment in the amount of **\$150.00**, made payable to the Office of the Property Rights Ombudsman. The fee paid to initiate this opinion is non-refundable.

This form and all submissions accompanying this form will be considered a public record and provided to all other parties listed. If any party desires that any information provided to the ombudsman office be kept confidential, that party must notify the staff attorneys at the ombudsman office before providing such information.

I/we hereby request that the Office of the Property Rights Ombudsman provide mediation and/or arbitration of the matter(s) described in this request.

Date this form completed: August 20, 2011

Signed:



Person making request

HOFFMAN LAW

Park City Salt Lake City
1887 Gold Dust Lane 50 So. 600 East
Suite 303 Suite 250
Park City, Utah 84060 Salt Lake City, UT 84102
☎ (435) 940-1031
☎ (435) 655-8855
✉ jhoffman@xmission.com

August 20, 2011

Brent Bateman
Office of the Property Rights Ombudsman
160 East 300 South
Box 146702
Salt Lake City, UT 84114-6701

Re: Advisory Opinion – Bret Barry adv. Weber County

Brent,

I represent Bret Barry and several of his neighbors who seek to enforce the Uniform Land Use Ordinance of Weber County (Weber County Code or WC Code) to prevent the inception of a custom butchering and meat packaging operation in their quiet agricultural neighborhood. This letter is a factual and legal supplement to the online OPRO Request for an Advisory Opinion form and should be considered as an essential component of Mr. Barry's official request for an OPRP Advisory Opinion.

The legal issues are straightforward:

1. Does the Weber County Zoning Code prohibit a new custom meat cutting, processing and wrapping and shipping operation in the Agricultural Valley-3 (AV-3) zone?;
2. Can Weber County Planning Staff usurp the Ogden Valley Township Planning Commission's designation as the Land Use Authority and render a final interpretation of the Weber County Code that can be appealed only to the Board of Adjustment?

County Law Prohibits Meat Cutting Use in AV-3 Zone

Like most Utah Land Use Ordinances, the Weber County Code prohibits land uses that are not specifically listed as a Permitted or Conditional use in a specific zone.

1-3 Interpretation

In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth. Specific uses listed as Permitted or Conditional uses in a zone are allowed; *uses not listed are not allowed in that zone.*

Weber County Code Section 1-3 (emphasis ours). *See website reference* [http://www.co.weber.ut.us/mediawiki/index.php/General Provisions %26 Definitions](http://www.co.weber.ut.us/mediawiki/index.php/General_Provisions_%26_Definitions); and see Exhibit A, a compendium of the relevant County Code provisions.

The Weber County Code specifically lists a plethora of land uses that are appropriate in certain zones and are prohibited in others. The Weber County Code specifically includes a “*Meat Custom cutting and wrapping, not slaughtering*” use in some County zones. *See* Exhibit A; WCC Chapter 2-1 Establishment of Zones (31 listed) [http://www.co.weber.ut.us/mediawiki/index.php/Zones %26 Districts](http://www.co.weber.ut.us/mediawiki/index.php/Zones_%26_Districts). The Meat Cutting use is a conditional use in only three of 31 zones: Commercial Zones (CV-2, C-2 and C-3) *See* 18-5 Commercial Use Table and Chapter 19-5 Commercial Valley Use Table. *See* Exhibit A and [http://www.co.weber.ut.us/mediawiki/index.php/Commercial Zones C-1, C-2, C-3](http://www.co.weber.ut.us/mediawiki/index.php/Commercial_Zones_C-1,_C-2,_C-3).

“Meat Custom cutting and wrapping, not slaughtering” is not an “allowed” use in any zone in the County. “Meat Custom cutting and wrapping, not slaughtering” is not an allowed or a conditional use in the AV-3 zone. *See* WCC Chapter 5B-2- Permitted Uses (AV-3 zone), 5B-3 Permitted Uses Requiring Five (5) Acres Minimum Lot Size (AV-3 zone) and 5B-4 Conditional Uses (AV-3 zone); Exhibit A. *See* Exhibit A and [http://www.co.weber.ut.us/mediawiki/index.php/Agricultural Valley Zone AV-3](http://www.co.weber.ut.us/mediawiki/index.php/Agricultural_Valley_Zone_AV-3).

Staff simply erred in determining that a general term such as “agriculture” supersedes the impact of a specifically defined land use “meat cutting” that is an excluded use in the zone.

The Land Use Permit Application for a Meat Cutting Building:

On February 11, 2011, former Denver Broncos All-Pro Defensive Lineman and local celebrity, Rulon Jones, signed a non-descript Weber County Land Use Permit Application related to the 6.15 acre parcel (Attached as Exhibit B) that did not mention a meat cutting facility. Sometime in June, his representative submitted the same non-descript application, a hand drawn site plan that did not meet the County’s definition of a site plan¹ (Exhibit C) and a brief written narrative (Exhibit D) of the proposed construction and change of use. The site plan was not drawn to scale and did not accurately depict the built environment, the proposed construction, access, or the building design. The narrative described a grazing operation and small orchard on the property that was not the subject of the application. It included only three sentences describing a proposal: a meat cutting building that would “be used to butcher and package elk meat for [their clients’] consumption.” Exhibit D.

¹ WC Code 1.6 defines a “Site Plan” as: “A plan/document or group of documents, *prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and primary site development features proposed for a specific parcel of land, including, but not limited to text, photographs, sketches, drawings, maps and other materials intended to present certain elements of the proposed development, including, but not limited to physical design, siting of buildings and structures, interior vehicular and pedestrian access, the provision of improvements and the interrelationship of these elements.*” Emphasis ours.

The purpose of the newly proposed custom meat cutting facility was to cut, grind, process, package, refrigerate and ship big game (elk, Shiras moose, buffalo and mule deer) that had been shot by tourists on one of two private elk preserves that are owned and promoted by Mr. Jones. The website describes the game herds as “self-propagating” on the Jones’ Broadmouth Canyon (UT) and Blackfoot (ID) ranches. See <http://www.utahelkhunt.com/about-broadmouth-elk-hunts.html>. These state-licensed hunting ranches are miles away from the subject property.

Annually, approximately 100 elk, or other big game animals, are shot for sport by tourists on the two ranches.² It is these elk, along with a few moose and many mule deer that will be processed in the “meat cutting building” next to Mr. Barry’s home in Liberty, UT. State law provides that the elk meat can be possessed by the hunter or by charities. It may not be consumed by the residents of the six acre property.

Tourists pay between \$4000 and \$6000 for the outfitting, lodging, guides, hunting experience, and custom cut and wrapped meat.³ Taxidermy is a separate service.

² The internet site www.utahelkhunt.com describes Mr. Jones’ operation as “Guaranteed Elk Hunts on the West’s Largest Wilderness Hunting Preserve”. As the site describes:

Since 1989, Broadmouth Canyon Ranch has offered world class hunting in the most spectacular big game country of the American West. We offer guaranteed Elk hunts, as well as Shiras Moose, Buffalo, Mountain Lion, and Mule Deer hunts. Choose from two of the most pristine hunting ranches created by lifetime hunter and former NFL All-Pro Rulon Jones. Our hunting ranches comprise two exclusive hunting preserves in the rugged Rocky Mountains of Idaho and Utah and include 10,000 acres of high fence hunting and 60,000 acres of private, free-range hunting. Personal hunting guides assist you as you hunt trophy big game on horseback, foot, or ATV. Broadmouth Canyon Ranch is truly the ultimate hunting experience.

3

	TYPE	PRICE	INFORMATION
Elk Hunts	Trophy	\$5,900 plus \$488 license	With our trophy hunt, we guarantee an opportunity up to a 340 class bull.
	Management	\$3,900 plus license	5X6 Bull and 5X5 Bull
	Cow	\$1,900 plus license	
	Free Range	\$4,900 plus license	
	Upgrades	Please contact us	We also have elk hunts that we guarantee specific size bulls. For the hunter that would like to choose a particular class of bull, we have bulls up to 600 points. We do not over hunt our ranches and we are at 100% success for elk.
Mule Deer Hunts	All	\$5,900 plus license	We have averaged around 90% on deer hunts over the past 14 years
Cougar Hunts	All	\$3,900 plus license	
Buffalo Hunts	All	\$3,900 plus license	Buffalo hunts are offered 60 miles from the famous Yellowstone and Teton Park herds. Cow hunts are also available.
Shiras Moose Hunts	All	Contact us for prices (license fees on hunts vary based on the State)	We only take three Shiras moose off our ranch per year. The quality of the bulls we take year in and year out cannot be matched anywhere. Moose hunts success has always been 100%.

Staff Interpretation Was Result-Oriented.

Attached as Exhibit E you will find the Weber County Recorder's map of the quarter section comprising the subject area. The AV-3 zone is a transition zone from agriculture to more urban residential development. As Exhibit E reveals, this is a neighborhood. It is not an active or large agricultural production area. It is composed of homes on two to five acre lots. Immediately next door to the proposed meat packing site is a "cluster subdivision".

However, based on the applicant's representation that the 6.15 acres is part of a 25,000 acre "fair chance" hunting preserve (that is approximately four miles away), Staff determined that the meat cutting use was a permitted agriculture use in the AV-3 zone.

Staff has provided its research notes, attached hereto as Exhibit F, to serve as the evidence of the logic they employed to reach this interpretation. The logic is:

1. The Weber County Code defines "agriculture" as: "Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, *but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.*" Emphasis ours.
 2. Disregarding the italicized language above that prohibits "*agricultural industry or business such as fruit packing plants . . . or similar uses*" in the AV-3 zone, Staff focused on the words "animal husbandry" as the pertinent language in the definition of agriculture.
 3. Staff then left the Weber County Code in search of support from other unrelated sources:
 - a. First, it drew from a definition in the U.C.A. Chapter 17-41, *The Agriculture and Industrial Protection Areas* section of state law to conclude that "Agriculture production" includes the production of livestock for commercial purposes.
 - b. Disregarding the fact that Chapter 17-41 was in fact a restriction on their local zoning power, and that the subject area is not an "Agricultural Protection" Area under the state statute, Staff then drew from another definition in Chapter 17-41, which states that "crops, livestock and livestock products includes: . . . livestock as defined in *Subsection 59-2-102(27)(d)* [The State Tax Code]";
 - c. Subsection 59-2-102(27)(d) is a definition of personal property in the State Tax Code. Livestock is personal property under the State Tax Code and includes "domestic [not domesticated] animals";
-

- d. From there, the Staff reasons that since the state legislature recently passed the Domesticated Elk Act, then [follow me] Elk farms are “agriculture”. Whew!

See Staff Notes, Exhibit F (emphasis added). Staff does no similar mental gymnastics with respect to the moose and mule deer that will be processed in the building. There is no “Domesticated Moose Act,” nor “Domesticated Mule Deer Act,” that would similarly tie the acts of remote sport hunting to agriculture in an agriculture transition zone.

Staff’s leap from the notion that “Elk is agriculture” to “Meat Cutting (elk, moose and mule deer) is a permitted agriculture use in the AV-3 zone” is detailed in Staff’s Response to Mr. Barry’s appeal before the Board of Adjustment. See Exhibit G, pp 2-3. The logic is amazingly result-oriented. Staff reasons that:

1. Even though the Weber County Code defines the term “agriculture” differently than does the state, Staff looked to a different, more helpful definition of “agriculture” in an un-referenced section of Utah state law to conclude that:

“‘Agriculture’ means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.” (Emphasis theirs)

2. Then, it stated: “The Planning Staff considered the proposed ‘meat cutting’ activity to be a part of the ‘preparation’ as included in the above Utah State Code definition of ‘agriculture’.” Again, this is a state code definition of agriculture, not the WC Code definition of agriculture, which does not mention “preparation”. See Exhibit A Section 1.6.

3. Finally, Staff explained that:

“Due to the inclusion of the word ‘preparation’⁴, the Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of ‘prepared’ and ‘process’:

‘Prepared’ means slaughtered⁵, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

‘Processed’ means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.”

⁴ “Preparation” appears only in the State definition of ‘agriculture’. The state definition conflicts with the WC Code definition.

⁵ Never mind the fact that animal slaughter in the AV-3 zone is specifically prohibited outside of “family food production” i.e. food the family will eat.

Staff Report to the Weber County Board of Adjustment, Exhibit F, p.3 (emphasis theirs).

Despite the World Class Mental Gymnastics, Staff Missed Several Controlling WC Code Provisions

1. Meat Cutting is a Specific Use Category in the WC Code That is Prohibited in the AV-3 Zone.

In its result-focused reasoning, Staff did not mention how, or even that, it was distinguishing this “custom meat cutting” use from the more specific “Meat Custom Cutting” use designation in the Weber County Code. Using traditional rules of statutory construction, the specific term controls the general term. Read as a whole, the Weber County Code has clearly regulated “Meat Cutting” and “Slaughtering for profit” out of the AV-3 zone.

2. AV-3 Zone Clearly Limits “Agriculture” Uses

Nevertheless, even if the “Meat Cutting” use weren’t a clear land use designation in the WC Code, Staff also disregarded the notion that under the County’s AV-3 zone, even agriculture uses are limited to modest farming operations that are limited to on-site food production or are separated from adjoining properties by significant distances.

First, the WC Code specifically excludes “any agriculture industry or business” from the definition of the use “agriculture” *countywide*. Exhibit A Section 1.6.

Second, the WC Code even further restricts agriculture uses in the AV-3 zone:

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale *provided at least fifty (50) percent of milk processed and sold is produced on the premises*
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant *for produce grown on premises.*
4. The keeping and raising of *not more than ten (10) hogs more than sixteen (16) weeks old*, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.
5. The raising and grazing of horses, cattle, sheep or goats *as part of a farming operation*, including the supplementary or full feeding of such animals *provided that* such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:
 1. not exceed a density of twenty-five (25) head per acre of used and;

2. be carried on during the period of September 15 through April 15 only;
3. *be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and*
4. *not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation*

See Exhibit A; http://www.co.weber.ut.us/mediawiki/index.php/Agricultural_Valley_Zone_AV-3 (italics ours).

Under the WC Code, in the AV-3 zone, even simple grazing of traditional farm animals is restricted to a greater distance from a dwelling (200 feet) than is either the elk grazing or the elk meat cutting operation when it is conducted by the farmer in conjunction with a slaughter house.

Mr. Barry's home is less than 200 feet from the proposed meat cutting building. The building itself is an un-insulated, steel-roofed, sound-magnifying, structure that will be in daily production from September through April (cutting and grinding 100 elk carcasses). Judging from the current construction noise, high pitched whining from the band saws that cut the game carcasses will permeate the interior of Mr. Barry's home on a daily basis. By far, this use is more intense in kind and quality than any of the regulated uses in the AV-3 zone. Yet under Staff's interpretation, it is not even considered a conditional use.

In its response to Mr. Barry's appeal to the Board of Adjustment, Staff reasoned that none of the codified limitations on agriculture in the AV-3 zone apply to the proposed use because:

"Section 5B-3(5) [a limitation on agriculture] specifically and unambiguously states 'the raising of horses, cattle, sheep or goats' and then assigns additional requirements to operations that raise and graze 'horses, cattle, sheep or goats.' This list does not serve as a list of examples due to the fact that words like "such as", "for example", or "not limited to" are not used. Due to this the Planning Staff concluded that the list was created decidedly and intentionally; therefore, the standards listed in A through D above apply [only] to farm operations that involve those specifically listed animals."

See Exhibit G at p. 4

In truth, Staff has concluded both that the County:

1. does not separately regulate "meat cutting" (even though it appears as a specific use in the Code); and
2. has *intentionally* restricted the animal husbandry of horses, cattle, sheep or goats to a greater degree than it has restricted animal husbandry associated with elk, moose, or mule deer production.

Staff Circumvented the Clear Role of its Land Use Authority

Staff's determination was not reviewed or approved by the WC Code-designated Land Use Authority. Weber County Code Section 1.4 specifically states that if there is a conflict between provisions in the Code, the Planning Commission "shall rule on which provisions apply." See Exhibit A and http://www.co.weber.ut.us/mediawiki/index.php/General_Provisions_%26_Definitions.

Code Section 1.4 grants Staff had no authority to determine a conflict of interpretation. Traditional rules of statutory construction inform that the very specific "Meat cutting" designation in the code controls the more general "agriculture" use allowed in Section 5B-3.

County Staff is Bound by its Code

The Land Use Development and Management Act provides that a County government cannot disregard the land use laws it has adopted:

(2) A county is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

U.C.A. Section 17.27a.508(2).

While the County has virtually limitless authority to zone and to determine the uses that are appropriate in each zone, it must do so by law and not by fanciful logic.

Under state law, neighbors have a right to enforce the Land Use Tables associated with each zone. Neighbors have a right to rely on the land use definitions included in their land use code.

State law prevents Staff's disregard of the law and its attempt to bootstrap conflicting, *ultra vires* definitions into their land use code.

Current Procedural Posture

Mr. Barry has timely appealed Staff's decision to permit the meat cutting use. He has had no recourse to the Land Use Authority.

At Mr. Barry's request, Staff has postponed a scheduled Board of Adjustment hearing on his appeal. They have determined that it is prudent to await your opinion before proceeding any further.

Conclusion

In summary, we contend that Staff erred in two respects:

1. It determined that a general “agriculture” use designation in the AV-3 zone includes a custom meat packing plant and thereby supersedes the WC Code’s specific and clear prohibition of a “meat cutting and wrapping” use in the AV-3 zone; and
2. It did not allow the Land Use Authority to interpret what it has characterized as conflicting land use designations in the WC Code. Without ordinance-based authority, Staff simply circumvented the authority of the Planning Commission to authorize a result-oriented interpretation of the WC Code.

On behalf of Bret Barry and each of his neighbors, we respectfully request an Advisory Opinion from your office on this matter.

Sincerely,

Jodi Hoffman

Jodi Hoffman
Hoffman Law

Cc: Bret Barry
Chris Allred

Attachments: Exhibits A-G

General Provisions & Definitions

From Weber County Wiki

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[1-1 Short Title](#)

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1-1 Short Title

This Ordinance shall be known as the "Uniform Land Use Ordinance of Weber County, Utah." The Township Planning Commissions are to be the Land Use Authority, with due responsibility to administer the Land Use Ordinance. Any appeals of the Land Use Authority will be heard by the Board of Adjustment as outlined in Chapter 29 of the Land Use Ordinance. Appeal of Conditional Use applications will be heard by the Board of County Commissioners.

1-2 Purpose

This ordinance is designed and enacted and for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Weber County, State of Utah, including amongst other things, the lessening of congestion in the streets, or roads, securing from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering the County's agricultural and other industries, and the protection of both urban and non-urban development.

1-3 Interpretation

In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth. Specific uses listed as Permitted or Conditional uses in a zone are allowed; uses not listed are not allowed in that zone.

1-4 Conflict

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinance or laws, but shall prevail notwithstanding such provisions which are less restrictive. Where a conflict exists between various provisions of this ordinance, the Planning Commission shall rule on which provision applies.

1-5 Effect on Previous Ordinances and Maps

The existing ordinances of the County covering the zoning of areas and districts in Weber County, in their entirety and including the maps heretofore adopted and made a part of said ordinances are hereby superseded and amended to read as set forth herein; provided, however, that this Ordinance including the attached maps, shall be deemed a continuation of previous ordinances, and not a new enactment, insofar as the substance of revisions of previous ordinances is included in this Ordinance, whether in the same or

different language; and this Ordinance shall be so interpreted upon all questions of construction, including but not limited to questions of construction, relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming use, buildings and structures, and to questions as to the dates upon which such uses, buildings or structures become conforming or nonconforming.

1-6 Definitions

For the purpose of this Ordinance, certain words and terms are defined as follows: words used in the present tense include the future; words in the singular number include the plural and the plural for singular; words not included herein but defined in the Building Code or other County codes shall be construed as defined therein. References to the Ogden Valley area also include the Ogden Canyon area.

A

ABANDONMENT

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure.

ABUTTING

Having a common border with, or being separated from such a common border by a right-of-way.

ACREAGE, GROSS

A total of all (non-developable and developable) land area that lies within a project boundary.

ACREAGE, ADJUSTED GROSS

A total of all land area that lies within a project boundary and is classified as "developable" by this or any other County, State or Federal law, ordinance or regulation.

ACREAGE, NET DEVELOPABLE

A total of all land area that lies within a project boundary and has not been excluded from use in density calculations or deemed "undevelopable" by this or any other County, State, or Federal law, ordinance or regulation. The area within existing and proposed public and private road rights-of-ways shall not be counted towards "Net Developable Acreage."

AGRICULTURE

Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

AGRICULTURAL PARCEL

A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.

F

FAMILY

One or more persons related by blood, marriage, or adoption, plus domestic employees serving on the premises, or a group of not more than four (4) persons who need not be so related, living together as a single nonprofit housekeeping unit.

FAMILY FOOD PRODUCTION

The keeping of not more than the following number of animals and fowl:

Group A

- 2 Sheep
- 2 Cows
- 2 Goats

Group B

- 20 Rabbits
- 20 Chickens
- 20 Pheasants
- 10 Turkeys
- 10 Ducks
- 10 Geese
- 20 Pigeons

provided however, that only two (2) kinds of Group B animals and fowl may be kept on parcels of less than 40,000 sq. ft. and not more than 3 kinds of Group A and B Animals or Fowl at any one time on parcels of less than 2 acres. An additional number of animals and fowl as listed above may be kept for each one acre in the parcel over and above the first 40,000 sq. ft. up to a maximum of five times the number.

SITE PLAN

A plan/document or group of documents, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and primary site development features proposed for a specific parcel of land, including, but not limited to text, photographs, sketches, drawings, maps and other materials intended to present certain elements of the proposed development, including, but not limited to physical design, siting of buildings and structures, interior vehicular and pedestrian access, the provision of improvements and the interrelationship of these elements.

2-1 Establishment of Zones

For the purpose of this Ordinance, the Territory of Weber County to which this Ordinance applies is divided into thirty-two (32) classes of zones as follows:

- Residential Estates Zone RE-15
- Residential Estates Zone RE-20
- Gravel Zone G
- Agricultural Zone A-1
- Agricultural Zone A-2
- Agricultural Zone A-3
- Agricultural Valley Zone AV-3
- Forestry Zone F-5
- Forestry Zone F 10
- Forestry Zone F-40
- Forest Valley Zone FV-3
- Shoreline Zone S-1
- Commercial Valley Resort Recreation Zone CVR-1
- Residential Zone R-1-12
- Residential Zone R-1-10
- Forest Residential Zone FR-1
- Residential Zone R-2
- Residential Zone R-3
- Forest Residential Zone FR-3
- Residential Mobile/Manufactured Home Park Zone RMHP
- Residential Manufactured Home Zone RMH-1-6
- Commercial Zone (Neighborhood) C-1
- Commercial Zone (Limited) C-2
- Commercial Zone (Business District) C-3
- Commercial, Valley Zone CV-1
- Commercial, Valley Zone CV-2
- Manufacturing Zone M-1
- Manufacturing Zone M-2
- Manufacturing Zone M-3
- Manufacturing Valley MV-1
- Open Space Zone O-1

Agricultural Valley Zone AV-3

From Weber County Wiki

5B-1 Purpose and Intent

The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.

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5B-1A Agriculture Preferred Use

Agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.

5B-2 Permitted Uses

1. Accessory building or use customarily incidental to any permitted or conditional use
2. Agriculture, agricultural experiment station; apiary; aviary; aquarium
3. Animals or fowl kept for family food production as an accessory use
4. Cemetery; chinchilla raising, convalescent or rest home
5. Church, synagogue or similar building used for regular religious worship
6. Cluster subdivision in accordance with Chapter 22B of this Zoning Ordinance
7. Corral, stable or building for keeping animals or fowl, provided such structure shall be located not less than one hundred (100) feet from a public street and not less than twenty-five (25) feet from any rear or side lot line
8. Fruit or vegetable stand for produce grown on the premises only
9. Golf course, except miniature golf course
10. Greenhouse and nursery limited to sale of materials produced on premises and with no retail shop operation
11. Home occupations
12. Household pets which do not constitute a kennel

13. Parking lot accessory to uses allowed in this zone
14. Private park, playground or recreation area, but not including privately owned commercial amusement business
15. Private stables, horses for private use only and provided that not more than two (2) horses may be kept for each twenty thousand (20,000) square feet of area devoted exclusively to the keeping of the horses.
16. Public building; public park, recreation grounds and associated buildings; public school; private education institution having a curriculum similar to that ordinarily given in public schools
17. Residential Facility for Handicapped Persons meeting the requirements of Chapter 23-13 of this Ordinance
18. Residential Facility for Elderly Persons meeting the requirements of Chapter 23-15 of this Ordinance
19. Single Family Dwelling
20. Temporary buildings for use incidental to construction work. Such building shall be removed upon completion or abandonment of the construction work

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.
5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:
 1. not exceed a density of twenty-five (25) head per acre of used and;
 2. be carried on during the period of September 15 through April 15 only;
 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

5B-4 Conditional Uses

The following uses shall be allowed only when authorized by a Conditional Use Permit obtained as provided in Chapter 22C of this Zoning Ordinance.

1. Animal hospital or clinic; dog breeding, dog kennels, or dog training school on a minimum of three (3) acres and not exceeding 10 dogs of more than 10 weeks old per acre at any time; provided any building or enclosure for animals shall be located not less than one hundred (100) feet from a public street and not less than fifty (50) feet from any side or rear property line.

2. Animal hospital or clinic, or dog training school on a minimum of three (3) acres and not exceeding 10 dogs of more than 10 weeks old per acre at any time; provided any building or enclosure for animals shall be located not less than one hundred (100) feet from a public street and not less than fifty (50) feet from any side or rear property line
3. Dog breeding and dog kennels on a minimum of two (2) acres, on a legal non-conforming lot, as an accessory use to a single family dwelling, limited to 10 dogs of more than 10 weeks old. Any building or enclosure for the dogs shall be located not less than one hundred (100) feet from a public street and not less than fifty (50) feet from any side or rear property line, as well as being located not closer than 40 feet from the residence and not closer than 70 feet from the nearest adjacent residence
4. Child day care
5. Circus or transient amusement
6. Educational/Institutional identification sign
7. Greenhouse and Nursery limited to the sale of plants, landscaping materials, fertilizer, pesticide and insecticide products, tools for garden and lawn care and the growing and sale of sod
8. Laboratory facility for agricultural products and soils testing 99-9
9. Petting Zoo where accessed by a collector road as shown on the County road plan 2007-2
10. Planned Residential Unit Development in accordance with Chapter 22C of this Zoning Ordinance
11. Private park, playground or recreation area not open to the general public and to which no admission charge is made, but not including privately owned commercial business
12. Private Equestrian Training and Stable facilities on a minimum of 5 acres of land and at a density of not more than ten (10) horses per acre of land devoted exclusively to the keeping of the horses
13. Public Equestrian Training and Stable Facilities on a tract of land with a minimum of 10 acres in area and at a density of not more than 5 horses per acre
14. Public storage facilities developed by a public agency and meeting requirements of Chapter 26 of this Zoning Ordinance
15. Public Utility Substations
16. Radio or television station or tower
17. Raising and slaughtering of rabbits limited to a maximum of five hundred (500) rabbits at any one time
18. Residential facility for troubled youth subject to the requirements listed in Chapter 23-14
19. School bus parking, provided the vehicle is parked at least 30 feet from a public street
20. Slaughtering, dressing and marketing on a commercial scale of chickens, turkeys or other fowl, rabbits, fish, frogs or beaver in conjunction with the hatching and raising of such animals on farms having a minimum area of five (5) acres
21. Sugar beet loading or collection station
22. The overnight parking of not more than one vehicle other than an automobile, light truck or recreation vehicle, of not more than twenty-four thousand (24,000) pounds net weight, on property of not less than two acres in area and upon which the operator has his permanent residence provided that the vehicle is parked at least fifty feet from a public street
23. The use and storage of farm equipment and other related equipment such as a backhoe, front-end loader or up to a ten-wheel truck, to be used by a farm owner, farm employee and/or a contracted farm operator of a bona-fide farm operation

consisting of five (5) acres or more, for off-farm, non-agricultural related, construction work to supplement farm income
2008-31

24. Waste water treatment or disposal facilities meeting the requirements of the Utah State Division of Health Code of Waste
Disposal Regulations

25. Small Wind Energy System 2008-8

5B-5 Site Development Standards

Zone	AV-3
Minimum lot area	
Uses listed in 5B-2 & 5B-4	3 acres ft ²
Uses listed in 5B-3	5 acres
Minimum lot width	
Uses listed in 5B-2 & 5B-4	150 ft
Uses listed in 5B-3	300 ft
Minimum yard setbacks	
a. Front	30 ft
b. Side	
i. Dwelling	10 ft ⁽¹⁾
ii. Other main building	20 ft each side
iii. Accessory building	10 ft ⁽²⁾
iv. Accessory building > 1,000 ft ²	10 ft ⁽³⁾
c. Side (facing street on corner lot)	20 ft
d. Rear	
i. Main building	30 ft
ii. Accessory building	1 ft ⁽⁴⁾
Main building height	
a. Minimum	one story
b. Maximum	35 ft
Accessory building height	25 ft ⁽⁵⁾
Notes:	

1. ↑ 10 ft with total width of two side yards not less than 24 ft.
2. ↑ 10 ft except 1 foot if located at least 6 ft in rear of main building.
3. ↑ For storage of personal equipment and materials see chapter [23-29](#).
4. ↑ 1 foot except 10 feet where accessory building rears on side yard of adjacent corner lot.
5. ↑ 25 ft unless meeting requirements of Chapter [23-29](#), Large Accessory Buildings.

5B-6 Permitted Signs

The height, size and location of permitted Commercial signs shall be in accordance with the regulations set forth in Chapter 32-B, Valley Signs, of this Ordinance.

Commercial Zones C-1, C-2, C-3

From Weber County Wiki

18-1 Purpose and Intent

The purpose of the C-1 Neighborhood Commercial, C-2 Community Commercial, and C-3 Regional Commercial Zones is to provide suitable areas for the location of the various types of commercial activity needed to serve the people and commerce of unincorporated Weber County. It is also to separate into three zones uses, based upon type of activity which are compatible and complementary, as well as intensity of land utilization and accessory use needs.

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[18-4 Special Regulations](#)

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18-2 Site Development Standards

Zone	C-1	C-2	C-3
Minimum lot area	none	none	none
Minimum lot width	none	none	none
Minimum yard setbacks			
a. Front	20 ft ^[1] , 50 ft ^[2]	20 ft ^[1] , 50 ft ^[2]	20 ft ^[1] , 50 ft ^[2]
b. Side	none ^[3]	none ^[3]	none ^[3]
c. Side (facing street on corner lot)	20 ft	20 ft	20 ft
d. Rear	none ^[4]	none ^[4]	none ^[4]
Building height			
a. Minimum	one story	one story	one story
b. Maximum	35 ft	none	none
Maximum lot coverage	Not over 60% of lot area by buildings or accessory buildings.		none

Notes:

- ↑ [3.0 3.1 3.2](#) 20 ft on streets of less than 80 ft in width.
- ↑ [2.0 2.1 2.3](#) 50 ft on streets and highways of 80 ft or more in width.
- ↑ [3.0 3.1 3.2](#) None, except 10 feet adjacent to residential zone boundary.
- ↑ [4.0 4.1 4.2](#) None, except 10 feet where building rears on a residential zone.

18-3 Sign Regulations

The height, size, and location of the permitted signs shall be in accordance with the regulations set forth in [Chapter 32 Signs](#), of this Ordinance. Permitted signs are listed in [Section 18-5](#)

18-4 Special Regulations

1. Hereinafter specified permitted and Conditional uses shall be permitted only when the following conditions are complied with:
 1. All manufacturing shall be done within a completely enclosed building.
 2. All uses shall be free from objection because of odor, dust, smoke, or noise.
 3. In the C-1 neighborhood Commercial Zone no entertainment, except recorded music shall be permitted in cafes, cafeterias, ice cream parlors, or restaurants.
2. A car wash shall be permitted subject to the following restrictions:
 1. Operation or use is forbidden between the hours of 10:00 p.m. and 6:00 a.m. on the following morning in C-1 Zones only.
 2. There shall not be more than four washing bays for a manual spray car wash in C-1 Zones only.
 3. Off-street vehicle storage required as follows:
 1. One bay car wash, four spaces in the approach lane
 2. Two bay car wash, three spaces in the approach lane for each wash bay
 3. Three or more bay car wash, two spaces in the approach lane for each wash bay

18-5 Uses

In the following list of possible uses, those designated in any zone as "P" will be a Permitted Use. Uses designated as "C" will be allowed only when authorized by a Conditional Use Permit obtained as provided in [Chapter 22C](#) of this [Zoning Ordinance](#). Uses designated "N" will not be allowed in that zone.

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A

	C-1	C-2	C-3
Accessory buildings and uses customarily incidental to a permitted use	P	P	P
Air conditioning, sales and Service	N	N	P
Altering, pressing and repairing of wearing apparel	P	P	P
Ambulance Base Stations	N	C	P
Amusement enterprises	N	N	C
Animal hospital, (small animals only and provided conducted within completely enclosed building)	N	N	C

Antique, import or souvenir shop	N	P	P
Archery shop and range (provided conducted within completely enclosed bldg)	N	P	P
Art and artists supply store	N	P	P
Athletic and sporting goods (excluding sale or re pair of motor vehicles, motor boats or motors)	N	P	P
Athletic and sporting goods (store including sale or repair of motor vehicles, motor boats or motors)	N	N	P
Athletic Club	N	P	P
Auction establishment	N	N	C
Automobile repair including paint, body and fender, brake, muffler, upholstery or transmission work, provided conducted within completely enclosed bldg.	N	N	P
Automobile, new or used sales and service	N	N	P
Awning sales and service	N	P	P

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B

	C-1	C-2	C-3
Baby formula service	P	P	P
Bakery manufacture limited to goods retailed on premises	P	P	P
Bakery Goods manufacturing	N	N	P
Bank or financial institution	P	P	P
Barber shop	P	P	P

Bath and massage establishment	N	P	P
Beauty culture school	N	N	P
Beauty parlor for cats and dogs	N	P	P
Beauty shop	P	P	P
Bed and Breakfast Inn	N	P	P
Bed and Breakfast Hotel	N	C	P
Beer parlor, sale of draft beer	N	N	C
Bicycle sales and service	P	P	P
Billiard parlor	N	N	P
Blue printing or photostating	N	P	P
Boarding house	N	C	P
Boat sales and service	N	C	P
Bookbinding	N	N	P
Book store, retail	P	P	P
Bottling and distribution plant	N	N	P
Bowling alley	N	C	P
Boxing arena	N	N	P

Building materials sales or yard	N	N	P
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Bus Terminal	N	P	P
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C

	C-1	C-2	C-3
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Cabaret	N	N	C
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Cafe or cafeteria	P	P	P
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Camera store	P	P	P
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Candy manufacture	N	N	P
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Candy store, confectionery	P	P	P
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Carbonated water sales	N	P	P
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Carpenter and cabinet shop	N	N	P
----------------------------	---	---	---

Carpet and rug cleaning	N	N	P
-------------------------	---	---	---

Carpet, rug and linoleum service	N	P	P
----------------------------------	---	---	---

Car wash, laundry type	N	C	P
------------------------	---	---	---

Car wash, manual spray	C	P	P
------------------------	---	---	---

Cash register sales and service	N	P	P
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Catering establishment	N	P	P
------------------------	---	---	---

China, crystal and silver shop	C	P	P
--------------------------------	---	---	---

Christmas tree sales	P	P	P
Church	N	C	P
Church, temporary revival	N	C	C
Circus, carnival or other transient amusement	N	C	C
Cleaning and dyeing establishment	N	P	P
Clinics, medical or dental	P	P	P
Clothing and accessory store	N	P	P
Coal and fuel sales office	N	N	P
Communication equipment building	N	P	P
Contractor shop, provided work conducted within a completely enclosed building	N	N	P
Costume rental	N	P	P

[Top](#)

D

	C-1	C-2	C-3
Dairy products store	P	P	P
Dance hall	N	N	C
Data processing service and supplies	N	P	P
Delicatessen	P	P	P
Department store	N	P	P

Detective agency	P	P	P
Diaper service, including cleaning	N	P	P
Drapery and curtain store	N	P	P
Drive-it-yourself agency or business	N	P	P
Drug store	P	P	P
Dry cleaning establishment	N	N	P
Dry cleaning pickup station	P	P	P
Dwelling unit as part of a commercial building for proprietor or employee who also serves as a night watchman provided that 3,000 sq. ft. of green area is provided for the family	C	C	N

[Top](#)

E

	C-1	C-2	C-3
Educational institution	N	P	P
Educational/Institutional Identification Sign	C	C	C
Egg and poultry store, providing no live bird slaughtering or eviscerating permitted	P	P	P
Electrical and heating appliances and fixtures sales and service	N	P	P
Electronic equipment sales and service	N	P	P
Employment agency	N	P	P
Express and transfer service	N	N	C

[Top](#)

F

	C-1	C-2	C-3
Fabric and textile store	P	P	P
Farm implement sales	N	N	P
Film exchange establishment	P	P	P
Five and ten cent store	P	P	P
Florist shop	P	P	P
Frozen food lockers, incidental to a grocery store or food business	P	P	P
Fruit store or stand	P	P	P
Furniture sales and repair	N	P	P
Fur apparel sales, storage or repair	N	P	P

[Top](#)

G

	C-1	C-2	C-3
Garden supplies and plant materials sales	P	P	P
Gift store	P	P	P
Glass sales and service	N	P	P
Government buildings or uses, non-industrial	C	P	P
Greenhouse and nursery (soil and lawn service)	N	P	P
Grocery store	P	P	P

Gunsmith	N	P	P
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Gymnasium	N	P	P
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[Top](#)

H

	C-1	C-2	C-3
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Hardware stores	N	P	P
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Health club	N	P	P
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Health food store	P	P	P
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Heliport	N	C	C
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Hobby and crafts store	P	P	P
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Hospital supplies	N	P	P
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Hotel	N	C	P
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House cleaning and repair	N	P	P
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House equipment display	N	P	P
-------------------------	---	---	---

Household appliance sales and incidental service	N	C	P
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Household pets, dwelling units only	P	P	P
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[Top](#)

I

	C-1	C-2	C-3
--	-----	-----	-----

Ice cream manufacture	N	N	P
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Ice cream parlor	P	P	P
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Ice manufacture and storage	N	N	P
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Ice store or vending station	P	P	P
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Insulation sales	N	P	P
------------------	---	---	---

Insurance agency	N	P	P
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Interior decorator and designing establishment	N	P	P
--	---	---	---

[Top](#)

J

	C-1	C-2	C-3
--	------------	------------	------------

Janitor service and supply	N	P	P
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Jewelry store sales and service	P	P	P
---------------------------------	---	---	---

[Top](#)

K

	C-1	C-2	C-3
--	------------	------------	------------

Knitting mills	N	N	C
----------------	---	---	---

[Top](#)

L

	C-1	C-2	C-3
--	------------	------------	------------

Laboratory, dental or medical	N	P	P
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Laundry or dry cleaners, laundromat-type	P	P	P
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Laundry or dry cleaning establishment	N	N	P
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Launderette or laundromat	P	P	P
Lawn mower sales and service	N	P	P
Leather goods, sales and service	N	P	P
Legal office	N	P	P
Library	P	P	P
Linen store	N	P	P
Linen supply service	N	N	P
Liquor store	N	C	C
Locksmith	P	P	P
Lodge or social hall	N	P	P
Lodging house	N	C	P
Lounge	N	N	C
Luggage store	N	P	P
Lumber yard	N	N	C

[Top](#)

M

	C-1	C-2	C-3
Machine shop operations incidental to any use permitted in C-3 district	N	N	P
Manufacture of goods retailed on premises	N	C	C

Meat Custom cutting and wrapping excluding slaughtering	N	C	C
Meat, fish and seafood store	P	P	P
Medical office	P	P	P
Millinery	N	P	P
Miniature golf	N	N	C
Mobile Home Sales	N	C	P
Mobile Home Service	N	N	P
Monument works and sales	N	P	P
Mortuary	N	C	P
Motel	N	C	P
Motorboat sales and service	N	C	P
Motorcycle and motor scooters sales and service	N	C	P
Museum	C	P	P
Music Store	N	P	P

[Top](#)

N

	C-1	C-2	C-3
Needlework, embroidery or knitting store	P	P	P
Newsstand	P	P	P

Nightclub or social club	N	N	C
Notion store	P	P	P
Novelty store	N	P	P
Nursery school	C	P	P

[Top](#)

O

	C-1	C-2	C-3
Office in which goods or merchandise are not commercially created, exchanged or sold	N	P	P
Office supply	N	P	P
Office machines sales and service	N	P	P
Oil burner shop	N	N	C
Optometrist, optician or oculist	P	P	P
Ornamental iron sales or repair	N	C	P

[Top](#)

P

	C-1	C-2	C-3
Paint or wallpaper store	N	P	P
Paperhanger shop	N	P	P
Park and playground	P	P	P
Parking lot or garage for passenger automobiles	C	C	C

Pawnshop	N	N	P
Penny Arcade	N	N	C
Pest control and extermination	N	P	P
Pet and pet supply store	N	P	P
Pharmacy	P	P	P
Photographic supplies	P	P	P
Photo studio	P	P	P
Physician or surgeon	P	P	P
Pie manufacture	N	P	P
Plumbing shop	N	C	P
Pony ring, without stables	N	N	C
Pool hall	N	N	P
Popcorn or nut shop	P	P	P
Post office	C	P	P
Printing, lithographing publishing or reproductions sales and services	N	C	P
Private Liquor Club	N	N	C
Professional office	N	P	P

Public Utilities Substation		C	C	C
Public Building Reserved for future use		P	P	P

[Top](#)

Q
R

		C-1	C-2	C-3
Radio and television sales and service	C	P	P	
Radio, television of FM broadcasting station	N	P	P	
Real estate agency	N	P	P	
Reception center or wedding chapel	N	C	P	
Recreation Center	N	C	P	
Recreational vehicle storage	C	C	P	
Rental agency for home and garden equipment	N	P	P	
Restaurant	P	P	P	
Restaurant, drive-in	N	P	P	
Roller skating rink	N	C	P	
Roofing sales or shop	N	P	P	

[Top](#)

S

C-1 C-2 C-3

Second-hand store	N	P	P
Seed and feed store, retail	N	P	P
Service station, automobile excluding painting, body and fender and upholstery work	P	P	P
Service station automobile with rotating brush car wash as accessory use	P	P	P
Sewing machine sale and service	N	P	P
Sheet metal shop and retinning, provided all operations conducted within completely enclosed bldg.	N	N	C
Shoe repair or shoe shine shop	P	P	P
Shoe store	N	P	P
Shooting gallery	N	N	P
Sign manufacture or sign painting	N	N	P
Sign, animated	P ⁽⁵⁾	P	P
Sign, business	P	P	P
Sign, construction project	P	P	P
Sign, directional	P	P	P
Sign, flat	P	P	P
Sign, Freestanding	P	P	P
Sign, identification and information	P	P	P

Sign, Marquee	P	P	P
Sign, name plate	P	P	P
Sign, off premise	N	P	P
Sign, projecting	P	P	P
Sign, roof	N	P	P
Sign, temporary	P	P	P
Sign, wall	P	P	P
Supermarket	P	P	P

1. ↑ [1.0](#) [1.1](#) [1.2](#) 20 ft on streets of less than 80 ft in width.
2. ↑ [2.0](#) [2.1](#) [2.2](#) 50 ft on streets and highways of 80 ft or more in width.
3. ↑ [3.0](#) [3.1](#) [3.2](#) None, except 10 feet adjacent to residential zone boundary.
4. ↑ [4.0](#) [4.1](#) [4.2](#) None, except 10 feet where building rears on a residential zone.
5. ↑ Only time and temperature animated sign in C-1 Zone

[Top](#)

T

	C-1	C-2	C-3
Tailor shop	N	P	P
Tavern	N	N	C
Taxi cab stand	P	P	P
Taxidermist	N	P	P
Telegraph office	P	P	P

Temporary building for uses incidental to construction work. Such buildings shall be removed upon the completion of the construction work	P	P	P
Theatre (Theater), indoor	N	P	P
Theatre (Theater), outdoor	N	N	C
Tire recapping or retreading sales and service	N	N	C
Tobacco shop	P	P	P
Tool design (precision) repair and manufacture	N	N	C
Toy store, retail	P	P	P
Trade or industrial school	N	C	P
Trailer sales and service	N	N	P
Travel agency	P	P	P
Truck Terminal	N	N	C

[Top](#)

U

	C-1	C-2	C-3
Upholstery shop	C	P	P
Used car lot	N	N	C

[Top](#)

V

	C-1	C-2	C-3
Variety store	P	P	P

Vegetable store or stand	P	P	P
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Vendor, Short Term (see definition under 1-6)	N	C	C
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Ventilating equipment sales and service	N	C	P
---	---	---	---

[Top](#)

W

	C-1	C-2	C-3
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Warehouse storage	N	N	P
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Weather stripping shop	N	P	P
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Welding shop	N	N	C
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Wholesale business	N	N	P
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Window washing establishment	N	P	P
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X

Y

Z

Exhibit G

Exhibit B

Weber County Land Use Permit Application

Application submittals are recommended to be submitted with an appointment.
 (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)
----------------------------	-------------------	-----------------------------

Property Owner Contact Information

Name <u>Rulon Kent Jones</u>		Mailing Address <u>398 SW 3775 E Liberty, UT, 84310</u>
Phone <u>208 346 6631</u>	Fax	
Email Address <u>rulon@utahelkhunt.com</u>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) <u>Garet Kent Jones</u>		Mailing Address of Authorized Person <u>2775 W 4904 E Eden UT 84310</u>
Phone <u>(801) 814-6261</u>	Fax	
Email Address <u>garet-jones@yahoo.com</u>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Address <u>3788 E 4100 W Eden 84310</u>		Land Serial Number(s) <u>22-0100001</u>	
Subdivision Name	Lot Number <u>3788</u>	Current Zoning	Acreage <u>6.15</u>
Culinary Water Provider	Secondary Water Provider <u>Liberty Irrigation</u>	Waste Water Provider	Frontage

Detailed Description of Proposed Use/Structure

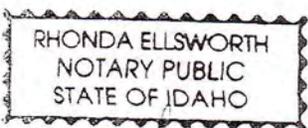
Property Owner Affidavit

I (We), Rulon K. Jones, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

[Signature]
 (Property Owner)

[Signature]
 (Property Owner)

Subscribed and sworn to me this 24 day of February, 2011

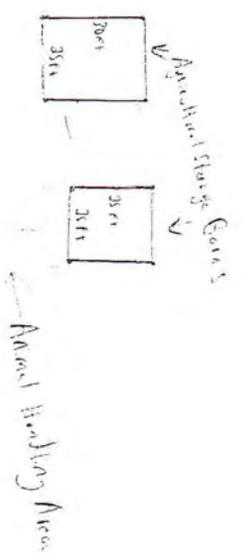


Rhonda Ellsworth
Exp 4.6.13 (Notary)

Jones Site Plan



Exhibit C

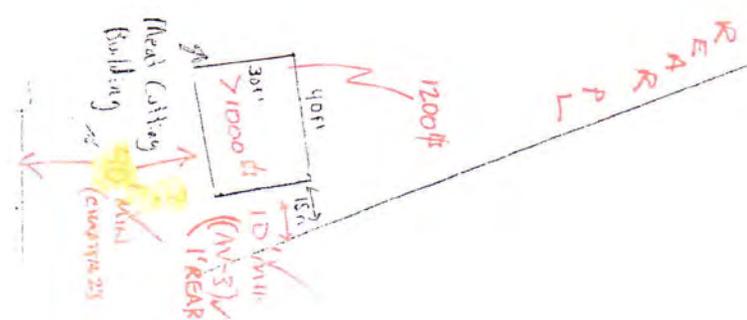


3800 E Boundary
SIDE PL ON STREET

10' MIN SIDE (CONCRETE)

Scott
WORKING COPY

MAX HEIGHT OF 25' (CONCRETE)



Working Copy

Exhibit D

Agricultural Description of Property

This 6.15 acre piece of property located on the North West corner of 4100n and 3800e in Liberty has and will be used for agriculture. Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on this property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter and be worked. The new calves are ear-tagged and micro-chipped in compliance with the Utah Department of Agriculture rules. All the animals are vaccinated once a year to maintain health.

The meat cutting building will be used to butcher and package the elk meat for consumption. It will have a meat grinder to make hamburger, cutting and packaging areas. There will also be freezers to freeze and store the processed meat.

The property is irrigated with the Liberty secondary water system that is in place. It is irrigated during the spring and summer months and any excess hay is harvested and stored. Weeds are controlled and the land is replanted when needed.

There is also an apple orchard, raspberry patch and a garden which are also part of the agricultural use of the property.

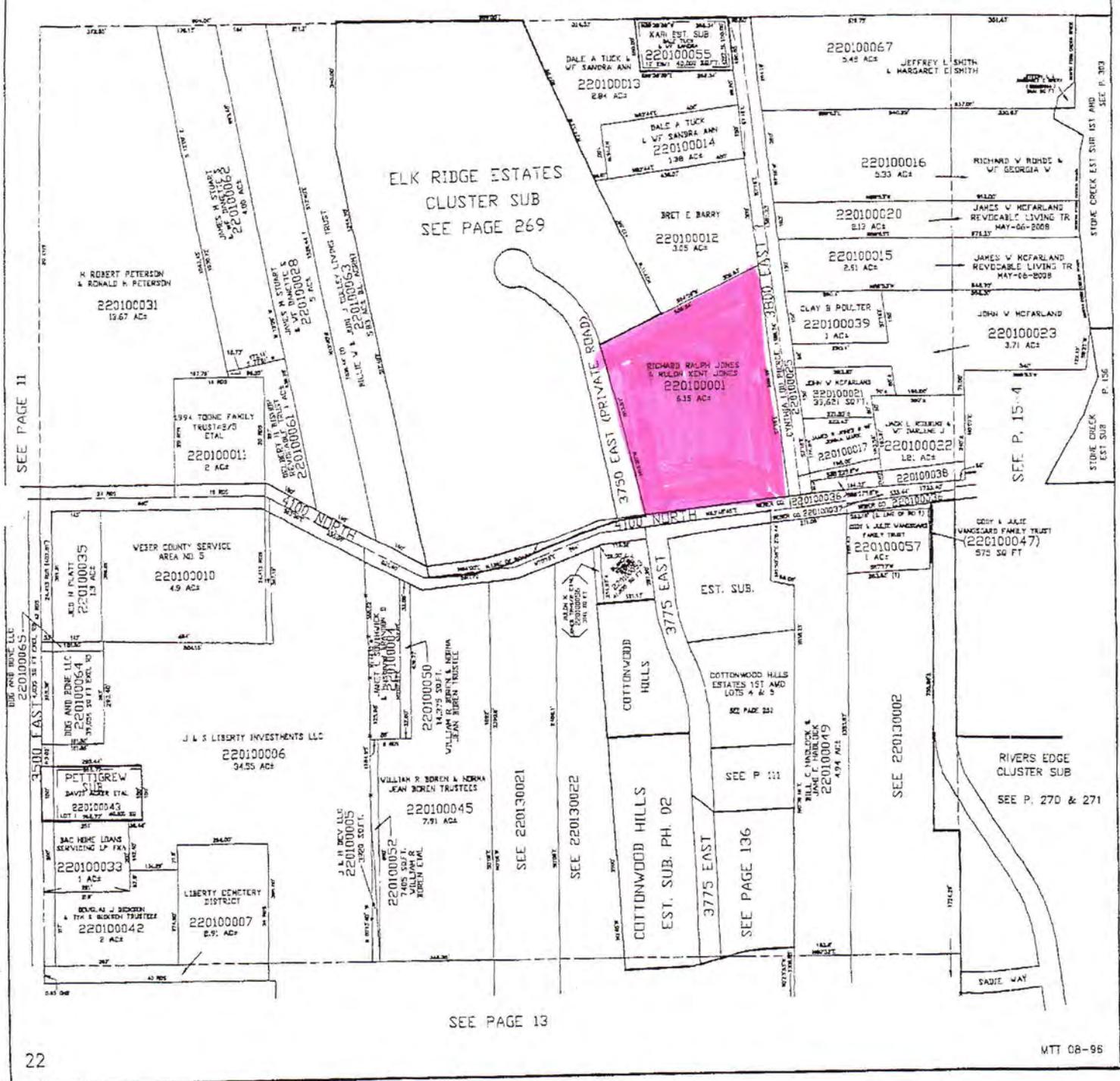
N.E. 1/4
SECTION 20, T.7N., R.1E., S.L.B. & M.

IN WEBER COUNTY

SCALE 1" = 200'

SEE PAGE 7

TAXING UNIT: 36



SEE PAGE 13

~ Agriculture: Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, aquaculture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

17-41-101(8) Agriculture and other forest production for conversion for paper or pulp, Section 111 livestock products.

17-41-101(5) "Crops, livestock, and livestock products" are used

(a) land devoted to the raising of useful plants and animals with the intention of obtaining profit, including:

(i) forages and soy crops;

(ii) grains and feed crops;

(iii) trees and fruit; or

(iv) vegetables, nursery, floral and ornamentals, stock or land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land reclamation program with an appropriate state or federal government.

59-2-102 (2)(b) land which, for the purposes of the exemption provided under Section 59-2-111, is used to raise or produce any of the following: (i) livestock; (ii) crops; (iii) trees and fruit; or (iv) vegetables, nursery, floral and ornamentals, stock or land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land reclamation program with an appropriate state or federal government.

59-2-111: Livestock exemption. Any crop in which, as defined in Section 59-2-102, is exempt from ad valorem property taxation.

59-2-102. Purpose statement - Agriculture considered a branch of agriculture.

(1) The legislature declared that it is in the interest of the people of the state to encourage the practice of agriculture, while protecting the public fishery resource, in order to augment food production, expand employment, promote economic development, and protect and better utilize the land and water resources of the state.

(2) The legislature further declares that persons who are considered a branch of agriculture are exempt of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agricultural industry within the state.

129-02

4-39-102. Definitions.

As used in this chapter:

- (1) "Domesticated elk" means elk of the genus and species *cervus elaphus*, held in captivity and domestically raised for commercial purposes.
- (2) "Domesticated elk facility" means a facility where domesticated elk are raised.
- (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on an appeal of an administrative decision, by the Weber County Planning Division, to issue a Land Use Permit for parcel #22-010-0001, (located at 3788 E 4100 N, Liberty) owned by Richard Ralph & Rulon Kent Jones. The allegation is that the Planning Division erred in its decision to issue this Land Use Permit.

Agenda Date: Thursday, August 25, 2011

Applicant: Bret Barry

File Number: BOA 2011-04

Property Information

Approximate Address: 3788 East 4100 North, Liberty

Project Area: 6.15 Acres

Zoning: Agricultural Valley-3 Zone (AV-3)

Existing Land Use: Residential and Agriculture

Proposed Land Use: Expand Agricultural Use

Parcel ID: 22-010-0001

Township, Range, Section: T7N, R1E, Section 20

Adjacent Land Use

North: Residential	South: Residential
East: Residential	West: Residential

Staff Information

Report Presenter: Scott Mendoza
smendoza@co.weber.ut.us
801-399-8769

Report Reviewer: RS

Applicable Ordinances

- Weber County Zoning Ordinance Chapter 29 (Board of Adjustment)
- Weber County Zoning Ordinance Chapter 1 (General Provisions/Definitions)
- Weber County Zoning Ordinance Chapter 5B (Agricultural Valley – 3)
- Weber County Zoning Ordinance Chapter 23 (Supplementary and Qualifying Regulations)

Background

Description and Appellant Request

On June 27, 2011 the Weber County Planning Division reviewed a Land Use Permit Application and subsequently issued a permit for, what has been interpreted by the Planning Staff to be, an agricultural use on a parcel located at 3788 E 4100 N in Liberty, Utah. See Map #1, on page 6 of 7, for approximate location. The Planning Division's decision to issue this Land Use Permit was based on information presented, and its compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height; however, it is being appealed to the Board of Adjustment for several stated reasons ranging from the Planning Staff's misapplication of the Zoning Ordinance to incomplete and inaccurate information being provided by the Land Use Permit applicant.

Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance states that one of the duties and powers of the Board is "To hear and decide appeals where, it is alleged by the appellant that, there is error in any order, requirement, decision, or refusal made in the enforcement of this Ordinance." The appellant, Mr. Bret Barry in this case, is requesting that the Board of Adjustment consider his appeal and cause the rescission of the Land Use Permit in question. See Exhibit A for appellant's letter to the Board of Adjustment. See Exhibit B for the Land Use Permit.

Parcel Information and Proposed Use

The agricultural parcel (Tax ID# 22-010-0001) for which the Land Use Permit was issued, is owned by Richard Ralph and Rulon Kent Jones. It consists of approximately 6.15 acres and lies within the Agricultural Valley – 3 (AV-3) Zone which lists “agriculture” as a permitted use.

During the third week of June (2011) an authorized representative, of the landowners, submitted a Land Use Permit Application, a site plan, and a written narrative that describes the subject property and the proposed land use. See Exhibits C, D, and E respectively.

As described in the narrative, attached as Exhibit E, the Jones’ have proposed to expand their current agricultural activities by utilizing an existing (1200 sq.ft.) agricultural building for meat cutting/preparation. It has been represented that the building will only be used for cutting/preparing meat (elk) that is a product of this farm operation and not for slaughtering, butchering, or custom cutting other animals that have been raised and/or harvested from other sources, e.g., other livestock operations or a hunter’s wild game. It has also been represented that there would be a limited number of animals (approximately 100) cut and prepared during the fall months only.

Land Use Permit Issuance

In issuing the Land Use Permit, the Planning Division relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. The specific zoning ordinances that apply to the Jones’ application are Chapter 1 (General Provisions/Definitions); Chapter 5B (Agricultural Valley – 3), due to the fact that the Jones’ property lies within the Agricultural Valley – 3 Zone; and Chapter 23 (Supplementary and Qualifying Regulations), due to the structure’s size.

Chapter 5B states that “*agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.*” It lists “agriculture” as a permitted use and Chapter 1 defines “agriculture” and an “agricultural parcel” in the following ways:

AGRICULTURE: *Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.*

AGRICULTURAL PARCEL: *A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.*

The parcel owned by the Jones’ meets the definition of an “agricultural parcel” and it is the Planning Division’s interpretation that the proposed use is “agriculture” (“primarily farming” and a “related purpose”); therefore, it is permitted.

The following describes the rationale behind the Planning Staff’s decision to issue the Land Use Permit:

1. A complete Land Use Permit Application Packet, certified to be true and correct, was submitted.
2. The Jones property site plan, submitted as a part of their packet, represented that the subject building is in compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height.
3. After consideration was given to the Weber County Zoning Ordinance, the proposed use was interpreted to be “agriculture” which is a permitted use in the AV-3 Zone.

Due to the County’s definition of “agriculture” being quite broad, i.e., agriculture is “primarily farming and related purposes”, the Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of “agriculture”:

“Agriculture” means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

4. The Planning Staff considered the proposed “meat cutting” activity to be a part of the “preparation” as included in the above Utah State Code definition of “agriculture”. Due to the inclusion of the word “preparation”, the

Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of "prepared" and "process":

"Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"Process" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

Even though the Utah State Code includes "slaughter" in its definition of "prepared", the Planning Staff determined that the proposed use was not a "slaughterhouse" due to the lack of activities customarily involved with "slaughtering". The proposed use (meat cutting building) will not include customary activities such as stunning or causing the animals to become unconscious/insensible, exsanguination (the killing of the animal) skinning, removal of internal organs, or rendering waste materials. See Exhibit H for examples of the slaughtering process. The following is the Utah State Code definition of "slaughter":

"Slaughter" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

5. Livestock (animals) is undoubtedly a product of agriculture; therefore, the Planning Staff, prior to issuing the Land Use Permit, was able to verify that "domesticated elk" are specifically listed and considered to be "livestock" according to the State of Utah. The following is the Utah State Code definition of "livestock" and "domesticated elk" as referenced:

"Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

"Domesticated elk" means elk of the genus and species cervus elaphus, held in captivity and domestically raised for commercial purposes.

Appeal

On July 13th, 2011, Mr. Bret Barry, the owner of a home and property neighboring the proposed use, submitted an application to the Board of Adjustment requesting the above described appeal. See Exhibit A for Mr. Barry's letter to the Board of Adjustment.

Below is a summarized list of issues/concerns that Mr. Barry is bringing to the attention of the Board of Adjustment, followed by a Planning Staff response:

1. **The proposed use is non-compliant with Section 5B-3(5) of the Zoning Ordinance because its distance to dwellings on adjacent properties is not at least two hundred (200) feet and the site includes permanent fences, corrals, chutes, structures, and other buildings associated with a feeding operation.**

5B-3. Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises
5. **The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:**
 - A. not exceed a density of twenty-five (25) head per acre of used and;
 - B. be carried on during the period of September 15 through April 15 only;
 - C. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 - D. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

PLANNING STAFF RESPONSE:

Section 5B-3(5) specifically and unambiguously states “the raising and grazing of horses, cattle, sheep or goats”, and then assigns additional requirements to operations that raise and graze “horses, cattle, sheep, or goats.” This list does not serve as a list of examples due to the fact that words like “such as”, “for example”, or “not limited to” are not used. Due to this the Planning Staff concluded that the list was created decidedly and intentionally; therefore, the standards listed in A through D above only apply to farm operations that involve those specifically listed animals.

Neither the existing and/or proposed use involves the raising and grazing of “horses, cattle, sheep or goats”; therefore, Section 5B-3(5) does not apply and should not be considered by the Board of Adjustment.

In the event it were interpreted that Section 5B-3(5) did apply, the requirements listed in A through D above would only apply to the “raising and grazing” area/operation and not to accessory buildings or those uses completely contained within them. This becomes evident after reading the requirements listed in A through D. For example, requirement A refers to the number of animals allowed on a per acre basis. One can see how this requirement (and others) applies to the “raising and grazing” and could not apply to an accessory building.

- 2. Nothing within the Land Use Permit Packet provided guidelines, plans, or definition of environmental impact, waste handling or disposal, waste water (septic), harmony with surrounding neighbors and harmony with the purpose of the residential area.**

PLANNING STAFF RESPONSE:

The Weber County Zoning Ordinance does not require guidelines, plans, or definitions of environmental impact, waste handling or disposal, waste water (septic), or applicant descriptions of how a proposed use is in harmony with surrounding neighbors or in harmony with the purpose of a residential area. Documentation or proof of culinary and waste water (septic) approval is required prior to the issuance of a Weber County Building Permit. The required documentation has been provided by the Weber/Morgan Health Department and has been received by the Weber County Building Inspections Office.

- 3. The proposed use is contrary to the public interest and will result in unnecessary hardship to both adjoining properties and other residents in the area.**

PLANNING STAFF RESPONSE:

Mr. Barry would like the Board of Adjustment to find that the proposed use is “contrary to the public interest”; therefore, rescind or overturn the issuance of the Land Use Permit. He, in his letter to the Board of Adjustment, has quoted the following language from Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance:

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided, that the spirit of this Ordinance shall be preserved and substantial justice done.

This language resides in Section 29-3 (Duties and Powers of the Board) and explains one of approximately thirteen other duties of the Board of Adjustment; none of which authorize the Board of Adjustment to rescind Land Use Permits based on whether or not a proposed use is thought to be contrary to public interest. The above language simply authorizes the Board of Adjustment to hear and grant variances when certain criteria are met. Mr. Barry’s appeal is not a variance request; therefore, this language does not apply to the appeal and should not be considered by the Board of Adjustment.

- 4. There is evidence of a lack of stewardship, care for animals and care for facilities on the property for which the Land Use Permit was issued.**

PLANNING STAFF RESPONSE:

The general condition of property or the lack of stewardship may, in some cases, be addressed through the County’s Zoning Enforcement; however, a lack of stewardship, in this case, does not apply to the appeal and should not be considered by the Board of Adjustment.

5. The proposed use is not agriculture but is in fact commercial.

PLANNING STAFF RESPONSE:

The Planning Division Staff relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. After considering these sources, the proposed use was determined to be "agriculture". Refer to the "Land Use Permit Issuance" section above.

6. The proposed use is not within the essence of the agriculture ordinance's (Chapter 5B or AV-3 Zone) sub-sections listed below nor in compliance (specifically) with the 5B-2-3:

5B-2-3. Animals or fowl kept for family food production as an accessory use

5B-2-8. Fruit or vegetable stand for produce grown on the premises only

5B-2-10. Greenhouse and nursery limited to sale of materials produced on premises and with no retail shop operation

5B-2-14. Private park, playground or recreation area, but not including privately owned commercial amusement business

PLANNING STAFF RESPONSE:

The proposed use has been interpreted to be "agriculture" which is listed as a permitted and entirely separate use allowed in the AV-3 Zone. Sub-section 5B-2-3 (*Animals or fowl for family food production as an accessory use*) is intended to allow animals to be kept on the same property as a single family dwelling which is the main use.

The above listed sub-sections do not regulate agricultural activities; therefore, they do not apply to the appeal and should not be considered by the Board of Adjustment.

7. The operation does not comply with Weber County Ordinance 5B-5-4 and 5B-5-5.

PLANNING STAFF RESPONSE:

Sub-sections 5B-5-4 and 5B-5-5 regulate main building height and accessory building height respectively. The buildings located, on the parcel for which the Land Use Permit has been issued, meet the building height requirements for the Agricultural Valley – 3 Zone; therefore, these sub-sections do not apply to the appeal and should not be considered by the Board of Adjustment.

8. The proposed use is subject to Chapter 22C (Conditional Uses) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

The proposed use is not listed as a Conditional Use; therefore, the proposed use is not subject to the Conditional Use Permit review process. This allegation does not apply to the appeal and should not be considered by the Board of Adjustment.

9. The proposed use is subject to Chapter 36 (Design Review) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 36 provides standards for traffic safety, advertising, landscaping, site layout, and utilities only when associated with the development of multi-family dwellings, recreation resort uses, public and quasi-public uses, business, commercial, and manufacturing sites. The proposed use has been interpreted to be an agricultural use; therefore, Chapter 36 does not apply and should not be considered by the Board of Adjustment.

10. The proposed use is subject to Chapter 41 (Drinking Water Source Protection) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 41 provides standards for certain types of activities (including agriculture) when located within Drinking Water Protection Zones. The parcel and proposed use, for which the Land Use Permit has been issued, is not located within a

Drinking Water Protection Zone; therefore, Chapter 41 does not apply to the proposed use and should not be considered by the Board of Adjustment. See Map #2, on page 7 of 7, for Drinking Water Protection Zones and subject parcel location.

11. The Jones' are in violation of Chapter 30 (Land Use Permit, Building Permit and Certificate of Occupancy) of the Weber County Zoning Ordinance. Construction activities commenced prior to the issuance of a Building Permit.

PLANNING STAFF RESPONSE:

The Jones' did begin construction prior to the issuance a Building Permit; however, all required information was received and a Building Permit was issued on (or about) July 26th, 2011.

Summary of Board of Adjustment Considerations

- Is the proposed use agriculture?
- Does Section 5B-3(5) of Chapter 5B (Agricultural Valley-3 Zone) apply to the proposed use?
- Do Mr. Barry's other listed concerns (2 through 11) apply to the appeal?

Staff Recommendation

The Planning Division Staff recommends that the administrative decision, to issue the subject Land Use Permit, be upheld based on the information presented in this staff report.

Exhibits

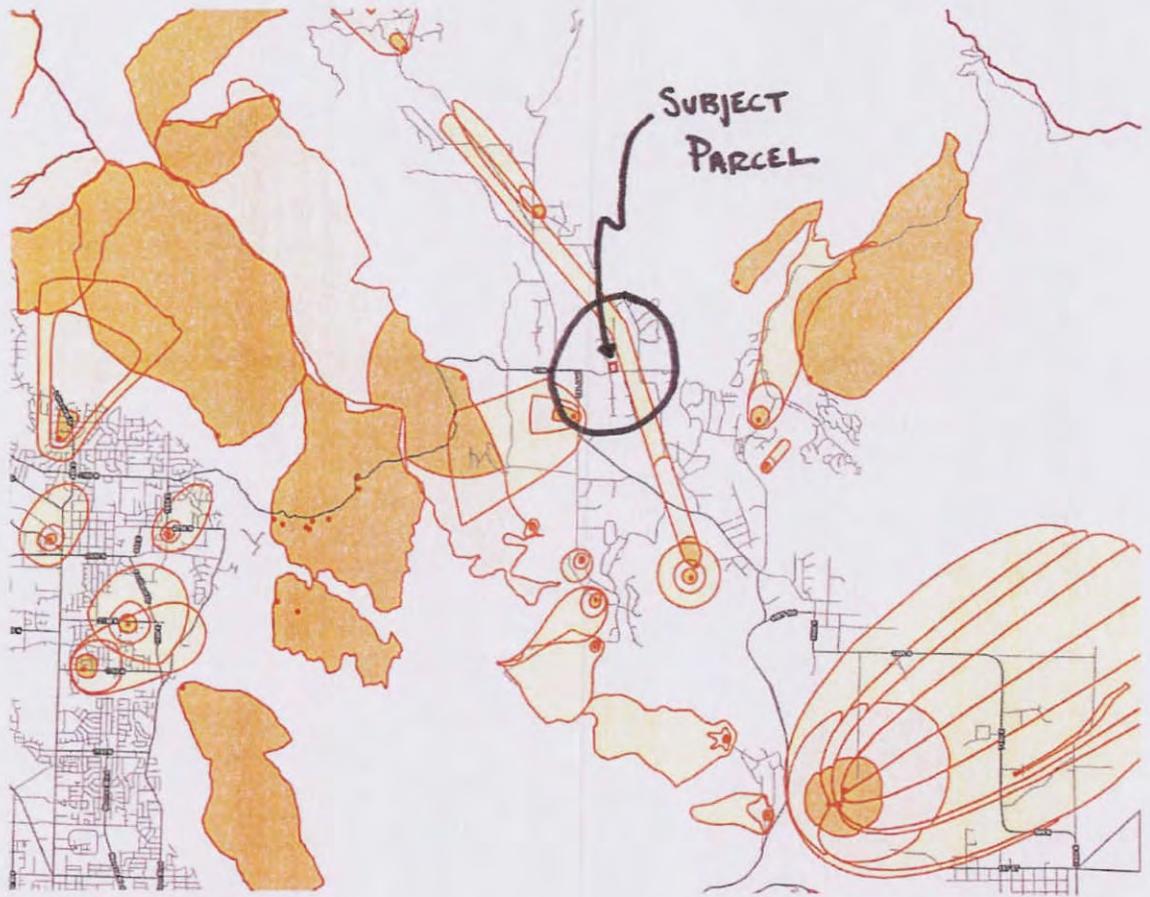
- A. Appellant's letter to the Board of Adjustment.
- B. Land Use Permit.
- C. Weber County Land Use Permit Application.
- D. Proposed Site Plan.
- E. Jones Narrative Describing Proposed Use.
- F. Planning Division Staff Review Notes of Proposed Site Plan.
- G. Weber County and Utah State Code Definitions.
- H. Examples of Typical Slaughterhouse Procedures.

Map #1 – Jones Property (Parcel 22-010-0001)



Map #2 - Drinking Water Protection Zones and Subject Parcel Location

DRINKING WATER SOURCE PROTECTION MAP



Dear Weber County Board of Adjustment,

This appeal has been prepared to request a Board of Adjustment hearing and public comment on the Land Use Permit (LUP64-2011) issued by Weber County for parcel number 220100001 located at 3788 E 4100 N in Liberty, Utah. The parcel is listed under "Jones, Richard Ralph &" on the Land Use Permit.

I, and various neighbors adjoining and in close proximity to the property, believe there are requirements which may have been overlooked in the approval process which may be due to incomplete and inaccurate information provided by by Rulon Kent and Garet Kent Jones in their narrative and drawings submitted with the Weber County Land Use Permit Application. The drawing provided by the Jones' did not show the adjacent properties or dwellings.

- I bring your attention to 5B-3 of the Weber County zoning ordinances Agriculture Valley Zone AV-3 titled "5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area specifically points 5 and 6. Please see the permit language below.

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

- 1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises*
- 2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver*
- 3. Fruit and vegetable storage and packing plant for produce grown on premises.*
- 4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.*
- 5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:*
 - 1. not exceed a density of twenty-five (25) head per acre of used and;*
 - 2. be carried on during the period of September 15 through April 15 only;*
 - 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,*
 - 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation*

Point 5B-3-5-3 specifically states "be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land". The proximity of the home/dwelling on the adjoining property of Bret Barry at 4221 N 3800 E, Liberty, UT 84310 is less than two hundred (200) feet from the proposed building. The proximity of this adjoining dwelling creates non-compliance with the ordinance.

- Additionally, the proximity of the home/dwelling of Clay Poulter, 4170 N 3800 E, Liberty, UT 84310 is also less than two hundred (200) feet from the proposed building.
- Point 5B-3-5-4 specifically states “**not to include** the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation”. There are permanent fences, structures and buildings on this site. This is also stated in the “Agricultural Description of Property”. “The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter to be worked”. It seems that these buildings create violations of the ordinance.
- The meat packing slaughter house is contrary to the neighborhood interest. While it may be in an agricultural zone AV-3, this area has been, for over four decades, a subdivision where agriculture is practiced for family use. There are certainly no other commercial facilities. The waste products of blood and offal are a strong attractant to predators. There have been multiple incidents with animal killings by predators in the area since the elk have been on the property. We expect the processing of meat would increase predators in the area.
- This facility is not in harmony with the area which is principally family housing on large parcels and animals are kept as “pets”. Concern for odors from the facility, other pollutants and disposal of waste products is of great concern. Additionally this will bring more traffic to a very quiet street with children. Additional traffic and the need for more parking to provide for the delivery and pickup of elk can also be expected to create undue hardship on neighbors and local residents.

In summary, we believe the Land Use Permit (LUP64-2011) is not in compliance with Weber County Ordinances for Agriculture Property Zone AV-3 and may have been issued because of incomplete and inaccurate information supplied by the Jones' on their Weber County Land Use Permit Application.

- Distance to dwellings on adjoining properties is not two hundred (200) feet thus not in compliance with Ordinance 5B-3.
- The site includes permanent fences, corrals, chutes, structures and other buildings normally associated with a feeding operation thus not in compliance with Ordinance 5B-3.
- Nothing within the narrative nor drawings provides guidelines, plans or definition of Environmental Impact, waste handling and disposal plan, waste water plan, harmony with surrounding neighbors and harmony with purpose of the residential area.
- Quoting Weber County Board of Adjustment Application Review Document (current as of 05/01/10) page 2 of 5 point 3 “To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the Ordinance will result in

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unnecessary hardship; provided, that the spirit of the Ordinance shall be preserved and substantial justice done” We submit that the proposed facility is “contrary to the public interest” and “will result in unnecessary hardship” to both adjoining properties and other residents in the area.

Thus we request according to point 4 (“to interpret the zoning map and zoning ordinance”) that the Board of Adjustment hear this appeal which is brought forth by Bret Barry and other local residents.

Sincerely,

Bret Barry
Property Owner
4221 N 3800 E
Liberty, Utah 84310

Attached please find multiple photos of the Jones property where the proposed slaughterhouse meat processing facility is intended to be located.

I bring your attention to such inaccurate statements documented by photos:

“Weeds are controlled and the land is replanted when needed.”

Additionally, the Board of Adjustment will see the proximity of the facility to the Barry, Poulter, McFarland, Tuck and Rohde dwellings.

Finally, the Board of Adjustment will see the general condition of the property including multiple human and animal hazards in the “working facilities” thus providing evidence of the lack of stewardship and care for animals, facilities and land at the Jones property.

Dear Board of Adjustment,

I respectfully submit additional information to my request for Appeal of the Land Use Permit LUP64-2011.

In review of the Weber County Ordinances the intended use of the slaughterhouse and/or meat cutting processing operation which will prepare and provide for the sale of processed meat proposed by Rulon Kent Jones, Garett Kent Jones and Broadmouth Ranch (www.utahelkhunt.com) is not agricultural but is in fact a commercial business operation.

5B-1A Agriculture Preferred Use

Agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.

Though agricultural in nature, the proposed operation does not fit within the parameters of 5B-1A because it is clearly commercial. The generally stated purpose of the operation is to process the meat from the livestock sold as part of a private hunting business. This proposed extension of the Broadmouth Ranch (www.utahelkhunt.com) operation will combine a slaughterhouse and/or meat cutting, packaging, processing operation which will prepare and provide for the sale of processed livestock within and across state lines and is definitely a commercial to supplement the business of Rulon Kent Jones and Broadmouth ranch which should be aptly designated as commercial.

Commercial Valley Zones CV-1, CV-2

18-B1 Purpose and Intent

The purpose of the Commercial Valley, CV-1 (Neighborhood), and Commercial Valley, CV-2 (General) Zones is to provide suitable areas for the location of the various types of commercial activity needed to serve the people and commerce of the Ogden Valley in unincorporated Weber County. It is also to separate into two zones, uses based upon the type of activity which are compatible and complementary, as well as intensity of land utilization and accessory use needs.

18-B4 Special Regulations

1. Hereinafter specified Permitted and Conditional uses shall be allowed only when the following conditions are complied with:
 1. All uses shall be free from excessive odor, dust, smoke, or noise.
 2. In the CV-1 (neighborhood) Commercial Zone no entertainment, except recorded music shall be permitted in cafes, cafeterias, ice cream parlors, or restaurants.

1. A car wash shall be permitted subject to the following restrictions:
 1. Operation or use shall limited to the hours between 6:00 a.m. and 10:00 p.m. in CV-1 Zones only.
 2. There shall not be more than four washing bays for a manual spray car wash in CV-1 Zones only.
 3. Off-street vehicle storage required as follows:
 1. One bay car wash, four spaces in the approach lane
 2. Two bay car wash, three spaces in the approach lane for each wash bay
 3. Three or more bay car wash, two spaces in the approach lane for each wash bay

M

	CV-1	CV-2
Manufacture of goods retailed on premises	N	C
Meat Custom cutting and wrapping excluding slaughtering	N	C
Meat, fish and seafood store	P	P

As Weber County has specifically designated Weber County Ordinance Commercial Valley Zones CV-1, CV-2, for the inclusion of businesses relating to meat custom cutting and wrapping in section 18-B5 Uses. This commercial operation is directly suited for location in the CV-1 and CV-2 zones.

The Jones have verbally advised me, as well as others, that the meat which is produced from this commercial operation will be provided, sold and/or delivered to clients which have procured the meat through sales of livestock and products from Broadmouth Ranch (www.utahelkhunt.com). Thus this

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operation is to be used as an accessory to the commercial hunting enterprise of Rulon Kent Jones and/or Broadmouth Ranch and other entities associated with the afore mentioned.

5B-2 Permitted Uses

1. Accessory building or use customarily incidental to any permitted or conditional use
2. Agriculture, agricultural experiment station; apiary; aviary; aquarium
3. Animals or fowl kept for family food production as an accessory use

As we understand a conditional Land Use permit has been granted due to Weber County Ordinance 5B-2-2 and in following the essence (is that the correct word) of the law that 5B-2-3 clearly states "Animals or fowl **kept for family food production as an accessory use**"

The commercial preparation, cutting, boxing and shipping of processed livestock within and across state lines is not within the essence of the ordinance nor in compliance with Ordinance 5B-2-3 specifically "Animals or fowl kept for family production.....". The intended commercial preparation, cutting, boxing and shipping of processed livestock can in no way be considered an "accessory use".

Ordinance 5B-2-8 clearly states "for produce grown on the premises only" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-10 clearly states "limited to sale of materials produced on premises and with no retail shop operation" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-14 clearly states "but not including privately owned commercial.....business" Thus the Jones submission should be considered under the essence of this ordinance.

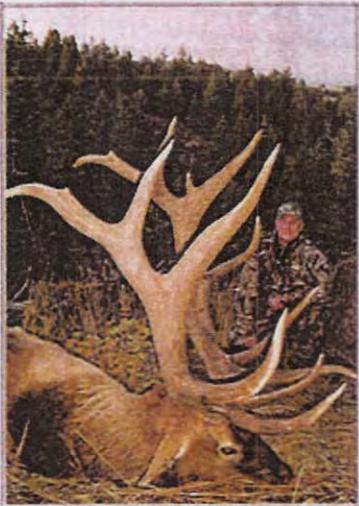
5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises.
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.

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5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:
1. not exceed a density of twenty-five (25) head per acre or used and;
 2. be carried on during the period of September 15 through April 15 only;
 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

The purpose of the proposed commercial operation does not comply Weber County Ordinance 5B-5-4 and 5B-5-5. The raised and grazed livestock providing for this business are in fact sold to individuals as per the terms and conditions on the Broadmouth Ranch website <http://utahelkhunt.com/content/hunts.html> in which hunters are "Featuring 100% Guaranteed Elk Hunts!" at prices listed on the site.

TYPE	PRICE	INFORMATION	
 <p data-bbox="239 1203 403 1233">Elk Hunts</p>	<p data-bbox="507 1203 592 1233"><u>Trophy</u></p>	<p data-bbox="911 1203 1054 1257">\$5,900 plus \$488 license</p>	<p data-bbox="1286 1203 1568 1312">With our trophy hunt, we guarantee an opportunity up to a 340 class bull.</p>
	<p data-bbox="475 1337 628 1366"><u>Management</u></p>	<p data-bbox="871 1337 1098 1366">\$3,900 plus license</p>	<p data-bbox="1286 1337 1544 1366">5X6 Bull and 5X5 Bull</p>
	<p data-bbox="523 1388 580 1417">Cow</p>	<p data-bbox="871 1388 1098 1417">\$1,900 plus license</p>	
	<p data-bbox="485 1439 619 1468"><u>Free Range</u></p>	<p data-bbox="871 1439 1098 1468">\$4,900 plus license</p>	
	<p data-bbox="496 1490 608 1519"><u>Upgrades</u></p>	<p data-bbox="927 1490 1043 1548">Please <u>contact us</u></p>	<p data-bbox="1286 1490 1568 1794">We also have elk hunts that we guarantee specific size bulls. For the hunter that would like to choose a particular class of bull, we have bulls up to 600 points. We do not over hunt our ranches and we are at 100% success for elk.</p>

The proposed commercial operation of Jones and Broadmouth Ranch may also be considered an agricultural feed yard operation as defined in Rulon Kent and Gareth Kent Jones "Agricultural Description of Property". "Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on the property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring elk into smaller area in the winter and be worked".

Conditional Uses

22C-1 Purpose and Intent

The purpose of this chapter is to establish standards for land uses listed in each zone as a conditional use, and to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional."

Conditional uses are intended to allow greater flexibility by providing a wider variety of uses in a zone, while at the same time allowing conditions to be applied, due to their unique characteristics or potential impacts on surrounding uses. These may be appropriate only in certain locations and/or under specific conditions that mitigate potential impacts. If impacts cannot be mitigated, the conditional use may be deemed incompatible in some areas.

22C-3 Review Procedure

Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:

- 1. A completed application form signed by the property owner or certified agent.*
- 2. An application fee. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application.*
- 3. A narrative addressing the Criteria of Issuance 22C-5.*
- 4. Detailed location map.*
- 5. Detailed building plans and site plans specifications shall be drawn to scale including electronic copies showing details and other applicable zoning requirements as which are outlined in Chapter 36 "Design Review" and Chapter 18C "Ogden Valley Architectural, Landscape and Screening Standards"*
- 6. Accompanying documents including water and waste water feasibility letters.*

- 7. Any additional pertinent information needed to adequately describe the proposal.
- 8. A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.
- 9. For those applications where no changes are proposed to an existing structure, the application requirements may be modified by the Planning Director.

In granting a Conditional Use Permit" applications are subject to Weber County Ordinance 22C. Quoting 22C-3 of the ordinance "Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:". The submission by the Rulon Kent and Garet Kent Jones does not include all the required items, specifically:

22C-3-1-5 – Detailed building plans and site plan specifications.....and other applicable zoning requirements as which are outlined in Chapter 36 "Design Review"

Citing Chapter 36 "Design Review":

36-1 Purpose

The purpose and intent of design review by the Planning Commission is to secure the general purposes of this Ordinance and the master plan and to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood.

It shall not be the intent of this Chapter to restrict or specify the particular architectural design proposed or to specify the exterior detail or design, color, or materials proposed by the applicant, except as such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings or as guided by Chapter 18C, Ogden Valley Architectural and Landscape Ordinance.

Weber County Ordinanecd 36-1 Purpose "The purpose and intent of design review by the Planning commission...." is "to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood."

We the adjoining property owners and neighbor property owners in close proximity submit that the "appearance of buildings and structures and the development of the property" do impair the orderly

and harmonious development of the neighborhood and impair investment in and occupation of the neighborhood”.

22C-3-1-6 – “Accompanying documents including water and waste water feasibility letters”

22C-3-1-8 – “A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.

36-2 Application and Review

All applications for occupancy permits or building permits for all multi-family (over 8) dwellings, recreation resort uses, public and quasi-public uses, business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances. All of the above required architectural and site development plans shall be reviewed and approved prior to the issuing of any land use, occupancy or building permit.

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWF and JPEG files of the respective plans.

According to Weber County Ordinance 36-2 Application and Review:

All applications for....business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less

than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances.

Additionally:

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWF and JPEG files of the respective plans

Consideration prior to Conditional Land Use Permit is to be given to Weber County Ordinance 36-4 Considerations in Review of Applications, please see below:

36-4 Considerations in Review of Applications

The Planning Commission and/or the Planning Director shall consider the following matters, and others when applicable, in their review of applications and where the plan is found deficient the plan design shall be amended or conditions imposed to mitigate such deficiencies when considering:

1. *Considerations relating to traffic safety and traffic congestion:*
 1. *The effect of the development on traffic conditions on abutting streets*
 2. *The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways*
 3. *The arrangement and adequacy of off-street parking facilities to prevent traffic congestion*
 4. *The location, arrangement, and dimensions of truck loading and unloading facilities. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, all residential windows should face away from loading docks.*
 5. *The circulation patterns within the boundaries of the development. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, a separate ingress/egress may be required, depending on the size and/or type of use, and for any multiple use complex.*
 6. *The surfacing and lighting of off-street parking facilities*
2. *Considerations relating to outdoor advertising:*
 1. *The number, location, color, size, height, lighting, and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards, the blanketing of*

adjacent property signs and the appearance and harmony with other signs and structures with the project and with adjacent development.

Considerations relating to landscaping:

1. The location, height and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development
2. The planting of ground cover or other surfacing, such as bark or colored/natural gravel, as described in item G, to prevent dust and erosion and provide a visual break for the monotony of building materials, concrete and asphalt
3. A minimum landscape space of 10% of the project area shall be provided with consideration of drought resistant and water conserving landscape materials, or as required by Chapter 18-C, Ogden Valley Architectural and Landscape Ordinance
4. The number and type of mature and planted size of all landscape plantings
5. The method of irrigation and approximate location of the water meter, point of connection, sprinkler and/or drip irrigation heads, and any blow-out or winterizing system. Water conserving methods, such as bubblers and drip systems and electronic timer devices are encouraged
6. The location, type, and size of any existing trees over 4" caliper that are to be removed
7. Landscape Standards. Plant sizes at the time of installations shall be as follows:
 1. Deciduous trees shall have a minimum trunk size of two (2) inches caliper.
 2. Evergreen trees shall have a minimum height of six (6) feet as measured from top of root ball.
 3. All woody shrubs shall have a minimum height or spread of eighteen (18) inches, depending upon the plant's natural growth habit, unless otherwise specified. Plants in five (5) gallon containers will generally comply with this standard.
 4. Vines shall be five (5) gallon minimum size.
 5. Turf grass species, if used, shall be hardy to the local area. Application rates shall be high enough to provide even and uniform coverage within one (1) growing season. Turf areas, where erosion is expected to occur under normal conditions, such as drainage swales, berms and/or slopes greater than 30% shall be planted with sod or other deep-rooting, water conserving plants for erosion control and soil conservation.
 6. Turf grass, if used, shall be limited to no more than 50% of the landscaping requirement.

7. Ground cover may consist of natural or colored gravel, crushed rock, stones, tree bark or similar types of landscaping materials.

8. Water conserving landscaping methods and materials are recommended and encouraged.

8. Plants used in conformance with the provisions of this section shall be hardy and capable of withstanding the extremes of individual site microclimates. The use of drought tolerant and native plants is preferred within areas appropriate to soils and other site conditions. All irrigated non-turf areas shall be covered with a minimum layer of three (3) inches of mulch to retain water. Inhibit weed growth and moderate soil temperature. Non-porous material shall not be placed under mulch.

9. The owner of the premises shall be responsible for the maintenance, repair and replacement, within thirty (30) days of removal, of all landscaping materials on the site. In cases where the thirty (30) day time limit for replacement extends beyond the normal growing season, replacement shall be made at the beginning of the following growing season.

4. Considerations relating to buildings and site layout:

1. Consideration of the general silhouette and mass of buildings including location of the site, elevations, and relation to natural plant coverage, all in relationship to adjoining buildings and the neighborhood concept.
2. Consideration of exterior design and building materials in relation to adjoining structures in height, bulk, and area openings, breaks in facade facing on a street or streets, line and pitch of roofs, and the arrangements or structures on the parcel.

5. Considerations relating to utility easements, drainage, and other engineering questions:

1. The provision within the development for adequacy of storm and surface water drainage and retention facilities and for utilities to and through the property

6. Considerations relating to prior development concept plan approval associated with any Rezoning Agreement, Planned Commercial or Manufacturing Rezoning or Planned Residential Unit Development Approval:

1. Does any proposed phase or phasing sequence of an approved Concept or Preliminary Development Plan provide for logical workable independent development units that would function adequately if the remainder of the project failed to materialize?
2. Is this plan or phase thereof a more detailed refinement of the approved concept plan?
3. Are any modifications of a major nature that first need to follow the procedure for amending the approved concept plan?

A¹⁴/₁₈

36-5 Conditions

Design approval may include such other conditions consistent with the considerations of this, and/or any other Chapter of the Weber County Zoning Ordinance, as the Commission or Planning Director deem reasonable and necessary under the circumstances to carry out the intent of the Zoning Ordinance.

Consideration should be given to the following per Weber County Ordinance 36-5 Conditions:

Weber County Ordinance – Drinking Water Ordinance 41-1 Purpose and Intent, 41-2 Definitions, 41-3 Establishment of Drinking Water Source Protection Zones, 41-4 Identification of Public Water Systems and their Drinking Water Source Protection Zones, 41-5 Allowed Uses, 41-6 Prohibited Uses, 41-7 Sewers within Drinking Water Source Protection Zones and Management Areas, 41-8 Drinking Water Source Protection Requirements, 41-9 Transition, 41-10 Administration

41-1 Purpose and Intent

The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply to the residents of Weber County who receive water for culinary and domestic use from public water systems in the County by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs used by public water systems in the County and by the designation and regulation of property uses and conditions that may be maintained within such zones.

41-2 Definitions

When used in this ordinance, the following words and phrases shall have the meanings given in this Section:

Best Management Practices

A practice or combination of practices determined to be the most effective practicable means of conducting a land use activity to minimize the potential for becoming a pollution source (including technological, economic, and institutional considerations).

Design Standard

Established State or National Standards for the design, construction, placement, or maintenance of a potential contamination source to prevent discharges to the ground water. (See also "Secondary Containment"). A control that is implemented by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

Drinking Water Source Protection (DWSP) Zone

The surface and subsurface area surrounding a groundwater source of drinking water supplying a public water system through which contaminants are reasonably likely to move toward and reach such groundwater source.

Groundwater Source

Any well, spring, tunnel, adit, or other underground opening from or through which groundwater flows or is pumped from subsurface water-bearing formations.

Pollution Source

Point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions clarify the meaning of "pollution source:"

Animal Feeding Operation

A lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

Animal Unit

A unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0

Extremely Hazardous Substances

Those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 560/4-91-011). A copy of this document may be obtained from: Section 313 Document Distribution Center, P.O. Box 12505, Cincinnati, OH 41212.

Hazardous Waste

A waste with properties that make it dangerous or potential harmful to human health or to the environment.

Potential Contamination Source

Any facility or site, which employs an activity or procedure, which may potentially contaminate ground water. A pollution source is also a potential contamination source. Such term includes collection, treatment, storage and distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

Sanitary Landfill

A disposal site where solid wastes, including put resicible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

Sanitary Sewer Line

A pipeline that connects a residence or other building with a sanitary sewer.

Septic Tank/Drain-field System

A system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain field system discharges cannot be controlled with design standards.

Spring

The ground surface outlet of a natural underground spring including Spring collection and control boxes, valves, piping and other attachments.

Storm Water Infiltration Structure

A structure that is intended to discharge storm water so that it infiltrates groundwater.

Underground Storage Tanks

Underground tanks used for the storage of gas, oil, or other hazardous substances.

Wellhead

The physical structure, facility, or device at the land surface from or through which groundwater flows or is pumped from subsurface, water-bearing formations.

SARA Title III

The Superfund Amendment and Reauthorization Act section found in 40 CFR 300-302, pertaining to emergency response and right-to-know.

Source Protection Zone

Means the specified surface and subsurface area surrounding a ground-water source of drinking water supplying a Public Water Supply through which contaminants are reasonably likely to move toward and reach such ground-water source. These zones shall have the approval of the

State of Utah, Division of Drinking Water as described in R309-600 Source Protection: Drinking Water Source Protection for Ground-Water Sources and as stated in Section 41-3.

Time of Travel Distance

The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer. Time of Travel is determined from hydrological studies and is approved by the State Department of Environmental Quality, Division of Drinking Water.

Public Water System

A system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

- *Has at least 15 service connections, or*
- *Serves an average of at least 25 individuals daily at least 60 days out of the year.*

Secondary Containment

A type of system that is used to provide release detection prevention, such as trays under containers, floor curbing or other systems designed to hold materials or liquids that may discharge from containers holding regulated substances. Examples include a double-walled tank, a double-walled integral piping system, or a single-walled tank or integral piping system that is protected by an enclosed concrete vault, liner, or an impervious containment area.

A 18/18

I submit that the Jones are in violation of Weber County Ordinances 30-2 as they have commenced and continued construction prior to issuance of a written permit by the County Building Official.

Land Use Permit, Building Permit and Certificate of Occupancy

30-2 Building Permit Required

Building Permits as specified by Weber County are required for any construction, alteration, repair, removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance of a written permit by the County Building Official.

30-4 Land Use Permit Required

In order to verify zoning requirements and setbacks for permitted or conditional uses, no structure, including agricultural structures, shall be constructed, changed in use, or altered, as provided or as restricted in the Weber County Zoning Ordinance, until and unless a Land Use Permit is approved and issued by the Planning Director or designee.

30-6 Permits to Comply with Ordinance

The Building Official shall not grant a permit for the construction or alteration of any building or structure if such construction or alteration is in violation of any provision of this Ordinance; nor shall any County Official grant any permit or license for the use of any building or land if such use would be in violation of this Ordinance.

30-7 Powers and Duties of Building Official

It shall be the duty of the Building Official to inspect or cause to be inspected all setbacks of buildings in the course of construction or repair. The Building Official shall assist in the enforcement of all provisions of this Ordinance. The Building Official shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations.

Date:



Planning Commission

Land Use Permit

Printed: 6/27/2011

Page 1 of 2

Permit Number: LUP64-2011

Applicant

Name: JONES, RICHARD RALPH &

Address: 3788 E 4100 N

Phone:

WORKING WITH GARET JONES
814-6261

Phone:

Name: JONES, RICHARD RALPH &
Address: 3788 E 4100 N

Owner

Parcel

Parcel Number: 220100001

Zoning:

Total Parcel Area:

Address: 3788 E 4100 N

(*If Zoned S-1, See Specific Height Requirements)

**See Diagram on Back Side for Setbacks

Section:

Township:

Range:

Lot(s):

Subdivision:

Proposed Structure: Repair/Remodel Outbuilding
Structure Area Used: 1200

Is Structure > 1,000 Sq. Ft.?

*If True, Need Certif. Statement

of Dwelling Units: 1
of Accessory Bldgs: 5
Off-Street Parking Req'd:

Permit Checklist:



Public by/Right of Use Road?

No

> 200 ft. from Paved Road?

No

Culvert Required?

No

*Any Work in the Right of Way requires an Excavation Permit

OR Special Exception?

Case #

Meet Zone Area & Frontage?

True

Hillside Review Req'd?

Case #

Culinary Water District:

Private Well

Waste Water System:

Individual

Comments: Issued based on being an agricultural use as discussed with the Staff. Discussion focused on WC definition of agriculture and State Code. Issuance is also based on representations made on the attached siteplan and narrative.

Weber County Land Use Permit Application

Application submittals are recommended to be submitted with an appointment.
(801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)
----------------------------	-------------------	-----------------------------

Property Owner Contact Information

Name Rulon Kent Jones	Mailing Address 3985W 3775E Liberty, UT. 84310
Phone 208 346 6631	Fax
Email Address ruon@utahelkhunt.com	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Garet Kent Jones	Mailing Address of Authorized Person 2775W 4904E Eden UT 84310
Phone (801) 814-6261	Fax
Email Address garet-jones@yahoo.com	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Address 3788 E 4100W Eden 84310	Land Serial Number(s) 22-0100001		
Subdivision Name	Lot Number 3788	Current Zoning	Acreage 6.15
Culinary Water Provider	Secondary Water Provider Liberty Irrigation	Waste Water Provider	Frontage

Detailed Description of Proposed Use/Structure

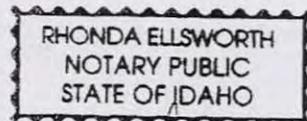
Property Owner Affidavit

I (We), Rulon K Jones, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Rulon Jones
(Property Owner)

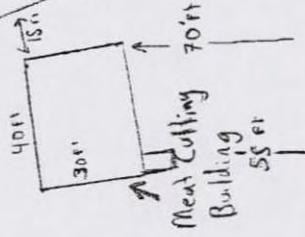
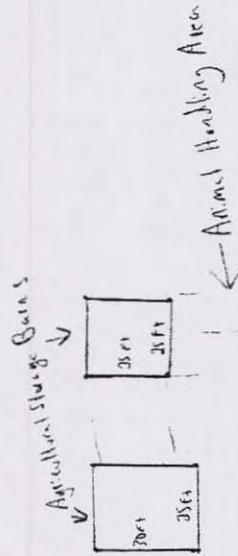
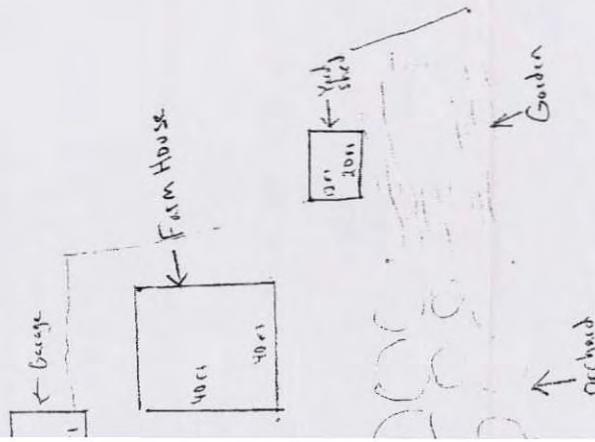
(Property Owner)

Subscribed and sworn to me this 24 day of February, 2011



Rhonda Ellsworth
2/24/11
(Notary)

Jones Site Plan



3800 E Boundary

EXHIBIT D

1/1

EXHIBIT E

1/1

Agricultural Description of Property

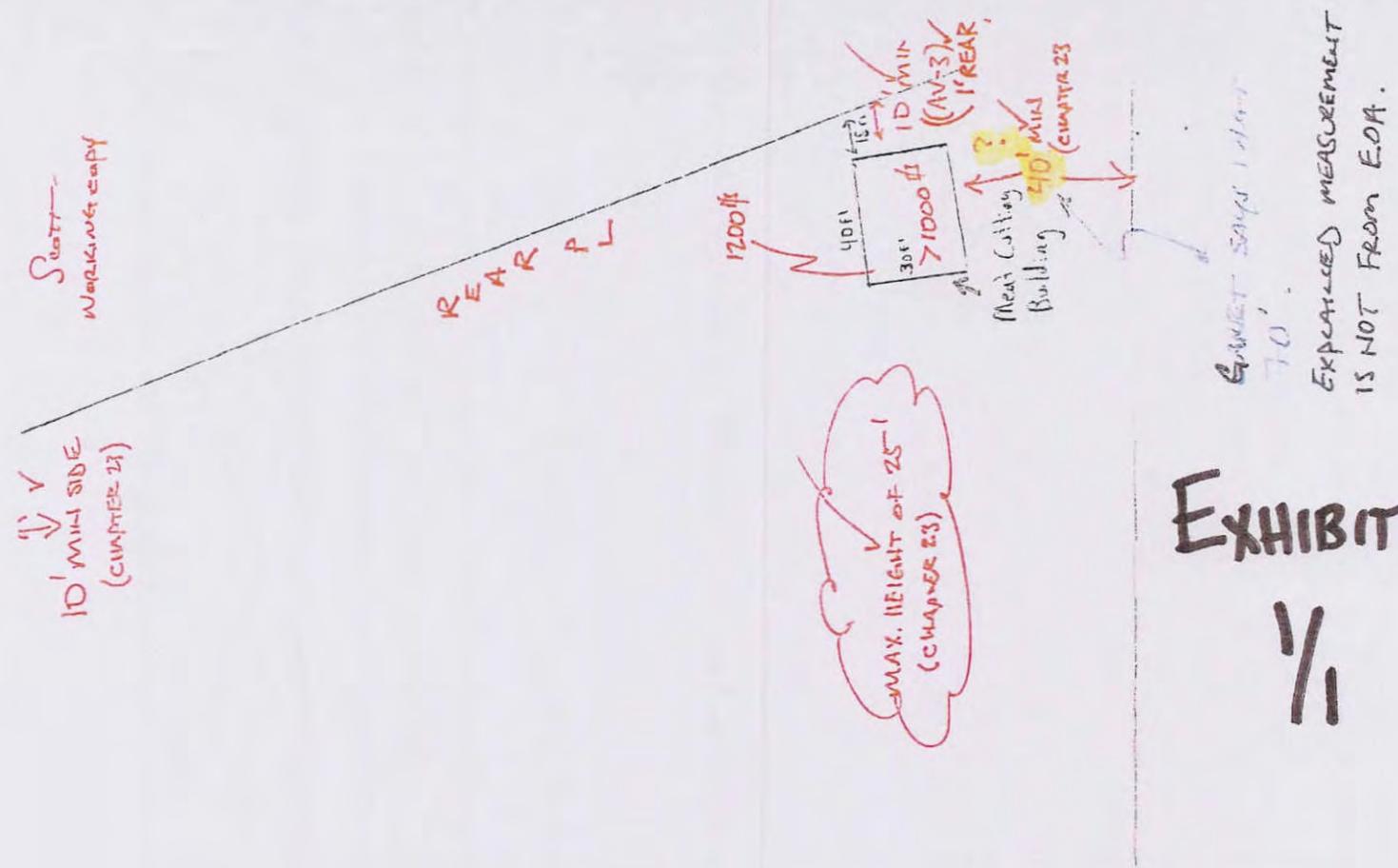
This 6.15 acre piece of property located on the North West corner of 4100n and 3800e in Liberty has and will be used for agriculture. Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on this property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter and be worked. The new calves are ear-tagged and micro-chipped in compliance with the Utah Department of Agriculture rules. All the animals are vaccinated once a year to maintain health.

The meat cutting building will be used to butcher and package the elk meat for consumption. It will have a meat grinder to make hamburger, cutting and packaging areas. There will also be freezers to freeze and store the processed meat.

The property is irrigated with the Liberty secondary water system that is in place. It is irrigated during the spring and summer months and any excess hay is harvested and stored. Weeds are controlled and the land is replanted when needed.

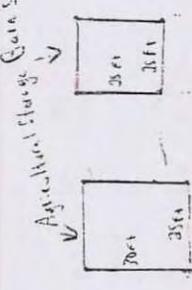
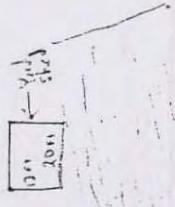
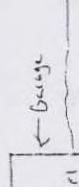
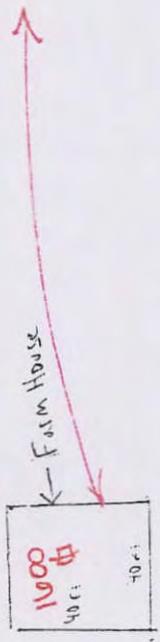
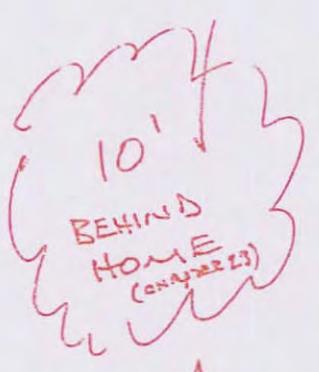
There is also an apple orchard, raspberry patch and a garden which are also part of the agricultural use of the property.

Jones Site Plan



10' MIN SIDE (CHAPTER 23)

Scott's Workshop



Animal Handling Area

SIDE PL. ON STREET

3800 E Boundary

EXHIBIT F

1/2

EXPLANED MEASUREMENT IS NOT FROM E.O.A.

Definitions

Weber County Zoning Ordinance

AGRICULTURE

Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

AGRICULTURAL PARCEL

A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.

Utah State Code

Title 4 - Utah Agricultural Code

Chapter 1 – Short Title and General Provisions

Section 8 – General Definitions

4-1-8. General Definitions

(1) "**Agriculture**" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(2) "**Agricultural product**" or "**product of agriculture**" means any product which is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(6) "**Livestock**" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

Title – Utah Agricultural Code

Chapter 39 – Domesticated Elk Act

Section 102 – Definitions

4-39-102. Definitions

As used in this chapter:

(1) "**Domesticated elk**" means elk of the genus and species *cervus elaphus*, held in captivity and domestically raised for commercial purposes.

(2) "**Domesticated elk facility**" means a facility where domesticated elk are raised.

(3) "**Domesticated elk product**" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

2/2

Title 4 – Utah Agricultural Code

Chapter 32 – Utah Meat and Poultry Products Inspection and Licensing Act

Section 3 – Definitions

4-32-3. Definitions

(9) "**Custom exempt processing**" means processing meat or wild game as a service for the person who owns the meat or wild game and uses the meat and meat food products for the person's own consumption, including consumption by immediate family members and non-paying guests.

(10) "**Custom exempt slaughter**":

(a) means slaughtering an animal as a service for the person who owns the animal and uses the meat and meat products for the person's own consumption, including consumption by immediate family members and non-paying guests; and

(b) includes farm custom slaughter.

(25) "**Meat establishment**" means a plant or fixed premises used to:

(a) slaughter animals for human consumption; or

(b) process meat or poultry products for human consumption.

(38) "**Process**" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

(40) "**Slaughter**" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

Title 17 – Counties

Chapter 41 – Agriculture and Industrial Protection Areas

Section 101 – Definitions

17-41-101. Definitions

As used in this chapter:

(2) (a) "**Agriculture production**" means production for commercial purposes of crops, livestock, and livestock products.

(b) "**Agriculture production**" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

1/2

The slaughterhouse process differs by species and region.

A typical procedure follows:

Answerbag.com

- Animals are received by truck or rail from a ranch, farm, or feedlot.
- Animals are herded into holding pens (see Judas goat).
- Animals receive a preslaughter inspection.
- Animals are rendered insensible (unconscious) by stunning (method varies)
- Animals are hung by hind legs on processing line.
- A main artery is cut, the animal's blood drains out and it dies.
- Animal's hide/skin/plumage is removed.
- Carcass is inspected and graded by a government inspector for quality and safety. (by the Food Safety Inspection Service in the US, and CFIA in Canada)
- Carcass is cut apart and the body parts separated.

Source: www.answerbag.com

Wikipedia

- Cattle (mostly steers and heifers, some cows, and even fewer bulls) are received by truck or rail from a ranch, farm, or feedlot.
- Cattle are herded into holding pens.
- Cattle are rendered unconscious by applying an electric shock of 300 volts and 2 amps to the back of the head, effectively stunning the animal,[6] or by use of a captive bolt pistol to the front of the cow's head (a pneumatic or cartridge-fired captive bolt). Swine can be rendered unconscious by CO₂/inert gas stunning. (This step is prohibited under strict application of Halal and Kashrut codes.)
- Animals are hung upside down by both of their hind legs on the processing line.
- The carotid artery and jugular vein are severed with a knife, blood drains, causing death through exsanguination.
- The head is removed, as well as front and rear feet. Prior to hide removal, care is taken to cut around the digestive tract to prevent fecal contamination later in the process.
- The hide/skin is removed by down pullers, side pullers and fisting off the pelt (sheep and goats). Hides can also be removed by laying the carcass on a cradle and skinning with a knife.
- The internal organs are removed and inspected for internal parasites and signs of disease. The viscera are separated for inspection from the heart and lungs, referred to as the "pluck." Livers are separated for inspection, tongues are dropped or removed from the head, and the head is sent down the line on the head hooks or head racks for inspection of the lymph nodes for signs of systemic disease.
- The carcass is inspected by a government inspector for safety. (This inspection is performed by the Food Safety Inspection Service in the U.S., and Canadian Food Inspection Agency in Canada.)
- Carcasses are subjected to intervention to reduce levels of bacteria. Common interventions are steam, hot water, and organic acids.
- Carcasses (typically cattle and sheep only) can be electrically stimulated to improve meat tenderness. Carcasses are chilled to prevent the growth of microorganisms and to reduce meat deterioration while the meat awaits distribution.
- The chilled carcass is broken down into primal cuts and subprimals for boxed meat unless customer specifies for intact sides of meat. Beef and horse carcasses are always split in half and then quartered, pork is split into sides only and goat/veal/mutton and lamb is left whole

- The remaining carcass may be further processed to extract any residual traces of meat, usually termed advanced meat recovery or mechanically separated meat, which may be used for human or animal consumption.
- Waste materials such as bone, lard or tallow, are sent to a rendering plant. Also, lard and tallow can be used for the production of biodiesel or heating oil.
- The wastewater, consisting of blood and fecal matter, generated by the slaughtering process is sent to a waste water treatment plant.
- The meat is transported to distribution centers that then distribute to retail markets.

Source: en.wikipedia.org



NELSEN LAW
OFFICES, P.C.

3748 Evergreen Drive • Pleasant View, UT 84414 • Phone: 877-699-2250 • Fax: 877-699-6915

Jason K. Nelsen
jason@nelsenlawoffices.com

October 5, 2011

VIA HAND DELIVERY

Mr. Brent Bateman
Office of the Property Rights Ombudsman
160 East 300 South
Box 146702
Salt Lake City, UT 84114-6702

***RE: Advisory Opinion Request – Bret Barry
Property Address: 3187 East 4100 North, Liberty, Utah***

Dear Mr. Bateman:

I represent the owners of the above-referenced property, Richard Ralph and Rulon Kent Jones (the “Landowners”), in connection with the challenge Mr. Bret Barry has brought concerning the propriety of the land use approval recently provided to the Landowners by Weber County. This correspondence constitutes the Landowner’s response to the letter of Ms. Jodi Hoffman on behalf of her client, Mr. Bret Barry (the “Objecting Party”), dated August 20, 2011, in which the Objecting Party requested an advisory opinion from your office.

The Landowner’s were surprised by the tone of the Objecting Party’s August 20, 2011 correspondence and manner in which it repeatedly demeaned the careful consideration Weber County gave the Landowner’s application for a land use approval. For the sake of brevity, I will not recount the procedural history of this matter. The Landowners believe the procedural history has been well documented by both the Objecting Party and Weber County. Further, the Landowners believe the “Staff Report to the Weber County Board of Adjustments” (a copy of which is enclosed herewith) does an excellent job of clearly and thoroughly explaining the legal support for Weber County’s decision and the analysis that led to the decision. Therefore, this correspondence will only touch lightly on why the Landowner’s believe Weber County’s decision and analysis is well supported and legally sound.

The Landowner’s primary purpose in providing this response is to clarify/correct certain factual issues raised in the Objecting Party’s correspondence. These issues are addressed individually below.

FACTUAL ISSUES

1. It was not clearly explained in the other submissions in this matter just how small and inconsequential the building/structure in question is. Several color photographs have been attached at Exhibit "A" to this letter to help provide perspective to the issues at hand. The building is a very small, *existing* and almost entirely underground structure. Modifications to the inside of the structure were made to accommodate the meat cutting operation and a secondary roof structure was added to meet the requirements of the Utah Department of Agriculture for this type of facility. The only other addition to the existing structure was condensers (like the air conditioning condenser outside of nearly every modern home) to cool the freezers and environment inside the structure.

2. It should also be noted that, in addition to having a two-layered roof structure and being almost entirely underground, the structure has 12 inch thick concrete walls. The Objecting Party's assertion that noise from the structure "will permeate the interior of Mr. Barry's home on a daily basis" is factually incorrect. An assertion of excess or bothersome noise permeating from the use of knives and a meat cutting saw (which produces no more noise than an standard electric can opener or kitchen mixer) inside an underground structure with a two-layered roof and 12 inch thick concrete walls is without merit or factual basis.

3. A representative from the Utah Department of Agriculture told the Landowners that, based on the unique construction and location of the structure in question, the structure is one of the best of its kind in Utah because of its minimal impact on neighboring landowners.

4. The Objecting Party states that the small meat cutting building will be used to "cut, grind, process, package, refrigerate and ship big game (elk Shiras moose, buffalo and mule deer) that [are] shot by tourists on one of two private elk preserves that are owned by [one of the Landowners]." This statement is incorrect on multiple fronts. The two "preserves" that the Objecting Party refers to are located in Blackfoot, Idaho and Liberty, Utah. No meat from animals harvested on the Blackfoot, Idaho preserve will be cut in the facility in question. Even if that were desired, the practical difficulties of transporting meat that far for cutting would preclude it. Only meat from animals actually raised on the property is question will be cut and packaged in the facility in question. Practical necessity requires this. It is unclear from what source the Objecting Party obtained his belief that moose, deer or buffalo will be cut or packaged in the facility in question, but that did not come from the Landowners or their submissions to Weber County that are part of the record for this matter.

LEGAL ARGUMENT

As noted above, the Landowners believe the legal basis for Weber County's decision is very well explained in the enclosed "Staff Report to the Weber County Board of

Adjustments.” However, in addition to the explanation provided in the enclosed report, it is important to note the following items.

1. Weber County appears to have very carefully considered this application and the proposed use of the property in question. County code was referenced and, where the county code did not provide detailed enough definitions and clarification, Weber County properly referenced state law for further help in defining and clarifying the meaning of terms and concepts. This type of careful deference to definitions given by state law (to assist in defining general terms in the county code) is highly favored, at least in the Landowner’s opinion.

2. Pursuant to Utah law, counties are given great deference in interpreting their own land use ordinances. Utah courts have repeatedly upheld the latitude given to counties in interpreting land use ordinances. For example, in *Springville Citizens for a Better Community vs. Springville City*, 979 P.2d 332, 336 (Utah 1999), the Utah Supreme Court stated:

A municipality's land use decisions are entitled to a great deal of deference. [citations omitted] Therefore, “the courts generally will not so interfere with the actions of a city council unless its action is outside of its authority or is so wholly discordant to reason and justice that its action must be deemed capricious and arbitrary and thus in violation of the complainant's rights.” [citation omitted] Indeed, the statute that forms the basis of this appeal requires the courts to “presume that land use decisions and regulations are valid.” Utah Code Ann. § 10-9-1001(3)(a).

As clarified below, this same standard would apply to county land use decisions. The *Springville Citizens for a Better Community* Court also noted that the Court will not “substitute our judgment for that of the municipality.” *Id.* In *Carrier v. Salt Lake County*, 104 P.3d 1208, 1215 (Utah 2004), the Utah Supreme Court further clarified its position on the great deference given to county land use decisions as follows:

a district court is required to “presume that land use decisions ... are valid,” id. § 17-27-1001(3)(a)(i), and may decide only “whether the board of adjustment's decision is arbitrary, capricious, or illegal,” id. § 17-27-708(2)(a); see also id. § 17-27-1001(3)(a)(ii)

The foregoing is just a sampling of clear Utah precedent in favor of granting counties latitude in interpreting and applying their land use decisions. As long as the county is careful in its consideration of an application and provides a reasonable basis for its decision, the decision is and should be upheld. In this case, Weber County was careful in reaching its decision and provided excellent analysis for how and why it reached the decision it did. The Landowners believe Weber County’s decision is correct and will be upheld on appeal.

Please contact me with questions or if I can provide any further information. Thank you, in advance, for your time and consideration given to this matter. The Landowners and I appreciate your office's efforts and assistance.

Sincerely,



Jason K. Nelsen
Attorney at Law

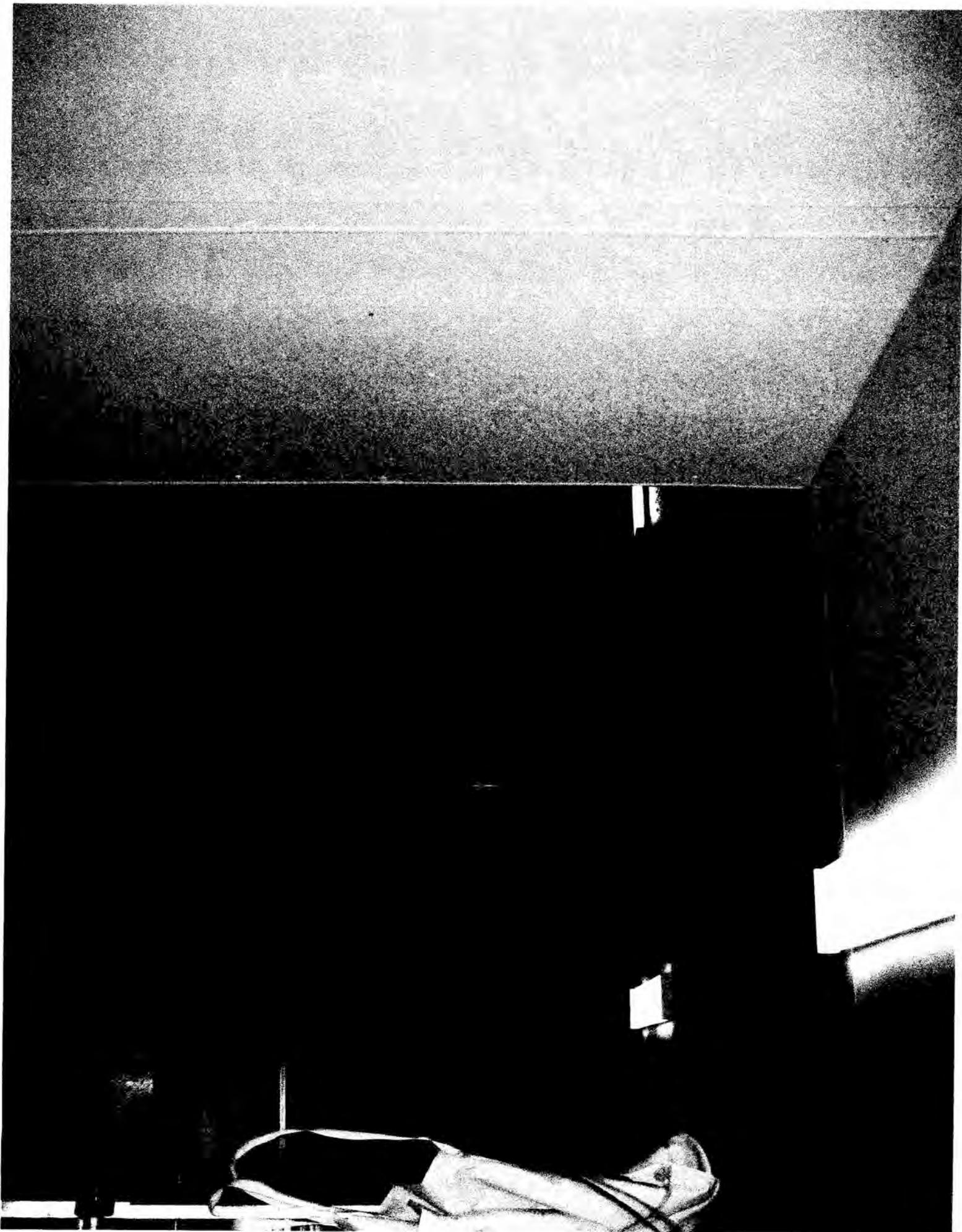
Enclosure

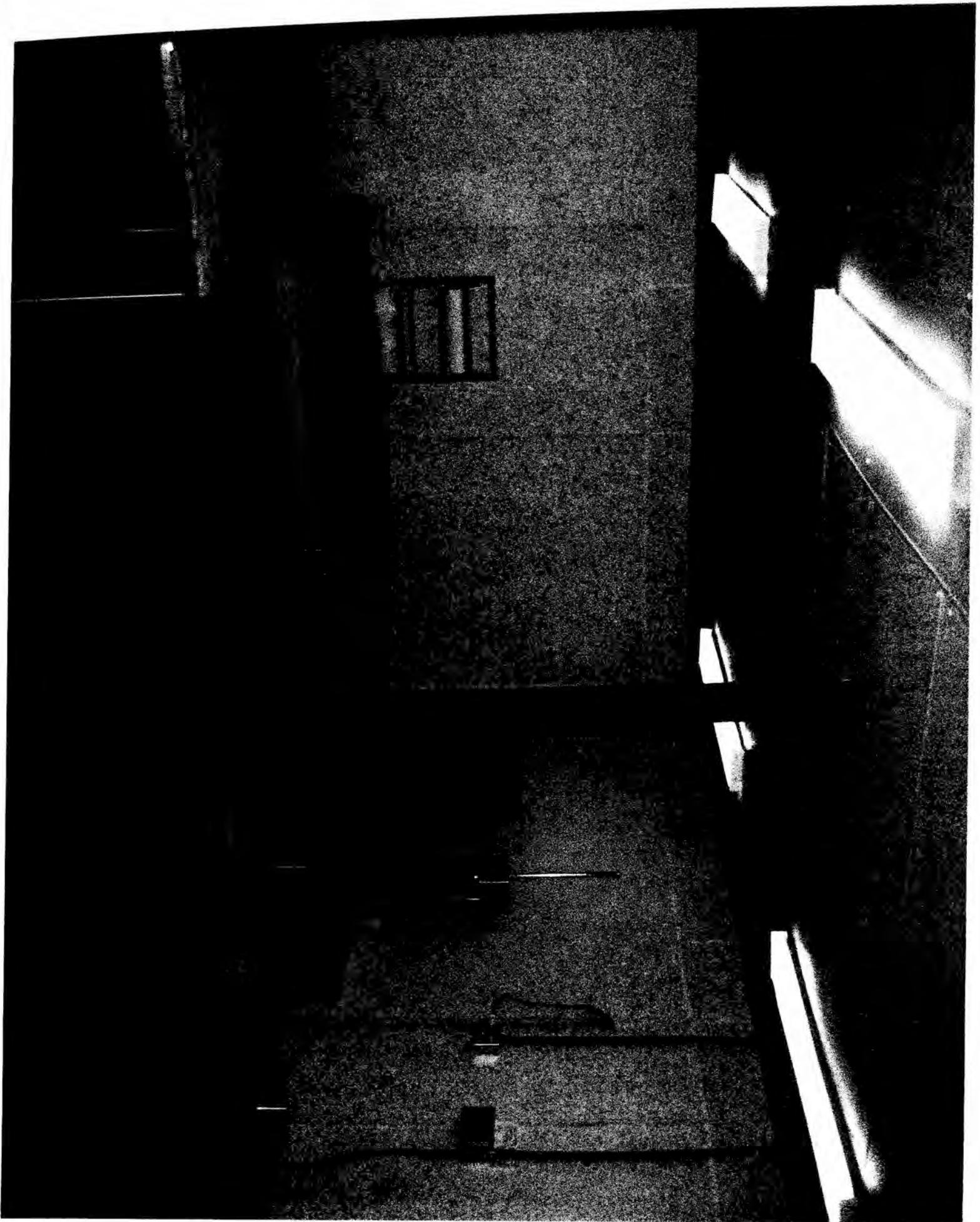
EXHIBIT "A"

Pictures of Subject Building











Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on an appeal of an administrative decision, by the Weber County Planning Division, to issue a Land Use Permit for parcel #22-010-0001, (located at 3788 E 4100 N, Liberty) owned by Richard Ralph & Rulon Kent Jones. The allegation is that the Planning Division erred in its decision to issue this Land Use Permit.

Agenda Date: Thursday, August 25, 2011

Applicant: Bret Barry

File Number: BOA 2011-04

Property Information

Approximate Address: 3788 East 4100 North, Liberty

Project Area: 6.15 Acres

Zoning: Agricultural Valley-3 Zone (AV-3)

Existing Land Use: Residential and Agriculture

Proposed Land Use: Expand Agricultural Use

Parcel ID: 22-010-0001

Township, Range, Section: T7N, R1E, Section 20

Adjacent Land Use

North: Residential	South: Residential
East: Residential	West: Residential

Staff Information

Report Presenter: Scott Mendoza
smendoza@co.weber.ut.us
801-399-8769

Report Reviewer: RS

Applicable Ordinances

- Weber County Zoning Ordinance Chapter 29 (Board of Adjustment)
- Weber County Zoning Ordinance Chapter 1 (General Provisions/Definitions)
- Weber County Zoning Ordinance Chapter 5B (Agricultural Valley – 3)
- Weber County Zoning Ordinance Chapter 23 (Supplementary and Qualifying Regulations)

Background

Description and Appellant Request

On June 27, 2011 the Weber County Planning Division reviewed a Land Use Permit Application and subsequently issued a permit for, what has been interpreted by the Planning Staff to be, an agricultural use on a parcel located at 3788 E 4100 N in Liberty, Utah. See Map #1, on page 6 of 7, for approximate location. The Planning Division’s decision to issue this Land Use Permit was based on information presented, and its compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height; however, it is being appealed to the Board of Adjustment for several stated reasons ranging from the Planning Staff’s misapplication of the Zoning Ordinance to incomplete and inaccurate information being provided by the Land Use Permit applicant.

Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance states that one of the duties and powers of the Board is *“To hear and decide appeals where, it is alleged by the appellant that, there is error in any order, requirement, decision, or refusal made in the enforcement of this Ordinance.”* The appellant, Mr. Bret Barry in this case, is requesting that the Board of Adjustment consider his appeal and cause the rescission of the Land Use Permit in question. See Exhibit A for appellant’s letter to the Board of Adjustment. See Exhibit B for the Land Use Permit.

Parcel Information and Proposed Use

The agricultural parcel (Tax ID# 22-010-0001) for which the Land Use Permit was issued, is owned by Richard Ralph and Rulon Kent Jones. It consists of approximately 6.15 acres and lies within the Agricultural Valley – 3 (AV-3) Zone which lists “agriculture” as a permitted use.

During the third week of June (2011) an authorized representative, of the landowners, submitted a Land Use Permit Application, a site plan, and a written narrative that describes the subject property and the proposed land use. See Exhibits C, D, and E respectively.

As described in the narrative, attached as Exhibit E, the Jones’ have proposed to expand their current agricultural activities by utilizing an existing (1200 sq.ft.) agricultural building for meat cutting/preparation. It has been represented that the building will only be used for cutting/preparing meat (elk) that is a product of this farm operation and not for slaughtering, butchering, or custom cutting other animals that have been raised and/or harvested from other sources, e.g., other livestock operations or a hunter’s wild game. It has also been represented that there would be a limited number of animals (approximately 100) cut and prepared during the fall months only.

Land Use Permit Issuance

In issuing the Land Use Permit, the Planning Division relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. The specific zoning ordinances that apply to the Jones’ application are Chapter 1 (General Provisions/Definitions); Chapter 5B (Agricultural Valley – 3), due to the fact that the Jones’ property lies within the Agricultural Valley – 3 Zone; and Chapter 23 (Supplementary and Qualifying Regulations), due to the structure’s size.

Chapter 5B states that “*agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.*” It lists “agriculture” as a permitted use and Chapter 1 defines “agriculture” and an “agricultural parcel” in the following ways:

AGRICULTURE: *Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.*

AGRICULTURAL PARCEL: *A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.*

The parcel owned by the Jones’ meets the definition of an “agricultural parcel” and it is the Planning Division’s interpretation that the proposed use is “agriculture” (“primarily farming” and a “related purpose”); therefore, it is permitted.

The following describes the rationale behind the Planning Staff’s decision to issue the Land Use Permit:

1. A complete Land Use Permit Application Packet, certified to be true and correct, was submitted.
2. The Jones property site plan, submitted as a part of their packet, represented that the subject building is in compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height.
3. After consideration was given to the Weber County Zoning Ordinance, the proposed use was interpreted to be “agriculture” which is a permitted use in the AV-3 Zone.

Due to the County’s definition of “agriculture” being quite broad, i.e., agriculture is “primarily farming and related purposes”, the Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of “agriculture”:

“Agriculture” means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

4. The Planning Staff considered the proposed “meat cutting” activity to be a part of the “preparation” as included in the above Utah State Code definition of “agriculture”. Due to the inclusion of the word “preparation”, the

Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of "prepared" and "process":

"Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"Process" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

Even though the Utah State Code includes "slaughter" in its definition of "prepared", the Planning Staff determined that the proposed use was not a "slaughterhouse" due to the lack of activities customarily involved with "slaughtering". The proposed use (meat cutting building) will not include customary activities such as stunning or causing the animals to become unconscious/insensible, exsanguination (the killing of the animal) skinning, removal of internal organs, or rendering waste materials. See Exhibit H for examples of the slaughtering process. The following is the Utah State Code definition of "slaughter":

"Slaughter" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

5. Livestock (animals) is undoubtedly a product of agriculture; therefore, the Planning Staff, prior to issuing the Land Use Permit, was able to verify that "domesticated elk" are specifically listed and considered to be "livestock" according to the State of Utah. The following is the Utah State Code definition of "livestock" and "domesticated elk" as referenced:

"Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

"Domesticated elk" means elk of the genus and species cervus elaphus, held in captivity and domestically raised for commercial purposes.

Appeal

On July 13th, 2011, Mr. Bret Barry, the owner of a home and property neighboring the proposed use, submitted an application to the Board of Adjustment requesting the above described appeal. See Exhibit A for Mr. Barry's letter to the Board of Adjustment.

Below is a summarized list of issues/concerns that Mr. Barry is bringing to the attention of the Board of Adjustment, followed by a Planning Staff response:

1. **The proposed use is non-compliant with Section 5B-3(5) of the Zoning Ordinance because its distance to dwellings on adjacent properties is not at least two hundred (200) feet and the site includes permanent fences, corrals, chutes, structures, and other buildings associated with a feeding operation.**

5B-3. Permitted Uses Requiring Five (5) Acres Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises
5. **The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:**
 - A. **not exceed a density of twenty-five (25) head per acre of used and;**
 - B. **be carried on during the period of September 15 through April 15 only;**
 - C. **be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,**
 - D. **not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation**

PLANNING STAFF RESPONSE:

Section 5B-3(5) specifically and unambiguously states “the raising and grazing of horses, cattle, sheep or goats”, and then assigns additional requirements to operations that raise and graze “horses, cattle, sheep, or goats.” This list does not serve as a list of examples due to the fact that words like “such as”, “for example”, or “not limited to” are not used. Due to this the Planning Staff concluded that the list was created decidedly and intentionally; therefore, the standards listed in A through D above only apply to farm operations that involve those specifically listed animals.

Neither the existing and/or proposed use involves the raising and grazing of “horses, cattle, sheep or goats”; therefore, Section 5B-3(5) does not apply and should not be considered by the Board of Adjustment.

In the event it were interpreted that Section 5B-3(5) did apply, the requirements listed in A through D above would only apply to the “raising and grazing” area/operation and not to accessory buildings or those uses completely contained within them. This becomes evident after reading the requirements listed in A through D. For example, requirement A refers to the number of animals allowed on a per acre basis. One can see how this requirement (and others) applies to the “raising and grazing” and could not apply to an accessory building.

- 2. Nothing within the Land Use Permit Packet provided guidelines, plans, or definition of environmental impact, waste handling or disposal, waste water (septic), harmony with surrounding neighbors and harmony with the purpose of the residential area.**

PLANNING STAFF RESPONSE:

The Weber County Zoning Ordinance does not require guidelines, plans, or definitions of environmental impact, waste handling or disposal, waste water (septic), or applicant descriptions of how a proposed use is in harmony with surrounding neighbors or in harmony with the purpose of a residential area. Documentation or proof of culinary and waste water (septic) approval is required prior to the issuance of a Weber County Building Permit. The required documentation has been provided by the Weber/Morgan Health Department and has been received by the Weber County Building Inspections Office.

- 3. The proposed use is contrary to the public interest and will result in unnecessary hardship to both adjoining properties and other residents in the area.**

PLANNING STAFF RESPONSE:

Mr. Barry would like the Board of Adjustment to find that the proposed use is “contrary to the public interest”; therefore, rescind or overturn the issuance of the Land Use Permit. He, in his letter to the Board of Adjustment, has quoted the following language from Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance:

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided, that the spirit of this Ordinance shall be preserved and substantial justice done.

This language resides in Section 29-3 (Duties and Powers of the Board) and explains one of approximately thirteen other duties of the Board of Adjustment; none of which authorize the Board of Adjustment to rescind Land Use Permits based on whether or not a proposed use is thought to be contrary to public interest. The above language simply authorizes the Board of Adjustment to hear and grant variances when certain criteria are met. Mr. Barry’s appeal is not a variance request; therefore, this language does not apply to the appeal and should not be considered by the Board of Adjustment.

- 4. There is evidence of a lack of stewardship, care for animals and care for facilities on the property for which the Land Use Permit was issued.**

PLANNING STAFF RESPONSE:

The general condition of property or the lack of stewardship may, in some cases, be addressed through the County’s Zoning Enforcement; however, a lack of stewardship, in this case, does not apply to the appeal and should not be considered by the Board of Adjustment.

5. The proposed use is not agriculture but is in fact commercial.

PLANNING STAFF RESPONSE:

The Planning Division Staff relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. After considering these sources, the proposed use was determined to be "agriculture". Refer to the "Land Use Permit Issuance" section above.

6. The proposed use is not within the essence of the agriculture ordinance's (Chapter 5B or AV-3 Zone) sub-sections listed below nor in compliance (specifically) with the 5B-2-3:

5B-2-3. Animals or fowl kept for family food production as an accessory use

5B-2-8. Fruit or vegetable stand for produce grown on the premises only

5B-2-10. Greenhouse and nursery limited to sale of materials produced on premises and with no retail shop operation

5B-2-14. Private park, playground or recreation area, but not including privately owned commercial amusement business

PLANNING STAFF RESPONSE:

The proposed use has been interpreted to be "agriculture" which is listed as a permitted and entirely separate use allowed in the AV-3 Zone. Sub-section 5B-2-3 (*Animals or fowl for family food production as an accessory use*) is intended to allow animals to be kept on the same property as a single family dwelling which is the main use.

The above listed sub-sections do not regulate agricultural activities; therefore, they do not apply to the appeal and should not be considered by the Board of Adjustment.

7. The operation does not comply with Weber County Ordinance 5B-5-4 and 5B-5-5.

PLANNING STAFF RESPONSE:

Sub-sections 5B-5-4 and 5B-5-5 regulate main building height and accessory building height respectively. The buildings located, on the parcel for which the Land Use Permit has been issued, meet the building height requirements for the Agricultural Valley – 3 Zone; therefore, these sub-sections do not apply to the appeal and should not be considered by the Board of Adjustment.

8. The proposed use is subject to Chapter 22C (Conditional Uses) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

The proposed use is not listed as a Conditional Use; therefore, the proposed use is not subject to the Conditional Use Permit review process. This allegation does not apply to the appeal and should not be considered by the Board of Adjustment.

9. The proposed use is subject to Chapter 36 (Design Review) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 36 provides standards for traffic safety, advertising, landscaping, site layout, and utilities only when associated with the development of multi-family dwellings, recreation resort uses, public and quasi-public uses, business, commercial, and manufacturing sites. The proposed use has been interpreted to be an agricultural use; therefore, Chapter 36 does not apply and should not be considered by the Board of Adjustment.

10. The proposed use is subject to Chapter 41 (Drinking Water Source Protection) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 41 provides standards for certain types of activities (including agriculture) when located within Drinking Water Protection Zones. The parcel and proposed use, for which the Land Use Permit has been issued, is not located within a

Drinking Water Protection Zone; therefore, Chapter 41 does not apply to the proposed use and should not be considered by the Board of Adjustment. See Map #2, on page 7 of 7, for Drinking Water Protection Zones and subject parcel location.

11. The Jones' are in violation of Chapter 30 (Land Use Permit, Building Permit and Certificate of Occupancy) of the Weber County Zoning Ordinance. Construction activities commenced prior to the issuance of a Building Permit.

PLANNING STAFF RESPONSE:

The Jones' did begin construction prior to the issuance a Building Permit; however, all required information was received and a Building Permit was issued on (or about) July 26th, 2011.

Summary of Board of Adjustment Considerations

- Is the proposed use agriculture?
- Does Section 5B-3(5) of Chapter 5B (Agricultural Valley-3 Zone) apply to the proposed use?
- Do Mr. Barry's other listed concerns (2 through 11) apply to the appeal?

Staff Recommendation

The Planning Division Staff recommends that the administrative decision, to issue the subject Land Use Permit, be upheld based on the information presented in this staff report.

Exhibits

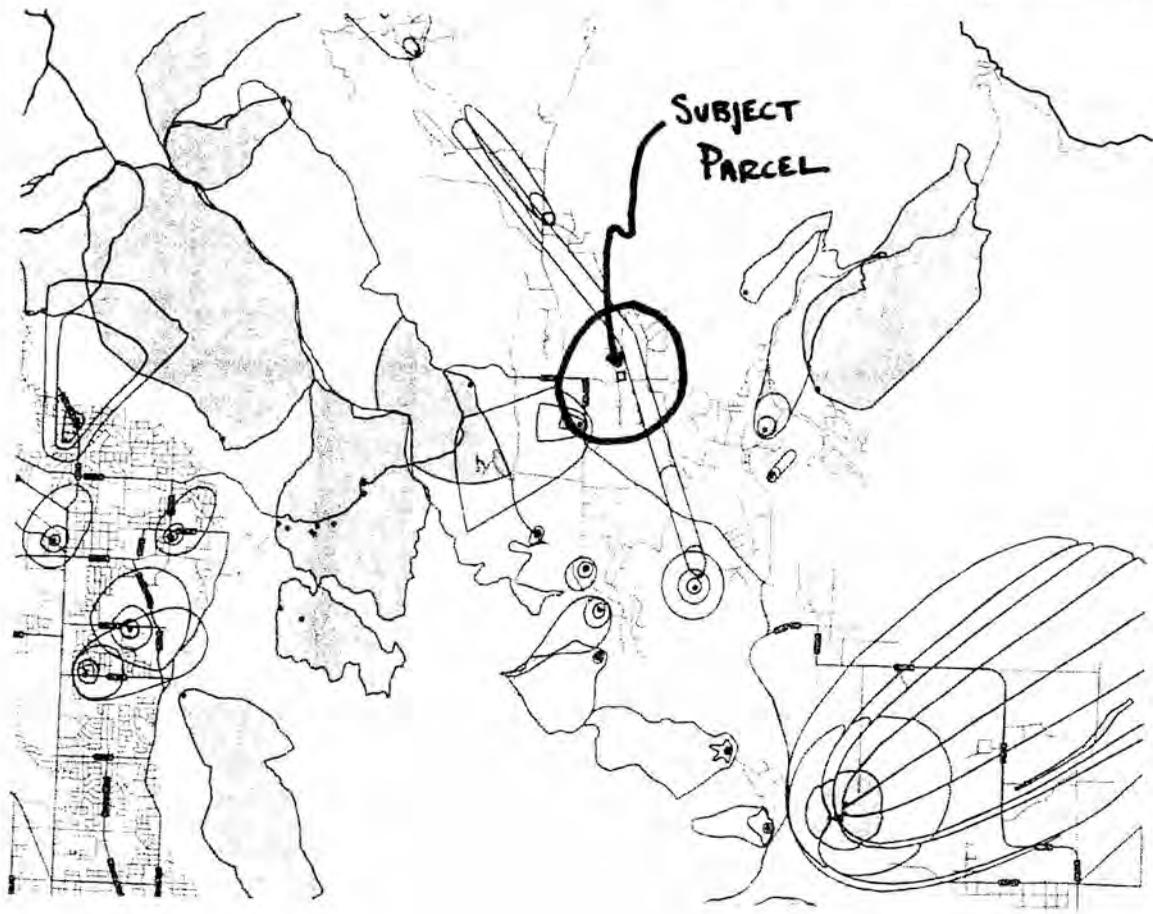
- A. Appellant's letter to the Board of Adjustment.
- B. Land Use Permit.
- C. Weber County Land Use Permit Application.
- D. Proposed Site Plan.
- E. Jones Narrative Describing Proposed Use.
- F. Planning Division Staff Review Notes of Proposed Site Plan.
- G. Weber County and Utah State Code Definitions.
- H. Examples of Typical Slaughterhouse Procedures.

Map #1 - Jones Property (Parcel 22-010-0001)



Map #2 - Drinking Water Protection Zones and Subject Parcel Location

DRINKING WATER PROTECTION ZONES AND SUBJECT PARCEL LOCATION



Dear Weber County Board of Adjustment,

This appeal has been prepared to request a Board of Adjustment hearing and public comment on the Land Use Permit (LUP64-2011) issued by Weber County for parcel number 220100001 located at 3788 E 4100 N in Liberty, Utah. The parcel is listed under "Jones, Richard Ralph &" on the Land Use Permit.

I, and various neighbors adjoining and in close proximity to the property, believe there are requirements which may have been overlooked in the approval process which may be due to incomplete and inaccurate information provided by by Rulon Kent and Garet Kent Jones in their narrative and drawings submitted with the Weber County Land Use Permit Application. The drawing provided by the Jones' did not show the adjacent properties or dwellings.

- I bring your attention to 5B-3 of the Weber County zoning ordinances Agriculture Valley Zone AV-3 titled "5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area specifically points 5 and 6. Please see the permit language below.

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

- 1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises*
- 2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver*
- 3. Fruit and vegetable storage and packing plant for produce grown on premises.*
- 4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.*
- 5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:*
 - 1. not exceed a density of twenty-five (25) head per acre of used and;*
 - 2. be carried on during the period of September 15 through April 15 only;*
 - 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,*
 - 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation*

Point 5B-3-5-3 specifically states "be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land". The proximity of the home/dwelling on the adjoining property of Bret Barry at 4221 N 3800 E, Liberty, UT 84310 is less than two hundred (200) feet from the proposed building. The proximity of this adjoining dwelling creates non-compliance with the ordinance.

- Additionally, the proximity of the home/dwelling of Clay Poulter, 4170 N 3800 E, Liberty, UT 84310 is also less than two hundred (200) feet from the proposed building.
- Point 5B-3-5-4 specifically states “**not to include** the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation”. There are permanent fences, structures and buildings on this site. This is also stated in the “Agricultural Description of Property”. “The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter to be worked”. It seems that these buildings create violations of the ordinance.
- The meat packing slaughter house is contrary to the neighborhood interest. While it may be in an agricultural zone AV-3, this area has been, for over four decades, a subdivision where agriculture is practiced for family use. There are certainly no other commercial facilities. The waste products of blood and offal are a strong attractant to predators. There have been multiple incidents with animal killings by predators in the area since the elk have been on the property. We expect the processing of meat would increase predators in the area.
- This facility is not in harmony with the area which is principally family housing on large parcels and animals are kept as “pets”. Concern for odors from the facility, other pollutants and disposal of waste products is of great concern. Additionally this will bring more traffic to a very quiet street with children. Additional traffic and the need for more parking to provide for the delivery and pickup of elk can also be expected to create undue hardship on neighbors and local residents.

In summary, we believe the Land Use Permit (LUP64-2011) is not in compliance with Weber County Ordinances for Agriculture Property Zone AV-3 and may have been issued because of incomplete and inaccurate information supplied by the Jones' on their Weber County Land Use Permit Application.

- Distance to dwellings on adjoining properties is not two hundred (200) feet thus not in compliance with Ordinance 5B-3.
- The site includes permanent fences, corrals, chutes, structures and other buildings normally associated with a feeding operation thus not in compliance with Ordinance 5B-3.
- Nothing within the narrative nor drawings provides guidelines, plans or definition of Environmental Impact, waste handling and disposal plan, waste water plan, harmony with surrounding neighbors and harmony with purpose of the residential area.
- Quoting Weber County Board of Adjustment Application Review Document (current as of 05/01/10) page 2 of 5 point 3 “To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the Ordinance will result in

A 3/18

unnecessary hardship; provided, that the spirit of the Ordinance shall be preserved and substantial justice done” We submit that the proposed facility is “contrary to the public interest” and “will result in unnecessary hardship” to both adjoining properties and other residents in the area.

Thus we request according to point 4 (“to interpret the zoning map and zoning ordinance”) that the Board of Adjustment hear this appeal which is brought forth by Bret Barry and other local residents.

Sincerely,

Bret Barry
Property Owner
4221 N 3800 E
Liberty, Utah 84310

Attached please find multiple photos of the Jones property where the proposed slaughterhouse meat processing facility is intended to be located.

I bring your attention to such inaccurate statements documented by photos:

“Weeds are controlled and the land is replanted when needed.”

Additionally, the Board of Adjustment will see the proximity of the facility to the Barry, Poulter, McFarland, Tuck and Rohde dwellings.

Finally, the Board of Adjustment will see the general condition of the property including multiple human and animal hazards in the “working facilities” thus providing evidence of the lack of stewardship and care for animals, facilities and land at the Jones property.

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Dear Board of Adjustment,

I respectfully submit additional information to my request for Appeal of the Land Use Permit LUP64-2011.

In review of the Weber County Ordinances the intended use of the slaughterhouse and/or meat cutting processing operation which will prepare and provide for the sale of processed meat proposed by Rulon Kent Jones, Garet Kent Jones and Broadmouth Ranch (www.utahelkhunt.com) is not agricultural but is in fact a commercial business operation.

5B-1A Agriculture Preferred Use

Agriculture is the preferred use in Agriculture Zone A-1-B. All agricultural operations shall be permitted at any time, including the operation of farm machinery, and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.

Though agricultural in nature, the proposed operation does not fit within the parameters of 5B-1A because it is clearly commercial. The generally stated purpose of the operation is to process the meat from the livestock sold as part of a private hunting business. This proposed extension of the Broadmouth Ranch (www.utahelkhunt.com) operation will combine a slaughterhouse and/or meat cutting, packaging, processing operation which will prepare and provide for the sale of processed livestock within and across state lines and is definitely a commercial to supplement the business of Rulon Kent Jones and Broadmouth ranch which should be aptly designated as commercial.

Commercial Valley Zones CV-1, CV-2

18-B1 Purpose and Intent

The purpose of the Commercial Valley CV-1 (Light Medium) and Commercial Valley CV-2 (General) Zones is to provide suitable areas for the location of the various types of commercial activity needed to serve the people and commerce of the Ogden Valley in Utah's northern Weber County. It is also to separate into two zones uses based upon the type of activity which are compatible and complementary as well as intensity of land utilization and accessory use needs.

18-B4 Special Regulations

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1. Hereafter stipulated Permitted and Conditional uses shall be allowed only when the following conditions are complied with:
1. All uses shall be free from excessive odor, dust, smoke, or noise.
 2. In the CV-1 (neighborhood Commercial Zone) no entertainment, except recorded music shall be permitted in cafes, cafeterias, ice cream parlors, or restaurants.
1. A car wash shall be permitted subject to the following restrictions:
1. Operation or use shall be limited to the hours between 6:00 a.m. and 10:00 p.m. in CV-1 Zones only.
 2. There shall not be more than four washing bays for a manual spray car wash in CV-1 Zones only.
 3. Off-street vehicle storage required as follows:
 1. One bay car wash: four spaces in the approach lane.
 2. Two bay car wash: three spaces in the approach lane for each wash bay.
 3. Three or more bay car wash: two spaces in the approach lane for each wash bay.

M

	CV-1	CV-2
Manufacture of goods retailed on premises	N	C
Meat Custom cutting and wrapping excluding slaughtering	N	C
Meat, fish and seafood store	P	P

As Weber County has specifically designated Weber County Ordinance Commercial Valley Zones CV-1, CV-2, for the inclusion of businesses relating to meat custom cutting and wrapping in section 18-B5 Uses. This commercial operation is directly suited for location in the CV-1 and CV-2 zones.

The Jones have verbally advised me, as well as others, that the meat which is produced from this commercial operation will be provided, sold and/or delivered to clients which have procured the meat through sales of livestock and products from Broadmouth Ranch (www.utahelkhunt.com). Thus this

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operation is to be used as an accessory to the commercial hunting enterprise of Rulon Kent Jones and/or Broadmouth Ranch and other entities associated with the afore mentioned.

5B-2 Permitted Uses

1. Accessory building or use customarily incidental to any permitted or conditional use
2. Agriculture, agricultural experiment station, apiary; aviary; aquarium
3. Animals or fowl kept for family food production as an accessory use

As we understand a conditional Land Use permit has been granted due to Weber County Ordinance 5B-2-2 and in following the essence (is that the correct word) of the law that 5B-2-3 clearly states "Animals or fowl kept for family food production as an accessory use"

The commercial preparation, cutting, boxing and shipping of processed livestock within and across state lines is not within the essence of the ordinance nor in compliance with Ordinance 5B-2-3 specifically "Animals or fowl kept for family production.....". The intended commercial preparation, cutting, boxing and shipping of processed livestock can in no way be considered an "accessory use".

Ordinance 5B-2-8 clearly states "for produce grown on the premises only" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-10 clearly states "limited to sale of materials produced on premises and with no retail shop operation" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-14 clearly states "but not including privately owned commercial.....business" Thus the Jones submission should be considered under the essence of this ordinance.

5B-3 Permitted Uses Requiring Five (5) Acres Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises.
2. Farms devoted to the raising, raising, including fattening as an incident to raising, of birds and poultry or other fowl, rabbits, deer, dogs or beaver.
3. Tax and vegetable storage and loading plant for produce grown on premises.
4. The raising and raising of both male and female dogs more than six (6) weeks old and used for no purpose other than breeding for the purpose of sale or sale of puppies or other offspring produced on the premises.

8. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals, provided that such raising and grazing, when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughterhouse shall:
1. not exceed a density of twenty-five (25) head per acre of used land;
 2. be carried on during the period of September 15 through April 15 of any year;
 3. be not closer than two hundred (200) feet to any dwelling, studio or semi-public building on an adjoining parcel of land; and
 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation.

The purpose of the proposed commercial operation does not comply Weber County Ordinance 5B-5-4 and 5B-5-5. The raised and grazed livestock providing for this business are in fact sold to individuals as per the terms and conditions on the Broadmouth Ranch website <http://utahelkhunt.com/content/hunts.html> in which hunters are "Featuring 100% Guaranteed Elk Hunts!" at prices listed on the site.



	\$5,900 plus \$488 license	With our trophy hunt, we guarantee an opportunity up to a 340 class bull.
	\$3,900 plus license	5X6 Bull and 5X5 Bull
Cow	\$1,900 plus license	
	\$4,900 plus license	
	Please	We also have elk hunts that we guarantee specific size bulls. For the hunter that would like to choose a particular class of bull, we have bulls up to 600 points. We do not over hunt our ranches and we are at 100% success for elk.

The proposed commercial operation of Jones and Broadmouth Ranch may also be considered an agricultural feed yard operation as defined in Rulon Kent and Garet Kent Jones "Agricultural Description of Property". "Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on the property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring elk into smaller area in the winter and be worked".

Conditional Uses

22C-1 Purpose and Intent

The purpose of this chapter is to establish standards for land uses listed in each zone as a conditional use, and to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional."

Conditional uses are intended to allow greater flexibility by providing a wider variety of uses in a zone, while at the same time allowing conditions to be applied, due to their unique characteristics or potential impacts on surrounding uses. These may be appropriate only in certain locations and/or under specific conditions that mitigate potential impacts. If impacts cannot be mitigated, the conditional use may be deemed incompatible in some areas.

22C-3 Review Procedure

Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:

1. A completed application form signed by the property owner or certified agent.
2. An application fee. The payment of a partial application fee for the submittal of plans for a pre-submittal review, does not constitute a complete application.
3. A narrative addressing the Criteria of Issuance 22C-5.
4. Detailed location map.
5. Detailed culching plans and site plans specifications shall be drawn to scale including electronic copies showing details and other applicable zoning requirements as well as are provided in Chapter 26 Design Review and Chapter 160 Signage, and Chapter 160 Agricultural Landmarks, and Screening Standards.
6. Floodplaining documents including water and waste management plans.

- 7. Any additional pertinent information needed to adequately describe the proposal
- 8. A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.
- 9. For those applications where no changes are proposed to an existing structure, the application requirements may be modified by the Planning Director.

In granting a Conditional Use Permit” applications are subject to Weber County Ordinance 22C. Quoting 22C-3 of the ordinance “Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:”. The submission by the Rulon Kent and Garet Kent Jones does not include all the required items, specifically:

22C-3-1-5 – Detailed building plans and site plan specifications.....and other applicable zoning requirements as which are outlined in Chapter 36 “Design Review”

Citing Chapter 36 “Design Review”:

36-1 Purpose

The purpose and intent of design review by the Planning Commission is to secure the general purposes of this Ordinance and the master plan and to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood.

It shall not be the intent of this Chapter to restrict or specify the particular architectural design proposed or to specify the exterior detail or design, color, or materials proposed by the applicant, except as such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings or as guided by Chapter 18C Ogden Lake Architectural and Landscape Ordinance

Weber County Ordinance 36-1 Purpose “The purpose and intent of design review by the Planning commission....” is “to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood.”

We the adjoining property owners and neighbor property owners in close proximity submit that the “appearance of buildings and structures and the development of the property” do impair the orderly

and harmonious development of the neighborhood and impair investment in and occupation of the neighborhood”.

22C-3-1-6 – “Accompanying documents including water and waste water feasibility letters”

22C-3-1-8 – “A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.

36-2 Application and Review

All applications for occupancy permits or building permits for all multi-family (over 8) dwellings, recreation resort uses, public and quasi-public uses, business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances. All of the above required architectural and site development plans shall be reviewed and approved prior to the issuing of any land use, occupancy or building permit.

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans, including but not limited to site plans, architectural elevations renderings, etc., and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWG and JPEG files of the respective plans.

According to Weber County Ordinance 36-2 Application and Review:

All applications for....business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less

than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances.

Additionally:

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWF and JPEG files of the respective plans

Consideration prior to Conditional Land Use Permit is to be given to Weber County Ordinance 36-4 Considerations in Review of Applications, please see below:

36-4 Considerations in Review of Applications

The Planning Commission and or the Planning Director shall consider the following matters and others when applicable, in their review of applications and where the plan is found deficient the plan design shall be amended or conditions imposed to mitigate such deficiencies when considering:

1. Considerations relating to traffic safety and traffic congestion:
 1. The effect of the development on traffic conditions on adjoining streets
 2. The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways
 3. The arrangement and adequacy of off-street parking facilities to prevent traffic congestion
 4. The location, arrangement, and dimensions of truck loading and unloading facilities. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, all residential windows should face away from loading docks.
 5. The circulation patterns within the boundaries of the development. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, a separate ingress/egress may be required, depending on the size and/or type of use, and/or any multiple use complex.
 6. The surfacing and lighting of off-street parking facilities
2. Considerations relating to outdoor advertising:
 1. The number, location, size, height, lighting and landscaping of outdoor signs, signs and structures in relation to the location of traffic hazards, the surrounding

A 12/18

adjacent property signs and the appearance and harmony with other signs and structures with the project and with adjacent development.

3. Considerations relating to landscaping

1. The location, height and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development
2. The planting of ground cover or other surfacing, such as bark or colored/natural gravel, as described in item G, to prevent dust and erosion and provide a visual break for the monotony of building materials, concrete and asphalt
3. A minimum landscape space of 10% of the project area shall be provided with consideration of drought resistant and water conserving landscape materials, or as required by Chapter 18-C, Ogden Valley Architectural and Landscape Ordinance
4. The number and type of mature and planted size of all landscape plantings
5. The method of irrigation and approximate location of the water meter, point of connection, sprinkler and/or drip irrigation heads, and any blow-out or winterizing system. Water conserving methods, such as controllers and drip systems and electronic timer devices are encouraged
6. The location, type, and size of any existing trees over 4" caliper that are to be removed
7. Landscape Standards. Plant sizes at the time of installations shall be as follows:
 1. Deciduous trees shall have a minimum trunk size of two (2) inches caliper.
 2. Evergreen trees shall have a minimum height of six (6) feet as measured from top of root ball.
 3. All woody shrubs shall have a minimum height or spread of eighteen (18) inches, depending upon the plant's natural growth habit, unless otherwise specified. Plants in five (5) gallon containers will generally comply with this standard.
 4. Vines shall be five (5) gallon minimum size.
5. Turf grass species, if used, shall be hardy to the local area. Application rates shall be high enough to provide even and uniform coverage within one (1) growing season. Turf areas, where erosion is expected to occur under normal conditions, such as drainage swales, berms and/or slopes greater than 30% shall be planted with sod or other deep-rooting, soil conserving plants, or erosion control and soil conservation.
6. Turf grass, if used, shall be limited to no more than 50% of the landscaping requirements.

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36-5 Conditions

Design approval may include such other conditions consistent with the considerations of this, and/or any other Chapter of the Weber County Zoning Ordinance, as the Commission or Planning Director deem reasonable and necessary under the circumstances to carry out the intent of the Zoning Ordinance.

Consideration should be given to the following per Weber County Ordinance 36-5 Conditions:

Weber County Ordinance – Drinking Water Ordinance 41-1 Purpose and Intent, 41-2 Definitions, 41-3 Establishment of Drinking Water Source Protection Zones, 41-4 Identification of Public Water Systems and their Drinking Water Source Protection Zones, 41-5 Allowed Uses, 41-6 Prohibited Uses, 41-7 Sewers within Drinking Water Source Protection Zones and Management Areas, 41-8 Drinking Water Source Protection Requirements, 41-9 Transition, 41-10 Administration

41-1 Purpose and Intent

The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply to the residents of Weber County who receive water for culinary and domestic use from public water systems in the County by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs used by public water systems in the County and by the designation and regulation of property uses and conditions that may be maintained within such zones.

41-2 Definitions

When used in this ordinance, the following words and phrases shall have the meanings given in this Section:

Best Management Practices

A practice or combination of practices determined to be the most effective, practicable means of conducting a land use activity to minimize the potential for becoming a pollution source (including technological, economic, and institutional considerations).

Design Standard

Established State or National Standards for the design, construction, placement, or maintenance of a potential contamination source to prevent discharges to the ground water. (See also

"Secondary Containment") A control that is implemented by a potential contamination source to prevent discharges to the groundwater. Such a provision is an example of a design standard.

Drinking Water Source Protection (DWSP) Zone

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The surface and subsurface area surrounding a groundwater source of drinking water supplying a public water system through which contaminants are reasonably likely to move toward and reach such groundwater source.

Groundwater Source

Any well, spring, tunnel, adit, or other underground opening from or through which groundwater flows or is pumped from subsurface water-bearing formations.

Pollution Source

Point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfills of sludge and sewage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions clarify the meaning of "pollution source":

Animal Feeding Operation

A lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

Animal Unit

A unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Extremely Hazardous Substances

Those substances which are identified in the Sec. 302 EHS column of the "TITLE III - LIST OF LIST'S - Consolidated List of Chemicals Subject to Reporting Under SARA Title III" (EPA 660/4-91-011). A copy of this document may be obtained from Section 313, Acquisition Division, General P.O. Box 12505, Cincinnati, OH 45212.

Hazardous Waste

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A waste with properties that make it dangerous or potentially harmful to human health or to the environment.

Potential Contamination Source

Any facility or site, which employs an activity or procedure, which may potentially contaminate ground water. A pollution source is also a potential contamination source. Such term includes collection, treatment, storage and distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

Sanitary Landfill

A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

Sanitary Sewer Line

A pipeline that connects a residence or other building with a sanitary sewer.

Septic Tank/Drain-field System

A system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design septic tank/drain field system discharges cannot be controlled with design standards.

Spring

The ground surface outlet of a natural underground spring including Spring collection and control boxes, valves, piping and other attachments.

Storm Water Infiltration Structure

A structure that is intended to discharge stormwater so that it infiltrates groundwater.

Underground Storage Tanks

Underground tanks used for the storage of gas, oil, or other hazardous substances.

Wellhead

The physical structure, facility, or device at the land surface from or through which groundwater flows or is pumped from subsurface, water-bearing formations.

SARA Title III

The Superfund Amendment and Reauthorization Act section found in 40 CFR 300-302 relating to emergency response and right-to-know.

Source Protection Zone

Means the specified surface and subsurface area surrounding a ground-water source or drinking water supply, such as a Public Water Supply, through which pollutants are transported, they do move toward and reach such ground-water source. These zones shall have the authority to

State of Utah, Division of Drinking Water as described in 6309-600 Source Protection Drinking Water Source Protection for Groundwater Sources and as stated in Section 41-3

Time of Travel Distance

The distance that ground water will travel in a specified time. This distance is generally a function of the permeability, and slope of the aquifer. Time of Travel is determined from hydrological studies and is approved by the State Department of Environmental Quality, Division of Drinking Water.

Public Water System

A system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

- Has at least 15 service connections, or
- Serves an average of at least 25 individuals daily at least 60 days out of the year.

Secondary Containment

A type of system that is used to provide release detection prevention, such as trays under containers, floor curbing or other systems designed to hold materials or liquids that may discharge from containers holding regulated substances. Examples include a double-walled tank, a double-walled integral piping system, or a single-walled tank or integral piping system that is protected by an enclosed concrete vault, liner, or an impervious containment area.

A 18/18

I submit that the Jones are in violation of Weber County Ordinances 30-2 as they have commenced and continued construction prior to issuance of a written permit by the County Building Official.

Land Use Permit, Building Permit and Certificate of Occupancy

30-2 Building Permit Required

Building Permits as specified by Weber County are required for any construction, alteration, repair, removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance of a written permit by the County Building Official.

30-4 Land Use Permit Required

In order to verify zoning requirements and setbacks for permitted or conditional uses, no structure, including agricultural structures, shall be constructed, changed in use, or altered, as provided or as restricted in the Weber County Zoning Ordinance, until and unless a Land Use Permit is approved and issued by the Planning Director or designee.

30-6 Permits to Comply with Ordinance

The Building Official shall not grant a permit for the construction or alteration of any building or structure if such construction or alteration is in violation of any provision of this Ordinance, nor shall any County Official grant any permit or license for the use of any building or land if such use would be in violation of this Ordinance.

30-7 Powers and Duties of Building Official

It shall be the duty of the Building Official to inspect or cause to be inspected all setbacks or buildings in the course of construction or repair. The Building Official shall assist in the enforcement of all provisions of this Ordinance. The Building Official shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations.

Date:



Planning Commission
Land Use Permit

Page 1 of 2

Printed: 6/27/2011

Permit Number: LUP64-2011

Applicant

Name: JONES, RICHARD RALPH &
Address: 3788 E 4100 N

WORKING WITH GARET JONES
Phone: 814-6261

Owner

Name: JONES, RICHARD RALPH &
Address: 3788 E 4100 N

Phone:

Parcel

Parcel Number: 220100001

Total Parcel Area:

Address: 3788 E 4100 N

Zoning:

(*If Zoned S-1, See Specific Height Requirements)

**See Diagram on Back Side for Setbacks

Section:

Township:

Range:

Subdivision:

Lot(s):

Proposed Structure: Repair/Remodel Outbuilding

Structure Area Used: 1200

Is Structure > 1,000 Sq. Ft.?

*If True, Need Certif. Statement

of Dwelling Units: 1

of Accessory Bldgs: 5

Off-Street Parking Req'd:



Permit Checklist:

Public by/Right of Use Road?

> 200 ft. from Paved Road?

< 4218 ft. above Sea Level?

Culvert Required?

No

No

No

Wetlands/Flood Zone?

No

If Yes, Culvert Size:

***Any Work in the Right of Way requires an Excavation Permit**

Additional Frontage Req'd.?

no

OR Special Exception?

Case #

Meet Zone Area & Frontage?

True

Hillside Review Req'd.?

No

Case #

Culinary Water District:

Private Well

Waste Water System:

Individual

Comments: Issued based on being an agricultural use as discussed with the Staff. Discussion focused on WC definition of agriculture and State Code. Issuance is also based on representations made on the attached siteplan and narrative.

Weber County Land Use Permit Application

Application submittals are recommended to be submitted with an appointment.
(801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)
----------------------------	-------------------	-----------------------------

Property Owner Contact Information

Name Rulon Kent Jones		Mailing Address 3985W 3775E Liberty, UT. 84310
Phone 208 346 6631	Fax	
Email Address rujon@utahelkhunt.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Garet Kent Jones		Mailing Address of Authorized Person 2775W 4904E Eden UT 84310
Phone (801) 814-6261	Fax	
Email Address garet-jones@yahoo.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Address 3788 E 4100W Eden 84310		Land Serial Number(s) 220100001	
Subdivision Name	Lot Number 3788	Current Zoning	Acreage 6.15
Culinary Water Provider	Secondary Water Provider Liberty Irrigation	Waste Water Provider	Frontage

Detailed Description of Proposed Use/Structure

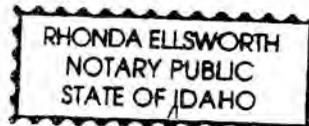
Property Owner Affidavit

I (We), **Rulon K Jones**, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

[Signature]
(Property Owner)

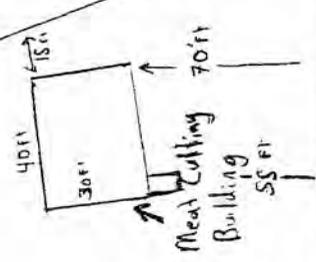
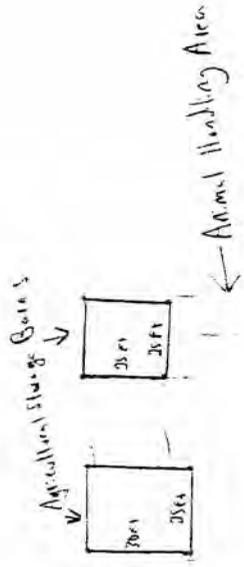
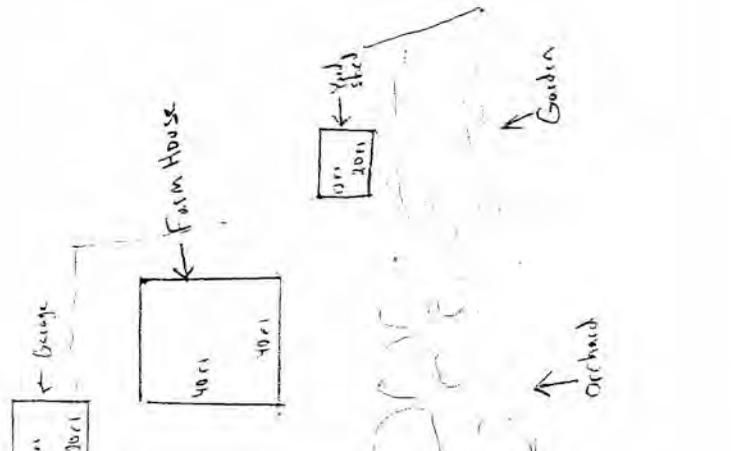
(Property Owner)

Subscribed and sworn to me this **24** day of **February**, 20**11**



[Signature]
4.6.13
(Notary)

Jones Site Plan



3800 E Boundary

EXHIBIT D
1/1

EXHIBIT E

1/1

Agricultural Description of Property

This 6.15 acre piece of property located on the North West corner of 4100n and 3800e in Liberty has and will be used for agriculture. Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on this property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter and be worked. The new calves are ear-tagged and micro-chipped in compliance with the Utah Department of Agriculture rules. All the animals are vaccinated once a year to maintain health.

The meat cutting building will be used to butcher and package the elk meat for consumption. It will have a meat grinder to make hamburger, cutting and packaging areas. There will also be freezers to freeze and store the processed meat.

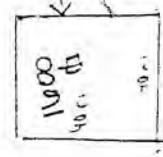
The property is irrigated with the Liberty secondary water system that is in place. It is irrigated during the spring and summer months and any excess hay is harvested and stored. Weeds are controlled and the land is replanted when needed.

There is also an apple orchard, raspberry patch and a garden which are also part of the agricultural use of the property.

Jones Site Plan



George



Farm House

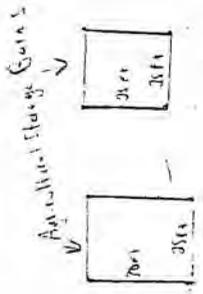


Yard



Orchard

Border



Agricultural Storage Units

Animal Handling Area

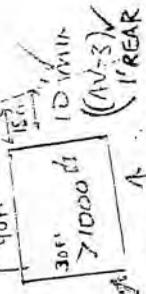
SIDE PL ON STREET
3800 E Boundary

10' MINI SIDE (CHAPTER 23)

SEWER
W/OUT SEWER SERVICE

REAR PL

1200ft



10' MINI (CHAPTER 23)

1' REAR

Meat Cutting Building



EXHIBIT F
1/2

4
EXPANDED MEASUREMENT IS NOT FROM EOA.

1/2

Definitions

Weber County Zoning Ordinance

AGRICULTURE

Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

AGRICULTURAL PARCEL

A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.

Utah State Code

Title 4 - Utah Agricultural Code

Chapter 1 – Short Title and General Provisions

Section 8 – General Definitions

4-1-8. General Definitions

(1) "**Agriculture**" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(2) "**Agricultural product**" or "**product of agriculture**" means any product which is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(6) "**Livestock**" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in **Section 4-39-102**, or any other domestic animal or domestic furbearer raised or kept for profit.

Title – Utah Agricultural Code

Chapter 39 – Domesticated Elk Act

Section 102 – Definitions

4-39-102. Definitions

As used in this chapter:

(1) "**Domesticated elk**" means elk of the genus and species cervus elaphus, held in captivity and domestically raised for commercial purposes.

(2) "**Domesticated elk facility**" means a facility where domesticated elk are raised.

(3) "**Domesticated elk product**" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

1/2

The slaughterhouse process differs by species and region.
A typical procedure follows:

Answerbag.com

- Animals are received by truck or rail from a ranch, farm, or feedlot.
- Animals are herded into holding pens (see Judas goat).
- Animals receive a preslaughter inspection.
- Animals are rendered insensible (unconscious) by stunning (method varies)
- Animals are hung by hind legs on processing line.
- A main artery is cut, the animal's blood drains out and it dies.
- Animal's hide/skin/plumage is removed.
- Carcass is inspected and graded by a government inspector for quality and safety. (by the Food Safety Inspection Service in the US, and CFIA in Canada)
- Carcass is cut apart and the body parts separated.

Source: www.answerbag.com

Wikipedia

- Cattle (mostly steers and heifers, some cows, and even fewer bulls) are received by truck or rail from a ranch, farm, or feedlot.
- Cattle are herded into holding pens.
- Cattle are rendered unconscious by applying an electric shock of 300 volts and 2 amps to the back of the head, effectively stunning the animal,[6] or by use of a captive bolt pistol to the front of the cow's head (a pneumatic or cartridge-fired captive bolt). Swine can be rendered unconscious by CO₂/inert gas stunning. (This step is prohibited under strict application of Halal and Kashrut codes.)
- Animals are hung upside down by both of their hind legs on the processing line.
- The carotid artery and jugular vein are severed with a knife, blood drains, causing death through exsanguination.
- The head is removed, as well as front and rear feet. Prior to hide removal, care is taken to cut around the digestive tract to prevent fecal contamination later in the process.
- The hide/skin is removed by down pullers, side pullers and fisting off the pelt (sheep and goats). Hides can also be removed by laying the carcass on a cradle and skinning with a knife.
- The internal organs are removed and inspected for internal parasites and signs of disease. The viscera are separated for inspection from the heart and lungs, referred to as the "pluck." Livers are separated for inspection, tongues are dropped or removed from the head, and the head is sent down the line on the head hooks or head racks for inspection of the lymph nodes for signs of systemic disease.
- The carcass is inspected by a government inspector for safety. (This inspection is performed by the Food Safety Inspection Service in the U.S., and Canadian Food Inspection Agency in Canada.)
- Carcasses are subjected to intervention to reduce levels of bacteria. Common interventions are steam, hot water, and organic acids.
- Carcasses (typically cattle and sheep only) can be electrically stimulated to improve meat tenderness. Carcasses are chilled to prevent the growth of microorganisms and to reduce meat deterioration while the meat awaits distribution.
- The chilled carcass is broken down into primal cuts and subprimals for boxed meat unless customer specifies for intact sides of meat. Beef and horse carcasses are always split in half and then quartered, pork is split into sides only and goat/veal/mutton and lamb is left whole

- The remaining carcass may be further processed to extract any residual traces of meat, usually termed advanced meat recovery or mechanically separated meat, which may be used for human or animal consumption.
- Waste materials such as bone, lard or tallow, are sent to a rendering plant. Also, lard and tallow can be used for the production of biodiesel or heating oil.
- The wastewater, consisting of blood and fecal matter, generated by the slaughtering process is sent to a waste water treatment plant.
- The meat is transported to distribution centers that then distribute to retail markets.

Source: en.wikipedia.org

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October 8, 2011

Brent Bateman
Office of the Property Rights Ombudsman
160 East 300 South
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Salt Lake City, UT 84114-6701

Re: Advisory Opinion – Bret Barry adv. Weber County—Reply to Nelsen Response

Brent,

This is a brief reply to Jason K. Nelsen’s response to our request for Advisory Opinion.

First, Mr. Nelsen’s response does not deny that his clients propose to open (or have opened) a new meat cutting facility in the AV-3 zone. This fact has been further confirmed through media interviews and a newly issued business license for a meat cutting facility (not a generic agricultural use) at the site.

Second, Mr. Nelsen’s response does not address the fact that County staff rendered a decision in derogation of the County Code’s designation of the Township Planning Commission as the land use authority.

Third, and finally, Mr. Nelsen’s only affirmative responses are:

1. This is a really nice meat cutting facility; and
2. The County staff’s decision deserves deference.

Mr. Nelsen relies on *Springville Citizens for a Better Community v. Springville City* for the notion that “Utah courts have repeatedly upheld the latitude given to counties in interpreting land use ordinances.” However, as anyone that follows the development of land use law is well aware, the *Springville Citizens* case really shouldn’t be cited for this proposition. The *Springville Citizens* court actually *reversed* a district court decision that upheld the Springville City’s decision upon deferential grounds.

The *Springville Citizens'* case is well known as the seminal case establishing the rule that a land use authority must rigorously follow its own rules and that its decision will be *reversed* if it disregards its own laws in favor of an expedient land use approval.

The *Springville Citizens* court noted that substantial compliance with the local land use code was not good enough:

¶ 30 [Z]oning authorities are bound by the terms and standards of applicable zoning ordinances and are not at liberty to make land use decisions in derogation thereof. *See Thurston v. Cache County*, 626 P.2d 440, 444-45 (Utah 1981). The irony of the City's position on appeal is readily apparent: the City contends that it need only "substantially comply" with ordinances it has legislatively deemed to be mandatory. Stated simply, the City cannot "change the rules halfway through the game." *Brendle v. City of Draper*, 937 P.2d 1044, 1048 (Utah Ct.App.1997). The City was not entitled to disregard its mandatory ordinances. Because the City did not properly comply with the ordinances governing P.U.D. approval, we conclude that under Utah Code Ann. § 10-9-1001(3)(b), the City's decision approving the P.U.D. was illegal.

Here, the county's zoning ordinances specifically exclude uses that are not listed in each zone. *See* County Code section 1.3. Here, the county's code specifically lists a Meat Custom Cutting use as a specific land use. It then specifically directs that use to three of thirty one zones and not to the AV-3 zone. Finally, the County Code specifically excludes "agricultural industry or business" from its definition of "agriculture".

In sum, Mr. Nelsen's response affirms:

1. His clients have applied for a meat cutting facility;
2. He does not disagree that staff usurped its authority; and
3. He cited the *Springville Citizens* case for a proposition that is 180° in opposition to the case holding.

Mr. Nelsen's position: that it doesn't matter what the county code says, that staff's interpretation deserves deference, is the same position that was unceremoniously rejected in the *Springville Citizens* case.

Sincerely,

Jodi Hoffman

Jodi Hoffman
Hoffman Law



WEBER COUNTY

ATTORNEY'S OFFICE

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October 11, 2011

Mr. Brent Bateman
Office of the Property Rights Ombudsman
PO Box 146702
Salt Lake City, Utah 84114

RE: Weber County's Response to Advisory Opinion Request – Bret Barry

Dear Mr. Bateman:

Weber County hereby responds to the request for advisory opinion as follows:

In her request for an advisory opinion Ms. Hoffman repeatedly accuses planning staff of providing a "result-oriented" interpretation of the zoning ordinance, suggesting that staff has somehow been improperly influenced by the fact that Rulon Jones played football in the NFL – over 20 years ago. These accusations are completely unsupported and unprofessional. Staff has no personal interest whatsoever in the outcome of this matter. Staff's only interest is in correctly applying the law to Jones' application.

Summary of Planning Staffs Decision to Issue a Land Use Permit

On pages 4 - 5 of her argument, under the heading "Staff Interpretation Was Result-Oriented," counsel constructs a thoroughly confusing rendition of what is alleged to be planning staff's rationale for issuing the land use permit. The analysis is simply wrong. An accurate statement of staffs rationale is described below.

On June 27, 2011 the Weber County Planning Division reviewed a land use permit application and subsequently issued a permit for, what has been interpreted by the planning staff to be, an agricultural use on a parcel located at 3788 E 4100 N in Liberty, Utah. The agricultural parcel (Tax ID# 22-010-000 1) for which the land use permit was issued, is owned by Richard Ralph and Rulon Kent Jones (hereinafter "Jones"). It consists of approximately 6.15 acres and lies within the Agricultural Valley – 3 (AV-3) Zone which lists "agriculture" as a permitted use. During the third week of June, 2011 an authorized representative of the landowners submitted a land use permit application, a site plan, and a written narrative that describes the subject

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property and the proposed land use. As described in the narrative, the Jones' have proposed to expand their current agricultural activities by utilizing an existing 1200 sq. ft. agricultural building for meat cutting/preparation. It has been represented that the building will only be used for cutting/preparing domesticated elk meat, and not for slaughtering, butchering, or custom cutting other animals including deer or moose.¹ It has also been represented that there would be a limited number of animals (approximately 100) cut and prepared during the fall months only. This would result in an average of about one elk per day.

The first touchstone for staff when reviewing a land use application is specified by the Utah Court of Appeals in Patterson v. Utah County Board of Adjustment, 893 P.2d 602, 606 (Ut. App. 1995):

[B]ecause zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.

Thus, even if there were any ambiguities in the zoning ordinance, staff (and any other reviewing entity) would have to decide those ambiguities in favor of Jones.

In issuing the land use permit, the Planning Division relied on information provided by Jones, the Weber County Zoning Ordinance, and Utah State Code. Chapter 5B of the Weber County Zoning Ordinance states that "agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone." It lists "agriculture" as a permitted use, and Chapter 1 defines "agriculture" and an "agricultural parcel" in the following ways:

AGRICULTURE: Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

¹Although limited hunting for deer and moose might occur on Jones properties, Jones has never indicated that he intends to include deer or moose in his meat cutting activity. In fact, he specifically assured staff that he would not be cutting and preparing deer or moose.

AGRICULTURAL PARCEL: A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.

The parcel owned by Jones meets the definition of an "agricultural parcel" and staff determined that the proposed use is "agriculture" ("primarily farming" and a "related purpose"); therefore, it is permitted.

The following describes the rationale behind the planning staff's decision to issue the Land Use Permit:

1. A complete land use permit application packet, certified to be true and correct, was submitted.
2. The Jones property site plan, submitted as a part of their packet, represented that the subject building is in compliance with the development standards found in the zoning ordinance, e.g., use type, structure setbacks, and structure height.
3. After consideration was given to the Weber County Zoning Ordinance, the proposed use was interpreted to be "agriculture" which is a permitted use in the AV-3 Zone.

Because the County's definition of "agriculture" is quite broad, i.e., agriculture is "primarily farming and related purposes," the planning staff considered whether the proposed meat cutting activity would be a related agricultural purpose. Staff relied, in part, on definitions found in the Utah Agricultural Code in determining that cutting domesticated elk is a related agricultural purpose. The Agricultural Code defines agriculture as follows:

"Agriculture" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

Utah Code Ann. §4-1-8(1).

4. The planning staff considered the proposed "meat cutting" activity to be a part of the "preparation" as included in the above definition of "agriculture." Consistent with staff's interpretation, the Agricultural Code provides the following definitions of "prepared" and "process":

Letter to Brent Bateman
October 11, 2011
Page 6

Staff Did Not Circumvent The Clear Role of its Land Use Authority

On page 8 of her argument counsel suggests that the planning commission should have been involved in the determination of whether to issue the land use permit: "Staff's determination was not reviewed or approved by the WC Code-designated Land Use Authority." *Weber County Zoning Ord. § 1-4* states as follows: "Where a conflict exists between various provisions of this ordinance, the Planning Commission and/or Board of Adjustment shall rule on which provision applies." First, as we have pointed out, no conflict exists between provisions of the zoning ordinance. Second, it would be incumbent on the party alleging a conflict to raise the matter to the planning commission or the board of adjustment. In this case, nobody has sought any review from the planning commission, so Section 1-4 is irrelevant.

Please feel free to contact me if you need any additional information from Weber County.

Sincerely,



Christopher F. Allred
Deputy Weber County Attorney

pc: Jason K. Nelson
Jodi Hoffman

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October 17, 2011

Brent Bateman
Office of the Property Rights Ombudsman
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Salt Lake City, UT 84114-6701

Re: Advisory Opinion – Bret Barry adv. Weber County—Reply to County Response

Brent,

This is a brief reply to Christopher F. Allred’s response to our request for Advisory Opinion.

Mr. Allred has presented a laudable defense of Weber County Planning Staff. However, he doth protest too much. No one has suggested that any member of the County staff has acted out of personal interest in the outcome. However, we stand by our observation that both the County staff and now their defender have completely missed the notion that there are two distinct property rights a land use authority must defend: 1) the applicant’s; and 2) the neighbors.

Mr. Allred’s *ad hominem* attack simply highlights the fact that he and the County staff are resolute in defending this applicant’s property rights—even property rights that do not exist—without regard to Mr. Barry’s property rights in, and reliance on, the proper application of the written zoning laws.

Mr. Allred’s defense of “Meat Custom Cutting” in the AV-3 zone is essentially the same “substantial compliance” defense used in *Springville Citizens for a Better Community v. Springville City*. In essence, his response is: What’s the big deal here?

First, the big deal is that the neighbors are entitled to rely on the code, as written. Where the code says the term “agriculture” specifically excludes “agricultural industry or business”. The neighbors have the right to rely on that code-driven definition. Yes agriculture is a permitted use in the code. No one denies this. However, agricultural industry or business is not.

The law is clear:

¶ 30 [Z]oning authorities are bound by the terms and standards of applicable zoning ordinances and are not at liberty to make land use decisions in derogation thereof. *See Thurston v. Cache County*, 626 P.2d 440, 444-45 (Utah 1981). The irony of the

City's position on appeal is readily apparent: the City contends that it need only “substantially comply” with ordinances it has legislatively deemed to be mandatory. Stated simply, the City cannot “change the rules halfway through the game.” *Brendle v. City of Draper*, 937 P.2d 1044, 1048 (Utah Ct.App.1997). The City was not entitled to disregard its mandatory ordinances. Because the City did not properly comply with the ordinances governing P.U.D. approval, we conclude that under Utah Code Ann. § 10-9-1001(3)(b), the City's decision approving the P.U.D. was illegal.

Springville Citizens for a Better Community v. Springville City, 979 P.2d 332 (Utah 1999).

The County Code is mandatory. It is not something that staff can interpret ‘around’. “Agricultural industry or business” is not a permitted use in the AV-3 zone.¹

Second, even if there weren't a specific exception for agricultural industry or business in the code, and even if “Meat Custom Cutting” weren't a use that was specifically relegated by the code to certain commercial zones, Mr. Allred's contention that “meat cutting” is an ancillary use would have to stand on its own merits: It would have to be convincing.

Unlike the definition of “agriculture”, the term “ancillary use” is not defined in the Weber County Code. As such, it is proper to look for a commonly accepted definition of that term:

In one zoning code, the definition of ancillary use: “means subordinate and directly related to, and dependent upon, a principal use, building or structure.”

In another, it means: “A use that is both dependent on and commonly associated with the principal permitted use of a lot and/or building and that does not result in different or greater impacts than the principal use.”

Generally, the term “ancillary” means: “of secondary support or significance;” or “subordinate; subsidiary.”

These definitions make sense as applied to the swimming pool associated with a home or even to a cafeteria associated with a large ski resort. Those are secondary to the primary use, and without additional neighborhood impact.

However, in this case, the applicant's agricultural parcel is very small—6.15 acres. Over the past several years, there have been a total of 8 live elk (a bull and seven cows) grazing the property. There have been virtually no neighborhood impacts associated with the elk grazing. The neighbors did not object to this agricultural use.

¹ Mr. Allred correctly states that “livestock feed yard, livestock sales or slaughter house(s)” are allowed in the AV-3 zone. He fails to note, however, that those uses must be more than 200' from any dwelling. Mr. Barry's home is far closer than the required siting distance.

In contrast, in one week the facility processed more than 35 elk carcasses (or 5 times the number of elk living on the small farm).

There is nothing “ancillary” about this use. It is the dominant and omnipresent use that the unsuspecting neighbors now endure. It is not subordinate to the primary use, or even directly related thereto (the 7 grazing elk on the 6.15 acres are not those elk that are killed to support the meat cutting business). It is not commonly associated with the elk grazing and results in far different and far greater impacts than the principle use. I have attached a photo of the neighborhood impact for your reference. I will warn you, it is graphic.

Finally, Mr. Allred completely missed the import of our argument regarding the Code’s delegation of the role of Land Use Authority to the Planning Commission and unresponsively that Mr. Barry and his neighbors were not diligent in protecting their rights to both Planning Commission and Board of Adjustment review of staff’s misinterpretation of the code.

Clearly, the County Code designates the Planning Commission as the Land Use Authority.

The Township Planning Commissions are to be the Land Use Authority, with due responsibility to administer the Land Use Ordinance. Any appeals of the Land Use Authority will be heard by the Board of Adjustment as outlined in Chapter 29 of the Land Use Ordinance.

General Provisions 1-1.

There is no Code-based exception for staff’s role as Land Use Authority in the code. As such, this is a matter that should have been publicly noticed and before the Planning Commission. It was not.

It is not enough that the County “practice” is to allow staff to issue permits for “permitted uses”. By state law, the Code must to delegate to staff the authority to act as the land use authority for such purposes. U.C.A. §17.27a.302(1)(c). It does not.

Further, responding to Mr. Allred’s concerns: when Mr. Barry and his neighbors first became aware of the issued permit, they literally papered the County with their objections. The chronology of Mr. Barry’s diligence is detailed in my original request. His diligence has continued with vigilance since my original request. I have attached Mr. Barry’s July 28, 2011 letter to the County Commission to this reply as an example of how clearly and comprehensively Mr. Barry expressed his concerns. His timely appeal to the Board of Adjustment was attached to my original request. The County does not dispute the timeliness of his appeal

In reply, we contend that Staff erred in two respects:

1. It determined that a general “agriculture” use designation in the AV-3 zone includes a custom meat packing plant and thereby supersedes the WC Code’s specific and clear prohibition of a “meat cutting and wrapping” use in the AV-3 zone and the designation of “agricultural industry or business” as a permitted use; and

2. It did not allow the Land Use Authority to interpret what it has characterized as conflicting land use designations in the WC Code. Without ordinance-based authority, Staff simply circumvented the authority of the Planning Commission to authorize a result-oriented interpretation of the WC Code.

On behalf of Bret Barry and each of his neighbors, we respectfully request an Advisory Opinion from your office on this matter. Thank you in advance of your consideration.

Sincerely,

Jodi Hoffman

Jodi Hoffman
Hoffman Law

Attachments: photo
July 28 correspondence



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

November 1, 2011

Jodi S. Hoffman
Hoffman Law
1887 Gold Dust Lane, Suite 303
PO Box 681333
Park City, Utah 84060

RE: Advisory Opinion Request – Bret Barry

Dear Ms. Hoffman,

The Office of the Property Rights Ombudsman has received a submission from Mr. Christopher F. Allred, Deputy Weber County Attorney, in response to your letter, dated October 17, 2011

If you would like to respond to any of the statements or arguments in Mr. Allred's letter, please let me know. If you feel that no response is necessary, please let me know that as well. If you have any questions or would like to discuss this matter further, feel free to call anytime.

Sincerely,

Brent N. Bateman
Lead Attorney
Office of the Property Rights Ombudsman

cc. Christopher R. Allred, Esq. (w/o enclosure)
Jason K. Nelson, Esq.



Office of the Property

NOV 01 2011

Rights Ombudsman

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October 27, 2011

Mr. Brent Bateman
Office of the Property Rights Ombudsman
PO Box 146702
Salt Lake City, Utah 84114

RE: Bret Barry / Weber County Advisory Opinion

Dear Mr. Bateman:

There are just a couple of brief points that need to be made in response to Barry's *Reply to County Response* dated October 17, 2011.

I. THE AV-3 ZONE DOES PERMIT SOME AGRICULTURAL BUSINESS.

Counsel argues that the term "agriculture" in the zoning ordinance "specifically excludes agricultural industry or business." However, the entire definition is as follows:

Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business **such as fruit packing plants, fur farms, animal hospitals or similar uses.** (Emphasis added)

Therefore, it is evident that not all agricultural business is excluded; rather, only certain types of "industry or business" are excluded from the definition.

The AV-3 ordinance itself clearly permits some agricultural business. For example, it permits a "dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises." *Weber County Zoning Ordinance, 5B-3(1)*. Significantly, this permitted agricultural business use even permits 50% of the product sold to come from off premises. Other permitted agricultural business uses include, but are not limited to, "livestock sales," and "slaughtering, dressing and marketing on a commercial scale of chickens, turkeys or other fowl, rabbits, fish, frogs or beaver. . ."

Dee W. Smith
Weber County Attorney

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**II. THE PLANNING COMMISSION IS NOT THE CORRECT BODY TO
ISSUE LAND USE PERMITS.**

Counsel argues that the decision to issue a land use permit should have been made by the planning commission rather than planning staff. This is incorrect. While the planning commission may be a land use authority, Section 30-4 of the Weber County Zoning Ordinance designates the Planning Director or his designee to approve and issue land use permits:

In order to verify zoning requirements and setbacks for permitted or conditional uses, no structure, including agricultural structures, shall be constructed, changed in use or altered, as provided or as restricted in the Weber County Zoning Ordinance, until and unless a Land Use Permit is approved and issued by the Planning Director or designee.

The county also disagrees with the remainder of the arguments set out in Barry's *Reply*. However, we feel our Response dated October 7, 2011 adequately addresses those issues. Please let us know if you need any additional information.

Sincerely,



Christopher F. Allred
Deputy Weber County Attorney



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on an appeal of an administrative decision, by the Weber County Planning Division, to issue a Land Use Permit for parcel #22-010-0001, (located at 3788 E 4100 N, Liberty) owned by Richard Ralph & Rulon Kent Jones. The allegation is that the Planning Division erred in its decision to issue this Land Use Permit.

Agenda Date: Thursday, August 25, 2011

Applicant: Bret Barry

File Number: BOA 2011-04

Property Information

Approximate Address: 3788 East 4100 North, Liberty

Project Area: 6.15 Acres

Zoning: Agricultural Valley-3 Zone (AV-3)

Existing Land Use: Residential and Agriculture

Proposed Land Use: Expand Agricultural Use

Parcel ID: 22-010-0001

Township, Range, Section: T7N, R1E, Section 20

Adjacent Land Use

North: Residential	South: Residential
East: Residential	West: Residential

Staff Information

Report Presenter: Scott Mendoza
smendoza@co.weber.ut.us
801-399-8769

Report Reviewer: RS

Applicable Ordinances

- Weber County Zoning Ordinance Chapter 29 (Board of Adjustment)
- Weber County Zoning Ordinance Chapter 1 (General Provisions/Definitions)
- Weber County Zoning Ordinance Chapter 5B (Agricultural Valley – 3)
- Weber County Zoning Ordinance Chapter 23 (Supplementary and Qualifying Regulations)

Background

Description and Appellant Request

On June 27, 2011 the Weber County Planning Division reviewed a Land Use Permit Application and subsequently issued a permit for, what has been interpreted by the Planning Staff to be, an agricultural use on a parcel located at 3788 E 4100 N in Liberty, Utah. See Map #1, on page 6 of 7, for approximate location. The Planning Division's decision to issue this Land Use Permit was based on information presented, and its compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height; however, it is being appealed to the Board of Adjustment for several stated reasons ranging from the Planning Staff's misapplication of the Zoning Ordinance to incomplete and inaccurate information being provided by the Land Use Permit applicant.

Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance states that one of the duties and powers of the Board is "To hear and decide appeals where, it is alleged by the appellant that, there is error in any order, requirement, decision, or refusal made in the enforcement of this Ordinance." The appellant, Mr. Bret Barry in this case, is requesting that the Board of Adjustment consider his appeal and cause the rescission of the Land Use Permit in question. See Exhibit A for appellant's letter to the Board of Adjustment. See Exhibit B for the Land Use Permit.

Parcel Information and Proposed Use

The agricultural parcel (Tax ID# 22-010-0001) for which the Land Use Permit was issued, is owned by Richard Ralph and Rulon Kent Jones. It consists of approximately 6.15 acres and lies within the Agricultural Valley – 3 (AV-3) Zone which lists “agriculture” as a permitted use.

During the third week of June (2011) an authorized representative, of the landowners, submitted a Land Use Permit Application, a site plan, and a written narrative that describes the subject property and the proposed land use. See Exhibits C, D, and E respectively.

As described in the narrative, attached as Exhibit E, the Jones’ have proposed to expand their current agricultural activities by utilizing an existing (1200 sq.ft.) agricultural building for meat cutting/preparation. It has been represented that the building will only be used for cutting/preparing meat (elk) that is a product of this farm operation and not for slaughtering, butchering, or custom cutting other animals that have been raised and/or harvested from other sources, e.g., other livestock operations or a hunter’s wild game. It has also been represented that there would be a limited number of animals (approximately 100) cut and prepared during the fall months only.

Land Use Permit Issuance

In issuing the Land Use Permit, the Planning Division relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. The specific zoning ordinances that apply to the Jones’ application are Chapter 1 (General Provisions/Definitions); Chapter 5B (Agricultural Valley – 3), due to the fact that the Jones’ property lies within the Agricultural Valley – 3 Zone; and Chapter 23 (Supplementary and Qualifying Regulations), due to the structure’s size.

Chapter 5B states that “*agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.*” It lists “agriculture” as a permitted use and Chapter 1 defines “agriculture” and an “agricultural parcel” in the following ways:

AGRICULTURE: *Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.*

AGRICULTURAL PARCEL: *A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.*

The parcel owned by the Jones’ meets the definition of an “agricultural parcel” and it is the Planning Division’s interpretation that the proposed use is “agriculture” (“primarily farming” and a “related purpose”); therefore, it is permitted.

The following describes the rationale behind the Planning Staff’s decision to issue the Land Use Permit:

1. A complete Land Use Permit Application Packet, certified to be true and correct, was submitted.
2. The Jones property site plan, submitted as a part of their packet, represented that the subject building is in compliance with the development standards found in the Zoning Ordinance, e.g., use type, structure setbacks, and structure height.
3. After consideration was given to the Weber County Zoning Ordinance, the proposed use was interpreted to be “agriculture” which is a permitted use in the AV-3 Zone.

Due to the County’s definition of “agriculture” being quite broad, i.e., agriculture is “primarily farming and related purposes”, the Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of “agriculture”:

“Agriculture” means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

4. The Planning Staff considered the proposed “meat cutting” activity to be a part of the “preparation” as included in the above Utah State Code definition of “agriculture”. Due to the inclusion of the word “preparation”, the

Planning Staff referred to Utah State Code for more specific information. The following is the Utah State Code definition of "prepared" and "process":

"Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"Process" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

Even though the Utah State Code includes "slaughter" in its definition of "prepared", the Planning Staff determined that the proposed use was not a "slaughterhouse" due to the lack of activities customarily involved with "slaughtering". The proposed use (meat cutting building) will not include customary activities such as stunning or causing the animals to become unconscious/insensible, exsanguination (the killing of the animal) skinning, removal of internal organs, or rendering waste materials. See Exhibit H for examples of the slaughtering process. The following is the Utah State Code definition of "slaughter":

"Slaughter" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

5. Livestock (animals) is undoubtedly a product of agriculture; therefore, the Planning Staff, prior to issuing the Land Use Permit, was able to verify that "domesticated elk" are specifically listed and considered to be "livestock" according to the State of Utah. The following is the Utah State Code definition of "livestock" and "domesticated elk" as referenced:

"Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

"Domesticated elk" means elk of the genus and species cervus elaphus, held in captivity and domestically raised for commercial purposes.

Appeal

On July 13th, 2011, Mr. Bret Barry, the owner of a home and property neighboring the proposed use, submitted an application to the Board of Adjustment requesting the above described appeal. See Exhibit A for Mr. Barry's letter to the Board of Adjustment.

Below is a summarized list of issues/concerns that Mr. Barry is bringing to the attention of the Board of Adjustment, followed by a Planning Staff response:

1. **The proposed use is non-compliant with Section 5B-3(5) of the Zoning Ordinance because its distance to dwellings on adjacent properties is not at least two hundred (200) feet and the site includes permanent fences, corrals, chutes, structures, and other buildings associated with a feeding operation.**

5B-3. Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises
5. **The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:**
 - A. not exceed a density of twenty-five (25) head per acre of used and;
 - B. be carried on during the period of September 15 through April 15 only;
 - C. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 - D. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

PLANNING STAFF RESPONSE:

Section 5B-3(5) specifically and unambiguously states “the raising and grazing of horses, cattle, sheep or goats”, and then assigns additional requirements to operations that raise and graze “horses, cattle, sheep, or goats.” This list does not serve as a list of examples due to the fact that words like “such as”, “for example”, or “not limited to” are not used. Due to this the Planning Staff concluded that the list was created decidedly and intentionally; therefore, the standards listed in A through D above only apply to farm operations that involve those specifically listed animals.

Neither the existing and/or proposed use involves the raising and grazing of “horses, cattle, sheep or goats”; therefore, Section 5B-3(5) does not apply and should not be considered by the Board of Adjustment.

In the event it were interpreted that Section 5B-3(5) did apply, the requirements listed in A through D above would only apply to the “raising and grazing” area/operation and not to accessory buildings or those uses completely contained within them. This becomes evident after reading the requirements listed in A through D. For example, requirement A refers to the number of animals allowed on a per acre basis. One can see how this requirement (and others) applies to the “raising and grazing” and could not apply to an accessory building.

- 2. Nothing within the Land Use Permit Packet provided guidelines, plans, or definition of environmental impact, waste handling or disposal, waste water (septic), harmony with surrounding neighbors and harmony with the purpose of the residential area.**

PLANNING STAFF RESPONSE:

The Weber County Zoning Ordinance does not require guidelines, plans, or definitions of environmental impact, waste handling or disposal, waste water (septic), or applicant descriptions of how a proposed use is in harmony with surrounding neighbors or in harmony with the purpose of a residential area. Documentation or proof of culinary and waste water (septic) approval is required prior to the issuance of a Weber County Building Permit. The required documentation has been provided by the Weber/Morgan Health Department and has been received by the Weber County Building Inspections Office.

- 3. The proposed use is contrary to the public interest and will result in unnecessary hardship to both adjoining properties and other residents in the area.**

PLANNING STAFF RESPONSE:

Mr. Barry would like the Board of Adjustment to find that the proposed use is “contrary to the public interest”; therefore, rescind or overturn the issuance of the Land Use Permit. He, in his letter to the Board of Adjustment, has quoted the following language from Chapter 29 (Board of Adjustment) of the Weber County Zoning Ordinance:

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided, that the spirit of this Ordinance shall be preserved and substantial justice done.

This language resides in Section 29-3 (Duties and Powers of the Board) and explains one of approximately thirteen other duties of the Board of Adjustment; none of which authorize the Board of Adjustment to rescind Land Use Permits based on whether or not a proposed use is thought to be contrary to public interest. The above language simply authorizes the Board of Adjustment to hear and grant variances when certain criteria are met. Mr. Barry’s appeal is not a variance request; therefore, this language does not apply to the appeal and should not be considered by the Board of Adjustment.

- 4. There is evidence of a lack of stewardship, care for animals and care for facilities on the property for which the Land Use Permit was issued.**

PLANNING STAFF RESPONSE:

The general condition of property or the lack of stewardship may, in some cases, be addressed through the County’s Zoning Enforcement; however, a lack of stewardship, in this case, does not apply to the appeal and should not be considered by the Board of Adjustment.

5. The proposed use is not agriculture but is in fact commercial.

PLANNING STAFF RESPONSE:

The Planning Division Staff relied on information provided by the Jones, the Weber County Zoning Ordinance, and Utah State Code. After considering these sources, the proposed use was determined to be "agriculture". Refer to the "Land Use Permit Issuance" section above.

6. The proposed use is not within the essence of the agriculture ordinance's (Chapter 5B or AV-3 Zone) sub-sections listed below nor in compliance (specifically) with the 5B-2-3:

5B-2-3. Animals or fowl kept for family food production as an accessory use

5B-2-8. Fruit or vegetable stand for produce grown on the premises only

5B-2-10. Greenhouse and nursery limited to sale of materials produced on premises and with no retail shop operation

5B-2-14. Private park, playground or recreation area, but not including privately owned commercial amusement business

PLANNING STAFF RESPONSE:

The proposed use has been interpreted to be "agriculture" which is listed as a permitted and entirely separate use allowed in the AV-3 Zone. Sub-section 5B-2-3 (*Animals or fowl for family food production as an accessory use*) is intended to allow animals to be kept on the same property as a single family dwelling which is the main use.

The above listed sub-sections do not regulate agricultural activities; therefore, they do not apply to the appeal and should not be considered by the Board of Adjustment.

7. The operation does not comply with Weber County Ordinance 5B-5-4 and 5B-5-5.

PLANNING STAFF RESPONSE:

Sub-sections 5B-5-4 and 5B-5-5 regulate main building height and accessory building height respectively. The buildings located, on the parcel for which the Land Use Permit has been issued, meet the building height requirements for the Agricultural Valley – 3 Zone; therefore, these sub-sections do not apply to the appeal and should not be considered by the Board of Adjustment.

8. The proposed use is subject to Chapter 22C (Conditional Uses) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

The proposed use is not listed as a Conditional Use; therefore, the proposed use is not subject to the Conditional Use Permit review process. This allegation does not apply to the appeal and should not be considered by the Board of Adjustment.

9. The proposed use is subject to Chapter 36 (Design Review) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 36 provides standards for traffic safety, advertising, landscaping, site layout, and utilities only when associated with the development of multi-family dwellings, recreation resort uses, public and quasi-public uses, business, commercial, and manufacturing sites. The proposed use has been interpreted to be an agricultural use; therefore, Chapter 36 does not apply and should not be considered by the Board of Adjustment.

10. The proposed use is subject to Chapter 41 (Drinking Water Source Protection) of the Weber County Zoning Ordinance.

PLANNING STAFF RESPONSE:

Chapter 41 provides standards for certain types of activities (including agriculture) when located within Drinking Water Protection Zones. The parcel and proposed use, for which the Land Use Permit has been issued, is not located within a

Drinking Water Protection Zone; therefore, Chapter 41 does not apply to the proposed use and should not be considered by the Board of Adjustment. See Map #2, on page 7 of 7, for Drinking Water Protection Zones and subject parcel location.

11. The Jones' are in violation of Chapter 30 (Land Use Permit, Building Permit and Certificate of Occupancy) of the Weber County Zoning Ordinance. Construction activities commenced prior to the issuance of a Building Permit.

PLANNING STAFF RESPONSE:

The Jones' did begin construction prior to the issuance a Building Permit; however, all required information was received and a Building Permit was issued on (or about) July 26th, 2011.

Summary of Board of Adjustment Considerations

- Is the proposed use agriculture?
- Does Section 5B-3(5) of Chapter 5B (Agricultural Valley-3 Zone) apply to the proposed use?
- Do Mr. Barry's other listed concerns (2 through 11) apply to the appeal?

Staff Recommendation

The Planning Division Staff recommends that the administrative decision, to issue the subject Land Use Permit, be upheld based on the information presented in this staff report.

Exhibits

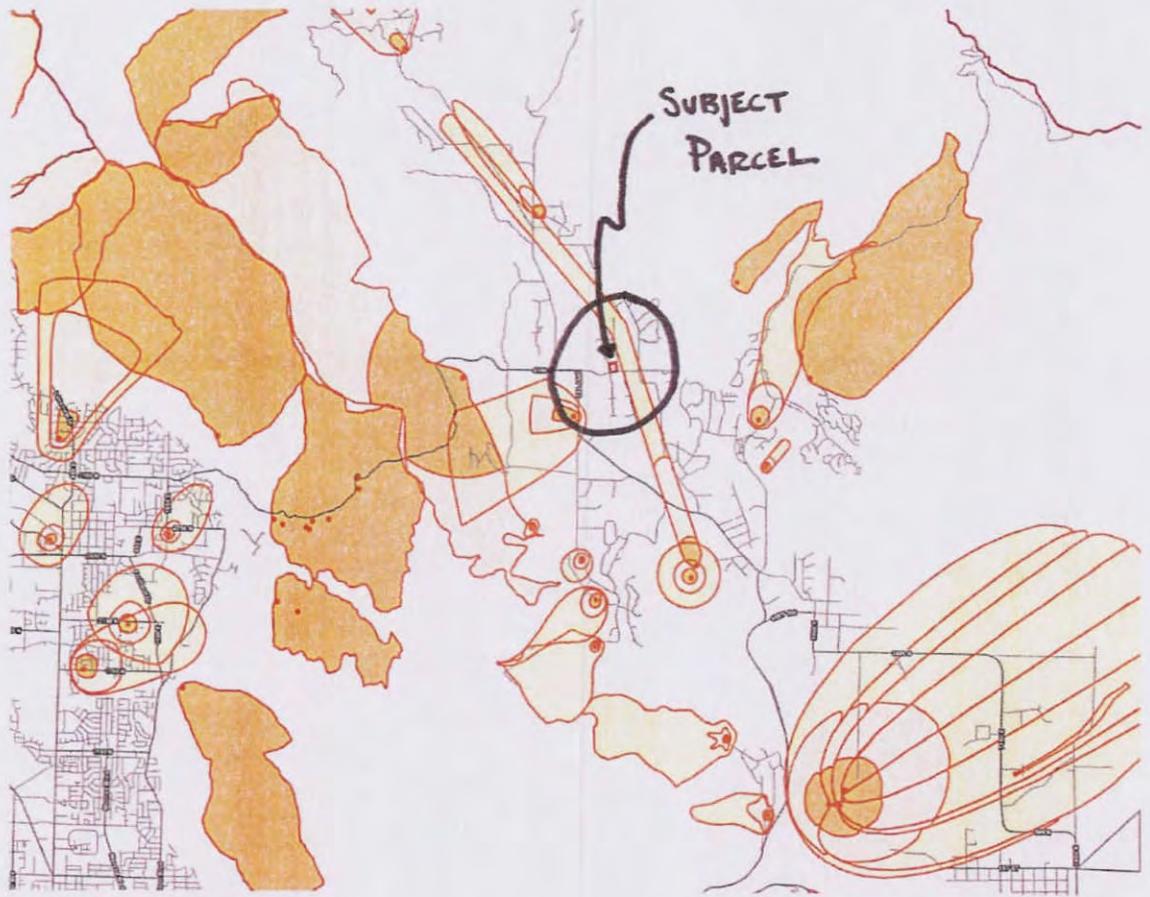
- A. Appellant's letter to the Board of Adjustment.
- B. Land Use Permit.
- C. Weber County Land Use Permit Application.
- D. Proposed Site Plan.
- E. Jones Narrative Describing Proposed Use.
- F. Planning Division Staff Review Notes of Proposed Site Plan.
- G. Weber County and Utah State Code Definitions.
- H. Examples of Typical Slaughterhouse Procedures.

Map #1 - Jones Property (Parcel 22-010-0001)



Map #2 - Drinking Water Protection Zones and Subject Parcel Location

DRINKING WATER SOURCE PROTECTION MAP



Dear Weber County Board of Adjustment,

This appeal has been prepared to request a Board of Adjustment hearing and public comment on the Land Use Permit (LUP64-2011) issued by Weber County for parcel number 220100001 located at 3788 E 4100 N in Liberty, Utah. The parcel is listed under "Jones, Richard Ralph &" on the Land Use Permit.

I, and various neighbors adjoining and in close proximity to the property, believe there are requirements which may have been overlooked in the approval process which may be due to incomplete and inaccurate information provided by by Rulon Kent and Garet Kent Jones in their narrative and drawings submitted with the Weber County Land Use Permit Application. The drawing provided by the Jones' did not show the adjacent properties or dwellings.

- I bring your attention to 5B-3 of the Weber County zoning ordinances Agriculture Valley Zone AV-3 titled "5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area specifically points 5 and 6. Please see the permit language below.

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

- 1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises*
- 2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver*
- 3. Fruit and vegetable storage and packing plant for produce grown on premises.*
- 4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.*
- 5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:*
 - 1. not exceed a density of twenty-five (25) head per acre of used and;*
 - 2. be carried on during the period of September 15 through April 15 only;*
 - 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,*
 - 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation*

Point 5B-3-5-3 specifically states "be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land". The proximity of the home/dwelling on the adjoining property of Bret Barry at 4221 N 3800 E, Liberty, UT 84310 is less than two hundred (200) feet from the proposed building. The proximity of this adjoining dwelling creates non-compliance with the ordinance.

- Additionally, the proximity of the home/dwelling of Clay Poulter, 4170 N 3800 E, Liberty, UT 84310 is also less than two hundred (200) feet from the proposed building.
- Point 5B-3-5-4 specifically states “**not to include** the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation”. There are permanent fences, structures and buildings on this site. This is also stated in the “Agricultural Description of Property”. “The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter to be worked”. It seems that these buildings create violations of the ordinance.
- The meat packing slaughter house is contrary to the neighborhood interest. While it may be in an agricultural zone AV-3, this area has been, for over four decades, a subdivision where agriculture is practiced for family use. There are certainly no other commercial facilities. The waste products of blood and offal are a strong attractant to predators. There have been multiple incidents with animal killings by predators in the area since the elk have been on the property. We expect the processing of meat would increase predators in the area.
- This facility is not in harmony with the area which is principally family housing on large parcels and animals are kept as “pets”. Concern for odors from the facility, other pollutants and disposal of waste products is of great concern. Additionally this will bring more traffic to a very quiet street with children. Additional traffic and the need for more parking to provide for the delivery and pickup of elk can also be expected to create undue hardship on neighbors and local residents.

In summary, we believe the Land Use Permit (LUP64-2011) is not in compliance with Weber County Ordinances for Agriculture Property Zone AV-3 and may have been issued because of incomplete and inaccurate information supplied by the Jones' on their Weber County Land Use Permit Application.

- Distance to dwellings on adjoining properties is not two hundred (200) feet thus not in compliance with Ordinance 5B-3.
- The site includes permanent fences, corrals, chutes, structures and other buildings normally associated with a feeding operation thus not in compliance with Ordinance 5B-3.
- Nothing within the narrative nor drawings provides guidelines, plans or definition of Environmental Impact, waste handling and disposal plan, waste water plan, harmony with surrounding neighbors and harmony with purpose of the residential area.
- Quoting Weber County Board of Adjustment Application Review Document (current as of 05/01/10) page 2 of 5 point 3 “To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the Ordinance will result in

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unnecessary hardship; provided, that the spirit of the Ordinance shall be preserved and substantial justice done” We submit that the proposed facility is “contrary to the public interest” and “will result in unnecessary hardship” to both adjoining properties and other residents in the area.

Thus we request according to point 4 (“to interpret the zoning map and zoning ordinance”) that the Board of Adjustment hear this appeal which is brought forth by Bret Barry and other local residents.

Sincerely,

Bret Barry
Property Owner
4221 N 3800 E
Liberty, Utah 84310

Attached please find multiple photos of the Jones property where the proposed slaughterhouse meat processing facility is intended to be located.

I bring your attention to such inaccurate statements documented by photos:

“Weeds are controlled and the land is replanted when needed.”

Additionally, the Board of Adjustment will see the proximity of the facility to the Barry, Poulter, McFarland, Tuck and Rohde dwellings.

Finally, the Board of Adjustment will see the general condition of the property including multiple human and animal hazards in the “working facilities” thus providing evidence of the lack of stewardship and care for animals, facilities and land at the Jones property.

Dear Board of Adjustment,

I respectfully submit additional information to my request for Appeal of the Land Use Permit LUP64-2011.

In review of the Weber County Ordinances the intended use of the slaughterhouse and/or meat cutting processing operation which will prepare and provide for the sale of processed meat proposed by Rulon Kent Jones, Garett Kent Jones and Broadmouth Ranch (www.utahelkhunt.com) is not agricultural but is in fact a commercial business operation.

5B-1A Agriculture Preferred Use

Agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.

Though agricultural in nature, the proposed operation does not fit within the parameters of 5B-1A because it is clearly commercial. The generally stated purpose of the operation is to process the meat from the livestock sold as part of a private hunting business. This proposed extension of the Broadmouth Ranch (www.utahelkhunt.com) operation will combine a slaughterhouse and/or meat cutting, packaging, processing operation which will prepare and provide for the sale of processed livestock within and across state lines and is definitely a commercial to supplement the business of Rulon Kent Jones and Broadmouth ranch which should be aptly designated as commercial.

Commercial Valley Zones CV-1, CV-2

18-B1 Purpose and Intent

The purpose of the Commercial Valley, CV-1 (Neighborhood), and Commercial Valley, CV-2 (General) Zones is to provide suitable areas for the location of the various types of commercial activity needed to serve the people and commerce of the Ogden Valley in unincorporated Weber County. It is also to separate into two zones, uses based upon the type of activity which are compatible and complementary, as well as intensity of land utilization and accessory use needs.

18-B4 Special Regulations

1. Hereinafter specified Permitted and Conditional uses shall be allowed only when the following conditions are complied with:
 1. All uses shall be free from excessive odor, dust, smoke, or noise.
 2. In the CV-1 (neighborhood) Commercial Zone no entertainment, except recorded music shall be permitted in cafes, cafeterias, ice cream parlors, or restaurants.

1. A car wash shall be permitted subject to the following restrictions:
 1. Operation or use shall limited to the hours between 6:00 a.m. and 10:00 p.m. in CV-1 Zones only.
 2. There shall not be more than four washing bays for a manual spray car wash in CV-1 Zones only.
 3. Off-street vehicle storage required as follows:
 1. One bay car wash, four spaces in the approach lane
 2. Two bay car wash, three spaces in the approach lane for each wash bay
 3. Three or more bay car wash, two spaces in the approach lane for each wash bay

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	CV-1	CV-2
Manufacture of goods retailed on premises	N	C
Meat Custom cutting and wrapping excluding slaughtering	N	C
Meat, fish and seafood store	P	P

As Weber County has specifically designated Weber County Ordinance Commercial Valley Zones CV-1, CV-2, for the inclusion of businesses relating to meat custom cutting and wrapping in section 18-B5 Uses. This commercial operation is directly suited for location in the CV-1 and CV-2 zones.

The Jones have verbally advised me, as well as others, that the meat which is produced from this commercial operation will be provided, sold and/or delivered to clients which have procured the meat through sales of livestock and products from Broadmouth Ranch (www.utahelkhunt.com). Thus this

operation is to be used as an accessory to the commercial hunting enterprise of Rulon Kent Jones and/or Broadmouth Ranch and other entities associated with the afore mentioned.

5B-2 Permitted Uses

1. Accessory building or use customarily incidental to any permitted or conditional use
2. Agriculture, agricultural experiment station; apiary; aviary; aquarium
3. Animals or fowl kept for family food production as an accessory use

As we understand a conditional Land Use permit has been granted due to Weber County Ordinance 5B-2-2 and in following the essence (is that the correct word) of the law that 5B-2-3 clearly states "Animals or fowl **kept for family food production as an accessory use**"

The commercial preparation, cutting, boxing and shipping of processed livestock within and across state lines is not within the essence of the ordinance nor in compliance with Ordinance 5B-2-3 specifically "Animals or fowl kept for family production.....". The intended commercial preparation, cutting, boxing and shipping of processed livestock can in no way be considered an "accessory use".

Ordinance 5B-2-8 clearly states "for produce grown on the premises only" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-10 clearly states "limited to sale of materials produced on premises and with no retail shop operation" Thus the Jones submission should be considered under the essence of this ordinance.

Ordinance 5B-2-14 clearly states "but not including privately owned commercial.....business" Thus the Jones submission should be considered under the essence of this ordinance.

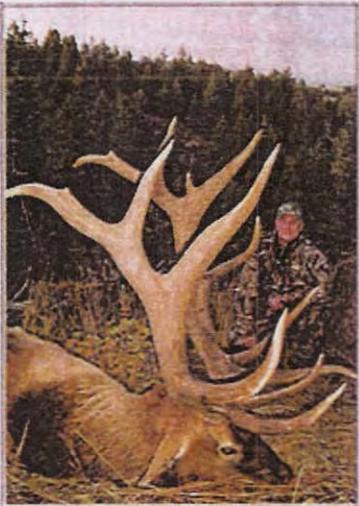
5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises.
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.

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5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:
1. not exceed a density of twenty-five (25) head per acre of used and;
 2. be carried on during the period of September 15 through April 15 only;
 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

The purpose of the proposed commercial operation does not comply Weber County Ordinance 5B-5-4 and 5B-5-5. The raised and grazed livestock providing for this business are in fact sold to individuals as per the terms and conditions on the Broadmouth Ranch website <http://utahelkhunt.com/content/hunts.html> in which hunters are "Featuring 100% Guaranteed Elk Hunts!" at prices listed on the site.

TYPE	PRICE	INFORMATION	
 <p data-bbox="239 1203 403 1233">Elk Hunts</p>	<p data-bbox="507 1203 592 1233"><u>Trophy</u></p>	<p data-bbox="911 1203 1059 1257">\$5,900 plus \$488 license</p>	<p data-bbox="1286 1203 1568 1312">With our trophy hunt, we guarantee an opportunity up to a 340 class bull.</p>
	<p data-bbox="475 1337 628 1366"><u>Management</u></p>	<p data-bbox="871 1337 1098 1366">\$3,900 plus license</p>	<p data-bbox="1286 1337 1544 1366">5X6 Bull and 5X5 Bull</p>
	<p data-bbox="523 1388 580 1417">Cow</p>	<p data-bbox="871 1388 1098 1417">\$1,900 plus license</p>	
	<p data-bbox="485 1439 619 1468"><u>Free Range</u></p>	<p data-bbox="871 1439 1098 1468">\$4,900 plus license</p>	
	<p data-bbox="496 1490 608 1519"><u>Upgrades</u></p>	<p data-bbox="927 1490 1043 1547">Please <u>contact us</u></p>	<p data-bbox="1286 1490 1568 1794">We also have elk hunts that we guarantee specific size bulls. For the hunter that would like to choose a particular class of bull, we have bulls up to 600 points. We do not over hunt our ranches and we are at 100% success for elk.</p>

The proposed commercial operation of Jones and Broadmouth Ranch may also be considered an agricultural feed yard operation as defined in Rulon Kent and Gareth Kent Jones "Agricultural Description of Property". "Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on the property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring elk into smaller area in the winter and be worked".

Conditional Uses

22C-1 Purpose and Intent

The purpose of this chapter is to establish standards for land uses listed in each zone as a conditional use, and to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional."

Conditional uses are intended to allow greater flexibility by providing a wider variety of uses in a zone, while at the same time allowing conditions to be applied, due to their unique characteristics or potential impacts on surrounding uses. These may be appropriate only in certain locations and/or under specific conditions that mitigate potential impacts. If impacts cannot be mitigated, the conditional use may be deemed incompatible in some areas.

22C-3 Review Procedure

Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:

- 1. A completed application form signed by the property owner or certified agent.*
- 2. An application fee. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application.*
- 3. A narrative addressing the Criteria of Issuance 22C-5.*
- 4. Detailed location map.*
- 5. Detailed building plans and site plans specifications shall be drawn to scale including electronic copies showing details and other applicable zoning requirements as which are outlined in Chapter 36 "Design Review" and Chapter 18C "Ogden Valley Architectural, Landscape and Screening Standards"*
- 6. Accompanying documents including water and waste water feasibility letters.*

- 7. Any additional pertinent information needed to adequately describe the proposal.
- 8. A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.
- 9. For those applications where no changes are proposed to an existing structure, the application requirements may be modified by the Planning Director.

In granting a Conditional Use Permit" applications are subject to Weber County Ordinance 22C. Quoting 22C-3 of the ordinance "Applications for a conditional use permit shall be submitted to the Planning Division.

1. An application shall include:". The submission by the Rulon Kent and Garet Kent Jones does not include all the required items, specifically:

22C-3-1-5 – Detailed building plans and site plan specifications.....and other applicable zoning requirements as which are outlined in Chapter 36 "Design Review"

Citing Chapter 36 "Design Review":

36-1 Purpose

The purpose and intent of design review by the Planning Commission is to secure the general purposes of this Ordinance and the master plan and to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood.

It shall not be the intent of this Chapter to restrict or specify the particular architectural design proposed or to specify the exterior detail or design, color, or materials proposed by the applicant, except as such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings or as guided by Chapter 18C, Ogden Valley Architectural and Landscape Ordinance.

Weber County Ordinanecd 36-1 Purpose "The purpose and intent of design review by the Planning commission...." is "to insure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood."

We the adjoining property owners and neighbor property owners in close proximity submit that the "appearance of buildings and structures and the development of the property" do impair the orderly

and harmonious development of the neighborhood and impair investment in and occupation of the neighborhood”.

22C-3-1-6 – “Accompanying documents including water and waste water feasibility letters”

22C-3-1-8 – “A requirement that the applicant submit applicable impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.

36-2 Application and Review

All applications for occupancy permits or building permits for all multi-family (over 8) dwellings, recreation resort uses, public and quasi-public uses, business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances. All of the above required architectural and site development plans shall be reviewed and approved prior to the issuing of any land use, occupancy or building permit.

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWF and JPEG files of the respective plans.

According to Weber County Ordinance 36-2 Application and Review:

All applications for....business, commercial and manufacturing buildings, structures and uses and their accessory buildings, shall be accompanied by architectural elevations and site development plans to scale, which shall show building locations, major exterior elevations, exterior building materials and color schemes, landscaping, prominent existing trees, ground treatment, fences, off-street parking, vehicle and pedestrian circulation, adjacent buildings, streets and property lines, and existing grades and proposed new grades. All plans shall be reviewed and approved by the Planning Commission with the exception that small buildings with a total footprint of less than 10,000 sq ft and a project area of less

than one acre shall be reviewed and approved by the Planning Director after meeting the requirements of all applicable ordinances.

Additionally:

All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF, DWF and JPEG files of the respective plans

Consideration prior to Conditional Land Use Permit is to be given to Weber County Ordinance 36-4 Considerations in Review of Applications, please see below:

36-4 Considerations in Review of Applications

The Planning Commission and/or the Planning Director shall consider the following matters, and others when applicable, in their review of applications and where the plan is found deficient the plan design shall be amended or conditions imposed to mitigate such deficiencies when considering:

1. *Considerations relating to traffic safety and traffic congestion:*
 1. *The effect of the development on traffic conditions on abutting streets*
 2. *The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways*
 3. *The arrangement and adequacy of off-street parking facilities to prevent traffic congestion*
 4. *The location, arrangement, and dimensions of truck loading and unloading facilities. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, all residential windows should face away from loading docks.*
 5. *The circulation patterns within the boundaries of the development. In the case of a commercial or industrial development which includes an on-site owner/employee residential use, a separate ingress/egress may be required, depending on the size and/or type of use, and for any multiple use complex.*
 6. *The surfacing and lighting of off-street parking facilities*
2. *Considerations relating to outdoor advertising:*
 1. *The number, location, color, size, height, lighting, and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards, the blanketing of*

adjacent property signs and the appearance and harmony with other signs and structures with the project and with adjacent development.

Considerations relating to landscaping:

1. The location, height and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development
2. The planting of ground cover or other surfacing, such as bark or colored/natural gravel, as described in item G, to prevent dust and erosion and provide a visual break for the monotony of building materials, concrete and asphalt
3. A minimum landscape space of 10% of the project area shall be provided with consideration of drought resistant and water conserving landscape materials, or as required by Chapter 18-C, Ogden Valley Architectural and Landscape Ordinance
4. The number and type of mature and planted size of all landscape plantings
5. The method of irrigation and approximate location of the water meter, point of connection, sprinkler and/or drip irrigation heads, and any blow-out or winterizing system. Water conserving methods, such as bubblers and drip systems and electronic timer devices are encouraged
6. The location, type, and size of any existing trees over 4" caliper that are to be removed
7. Landscape Standards. Plant sizes at the time of installations shall be as follows:
 1. Deciduous trees shall have a minimum trunk size of two (2) inches caliper.
 2. Evergreen trees shall have a minimum height of six (6) feet as measured from top of root ball.
 3. All woody shrubs shall have a minimum height or spread of eighteen (18) inches, depending upon the plant's natural growth habit, unless otherwise specified. Plants in five (5) gallon containers will generally comply with this standard.
 4. Vines shall be five (5) gallon minimum size.
 5. Turf grass species, if used, shall be hardy to the local area. Application rates shall be high enough to provide even and uniform coverage within one (1) growing season. Turf areas, where erosion is expected to occur under normal conditions, such as drainage swales, berms and/or slopes greater than 30% shall be planted with sod or other deep-rooting, water conserving plants for erosion control and soil conservation.
 6. Turf grass, if used, shall be limited to no more than 50% of the landscaping requirement.

7. Ground cover may consist of natural or colored gravel, crushed rock, stones, tree bark or similar types of landscaping materials.

8. Water conserving landscaping methods and materials are recommended and encouraged.

8. Plants used in conformance with the provisions of this section shall be hardy and capable of withstanding the extremes of individual site microclimates. The use of drought tolerant and native plants is preferred within areas appropriate to soils and other site conditions. All irrigated non-turf areas shall be covered with a minimum layer of three (3) inches of mulch to retain water. Inhibit weed growth and moderate soil temperature. Non-porous material shall not be placed under mulch.

9. The owner of the premises shall be responsible for the maintenance, repair and replacement, within thirty (30) days of removal, of all landscaping materials on the site. In cases where the thirty (30) day time limit for replacement extends beyond the normal growing season, replacement shall be made at the beginning of the following growing season.

4. Considerations relating to buildings and site layout:

1. Consideration of the general silhouette and mass of buildings including location of the site, elevations, and relation to natural plant coverage, all in relationship to adjoining buildings and the neighborhood concept.
2. Consideration of exterior design and building materials in relation to adjoining structures in height, bulk, and area openings, breaks in facade facing on a street or streets, line and pitch of roofs, and the arrangements or structures on the parcel.

5. Considerations relating to utility easements, drainage, and other engineering questions:

1. The provision within the development for adequacy of storm and surface water drainage and retention facilities and for utilities to and through the property

6. Considerations relating to prior development concept plan approval associated with any Rezoning Agreement, Planned Commercial or Manufacturing Rezoning or Planned Residential Unit Development Approval:

1. Does any proposed phase or phasing sequence of an approved Concept or Preliminary Development Plan provide for logical workable independent development units that would function adequately if the remainder of the project failed to materialize?
2. Is this plan or phase thereof a more detailed refinement of the approved concept plan?
3. Are any modifications of a major nature that first need to follow the procedure for amending the approved concept plan?

A¹⁴/₁₈

36-5 Conditions

Design approval may include such other conditions consistent with the considerations of this, and/or any other Chapter of the Weber County Zoning Ordinance, as the Commission or Planning Director deem reasonable and necessary under the circumstances to carry out the intent of the Zoning Ordinance.

Consideration should be given to the following per Weber County Ordinance 36-5 Conditions:

Weber County Ordinance – Drinking Water Ordinance 41-1 Purpose and Intent, 41-2 Definitions, 41-3 Establishment of Drinking Water Source Protection Zones, 41-4 Identification of Public Water Systems and their Drinking Water Source Protection Zones, 41-5 Allowed Uses, 41-6 Prohibited Uses, 41-7 Sewers within Drinking Water Source Protection Zones and Management Areas, 41-8 Drinking Water Source Protection Requirements, 41-9 Transition, 41-10 Administration

41-1 Purpose and Intent

The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply to the residents of Weber County who receive water for culinary and domestic use from public water systems in the County by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs used by public water systems in the County and by the designation and regulation of property uses and conditions that may be maintained within such zones.

41-2 Definitions

When used in this ordinance, the following words and phrases shall have the meanings given in this Section:

Best Management Practices

A practice or combination of practices determined to be the most effective practicable means of conducting a land use activity to minimize the potential for becoming a pollution source (including technological, economic, and institutional considerations).

Design Standard

Established State or National Standards for the design, construction, placement, or maintenance of a potential contamination source to prevent discharges to the ground water. (See also "Secondary Containment"). A control that is implemented by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

Drinking Water Source Protection (DWSP) Zone

The surface and subsurface area surrounding a groundwater source of drinking water supplying a public water system through which contaminants are reasonably likely to move toward and reach such groundwater source.

Groundwater Source

Any well, spring, tunnel, adit, or other underground opening from or through which groundwater flows or is pumped from subsurface water-bearing formations.

Pollution Source

Point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions clarify the meaning of "pollution source:"

Animal Feeding Operation

A lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

Animal Unit

A unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0

Extremely Hazardous Substances

Those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 560/4-91-011). A copy of this document may be obtained from: Section 313 Document Distribution Center, P.O. Box 12505, Cincinnati, OH 41212.

Hazardous Waste

A waste with properties that make it dangerous or potential harmful to human health or to the environment.

Potential Contamination Source

Any facility or site, which employs an activity or procedure, which may potentially contaminate ground water. A pollution source is also a potential contamination source. Such term includes collection, treatment, storage and distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

Sanitary Landfill

A disposal site where solid wastes, including put resicible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

Sanitary Sewer Line

A pipeline that connects a residence or other building with a sanitary sewer.

Septic Tank/Drain-field System

A system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain field system discharges cannot be controlled with design standards.

Spring

The ground surface outlet of a natural underground spring including Spring collection and control boxes, valves, piping and other attachments.

Storm Water Infiltration Structure

A structure that is intended to discharge storm water so that it infiltrates groundwater.

Underground Storage Tanks

Underground tanks used for the storage of gas, oil, or other hazardous substances.

Wellhead

The physical structure, facility, or device at the land surface from or through which groundwater flows or is pumped from subsurface, water-bearing formations.

SARA Title III

The Superfund Amendment and Reauthorization Act section found in 40 CFR 300-302, pertaining to emergency response and right-to-know.

Source Protection Zone

Means the specified surface and subsurface area surrounding a ground-water source of drinking water supplying a Public Water Supply through which contaminants are reasonably likely to move toward and reach such ground-water source. These zones shall have the approval of the

State of Utah, Division of Drinking Water as described in R309-600 Source Protection: Drinking Water Source Protection for Ground-Water Sources and as stated in Section 41-3.

Time of Travel Distance

The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer. Time of Travel is determined from hydrological studies and is approved by the State Department of Environmental Quality, Division of Drinking Water.

Public Water System

A system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

- *Has at least 15 service connections, or*
- *Serves an average of at least 25 individuals daily at least 60 days out of the year.*

Secondary Containment

A type of system that is used to provide release detection prevention, such as trays under containers, floor curbing or other systems designed to hold materials or liquids that may discharge from containers holding regulated substances. Examples include a double-walled tank, a double-walled integral piping system, or a single-walled tank or integral piping system that is protected by an enclosed concrete vault, liner, or an impervious containment area.

A 18/18

I submit that the Jones are in violation of Weber County Ordinances 30-2 as they have commenced and continued construction prior to issuance of a written permit by the County Building Official.

Land Use Permit, Building Permit and Certificate of Occupancy

30-2 Building Permit Required

Building Permits as specified by Weber County are required for any construction, alteration, repair, removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance of a written permit by the County Building Official.

30-4 Land Use Permit Required

In order to verify zoning requirements and setbacks for permitted or conditional uses, no structure, including agricultural structures, shall be constructed, changed in use, or altered, as provided or as restricted in the Weber County Zoning Ordinance, until and unless a Land Use Permit is approved and issued by the Planning Director or designee.

30-6 Permits to Comply with Ordinance

The Building Official shall not grant a permit for the construction or alteration of any building or structure if such construction or alteration is in violation of any provision of this Ordinance; nor shall any County Official grant any permit or license for the use of any building or land if such use would be in violation of this Ordinance.

30-7 Powers and Duties of Building Official

It shall be the duty of the Building Official to inspect or cause to be inspected all setbacks of buildings in the course of construction or repair. The Building Official shall assist in the enforcement of all provisions of this Ordinance. The Building Official shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations.

Date:



Planning Commission

Land Use Permit

Printed: 6/27/2011

Page 1 of 2

Permit Number: LUP64-2011

Applicant

Name: JONES, RICHARD RALPH &

Address: 3788 E 4100 N

Phone:

*WORKING WITH GARET JONES
814-6261*

Phone:

Name: JONES, RICHARD RALPH &

Address: 3788 E 4100 N

Name: JONES, RICHARD RALPH &

Owner

Parcel

Parcel Number: 220100001

Zoning:

Total Parcel Area:

Address: 3788 E 4100 N

(*If Zoned S-1, See Specific Height Requirements)

**See Diagram on Back Side for Setbacks

Subdivision:

Lot(s):

Section:

Township:

Range:

Proposed Structure: Repair/Remodel Outbuilding Structure Area Used: 1200

Is Structure > 1,000 Sq. Ft.? *If True, Need Certif. Statement

of Dwelling Units: 1 # of Accessory Bldgs: 5 # Off-Street Parking Req'd:

Permit Checklist:



Public by/Right of Use Road? No

> 200 ft. from Paved Road? No

> 4218 ft. above Sea Level? No

Culvert Required? No

*Any Work in the Right of Way requires an Excavation Permit

Additional Frontage Req'd.? no

OR Special Exception? No

Meet Zone Area & Frontage? True

Hillside Review Req'd.? No

Case #

Culinary Water District: Private Well

Waste Water System: Individual

Case #

Comments: Issued based on being an agricultural use as discussed with the Staff. Discussion focused on WC definition of agriculture and State Code. Issuance is also based on representations made on the attached siteplan and narrative.

EXHIBIT B 1/1

Weber County Land Use Permit Application

Application submittals are recommended to be submitted with an appointment.
(801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)
----------------------------	-------------------	-----------------------------

Property Owner Contact Information

Name Rulon Kent Jones	Mailing Address 3985W 3775E Liberty, UT. 84310
Phone 208 346 6631	Fax
Email Address ruon@utahelkhunt.com	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Garet Kent Jones	Mailing Address of Authorized Person 2775W 4904E Eden UT 84310
Phone (801) 814-6261	Fax
Email Address garet-jones@yahoo.com	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Address 3788 E 4100W Eden 84310	Land Serial Number(s) 22-0100001		
Subdivision Name	Lot Number 3788	Current Zoning	Acreage 6.15
Culinary Water Provider	Secondary Water Provider Liberty Irrigation	Waste Water Provider	Frontage

Detailed Description of Proposed Use/Structure

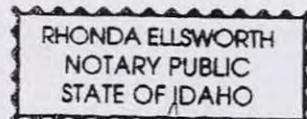
Property Owner Affidavit

I (We), Rulon K Jones, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Rulon Jones
(Property Owner)

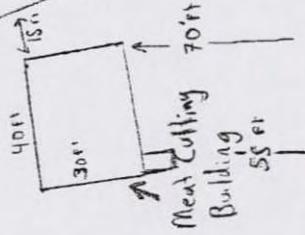
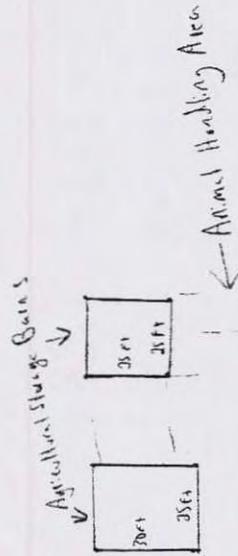
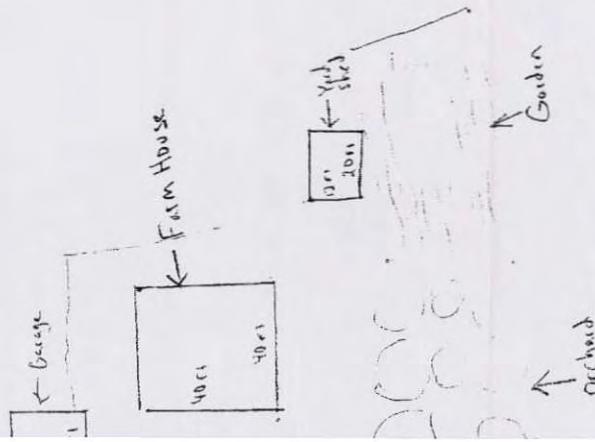
(Property Owner)

Subscribed and sworn to me this 24 day of February, 2011



Rhonda Ellsworth
2/24/11
(Notary)

Jones Site Plan



3800 E Boundary

EXHIBIT D

1/1

EXHIBIT E

1/1

Agricultural Description of Property

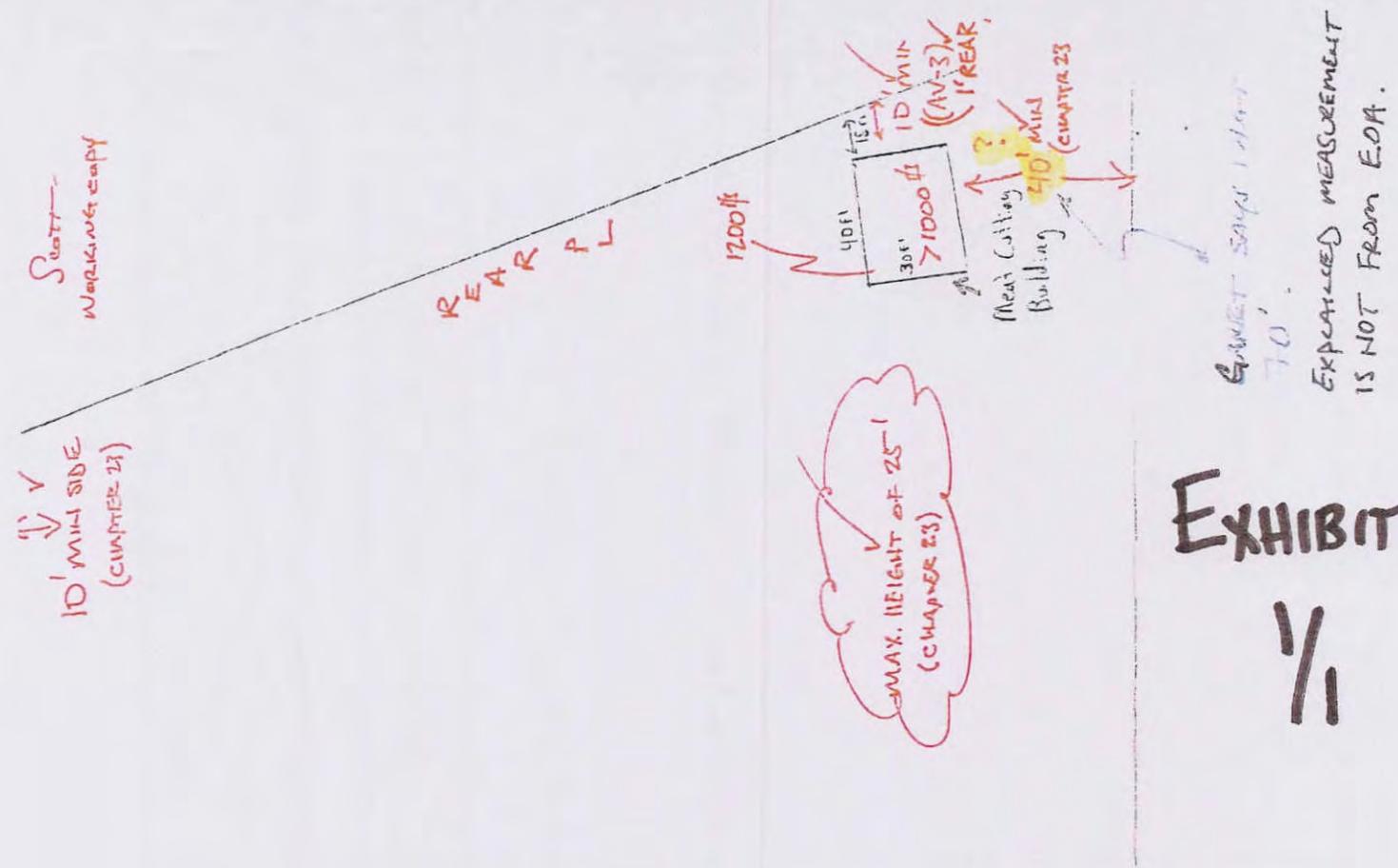
This 6.15 acre piece of property located on the North West corner of 4100n and 3800e in Liberty has and will be used for agriculture. Elk are bred, grazed, handled (vaccinated and ear tagged) and raised on this property. The handling facility and agricultural storage area is used to store hay, grain and other farm supplies. It is also used to bring the elk into a smaller area in the winter and be worked. The new calves are ear-tagged and micro-chipped in compliance with the Utah Department of Agriculture rules. All the animals are vaccinated once a year to maintain health.

The meat cutting building will be used to butcher and package the elk meat for consumption. It will have a meat grinder to make hamburger, cutting and packaging areas. There will also be freezers to freeze and store the processed meat.

The property is irrigated with the Liberty secondary water system that is in place. It is irrigated during the spring and summer months and any excess hay is harvested and stored. Weeds are controlled and the land is replanted when needed.

There is also an apple orchard, raspberry patch and a garden which are also part of the agricultural use of the property.

Jones Site Plan



SCOTT WORKING COPY

10' MIN SIDE (CHAPTER 23)

REAR PL

1200 ft

1000 ft
40 ft
30 ft
10' MIN (N-3) (R-3)

MEAT CUTTING BUILDING
40' MIN (CHAPTER 23)

GARAGE SIDE PL ON STREET
70'
EXPLANED MEASUREMENT IS NOT FROM E.O.A.

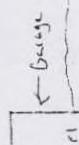
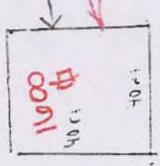
MAX. HEIGHT OF 25' (CHAPTER 23)

EXHIBIT F

1/2

10' BEHIND HOME (CHAPTER 23)

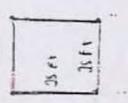
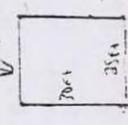
← Farm House



Garden

ORCHARD

← Agricultural Storage Garage



← Animal Handling Area

SIDE PL ON STREET

3800 E Boundary

Definitions

Weber County Zoning Ordinance

AGRICULTURE

Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

AGRICULTURAL PARCEL

A single parcel of land, at least 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in order to qualify for the agricultural building exemption.

Utah State Code

Title 4 - Utah Agricultural Code

Chapter 1 – Short Title and General Provisions

Section 8 – General Definitions

4-1-8. General Definitions

(1) "**Agriculture**" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(2) "**Agricultural product**" or "**product of agriculture**" means any product which is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(6) "**Livestock**" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

Title – Utah Agricultural Code

Chapter 39 – Domesticated Elk Act

Section 102 – Definitions

4-39-102. Definitions

As used in this chapter:

(1) "**Domesticated elk**" means elk of the genus and species *cervus elaphus*, held in captivity and domestically raised for commercial purposes.

(2) "**Domesticated elk facility**" means a facility where domesticated elk are raised.

(3) "**Domesticated elk product**" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

2/2

Title 4 – Utah Agricultural Code

Chapter 32 – Utah Meat and Poultry Products Inspection and Licensing Act

Section 3 – Definitions

4-32-3. Definitions

(9) "**Custom exempt processing**" means processing meat or wild game as a service for the person who owns the meat or wild game and uses the meat and meat food products for the person's own consumption, including consumption by immediate family members and non-paying guests.

(10) "**Custom exempt slaughter**":

(a) means slaughtering an animal as a service for the person who owns the animal and uses the meat and meat products for the person's own consumption, including consumption by immediate family members and non-paying guests; and

(b) includes farm custom slaughter.

(25) "**Meat establishment**" means a plant or fixed premises used to:

(a) slaughter animals for human consumption; or

(b) process meat or poultry products for human consumption.

(38) "**Process**" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

(40) "**Slaughter**" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

Title 17 – Counties

Chapter 41 – Agriculture and Industrial Protection Areas

Section 101 – Definitions

17-41-101. Definitions

As used in this chapter:

(2) (a) "**Agriculture production**" means production for commercial purposes of crops, livestock, and livestock products.

(b) "**Agriculture production**" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

1/2

The slaughterhouse process differs by species and region.

A typical procedure follows:

Answerbag.com

- Animals are received by truck or rail from a ranch, farm, or feedlot.
- Animals are herded into holding pens (see Judas goat).
- Animals receive a preslaughter inspection.
- Animals are rendered insensible (unconscious) by stunning (method varies)
- Animals are hung by hind legs on processing line.
- A main artery is cut, the animal's blood drains out and it dies.
- Animal's hide/skin/plumage is removed.
- Carcass is inspected and graded by a government inspector for quality and safety. (by the Food Safety Inspection Service in the US, and CFIA in Canada)
- Carcass is cut apart and the body parts separated.

Source: www.answerbag.com

Wikipedia

- Cattle (mostly steers and heifers, some cows, and even fewer bulls) are received by truck or rail from a ranch, farm, or feedlot.
- Cattle are herded into holding pens.
- Cattle are rendered unconscious by applying an electric shock of 300 volts and 2 amps to the back of the head, effectively stunning the animal,[6] or by use of a captive bolt pistol to the front of the cow's head (a pneumatic or cartridge-fired captive bolt). Swine can be rendered unconscious by CO₂/inert gas stunning. (This step is prohibited under strict application of Halal and Kashrut codes.)
- Animals are hung upside down by both of their hind legs on the processing line.
- The carotid artery and jugular vein are severed with a knife, blood drains, causing death through exsanguination.
- The head is removed, as well as front and rear feet. Prior to hide removal, care is taken to cut around the digestive tract to prevent fecal contamination later in the process.
- The hide/skin is removed by down pullers, side pullers and fisting off the pelt (sheep and goats). Hides can also be removed by laying the carcass on a cradle and skinning with a knife.
- The internal organs are removed and inspected for internal parasites and signs of disease. The viscera are separated for inspection from the heart and lungs, referred to as the "pluck." Livers are separated for inspection, tongues are dropped or removed from the head, and the head is sent down the line on the head hooks or head racks for inspection of the lymph nodes for signs of systemic disease.
- The carcass is inspected by a government inspector for safety. (This inspection is performed by the Food Safety Inspection Service in the U.S., and Canadian Food Inspection Agency in Canada.)
- Carcasses are subjected to intervention to reduce levels of bacteria. Common interventions are steam, hot water, and organic acids.
- Carcasses (typically cattle and sheep only) can be electrically stimulated to improve meat tenderness. Carcasses are chilled to prevent the growth of microorganisms and to reduce meat deterioration while the meat awaits distribution.
- The chilled carcass is broken down into primal cuts and subprimals for boxed meat unless customer specifies for intact sides of meat. Beef and horse carcasses are always split in half and then quartered, pork is split into sides only and goat/veal/mutton and lamb is left whole

- The remaining carcass may be further processed to extract any residual traces of meat, usually termed advanced meat recovery or mechanically separated meat, which may be used for human or animal consumption.
- Waste materials such as bone, lard or tallow, are sent to a rendering plant. Also, lard and tallow can be used for the production of biodiesel or heating oil.
- The wastewater, consisting of blood and fecal matter, generated by the slaughtering process is sent to a waste water treatment plant.
- The meat is transported to distribution centers that then distribute to retail markets.



NELSEN LAW
OFFICES, P.C.

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Jason K. Nelsen
jason@nelsenlawoffices.com

November 3, 2011

VIA ELECTRONIC MAIL

Mr. Brent Bateman
Office of the Property Rights Ombudsman
160 East 300 South
Box 146702
Salt Lake City, UT 84114-6702

***RE: Advisory Opinion Request – Bret Barry
Property Address: 3187 East 4100 North, Liberty, Utah***

Dear Mr. Bateman:

This correspondence constitutes the response of the owners of the subject property to the letter of Ms. Jodi Hoffman on behalf of her client, Mr. Bret Barry, dated October 17, 2011. The purpose of this correspondence is to briefly elaborate on a few factual issues raised by Ms. Hoffman in her letter to you.

In the October 17, 2011 letter, Ms. Hoffman states in relevant part as follows:

“Over the past several years, there have been a total of 8 live elk (a bull and seven cows) grazing the property. There have been virtually no neighborhood impacts associated with the elk grazing. The neighbors did not object to this agricultural use...In contrast, in one week the facility processed more than 35 elk carcasses (or 5 times the number of elk living on the small farm).”

The above-quoted text contains multiple factual inaccuracies that need correction even if they are in large part legally irrelevant.

First, in the past several years, there have been anywhere from 8 to 100 elk living on the subject property. Recently, the subject property has been utilized to sustain elk numbers on the low end of that range, but the history of this property's use as the part of a larger elk agricultural operation in the north end of Ogden Valley is substantial and well known. Second, claims of 35 elk carcasses being processed in a single week are grossly inaccurate. The facility has processed between 6 and 15 elk carcasses per week since it has

been in use. Ms. Hoffman's claim of 35 elk carcasses being processed in a single week appears to be the result of an inaccurate extrapolation. In her October 17, 2011 letter Ms. Hoffman provided a photo of a truck with 5 elk carcasses in the back of it. Apparently, this led to the mistaken belief that 5 elk carcasses arrive at the facility every calendar day resulting in 35 elk carcasses per week being processed. This is simply not correct. No more than 15 elk have ever been processed at the facility in a single week and, in an average week, closer to 6-8 elk are being processed at the facility. All of the elk processed at the facility are from the subject property owners' private herd maintained in the Ogden Valley. The subject property is an integral part of the property owners' overall elk agricultural operation in the Ogden Valley.

The owners of the subject property are pleased by Ms. Hoffman's accurate statement that "there have been virtually no neighborhood impacts" associated with the owners' previous use of the property as part of their overall elk agricultural operation. The landowners suspect and hope that this will continue to be the case going forward. The landowners are committed to making sure that occurs, but they are equally committed to preserving their right to put their property to full use in their overall elk operation.

Please contact me with questions or if I can provide any further information. The landowners and I appreciate your office's efforts and assistance.

Sincerely,

A handwritten signature in cursive script that reads "Jason K. Nelsen". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Jason K. Nelsen
Attorney at Law





PRIME CUT[↑] Co.

435-313-0138

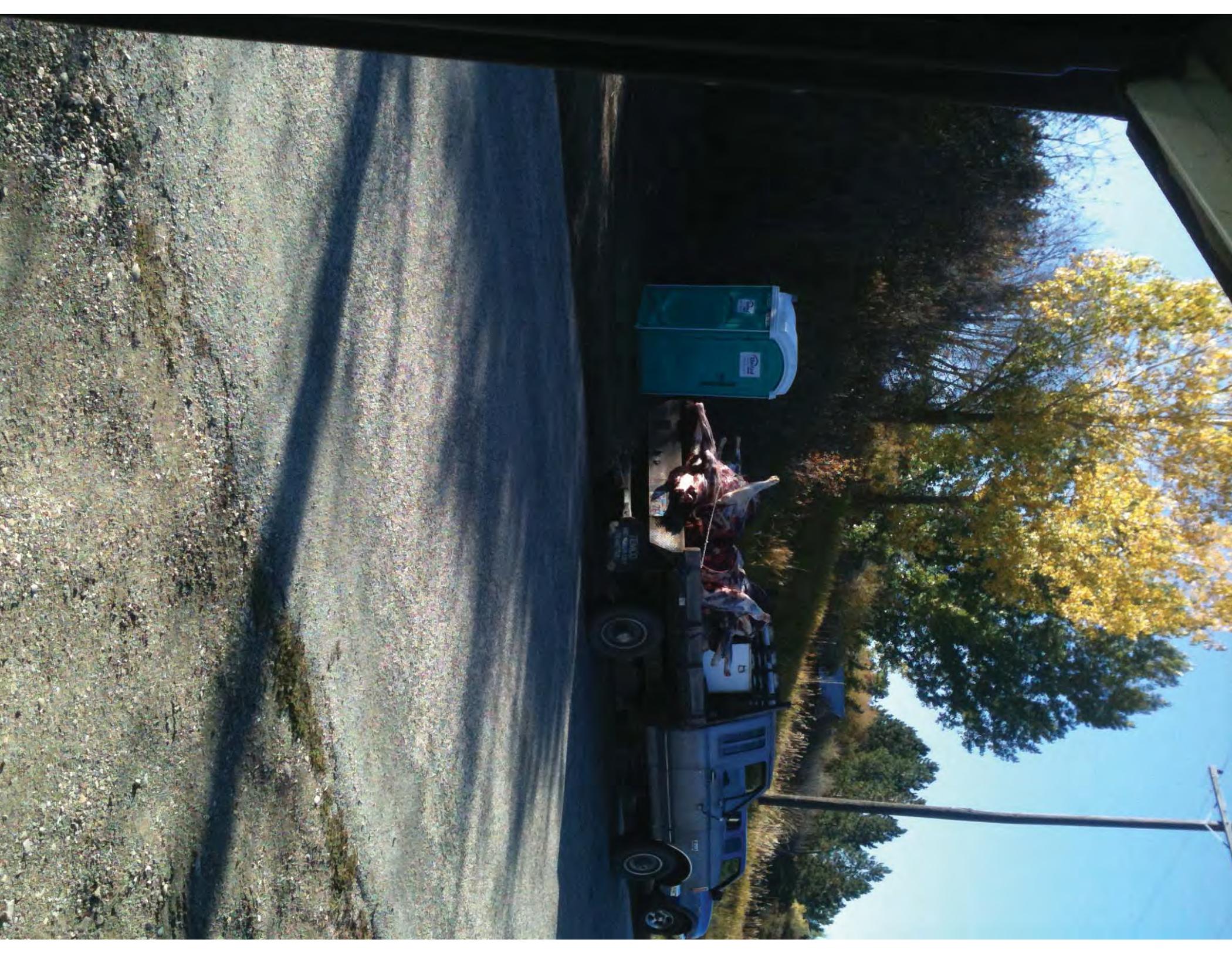
Wild Game, Beef etc.

Cut and Packaged

Certified / Licensed

10/24/2011 6:11pm



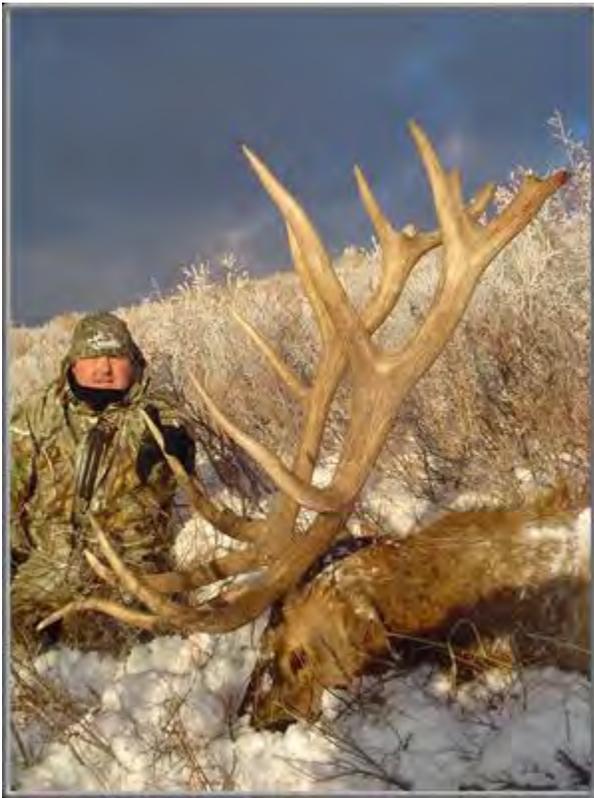




Good stuff.
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GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

ADVISORY OPINION

Advisory Opinion Requested by: Bret Barry
Local Government Entity: Weber County
Applicant for the Land Use Approval: Rulon Kent Jones
Type of Property: Agricultural Lot
Date of this Advisory Opinion: November 8, 2011
Opinion Authored By: Brent N. Bateman, Lead Attorney
Office of the Property Rights Ombudsman

Issues

- (1) Is a custom butchering and meat packing business a prohibited use in the County's AV-3 zone? and
- (2) Does the Weber County Code authorize the planning staff to serve as the land use authority in this matter?

Summary of Advisory Opinion

The Weber County Ordinances permit staff to act upon and grant requests for permitted uses. The ordinance also permits ancillary agricultural uses such as meat cutting and packing in the AV-3 zone. This is especially so in light of the maxim that ordinances are to be interpreted broadly to permit land uses, along with the limited deference that the County has to interpret its own ordinances. However, the Landowners' meat cutting and packaging operation is not simply ancillary to an agricultural use at the Parcel. It is part of a larger hunting, cutting, and packing business undertaken at the Parcel and other locations. The Weber County Ordinance expressly prohibits the type of agricultural industry and business undertaken by the Landowners in the AV-3 Zone. Those considerations of interpretation and deference do not extend far enough to permit the type of agricultural business or industry that the Landowners have undertaken here.

Review

A request for an advisory opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A request for an Advisory Opinion was received from Jodi S. Hoffman, on behalf of Bret Barry, on August 24, 2011. A copy of that request was sent via certified mail to Alan D. McEwan, County Clerk/Auditor, for Weber County, at 2380 Washington Blvd, Suite 320, Ogden, Utah 84401. The return receipt was signed and delivered on September 7, 2011, indicating it had been received by the County. A copy of the materials regarding the request was also sent to Mr. Rulon Kent Jones, owner of the subject parcel, at 3985 North 3775 East, Liberty, Utah 84310. Mr. Jason K. Nelsen, Attorney for Rulon Kent Jones, submitted a response to the Office of the Property Rights Ombudsman on October 6, 2011, which included a copy of the Staff Report to the Weber County Board of Adjustment, dated August 25, 2011 along with several other attachments. Mr. Christopher F. Allred submitted a response on October 13, 2011. Ms. Hoffman submitted a response on October 18, 2011 and October 19, 2011. Over the ensuing several weeks, all parties sent multiple submissions, by email and regular mail, some with attachments and exhibits.

Evidence

The following documents and information with relevance to the issue involved in this advisory opinion were reviewed prior to its completion:

1. Request for an Advisory Opinion, submitted by Jodi S. Hoffman, on behalf of Brett Barry, and received by the Office of the Property Rights Ombudsman, August 24, 2011.
2. Response submitted on behalf of Rulon Kent Jones by Jason K. Nelsen of Nelsen Law Offices, P.C., dated October 5, 2011, and all attached documents.
3. Letter dated October 8, 2011 from Ms. Hoffman.
4. Response submitted on behalf of the County by Christopher F. Allred, Deputy Weber County Attorney, dated October 11, 2011
5. Letter dated October 17, 2011 from Ms. Hoffman with attachments.
6. Letter dated October 27, 2011 from Mr. Allred.
7. Staff Report to the Weber County Board of Adjustment on the appeals of the Weber County Planning Commission on its decision to issue a Land Use Permit, dated August 25, 2011.
8. Letter dated November 3, 2011 from Mr. Nelsen.

Background

Richard Ralph and Rulon Kent Jones (“Landowners”) own a parcel located at 3788 E 4100 N in Liberty, Weber County, Utah (the “Parcel”). The Parcel consists of approximately 6.15 acres and lies within the Agricultural Valley-3 (AV-3) Zone. Next to the parcel is a cluster subdivision known as, with irony that will soon be apparent, Elk Ridge Estates.

During June, 2011 a representative of the Landowners submitted a land use permit application for the Parcel, which according to the County included a site plan and a written narrative describing the subject property and the proposed land use. According to the County, the Landowners proposed utilizing an existing 1200 sq.ft. building on the Parcel for meat cutting and preparation. The Landowners indicated to the County, and continue to assert now, that the building will only be used for cutting and preparing elk meat and no other game.¹ On June 27, 2011 staff at the Weber County Planning Division reviewed the land use permit application and subsequently issued a land use permit. Since the permit was issued, the Landowners have undertaken improvements of the building on the Parcel to facilitate the meat cutting operation, and have apparently received a business license.

Bret Barry is a resident of the Elk Ridge Estates and, according to his attorney, lives less than 200 feet from the meat cutting building at the Parcel. He and several of his neighbors object to Weber County’s approval of the land use application. Mr. Barry and/or his neighbors have made timely appeal of that approval to the Weber County Board of Adjustment, claiming that the permits were issued in violation of Weber County Code. Through his attorneys, Hoffman Law, Mr. Barry has requested this Advisory Opinion to address two questions: (1) Is a custom butchering and meat packing business a prohibited use in the County’s AV-3 zone? and (2) does the Weber County Code authorize the planning staff to serve as the land use authority in this matter? The County has agreed to postpone the Board of Adjustment appeal pending release of the requested Advisory Opinion.

Analysis

I. Standard for Reviewing Land Use Decisions

In *Fox v. Park City*, 2008 UT 85, the Utah Supreme Court recently explained the standard of review for land use decisions. A review of a decision by a land use authority “is limited to whether a land use authority’s decision is arbitrary, capricious, or illegal.” *Id.* at ¶11. *See* UTAH CODE § 17-27a-801(3)(a)(ii). The Court goes on to explain that there are two parts to the “arbitrary, capricious or illegal” analysis:

¹ The County indicates that they received no indication that any animal besides elk would be processed at the property, and that there would be a limited number of carcasses (approximately 100) cut and prepared during the fall months only. Further, the Landowners indicate that in an average week, only 6-8 elk carcasses are processed at the facility, and that no more than 15 elk have been processed in a single week.

First, a land use authority's decision is arbitrary or capricious only if it is not supported by substantial evidence in the record. A land use authority's decision is illegal if it violates a law, statute, or ordinance in effect at the time the decision was made.

Fox, 2008 UT 85 at ¶11 (citations omitted). Accordingly, a decision is not arbitrary and capricious if it is supported by substantial evidence on the record. On the other hand, a decision is illegal where it violates a law or ordinance in effect. Mr. Barry claims that the decision is illegal because the permit was issued in violation of the Weber County Code.

Where a determination of illegality must be based upon the interpretation of an ordinance, the standard of review is correctness. *Fox*, 2008 UT 85 at ¶11. Review of an ordinance interpretation for correctness requires consideration of the principles of statutory interpretation. "In interpreting the meaning of . . . [o]rdinance[s], we are guided by the standard rules of statutory construction." *Brown v. Sandy City Bd. of Adjustment*, 957 P.2d 207, 210 (Utah Ct. App. 1998). Interpretation of an ordinance begins with the plain language of the ordinance, and a court is to "give effect to the plain language unless the language is ambiguous." *Lovendahl v. Jordan School Dist.*, 2002 UT 130, ¶ 21; see also *Mountain Ranch Estates v. Utah State Tax Comm'n.*, 2004 UT 86, ¶ 9. The "primary goal . . . is to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the statute was meant to achieve." *Foutz v. City of South Jordan*, 2004 UT 75 ¶ 11. Statutes should be construed so that "all parts thereof [are] relevant and meaningful." *Perrine v. Kennecott Mining Corp.*, 911 P.2d 1290, 1292 (Utah 1996). Furthermore, it must be presumed "that each term included in the ordinance was used advisedly." *Carrier*, 2004 UT 98, ¶30.

In addition, the *Fox* court explained, "we also afford some level of non-binding deference to the interpretation advanced by the land use authority." *Fox*, 2008 UT 85 at ¶11. However, this deference must be tempered by the principle that land use provisions are to be construed in favor of permitting the land use:

[B]ecause zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.

Rogers v. West Valley City, 2006 UT App 302, ¶15. Accordingly, land use ordinances allowing uses should be liberally construed to allow the use, and ordinances restricting uses should be narrowly construed. Moreover, this deference is further tempered by the principle that a local government must follow the mandatory provisions of its own ordinance: "(2) A county is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances." UTAH CODE § 17-27a-508(2). Accordingly, the local jurisdiction, while given deference in interpreting its own ordinances, is not free to use that deference to interpret a meaning contrary to the ordinances it creates.

II. The County Has Properly Interpreted Its Own Code to Permit Staff to Act as Land Use Authority in This Matter

Barry objects to the decision by the County to grant the permit by arguing that staff was not the land use authority authorized to make the decision. Under Utah law, the land use authority is “a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.” UTAH CODE § 17-27a-103(27). Weber County Code Section 1.1 reads as follows:

1.1 Short Title

The Ordinance shall be known as the “Uniform Land Use Ordinance of Weber County, Utah.” The Township Planning Commissions are to be the Land Use Authority, with due responsibility to administer the Land Use Ordinance. Any appeals of the Land Use Authority will be heard by the Board of Adjustment as outlined in Chapter 29 of the Land Use Ordinance. Appeal of Conditional Use applications will be heard by the Board of County Commissioners.

By its plain language, this provision designates the township planning commissions as the land use authority under the entire code. This designation complies with the statute and is effective.

Nevertheless, a County can designate more than one land use authority, assigning each to make decisions on specific applications. *See* UTAH CODE § 17-27a-302(1)(c). Weber County argues that Weber County Code Section 30.4 designates a different land use authority for issuing permitted and conditional use permits:

30-4 Land Use Permit Required

In order to verify zoning requirements and setbacks for permitted or conditional uses, no structure, including agricultural structures, shall be constructed, changed in use, or altered, as provided or as restricted in the Weber County Zoning Ordinance, until and unless a Land Use Permit is approved and issued by the Planning Director or designee.

This ordinance says that a Land Use Permit for permitted or conditional uses shall be approved and issued by the Planning Director or designee. Although this designation of the Planning Director or designee as a land use authority could certainly be clearer, this designation suffices to meet the definition in UTAH CODE § 17-27a-103(27). To the extent that those two ordinance provisions conflict, the County’s interpretation designating the Planning Commission is the general land use authority, while the Planning Director or designee is the specific land use authority to issue permits for permitted uses, is reasonable. This interpretation is necessary in order to make both ordinances relevant and meaningful.²

Moreover, where land use permits for permitted uses are concerned, it is eminently reasonable and good policy to delegate that responsibility to staff rather than to the Planning Commission.

² Statutes should be construed so that “all parts thereof [are] relevant and meaningful.” *Perrine v. Kennecott Mining Corp.*, 911 P.2d 1290, 1292 (Utah 1996).

Where a County has listed a particular use as a permitted use, the County has already indicated that it desires that use in the zone, and will allow the use without conditions. In other words, where an applicant for a permitted use submits an application, the only decision to be made is whether that application complies with the ordinance in effect – not whether or not the use is acceptable or should be allowed in the zone. The policy decision regarding that use has already been made. To require a planning commission to review and decide on every application for a permitted use is at best, a waste of time and resources, and at worst, a potential violation of the County Land Use and Management Act, in that the policy decision regarding the use will be made again and again despite the ordinance. The County, under its authority and limited deference to interpret its own ordinances, has determined that the ordinance designates staff to make such decisions. That interpretation has support in the language of the Weber County Code, and is within the County's discretion.

Barry further argues that, because he and his neighbors objected openly to the issuance of the permit, that he raised a conflict regarding the permit. Therefore, according to Barry, the following provision in the Weber County Code returns the decision to the Planning Commission:

1-4 Conflict

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive. Where a conflict exists between various provisions of this ordinance, the Planning Commission shall rule on which provision applies.

The County counters that if such a conflict exists, it is incumbent on the party raising the conflict to appeal the conflict to the Planning Commission under this ordinance. This interpretation is preferable to one where the Planning Commission is obligated to provide its interpretation *sua sponte* whenever an interested party objects. It does not appear that, despite the clear action by Barry and his neighbors to oppose the permit, that any party invoked this ordinance as the proper forum to appeal or review of the decision. In any event, this ordinance cannot be read to designate or change the designation of a land use authority under the ordinance. This section 1-4 states that the Planning Commission shall rule on which of two conflicting provisions apply. It does not appoint the Planning Commission to act upon the application, as required by statute in such a designation. Accordingly, this interpretation of the County's ordinances is within the County's discretion, and meets the correctness standard.

III. The Agricultural Use of the Parcel Does not Comply with the Zoning Code

Mr. Barry further objects to the issuance of the permit on the basis that the meat cutting activities on the Parcel are prohibited within the AV-3 zone. The County has interpreted its code to determine that meat cutting is an ancillary and incidental use to agriculture as permitted in the zone, and has issued the permit on that basis. There is ample justification in the language of the code to support the County's interpretation that general ancillary agricultural uses are permitted within the AV-3 zone, which could include certain meat cutting activities. However, the specific

operation and activities of the Landowners goes beyond what is permitted in the zone. Even when strictly construed,³ the ordinance prohibits the elk meat cutting operation of the Landowners as a prohibited agricultural industry or business.

The Weber County Zoning Ordinance not only lists agriculture as a permitted use, but designates it as a preferred use in the AV-3 Zone.

Agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.

Weber County Code section 5B-1A. The Ordinance states that, as part of that preferred use, “all agricultural operations shall be permitted at any time” within the zone. Also, where agricultural operations conflict with other uses in the zone, the agricultural activities shall not be restricted.

The Ordinance further defines “Agriculture” as:

AGRICULTURE: Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

Weber County Code section 1-6. Accordingly, any agricultural operations that fit this definition are permitted in the AV-3 Zone at any time. As the County points out, *animal husbandry* is included in the definition of agriculture. According to the Code, any animal husbandry activities are permitted in the zone at any time, and shall not be restricted when they conflict with other uses in the zone. Moreover, Section 5B-3 of the Code mentions the use of slaughterhouses in the AV-3 zone. For the County to interpret “animal husbandry” to include ancillary activities such as meat cutting is within its discretion. The definition of agriculture is quite broad, and contains significant room for interpretation.

Barry notes correctly that elsewhere in the County ordinances meat cutting is listed as a conditional use, but not so here, and should be considered prohibited on that basis. Although this reasoning is sound, section 5B-1A states that “*all* agricultural operations shall be permitted at any time” within the zone. That statement should be given meaning, and provides room to include as permitted in the AV-3 Zone a wide variety of agricultural operations, even if they are not specifically listed. Accordingly, the language in the Ordinance provides ample support for the County’s interpretation that ancillary meat cutting is a permitted agricultural activity within the AV-3 Zone.

However, other statements in the County ordinances should also be given meaning, such as the remainder of the County’s definition of agriculture in section 1-6: “but not the keeping or raising

³ As stated above, ordinances restricting land uses are to be strictly construed. *Rogers v. West Valley City*, 2006 UT App 302, ¶15.

of domestic pets, nor any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.” Also, Weber County Code section 1-3 states that: “Specific uses listed as Permitted or Conditional uses in a zone are allowed; uses not listed are not allowed in that zone.” These must be read in concert with Weber County Code section 5B-1A and the remainder of the Code. Ordinances should be construed so that “all parts thereof [are] relevant and meaningful.” *Perrine v. Kennecott Mining Corp.*, 911 P.2d 1290, 1292 (Utah 1996).

In order to make all parts of that ordinance relevant and meaningful, the restriction on agricultural industry and businesses must be read to limit terms such as farming and animal husbandry. Accordingly, although it may be reasonable to interpret terms like “animal husbandry” to include ancillary farming activities such as meat cutting and packing, as the County has done, that activity is prohibited if it is an agricultural industry or business such as those listed.⁴ The ordinance then lists the kind of agricultural industries and businesses that are prohibited. Nevertheless, even under a narrow interpretation of this restriction, the restriction is not limited to those industries or businesses listed – fruit packing plants, fur farms or animal hospitals. The ordinance also restricts businesses similar to those listed – “or similar uses.”

The elk cutting and packing business at the Parcel is an agricultural business or industry inescapably similar to those prohibited in the ordinance, and go well beyond meat cutting ancillary to animal husbandry. The Landowners are in the business not just of selling livestock produced on a farm, but of selling the opportunity to hunt an elk on private property, under a guided hunt, and offering cutting and packaging services when an elk is successfully obtained.⁵ The Landowners indicate that the elk are taken from the Landowners private herd located in the Ogden Valley.⁶ The property owners acknowledge that very few elk are kept on the Parcel, and the vast majority of elk processed at the Parcel are obtained and killed elsewhere. The elk are then brought to the parcel for processing. It does not appear that the Landowners are farming domesticated elk as that term is defined in UTAH CODE § 4-39-102,⁷ and processing that elk for consumption on or off of the farm. Rather, the Landowners are offering for sale guided hunts of wild elk on private lands, and processing and packing that elk meat as part of that business. This is very similar to a business that permits customers to pick their own fruit on or off of the parcel, and to bring it to the parcel for processing and packing. A fruit packing business or industry is expressly excluded from the definition of agriculture in Weber County. The facility for cutting and packing meat is quite similar to a fruit packing plant in this respect. The Landowners’ operation can also be said to be similar to a fur farm or animal hospital in multiple respects, such

⁴ It seems clear from this definition, as well as many other provisions of the code, some of which are discussed later, that the AV-3 zoning designation is intended for agricultural uses, but residential purposes are also of high import. The agricultural uses, while permitted, are to be carried out on a scale more compatible with the residential uses.

⁵ It appears that such hunts, at least in some circumstances, are guaranteed.

⁶ It is presumed for purposes of this Advisory Opinion, but not conclusive, that those hunts are conducted exclusively on land owned by Landowners but not on land owned by the public or others.

⁷ The Domesticated Elk Act, UTAH CODE § 4-39-102 *et seq.*, has strict rules and requirements that must be followed in order to farm domesticated elk. The Act prohibits activities such as releasing domesticated elk into the wild and requires certain procedures such as such as specific fencing, marking, and transportation requirements. The information provided for this Advisory Opinion indicates that the Landowners’ activities are outside of the requirements of the Domesticated Elk Act, which leads to the conclusion that the elk being processed at the Parcel are not domesticated elk under the act, but instead are a private herd of wild elk.

as the animals that are no longer living are processed and stored at the facility. As an agricultural industry or business similar to those listed, the elk cutting and packing activity is prohibited by the Code.

The activities of the Landowners at the Parcel go well beyond meat cutting ancillary to farming or animal husbandry. This is especially evident where the elk cutting business is processing wild elk that are not raised or kept on the Parcel, but are obtained from wild areas.⁸ Moreover, if the hunted elk are wild elk and not domesticated elk, whether found on the Landowners' property or otherwise, it is difficult to see how they can be said to be farmed or otherwise fit under a definition of "Livestock." *See* UTAH CODE § 4-1-8. Wild elk are not included. Accordingly, the cutting and packing of wild elk obtained off of the Parcel would not be ancillary to the farming operation at the Parcel, even if the Parcel was used to farm domesticated elk. In addition, it is neither the size of the operation at the Parcel, nor the actual number of animals processed, nor the actual level of noise or disturbance to the neighbors which takes the operation beyond cutting and packing ancillary to farming. It is the use – an agricultural industry or business – that the County has prohibited in its ordinances.

As the County points out, the Code does permit some agricultural industry or business. However, a review of those ordinances further indicates that the Landowners' activities are an industry or business prohibited in the AV-3 Zone, even when viewed broadly. The AV-3 zone designation for a parcel more than 5 acres in area (such as the Parcel) permits the following activities:

5B-3 Permitted Uses Requiring Five (5) Ares Minimum Lot Area

1. Dairy farm and milk processing and sale provided at least fifty (50) percent of milk processed and sold is produced on the premises.
2. Farms devoted to the hatching, raising (including fattening as an incident to raising) of chickens, turkeys, or other fowl, rabbits, fish, frogs or beaver.
3. Fruit and vegetable storage and packing plant for produce grown on premises.
4. The keeping and raising of not more than ten (10) hogs more than sixteen (16) weeks old, provided that no person shall feed any such hog any market refuse, house refuse, garbage or offal other than that produced on the premises.
5. The raising and grazing of horses, cattle, sheep or goats as part of a farming operation, including the supplementary or full feeding of such animals provided that such raising and grazing when conducted by a farmer in conjunction with any livestock feed yard, livestock sales or slaughter house shall:
 1. not exceed a density of twenty-five (25) head per acre of used and;
 2. be carried on during the period of September 15 through April 15 only;
 3. be not closer than two hundred (200) feet to any dwelling, public or semi-public building on an adjoining parcel of land; and,
 4. not include the erection of any permanent fences, corrals, chutes, structures or other buildings normally associated with a feeding operation

⁸ Those elk are hunted, and therefore located presumably in wild areas. They certainly would not be hunted while standing in a corral or pen.

The Landowners' operation on the Parcel cannot be reconciled with the agricultural industries or businesses permitted here. For example, milk processing and sale is permitted where no less than 50% of the milk is produced on the premises. Attempting the analogy, it appears undisputed that more than 50% of the animals processed at the Parcel are produced away from the Parcel. It seems unlikely that the County would place greater restrictions on the processing and sale of milk than the processing and sale of elk meat.

Most importantly, however, is that this list is extraordinarily specific regarding the types of animals that can be raised, and what businesses or industry can be undertaken with each type of animal. The ordinance permits horses, cattle sheep, goats, hogs, chickens, turkeys, fowl, rabbits, fish, frogs, and beaver. Permitted operations related to each of these animals are listed.⁹ This listing is specific and complete enough to include frogs and beaver. No provision or language can be found to indicate that other animals not listed may be included or added. Even the phrase "or other livestock" cannot be found.¹⁰ When interpreting a statute, it must be presumed "that each term included in the ordinance was used advisedly." *Carrier*, 2004 UT 98, ¶30. Moreover, the Weber County Code states that "Specific uses listed as Permitted or Conditional uses in a zone are allowed; uses not listed are not allowed in that zone." Weber County Code section 1-3. The rules of ordinance interpretation compel the conclusion that only those specific agricultural businesses or industries, related to those specifically listed animals only, are permitted. Elk, or an agricultural business or industry related to elk, are not listed and therefore not permitted.¹¹

The important maxim from *Rogers v. West Valley City*, that zoning ordinances restricting property uses should be strictly construed to permit the use, does not justify a complete abandonment of the ordinance language or the principles of ordinance interpretation, and cannot be stretched so far. Likewise, the deference given to the County to interpret its own ordinances – "some level of non-binding deference" – is limited by, among other things, the statutory principle that a local government must follow the mandatory provisions of its own ordinance. UTAH CODE § 17-27a-508(2). The ordinance language prohibiting agricultural industry or business and excluding elk from the very specific and complete list of permitted agricultural businesses must be given effect. An attempt to fit the Landowners' elk cutting and packing business into this definition, when so similar to the expressly restricted business, renders the plain language of the ordinance, even when narrowly interpreted, ineffective and meaningless. Accordingly, neither a narrow interpretation of the restrictions in this Ordinance, nor the County's limited deference to interpret its own ordinances, can permit the Landowners' elk processing and packing business in the zone.

⁹ The code mentions, and presumably therefore permits, slaughter houses but only in conjunction with horses, cattle, sheep, or goats.

¹⁰ Not even state law provisions that add domesticated elk to a definition of livestock can add to the local ordinance that so specifically lists the types of animals the word livestock refers to or businesses that can be undertaken on a parcel with those specific animals.

¹¹ It appears for the same reasons that even general farming of domesticated elk may be prohibited in the AV-3 Zone.

Conclusion

Ordinance language is readily found to support the County's interpretation of its own ordinance that County staff is the land use authority to issue permits for permitted uses in the zone, and that meat cutting ancillary to farming is permitted in the AV-3 Zone. The County's interpretation of those ordinances is correct, and accordingly not illegal. However, the County ordinance language, as it presently stands, prohibits certain agricultural industry or business in the AV-3 Zone. The business undertaken by the Landowners, guided hunting with cutting and processing wild elk obtained off the lot, is inescapably of that type and prohibited in the zone.



Brent N. Bateman, Lead Attorney
Office of the Property Rights Ombudsman