



Huerfano County Planning Commission
Staff Report – Permit #23-015 CUP Bongiovanni
Meeting Type – Assignment

Meeting Date: May 25, 2023

Request Summary

With this Application Ray Bongiovanni (the Applicant) requests the following:

A Conditional Use Permit pursuant to LUR Section §1.06 to operate a wood burial operation as part of a carbon credit offset program. Untreated wood would be buried on a roughly 17-acre portion of the parcel in phases, with each phase containing roughly two-acres on which pits of up to 20’ in depth would be dug and in which wood would be buried. Buried wood would be monitored for carbon or methane emissions. The site is addressed at County Rd. 351 #01940 (Parcel Number 41244).

Wood burial will be considered a landfill, and is also regulated through a State of Colorado Certificate of Designation and a State of Colorado Environmental Covenant.

The subject property is zoned Agricultural and contains approximately 60 acres. Zoning standards for this district are set forth in LUR Section §1.03.

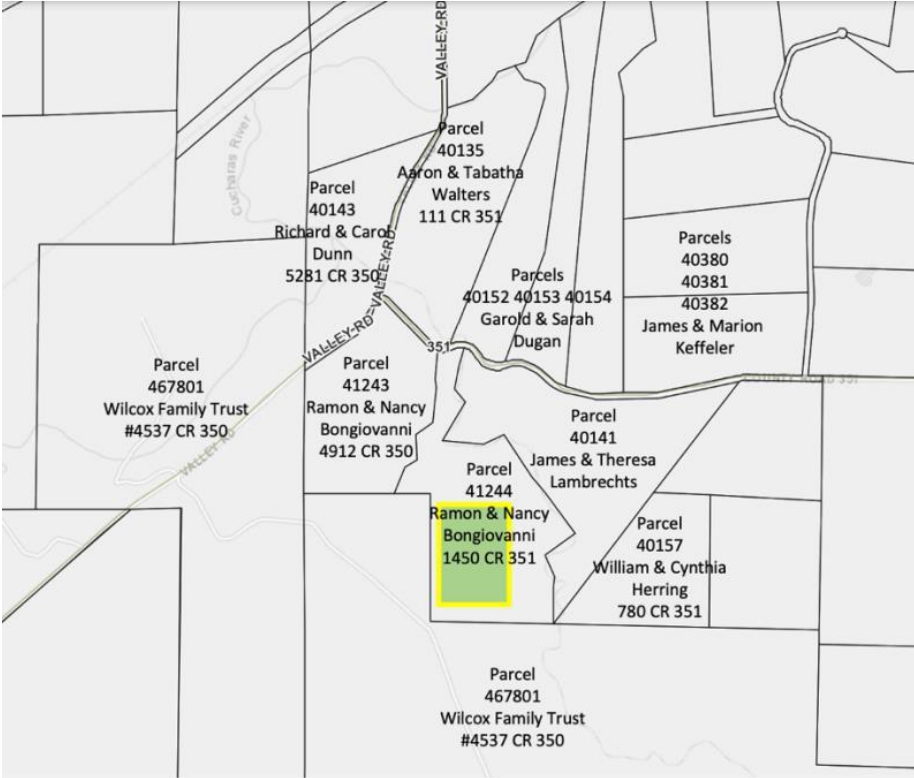
Code References

The following Code Sections are applicable to this application and may be referenced by the in the evaluation of this request:

§1.06 Conditional Use Permits

§1.05.25 Use Table Reference: Sewage disposal areas, sludge, septage, landfills for non-hazardous substances and waste water treatment plants

The proposed use falls under §1.05.25 in the Use Table, and is a conditional use in the Agricultural zone.



Site Map/Vicinity Map
(see image)

Site Description and Context

The land is located in the Cucharas River Estates subdivision, roughly five miles northeast of La Veta, near the intersection of County Road 350 and 351. The land is currently being used for cattle grazing. The affected area within the property is tree-less grazing land. All surrounding, adjacent properties are zoned Agricultural.

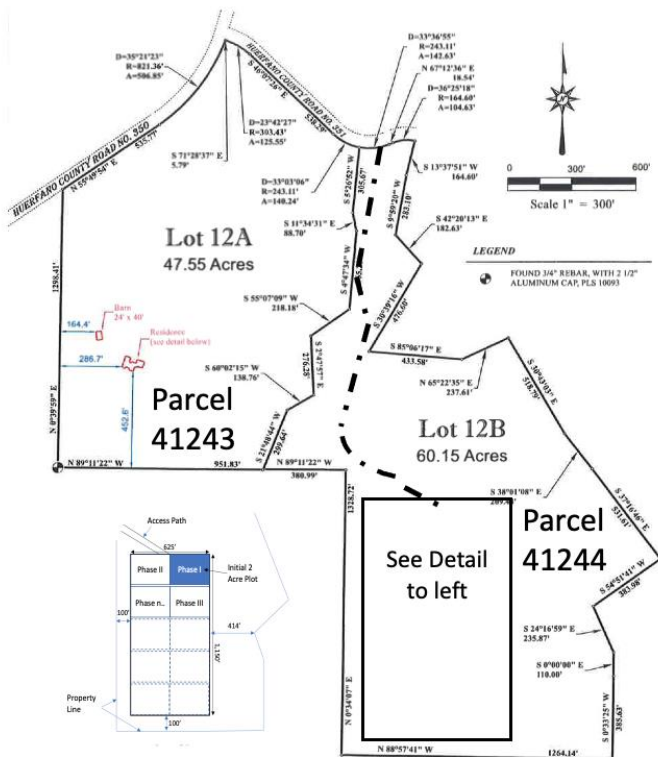
There are 2 nearby homes (in addition to one owned by the applicant), one more than a half-mile away, and the other out of sight. The home on parcel 40157 is approximately 1,500 ft from the proposed burial site; the home on parcel 41243 (4912 CR 350) is approximately 1,300 ft from the proposed burial site and owned by the applicant. There are three other homes within 1/2 mile on parcels 467801 to

the west, 40156 to the east and 40143 to the north.

All cleared land on adjoining properties is used for cattle grazing and fire-wood cutting and distribution. There is a fire-wood business located on Parcel 467801.

Proposal Details

Preliminary Site Plan (Subject to Engineering Change)



The proposed project involves the burial of wood products for the purpose of collecting carbon tax credits. Wood is to be buried in chambers where it will receive minimal moisture and oxygen. Buried wood will be monitored for gasses associated with decomposition; should decomposition begin or reach a certain rate, the problem would be addressed or the wood would be moved.

The project offers a potential use for unmerchantable wood that could reduce fuel in the forest or from other locations.

No utilities are required for the operation. Monitoring equipment will be housed in a small shed and powered by solar panels or batteries.

This proposal involves 17 acres on a 60-acre parcel. Burial would take place in approximately 10 phases involving roughly 2-acres each (see preliminary site plan). Each ~2-acre phase would include the pit to be dug as well as the space to stockpile dirt and material to be buried. While pits are open, a fence would be put up to keep cattle out, and after closing each pit, disturbed earth will be re-planted and the fence removed to allow cattle to graze on all but a currently-disturbed area.

The management plan in Appendix 1 of the Letter of Intent describes monitoring and mitigation strategies for various types of problems.

Appendix 2 includes additional maps showing location and context for the site.

Appendix 3 covers pit design

Appendix 4 covers soil report

Background

On 5/05/2023, an Application for a Conditional Use Permit along with Application Fees were received by the County. The Application was determined to be complete upon a pre-application meeting with the applicant on 5/8/2023.

This applicant previously applied for a Conditional Use Permit for a similar project (Application 22-50). Because that project only involved wood to be cut from the premises, the Planning Commission determined that it would constitute a use by right, similar to the burial of other agricultural wastes. Because this proposal is to bury material from off-site, it is considered a landfill to contain non-hazardous substances in the Use Table.

In addition to a Conditional Use Permit from the county, this project also requires a State of Colorado Certificate of Designation, and a State of Colorado Environmental Covenant to permanently identify the site as a limited-use site subject to State inspection.

The property was sold to the applicant in March of 2023. The deed to the property is dated March 9, 2023.

Application Materials

Required Submittals for a CUP:

1. Letter of intent
 - a. Current and proposed uses
 - b. Impacts of proposed use on roads, traffic, safety, services, environment.
 - c. Comprehensive Plan compliance statement
 - d. Proof of ownership
 - e. List of other state or federal permits granted or applied for.
 - f. List of names and mailing addresses of all listed owners of adjacent property
2. Site Plan
3. Vicinity map – area within 500 ft of property, description of any plats and improvements on property within 500 ft.
4. Proof of ownership.
5. List of names and addresses of adjacent property owners.

Criteria

In order for an Conditional Use Permit to be issued, the criteria set forth in LUR Section 1.06 must be met. An analysis of these criteria is provided below:

Planning commission shall determine if a public hearing is required per **1.06.02**:

1. That the proposed conditional use conforms to the requirements and provisions of this zoning regulation.
2. That the proposed conditional use is consistent with the goals, objectives and policies of Huerfano County, as contained in the County comprehensive plan.
3. That the proposed conditional use is consistent with and in harmony with neighboring land uses and future intended land uses in the area.
4. That the proposed conditional land use will not result in overly intensive use of the land relative to current use of the surrounding land.
5. That the proposed conditional use will not result in unmitigated traffic congestion or hazards to vehicular or pedestrian traffic and its roads will meet the requirements of Subdivision County Road Standards and Specifications.
6. That the proposed conditional use not unnecessarily scar the land on which such use would be located and that the proposed use provide all measures necessary to mitigate negative impacts upon agricultural lands, critical wildlife habitat, seasonal wildlife migration corridors, scenic views and existing cultural and historical resources.
7. That the proposed conditional use will not be likely to prove detrimental to the public health, safety or welfare of County residents nor cause hardship for neighboring persons.

Analysis

- No mention of traffic impact made. What will be the volume and size of trucks delivering wood to be buried? Roughly how many truckloads of wood will each phase contain?
- Comprehensive plan compliance statement in letter of intent is unclear.
- The burial of wood presents few long-term risks to neighbors or environment. If problems arise, the repair of capping or removal of material could result, otherwise the long-term activity associated with the project once wood is buried and capped is limited to monitoring.
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Noticing (1.06.02): Referral agency comment period 30 days; Notice in newspaper 10 days before public hearing; Notification to adjacent property owners 10 days before public hearing; post sign on property 10 days before public hearing.

Notices sent: To be sent after Planning Commission sets hearing date.

Notices in paper: To be set after Planning Commission sets hearing date.

Potential Referral agencies to be contacted:

To be determined by the Planning Commission

- City/Town administration
- San Isabel Electric Association
- Huerfano County fire district
- Huerfano County Emergency Management Department
- Colorado Division of Parks and Wildlife
- Huerfano County Health Department
- Huerfano County Road and Bridge Department
- CDOT
- ___ School District
- Huerfano County Water Conservancy District
- La Veta Fire protection District
- Huerfano County Sheriff's office
- Spanish Peaks Regional Health Center
- ___ HOA/POA (Subdivision name: Cucharas River Estates)
- USFS
- CDPHE
- COG

Referral Comments

(Pending)

LIST ANY ISSUES FROM REFERRALS HERE.

Staff Analysis/Recommendation

Impacts associated with granting permit; pros/cons;

INSERT Comments

Potential Conditions

1. Weed management plan, preliminary weed survey.
2. Create access and monitoring easement.
3. CUP only active if State permits are concurrently valid and active.
4. Notify CDOT of project, including estimated daily traffic generated while materials are being accumulated and burial is underway.
5. Limit material buried to wood products.
6. The following statements made by the applicant in the application could be considered as conditions of the CUP:
 - o Excavations will be done quickly while materials are being buried – not to exceed two weeks at a time (weather dependent).
 - o Upon capping, burial site will be revegetated.

Action Items:

- Recommend send to Public Hearing or Public Meeting
- Recommend review agencies to be contacted

Commission Action Options:

1. **Approval** without any special conditions.
2. **Conditional** Approval with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action.
4. **Continuation** until a future date to gather more information or obtain clarification or for any other relevant cause.

Enclosures

- Application Materials
 1. Application
 2. Letter of intent
 3. Site Plan
 4. Vicinity Map
 5. Proof of Ownership