



2024 Union Pacific Railroad Property Conditional Use Permit Review Minturn Mountain Motel

Overview of Zoning, the CUP Process, and Enforcement Issues

Zoning: Game Creek Character Area PUD Holding Zone

Staff: Madison Harris, Planner I

Staff Report

I. Overview:

The following sections outline the Conditional Use Permit review process, the requirements and necessary findings of the Minturn Municipal Code, and a summary of enforcement chronology and issues associated with historic storage and parking uses on leased Union Pacific Railroad (UP) property located on the north side of the Town.

This overview is provided for the Council’s benefit and use in reviewing a CUP for vehicle storage uses occurring on the UP property on a lease held by the Minturn Mountain Motel. Importantly, the standards and findings listed below are germane to the CUP review before the Council at the October 16, 2024 regular meeting.

II. Chronology/Background:

In 2017, the Minturn Town Council listed compliance and enforcement of the Minturn Municipal Code, as well as adherence to recommendations of the 2009 Community Plan, as a priority for the entire town. In doing so, the Council also focused on uses and, in certain instances, ongoing code enforcement and nuisance-related issues occurring at the UP properties located within the “Game Creek Character Area PUD Holding Zone District” which is generally situated north of the Eagle River Inn and Saloon buildings, west of Taylor Avenue, and east of the Eagle River.

In order to address such issues and concerns, the Town initiated outreach to existing leaseholders on UP property in 2017 with several existing lease holders operating contractor storage, as well as commercial uses (Turn Table Restaurant and lodging uses) on UP property with the goal to allow those uses to continue, but only via the approval of Conditional Use Permits (CUPs) as a means to

regulate those uses more closely through the imposition and enforcement of “conditions” or standards for storage (fencing, screening, parking, hours of operation, for instance).

According to the Minturn Municipal Code, any uses occurring on the UP properties – located within the “Game Creek Character Area PUD Holding Zone District” - require the approval of a Planned Unit Development (PUD), or, if master planning the UP property is not proposed, a Conditional Use Permit. Unfortunately, UP has been largely uninvolved in the CUP process; typically, UP executes leases for various lease areas within the railroad property without communication with the Town, leaving the Town to discover 1) new leases and uses occurring in the railyard through code enforcement activity, and 2) changes in lessors (subleasing) making it difficult for the Town to determine who to contact as a matter of code compliance.

After an extensive public process with hours of public comments submitted, Conditional Use Permits were ultimately issued in late 2018 for the following business entities operating with leases on the UP property:

- Burke Harrington Construction (BHC)
- Happy Hammer Carpentry (Cozzens Construction)
- The Turntable Restaurant / Minturn Mountain Motel
- Minturn Builders Alliance Cooperative (MBA)

The Turntable Restaurant/Minturn Mountain Motel was approved with the following conditions or standards:

1. All parking must be within the leased area;
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad;
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. (The purpose is to ensure that the use is served by an adequate supply of well-planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use);
4. The restaurant and motel must be maintained in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code (The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use);
5. Emergency access of 20’ through the leased area;
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened;
7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner);
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days;
9. The parking area must not be used for repair, maintenance or storage of vehicles;
10. Letter stating the hour and dates of operation to staff;
11. All-season use will require site storage of snow and keeping emergency access cleared.
12. No recreational vehicles or ATV’s of any kind. Not limited to boats, snowmobiles, ATV’s. RV’s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.

13. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec.7-2-70
14. Annual report by the Code Compliance Officer to Council – re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
15. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Department

In 2021, the Minturn Mountain Motel's CUP went through the renewal process and updated the conditions as follows:

1. All parking must be within the leased area;
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad;
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. (The purpose is to ensure that the use is served by an adequate supply of well-planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use);
4. The restaurant and motel must be maintained in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code (The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use);
5. Emergency access of 20' through the leased area shall be maintained;
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened;
7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner);
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days;
9. The parking area must not be used for repair, maintenance or storage of vehicles;
10. Letter stating the hour and dates of operation to staff;
11. All-season use will require site storage of snow and keeping emergency access cleared;
12. No recreational vehicles or ATV's of any kind. Not limited to boats, snowmobiles, ATV's. RV's, campers, pop-ups, conversion vans, trailers, non-work-related vehicles, etc.
13. No inoperable or unlicensed vehicles kept on property for longer than five (5) days. Sec.7-2-70.
14. Violations. The following schedule of fines shall apply for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.
 - b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
15. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:

- a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
- At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
16. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
- a. Report from Code Compliance Office
 - b. Report from Planning Department
17. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.

III. Staff Findings and Analysis:

The following section provides staff responses to each of the applicable Conditional Use criteria.

a. The relationship and impact of the use on the community development objectives of the Town.

Staff Response:

Under Chapter 1: Smart Land Use & Practical Zoning of the 2023 Imagine Minturn Community Plan (the Town's comprehensive plan), the Recommended Town Zoning Detail Map on pg. 24 calls out this area as Mixed-Use 1 which is recommended as – *"The intent for this area is to contain a mix of residential and commercial uses, in a pedestrian-oriented environment in keeping with Minturn's historic character"*

Under Chapter 3: An Economically Vibrant Community of the 2023 Plan, Action 3.1.3 states, *"Continue to support the development of lodging concentrated in the 100 Block and Old Town areas as well as for future development in the Dowd Junction area."*

In 2018, the intent of the Town – working *with* existing lease holders to identify and propose solutions to existing conditions and issues – was to conduct the CUP process so that existing uses could continue as a means to protect existing business operations in the Town while also allowing the Town to regulate such uses and enforce Town Code provisions for safety, nuisances, and general aesthetics. Ultimately, the goals of this process were to:

- Maintain the diversity and mix of businesses
- Contribute to the year-round economy
- Protect the health, safety, welfare, and the aesthetics of the town.

Testimony and participation at public hearings before approval of the CUPs led to the development of the contractor storage standards and terms of use that were attached to the CUPs as conditions of approval.

In accordance with the terms of CUP approvals for the contractor storage uses on UP property, the Town is conducting reviews of each existing CUP. Staff has put forth amended conditions or standards/terms of use.

- b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.***

Staff Response:

The current operations on UP property, inclusive of parking and requested storage uses within the lease boundaries, have minimal material impact or effect on the distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and/or needs.

- c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.***

Staff Response:

Use of the leased areas for contractor storage associated with an existing business in close proximity to an existing storage site does not result in a material increase in local traffic, congestion, pedestrian safety, traffic flow and control, access, maneuverability and snow removal in the immediate vicinity of the subject property.

- d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.***

Staff Response:

Until the late 1990's the character of the area in question had been a working railyard. This railyard was established prior to the town becoming incorporated in 1904 and prior to a majority of the homes being built along Taylor Avenue.

Staff believes that the main factor impacting the character of the surrounding area or, importantly, the compatibility of the use within the Game Creek Character Area is the visual or aesthetic quality of the lease area. Fencing/screening has already been erected around the leased areas boundaries.

- e. Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:***

- 1. That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.***

Staff Response:

Generally, the subject site is located within a historically industrial and commercial area. Yet, Chapter 16 – Zoning of the Minturn Municipal Code describes the character area characteristics for the Game Creek Character PUD Holding Zone as anticipating the discontinuance of industrial uses in favor of commercial and residential re-development:

“The Game Creek Character Area is visually prominent from the north entryway into the Town. The area is predominantly devoted to railroad use and will require a comprehensive planning effort prior to redevelopment. In addition to the rail yard, the area contains the Taylor Avenue neighborhood, some commercial uses and a community parking lot. The area is bisected by the railroad right-of-way, which is intended to remain as a continuous transportation corridor. Most of the area lacks adequate street rights-of-way and utilities. The Community Plan has identified this area as an appropriate area for extension of the Old Town commercial core, mixed-use and residential development; however, high impact industrial uses are discouraged. Enhancement of the Eagle River corridor is a community priority.”

- Town of Minturn Municipal Code Section 16-12-10

It should be noted that the Community Plan does provide goals geared toward supporting existing businesses, and the uses proposed for these CUPs primarily include storage within leased areas. As such, staff suggests that the use does not constitute “high impact industrial uses.”

2. *That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Staff Response:

Generally, the location and uses, if properly conditioned, should not be detrimental to the public health, safety or welfare, nor should they be materially injurious to the properties or improvements in the vicinity if the site is maintained in accordance with the standards of the Minturn Municipal Code and any conditions of approval.

3. *That the proposed use will comply with each of the applicable provisions of this Chapter.*

Staff Response:

If appropriate conditions of approval are attached with any granting of a CUP in this instance, and if such conditions are enforceable (jointly) by the Town and the Applicant, staff believes that this finding can be met.

IV. Items of Note:
Enforcement

At the beginning of 2023, the Town received a complaint that the required number of ADA accessible parking spaces were not being provided. Staff notified the CUP holder of the complaint. As they have 79 parking spaces between the restaurant and the motel, there needs to be five accessible parking spaces. This was corrected within the 30 days given and they were not issued a formal violation.

Staff conducted an inspection and sent notice in September 2024 for accumulation of refuse and noxious weeds. The CUP holder addressed those concerns within the 30 days, and was not issued a formal violation.

V. Staff Recommendation:

Approval with conditions.