

San Juan County, Utah Administrative Law Judge

Daniel Wright)	Administrative Law Judge Lyn L. Creswell
<i>Petitioner,</i>)	Background,
vs.)	Factual Summary, Legal Framework
)	Findings and Conclusions,
San Juan County, Utah,)	Decisions and Orders
<i>Respondent</i>)	
)	26 March 2026

Background

In May 2025¹ San Juan County issued a “Notice of Violation” to Daniel Wright at 158 S. Tera Drive, Moab, Utah. The Notice of Violation included the following.

- 158 Tera Drive is more particularly described as Washington County parcel number 130000002A or Lot 2A, of the Mersereau Subdivision Amendment III.
- 158 Tera Drive is in the Spanish Valley Residential (“SVR”) zone or district of the San Juan Spanish Valley Development Ordinances (“SVDO”).
- Prior to the adoption of the SVDO (2019), 158 Tera Drive was in the A-1 district or zone of the 2011 San Juan County land use ordinance.
- Prior to the adoption of the SVDO, 158 Tera Drive was vacant.
- Prior to the adoption of the SVDO, the owner (Daniel Wright) of 158 Tera Drive has – without building permits – moved or constructed a mobile home onto the property.
- After the adoption of the SVDO (2019), the owner of 158 Tera Drive has moved several mobile homes, together with other structures including sheds/trailers onto the property. This activity was done without building permits, inspections, and certificates of occupancy.
- After the adoption of the SVDO (2019), the owners of 158 Tera Drive used the structures on the property as short-term rentals.
- 158 Tera Drive is not zoned for short-term rentals; and the use of the structures at 158 Tera Drive as short-term rentals is in violation of the SVDO.

¹ It is unclear when the Daniel Wright Notice of Violation was “issued” by San Juan County. The Wright Notice of Violation includes a date of “June 8, 2025.” On 28 May 2025, County Attorney Mitchell Maughan sent an email to Administrative Law Judge Creswell informing him that the Notice of Violation was “recently” issued. The Daniel Wright written response to the Notice of Violation states that the Notice was received by Wright on 12 May 2025. It is assumed that the response letter intended the receipt date to be 12 May 2025.

- Over the last several years, San Juan County and Grand County have issued stop work orders or red-tagged 158 Tera Drive *and* issued emails, written notices, and verbal notices demanding that all work and activity cease and desist pending compliance with all rules and regulations.
- The owner of 158 Tera Drive has ignored and failed to address the notices and warnings and continue to rent out property. Such actions by the owner are willful and deliberate.
- The owner of 158 Tera Drive recently applied for a zone change.
- Any continued use of the property for short-term rentals is considered an illegal use of the property.
- The trailers and structures on the property are not accessory uses as defined by the SVDO and “should be removed immediately.”
- The owner’s application for a zone change is denied “as the existing and proposed uses are illegal.”
- The owner’s actions have created a considerable public safety concern.
- The noncompliant uses at 158 Tera Drive constitute “nuisance activity” as defined in Section 1-12 of the 2011 zoning ordinance.
- The owner of 158 Tera Drive shall cease and desist any use of the property for residential or commercial purposes “effective immediately until further notice.”
- The owner of 158 Tera Drive was informed of the sanctions which may be imposed for failure to comply.

On 16 May 2025 Attorney Steve Russell, representing Daniel Wright, submitted an appeal to the Notice of Violation. Included in Mr. Russell’s letter were the following assertions.

- The residence at 158 South Tera Drive has been inspected and has received a certificate of occupancy.
- Daniel Wright has never received a stop order or red tag, nor has he received any written or oral order to “cease and desist” his operations.
- Daniel Wright relied on multiple assurances from San Juan County officials, both public and private, that he could operate his business.
- Daniel Wright has been in continuous operation with a vested interest since well before the 2019 zoning change.
- Daniel Wright has worked closely with San Juan County in good faith and remains ready and willing to comply with any legitimate orders or requirements.
- The cease and desist order in the Notice of Violation is invalid.

- It is requested that the cease and desist order be held in abeyance until a proper hearing and adjudication of the issues takes place.

On 2 June 2025 ALJ Creswell emailed Mr. Maughan requesting who would represent San Juan County in the Daniel Wright appeal.

On 10 June 2025 ALJ Creswell emailed San Juan County Administrator Mack McDonald, County Zoning Administrator Kristen Bushnell, and County Attorney Maughan. ALJ Creswell stated he understood that Mr. Maughan was seeking an outside attorney to represent the County with the Wright appeal; and that the County was gathering the relevant documents associated with the property. ALJ Creswell stated he would schedule a virtual meeting with the parties, once a County representative was identified. ALJ Creswell informed San Juan County he had not received the Daniel Wright appeal letter.

On 10 June 2025, Kristen Bushnell (in an email) informed Administrative Law Judge Lyn Creswell that she did not have the Daniel Wright appeal letter.

On 31 July 2025 ALJ Creswell sent a text message to County Administrator Mack McDonald and County Attorney Mitchell Maughan. ALJ Creswell asked whether the County had identified a representative. ALJ Creswell asked for an update.

On 6 August 2025 County Attorney Mitchell Maughan informed ALJ Creswell that he [Mitch Maughan] would represent the County.

On 8 August 2025 ALJ Creswell emailed San Juan County informing the County that he still had not received the Daniel Wright appeal letter. On 10 August 2025 Kristen Bushnell responded to ALJ Creswell that she did not have the Wright appeal letter.

On 15 August 2025 Craig Carlile informed San Juan County that he would represent Daniel Wright in the appeal.

On 18 August 2025 ALJ Creswell emailed Craig Carlile informing Mr. Carlile of the appeal process and requesting a date for a prehearing conference.

On 26 August 2025 ALJ Creswell sent an email to County Attorney Maughan and Attorney Carlile. The email summarized the kinds of evidence ALJ Creswell would be requesting from San Juan County in support of the County's Daniel Wright Notice of Violation.

On 26 August 2025 Mr. Carlile sent ALJ Creswell several documents potentially relevant to the appeal. These documents included the following.

- San Juan County Building Permit #19075-1 for 152 Tera Drive dated 23 September 2019.
- 10 April 2020 email to Daniel Wright from San Juan County Public Health Official Rick Meyer.
- San Juan County Building Permit #20095 for 152 Tera Drive dated 5 October 2020.
- San Juan County Building Permit #21145 for 158 Tera Drive dated 1 December 2021.
- Text messages between Daniel Wright and San Juan County employees/officials.
- San Juan County Building Permit #25045 for 158 Tera Drive dated 11 April 2025.
- San Juan County Building Permit #25049 for 158 Tera Drive dated 3 April 2025.
- Text messages between Daniel Wright and Tyler Electrician.
- 12 April 2023 email from San Juan County acknowledging receipt of business license application.
- 5 March 2024 email from Kristen Bushnell to Daniel Wright.
- September 2024 handwritten note authored by Kristen Bushnell.
- Airbnb listings.
- Transcript of 24 November 2024 meeting.
- Daniel Wright and Kristen Bushnell email exchanges.

On 28 August 2025 ALJ Creswell sent Mr. Maughan and Mr. Carlile a *draft* memorandum and order – which summarized a prehearing conference held on 28 August 2025 and included a list of documents or evidence ordered to be submitted by San Juan County.

On 29 August 2025 ALJ Creswell published the Memorandum and Order.

On 9 September 2025 ALJ Creswell emailed Mr. Maughan and Mr. Carlile with an initial draft factual summary – based on documents submitted as of that date.

On 25 September 2025 Mr. Maughan submitted evidence and documents relating to the Daniel Wright Notice of Appeal and response. With the submission were the following.

- March 2023 draft correspondence to “Daniel.”
- Select Google Earth photos.
- Mersereau Subdivision Plats.
- 16 April 2019 Warranty Deed.
- San Juan County Parcel Abstract for parcel 00130000002A.
- 2024 San Juan County Property Tax Master Roll Record for 158 Tera Drive.
- Various public meeting minutes.
- Airbnb listings for 158 Tera Drive.
- Building permit application dated 13 December 2021 for 158 Tera Drive.
- Building permit application dated 12 October 2020 for 152 Tera Drive.
- Building permit application dated 23 September 2019 for 152 Tera Drive.
- 4 June 2020 Conditional Use Permit Application for 152 Tera Drive.

On 6 October 2025 ALJ Creswell sent an email to Mr. Maughan and Mr. Carlile. ALJ Creswell acknowledged receiving and reviewing Mr. Maughan’s 25 September 2025 submission. Based on the initial submission by San Juan County and by Mr. Wright, ALJ Creswell asked follow up questions of the parties.

On 26 November 2025 ALJ Creswell signed an Order to Comply with a Subpoena Duce Tecum for Daniel Wright.

On 30 January 2026 ALJ Creswell sent an email to Mr. Carlile requesting additional information from Mr. Wright about the structures at 158 Tera Drive.

On 27 February 2026 ALJ Creswell sent an email to Daniel Wright requesting a reply to ALJ Creswell’s questions about structures at 158 Tera Drive – questions included in a 30 January 2026 email from ALJ Creswell to Mr. Carlile.

On 28 February 2026 Mr. Wright sent an email to ALJ Creswell. The email “appealed” a 27 February 2026 email sent to Mr. Wright by Tamra Lewis, San Juan County’s Permit Technician. Ms. Lewis’ email informed Mr. Wright that the County could not process a business license application submitted by Mr. Wright.

On 1 March 2026 Daniel Wright emailed ALJ Creswell with Mr. Wright's responses to ALJ Creswell's 30 January 2026 questions.

On 2 March 2026 ALJ Creswell sent Corey Coleman (San Juan County's Building Official) Mr. Wright's responses to ALJ Creswell's questions regarding the structures at 158 Tera Drive.

On 2 March 2026 ALJ Creswell responded to Mr. Wright's email regarding his business license application. ALJ Creswell informed Mr. Wright that the information in the 28 February 2026 email was confusing (possibly missing information, with incomplete facts). ALJ Creswell informed Mr. Wright that compliance with the County's business license ordinance would be addressed during the 13 March 2026 hearing.

On 2 March 2026 ALJ Creswell received a Notice and Motion of Withdrawal from Mr. Craig Carlile, Daniel Wright's representative.

On 2 March 2026 ALJ Creswell received a list of requested witnesses for the 13 March 2026 hearing from Daniel Wright. On 2 March 2026 ALJ Creswell emailed Mr. Wright requesting information regarding the relevance of some of the requested witnesses. On 2 March 2026 Daniel Wright emailed ALJ Creswell with additional information relating to the possible relevance of the requested witnesses. On 3 March 2026 ALJ Creswell sent Mr. Wright and Mr. Maughan an email requesting a virtual meeting to discuss Mr. Wright's requested witnesses.

On 2 March 2026 Daniel Wright emailed ALJ Creswell with information regarding his business license application. On 6 March 2026 Mitchell Maughan emailed ALJ Creswell an attachment. The attachment was a 5 March 2026 letter from County Zoning Administrator Corey Coleman to Daniel Wright. The letter denied a 26 February 2026 business license application submitted by Daniel Wright to San Juan County. On 7 March 2026 ALJ Creswell sent an email to Mr. Maughan and Mr. Coleman. That email requested clarification regarding the County's responses to Mr. Wright's business license application. On 9 March 2026 Daniel Wright emailed ALJ Creswell with updated information regarding his business license application. On 11 March 2026 Corey Coleman emailed ALJ Creswell with additional information regarding Mr. Wright's business license application.

On 6 March 2026 ALJ Creswell hosted a virtual meeting to discuss Mr. Wright's requested witnesses. The meeting included ALJ Lyn Creswell, Daniel Wright, and Mitchell Maughan. ALJ Creswell began the meeting by explaining the purpose of witnesses was to address four key issues: 1) compliance with the San Juan County Land Use Code, 2) the status of the Mersereau Subdivision Amendment Four, and compliance with San Juan County 3) business license and 4) building permit requirements. After discussion, ALJ Creswell Lyn Creswell approved a final witness list including Scott Burton, Kristen Bushnell, Mack McDonald, Corey Coleman, Tamara Lewis, and Nathan Pitts, while excluding Rick Meyer, Jens Nielson, Trent Schafer, and Randy Day due to lack of relevance.² Also excluded was testimony regarding settlement discussions between Daniel Wright, Lori Maughan, and Mitchell Maughan. Lyn Creswell confirmed the hearing would take place on the 13th at 9:00 AM, and a Hearing Management Order will be sent out within 24 hours.

After the 6 March 2026 virtual meeting, ALJ Creswell published a Hearing Management Order for the scheduled 13 March 2026 hearing.

On 7 March 2026 ALJ Creswell emailed Rosa Vargas (San Juan County Administrative Assistant) two emails. The emails included factual summaries prepared by ALJ Creswell. The summaries were intended to assist witnesses Scott Burton and Kristen Bushnell to prepare for their testimony. On 9 March 2026 Rosa Vargas sent the factual summaries to Mr. Burton and Ms. Bushnell.

On 11 March 2026 ALJ Creswell took the sworn testimony of Scott Burton.

On 13 March 2026 a hearing in the subject appeal was held.

On 22 March 2026 ALJ Creswell emailed the parties a draft decision. Comments on the draft decision were requested by close of business 25 March 2026.

² ALJ Creswell questioned the relevance of Rick Meyer, the county public health official, as his testimony related to public health during the COVID-19 period, not zoning or the other core issues. Daniel Wright proposed that Meyer's testimony (and other witnesses) would demonstrate evidence of Mr. Wright's ongoing good faith efforts toward compliance. ALJ Creswell responded by stating that Daniel Wright's actions prior to the May 2025 cease and desist notice were not viewed as being in bad faith, making the proffered testimony unnecessary. Mr. Wright added that some testimony would address the County's compliance activity. It was also agreed that Jens Nielson, Trent Schaefer, and Randy Day would not be helpful because the judge is already well-informed about the historical issues of short-term rentals in Spanish Valley and County enforcement.

Factual Summary

On 5 June 1978 San Juan County adopted its first zoning ordinance.

On 18 November 2002 San Juan County adopted the codes and regulations relating to buildings and structures, which codes and regulations were regulated by the International Conference of Building Officials and the International of Association of Plumbing and Mechanical Officials. Among those adopted codes were the International Residential Code, the International Plumbing Code, and the International Building Code.

On 12 September 2011 San Juan County adopted an amended zoning ordinance. The 2011 zoning ordinance included the following.

- Uses which were considered “nuisances” were identified, along with the action required for nuisance activity.
- Building permits were required for “the use of land” and for the alteration or construction of structures.
- Any County license or permit which conflicted with the zoning ordinance “shall be null and void.”
- Nonconforming uses were defined.

The 12 September 2011 San Juan County zoning ordinance included an A-1 (Agricultural) District. The 12 September 2011 zoning ordinance recognized the following use in the A-1 (Agricultural) District as a *conditional use*: “Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling or dwelling complex and commercial service uses which are owned or managed by the recreational facility to which it is accessory.”

The 12 September 2011 San Juan County zoning ordinance included the following relating to conditional uses. Chapter 6, 2011 San Juan County Zoning Code.

- A “conditional use” requires a permit.
- There is no presumption of approval for those uses listed as conditional uses in the zoning code.
- A conditional use permit application is made to the County Zoning Administrator.
- The San Juan County Planning Commission is authorized to approve conditional uses and may specify the conditions associated with an approved conditional use.

On 10 June 2014 Sarah J. Mersereau received a warranty deed from Glenn and Linda Scott for San Juan County parcel 26S22E357801. At the time of purchase the property purchased by Sarah J. Mersereau was in the A-1 Agricultural District.



Sarah J. Mersereau property (160 Tera Drive) 2015

In 2016 the San Juan County Board of Commissioners adopted the “Subdivision Ordinance of San Juan County, Utah.” The Subdivision Ordinance established a process for the submission, consideration, and approval of subdivisions in San Juan County.

On 11 April 2017 Red Lizard Management LLC registered as a domestic corporation with the Utah Division of Corporations and Commercial Code. The principal and agent for Red Lizard Management LLC is Daniel Wright at 152 Tera Drive, Moab, Utah.³

³ The State of Utah registration of Red Lizard Management LLC is current through 30 April 2026.

On 17 April 2018 the San Juan County Board of Commissioners unanimously adopted the San Juan County Spanish Valley Area Plan.⁴ The Spanish Valley Area Plan states that it “is an official document intended to guide future development in the San Juan County portion of Spanish Valley.” When adopted, the Spanish Valley Area Plan became a chapter of the San Juan County Master Plan. Relevant to the location of short-term/overnight rentals in Spanish Valley residential neighborhoods, the Spanish Valley Area Plan included the following guidelines.

- A guiding principle should be to create a non-tourism centered community that is distinctly different from Moab yet still maintains its current close ties.

⁴ The 17 April 2018 Spanish Valley Area Plan was the result of considerable community outreach and involvement.

In 2017 San Juan County contracted with Landmark Design (a landscape architect company) to prepare an “area plan” for the Spanish Valley community. The creation of a “Spanish Valley Area Plan” began with a presentation by Landmark Design to the San Juan County Planning Commission on 14 August 2017. This Planning Commission meeting was followed by interviews with select residents, neighborhood groups, and government agencies during a three-day period 18 to 20 September 2017. Comments received during these three days included the following.

- “Would like it [Spanish Valley] to be a place with no hotels and over-night visitors (Airbnb) or similar tourist-based uses.”
- “Many people want to build small homes on their properties that they can rent out or subdivide and sell – they don’t think this is a good idea for permanent residents, and don’t like the idea of too many ‘overnighters’ in the area.”

These interviews were followed by public scoping meetings on 20 September 2017 and two public workshops on 7 and 8 November 2017.

On 13 February 2018 Landmark Design hosted a public Open House to receive comments about a draft San Juan County Spanish Valley Area Plan. Fifty people attended the Open House. Following the Open House, the County provided a website and an email address for individuals to comment on the draft Area Plan. Comments were received from 13 February to 11 March 2018. After comments were received on the project website, Landmark Design created a document with the verbatim comments from citizens about the Spanish Valley Area Plan. Included among those comments were these.

- Hotels nestled amongst single-family homes are incompatible and should be rectified.
- Nightly rentals involve late-night parties, with loud noise. Some nightly rentals involve large groups of people, which impact the roadways.⁴

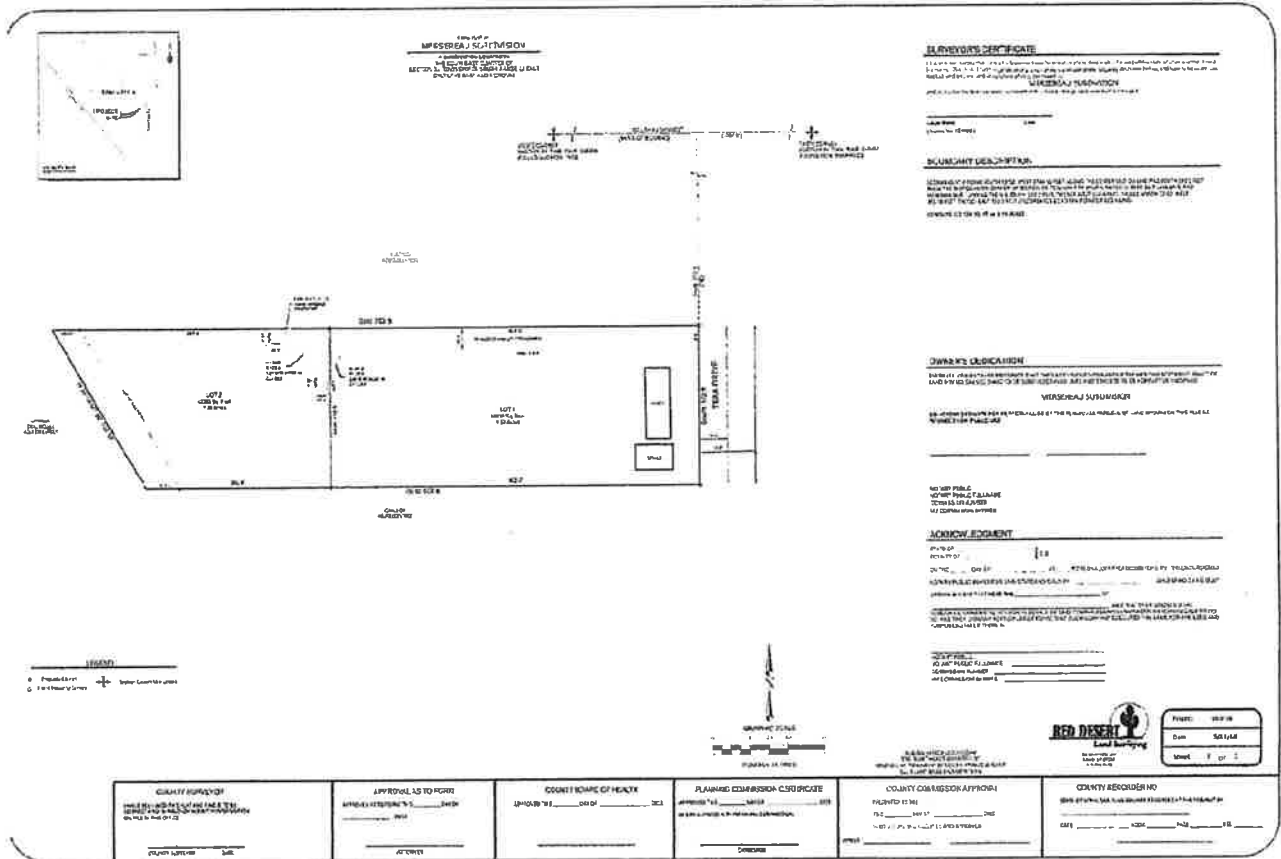
After the interviews, workshops, an open house, and receipt of emails from individuals, Landmark Design summarized the community ideas and concerns about the future of Spanish Valley. Among the summarized responses were the following:

- “The primary reason for living here is the relative isolation and distance from tourists and tourism impacts.”
- “The area should be more aligned with creating a community for its residents and less about accommodating the needs of tourists.”

On 22 March 2018 the San Juan Planning and Zoning Commission received a presentation regarding a possible Spanish Valley Area Plan. After public comments, comments from San Juan County zoning official Walter Bird, and discussion among the commissioners; the Planning and Zoning Commission voted to send the Spanish Valley Area Plan to the County Board of Commissioners.

- A guiding principle should be to encourage and support business development through the location of well-situated business development zones adjacent to the highway.

The agenda for the 14 June 2018 San Juan County Planning Commission included an “administrative item”: the plat review of the Mersereau Subdivision. Included with the agenda was a 21 May 2018 preliminary plat prepared by Red Desert Land Surveying. The preliminary plat included two lots, Lot 1 and Lot 2.



The minutes of the 14 June 2018 San Juan County Planning Commission reported a recommendation for the approval of the submitted Mersereau Subdivision.⁵

On 20 June 2018 Daniel Wright contracted with Sarah Jane Mesereau to purchase Lot 2 of the Mersereau Subdivision. Daniel Wright took possession of Lot 2 on 20 June 2018. On 20 June 2018 Lot 2 was vacant.

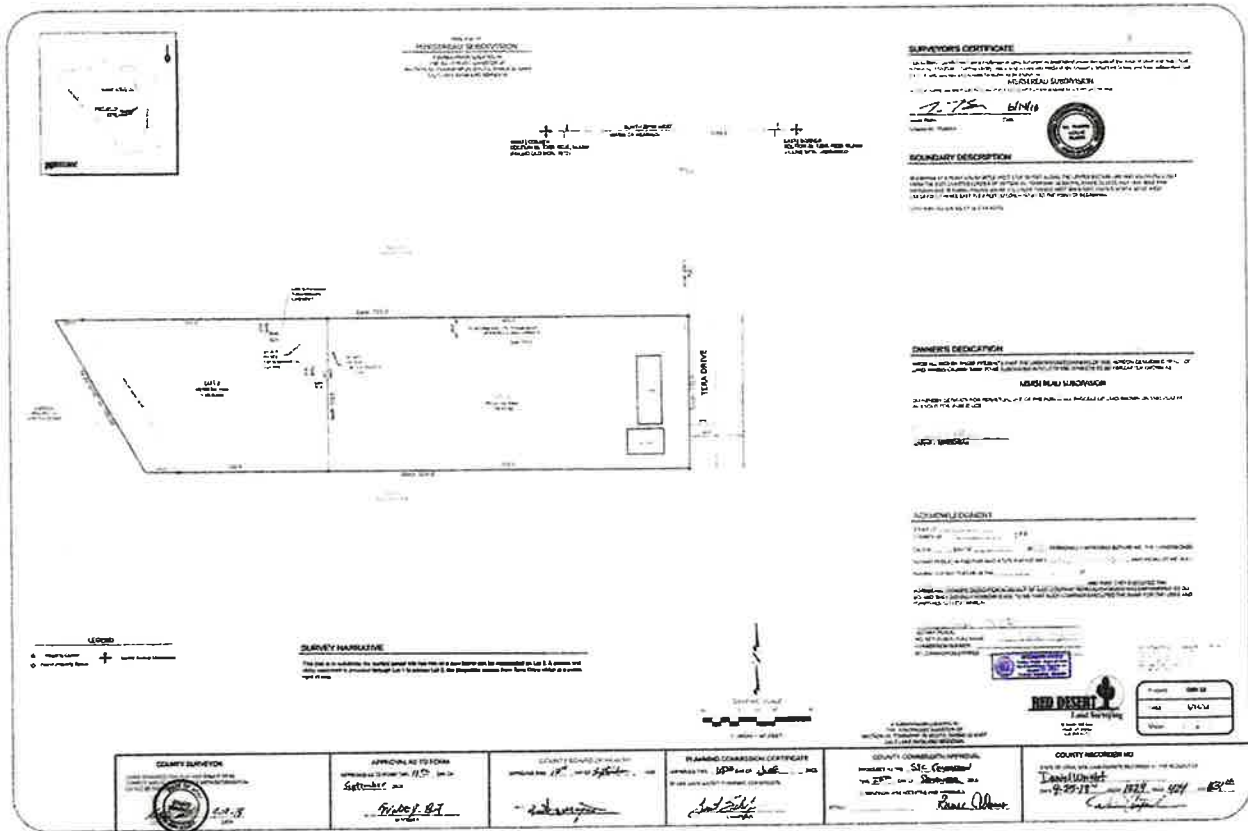
On 7 August 2018 the San Juan County Board of Commissioners voted to approve the Mersereau Subdivision.

Prior to 17 September 2018 Daniel Wright placed four (4) trailers on Lot 2 for Airbnb rentals.

⁵ Daniel Wright and Sarah J. Mersereau collaborated to submit a subdivision application (Mesereau Subdivision) to divide property owned by Sarah J. Mersereau into two lots. Lot 2 would be owned later by Daniel Wright. Lot 1 would remain in the ownership of Sarah J. Mersereau.

On 17 September 2018 Sarah Jane Mersereau and Daniel Wright exchanged text messages about improvements on Lot 2 to support the property’s use. Ms. Mersereau inquired regarding a trench which was created for “the electric.” Ms. Mersereau also recommended gravel for the easement driveway leading to Lot 2.

The Mersereau Subdivision plat was filed with San Juan County on 25 September 2018. The “narrative” on that plat states: “This plat is to subdivide the current parcel into two lots so a new home can be constructed on Lot 2.”



On 10 April 2019 Sarah Jane Mersereau (Grantor) conveyed and warranted San Juan County property to Daniel Wright (Grantee). The property was identified as Lot 2 of the Mersereau Subdivision or parcel 00130000020. The conveyance included a 25 foot wide access and utility easement through Lot 1 of the Mesereau Subdivision. The conveyance was “subject to . . . restrictions however evidenced.”

On 10 April 2019 Lot 2 in the Mersereau Subdivision was within the A-1 Agricultural District in San Juan County.



Daniel Wright (Lot 2) (152 Tera Drive) and Sarah J. Mersereau (Lot 1) (160 Tera Drive) properties August 2019

On 23 September 2019 San Juan County issued building permit # 19075 to Daniel Wright for residential electrical work (400 amp service) at 152 Tera Drive (parcel 001300000020) (Mersereau Subdivision Lot 2). On 25 September 2019 Building permit # 19075 was put on hold by San Juan County Building Official Chantze Palmer with the following notation. “Permit On Hold; issued ‘in error’ due to misunderstanding (?) of permit purpose/application. Further information suggested possible purpose (?) to be establishment of rentable RV camp-park spaces (commercial.) Inspection report to RMP recommending the application ‘OK’ to receive power is rescinded. TO PROCEED: MUST obtain SJC P&Z approval signature – at this time, this may not be possible due to SJC Planning Commission’s commercial development moratorium – AND EITHER RE-apply w/plans for RV camp park for plan review with proper payment for commercial development permit, to include requisite electrical contractor (and any others necessary) w/contractor signature; OR, provide a signed, notarized owner/builder certificate, with specified private use for electrical installation of power provided (as, for example, a future manufactured home, as stated by owner Daniel Wright). In the latter case, as per Utah State requirements for owner/builder permits, any work done by other than the owner must be unpaid; otherwise, a licensed electrical contractor must be provided on permit application, w/contractor signature.”⁶

In September 2019 Lot 2 was used for overnight rentals with five (5) trailers and two tent sites.

⁶ Notwithstanding this 25 September 2019 note, the San Juan County record for Permit # 19075 states that on 22 January 2020 a “One Line Diagram” and “Cut Sheet” were submitted to San Juan County and on 21 May 2020 San Juan County inspected a temporary RV power box.

After the 17 April 2018 adoption of the Spanish Valley Area Plan, San Juan County spent several months⁷ preparing a zoning ordinance for Spanish Valley. On 19 November 2019 the San Juan County Board of Commissioners approved the Spanish Valley Development Ordinances as an amendment (or sub-ordinance) to the 2011 San Juan County Zoning Ordinance.⁸

The 19 November 2019 Spanish Valley Development Ordinances (SVDO) included the following relevant to 152 Tera Drive.

- The SVDO included a Spanish Valley Residential (SVR) district and a Spanish Valley Highway Commercial (HC) district.
- The SVDO created an “overnight accommodations overlay.” The SVDO recognized the “overnight accommodations overlay” for qualifying uses in the Spanish Valley Highway Commercial (HC) District, but *not* as qualifying uses in the Spanish Valley Residential (SVR) District.
- All Highway Commercial (HC) District uses must have direct frontage and/or a physical parcel connection by street to U.S. Highway 191. Sites lacking such relationships will be limited to uses and development conditions of the adjacent Spanish Valley Residential District.

⁷ The process of adopting a Spanish Valley land use ordinance began on 17 May 2018 when the San Juan County Planning Commission first considered proposed zoning changes for Spanish Valley. A draft ordinance was presented by Landmark Design. The ordinance included a San Juan County Spanish Valley Residential (SVR) District. It also included a Highway Commercial District.

On 8 November 2018 the Planning Commission received another presentation relating to a draft Spanish Valley zoning ordinance. Included with the meeting agenda was a May 2018 draft Spanish Valley zoning ordinance. The agenda and draft ordinance were available to the public. That draft ordinance included a residential zoning district, the Spanish Valley Residential (SVR) District and a Highway Commercial District. The draft ordinance included a proposed table of uses for the SVR District.

On 13 December 2018 the Planning Commission again discussed a draft San Juan County Spanish Valley Development Ordinance.

On 7 February 2019 the Planning Commission met. Included with the meeting agenda was a 17 December 2018 draft Spanish Valley zoning ordinance. The agenda and draft ordinance were available to the public. That draft ordinance included a residential zoning district, the Spanish Valley Residential (SVR) District, and a Commercial Highway District. The draft ordinance included a proposed SVR District table of uses.

On 30 October 2019 the Planning Commission met. Included with the meeting agenda was a 13 September 2018 draft Spanish Valley zoning ordinance. The agenda and draft ordinance were available to the public. That draft ordinance included a residential zoning district, the Spanish Valley Residential (SVR) District, a Highway Commercial District. The draft ordinance included a proposed SVR District table of uses.

⁸ The Spanish Valley Development Ordinances were not drafted nor adopted to be a separate or stand-alone land use ordinance for Spanish Valley. San Juan County Ordinance 2019-02, which adopted the Spanish Valley Development Ordinances, states: “The San Juan County Zoning Ordinance is hereby amended to include the attached Spanish Valley Development Ordinances.”

- The SVDO identifies permitted uses and conditional uses within the Spanish Valley Residential (SVR) district. Short-term rentals and overnight accommodations were not among the permitted or conditional uses in the SVR District.

The 19 November 2019 Spanish Valley Development Ordinance *did not retain or include* the following use as either a permitted or conditional use in any zoning district in Spanish Valley: “Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling or dwelling complex and commercial service uses which are owned or managed by the recreational facility to which it is accessory.”

On 19 November 2019 the San Juan County Board of Commissioners adopted a Spanish Valley Zoning Map. The Zoning Map showed the parcels (west) on Tera Drive were wholly within the Spanish Valley Residential (SVR) District, with no part of any parcel in the Spanish Valley Highway Commercial (HC) District.

On 10 April 2020 San Juan County Environmental Health Director Rick Meyer emailed Daniel Wright of Red Lizard Rentals.⁹ The email stated the following.

“At this point of time San Juan Public Health Department has not ordered the closure of R.V. Parks and tent camping on private property. There are no restrictions on San Juan County, Utah residents from camping on private or public lands and as long as they want, within the borders of San Juan County, Utah.

Mr. Wright, your r.v. campground and tent camping on your private property may remain open to the public.

Follow the guidelines and use proper judgement and we all will get through this time in our county.

Good Luck, Rick Meyer, Environmental Health Director, San Juan County”

On 20 April 2020 Rick Meyer with San Juan County Health Department emailed Daniel Wright of Red Lizard Rentals. The email stated the following.

“All camping and rv parks can resume normal business as of last Thursday, the 16th. Travel restrictions have been lifted for nonresidents of San Juan County. Social distancing is still being practiced. The National Parks will reopen on their own time frame. Good Luck Rick Meyer”

On 21 May 2020 San Juan County approved (“Clearance OK”) a 400 amp service temporary RV power box on Lot 2.

In May 2020 Daniel Wright spoke with County Official Greg Adams about obtaining a business license for his camping business. Mr. Adams informed Daniel Wright that no business license was required if no alcohol would be sold.

⁹ Red Lizard Rentals LLC was registered with the State of Utah Division of Corporations and Commercial Code on 3 November 2016. The agent for Red Lizard Rentals LLC is Vernon Erb of Moab, Utah.

On 16 June 2020 Daniel Wright sent an email to Scott Burton.

“Here is the plot plan for the 6 units. They would be for monthly/seasonal housing for workers and local housing needs. I may keep 1 spot for my personal use, friends, and family. Let me know if you have any questions or suggestions to get this through. Thank you.”

On 16 June 2020 Scott Burton emailed Daniel Wright.

“I will need you to fill out the conditional use application and submit it with the plan, so we can get it reviewed.”

On or about 16 June 2020¹⁰ Daniel Wright submitted a Conditional Use Application for his one-acre parcel (01300000020) (152 Tera Drive). The purpose for the Application included the following: “I want to put 6 RV spots on my acre of land in addition to my home. Primarily as seasonal housing for workers in and around Moab. Occasional use by friends and family etc.” A drawing attached to the application showed six recreational vehicle stalls, each stall approximately 45 feet deep. The six stalls were located behind a 30’ x 50’ residential structure and a 12’ x 60’ shop/garage.

¹⁰ The application is dated 4 June 2020. However, Scott Burton did not request a conditional use application until 16 June. Shortly afterwards Daniel Wright sent the application to Scott Burton.

SAN JUAN COUNTY CONDITIONAL USE PERMIT APPLICATION

Type of Application (check all that apply):

- New Construction Land Use Change
 Addition Appeal

Subject Property Location or Address: 152 Tera Drive, Moab, UT

Parcel Identification Number: # 01300000020

Parcel Area: _____ Current Use: _____

Floor Area: 1 acre Zoning Classification: _____

Applicant Name: Daniel Wright

Mailing Address: 1165 Duchesne Ave.

City, State, ZIP: Moab, UT 84532

Daytime Phone #: 435-210-1887 Fax#: _____

Email Address: moab.fun@hotmail.com

Business Name (If applicable): _____

Property Owner's Name (If different): _____

Property Owner's Mailing Address: Same

City, State, ZIP: Moab, UT 84532

Daytime Phone #: 435-210-1887 Fax#: N/A

Describe your request in detail (use additional page(s) if necessary): I want to put 6 RV spots on my acre of land in addition to my home. Primarily as seasonal housing for workers in and around Moab. Occasional use by friends & family etc.

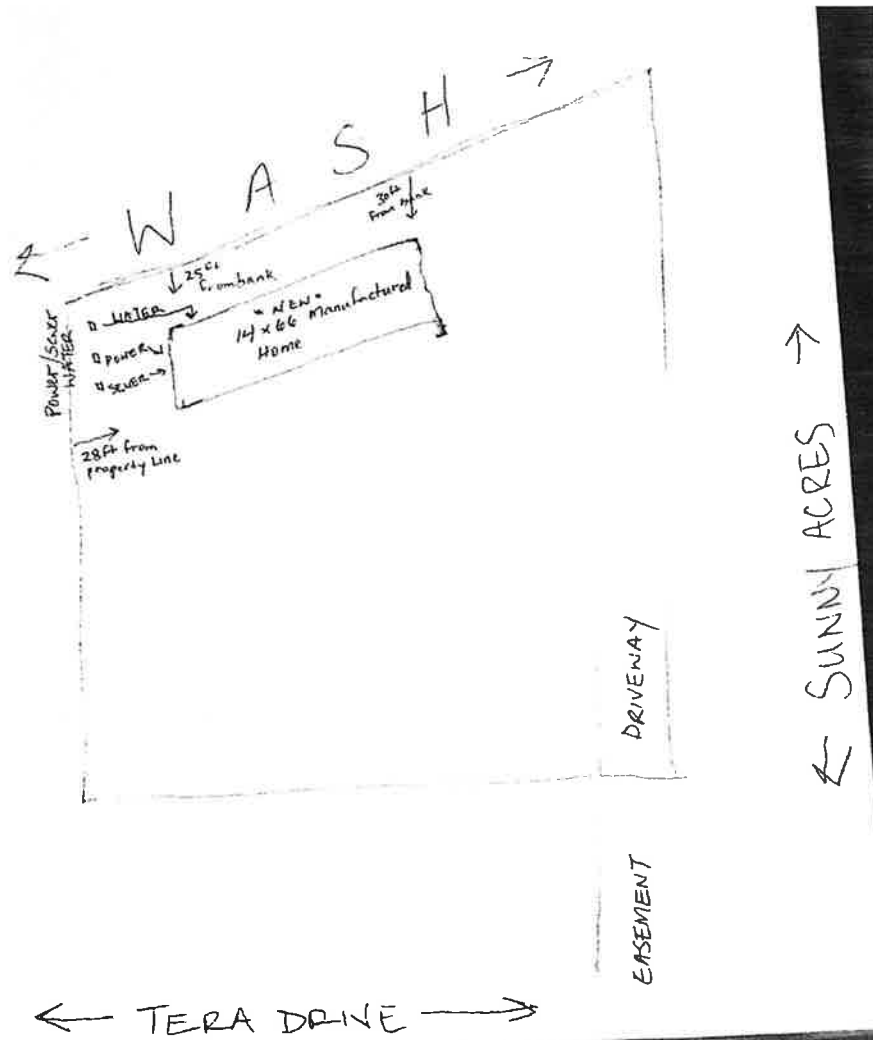
Authorized Signature: Daniel Wright Date: 6-4-20

On 22 June 2020 Daniel Wright and Scott Burton exchanged emails.

- 20 June 2020 Daniel Wright. "Scott, is the current zoning there at 160 [Tera Drive] agricultural?"
- 20 June 2020 Scott Burton. "The current zoning is Spanish Valley Residential Zone (SVR)."

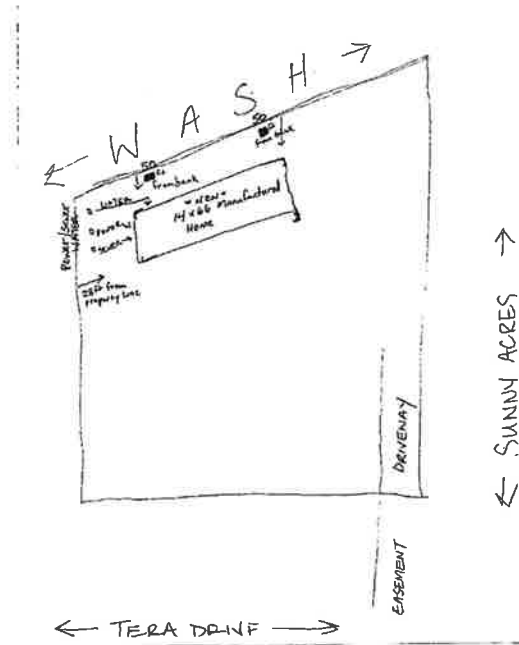
On 5 and 6 October 2020 Daniel Wright and Scott Burton exchanged emails.

- 5 October 2020 Daniel Wright. "Hello Scott, Here is a quick site plan drawing from a concrete contractor. Let me know if you need anything else. Thank you very much for the help!"



- 6 October 2020 Scott Burton. "Zoning ordinance requires 50 from the bank of Pack Creek, so you will need to move it back so you have 50 ft clearance from the bank."
- 6 October 2020 Daniel Wright. "Ok got it. Thank you Scott!"

Building permit # 20095 was issued on 12 October 2020 (submitted on 5 October 2020). The permit named Ricky Bleggi as general contractor and Jim Nelson as electrical contractor.¹¹ The permit was for a “new residence,” which would consist of a 924 square foot manufactured home at 152 Tera Drive. On 5 December 2020 Cole Cloward conducted his final inspection under building permit # 20095 and approved the construction for CO.¹² On 5 May 2021 a Certificate of Occupancy was issued for building permit # 20095 [152 Tera Drive].



¹¹ On 13 October 2020 foundation work at 152 Tera Drive was inspected by building inspector Cole Howard with the following notes: “strip footings 3 #4s continuous, verts for piers to be wetstabbed, user in place, ok to pour.”

On 14 October 2020 pier columns work at 152 Tera Drive was inspected by building inspector Cole Howard with the following notes: “18 piers, size and reinforcing per plan, 36” in height for floodplain, OK to pour.”

On 3 December 2020 the property at 152 Tera Drive was again inspected by Cole Howard. The following notes accompanied the inspection.

- “1. Remove paper from insulation around sewer line.
2. Add handrail at stairs, ensure extends to bottom of stair and terminates into post.
3. Add blocking at stair tread and adjust guardrail so a 4” sphere won’t pass through.
4. Add step to bottom of stairs at rear.
5. Drive ground rods at electrical panel.”

¹² The building permit summary report lists several emails sent from San Juan County to Daniel Wright. These emails were not included in the records submitted by San Juan County. The dates and authors of the emails were 5 October 2020 (Walter Bird), 13 October 2020 (Walter Bird), 14 October 2020 (Walter Bird), 3 December 2020 (Walter Bird), 5 May 2021 (Scott Burton).

On 15 December 2020 the San Juan County Board of Commissioners adopted Ordinance No. 2020-10-A (An Ordinance of the Board of San Juan Commissioners Establishing Rules and Regulations for the Licensing and Operation of Businesses with San Juan County). Included in Ordinance 2020-10-A were the following.

- It is unlawful for any person, firm, or corporation or any employee thereof, to commence, engage in, carry on, or operate any business in unincorporated San Juan County without first applying for and obtaining a license from the County to do so.
- Any business license applications must be approved for property zoning by the County building inspector or zoning administrator.
- Any person who operates a business in violation of the provisions of this chapter shall be subject to fines.

After the 19 November 2019 adoption of the Spanish Valley Development Ordinances, the San Juan County Planning Commission (from 9 July 2020 to 11 February 2021) discussed short-term rentals in Spanish Valley and considered a county-wide short-term rental ordinance.¹³

¹³ On 9 July 2020, the San Juan County Planning Commission discussed overnight accommodations in Spanish Valley. The Planning Commission considered revisions to the overnight accommodation requirements in the 19 November 2019 Spanish Valley Development Ordinances.

On 13 August 2020, the San Juan County Planning Commission discussed the possibility of recommending a County-wide short-term rental ordinance.

On 8 October 2020, the San Juan County Planning Commission again discussed a possible County-wide short-term rental ordinance.

The San Juan County Planning Commission on 14 January 2021 discussed short-term rentals. Commissioner Johnston supported not allowing short-term rentals in residential areas with a stipulation that when ownership changes, the short-term rental is no longer allowed. There was concern about the application of Commissioner Johnston's proposal in the Spanish Valley community. County Chief Administrative Officer Mack McDonald commented that short-term rentals increase real estate values. Commission members wanted to see a proposed ordinance dealing with short-term rentals.

On 11 February 2021 the San Juan County Planning Commission discussed short-term rentals in the Spanish Valley Highway Commercial (HC) District. Members of the Planning Commission were given a draft ordinance which would set the requirements for short-term rentals – where they are authorized in the County's zoning ordinances. Comments made about short-term rentals during the meeting included:

- Nightly rentals should be allowed in commercial zones, but not in residential zones; and
- Hotels, motels, and commercial condos should be conditional uses.

On 8 March 2021 the San Juan County Office of the County Attorney published a legal opinion which addressed short-term rentals in the SVR District. On 11 March 2021 that legal opinion was shared with the San Juan County Planning Commission and discussed in a public meeting.¹⁴ The legal opinion found that short-term rentals were not permitted in the Spanish Valley Residential (SVR) District. Many Spanish Valley residents participated in the 11 March 2021 Planning Commission meeting.

During the 11 March 2021 meeting, the Planning Commission discussed short-term rentals in the SVR District. Several owners of short-term rentals properties in Spanish Valley felt they had received County approval for their businesses. Owners claimed to have communications from Planning Commission members or County staff that short-term rentals were allowed. Some owners had received business licenses for their short-term rentals. In response, the Deputy County Attorney stated that these business licenses should not have been issued.

Notwithstanding short-term rentals not being authorized in the Spanish Valley Residential District, short-term rentals have been approved in *other* Spanish Valley zoning districts. Since the 19 November 2019 adoption of the Spanish Valley Development Ordinances, the County Commission (from 16 February 2021 to 2 January 2024) approved several overnight accommodations in Spanish Valley¹⁵ - but no overnight rentals in the Spanish Valley Residential District.

¹⁴ The Office of the County Attorney concluded the following.

“Upon review of the Spanish Valley Sub-Ordinance and the San Juan County Zoning Ordinance, it is the determination of this office that short-term rentals in the Spanish Valley Residential (SVR) District are not permitted uses.

Permitted uses in the SVR are limited to single-family dwellings, two-family dwellings, and manufactured dwellings. Some accessory buildings to those three primary uses are also permitted or may be conditional. A short-term rental is not permitted because:

[1] The use is not residential, it is commercial. The express primary purpose of the SVR is to accommodate residential uses. As a commercial use, operating a short-term rental requires obtaining a business license.

[2] Even if the use were considered residential, it also would not meet the definition of ‘dwelling’ which is ‘Any building, or portion thereof, which is designed for use for **residential purposes**, except hotels, apartment hotels, bed & breakfast/boarding houses, lodging houses, tourist courts, and apartment courts.’

[3] Short-term rentals would not qualify as single-family or two-family dwellings. They would qualify, however, as lodging houses defined in the SJCO [2011 San Juan County Zoning Ordinance] as ‘a building where lodging only is provided for compensation to five (5) or more, but not to exceed fifteen (15) persons.’ Anything designed for larger occupancy is considered a hotel or tourist court defined as ‘a building containing sleeping rooms with a fixed cooking facility designed for temporary use by automobile tourists or transients, with a garage attached or a convenient parking place.’

Therefore, any application requesting approval as a permitted use will be denied as inconsistent with the SVSO [Spanish Valley Sub-Ordinance].”

¹⁵ On 16 February 2021 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved a proposal by Josh Anderson to construct and operate seven (7) geodesic

On 2 June 2021 Daniel Wright sent an email (with an attached proposed plat “Mersereau Amended”) to Scott Burton with San Juan County.

“Hello Scott, I spoke with you about three weeks or a month ago about splitting off a part of my land, I have the plat here from Lucas Blake. Thank you.”

On 2 June 2021 San Juan County issued subdivision permit # 21073 to Daniel Wright residing at 152 Tera Drive, Moab, Utah 84532. The proposed “subdivision” “would be 2 lots if approved.” The permit expired on 29 November 2021.

On 3 June 2021 Scott Burton sent an email to Daniel Wright.

“Thank you for getting this to me. I will get it to each of the county officials that will sign off on it and get back with you or Lucas with any needed changes. Thank you, Scott Burton”

domes along Highway 191 in the Spanish Valley Overlay District. The domes would be used by visitors in Moab and Spanish Valley.

On 17 August 2021 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved a proposal by Curtis Wells (representing Byrd Company Real Estate) to operate five residential properties in Spanish Valley as overnight rentals (in the highway commercial district within the Spanish Valley overlay zone).

On 21 December 2021 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved three proposals for development within the Spanish Valley Overlay Zone. Projects were proposed by Tom Balsley (two projects) and Jeff Burgess. The Jeff Burgess project involves 45 residential units in 4-, 5-, and 6-plex structures on the southwest side of Highway 191 near the junction of Old Airport Road.

On 21 June 2022 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved two proposals (from Stephen Howard and Alicia Davis) for development in Spanish Valley Overnight Accommodations Overlay District.

On 4 October 2022 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved a proposal by Stephen Howard to construct twelve (12) residential units for nightly rentals in the Spanish Valley Overnight Accommodations Overlay District.

On 20 June 2023 the San Juan County Board of Commissioners (upon recommendation from the San Juan County Planning Commission) approved a proposal by Balanced Rock Resort for 220 residential units for overnight accommodations (including 94 single-family lots, 42 duplexes with 88 units, and condominium and lodge rooms). The property is in the Spanish Valley Residential Flex Planned Community (RF) District.

On 2 January 2024 the San Juan County Board of Commissioners (upon recommendation from the Planning Commission) approved a proposal in the El Rancho Development for ten residential units for overnight accommodations. The property (2.5 acres) is in the Spanish Valley Residential Flex zoning district.

On 2 January 2024 the San Juan County Board of Commissioners (upon recommendation from the Planning Commission) approved a proposal in the Valley Estates development for 180 residential units for overnight accommodations. The property (45.5 acres) is in the Spanish Valley Residential Flex zoning district.

On 4 June 2021 Lucas Blake, with Red Desert Land Surveying, sent an email to Scott Burton.

“Scott, Daniel let me know he is purchasing an additional 0.25 acres from lot one. I need to update the amended plat to include that portion of lot one to the lot 2A making it 0.78 acres, I will try and get the update to you by Monday.”

On 17 June 2021 Daniel Wright sent an email to Scott Burton, San Juan County’s Zoning Administrator.

“Good morning Scott! I wanted to follow up with you about the plat I submitted to you earlier this month, I believe on the 3rd of June. I just wanted to make sure it was going through the proper approval process and I wanted to make sure I would be on the agenda for the meeting in July. Thank you Scott!”

On 17 June 2021 Scott Burton replied to Mr. Wright’s email.

“Daniel, Lucas Blake said he needed to include some additional land on the plat, so I am waiting to receive a revised plat. Thank you, Scott Burton”

On 17 June 2021 Daniel Wright responded to Mr. Burton.

“Hello Scott, I spoke with Lucas about that and we just want to move forward with the plat I submitted, the landowner I originally bought this land from has offered to sell me another quarter acre, but she doesn’t have the release from her mortgage company and that was the extra information. It will likely take a few weeks, maybe a couple of months so I didn’t want to put this project on hold as we waited for that. Does that make sense?”

On 8 July 2021 the San Juan County Planning Commission considered and recommended approval of Mersereau Subdivision Lot 2 Amendment 1. The Plat considered by the Planning Commission was dated 28 May 2021.

On 14, 15, and 16 July 2021 Daniel Wright and Scott Burton exchanged emails.

14 July 2021 Daniel Wright. “Hello Scott, it’s Daniel. I had just got the mail or a copy of the new plat from Lucas Blake. I was wondering about the signatures needed before it’s recorded. Am I able to get those signatures or is that something you have to do? I was just hoping to be able to get it recorded right away. I appreciate all your help! Thank you!”

14 July 2021 Scott Burton. “I usually get the signatures, but that doesn’t mean you can’t do it.”

14 July 2021 Daniel Wright. “OK, I will try and do it. If I have any problems I will let you know!”

14 July 2021 Scott Burton. “I have another plat that needs signatures, so I could probably get them in the next couple of days. I think the County Attorney is not in his office today and may not be available until tomorrow.”

14 July 2021 Daniel Wright. "I could drop it off to you and come back in a couple of days."

14 July 2021 Scott Burton. "I am realizing that the plat still needs to be approved by the County Commissioners. They have their next meeting on Tuesday, July 20. I will get it on the agenda for that meeting."

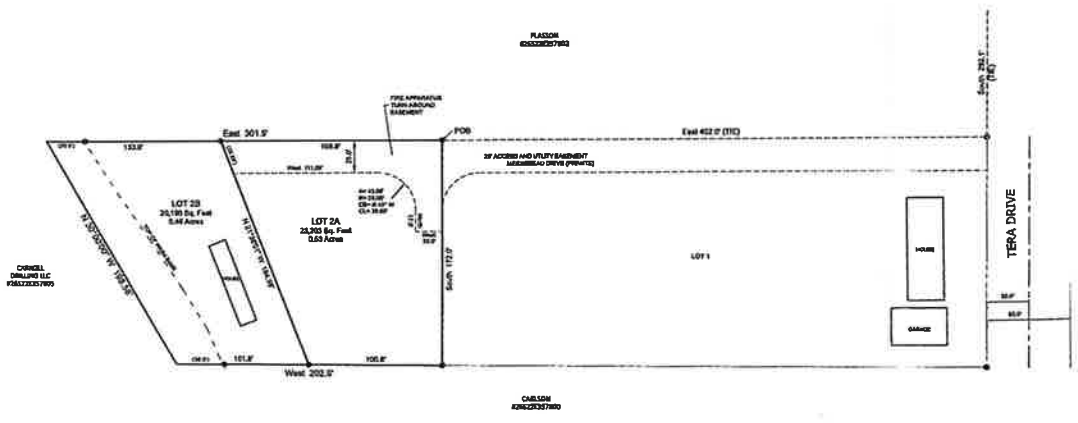
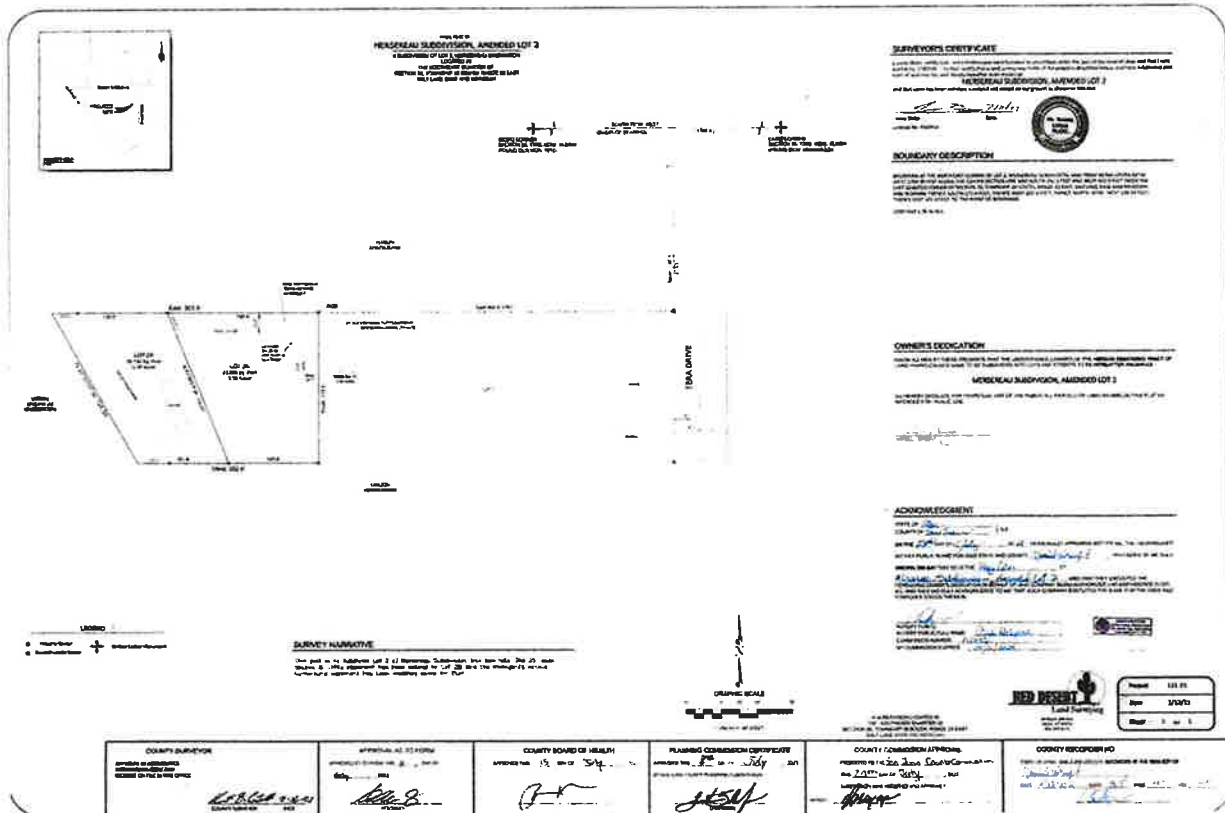
15 July 2021 Daniel Wright. "Do the signatures come after the commissioner meeting? Will you let me know when I can come pick it up and get it recorded?"

15 July 2021 Scott Burton. "I will get the signatures I can, but the County Commissioners' signature will come after the meeting. Once it is signed by the county commissioners, you should be able to pick it up."

15 July 2021 Daniel Wright. "Thank you Scott! I appreciate that!"

On 20 July 2021 the San Juan County Board of Commissioners considered and approved Mersereau Subdivision Lot 2 Amendment 1. The 28 May 2021 Plat was submitted. A staff report stated that "The subdivision is in the Spanish Valley Residential District and meets the requirements of the zone."

The Mesereau Subdivision, Amended Lot 2 Plat was filed with San Juan County on 22 July 2021. The “narrative” on that plat states: “This plat is to subdivide Lot 2 in the Mesereau Subdivision into 2 lots [Lot 2A and Lot 2B].” Lot 2A would become parcel 00130000002A. Lot 2B would become parcel 00130000002B. The plat shows two parcels – Lot 2A (0.53 acres) and Lot 2B (0.46 acres).



On 28 July 2021 Daniel Wright sent an email to Scott Burton.

“Hello Scott, here is the home I ordered. It’s a 1170 or so square foot home and has a pretty long list of upgrades. It will be a nice home and affordable. Scott, let me know what you think. I appreciate you looking over this for me.”

On 17 September 2021 Megan Simmons received a warranty deed from Daniel Wright for Lot 2B (or 152 Tera Drive) within the Mersereau Subdivision.

Lot 2A (158 Tera Drive) remained in the ownership of Daniel Wright.

According to the 19 November 2019 Spanish Valley Zoning Map, Lot 2A (158 Tera Drive) was wholly in the Spanish Valley Residential (SVR) District.

On 13 December 2021 (submitted on 1 December 2021) San Juan County created Building Permit #21145 for a “manufactured home” at 158 Tera Drive (“private property”) in Moab, Utah. The owner was identified as Daniel Wright residing at 152 Tera Drive. The “manufactured home” was to be 1350 square feet.¹⁶

On 7 December 2021 the following “notes” were added to Building Permit #21145.

“1. Provide foundation detail and reinforcing, page 10 shows pier locations but doesn’t give sizing or reinforcing. Include ufer ground location.

2. Provide an owner builder certificate or list of contractors.

3. A signature is needed from the San Juan Spanish Valley Special Service District.”

On 13 December 2021 Building Permit #21145 showed that on 8 December 2021 the San Juan County Building Department had approved the permit and on 10 December 2021 the Fire Department had approved the permit.

On 13 December 2021 Building Permit # 21145 was issued by San Juan County for Daniel Wright at 158 Tera Drive for a new residence.¹⁷

On 13 December 2021 a building inspection was conducted at 158 Tera Drive. The inspection notes stated: “Footers for manufactured home per plan, ufer in place, ok to pour.”

¹⁶ Inspections associated with Permit #21145 followed on 13 December 2021 (rebar in footings), 14 December 2021 (virtual, stem walls) 22 February 2022 (concrete, electrical, steps), 12 January 2023 (final, reinspect a former Grand County fix and OK). Certificate of Occupancy was issued on 12 January 2023.

¹⁷ At this time, building inspections were performed by Grand County inspectors, not San Juan County inspectors. Nevertheless, Daniel Wright received emails relating to the building permit from Scott Burton with San Juan County. The email from Scott Burton were dated 13 December 2021 and 15 December 2021. These emails were not included in the records submitted by San Juan County.

On 15 December 2021 a building inspection was conducted at 158 Tera Drive. The inspection notes stated: “ICF stem wall size and reinforcing per manufacturer’s specs, ufer in place, ok to pour.”

During January 2022 San Juan County Scott Burton and Daniel Wright exchanged text messages about a proposed amendment III to the Mersereau subdivision. On 7 January 2022 Wright emailed a PDF document which was named “111-21 Mersereau Amendment III.pdf.” On 7 January 2022 Scott Burton forwarded the PDF document to Cindi Holyoak (San Juan County Recorder).

“Cindi, I have a request for a subdivision amendment that is basically just a lot line adjustment, see attached. Does this need a new plat or can it be completed in a simpler way? Let me know what you think.”

On 10 January 2022 Cindi Holyoak responded to Scott Burton’s email.

“I learned at my last training that lot line adjustments within a subdivision should be completed with an amended plat.”

The agenda for the 10 February 2022 Planning Commission meeting included “Consideration and Approval of Mersereau Subdivision, Amendment 3, lots 1 and 2a, Daniel Wright.” The agenda included a preliminary plat for Mersereau Subdivision Amendment 3. The minutes of the 10 February 2022 Planning Commission meeting report approval of Mersereau Subdivision Amendment 3.

On 15 February 2022 the San Juan County Board of Commissioners considered and approved Mesereau Subdivision Amendment 3, lots 1 and 2a. (There was no staff report or plat for Amendment 3¹⁸ included with the meeting packet.)

On 22 February 2022 a building inspection was conducted at 158 Tera Drive. The inspection notes stated: “Complete foundation venting/Complete gas piping/Setup and tie-down ok/Electrical to code.”

On 22 February 2022 Daniel Wright emailed Scott Burton inquiring about the status of the proposed lot line adjustment in the Mersereau Subdivision. Scott Burton responded stating that “it was approved” once the mylar is received. On 24 February 2022 Scott Burton informed Wright there was a typo on the mylar. On 25 February 2022 Daniel Wright emailed Scott Burton that a corrected mylar had been placed on Scott Burton’s office door. On 8 March 2022 Scott Burton informed Daniel Wright that the “plat was done” and was ready to take to the Recorder’s Office.

¹⁸ The earlier Mersereau Subdivision amendment was named “1” and this amendment was named “3.” There appears to have been no Mersereau Subdivision amendment names “2.”



Megan Simmons (Lot 2B) (152 Tera Drive), Daniel Wright (Lot 2A) (158 Tera Drive), Sarah J. Mersereau (Lot 1) (160 Tera Drive) October 2022

A Certificate of Occupancy was issued for Building Permit # 21145 on 12 January 2023. The Certificate was for a new residence at 158 Tera Drive, Moab, Utah 84532.

On 12 April 2023 Daniel Wright (redlizardrentals@outlook.com) applied for a San Juan County business license for Red Lizard Management. The business was identified as “traveler accommodations” with advertising through Airbnb. The business address was 152 Tera Drive, Moab, Utah.

On 21 November 2023 Daniel Wright emailed San Juan County Administrator Mack McDonald.

“Hello Mack, my name is Daniel Wright, I was wanting to get on the next agenda meeting to split off a portion of my land I have my home on. It’s been surveyed already. I just wanted to see what I needed to do for that. Thank you, Daniel”

On 21 November 2023 (after receiving Daniel Wright’s 21 November 2023 email) Mr. McDonald responded by email. Mr. McDonald informed Mr. Wright that prior to being added to a meeting agenda, Mr. Wright would have to follow “the process for subdivision and plat recordings.” Mr. McDonald provided Mr. Wright a link on the County’s website with the process. Mr. McDonald added: “It sounds like from your message that you are only adjusting the lot line or are you creating a new lot?”

On 28 November 2023 Daniel Wright emailed Mack McDonald the survey mentioned in Mr. Wright’s 21 November 2023 email.

On 11 January 2024 the San Juan County Planning Commission met. Early in the meeting, Planning Commission Chairperson Schafer commented on the ongoing work to update the County-wide zoning ordinance.

On 11 January 2024 the San Juan County Planning Commission considered possible changes to the Spanish Valley Development Ordinances to clarify that short-term rental uses are prohibited in the Spanish Valley Residential District. The following summarizes the discussion among the planning commissioners.

- County Attorney Maughan stated that overnight rentals are not allowed in the SVR District. Attorney Maughan proposed clarifying language in the Spanish Valley Development Ordinances.
- One planning commissioner believed there were a properties providing short-term rentals serving 4 or less people – that use would be grandfathered with the adoption of the proposed language.¹⁹
- There was discussion of enforcement – through business license applications and by an enforcement officer.
- Administrator Mack McDonald stated that there have been conflicting legal opinions about short-term rentals in the SVR District. Mr. McDonald felt that the proposed language would help.

During the 11 January 2024 Planning Commission meeting, County Attorney Mitchell Maughan said that the County would not initiate enforcement action against properties that were operating short-term rentals inconsistent with the land use code if the property owners would voluntarily work with the County.

On 11 January 2024 the Planning Commission received public comments on the proposed language and short-term rentals in the SVR District. The following comments were made.

- A citizen was concerned with short-term rentals being run ‘under the radar’ and not obtaining a business license.
- A citizen believed that short-term rentals are developing around her. The citizen asked about the County’s plans to enforce the ordinance and find the prohibited short-term rentals.

On 16 January 2024 the San Juan County Commission adopted Ordinance No. 2024-01 which amended the San Juan County Zoning Ordinance “to clarify that short-term rental use is prohibited in the Spanish Valley Residential (SVR) District.”

¹⁹ During the discussion Assistant County Attorney Jens Neilson clarified the standard for legal non-conforming uses.

The 2024 San Juan County Tax Roll Master Record (dated 1 March 2024) for 158 Tera Drive (parcel 00130000002A) included the following information.

- The property 0.97 acres.
- The 0.97 acres was a resident lot, with a residential manufactured home (built in 2020).

On 4 March 2024 Kristen Bushnell sent an email to San Juan County Chief Administrative Officer Mack McDonald and County Attorney Mitchell Maughan.

“This one is a bit of a mess on Tera Drive in Spanish Valley. We have three property owners that are running Tiny Houses Overnight Rentals/RV Park along Tera Drive. They have always been noncompliant with zoning ordinances, even historically. Additionally, they have had several stop work orders on their file, yet work has continued to expand the structures on their property. I want to work with them becoming complaint. However, they just keep plowing ahead without any building permits, etc. We’re trying to get a handle on it.”

On 5 March 2024 Kristen Bushnell (San Juan County zoning administrator) emailed Daniel Wright, The subject of the email was “Notice of Zoning Violation.” The email included the following.

“Daniel,

I appreciate the conversations that have been on-going between us and I hope that we can continue to be transparent as we proceed toward compliance with the endeavors you have on your property. As we work on updating our ordinances and zoning maps, a lot of attention has come to the area around Tera Drive. We have been investigating historic zoning maps, ordinances, existing structures and businesses along this corridor.

During that investigation we noticed your property at 158 Tera Drive in Spanish Valley, including several neighboring parcels of various landowners, is not in compliance with our current Spanish Valley Ordinance and is not zoned for the use that we have seen on the ground. Our Records Office shows that deeded ownership was transferred to you on April 10, 2019. Additionally, we show a current assessment as residential in the 2023 tax year.

There are two separate issues that go hand-in-hand with your property. Both addressed below, one is the appropriate building permitting and utility clearance and the other is the business/commercial operations. We are attempting to gain compliance in both areas. The option of bringing your property into a non-conforming use status is not available due to the alternations and extensions of the structures and uses over the past few years.

Historical Context

Historically, your property would have been in Agricultural (A-1) zone as of our July 2013 maps and governed in the September 2011 Zoning Ordinance previously applying to this parcel. Within this document it is outlined that “Private park or recreational

grounds or private recreational camp or resort, including accessory or supporting dwellings or dwelling complexes and commercial services uses which are owned by or managed by the recreational facility to which it is accessory” are a Conditional Use within the Agricultural Zone. Under this historical context, there is a 1 acre lot minimum, 25-foot front yard setback, 25-foot rear yard setback, and 15-foot side yard setbacks from the property line to any dwelling or accessory buildings. As it exists, you are not in compliance here.

One way to gain zoning compliance is to present a Conditional Use Permit approved for this property or a previous landowner, which would transfer between property ownership granting that the use has been consistent from the initial time of that Conditional Use Permit with Scott Burton in June 2020 but I cannot find a record of its final approval. It seems that Scott was waiting on a notarized signature on the application. Without this you are in noncompliance.

Spanish Valley Ordinance Adoption

The Spanish Valley Ordinance was legally adopted in September 2019²⁰ by the San Juan County Board of Commissioners. This document, with the accompanied maps updated and amended in 2021, holds as our current legal directive. Your property is designated as Spanish Valley Residential (SVR) which defines “accessory buildings and uses” and “all other household living uses (5th wheel, trailers, etc.)” as a Conditional Use. Every building and lot must have access to either an approved private street or driveway or alley which provides safe and convenient access for servicing, fire protection and required on-site parking. Each lot must uphold our minimum standards for 75-foot lot width, 25-foot front setback, 20-foot rear yard setback, and 8-foot side yard setbacks. A setback is defined as being unobstructed by any part of a structure from the ground to the sky and measured as the horizontal distance between the property line and the furthestmost projection of the structure. The SVR district also requires a minimum spacing of 16 feet between units. Please refer to Chapter 1: Spanish Valley Residential (SVR) District of the Spanish Valley Ordinances for additional information on the current requirements of the property.

Property History

In review of your prior building applications, it appears that there was a stop work order on September 25, 2019 stating: “Permit ON HOLD; issued ‘in error’ due to misunderstanding of permit purpose/application. Further information suggested a possible purpose to be establishment of rentable RV camp-park spaces (commercial). Inspection report to RMP recommending the application ‘OK’ to receive power is rescinded. TO PROCEED: MUST obtain SLC P&Z approval signature – at this time, this may not be possible due to the SJC Planning Commission’s commercial development moratorium – AND EITHER re-apply w/plans for RV camp park for plan review with property payment for commercial development permit, to include requisite electrical

²⁰ The Spanish Valley Development Ordinances were adopted on 19 November 2019. The County Commission adopted the September 2019 draft of the Spanish Valley Development Ordinances.

contractor (and any others necessary) w/contractor signature; OR, provide a signed, notarized Owner/Builder Certificate, with specified private use for electrical installation of power provided (as, for example, a future manufactured home, as stated by owner Daniel Wright.) In the latter case, as per Utah State requirements for Owner/Builder permits, any work done by other than the owner must be unpaid; otherwise, a licensed electrical contractor must be provided on permit application, w/contractor signature.”

The legality of the utility lines on your property cannot be clearly defined as when approvals were granted and that they were installed under a licensed contractor/utility company. Please provide documentation (work orders, receipts of payment, building inspections, health department reports, etc.) that provides evidence that this work was completed in accordance with the International Building Code. Without this evidence, the ability to conduct commercial operations as a business is forfeit.

To clarify previous questions, an owner/builder exception applied only to single-family residences of which the builder is the main inhabitant and in which case the “Owner Builder Certificate Agreement” needs to be filed with the State of Utah at the point of construction commencing.

The use of your property as a commercial endeavor has been greatly expanded upon well after the September 2019 [19 November 2029] Spanish Valley Ordinance’s legal adoption. This letter serves as a notice of Zoning Violation and for immediate compliance due the prohibited uses of your property. Failure to comply may result in penalty, fines or being charged with a Class C Misdemeanor under the Utah State Code violation.

There are two routes you may take toward becoming compliant at this point in time. First, you may apply for a zoning change with the Planning and Zoning Commission to be ‘Residential Flex’ or ‘Highway Commercial Flex,’ then additionally applying for the Spanish Valley Overnight Accommodations Overlay. This multi-step process would take between 3 – 4 months if done quickly and completely on your end.

Your second option is to hold off until we have the new zoning maps and ordinances in place around July 1st 2024. While we are pushing for changes, they may or may not be in favor of your property as a commercial overnight rental operation. This process will go through several community input sessions, our Planning Commission for recommendation, and finally our San Juan County Board of Commissioners.

Please reach out to use within the next fourteen (14) days from the date of this letter to take the necessary steps toward becoming compliant.”

On or before 6 March 2024 Daniel Wright submitted a proposed subdivision plat to San Juan County. The proposed plat was prepared by Red Desert Land Surveying and was titled “Mersereau Subdivision, Amendment IV.” The subdivision application proposed splitting Lot 2A into Lot 2A-1 and Lot 2A-2. On 6 March 2024 Kristen Bushnell (San Juan County zoning administrator) sent a “chat” email to Daniel Wright. The email addressed the proposed Mersereau Subdivision Amendment IV.

“It would make a difference in that new parcel with the house being strictly residential (not for overnight rentals in any way). However, that would not help with the current zoning violations. The reason why I asked if you wanted to hold off is because this block of Mersereau may or may not change in zoning for the future. There’s not really any harm in waiting and proceeding either way.”

On 11 March 2024 Daniel Wright sent an email to Kristen Bushnell (subject rezone process).

“Hey Kristen, I’m wondering what the rezone process would look like and what you would need from me? I think it would make sense to join Sharell [Carlson] and Conner [Simmons] in that instance. I would be interested in talking that over with you a little bit. Thank you, Daniel”

On 14 March 2024 Daniel Wright sent an email to Kristen Bushnell.

“Good morning Kristen, I was wanting to get one or both of those applications from you.”

On 14 March 2024 the Planning Commission again discussed short-term rentals in Spanish Valley. Planning Commissioner Wilson was aware of individuals who had bought investment property for overnight accommodations. Planning Commissioner Wilson felt those who had purchased property for investment – which they thought were legal non-conforming uses – are now being told they cannot extend the prior uses. County Planning Director Bushnell informed Commissioner Wilson that a new County land use ordinance (which would be passed in “only a few months at this point”) will address these concerns. Ms. Bushnell stated that “after the new adoption we can focus our efforts on those properties that were out of compliance and continue to be out of compliance.”

On 18 March 2024 Kristen Bushnell responded to Daniel Wright’s 14 March 2024 email. Ms. Bushnell’s email informed Mr. Wright how to submit a “Permitted Use” application. Ms. Bushnell said the County did not have a separate application process for a zone change. Ms. Bushnell added the following.

“If you are going this route, the process will be to apply and be approved for the Zone Change, after which you will have to apply and need to be approved for the Overnight Accommodations Overlay (please refer to Ch. 10 of the Spanish Valley Ordinance for details). I appreciate your efforts trying to find a way to come into compliance. Sincerely, Kristen Bushnell – Planning and Zoning Administrator.”

On 18 March 2024 Daniel Wright sent a message to Kristen Bushnell.

“Thank you Kristen, I very much appreciate your direction and help in getting 100% in compliance with you guys! Daniel”

During September 2024 Kristen Bushnell gave Daniel Wright a one-page, handwritten summary relating to Daniel Wright’s Tera Drive Property.²¹

- VESTED AS OF SEPT. 2018
(RECORDED PLAT)

... ON THE 2011 ORDINANCE
AS AGRICULTURE ZONE
#18 CONDITIONAL USE OF
“PRIVATE RECREATIONAL
CAMP/RESORT”
(INCLUDES SUPPORTING DWELLINGS)
- SEND ANYTHING PRIOR TO
SEPTEMBER 2019
 - business transactions
 - tax rolls
 - online presence/documentated stays

* Kristen's
handwritten inc
to me Approx
Sep. 2024

²¹ The reference to “private recreational camp/resort” related to the table of uses for the A-1 Agricultural District in the 2011 San Juan County Land Use Ordinance. In the table of uses was “(18) Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwellings or dwelling complexes and commercial service uses which are owned by or managed by the recreational facility to which it is accessory. C [Conditional Use]”

On 3 April 2025 San Juan County created Permit #25049 issued to Daniel Wright to “Change exiting 400 amp metered service into two 200 amp metered service” to support a 2300 square feet structure with two stories, five bedrooms, and 3 bathrooms. The applicant’s email was redlizardrentals@outlook.com.

On 5 April 2024 Daniel Wright sent an email to Kristen Bushnell (subject rezone app and check). The email informed Ms. Bushnell that Mr. Wright had “slid a check” under Ms. Bushnell’s office door and that the “paperwork” would be “into you in the next couple of hours.”

On 8 April 2024 Kristen Bushnell responded to Daniel Wright’s 5 April 2024 email. [This email addressed Mr. Wright’s rezone application.]

“Daniel,

I have your application (from Connor) and check. Unfortunately, the meeting packet has already gone out and you will be on the next agenda for Thursday, May 9th. I have not had a chance to review your documents yet so please stay tuned so I can make sure I have everything. Sincerely, Kristen Bushnell, Planning & Zoning Administrator”

On 29 and 30 May 2024 Daniel Wright and Kristen Bushnell exchanged text messages about a recent Planning Commission meeting. Mr. Wright said he watched on YouTube the Planning Commission working on the zoning code. Ms. Bushnell responded saying “We’ll keep moving forward and hopefully get an easy route for you guys. Thanks for speaking up last night. I appreciate having a little backup.” In reply, Mr. Wright commented that he believed that it had “been a tightrope walk [for Kristen Bushnell] probably since day one.” Kristen Bushnell texted: “Thanks for your help. Looking forward to getting you guys moved along in the process and back up and running.” Daniel Wright responded by texting (apparently about his online advertising): “I know you said not to change anything. . . But I was wondering if it’s OK to change a couple of pictures, and add a cohost? Definitely not adding any new listings or anything like that!”

On 14 June 2024, in a work meeting, the San Juan County Planning Commission discussed a draft 2024 County land use ordinance.

On 9 July 2024 Daniel Wright texted Kristen Bushnell asking for an update with the Planning Commission. On 10 July 2024 Kristen Bushnell sent a text to Daniel Wright. “Attorneys pushed it back to be done by August 8th. Which means it wouldn’t even go to the P&Z until September. . . As soon as they get it done we can crank the efforts back up. I appreciate all your support. Hands are really tied on this.” Mr. Wright responded with “I appreciate you Kristen, I’m jumping in the conversation anywhere I can! Just let me know when or where I can help!”

On 11 July 2024 County Planning Director Kristen Bushnell informed the Planning Commission that the 2024 County land use ordinance was under legal review and being made available for public input.

On 6 September 2024 Daniel Wright sent an email to Kristen Bushnell (subject: conditional use).

“Hi Kristen, I was wondering if you would be supportive of doing a conditional use permit on the 8 rv spots, 8 because that is what I declared and have been paying for since the moratorium thing you guys had when trying to get everyone to complain. I think it’s been 3 years since I have been paying. If I did away with the other 5 tent spots and just did those 8rv/cabin spots would you be willing to say ok to that? Thank you, Daniel”

On 20 September 2024 Daniel Wright sent a text to Kristen Bushnell, asking if she needed anything “besides the sketches of the property” from Mr. Wright for the Planning Commission agenda.

On 24 and 25 September 2024 Daniel Wright and Kristen Bushnell exchanged emails. Daniel Wright asked if Kristen Bushnell had everything she needed for the [Planning Commission] agenda. Kristen Bushnell responded that she would have to look at what was previously submitted. “I’ll get you a response by the end of today.” [These emails addressed Mr. Wright’s Mersereau Subdivision Amendment IV application.]

On 3 October 2024 Kristen Bushnell sent Daniel Wright and Lucas Blake (Red Desert Land Surveying LLC) an email (subject: Mersereau Subdivision Redlines) with the following. [This email addressed Mr. Wright’s Mersereau Subdivision Amendment IV application.]

“Mersereau Subdivision has been taken off ‘hold.’ Here are the redlines from our preliminary review. Please make these adjustments and send an updated plat back to use for review. . .

KB – Need to show that they’ve upheld setbacks 25ft front/8ft sides/20ft rear. Concerns for 75 foot lot width minimum and roadway width for emergency access.

SS – Legal description does not match drawing. Owner dedication needs to be a person via a company, including both individual name and company name. Update title block to reflect 2024. Proofread Survey Narrative.

TA – Need to be road maintenance agreement.

BB – This one seems too close; however, it is so blurry I can’t review.”

On 8 October 2024 Kristen Bushnell sent a text to Daniel Wright. “I am working to get you on the November 14th agenda. Sorry that it’s taking so long.” Mr. Wright responded, “Thank you Kristen, I appreciate that!”

On 31 October 2024 Kristen Bushnell sent an email which summarized the actions needed [as proposed by the County plat review team] to move forward the proposed Mersereau Subdivision Amendment IV (with a preliminary plat prepared by Red Desert Surveying.).

“Lucas and Daniel,
Please see the redline comments from our previous Plat Review Team.

Mersereau Subdivision, Amendment 4

Previous comments sent on March 6 and reminded on October 31.

KB. This one might be headed to the lawyers. Space is way too tight for what they already have built (no permits, etc.) Need to show that they’ve upheld setbacks 25ft front/8ft sides/20ft rear. Concerns for 75 foot lot width minimum and roadway width for emergency access.

Must provide a 25 foot frontage for a road per lot. This is currently a non-conforming lot as it stands.

SS – Legal description does not match drawing. Owner dedication needs to be a person not a company. Update title block to reflect 2024. Proofread survey narrative.

TA – Need to have a road maintenance agreement.

BB – This one seems too close; however, it is so blurry I can’t review it.”

On 31 October 2024 Daniel Wright sent a text to Kristen Bushnell. “I just saw the emails and I’m reviewing them. Can we just do my business thing at the November meeting? And get that all squared away? We can work on the lot later if it’s going to be a problem. But I had permits for that house and everything.”

On 14 November 2024 the San Juan County Planning Commission considered a “legislative item” to include “Consideration and Approval of a Conditional Use Application for A Camp Resort to be located at 158 Tera Drive in Spanish Valley, Daniel Wright.” The minutes of the meeting state the following.

“Administrator Bushnell gave an overview of the history of the property. This area has been of concern for a long time and has not had a very clear path of getting to this point. The property is currently out of compliance but is asking for a ‘historical’ conditional use permit to be granted based on a lack of information from the past planning administrators and building officials.

Daniel Wright gave his history of obtaining the property and how he progressed with development. Commissioner Wilson had some issues with the legalities of the utility lines and impact fees that needed to be straightened out with the Spanish Valley Special Service District for water hook ups.

Wright's neighbors have previously come in for a conditional use permit similar in nature. Because the use was illegal at the time and currently stands illegal it was suggested to table this conditional use application until further opportunities became available with the 2025 Land Use Ordinance, which would allow for these uses.

Motion made by Commissioner Rigg to table the application. Seconded by Commissioner Garcia. Voting Yea: All in favor. Motion carries."

After the 14 November 2024 Planning Commission meeting, Kristen Bushnell and Daniel Wright exchanged text messages. Ms. Bushnell: "We tried. I was trying to push them to historic CUP [Conditional Use Permit]." Mr. Wright: "You did awesome! I'm one of your biggest fans!! I appreciate you very much. I think with new zoning even the people who might normally be a no would be a yes, I got that feeling." Ms. Bushnell: "I think you'll be approved once the new one [zoning code] is in place." Mr. Wright: "I think you are right. I'm hopeful there aren't any more snags on the new zoning maps!"

On 10 December 2024 Daniel Wright sent a text message to Kristin Bushnell. "Good afternoon Kristen, how are you? Just wondering if everything is moving as hoped for the rezone. I have a suggestion. Instead of RVs cannot be used for STR/ Replace with: All STR must meet the 50 state safety approval of HUD, RVIA and/or any other body you would want to add. Recreational vehicle industry association sets very strict guidelines on construction, and all other aspects of safety you are wanting to address. New rvs comply with a 50 state safety approval process similar to HUD. That way the safety is met, and you are allowed additional flexibility. Also: must be inspected prior to approval if it falls into that category Or something similar to that language." On 6 January 2025 Ms. Bushnell responded to the 10 December 2024 text. "We're not headed that way. We have no checkpoints to relate safety concerns."

On 30 December 2024 the San Juan County Board of Commissioners adopted a new Subdivision Ordinance.

Between 10 and 30 January 2025 there were text message exchanges between Kristen Bushnell and Daniel Wright.

10 January 2025 Daniel Wright text: "Good afternoon Kristen! I hope you finally slept well! I had a quick question I just thought of, I heard we had discussed taking the minimum parking down to 1.5 per spot? For context most of my campers I only allow two or three people so it's most often one vehicle I think one and a half would be fair but just my two cents!"

10 January 2025 Kristen Bushnell text: "No. The planning commission had the emails from you and Connor [Simmons] but they didn't bring it up."

10 January 2025 Daniel Wright text: "Ok, gotcha. Thank you!"

15 January 2025 Daniel Wright text: "Can you get me on the agenda? I want to try the CUP [Conditional Use permit again."

21 January 2025 Daniel Wright text: “Good morning Kristen! I will be signing in on zoom. I was wondering if the RV as STR was put in as was voted for? I heard that it was not, and I want to check with you?”

21 January 2025 Kristen Bushnell text: “RVs can only be used for long term rental.”

21 January 2025 Daniel Wright text: “What happened? That was voted on specifically as an STR as well. That’s the one thing that makes having a home affordable, the owner can easily start a side gig that pays for most of the mortgage. That’s the biggest stride toward affordability in the history of the county. Can you name a bigger one?”

On 21 January 2025 the San Juan County Board of Commissioners considered a new County-wide land use ordinance.²² The new ordinance draft was made available to the public. During the 21 January 2025 meeting, the Commission received public comments. There were several comments that the ordinance was too long (“daunting”), the ordinance is too restrictive and would impede economic growth, the ordinance might not be aligned with the County general plan, and property rights should be protected. Several residents requested more time to review and comment on the ordinance. Spanish Valley residents voiced the following concerns with the new ordinance.

- Lack of enforcement of nighttime flashing lights and junk yards was a concern.
- Permits are being held up pending the adoption of the ordinance.²³

After public comments, the Board of Commissioners on 21 January 2025 discussed and decided to table the ordinance for six months – to allow for public engagement and attorney review. During the discussion, Ms. Bushnell informed the Commission there were building licenses pending while the County considered a new ordinance.

After the Planning Commission meeting, Daniel Wright and Kristen Bushnell continued texting each other.

21 January 2025 Daniel Wright text: “I could hear in your voice you were emotional. If you want to chat or get a margarita, I am here for ya.”

25 January 2025 Kristen Bushnell text: “Daniel, if we put you on the agenda. . . it will be denied. I’m trying to figure out what to do with legal. There’s a lot of folks in the same boat as you. We can’t hold off on enforcement another 6 months and I can push folks through with what I’ve got. They’ve really put us in a lose-lose situation. Our County Commissioners need to hear from you. You have been involved through it all and have been held up through it all.”

²² This meeting was preceded by a 9 January 2025 Planning Commission meeting. During that meeting public comments were received regarding the proposed county land use ordinance.

²³ This comment was made by Conner Simmons who resides at Tera Drive.

30 January 2025 Daniel Wright text: "I can tell you are frustrated, I'm sorry. I will email the commissioners."

On 4 February 2025 Daniel Wright responded to Kristen Bushnell's 3 October 2024 email (which included comments by San Juan County to the submitted Mersereau Subdivision plat).

"Kristen, I measured the front and sides, etc. It's all at least the minimums, or more on all the dimensions.

Road maintenance agreement should be today or tomorrow.

Full 25 foot wide driveway and pull through.

Does that just leave verification of those items and changing the owner dedication?

I would like to get on the agenda for the 13th if possible. Thank you, Daniel Wright"

On 6 February 2025 Daniel Wright sent an email "Ideas for business resolution" to Kristen Bushnell.

"Kristen,

Is there a time this week or beginning of next I could spend 10-15 minutes with you and Mitch [Maughan] if he is available? Just to discuss a couple of ideas I had to resolve the business stuff. I promise it will be quick and I will have stuff written down so I'm concise. I know you guys are so busy."

On 11 February 2025 Daniel Wright and Kristen Bushnell exchanged text messages.

Daniel Wright text: "Good morning Kristen, how are you? Hey, I just wanted to check back on the stuff we have been talking about. On the business side of things, I will totally defer to you if you think we should wait, then that is fine. I just had some ideas I thought we could figure something out but I'm OK with deferring to you on that one. I would like to move forward on the lot separation, and I was happy you could help me with that!"

Kristen Bushnell text: "You are on the plat review for Tuesday, March 4th at 8am. If you can make it, I think it would be helpful for you to be there and hear our concerns directly. The business stuff I can't do anything with at this point."

Daniel Wright text: "I understand the business stuff; there is a lot left up in the air."

On 4 March 2025 Daniel Wright sent an email to Kristen Bushnell with an updated plat. The plat was updated by Red Desert Land Surveying based on comments included in Kristen Bushnell's 3 October 2024 email.

On 7 March 2025 Daniel Wright and Kristen Bushnell exchanged text messages. Daniel Wright: "Hey Kristen, just wanted to check and see if we had an approval on that." Kristen Bushnell: "Working on it." Daniel Wright: "Thank you."

On 11 March 2025 Kristen Bushnell sent an email to Daniel Wright. [This email addressed Mr. Wright's Mersereau Subdivision Amendment IV application.]

"Daniel, Here are the corrections that we need you to obtain from the surveyor. We are getting closer to the final mylar.

- Review with Fire Marshall for roadway access
- Dates in the title block
- Update language of dedication to Daniel Wright and not 'the company'
- Road Department needs a road maintenance agreement & encroachment permit for private road
- Double check that description matches drawing

Sincerely, Kristen Bushnell, Planning & Zoning Administrator"

On 12 March 2025 Daniel Wright sent Kristen Bushnell a text message: "Good morning. I just wanted to check in on the plat progression." Daniel Wright got a reply that Ms. Bushnell was out of the office.

On 19 March 2025 Daniel Wright sent Kristen Bushnell a text message: "Hello Kristen, I just wanted to follow up about the lot split [Mersereau Subdivision Amendment IV]. I hope all is well." There was no text message response from Ms. Bushnell

On 21 March 2025 Daniel Wright emailed Kristen Bushnell.

"Hello Kristen, just wanted to check in on the lot split [Amendment IV]! Thank you, Daniel"

On 24 March 2025 Daniel Wright sent Kristen Bushnell a text message: "Good morning Kristen, just wanted to check in on the plat [Amendment IV] stuff!" Ms. Bushnell responded that she was out of the office.

On 2 April 2025 Daniel Wright emailed Kristen Bushnell. [This email addressed Mr. Wright's Mersereau Subdivision Amendment IV application.]

"Kristen,

I talked with David yesterday and got the blessing of the Fire Marshall. I think all else is done just the encroachment permit. I dropped one off but I think it got lost. Thank you, Daniel"

On 11 April 2025 San Juan County issued building permit # 25049 for electrical work at 158 Tera Drive.²⁴ On 19 June 2025 San Juan County Building Official Corey Coleman noted that the electrical work was approved, but only for the residence owned by Daniel Wright. “No meter installation is authorized at this time for the trailer park. Further direction will be provided once applicable requirements are met and reviewed.”²⁵

On 15 April 2025 County Attorney Mitchell Maughan sent an email to Kristen Bushnell.

“You should have given the Wrights the Notice of Violation like I asked you to way back when. I want a notice of violation filed and sent to the Wrights. They need to understand that they will comply or we will shut them down.”

²⁴ On 11 April 2025 inspector Corey Coleman added the following notes after a review of the plans.

- “1) Provide a site plan indicating the location of the service.
- 2) Provide a total project valuation.
- 3) Provide the RMP WO#
- 4) Provide electrical specifications including service size and location, wire size, wiring methods, mounting system and overcurrent protection.
- 5) If there is an existing service pictures may be provided with specifications of the new equipment to satisfy #4 above.
- 6) Please provide Utah Licensed electrical contractor”

²⁵ On 19 June 2025 inspector Corey Coleman reported a “partial clearance” for building permit # 25049. Included in Corey Coleman’s notes were the following.

“The original 400-amp meter base has been replaced with a single meter base housing three separate 200-amp meter panels, each intended to serve different uses. Please note: approval of this meter base and its installation does not indicate San Juan County approval of any unpermitted uses.

All electrical work must be properly permitted and must comply with codes as adopted by the State of Utah and San Juan County.

Current status: Approved Meter Use: As of June 19, 2025, meter approval is granted only for the residence owned by Daniel.

Meter clearance for Conner has been granted, as the required easement has now been officially recorded. Installation may proceed accordingly.

Trailer Park: No meter installation is authorized at this time for the trailer park. Further direction will be provided once applicable requirements are met and reviewed.”

On 7 May 2025 Daniel Wright (of Red Lizard Rentals) emailed Kristen Bushnell. [This email addressed Mr. Wright's Mersereau Subdivision Amendment IV application.]

"Hello Kristen, I think I have submitted everything to subdivide the house. Can you confirm that for me?"

On 8 May 2025 Kristen Bushnell emailed Daniel Wright – responding to Mr. Wright's 7 May 2025 email.

"It's held up with legal. They aren't moving forward until some things get cleaned up. Have you got a letter from them yet? Sincerely, Kisten Bushnell, Planning & Zoning Administrator"

On 9 May 2025 Daniel Wright replied to Ms. Bushnell's 8 May 2025 email.

"Kristen, No I haven't heard anything. Can you enlighten me? Daniel"

On 8 May 2025 the San Juan County Planning Commission met. During its meeting, the Planning Commission discussed a County Land Use, Development and Management Ordinance, along with zoning maps and use tables. A presentation was given by the San Juan County Planning Director Kristen Bushnell. During the presentation and discussion, Ms. Bushnell provided the following information.

- After adoption of the Ordinance, existing legal structures will be grandfathered as non-conforming uses.
- The current County land use ordinance does not permit "long-term RV dwelling[s]." The new ordinance would allow one long-term RV dwelling per half acres.
- Seasonal RV hunting camps would be added to the new ordinance.

After Ms. Bushnell's presentation, the planning commissioners discussed the new ordinance. The Planning Commission discussed whether or not to allow "small scale" commercial activities in residential zones. The change would define "small scale" so that such activities do not become commercial hubs.

The Planning Commission on 8 May 2025 discussed the challenges ("can of worms") associated with a county-wide zoning ordinance in Spanish Valley. The following information was discussed during the 5 May 2025 Planning Commission meeting.

- The Planning Commission discussed whether Spanish Valley should be addressed by either "step-down" zoning or "micro-zoning." A micro-zoning approach could address specific needs and existing structures going "road-by-road."
- There was mention of auto repair shops in Spanish Valley residential neighborhoods.

On 9 June 2025 Tyler [electrician] emailed Daniel Wright to “split [the electrical project] into 3 different properties.” Daniel Wright responded to Tyler that “152 [Conner Simmons] already is separated and I have initiated the process to separate this house [158] from the campground and that is a process and has been for a couple of months. . . So, it’s already two separate properties, and almost 3.”

On 20 June 2025 Daniel Wright emailed San Juan County Building Official Corey Coleman to discuss efforts Daniel’s electrician [Tyler] was prepared to do – to “split” the electrical service on the Wright property.

On 3 July 2025 Daneil Wright (Red Lizard Rentals) emailed “Completion of plat review steps” to Kristen Bushnell. [This email addressed Mr. Wright’s Mersereau Subdivision Amendment IV application.]

“Kristen, I have successfully completed all the tasks you and the Plat review board laid out for me when I came before you months ago. I would like to continue with the breaking off of that land with the house. It has never been part of the campground, as I honored the request you made long ago that I not rent out the house in a nightly manner. Not a single night. Not one time. Thank you, Daniel”

On 8 July 2025 Kristen Bushnell emailed Daniel Wright.

“Daniel, Everything on this property and any associations is on hold until I get clearance from Legal to move forward. We are working through it. Sincerely, Kristen Bushnell, Planning & Zoning Administrator”

On 10 July 2025 Daniel Wright emailed Kristen Bushnell.

“Kristen, What needs to be done to move forward with the home? I thought the only question was the legality of the campground. Thank you, Daniel”

On 10 July 2025 County Planning Director Kristen Bushnell discussed with the Planning Commission public comments on the draft 2025 County land use ordinance.

On 10 July 2025 the San Juan County Planning Commission considered Mersereau Subdivision, Amendment 4. After discussion, the Planning Commission voted to table the proposal “until ordinances and maps are approved at a later date.” During the Planning Commission discussion, Kristen Bushnell said she had been working with Mr. Wright for over a year. After receiving background from Mr. Wright, the commissioners discussed the possible nonconforming use status of the property. The commissioners acknowledged the County’s past leniency and how that might complicate the status of the property.

On 19 July 2025 Kristen Bushnell sent an email to Daniel Wright.

“Daniel, Your property is on hold until I get clearance to move forward from legal. The Administrative Law Judge has not gotten back to me yet with any new information. You will have to work through the process with them, which is probably going to take a substantial amount of time before we can proceed. Sincerely, Kristen Bushnell, Planning & Zoning Administrator?”

On 22 July 2025 Daniel Wright sent an email to Kristen Bushnell.

“Kristen,

I have asked several times, and I’m still waiting for an answer. After completing everything you asked, and attending the Plat review meeting, can you explain to me on what basis the house separation is being held up?

The plat separation began, and I completed all the steps before this legal action started. It surprises me that after months of delays and then extra tasks, no one can articulate a basis. Does that seem fair to you?

You personally asked me not to have overnight stays in my house; you asked me to keep the house separate from the campground and I honored that request.

Somehow on your end they got combined, so I honored the request but you didn’t. I’m curious as to the basis of why you are failing to recognize or honor that agreement. Please don’t answer again and say, ‘it’s being held up with legal.’ I know that the question is why? On what basis, what else do you need? If you can’t articulate a reason it seems to be an arbitrary and capricious decision on your part.

Furthermore, the legal thing doesn’t seek to evict me from my home or claim that I cannot live there. So, in that way it is also separate from the campground and the current litigation. If you let me know what you need, I will immediately do it and then you won’t need it anymore Kristen. I started this in March 2024, you put it on hold for seven months, you took it off hold in October 2024. I completed all steps you laid out for me several weeks ago. Let’s get this done. Thank you, Daniel”

On 28 July 2025 Kristen Bushnell sent Mr. Wright's 22 July 2025 email to County Attorneys Jens Nielson and Mitchell Maughan. On 29 July 2025 Mr. Maughan sent an email to Mr. Wright.

"Mr. Wright, I am not sure how you seem to be confused as the County's position related to your property. You received a Notice of Violation setting forth the County's position on your property status. Included in the NOV were the complaints and issues that the County has raised as a result of your failure to follow proper procedures. Also included in that NOV was a demand to cease and desist any further development, improvements or any subdivision of the property, including short term rentals. Until this is litigated or otherwise resolved, our position remains the same. After years of non-compliance and gross violations of our ordinances, you now want to hurry and fix things so you can move on. We will address these issues at the proper time in the proper forum – not on your timetable."

On 1 August 2025 Daniel Wright sent an email to Kristen Bushnell.

"Kristen,

As I suspected, and have passed on to Mitchell as well, holding up the subdivision of my land while litigating an entirely separate issue is not appropriate.

You specifically asked me to keep this house and this property separate from the campground and campground activity. A request I honored, and that now you do not honor.

I acknowledge this is a gray area, that my business falls within, that many businesses fall within due to the specific situation in San Juan County with zoning and officials. I either did the things you asked me to do, or I did not. You know that I did do them.

The Utah Property Rights Ombudsman agrees that just because my business is in litigation is not an appropriate reason to hold up a separate county function.

I'm being advised to pursue separate legal action and file a writ of mandamus forcing a decision on this, in that motion we would be reserving the right to seek damages. I will be making that decision Monday after the commission meeting and after a call with the Property Rights Ombudsman regarding my business situation.

It is my hope that the Plat separation for which I have completed all the steps, and all of that was completed before the legal action, can just be approved as it should be.

Having finished everything you asked me to do and attended the meeting you asked me to attend, I believe I have completed all the steps.

I hereby formally request that you approve my plat separation based on the fact that I did everything you asked me to do."

On 5 August 2025 the County Board of Commissioners directed that the County General Plan and the new County land use plan be worked on together; and that a timeline be established.

On 14 August 2025 the San Juan County Planning Commission met. The agenda and packet for the meeting included a review of pending building permits and subdivision applications. The agenda and packet stated that Mersereau Subdivision Amendment 4 (submitted by Red Deseret Surveying for Daniel Wright) was “on-hold.”

For the 14 August 2025 County Planning Commission meeting, Director Kristen Bushnell submitted a staff report with a timeline for the adoption of a new county land use code. The proposed timeline targeted May 2026 for the adoption of a county land use ordinance. However, on 14 August 2025 the Planning Commission voted to table discussion of a County land use plan. The May 2026 target date for completion of a County land use ordinance was not considered or discussed by the Planning Commission.

On 26 August 2025 Attorney Craig Carlile (representing Daniel Wright) emailed ALJ Creswell. The email included several documents from Mr. Wright. Mr. Carlile added the following to his email.

“I’m not sure what the scope of your jurisdiction is in this matter. Mr. Wright applied for a subdivision approval that has been pending for over 17 months. He met every requirement for the approval and the approval is now only a ministerial act which the county is refusing to complete. Supposedly they are waiting to see how the county ordinances will change, but any change would not affect what is now Mr. Wright’s vested right for the approval. The county’s delay has damaged Mr. Wright as the result of a failed sale of the property. If we cannot address that issue in this proceeding, then we will file a mandamus lawsuit as recommended by the Real Property Ombudsman in conversations with Mr. Wright. Thank you for your assistance. Craig.”

On 2 September 2025 Daniel Wright offered comments during the Board of Commissioners Meeting. Mr. Wright voiced concerns about the relationship between the proposed county-wide land use ordinance and the county’s general plan. Mr. Wright felt the proposed ordinance was against single wide and double wide trailers.

On 9 October 2025 the Planning Commission discussed a County land use ordinance. Prior to the meeting, County Chief Administrative Officer Mack McDonald submitted a staff report regarding a new County land use ordinance. Mr. McDonald encouraged “consensus” among the planning commissioners. During the 9 October 2025 meeting, the planning commissioners offered several comments about a future County land use ordinance. A result of the discussion was that the Spanish Valley residential district would likely be “restricted” under the new zoning code.

On 13 November 2025 Daniel Wright offered comments during the San Juan County Planning Commission meeting. Mr. Wright expressed support for zoning changes which promoted affordable housing and local business development. During the 13 November 2025 meeting, planning commissioners continued their discussion about a future County land use ordinance.

On 8 January 2026 the County Planning Commission again discussed a new County land use ordinance. The planning commissioners gave staff direction regarding formatting and editing a draft land use ordinance.

On 22 January 2026 Daniel Wright asserted that his property included four trailers and two tent sites. Daniel Wright also asserted that prior to 22 January 2026 he placed three (3) small cabins on his property. Two of the cabins were used for “RV overflow and rentals.” The third cabin was used for storage. Prior to 22 January 2026 the three cabins were removed from the property.

On 22 January 2026 Daniel Wright asserted that he had “continuously rented between 4 and 5 RV/cabin spaces and 2 tent sites” on his property.

On 30 January 2026 ALJ Creswell sent an email to Mr. Carlile requesting additional information from Mr. Wright about the structures at 158 Tera Drive.

On 27 February 2026 ALJ Creswell sent an email to Daniel Wright requesting a reply to ALJ Creswell’s questions about structures at 158 Tera Drive – questions included in a 30 January 2026 email from ALJ Creswell to Mr. Carlile.

On 1 March 2026 Daniel Wright emailed ALJ Creswell with Mr. Wright’s responses to ALJ Creswell’s 30 January 2026 questions. The submitted questions and Mr. Wright’s responses follow here.

“I request more detail from Mr. Wright regarding the facilities on his property.

Mr. Wright's 22 January 2026 declaration states that he has "4 and 5 RV/cabin and 2 tent spaces" on his property. I also understand that he has a residential structure on the property. In the record set I see a building permit and certificate of occupancy for the residential structure. I also see a permit for the electrical associated with (I believe) the RV hookups.

Please have Mr. Wright respond to these questions.

1. Are there bathroom and shower facilities on the property for the camping guests? Provide square feet and structure information.

No sir there are not. I have removed them in attempts to both settle with the county and also come into future compliance.

2. Is there a food preparation, eating area, or similar structure/area for the camping guests on the property? If so, provide details.

I had a couple pellet smoker type grills available for each Camper and tent spots. But no other food preparation area, your Honor.

3. Is there a pool, athletic court/area, or sport facilities on the property? If so, provide details.

There was an area for horseshoes and cornholes, but no pool or hot tub or anything of that nature.

4. Does Mr. Wright provide on-site sewage disposal or solid waste disposal on the property for the camping guests?

Other than the use of temp bathrooms, and the RVs hooked up to utilities, no we don't provide any other type of sewage waste storage or removal/disposal.

5. Are on-site laundry facilities available for camping guests?

There are no on site laundry facilities for guests.

6. Provide details about the cabin and RV pads and hookup support.

The cabins were on skids and temporary nature. They have been removed. The sewer/water/power for rv spots were put in by Steve Howard. He is a local contractor and the invoice for that I believe is in the information submitted by Mr. Carlisle, but if not your Honor I do have the invoice for that.

One additional question. Are all of the guests short term (less than 30 days)? Or are there guests who stay longer?

All of the guests were short term in nature. In the beginning and throughout the process I have had a long term person here on site as well, I provide them housing and pay their bills so that there has been someone on site for basically the entire time I have had the campground."

On 11 March 2026 ALJ Creswell took the sworn testimony of Scott Burton. Relevant information from that testimony follows here.

- Scott Burton was an employee of San Juan County from April 2018 to June 2023. Initially Mr. Burton was the County's building inspector, subdivision administrator, and deputy assessor. In May 2020 (after the departure of Walter Bird – who had served as the Zoning Administrator), Mr. Burton became the Zoning Administrator for San Juan County. Mr. Burton continued in that role until June 2023.
- Regarding the issue of short-term rentals in the Spanish Valley Residential District, Mr. Burton recalled the topic of short-term rentals being discussed by the Planning Commission after the passage of the Spanish Valley Development Ordinances. Mr. Burton recalled that the Planning Commission seemed unsure how the Spanish Valley Development Ordinances applied to short-term rentals in the Spanish Valley Residential District. Zoning Administrator Walter Bird believed that short-term rentals were allowed in the Spanish Valley Residential District.

- When Mr. Burton became the Zoning Administrator, he requested a legal opinion from the County Attorney's Office. Mr. Burton received a legal opinion stating that short-term rentals were not permitted in the Spanish Valley Residential District. They were neither a permitted nor conditional use in the SVR District.
- On 11 March 2021 the legal opinion was published and discussed in a Planning Commission meeting. During the meeting there was a lot of discussion. However, it was clear to Mr. Burton that short-term rentals were not permitted in the Spanish Valley Residential District.
- Regarding enforcement of the zoning code – including dealing with short-term rentals in the Spanish Valley Residential District – enforcement was “done or not done, because of a lack of staff.” Mr. Burton said the County did not have staff to police everything. Once the business license ordinance was adopted, Mr. Burton stated that that ordinance gave the County “at least some way to know and a way for people to say okay, you need to apply for a business license.”
- Mr. Burton testified that his first encounter with Daniel Wright was through the subdivision application process. This may have occurred in 2020.
- Regarding those subdivision applications, Mr. Burtons stated that his role was to facilitate the approval process, by making sure everyone had an opportunity to review the plat and eventually sign the plat.
- Mr. Burton could not recall specifically when he first learned that Mr. Wright was operating a commercial camping enterprise on his property.
- When asked by ALJ Creswell whether Mr. Burton ever informed Mr. Wright that his camping operation was non-compliant with the land use code, Mr. Burton could not recall. Mr. Burton said such communications regarding land use compliance were handled through the business license process. “We were inundated with business license applications and that was where we were handling a lot of those as in I can't remember if he [Daniel Wright] applied for a business license at that point. That became our operating procedure, when we received a business license, I would do a zoning check.” “I don't remember a specific conversation [with Daniel Wright] or anything.”
- Mr. Burton also could not recall if he ever informed Mr. Wright that he could continue his commercial camping business. Mr. Burton felt that any approval for Mr. Wright to operate his business would have come through the conditional use approval process.
- Mr. Burton was asked about the two subdivision amendments (in 2021 and 2022) he handled for Mr. Wright. Regarding whether any subdivision application was “legal,” Mr. Burton said he would look at the parcel size (whether it met the minimum lot size standard), parcel access, setback, and buildable area. Mr. Burton said he did not consider the use of the property and issues such as compliance with the building code. Mr. Burton believed that such issues would be addressed after the land was divided.

- Mr. Burton stated that when the issue of short-term rentals in the Spanish Valley Residential District began to be addressed, one concern was protecting those with prior non-conforming uses. Mr. Burton said that a landowner would always be asked, “When did you start [your business]?” Mr. Burton felt they weren’t trying to help people become legal but informing them about one option to become legal.
- Mr. Burton admitted there were many property owners who felt they had operated legally for years. Mr. Burton confirmed that property owners were confused. Mr. Burton added that even under the 2011 Ordinance there was confusion regarding whether an RV park could be approved as a conditional use. Mr. Burton said, “it wasn’t our desire to shut everybody down, but it was to try to, if people were [operating] we still had to follow the county ordinances as best we could and the best we understood them.”
- When Mr. Burton was asked whether he understood that Mr. Wright was noncompliant with the zoning code, Mr. Burton did not recall or know. Mr. Burton referred again to the conditional use process and any decision made regarding a conditional use. Mr. Burton felt that without a conditional use permit Mr. Wright’s operation might not be legal.

During the 11 March 2026 sworn testimony of Scott Burton, Daniel Wright made the following unsworn statement.

- When Daniel Wright first spoke with Mr. Burton, Mr. Wright told Mr. Burton, “I was already doing this campground thing.” After Mr. Wright’s statement, Mr. Burton stated he did not recall having that conversation with Daniel Wright.

A hearing of the Daniel Wright appeal was held on 13 March 2026 in the San Juan County Administration Building.

Testifying at the hearing were Mack McDonald, Daniel Wright, Kristen Bushnell, Nathan Pitts, and Corey Coleman.

Corey Coleman. Corey Coleman serves as the San Juan County Building Official. Previously Mr. Coleman was a building official in several jurisdictions in Colorado. Corey Coleman stated that the trailers on the Daniel Wright property would not be regulated by the County. Trailers are licensed through the State of Utah Motor Vehicles Department.

Regarding non-trailer structures, including cabins, Mr. Coleman said, “there is a common misconception if it’s on skids it is a temporary building” and not regulated. Mr. Coleman stated that any structure, including those on skids, would require a building permit.

Mr. Coleman testified that the cabins on the Wright property would have required building permits.

Regarding porta potties, Mr. Coleman stated that if the porta potty was on site more than 180 days it would require inspection by both the Health Department and the Building Department.

Regarding any structures on the Wright property which did not receive a building permit, Mr. Coleman provided information about the “as-built permit” process. Corey Coleman said that Mr. Wright could avail himself of that process to bring any structures into compliance.

Nathan Pitts. Nathan Pitts testified that in early 2022 he took responsibility for the County’s business licenses. During that time, the County wanted to “grow business” to improve life in San Juan County. Mr. Pitts recalled being aware of Mr. Wright’s Airbnb listings. Mr. Pitts sent Daniel Wright and other business owners a letter making them aware of the business license requirement. Thereafter, “in good faith” Daniel Wright submitted a business license application. Mr. Pitts recalled that Daniel Wright regularly (“probably weekly”) reached out to Mr. Pitts to check on the status of his application. Mr. Pitts informed Daniel Wright that the application was “pending.” This continued for about two years. During this time, Natan Pitts talked with Kristen Bushnell in the Planning and Zoning. Based on his conversations with Ms. Bushnell, Mr. Pitts testified “Ultimately our hope was that the updated land use ordinance would solidify and then his [Mr. Wright’s] operation would be permissible.” Mr. Wright’s business license was never denied.

Mack McDonald. Mack McDonald addressed the issue of taxes paid by Mr. Wright for his commercial camping business. Mr. McDonald states that the transient room taxes paid by Mr. Wright were paid to the State of Utah. Those taxes were not collected by San Juan County. Mr. McDonald explained that until recently, the County did not have access to the information the State relied upon to collect transient room taxes. That made it difficult to determine if a business was noncompliant with the zoning code. Only when a neighbor complained, did the County look at the zoning associated with a commercial enterprise.

Daniel Wright also paid fees to the Service District for his sewer collection. The Service District is a separate entity from the County. Mr. McDonald believed that the fees paid by Daniel Wright for sewer service were based on a commercial enterprise.

Mr. McDonald gave background regarding the 16 January 2024 ordinance which clarified that short-term rentals prohibited in the Spanish Valley Residential District. Mack McDonald testified about confusion created by a Property Rights Ombudsman opinion about short-term rentals in Spanish Valley. Mr. McDonald also said that about thirty (30) individuals “signed a petition for use to stop the overnight rentals in the SVR district.”

Kristen Bushnell. Kristen Bushnell began working with San Juan County in December 2023. She was the County’s zoning administrator. Among Ms. Bushnell’s first assignments was the new zoning codes and zoning maps.

Ms. Bushnell recalled visiting the Daniel Wright property. She concluded that the property was not compliant with the building code and that fire truck access “was very tight.”

Early on, Ms. Bushnell also became comfortable with what was allowed and not allowed in the Spanish Valley Residential District. She also became aware that short-term rentals were being approved in residential flex zoning and through the overnight accommodation overlay process.

Kristen Bushnell also became aware of Mr. Wright’s business license application. Ms. Bushnell determined early that Mr. Wright did not qualify for a business license – “the use [on the property] doesn’t look compliant.”

Ms. Bushnell recalled meeting with Daniel Wright in early 2024. During that meeting Ms. Bushnell and Mr. Wright discussed “the camp park.” After that first meeting, Ms. Bushnell and Mr. Wright exchanged email messages.

Ms. Bushnell testified that her 5 March 2024 email to Daniel Wright was “a critical point in the entire case.” Ms. Bushnell believed that she made it clear to Mr. Wright that his use was noncompliant. The letter called for “immediate compliance due to the prohibited uses on your property.” The letter gave Mr. Wright fourteen days to become compliant.

Regarding the “routes” given to Mr. Wright in the 5 March 2024 email, Ms. Bushnell testified about the new land use code. Ms. Bushnell testified: “We were all victims of the ordinance not happening.” Ms. Bushnell added that 60 business licenses were kept “pending” waiting on the new land use code. In testifying about the new land use code, she believed that “nothing is guaranteed” for Mr. Wright and his camping park.

Ms. Bushnell testified that her objective was to “create win-win situations for everybody” – including Daniel Wright.

Ms. Bushnell recalled trying to help Mr. Wright with the “historic” conditional use application, which was heard by the Planning Commission on 14 November 2024. Ms. Bushnell was told by legal to give it [the conditional use approval route] a try.

Ms. Bushnell never put in writing that Mr. Wright could continue his noncompliant camping business after the 5 March 2024 letter. “In my mind it was not okay.” However, Ms. Bushnell felt that if there is a way to make it work, she wanted it to work.

Kristen Bushnell stated that she became aware of Mr. Wright possibly expanding his use of the property. Ms. Bushnell made it clear to Mr. Wright he could not expand.

Daniel Wright. Prior to 2018 Daniel Wright as a professional server. He had “absolutely no background at all in developing properties.”

In 2017 Daniel Wright established and registered his LLC. In 2017 Mr. Wright also received a business license from Grand County.

Daniel Wright has operated a short-term rental business since mid-2018. Mr. Wright believed his rental business was open and transparent. When Mr. Wright first began his business, he called the County to ask about a business license. Daniel Wright was told he would only need a license if he sold alcohol. From the beginning Mr. Wright paid transient room taxes on his rentals. Since April 2022 Daniel Wright paid sewer fees as a commercial enterprise. Along the way, Mr. Wright admitted “I made some mistakes.” In 2023 and 2024, Mr. Wright applied for a rezone and submitted a conditional use permit. Mr. Wright understood that the Planning Commission tabled his conditional use permit application “until the new 2025 land use ordinance was passed, something they expected to quickly happen.” Mr. Wright believed that the County knew and “accepted that I would continue my operation as this [the adoption of the new land use ordinance] was being figured out.” In continuing to operate his business, Mr. Wright “relied on that consistent course of conduct from county staff.”

Over eight years Mr. Wright invested hundreds of thousands of dollars in the enterprise.

Mr. Wright received a certificate of occupancy for his residence.

Mr. Wright testified when he was first starting his business he called San Juan County. He was told “just come down here and fill out this conditional use.”

Mr. Wright recalled in October 2019, prior to the adoption of the Spanish Valley Development Ordinances, the contractor working with the County on the draft ordinances talked with the owners on the west side of Tera Drive. The contractor (Mark Vlastic) wanted to know what the property owners wanted as far as commercial overlap on their properties. At that time (October 2019), Mr. Wright understood that his property might have “some sort of commercial overlap and may have qualified for some sort of ability to do business there.”

In the 14 November 2024 Planning Commission meeting, Mr. Wright believed that everyone understood that he was operating a short-term rental business on his property. However, no one told him that he should stop operating his business. Without being told to stop operating, Mr. Wright concluded that the County “clearly acquiesced at the time I was going to continue operating.”

Mr. Wright recalled being told by Kristen Bushnell not to expand his business. Mr. Wright agreed to no expansion. Mr. Wright also recalls a conversation with Ms. Bushnell that Daniel Wright’s residence should not be used as a rental. Again, Mr. Wright agreed and complied.

After the 13 March 2026 hearing, Daniel Wright submitted the following information to ALJ Creswell

- After the May 2025 Notice of Violation, Daniel Wright began the process of decommissioning his commercial camping business by removing structures from the property. This decommissioning process lasted until November 2025. After decommissioning the “utility stubs” remained on the property.
- Mr. Wright was advised by his attorney that he could continue to operate pending the outcome of the appeal. Based on that advice, Daniel Wright continued to host short-term rental guests with the remaining hook ups and infrastructure.
- Mr. Wright accommodated guests who had registered through Airbnb prior to May 2025.

Legal Framework

Based on facts associated with Daniel Wright's use of 158 Tera Drive and the structures at that address – along with issues raised in the San Juan County Wright Notice of Violation – the following County codes and legal standards apply to adjudicate the Daniel Wright administrative appeal of the Notice of Violation. These code provisions and legal standards include the following.

- Legal non-conforming uses

- Zoning estoppel (equitable estoppel)

- San Juan County zoning ordinances (2011 zoning ordinance, Spanish Valley Development Ordinances)

- San Juan County subdivision ordinances

- San Juan County business licensing

- International Residential Code, International Building Code

- Public nuisance law

- Sanctions for failure to comply with San Juan County ordinances

- Property owner procedural due process

Legal non-conforming uses

Common law legal nonconforming use. The legal principles relevant to a finding that a land use qualifies as a legal nonconforming use include the following:

- a. The scope of use allowed under a legal nonconforming use is determined by what uses were authorized prior to the adoption of the zoning ordinance which prohibits or restricts the land use²⁶;
- b. Legal nonconforming uses cannot expand beyond the historical (previously authorized) physical boundaries – in other words, the use must remain within the property boundaries existing when the use became nonconforming²⁷;
- c. Constructing new structures or buildings on nonconforming use property is generally not authorized²⁸.
- d. Changes in the nonconforming uses may not deviate from the essential character, nature, or type of the prior authorized use²⁹; and

²⁶ See *New London Land Use Assoc. v. New London Zoning Bd.*, 130 N. H. 510 (1988); *Residents Defending Their Homes v. Lone Pine Hunters' Club, Inc.*, 155 N.H. 486 (2007); *State ex. rel Brill v. Mortenson*, 6 Wis. 2d 325 (1959).

²⁷ See *Utah Property Rights Ombudsman Opinion 186* (24 May 2017), which referenced *Gibbons & Reed Co. v. North Salt Lake City*, 19 Utah 2d 329, 431 P. 2d 559 (1967). See also *Buffalo Crushed Stone, Inc. v. Town of Cheektowaga*, 13 N.Y. 3d 88 (2009); *Rudolf Steiner Fellowship Foundation v. De Luccia*, 90 N.Y.2d 453 (1997); *Town of Hampton v. Brust*, 122 N. H. 463 (1982); *County of San Diego v. McClurken*, 37 Cal.2d 683 (1951); *Lessard v. Burnett County Bd. of Adjustment*, 2002 WI App 186. An exception to this rule is made when the nonconforming property is used for mining or mineral extraction. In such cases, the courts apply the Doctrine of Diminishing Assets.

²⁸ *Lake Bluff Housing Partners v. City of South Milwaukee*, 197 Wis. 2d 157 (1995) (where developer failed to obtain a valid building permit prior to rezone, the developer had no legal right to build the desired project); *Chizum v. Elkhart County Plan Commission*, 17 Ind. App. 691, 263 N.E.2d 654 (1970).

Expanding existing structures on nonconforming use property is prohibited. *Stan Moore Motors, Inc. v. Polk County Bd. of Adjust.*, 209 N. W. 2d 50, Iowa (1973).

²⁹ The intensification or enlargement of nonconforming uses (within the confines of the property) is not necessarily proscribed. *Peirce Appeal*, 119 A.2d 506, 509 (Pa. 1956); *Lucile Bartz v. Bd. of Adjustment*, 80 Wn.2d 209 (1972); *Robert H. Keller v. City of Bellingham*, 92 Wn.2d 726 (1979). However, changes in nonconforming uses may not deviate from the essential nature of the previously lawful use. *Dearden v. City of Detroit*, 70 Mich App 163 (1976); *Norton Shores v. Carr*, 81 Mich App 715 (1978); *New London Land Use Assoc. v. New London Zoning Bd.*, 130 N. H. 510 (1988). To determine the essential nature of the previous legal use, a court may look at the prior legal conforming use as a whole to see if the proposed or current use differs from the from the prior use in “character, nature, and kind” or whether the proposed use under the new zoning code will have a substantially different impact on abutting property or the neighborhood? See *Joseph P. Hurley v. Town of Hollis*, 143 N. H. 567 (1999) [“We are mindful that nonconforming uses cannot be substantially enlarged or expanded but may only be altered ‘where the expansion is a natural activity, closely related to the manner in which the piece of property is used at the time of the enactment of the ordinance creating the nonconforming use.’”]; *New London Land Use Assoc. v. New London Zoning Bd.*, 130 N.H. 510; 543 A.2d 1385 (1988)]; *Town of Salem v. Wickson*, 146 N. H. 328 (2001). See also *Town of*

- e. Changes in the nonconforming uses may not significantly change the impacts on abutting property or the neighborhood³⁰.

San Juan County 2011 Zoning Code. The San Juan County zoning code includes provisions which recognize, but limit the use of, non-conforming property and structures.

Chapter 4 of the 2011 Zoning Ordinance³¹ recognizes that the addition of solar devices to a building is not a structural alteration which will terminate the nonconforming use status of a nonconforming use or structure. Nonconforming use property may be reconstructed or restored in event of fire or other calamity unless the structure or use has been abandoned³². The county may terminate a nonconforming use due to abandonment, which is defined as one-year uninterrupted vacancy.

Bridgewater v. Chuckran, 351 Mass. 20 (1966) [court adopted a three-part test: Does the use reflect the nature and purpose of the use prevailing when the zoning law took effect? Is there a difference in the quality of the character as well as the degree of use? Is the current use different in its effect on the neighborhood?].

³⁰ However, the modification of a prior legal nonconforming use will not be barred by a claim that the use harms the neighborhood if the alleged harm is minimal or insignificant. *L. Grossman & Sons, Inc. v. Town of Gilford*, 118 N. H. 480 (1978) [court found that changing an advertising sign in a commercial area among several other signs of similar size and nature had no appreciable effect on the neighborhood. The sign's existence "in no way diminishes the value of other property. It is not a health or safety hazard. No fumes, smoke, or noise is generated by the sign to the detriment of the neighborhood."].

³¹ The 2011 San Juan County Zoning Code [§1-5 Definitions (69)] defines a nonconforming use as: "A use of land that *legally existed* before its current land use designation, has been maintained continuously since the time the land use ordinance regulation governing the land changed, and because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land." See also Utah Code 17-27a-103 (47) (County Land Use, Development, and Management Act) (Definitions).

The Utah Office of Property Rights Ombudsman uses the following definition in providing advice in land use disputes: "A nonconforming use is a land use that was established when allowed by a zoning ordinance, has been maintained continuously, but which would no longer be allowed due to an ordinance change."

³² Specific provisions apply to situations where a nonconforming structure is uninhabitable and not capable of being repaired and the county gives the property owner notice that the structure is uninhabitable; or where the property owner voluntarily demolishes a majority of the nonconforming structure or building.

Zoning Estoppel (or Equitable Estoppel)

Zoning or equitable estoppel is a principle in equity, not in law. This means that the application of zoning estoppel is within the discretion of the appeal authority – after considering the needs of both the property owner and the public. This is referred to as “balancing.” See Utah Property Ombudsman Advisory Opinion 9 (19 December 2006); Kelly L. Frey, “A ‘Gateway Plan’ to Unhindered Development: Recent Cases Addressing Municipal Estoppel,” *The Urban Lawyer* (published by the American Bar Association), Vol. 44, No. 3 (Summer 2012) 605 – 614.

While a property owner may successfully object to local government land use regulation due to the application of zoning estoppel – the property owner may not have the unfettered right to further develop, or expand the use of, property absent the successful application for a land use approval. See J. Randall Minchew, “On Vested Rights in Land Use and Development,” *Washington and Lee Law Review*, Vol. 46, 373 – 409 (1989).

Zoning Estoppel (or Equitable Estoppel). Zoning or equitable estoppel may apply when a landowner shows that:

- a. the landowner inquired and conferred with the local zoning authority regarding the uses of the property at issue;
- b. the local authority committed an act or omission;
- c. the act or omission must be of a clear, definite, and affirmative nature;
- d. the landowner reasonably relied on that act or omission; and
- e. because of that reliance, the landowner made substantial changes to his position or incurred extensive expenses. See *Utah County v. Young*, 615 P.2d 1265 (Utah 1980).

Utah cases have found that acts or omissions of local government employees other than the zoning official do not give rise to zoning estoppel. See *Morrison v. Horne*, 363 P.2d 1113, 12 Utah 2d 131 (1961) [county assessor]; *Utah County v. Young*, 615 P.2d 1265 (Utah 1980) [building inspector]; *Utah County v. Baxter*, 635 P.2d 61 (Utah 1981) [building official]; *Grand County v. Rogers*, 44 P.3d 734, 2002 UT 25 [county recorder].

When a zoning official expressed an *opinion* about a Summit County zoning provision, the Utah Court of Appeals held that the opinion of the zoning administrator “is not a commission of an act by the County upon which the Stuckers [property owners] could rely.” *Stucker v. Summit County*, 870 P.2d 283 (Utah Ct. App. 1994).

A property owner is required to exercise reasonable diligence and review the applicable zoning code to determine whether the contemplated use was authorized or illegal. See *McGannon v. Board of Trustees for the Village of Pomona*, 239 A.D.2d 392, 657 N.Y.S.2d 745 (N.Y. App. Div. 1997)

The Utah Court of Appeals dealt with a claim of equitable estoppel in *Town of Alta v. Ben Hame Corporation*, 836 P.2d 797 (Utah Ct. App. 1992). On appeal, Ben Hame Corporation (BHC) claimed that because Alta issued business licenses to operate a lodging facility for a total of twenty-four months *and* Alta initially failed to seek enforcement of its zoning ordinance – a defense of equitable estoppel was created. The Court of Appeals found the following.

- To raise a successful defense against the enforcement of a zoning law, a landowner must first show exceptional circumstances warranting such a defense.
- If a property owner relies on an act or omission of government, the action or omission must be clear, definite, and affirmative.
- Estoppel occurs only when the injustice to be avoided is of sufficient gravity to invoke the exception.
- “The failure to enforce zoning for a time does not forfeit the power to enforce.”

The Court in *Town of Alta v. Ben Hame Corporation* found that BHC had not shown exceptional circumstances constituting an estoppel defense.

The Utah Court of Appeals outlined the principles of zoning estoppel in *Checketts v. Providence City*, 420 P.3d 71, 2018 UT App 48 (2018). The Court of Appeals stated: “The zoning estoppel doctrine estops a government entity from exercising its zoning powers to prohibit land use when a property owner, relying reasonably and in good faith on some government act or omission, has made a substantial change in position or incurred such extensive obligations or expenses that it would be highly inequitable to deprive the owner of his right to complete his proposed development. . . . The zoning estoppel doctrine does not apply unless the government entity ‘committed an act or omission upon which the developer could rely on in good faith,’ and the ‘action upon which the developer claims reliance must be a clear, definite, and affirmative nature.’ Finally, ‘exceptional circumstances must be present, such as the intentional discriminatory application of the ordinance,’ before zoning estoppel will apply to preclude government action.”³³ The Court of Appeals in *Checketts* concluded that if “the equities of the situation are fairly debatable” the property owner has not shown the required “exceptional circumstances.”

³³ See also *Utah County v. Young*, 615 P.2d 1265 (1980) (Utah Supreme Court).

In *Anderson v. Public Services Commission of Utah*, 839 P.2d 822 (Utah 1992), the Utah Supreme Court summarized the principles governing claims of equitable estoppel against a government agency.

- There must be unusual circumstances where it is plain that the interests of justice so require.
- The facts must be found with such certainty, and the injustice suffered is of sufficient gravity.
- Often, explicit written representations by authorized government entities are involved.

These and other appellate cases further define zoning estoppel as follows.

- Zoning estoppel will not be applied against a government entity if to do so would effectively nullify a strong rule of policy, adopted for the benefit of the public³⁴. Such public benefit may be shown by planning documents, discussion among public bodies, and public input.
- To support zoning estoppel there must be “wrongful conduct” by an authorized government agent. An erroneous government action or simple mistake do not constitute wrongful conduct³⁵.
- Statements by planning commissioners are generally considered advisory and not binding on the government entity³⁶.
- If a developer misrepresents a project, the developer cannot thereafter assert equitable estoppel by government action related to the misrepresentation³⁷.

³⁴ *Carty v. City of Ojai*, 143 Cal. Rptr. 506, 77 Cal. App.3d 329 (1978) (California Court of Appeal).

³⁵ *City of North Oaks v. Sarpal*, 797 N.W.2d 18 (2011) Minnesota Supreme Court); *Rivera v. City of Phoenix*, 186 Ariz. 600, 925 P.2d 741 (Arizona Court of Appeals (1996).

³⁶ *Colonial Investment Company v. The City of Leawood, Kansas*, 7 Kan. App.2d 660, 646 P.2d 1149 (1982).

³⁷ *Yeh v. County of Cass*, 696 N.W.2d 115 (2005) (Minnesota Court of Appeals).

- A landowner's reliance on a government action must be "sufficiently substantial." A determination of substantiality is made on a case-by-case basis³⁸. It may consider a range of factors, including the nature of the person or entity (whether the developer was an entity for whom the costs would be considered a substantial expenditure³⁹), the cost of the land, and the cost of contractors hired. Another factor would be whether a large portion of the expenditures is recoverable if the project fails⁴⁰.
- A factor in equitable estoppel is the landowner's lack of knowledge or the means to determine the truth of the facts relied upon. In considering this factor, it may be relevant that a local government official was not able to determine the relevant facts⁴¹.
- Equitable estoppel arises when reliance follows an "official act" by the local government⁴². Such official acts may include a building permit or plat approval⁴³.
- Equitable estoppel will not be found where the landowner does not fully disclose the intended use⁴⁴ of the property or misrepresents information provided to the local government.
- The failure to enforce for a time does not forfeit the power to enforce.⁴⁵
- A landowner's expenditures after notification⁴⁶ that his land use violates local zoning may not be considered good faith or reasonable reliance.

³⁸ *1350 Lake Shore Associates v. Healey*, 861 N.E.2d 944 (Supreme Court of Illinois) (2006).

³⁹ *Boise City v. Blaser*, 98 Idaho 789, 572 P.2d 892 (1977) (Court found "substantial disadvantage" where the good faith expenditures were by a closely held corporation with no other business except the project.)

⁴⁰ *Abbeville Arms v. City of Abbeville*, 273 S.C. 491, 257 S.E.2d 716 (Supreme Court of South Carolina) (1979). The Pennsylvania Supreme Court said that in determining whether a property owner's expenditures are sufficiently detrimental, the court should consider whether the costs are recoverable. *Petrosky v. Zoning Hearing Board*, 402 P.2d 1385 (Pennsylvania Supreme Court, 1979)

⁴¹ *Abbeville Arms v. City of Abbeville*, 273 S.C. 491, 257 S.E.2d 716 (Supreme Court of South Carolina) (1979).

⁴² *American National Bank and Trust Company of Chicago v. City of Chicago*, 19 Ill.App.3d 30, 311 N.E.2d 325 (Appellate Court of Illinois).

⁴³ *Board of Supervisors of Fairfax County v. Medical Structures*, 192 S.E.2d 799, 213 Va. 355 (1972) (Supreme Court of Virginia).

⁴⁴ *Checketts v. Providence City*, 420 P.3d 71, 2018 UT App 48 (2018).

⁴⁵ *Town of Alta v. Ben Hame Corporation*, 836 P.2d 797 (Utah Ct. App. 1992).

⁴⁶ *Checketts v. Providence City*, 420 P.3d 71, 2018 UT App 48 (2018).

- A property owner is required to exercise reasonable diligence and review the applicable zoning code to determine whether the contemplated use was authorized or illegal.⁴⁷
- The balance of equities⁴⁸ must weigh in favor of the developer over the local government. If the public interest to be served by the enforcement of the ordinance is minimal and the developer in good faith expends large sums of money and begins project work in reasonable reliance, the balance should weigh on the side of the developer.

San Juan County zoning ordinances (2011 zoning ordinance, Spanish Valley Development Ordinances)

2011 San Juan County zoning code

On 5 June 1978 San Juan County adopted its first zoning ordinance (“Zoning Ordinance of San Juan County”).

On 12 September 2011 San Juan County amended its zoning ordinance. The 2011 San Juan County zoning code included provisions relevant to the Daniel Wright’s appeal of his May 2025 Notice of Violation.

Section 1-6 (Building Permit Required) states “The *use of land* or the construction or alteration of any building or structure or any part thereof, *as provided or as restricted by this Ordinance* shall not be commenced, or proceeded with, except after the issuance of a written permit for the same by the Building Inspector.”

Section 1-12 (Nuisance and Abatement) of Chapter 1 authorizes the County Commission to direct the County Attorney to “*at once* commence action or proceeding” to abate and remove a building or structure – or to restrain or enjoin any person or party from maintaining a building or structure - which violates the provisions of the 2011 Zoning Code.

Section 1-15 (Licensing) of the 2011 Zoning Code states: “All departments, officials and public employees of the County which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no permit or license for uses, building or purposes where the same would be in conflict with the provisions of this Ordinance and any such permit or license, if issued in conflict with the provisions of this Ordinance shall be null and void.”

⁴⁷ *McGannon v. Board of Trustees for the Village of Pomona*, 239 A.D.2d 392, 657 N.Y.S.2d 745 (N.Y. App. Div. 1997).

⁴⁸ *In re 244.5 Acres of Land in the Village LLC v. Delaware Agricultural Lands Foundation*, 808 A.2d 753 (Delaware Supreme Court 2002); *City of North Oaks v. Sarpal*, 797 N.W.2d 18 (2011) (Minnesota Supreme Court).

Section 1-16 (Penalties) of Chapter 1 states that violations of the provisions of the zoning code may be enforced as a class C misdemeanor or by civil penalties.

From 25 September 2018 to 19 November 2019, Lot 2 in the Mersereau Subdivision was governed by the 2011 Zoning Code.

In that Code, Lot 2 was in the A-1 Agricultural District.

The 2011 Zoning Code included a “table of uses” for the A-1 Agricultural District. One of the uses *may* have applied to Mr. Wright’s commercial camping enterprise on Lot 2. The table of uses included the following.

The following use was a *conditional use* in the A-1 District: “private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwellings or dwelling complexes and commercial service uses which are owned by or managed by the recreational facility to which it is accessory.”

Chapter 6 of the 2011 zoning code recognized “conditional uses” based on compatibility in the area where the use is proposed. Conditional uses were authorized by the Planning Commission upon application by the property owner *and* “only if certain conditions are required that mitigate or eliminate the detrimental impacts.”

Spanish Valley Development Ordinances

On 19 November 2019 the San Juan County Board of Commissioners approved the Spanish Valley Development Ordinances as a “sub-ordinance” to the 2011 San Juan County Zoning Ordinance.

The Spanish Valley Development Ordinances created six (6) zoning districts which replaced the previous two districts in Spanish Valley. The six districts were: Spanish Valley Residential (SVR) District, Spanish Valley Planned Community (PC) District, Spanish Valley Residential Flex Planned Community (RF) District, Spanish Valley Business Flex Planning Community (BF), Spanish Valley Highway Flex Planned Community (HF) District, and Spanish Valley Highway Commercial (HC) District⁴⁹.

The Spanish Valley Development Ordinances included a chapter for each of the six zoning districts.

⁴⁹ In addition to the six zoning districts, the Spanish Valley Development Ordinances adopted standards for water efficient landscaping, outdoor lighting and sign illumination, and sign and display requirements.

For four of the six zoning districts, the Spanish Valley Development Ordinances allow “overnight accommodations” – if such uses satisfy the standards and requirements of the zoning district *and* the standards and requirements of an adopted Overnight Accommodations Overlay. SVDO Chapter 3 (Spanish Valley Residential Flex Planned Community District), Chapter 4 (Spanish Valley Business Flex Planned Community District), Chapter 5 (Spanish Valley Highway Flex Planned Community District), and Chapter 6 (Spanish Valley Highway Commercial District) include the following language.

“Uses Subject to the Spanish Valley Overnight Accommodations Overlay

- Hotels and Motels
- Commercial Condominiums for short-term rentals
- Bed and Breakfasts (B&Bs), lodges and resorts
- Commercial campgrounds
- All other variations of overnight accommodations intended for nightly rentals.”

The referenced “Spanish Valley Overnight Accommodations Overlay” in chapters 3, 4, 5, and 6⁵⁰ is included in “Chapter 10: Spanish Valley Overnight Accommodations Overlay District Requirements” of the Spanish Valley Development Ordinances. Chapter 10 establishes a three-step process for approval of overnight accommodations, which steps include 1) a “rezone” by the County Commission of the official zoning map where the overnight accommodations will be located, 2) adoption by the County Commission of the terms upon which overnight

⁵⁰ Chapter 2 of the Spanish Valley Development Ordinances sets forth a process for approval of “large-scale master-planned communities” within a Spanish Valley Planned Community (PC) District. Chapter 2 establishes a procedure which ends with the Chair of the Board of Commissioners approving development agreements for the establishment of a large-scale master planned community. Chapter 2 includes purpose language – along with planning principles – which guide the process for approving a PC district community. Chapter 2 includes the following regarding residential uses:

- “high quality, innovative and creative development” including “sufficient diversity of housing types” are among the purposes of the PC District;
- “Buffers and transitions should be provided between distinctly difference uses . . . such as residential neighborhoods, business uses, distribution uses, highway commercial, specialty residential uses and campuses.”
- Permitted uses in the PC district may include “residential uses of various types and lot sizes” and “mixed-use housing.”

Chapter 2 does not include the “Subject to the Spanish Valley Overnight Accommodations Overlay” language, which was included in chapters 3, 4, 5, and 6 of the Spanish Valley Development Ordinance. However, the process and requirements for approval of a PC District development are like the process and requirements of Chapter 10 (Spanish Valley Overnight Accommodations Overlay District Requirements).

accommodations will be developed, and 3) approval of County staff of a development agreement, project plan and/or subdivision plat.

In addition, Chapter 10 sets forth planning and design requirements for overnight accommodations approved under the Spanish Valley Overnight Accommodation Overlay. Included are the following.

- A site master plan, with a traffic study
- Development standards, including density and heights; lot dimensions, configuration, and shape; lot access; open space requirements; streets and road access; bicycle facilities; storm water management
- Landscape standards and maintenance
- Parking requirements

158 Tera Drive is within the Spanish Valley Residential (SVR) District. The purpose and uses in the SVR District are set forth in Chapter 1 of the Spanish Valley Development Ordinances or “sub-ordinance.”

Chapter 1 states the purpose of the SVR District: “The Spanish Valley Residential (SVR) District is designed primarily to accommodate residential uses in large lot (one-acre or greater) and smaller lot (1/4 acre to 1 acre) developments.” Additionally, Chapter 1 states: “In addition to the Uses and Lot Design Standards of this section [Chapter 1], development in this district shall be in compliance with all other applicable provisions of the San Juan County Land Use Ordinance [2011 Zoning Code], and shall promote and protect public health, safety, and welfare.”

Chapter 1 of the Spanish Valley Development Ordinances includes a table of uses (Table 1-1) for the Spanish Valley Residential (SVR) District. The SVR Table of Uses lists the following permitted uses.

- Dwelling, single family
- Dwelling, two-family (duplex)
- Dwelling, Manufactured⁵¹
- Educational Facilities, Public
- Places of Worship
- Parks and Open Spaces, Public
- Farmland, Grazing and Pasture
- Animal Husbandry – small animals (pigs, goats, lambs, etc.)
- Animal Husbandry - large animals (cows, cattle, horses, etc.) on greater than 1 acre lots only

⁵¹ Manufactured dwellings refer to “Pre-HUD-Code Manufactured (mobile) Homes.” Pre-HUD-Code Homes are homes built prior to the MHCSS, 24 CFR 3280, which became effective on June 15, 1976.

The Table of Uses lists the following conditional uses.

- All other household living (5th wheels, trailers, etc.)
- Day Care
- Educational Facilities, Private
- Government Facilities and Public Institutions
- Institutions, Private or Non-Profit
- Medical Facilities
- Utilities
- Parks and Open Spaces, Private

Accessory uses may be either permitted or conditional uses in the SVR District.

Chapter 1 does *not* include the “Subject to the Spanish Valley Overnight Accommodations Overlay” language found in chapters 3, 4, 5, and 6 of the Spanish Valley Development Ordinances.

The San Juan County land use ordinance uses the following phrases: “all other variations of overnight accommodations intended for nightly rentals;” and “All other household living uses (5th wheels, trailers, etc.).”

All other variations of overnight accommodations intended for nightly rental. In the 19 November 2019 SVDO, San Juan County added the phrase “all other variations of overnight accommodations intended for nightly rental” to the San Juan County land use code. However, that phrase was not defined.

The phrase “all other variations of overnight accommodations intended for nightly rental” was inserted in four chapters of the Spanish Valley Development Ordinances - in paragraphs titled “Uses Subject to the Spanish Valley Overnight Accommodations Overlay” followed by a list of “overnight accommodations” property uses. Those representative uses (examples) were: “Hotels and Motels, Commercial Condominiums for *short-term rentals*, Bed and Breakfasts (B&Bs), lodges and resorts, Commercial campgrounds, all other variations of overnight accommodations intended for nightly rental.” The phrase “*all* other variations of overnight accommodation intended for nightly rental” plainly adopts a broad (“*all* other variations”) definition of “accommodations” intended for “nightly rental.”

When the Spanish Valley Development Ordinances were approved on 19 November 2019, and the Ordinances included the phrase “all other variations of overnight accommodations intended for nightly rental,” the Utah Code included a definition for “short-term rental.” Utah Code § 17-50-338⁵² defines the phrase “short-term rental.” “‘Short-term rental’ means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.” Given the plain and

⁵² Utah Code §17-50-338 was adopted 9 May 2017.

express broad wording of “all other variations of overnight accommodations intended for nightly rental” *and* the use of the phrase “short-term rentals” among the examples of “nightly rental” and “accommodations” - properties which fall within the Utah Code definition of “short-term rental” are included in the definition of “all other variations of overnight accommodations intended for nightly rental.”

Important here: renting a structure for more than 30 consecutive days may be allowed in areas where residential buildings are permitted but short-term rentals or “overnight accommodations” are restricted. Persons renting or leasing property for occupancy beyond 30 days are usually considered tenants – with tenants’ rights. Short-term renters are guests and typically do not have tenants’ rights.

All other household living uses (5th wheels, trailers, etc.). A *conditional* use in the SVR District is “All other household living uses (5th wheels, trailers, etc.).” This phrase is not defined in the San Juan County land use code. Nevertheless, a definition of “all other household living uses” is assisted with examples attached to (following) the phrase.

The two examples (5th wheels, trailers) are followed by “etc.” The Merriam-Webster dictionary states that “etc.” is short for the Latin phrase “et cetera” which means “others especially of the same kind.” In determining within which “same kind” the two examples fall, an analysis should consider what the two examples (5th wheels and trailers) have in common.

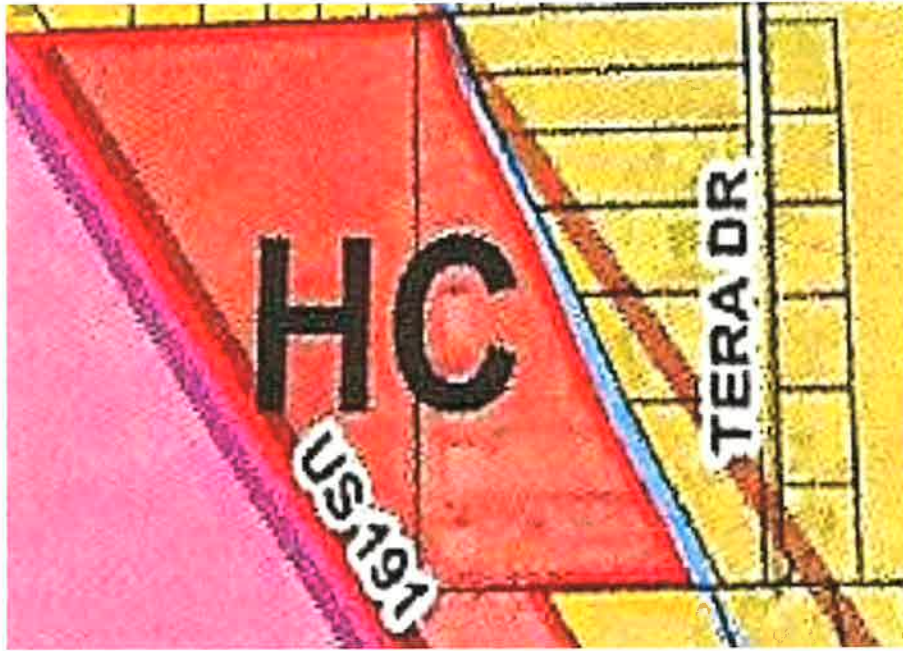
A “5th wheel” is a towable recreational vehicle that requires a large pickup or truck to tow. (The “fifth wheel” refers to the U-shaped coupling component found on the back of the towing vehicle.) A “5th wheel” is a category or class of recreational vehicles (RVs). RV classes include Travel Trailers, 5th Wheels, Lightweight RVs, and Toy Haulers (along with Class A, Class B, and Class C recreational vehicles).









It is likely that the second example here, “trailer,” is a travel trailer within the class of recreational vehicles. The “trailer” here is not a horse trailer, cargo trailer, dump trailer, boat trailer, flatbed trailer, or livestock trailer – since the trailer’s intended use is for “household living.” The “trailer” here is within the class of recreational vehicles, which class includes 5th wheels.

A conclusion is that the conditional use of “other household living uses” means recreational vehicles.

However, the use of the modifying word “household” suggests non-temporary or non-transient occupancy.

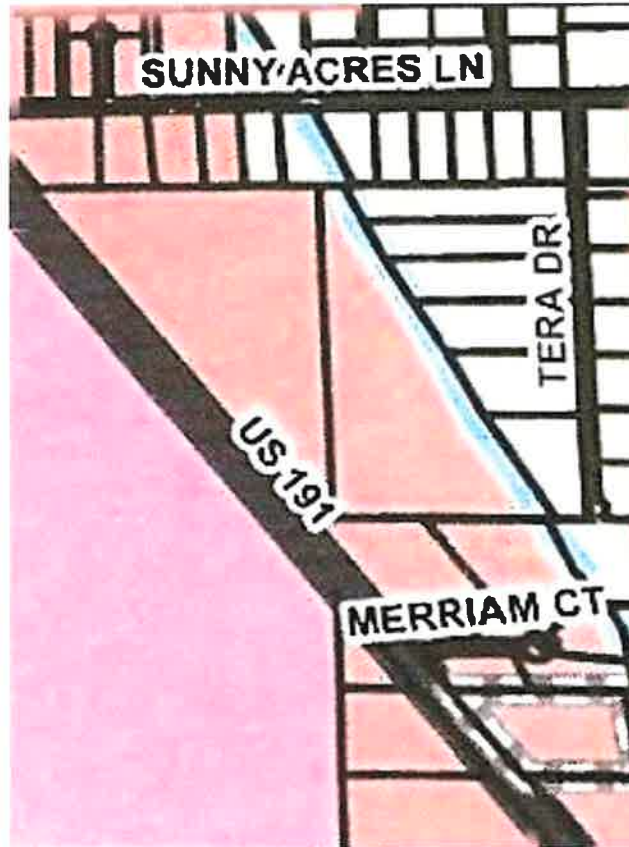
On 19 November 2019 the Board of Commissioners adopted a Spanish Valley Zoning Map, which showed the zoning districts in Spanish Valley. The Zoning Map showed the parcels along (west of) South Tera Drive wholly within the Spanish Valley Residential (SVR) District. No part of any South Tera Drive parcel was included in the Spanish Valley Highway Commercial (HC) District.



 Planned Community (PC)	 Business Flex (BF)
 Spanish Valley Residential (SVR)	 Highway Flex (HF)
 Residential Flex (RF)	 Highway Commercial (HC)
 Agricultural (A1)*	 Controlled District - Highway (Cd-h)*

Spanish Valley 2019 Zoning Map

On 16 February 2021 the Board of Commissioners adopted an amended Spanish Valley Zoning Map.⁵³ The 2021 Zoning Map continued to show the parcels along (west of) South Tera Drive wholly within the Spanish Valley Residential (SVR) District. No part of any South Tera Drive parcel was included in the HC District.



- | | |
|--|--|
| Planned Community (PC) | Highway Flex (HF) |
| Spanish Valley Residential (SVR) | Highway Commercial (HC) |
| Residential Flex (RF) | Controlled District - Highway (Cd-h) |
| Business Flex (BF) | Agricultural (A1)* |

Spanish Valley 2021 Zoning Map

⁵³ Prior to the adoption of the 2021 Spanish Valley zoning map, the map was included with the public agenda for the San Juan County Planning Commission meetings on 8 October 2020, 12 November 2020 and 14 January 2021. Consideration of the proposed zoning map included public notice and public comment.

On 16 January 2024 the San Juan County Board of Commissioners amended Chapter 1 (Spanish Valley Residential SVR District) of the Spanish Valley Development Ordinances. See San Juan County Ordinance No. 2024-01. The following language was inserted in Chapter 1 at the end of the section on uses.

“No short-term rental is allowed in the SVR District, and the Spanish Valley Overnight Accommodation Overlay shall not be applied to the SVR District. Regardless of the number of occupants, no hotel, apartment hotel, motel, tourist court, apartment court, commercial condominium for short-term rental, bed and breakfast (B&B) boarding house, lodging house, resort, commercial campground, or any other variation of overnight accommodation intended for nightly rental is permitted in the SVR District.”

On 16 January 2024 the Board of Commissioners also adopted the following definition of a short-term rental. “Short-term rental. A dwelling or a portion of a dwelling that the owner or record or the lessee of the dwelling or the portion of a dwelling leases to another for occupancy for fewer than 30 consecutive days.”

San Juan County Subdivision Ordinances

In 2016 the San Juan County Board of Commissioners adopted the “Subdivision Ordinance of San Juan County, Utah.” The Subdivision Ordinance established a process for the submission, consideration, and approval of subdivision permits in San Juan County. The process approval of subdivisions included the following.

- An initial meeting with the County’s Subdivision Administrator.
- Submission of a preliminary plat by a potential subdivider. The preliminary plat was to include a “letter of intent” explaining the purpose of the subdivision application.
- Submission of a final plat and Board of Commissioners approval of the final plat.

The 2016 Subdivision Ordinance, and the 2011 San Juan County zoning code, state that a subdivision plat, or subdivision plat amendment, shall not be approved if the resulting use violates the County’s land use code.

- Section 1-15 of the 2011 Zoning Code states any license or permit of a County department, official, or employee which violates the County’s land use ordinance “shall be null and void.”
- Under the 2016 Subdivision Ordinance the Board of Commissioners were not authorized to amend any subdivision *if the proposal violated any land use ordinance*. Section 152.020 (Amendments and Vacations) San Juan County Code.

On 30 December 2024 the San Juan County Planning Commission adopted a new County Subdivision Ordinance. The ordinance adopted a single administrative review (of a single plat application, rather than preliminary and final subdivision plats) conducted by the County's Planning Administrator. The submitted subdivision applications are to be reviewed and approved by the Planning Administrator "*provided they [the subdivision applications] comply with . . . applicable land use ordinances.*" Section 2 (30 December 2024 Subdivision Ordinance).

Note: the following continues to apply to subdivision permits after 30 December 2024.

- Section 1-15 of the 2011 Zoning Code states any license or permit of a County department, official, or employee which violates the County's land use ordinance "shall be null and void."

San Juan County business licensing

On 15 December 2020 the San Juan County Board of Commissioners adopted Ordinance No. 2020-10-A (An Ordinance of the Board of San Juan Commissioners Establishing Rules and Regulations for the Licensing and Operation of Businesses within San Juan County). Included in Ordinance -2020-10-A were the following.

- Every person, partnership, or corporation engaged in, carrying on, or operating a business, trade, or occupation in the county shall secure a license for such business or profession. §110.002 (A) (2) [Exceptions are found at §110.002 (F) and (J)]. It is unlawful to engage in, carry on, or operate a business in the unincorporated county without first applying for and obtaining a business license. §110.002 (A) (1).
- The County Economic Development Office has an affirmative responsibility to examine all places of business or persons which may be required to obtain and maintain business licenses. The Economic Development Office shall notify, in writing, non-compliant businesses or persons of the business license requirement and penalties. At least annually, the Economic Development Office shall report to the County Attorney all businesses or persons that have failed to obtain or renew a business license. It shall be the duty of the County Attorney to cause complaints to be filed against all persons violating any of the provisions of the San Juan County Business License ordinance. §110.010.
- "All business license applications must be approved for proper zoning by the county's Building Inspector or Zoning Administrator." 110,002 (D).
- Violations of the Business License ordinance are subject to fines not exceeding \$1,000 for each month of non-compliance. § 111.999.

For purpose of the San Juan County Business Licensing ordinance, the term “business” is defined in Utah Code §17-53-216 (1). “A ‘business’ means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.”

International Codes

On 18 November 2002, the San Juan County Board of Commissioners approved Ordinance 2002-01. That ordinance adopted several “codes” or regulations approved by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials. Among the approved codes (and adopted by San Juan County) were the International Building Code and the International Residential Code.

Appendix Q of the International Building Code includes specific rules for tiny houses, which will be occupied. Included in Appendix Q are minimum ceiling heights, emergency escape and rescue openings, and details for compact stairs or lofts.

Section 114 of the International Building Code includes compliance actions for any failure to comply with the Code requirements and standards. Among the compliance actions for non-compliance include notice of violation by local officials, penalties, and abatement.

Section R110 of the International Residential Code states “A building or structure shall not be used or occupied in whole or in part, and a change in occupancy of a building or structure of part thereof shall not be made, until the building official has issued a certificate of occupancy.”

Section R113 of the International Residential Code authorizes building officials to give property owners a “notice of violation” for failing to comply with the R110 certificate of occupancy requirements *and* recognizes the authority of local jurisdictions to sanction a property owner for failing to comply with R110.

Public nuisance law

San Juan County's land use code identifies actions which are considered a "public nuisance" and the authority to "abatement" and "restrain" such public nuisances.

"San Juan County Code § 153.024 NUISANCE AND ABATEMENT. (A) Any building or structure erected constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this chapter, and any use of land, building or premise established, conducted or maintained contrary to provisions in this chapter shall be, and the same hereby is, declared to be unlawful and a public nuisance; and the County Attorney shall, upon request of the governing body, at once commence action or proceeding for abatement and removal of enjoyment thereof in a manner provided by law, and take other steps as will abate and remove such building or structure, and restrain or enjoin any person, firm or corporation from erecting, building, maintaining or using said building or structure or property contrary to the provisions of this chapter."

The Utah Code further identifies actions which are considered a "nuisance" in the State of Utah Code.

"Utah Code § 78B-6-1101 (1) (d) 'Nuisance' means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property."

In 2000 the Utah Supreme Court found the following regarding nuisance actions. *Dairy Product Services, Inc. v. City of Wellsville*, 2000 UT 81, 13 P.3d 581.

- Cities have been granted "general welfare" authority, to promote the well-being, peace, health, and safety of its citizens, and protection of property. Cities may enact ordinances reasonably related to the objectives of this authority.
- Cities have authority to declare what constitutes a nuisance, to abate nuisances, and to impose fines upon those who cause nuisances to exist. Cities may regulate "offensive businesses" up to one mile beyond their boundaries.
- Cities may regulate businesses through licensing. A city may revoke a license, and the revocation may be reviewed to determine if the action was arbitrary, capricious, or illegal, based on the record of the proceedings.

In adjudicating public nuisance claims, courts and appeal authorities should consider the following principles.

- Did the property owner’s conduct unreasonably interfere with a right common to the general public, such as a right to public health, safety, or comfort?
- There must be a causal link between the property owner’s actions and the public nuisance.
- The activity must cause or threaten injury or damage to the public's health, safety, or comfort. Aesthetic issues alone are typically not considered a nuisance.
- The property owner’s actions must negatively impact the neighborhood or community, not just a single neighbor.
- It must be shown the property owner created, maintained, or allowed the nuisance to continue, meaning they had control over the situation.
- The length of time and the degree of unreasonableness are important factors.
- Was the property owner aware of the nuisance and complaints about the nuisance?
- There must be “substantial evidence” supporting a nuisance claim.⁵⁴ Such evidence may include detailed records of the nuisance, including photos, videos, and notes on dates and times.

Sanctions for failure to comply with San Juan County ordinances

When a property owner is in violation of the San Juan County code, including the business license, building codes, and land use ordinance, the San Juan County Administrative Law Judge has authority to:

- Issue an order requiring a property owner to cease from violating a County published ordinance;
- Order the County to enter property and abate all violations and order the property owner to pay to the County the actual costs of abatement and the administrative costs of the County to perform the abatement;
- Publish an administrative order imposing civil fines for failure to abate a violation of the county code by a stated deadline;

⁵⁴ *Wadsworth Construction v. West Jordan*, 2000 UT App 49, 999 P.2d 1240 (Utah App 2000).

- Order the accrual of civil fines until an order of the Administrative Law Judge is complied with;
- Schedule subsequent review hearings as may be necessary to ensure compliance with an administrative order;
- Revoke or suspend a building permit or business license associated with property where there are violations of the San Juan County code; and
- Take any action reasonably necessary to obtain compliance with the applicable county ordinances. San Juan County Code § 10.010 (A).

When a property owner fails to comply with an order of the San Juan County Administrative Law Judge, the San Juan County ordinance provides for the following remedy.

“San Juan County Code § 11.010 (B)

(1) It shall be unlawful for any person to fail to comply with the terms and deadlines set forth in a final administrative order.

(2) A violation of this section shall be a Class B misdemeanor.

(3) Upon failure of a person to comply with the terms and deadline set forth in the administrative order, the county may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.”

The San Juan County Administrative Law Judge has the authority to impose the following civil fines.

- When the Administrative Law Judge orders the abatement of a violation of the County Code by a stated deadline, the Administrative Law Judge may order civil fines not to exceed \$200 for each day the violation remains uncorrected and not to exceed a total of \$3,000 for a violation. San Juan County Code § 11.010 (A) (9).
- Any person who operates a business in violation of the provisions San Juan County business ordinance shall be subject to a fine not exceeding \$1,000. Each month that person shall violate or continue to violate the San Juan County business ordinance after written notice of such violation by county or its officers or agents, shall be considered to be separate violation, and shall be punished as such. San Juan County Code § 110.999.

Property Owner Procedural Due Process

Due process of law regarding a person's property is required by the Fourteenth Amendment to the Constitution of the United States. "[T]he demands of due process rest on the concept of basic fairness of procedure and demand a procedure appropriate to the case and just to the parties involved." *Rupp v. Grantsville City*, 610 P.2d 340 (Utah 1980).

Basic principles of procedural due process include notice, a right to be heard, and the right to present evidence and confront witnesses. In the land use context, these principles are triggered when a person encounters a threatened or actual deprivation of some "protected" interest in property. *Patterson v. American Fork City*, 2003 UT 7, 67 P.3d 466.

San Juan County has established procedural due process for property owners in the County with the adoption of San Juan County Ordinance 2020-11 (adopted on 2 September 2020) with a 16 May 2023 amendment (San Juan County Ordinance 2023-03). This "Administrative Review and Appeals" ordinance adopted a process that when a County administrative decision adversely affects a citizen the County "that person [is afforded] due process of law by way of an administrative hearing." The "Purpose and Intent" statement of the Ordinance includes the following: "Due process shall require proper notice of the nature of the administrative decision and the opportunity to be heard, a hearing before a fair and impartial Administrative Law Judge, the right to present evidence, the right to cross-examination, the right to be represented by an attorney or other advocate, the right to receive an adequate explanation of the reasons justifying any resulting administrative order." With the adoption of an Administrative Review and Appeals Ordinance, it was the intent of the County Board of Commissioners that property owners have an opportunity for an independent review of administrative decisions. The Board of Commissioners found that "an effective administrative review allows the appeal authority to revisit and establish the relevant facts and information, and ensure the proper legal standards are applied."

Included in the San Juan County Administrative Review and Appeals Ordinance are the following due process procedures.

- Gathering and *review*, under the direction of the Administrative Law Judge, of the County's administrative record supporting the administrative decision.
- Developing, under the direction of the Administrative Law Judge, the legal framework/standards relevant to the matter on appeal.
- With the assistance of the parties, the publication of a hearing management order.
- Opportunities for the parties to present evidence during a hearing, with opportunity to cross examine witnesses.
- A person may be represented by an attorney or other advocate.

The San Juan County Administrative Review and Appeals Ordinance states that the Administrative Law Judge is a “quasi-judicial officer, which includes the authority to investigate and adjudicate the matter on appeal.”

Findings and Conclusions

Administrative Law Judge adopts the following findings and conclusions in the subject appeal.

1. Prior to 19 November 2019, Lot 2 of the Mersereau Subdivision (Plat filed with San Juan County on 25 September 2018) was in the A-1 Agricultural District of 2011 San Juan County zoning ordinance.
2. The 2011 San Juan County zoning ordinance recognized the following use as a conditional use in the A-1 Agricultural District: “Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling or dwelling complex and commercial service uses which are owned or managed by the recreational facility to which it is accessory.”
3. To be an authorized (approved) conditional use, the property owner was required (by the 2011 zoning ordinance) to submit a conditional use permit application to the County Zoning Administrator and receive a permit from the San Juan County Planning Commission.
4. On 20 June 2018 (prior to the filing of the Mersereau Subdivision Plat) Daniel Wright contracted with Sarah Jane Mersereau to purchase Lot 2 of the Mersereau Subdivision.
5. Prior to 20 June 2018 prospective⁵⁵ Lot 2 of the Mersereau Subdivision was vacant.
6. Between 20 June and 17 September 2018 Daniel Wright placed four (4) trailers on prospective Lot 2 for Airbnb rentals.
7. On 25 September 2018 the Mersereau Subdivision plat was filed with San Juan County. The “narrative” on that plat states: “This plat is to subdivide the current parcel into two lots so a new home can be constructed on Lot 2.”
8. On 10 April 2019 Sarah Jane Mersereau (Grantor) conveyed and warranted San Juan County property to Daniel Wright (Grantee). The property was identified as Lot 2 of the Mersereau Subdivision or parcel 00130000020. The conveyance was “subject to . . . restrictions however evidenced.”
9. On 10 April 2019 Lot 2 in the Mersereau Subdivision was within the A-1 Agricultural District in San Juan County.

⁵⁵ Lot 2 was “prospective” because it was not officially created until 25 September 2018.

10. In September 2019 Lot 2 was used by Daniel Wright for overnight rentals with five (5) trailers and two tent sites.
11. On 23 September 2019 Daniel Wright applied for a San Juan County building permit for electrical work on Lot 2, in part to support RV camping.
12. On 25 September 2019 the San Juan County building permit was put “on hold” pending
 - a) Daniel Wright receiving approval for commercial RV camp-park use from the San Juan County Planning Commission and
 - b) Daniel Wright’s submission of plans for an RV camp park for plan review.
13. Prior to 19 November 2019 Daniel Wright’s use of Lot *may* have qualified (if approved) as the following conditional use in the San Juan County A-1 Agricultural District:
“Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling or dwelling complex and commercial service uses which are owned or managed by the recreational facility to which it is accessory.”
14. On 25 September 2019 Daniel Wright knew or should have known that he was required to receive conditional use approval from the San Juan County Planning Commission for RV camping or similar uses on Lot 2.
15. Prior to 19 November 2019 Daniel Wright did not submit to the San Juan County Zoning Administrator or other County official an application for a conditional use permit for Lot 2 of the Mersereau Subdivision.
16. On 19 November 2019 the San Juan County Commission adopted the Spanish Valley Development Ordinances and changed the zoning district of Lot 2 from A-1 Agricultural District to Spanish Valley Residential (SVR) District.
17. The 19 November 2019 Spanish Valley Residential (SVR) District did not list (or recognize) the following use as either a permitted or conditional use: “Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling or dwelling complex and commercial service uses which are owned or managed by the recreational facility to which it is accessory.”
18. **(Conclusion)** Prior to 19 November 2019 the use of Lot 2 of the Mersereau Subdivision as an RV camping or a similar short-term rental enterprise was not an authorized use under the 2011 San Juan County zoning ordinance.

19. A determination of whether a use is a “legal nonconforming use” – following the adoption of or amendment of a land use code – the property owner must *first* establish that the use was an authorized use prior to the adoption or amendment of the land use code which does not authorize the use.
20. **(Conclusion)** Since Daniel Wright’s RV camping/short-term rental use of Lot 2 of the Mersereau Subdivision was not an authorized use prior to the adoption of the Spanish Valley Development Ordinances, after the 19 November 2019 adoption of the Spanish Valley Development Ordinances the use of Lot 2 did not qualify as a legal non-conforming use.
21. On 19 November 2019 the San Juan County Board of Commissioners adopted the Spanish Valley Development Ordinances (SVDO), which created new zoning districts in the San Juan County area of Spanish Valley.
22. The SVDO created a Spanish Valley Residential (SVR) District in Spanish Valley.
23. The SVDO listed uses which were permitted or conditional in the SVR District.
24. Short-term rentals and overnight accommodations, which are authorized uses in *other* zoning districts in Spanish Valley, are *not* recognized or implied in the SVR District.
25. Since short-term rentals and overnight accommodations are neither permitted nor conditional uses in the SVR District, such uses are prohibited in the SVR District.
26. Short-term rentals and overnight accommodations (as prohibited uses in the SVR District) include the following: commercial campgrounds, any residential or housing unit which is rented for less than 30 days, or all other variations of overnight accommodations intended for nightly rentals.
27. After the 19 November 2019 adoption of the Spanish Valley Development Ordinances, the San Juan County Planning Commission discussed the subject of short-term rentals in Spanish Valley and throughout unincorporated San Juan County.
28. Based on the Planning Commission’s discussions about short-term rentals in Spanish Valley *and* concerns of the County’s Zoning Administrator, on 8 March 2021 Deputy County Attorney Alex Goble published a legal opinion that short-term rentals were not permitted in the Spanish Valley Residential (SVR) District.

29. Deputy County Attorney Goble’s legal opinion was published and discussed during the 11 March 2021 Planning Commission meeting – which many residents of Spanish Valley attended.
30. Attorney Goble’s legal opinion was available to the public on the San Juan County website and the State of Utah Public Notice Website.
31. On 16 January 2024 the San Juan County Board of Commissioners, with an amendment to the SVDO provisions relating to the Spanish Valley Residential (SVR) District, affirmed that short-term rentals and overnight accommodations are prohibited in the Spanish Valley Residential District.
32. The 16 January 2024 amendment to the Spanish Valley Development Ordinances relating to short-term rentals was available to the public on the San Juan County website and the State of Utah Public Notice Website.
33. The 19 November 2019 and 14 February 2021 Spanish Valley Zoning Maps show the parcels on the west side of South Tera Drive (including Lot 2) to be wholly within the Spanish Valley Residential (SVR) District and not within the Spanish Valley Highway Commercial (HC) District.
34. The 2019 and 2021 Spanish Valley zoning maps were available to the public on the County’s website and on the State of Utah Public Notice Website.
35. On 19 November 2019, Lot 2 of the Mersereau Subdivision was within the Spanish Valley Residential (SVR) District.
36. On 22 July 2021 a Mersereau Subdivision Amended Lot 2 Plat (which created Lot 2A and Lot 2B) was filed with San Juan County.
37. On 17 September 2021 Daniel Wright sold Lot 2B to another party and retained Lot 2A of the Mesereau Subdivision.
38. After the 19 November 2019 adoption of the Spanish Valley Development Ordinances Daniel Wright has conducted a short-term rental enterprise on Lot 2 of the Mesereau Subdivision and later Lot 2A of the Mersereau Subdivision.
39. **(Conclusion)** Daniel Wright’s use of Lot 2 and Lot 2A of the Mesereau Subdivision for RV camping or similar short-term rental enterprises are not authorized uses in the Spanish Valley Residential District.

40. When a previously approved subdivision was to be amended, the 2016 San Juan County Subdivision Ordinance stated that the San Juan County Board of Commissioners had no authority to approve a subdivision amendment if the proposed amendment violated any land use ordinance.
41. After 30 December 2024, when San Juan County adopted a new Subdivision Ordinance, the County Planning Administrator was required to determine if the proposed subdivision application complied with applicable land use ordinances.
42. In addition to these land-use-compliance restrictions in the 2016 and 30 December 2024 County subdivision ordinances, the 2011 San Juan County Land Use Ordinance declared “null and void” any County-issued permit which violated the County Land Use Ordinance.
43. An approved subdivision plat is a permit authorizing a property owner to subdivide land.
44. On 2 June 2021 Daniel Wright submitted to San Juan County Subdivision/Planning Administrator Scott Burton a subdivision application to amend the Mersereau Subdivision. The proposed amendment proposed to split Lot 2 in the Mersereau Subdivision.
45. Throughout 2021 Daniel Wright operated a commercial camping/short-rental enterprise on Lot 2 in the Mersereau Subdivision.
46. On 2 June 2021 it was clear to Scott Burton (after the publication of the 8 March 2021 legal opinion by Deputy County Attorney Alex Goble) that short term rentals were not permitted in the Spanish Valley Residential District.
47. On 2 June 2021 Lot 2 in the Mersereau Subdivision was within the Spanish Valley Residential District.
48. In June 2021 Scott Burton understood he was responsible to determine whether a proposed subdivision application complied with the County’s land use ordinance.
49. In June 2021 Scott Burton’s practice was to review whether the proposed subdivision application met the County’s minimum lot size, setback, and other physical requirements – but not whether the use of the property complied with the County’s use restrictions.

50. On 20 July 2021 County Subdivision/Planning Administrator Scott Burton submitted Mersereau Subdivision Lot 2 Amendment 1 (an amendment to the Mersereau Subdivision) to the San Juan County Board of Commissioners.
51. On 20 July 2021 Scott Burton provided a Staff Report to the Board of Commissioners which stated that the Mersereau Subdivision Lot 2 Amendment 1 “is in the Spanish Valley Residential District and meets the requirements of the zone.”
52. While Mersereau Subdivision Lot 2 Amendment 1 met the physical standards and requirements of the 2011 San Juan County Land Use Ordinance and the Spanish Valley Development Ordinances, Lot 2 Amendment 1 did not comply with the use requirements of the Spanish Valley Development Ordinances.
53. **(Conclusion)** On 20 July 2021 the San Juan County Board of Commissioners was not authorized to approve Mersereau Subdivision Lot 2 Amendment 1.
54. **(Conclusion)** As a County permit, the Mersereau Subdivision Lot 2 Amendment Plat – filed with San Juan County on 22 July 2021 – was “null and void” per the 2011 San Juan County Land Use Ordinance.

55. In late 2023, Daniel Wright communicated with San Juan County Chief Administrative Officer Mack McDonald that Mr. Wright sought an amendment to Lot 2A which had been created from the 22 July 2021 Mersereau Subdivision Lot 2 Amendment 1.
56. Beginning in October 2024 San Juan County Planning Administrator Kristen Bushnell worked with Daniel Wright regarding his proposed Mersereau Subdivision Amendment IV. From October 2024 to 14 August 2025 the following occurred relating to Mersereau Subdivision Amendment IV.
- a. On 31 October 2024 Kristen Bushnell emailed Daniel Wright with recommended changes or edits to his initial draft subdivision plat.
 - b. On 11 February 2025 Kristen Bushnell sent a text to Daniel Wright indicating her intent to send the proposed Mersereau Subdivision Amendment IV to the Planning Commission for consideration.
 - c. On 11 March 2025 Kristen Bushnell sent an email to Daniel Wright with recommended corrections to Amendment IV.
 - d. On 8 May 2025 Kristen Bushnell sent an email to Daniel Wright informing that Amendment IV was “held up in legal.”
 - e. On 8 July 2025 Kristen Bushnell again emailed Daniel Wright stating, “everything on this property and any associations is on hold until I get clearance from legal to move forward.”
 - f. On 10 July 2025 the San Juan County Planning Commission considered Mersereau Subdivision, Amendment IV. After discussion, the Planning Commission voted to table the proposal. The discussion among the planning commissioners included the possible non-compliant use status of the property.
 - g. On 29 July 2025 Mr. Maughan sent an email to Mr. Wright stating that San Juan County would not consider Mersereau Subdivision Amendment IV in light of the May 2025 Notice of Violation and cease and desist order involving short-term rentals on Mr. Wright’s property.
 - h. The 14 August 2025 meeting of the San Juan County Planning Commission included an agenda and packet which stated that Mersereau Subdivision Amendment IV was “on-hold.”
57. Throughout 2024 and 2025 Lot 2A in the Mersereau Subdivision was within the Spanish Valley Residential District.

58. Throughout 2024 and 2025 Daniel Wright operated a commercial camping/short-rental enterprise on Lot 2A in the Mersereau Subdivision.
59. Throughout 2024 and 2025 it was clear to Kristen Bushnell and County Attorney Mitchell Maughan that short term rentals were not permitted in the Spanish Valley Residential District.
60. Throughout 2024 and 2025 it was clear to Kristen Bushnell and County Attorney Mitchell Maughan that Mr. Wright's short term rental enterprise on Lot 2A was not compliant in the Spanish Valley Residential District.
61. Notwithstanding the above, Daniel Wright (and his attorney) passionately insisted that Mersereau Subdivision Amendment IV application was *separate* and unrelated to the alleged noncompliance of Lot 2A. The following were communicated (after the May 2025 Notice of Violation and cease and desist order) to San Juan County and to ALJ Creswell.
- a. A 3 July 2025 email from Daniel Wright to Kristen Bushnell urging her to move Amendment IV forward since Mr. Wright's house (which was to be split off from the campground) "has never been part of the campground."
 - b. A 10 July 2025 email from Daniel Wright to Kristen Bushnell again urging her to submit the Amendment IV plat "since the only question is the legality of the campground."
 - c. A 22 July 2025 email from Daniel Wright to Kristen Bushnell regarding Mersereau Subdivision Amendment IV. Included in the email were the following.
 - i. No one has articulated a reason why Amendment IV cannot be approved.
 - ii. Daniel Wright has honored Ms. Bushnell's request that the house not be used for overnight stays.
 - iii. The house is separate from the campground.
 - iv. The reasons for holding up approval of Amendment IV are "arbitrary and capricious."
 - d. On 1 August 2025 Daniel Wright emailed Kristen Bushnell regarding Amendment IV.
 - i. Amendment IV is "an entirely separate issue" than the use of Lot 2A.

- ii. Amendment IV was in response to a request from Kristen Bushnell to keep the house separate from the campground.
 - iii. Daniel Wright has done the things Kristen Bushnell asked him to do.
 - iv. The Utah Property Rights Ombudsman agrees that Amendment IV should not be held up while the use of Lot 2A is on appeal.
 - v. All work on Amendment IV was completed before the Notice of Violation and the appeal.
 - vi. “I hereby formally request that you approve my plat separation based on the fact that I did everything you asked me to do.”
- e. On 26 August 2025 attorney Craig Carlile (representing Daniel Wright) emailed ALJ Creswell regarding Mersereau Subdivision Amendment IV. Mr. Carlile characterized approval of Amendment IV as a “ministerial act” which the County should complete. Mr. Carlile stated that the County’s failure to approve Amendment IV has damaged Mr. Wright affecting his ability to sell the property. Mr. Carlile threatened to file a mandamus lawsuit “as recommended by the Real Property Ombudsman.”
62. While the use of one of the lots split from Lot 2A may have been compliant with the zoning code, the other lot split from Lot 2A would have continued to be noncompliant with the San Juan County land use code.
63. At the time Mr. Wright submitted an application for Mesereau Subdivision Amendment IV and while the application was under review, Lot 2A was noncompliant with the San Juan County land use code.
64. In light of the ongoing noncompliant use of Lot 2A, under the San Juan County subdivision ordinances the Subdivision/Planning Administrator was not authorized to forward Mesereau Subdivision Amendment IV to the Planning Commission nor was the Board of Commissioners authorized to approve Amendment IV.
65. The assertion of Daniel Wright and his attorney – that the approval of Mersereau Subdivision Amendment IV is separate from the question of Mr. Wright’s compliance with the San Juan County land use ordinances – is incorrect.
66. Based on the requirements of both the 2016 and 30 December 2024 San Juan County subdivision ordinances, Ms. Bushnell should have refused to process Mr. Wright’s Mersereau Subdivision Amendment IV application.

67. **(Conclusion)** The Planning Commission on 10 July 2025 *correctly* failed to approve and tabled Mersereau Subdivision Amendment IV due to the ongoing noncompliant use of Lot 2A and the prohibitions contained in the 30 December 2025 Subdivision Ordinances and the 2011 San Juan County Land Use Ordinance.
68. On 15 December 2020 San Juan County adopted a Business License Ordinance. That ordinance required any business conducted in the unincorporated areas of the County receive a business license. Any business conducted without a business license was subject to fines for each month of non-compliance.
69. The San Juan County Business License Ordinance also states that any business license application must be “approved for proper zoning.”
70. The 2011 San Juan County Land Use Ordinance states that any license – to include a business license – would be “null and void” if it is not compliant with the County’s land use code.
71. On 12 April 2023 Daniel Wright applied for a San Juan County business license for a “travel accommodations” business at Lot 2A in Spanish Valley.
72. From 12 April 2023 until May 2025 Lot 2A was used, in part, to support a commercial camping/short-term rental enterprise.
73. The commercial camping/short-term rental enterprise on Lot 2A was not compliant with the Spanish Valley Development Ordinances.
74. Upon review by San Juan County officials, it was decided to *not* deny the business license application and put the application “on hold” pending the adoption of a new county-wide land use ordinance.
75. Prior to May 2025 San Juan County did not deny Mr. Wright’s 12 April 2023 business license application.
76. **(Conclusion)** Between 12 April 2023 and May 2025 Mr. Wright did not qualify for a business license for a “traveler accommodation” business on Lot 2A in the Spanish Valley Residential District *and* San Juan County should have denied Mr. Wright’s 12 April 2023 business license application.

77. San Juan County may be estopped, as a matter of equity, to enforce the Spanish Valley Development Ordinances' prohibition against short-term rental and overnight accommodations in the Spanish Valley Residential (SVR) District if an appeal authority finds the following.
- a. The property owner exercised reasonable diligence and reviewed the applicable zoning code to determine whether the contemplated use was authorized or illegal and concluded that the contemplated use was an authorized use.
 - b. The property owner inquired and conferred with the local zoning authority regarding the use of the property and understood from the zoning official that the contemplated land use was an authorized use.
 - c. The local government official's response to the property owner's inquiry was clear, definite, and affirmative in nature that the contemplated use was authorized.
 - d. After notification that a use is prohibited, the property owner may not continue a use or expenditures associated with the prohibited use.
 - e. Failure to enforce for a time does not forfeit the power to enforce.
 - f. The application of zoning estoppel will not nullify a strong rule of policy, adopted for the benefit of the public.

78. The following findings relate to whether San Juan County may be equitably estopped from enforcing against Daniel Wright and Lot 2 and Lot 2A the Spanish Valley Development Ordinances' prohibition against short-term rental and overnight accommodations in the Spanish Valley Residential (SVR) District.

- Daniel Wright knew or should have known that Lot 2 and Lot 2A were within the Spanish Valley Residential (SVR) District – based on the publication of Spanish Valley zoning maps on 19 November 2019 and 16 February 2021 *and* based on a 20 June 2020 email from San Juan County Zoning Administrator Scott Burton, who informed Daniel Wright Lot 2 was in the Spanish Valley Residential District.
- Daniel Wright knew or should have known of the 8 March 2021 legal opinion of Deputy County Attorney Alex Goble, which legal opinion stated that short-term rentals were not permitted in the Spanish Valley Residential (SVR) District.

- Daniel Wright knew of should have known of the 16 January 2024 San Juan County Board of Commissioners amendment to the Spanish Valley Development Ordinances affirming that short-term rentals and overnight accommodations are prohibited in the Spanish Valley Residential District.
- The 16 January 2024 action by the San Juan County Board of Commissioners in re-affirming that overnight accommodations are prohibited in the Spanish Valley Residential District represent a strong rule of policy against short-term rental enterprises on the Spanish Valley Residential District.
- From 2018 to May 2025, the following summarizes the County's understanding of the zoning requirements of Lot 2 and Lot 2A.
 - o Prior to 19 November 2019, San Juan County staff understood that a camping business, like Mr. Wright's enterprise, was allowed but required the property owner to apply for and receive a conditional use permit.
 - o From 19 November 2019 until 11 March 2021, the County Zoning Administrator and some members of the Planning Commission believed that short-term rentals were authorized in the Spanish Valley Residential District.
 - o After 11 March 2021 the County zoning administrators and Planning Commission clearly understood that commercial camping enterprises were prohibited in the Spanish Valley Residential District.
- From 19 November 2019 until 11 March 2021, property owners operating short-term businesses in the Spanish Valley Residential District believed, based on communication from County employees and officials, that their businesses were authorized.
- From 11 March 2021 to June 2023, the following summarizes a) the County's understanding of Mr. Wright's business activity on Lot 2 and Lot 2A; b) the County's actions relating to Lot 2 and Lot 2A; and c) the communication between Mr. Wright and the County Zoning Administrator.
 - o From March 2021 to June 2023, San Juan County Zoning Administrator Scott Burton did not have specific (or complete) information regarding Daniel Wright's business activity on Lot 2 and Lot 2A.

- While Mr. Burton was required, as part of the subdivision approval process, to determine whether Lot 2 was zoning (land use code) compliant – in July 2021 Mr. Burton forwarded and recommended approval of a subdivision application to split Lot 2 based, in part, that the property was land use code compliant.
 - It was Mr. Burton’s understanding that the zoning “use” determination was separate from the subdivision approval process.
 - In email exchanges between Daniel Wright and Zoning Administrator Scott Burton, Daniel Wright did not specifically or clearly state that his use of Lot 2 and Lot 2A included a short-term rental enterprise.
 - Mr. Burton could not recall telling Mr. Wright that his business activity on Lot 2 and Lot 2A was noncompliant with the land use code.
 - Mr. Burton stated that after 11 March 2021 while he and others understood that short-term rentals were not authorized in the Spanish Valley Residential District, enforcement was limited due to lack of staff.
- From January 2024 to May 2025, the following summarizes a) the County’s understanding of Mr. Wright’s business activity on Lot 2A; b) the County’s actions relating to Lot 2A; and c) the communication between Mr. Wright and County representatives.
- In January 2024 Daniel Wright clearly communicated to Zoning Administrator Kristen Bushnell that he had been operating a commercial camping enterprise on Lot 2A.
 - In early 2024 Ms. Bushnell visited Mr. Wright’s property and determined that it had compliance issues.
 - From 5 March 2024 to May 2025 Ms. Bushnell emailed or texted Mr. Wright the following regarding Lot 2A.
 - (5 March 2024) Daniel Wright’s use of Lot 2A was not in compliance with the Spanish Valley Development Ordinances.
 - (5 March 2024) Daniel Wright’s conduct of commercial operations on Lot 2A are forfeit for failure to comply with the International Building Code.

- (5 March 2024) Daniel Wright was directed to immediately comply due to prohibited uses on Lot 2A.
 - (5 March 2024) Mr. Wright was informed that continuing his non-compliant business could result in penalties, including penalties, fines, or criminal charges.
 - (5 March 2025) Mr. Wright received a “notice of violation” and given 14 days to come into compliance.
 - (5 March 2024) Daniel Wright was informed of two routes for Mr. Wright to come into compliance – including applying for a zone change and waiting until a new county-wide land use ordinance is adopted.
 - When (after 5 March 2024) Daniel Wright stated his intent to apply for a zone change, Ms. Bushnell responded that she appreciated Mr. Wright’s efforts to come into compliance. Ms. Bushnell did not direct Mr. Wright to stop operating his business.
 - Responding to Daniel Wright after a Planning Commission meeting, Ms. Bushnell said she was “looking forward to getting you guys [Daniel Wright and other Tera Drive property owners] moved along in the process and back up and running.”
 - Responding to Daniel Wright after a 14 November 2024 Planning Commission meeting, Kristen Bushnell said, “I think you’ll be approved once the new zoning code is in place.”
- In sworn testimony on 13 March 2026 Kristen Bushnell stated the following.
- While Ms. Bushnell clearly communicated with Daniel Wright that his commercial enterprise on Lot 2A was non-compliant – Ms. Bushnell did not direct Daniel Wright to “cease and desist” his business enterprise.
 - Ms. Bushnell never stated that Mr. Wright could continue his non-compliant commercial enterprise on Lot 2A.
 - Ms. Bushnell directed Mr. Wright not to expand the uses of Lot 2A.

- Notwithstanding the compliance issues in the Wright property (and other properties in the Spanish Valley Residential District), Ms. Bushnell sought to create a “win-win situation” for the property owners and the County.
 - To achieve a “win-win,” Ms. Bushnell encouraged and supported Mr. Wright in submitting a “historic” conditional use application to the Planning Commission.
- On 14 November 2024 the Planning Commission considered Mr. Wright’s “historic” conditional use permit. During the meeting the Planning Commission understood that the use of Lot 2A was noncompliant with the zoning code. During the meeting no one instructed Daniel Wright to cease his commercial camping operation.
 - After Mr. Wright submitted a business license application in April 2023, Mr. Wright’s business license application continued in a “pending” status up to May 2025. The County’s reason for not denying the business license application included the hopeful adoption of a new county land use code.
 - Daniel Wright, in sworn testimony, stated the following regarding Lot 2 and Lot 2A and his compliance with the County land use ordinances.
 - When he started his commercial camping business in Spanish Valley, Mr. Wright had no experience in property management.
 - Mr. Wright believed that prior to 19 November 2019 his business activity fully complied with the County’s zoning ordinance.
 - Mr. Wright did not understand the requirement to submit a conditional use application prior to 19 November 2019.
 - Between 19 November 2019 and 11 March 2021, Mr. Wright and other short-term commercial enterprises in the Spanish Valley Residential District believed their businesses were authorized uses.
 - After 11 March 2019, Mr. Wright did not receive direction from County Zoning Administrator Scott Burton about his commercial camping use of Lot 2 and Lot 2A.

- Throughout his operation of a camping park on Lot 2 and Lot 2A, Daniel Wright believed his business was open and transparent to the County.
 - Daniel Wright paid transient room taxes and sewer fees as a commercial enterprise.
 - Daniel Wright admitted “I made some mistakes.”
 - After Mr. Wright was told his use of Lot 2A was noncompliant, he continued to operate based on a belief that he could operate until a new zoning code was adopted.
 - Mr. Wright’s understanding that he could continue to operate was reinforced, in Mr. Wright’s mind, when he appeared at a 14 November 2024 Planning Commission meeting where his camping park was discussed and no one told him he had to stop operating.
 - Mr. Wright also felt he could continue to operate when Ms. Bushnell advised him that he could not expand his operation but did not tell him to stop his camping park.
- In May 2025 Daniel Wright received a Notice of Violation from the County Attorney, which Notice of Violation clearly directed Mr. Wright to cease and desist his short-term rental enterprise on Lot 2A.
 - After May 2025 Mr. Wright began “decommissioning” his business by removing structures from the property.
 - After May 2025 Daniel Wright, on advice of his legal counsel, continued hosting short-term rental guests during and after decommissioning.

79. Through the exercise of reasonable diligence, after 11 March 2021 Daniel Wright should have known that his commercial camping enterprise in the Spanish Valley Residential District was not permitted.

80. Through the exercise of reasonable diligence, after 19 January 2024 Daniel Wright should have known that his commercial camping enterprise in the Spanish Valley Residential District was not permitted.

81. Neither Zoning Administrator Scott Burton nor Zoning Administrator Kristen Bushnell told or informed Daniel Wright that his commercial camping enterprise in the Spanish Valley Residential District was an authorized use.
82. After 5 March 2024, when Daniel Wright was notified that his commercial camping enterprise was noncompliant with the County's land use code, Mr. Wright continued to operate his business in the Spanish Valley Residential District.
83. The County's failure to enforce its land use code with respect to Daniel Wright did not forfeit the County's power to later enforce the zoning code.
84. The application of zoning estoppel in the subject matter would nullify a strong rule of policy against short-term rentals operating in the Spanish Valley Residential District.
85. Considering the County's failure to enforce its land use code against Mr. Wright and the "hope" communicated to Daniel Wright by the County Zoning Administrator, Daniel Wright's continuing to operate his business prior to May 2025 was not bad faith.
86. Any business activity by Daniel Wright on Lot 2A after May 2025 was bad faith.
87. **(Conclusion)** San Juan County is not equitably estopped from enforcing the San Juan County zoning code on Lot 2A of the Mesereau Subdivision.
88. On 18 November 2002, the San Juan County Board of Commissioners approved Ordinance 2002-01 and adopted several "codes" or regulations approved by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials. Among the approved "codes" (and adopted by San Juan County) were the International Building Code and the International Residential Code.
89. The 2011 San Juan County Land Use Code states: "The use of land or the construction or alteration of any building or structure or any part thereof, as provided or as restricted by this Ordinance shall not be commenced, or proceeded with, except after the issuance of a written permit for the same by the Building Inspector."
90. The requirement that the use of land or any building or structure receive a written permit from the Building Inspector continued after the adoption of the Spanish Valley Development Ordinances.

91. Prior to May 2025 Daniel Wright moved three small cabins onto Lot 2A and used the cabins as part of Mr. Wright's commercial camping/short-term rental enterprise.
92. Mr. Wright placed three cabins on Lot 2A were "buildings or structures" which required "the issuance of a written permit" by the County Building Inspector.
93. It was the opinion of a qualified building official that provisions of the "international codes" applied to the three cabins and that the three cabins should have received building permits to be used in support of Mr. Wright's commercial camping/short-term rental enterprise.
94. **(Conclusion)** Daniel Wright's failure to obtain building permits for three cabins, used for Mr. Wright's commercial camping/short-term rental enterprise, on Lot 2A violated the 2011 San Juan County Land Use Code.
95. For an appeal authority to conclude that a property owner's use of property was a "public nuisance," the following must be established.
- a. Did the property owner's conduct unreasonably interfere with a right common to the general public, such as a right to public health, safety, or comfort?
 - b. Is there a causal link between the property owner's actions and the public nuisance?
 - c. Did the activity cause or threaten injury or damage to the public's health, safety, or comfort? Aesthetic issues alone are typically not considered a nuisance.
 - d. Did property owner's actions negatively impact the neighborhood or community, not just a single neighbor.
 - e. Is it established that the property owner created, maintained, or allowed the nuisance to continue, meaning they had control over the situation?
 - f. Was the property owner aware of the nuisance and complaints about the nuisance?
 - g. Is there "substantial evidence" supporting a nuisance claim?
96. The May 2025 Daniel Wright Notice of Violation alleged that Mr. Wright's use of Lot 2A was a public nuisance and created a considerable public safety concern.
97. San Juan County presented no or insufficient "substantial evidence" to support a conclusion of law that Mr. Wright's use of Lot 2A was a public nuisance.

98. **(Conclusion)** Prior to May 2025 Daniel Wright’s use of Lot 2A on Tera Drive in the Spanish Valley Residential District did not constitute a public nuisance.
99. With the adoption of San Juan County Ordinance 2020-11 (adopted on 2 September 2020) as amended on 16 May 2023 San Juan County Ordinance 2023-03), San Juan County provides property owners procedural due process rights County administrative decisions are adverse to a property owner. These procedural due process rights include, but are not limited to, the following.
- a. Gathering and review, under the direction of the Administrative Law Judge, of the County’s administrative record supporting an administrative decision.
 - b. Developing, under the direction of the Administrative Law Judge, the legal framework/standards relevant to the matter on appeal.
 - c. With the assistance of the parties, the publication of a hearing management order.
 - d. At a hearing, opportunities for the parties to present evidence, with opportunity to cross examine witnesses.
 - e. Throughout the appeal process, a person may be represented by an attorney or other advocate.
100. The San Juan County Administrative Review and Appeal Ordinance was adopted with the intent that an independent Administrative Law Judge “revisit and establish the relevant facts and information, and ensure the proper legal standards are applied.”
101. As part of the review and appeal process, the San Juan County Administrative Review and Appeal Ordinance recognizes the Administrative Law Judge’s authority to investigate the facts supporting an administrative decision.
102. The requirements that the Administrative Law Judge “revisit” and “investigate” the facts supporting an administrative decision further enhance a petitioner’s due process remedy.

103. After Daniel Wright’s appeal of the May 2025 Notice of Violation, the following actions or events associated with Mr. Wright’s procedural due process rights occurred.
- a. Daniel Wright, with representation by an attorney, submitted an appeal letter with supporting and relevant documents.
 - b. After Mr. Wright’s attorney had an opportunity to review a draft order, ALJ Creswell published an order requiring San Juan County to submit (and share with Mr. Wright’s attorney) documents supporting the Notice of Violation.
 - c. San Juan County submitted evidence and documents the County asserted supported the Notice of Violation, which evidence and documents were shared with Mr. Wright’s attorney.
 - d. After submission of evidence by the parties, ALJ Creswell requested clarification of the evidence submitted by the parties.
 - e. In response to ALJ Creswell’s request for clarification, San Juan County submitted a brief and documents – which brief and documents were shared with Daniel Wright.
 - f. After submission of proposed witnesses, ALJ Creswell met with the parties to confirm the relevance of proposed witnesses.
 - g. ALJ Creswell also met with the parties to discuss the management of the hearing.
 - h. After review of a draft order by the parties, ALJ Creswell published a Hearing Management Order.
 - i. A hearing was held, with opportunity for Daniel Wright to make arguments, present evidence, and cross examine witnesses.
 - j. After the hearing, Mr. Wright was given the opportunity to submit supplemental evidence or make additional arguments.
 - k. After the hearing, ALJ Creswell sent Daniel Wright a draft decision. Mr. Wright was given an opportunity to comment on the draft decision.
104. ALJ Creswell “revisited” and “investigated” facts relating to the May 2025 Notice of Violation and allegations raised by Daniel Wright.
105. ALJ Creswell’s revisiting and investigation was transparent to Daniel Wright and enhanced Mr. Wright’s procedural due process.

106. **(Conclusion)** Through the San Juan County administrative review and appeals process, Daniel Wright was afforded procedural due process.

Decisions and Orders

Based on the foregoing findings of fact and conclusions of law, Administrative Law Judge Lyn Creswell adopts the following decisions and orders in the matter *Daniel Wright v. San Juan County*.

1. **Order.** Mersereau Subdivision Lot 2A at 158 Tera Drive, Moab, Utah shall not be used for short-rental activity or any other overnight accommodation business activity so long as the property is subject to the Spanish Valley Development Ordinances.
2. **Decision.** Any activity in violation of paragraph 1 above shall subject the property owner to ordered abatement, fines, and penalties.
3. **Order.** By close of business 10 April 2026 property owner Daniel Wright shall submit to the San Juan County Attorney and Administrative Law Judge Lyn Creswell a detailed/complete list of all structures, buildings, hookups, or other facilities which Daniel Wright intends to retain and maintain at 158 Tera Drive for permitted uses in the Spanish Valley Residential (SVR) District – and which uses shall comply with all standards and requirements of the 2011 San Juan County zoning ordinance and the Spanish Valley Development Ordinances.⁵⁶
4. **Order.** By close of business 10 April 2026 property owner Daniel Wright shall submit to the San Juan County and Administrative Law Judge Lyn Creswell a detailed/complete list of all structures, buildings, hookups, or other facilities which were previously used for short-term rental/overnight accommodation guests *and* which will be (or have been) removed from 158 Tera Drive.

⁵⁶ It is understood this “detailed/complete list” will be created by Daniel Wright after coordination with the San Juan County Zoning Administrator or appropriate official.

5. **Order.** On or before 8 May 2026 Daniel Wright shall submit a signed affidavit to the San Juan County Attorney and to Administrative Law Judge Lyn Creswell that all structures, buildings, hookups, or other facilities listed in paragraph 4 above have been removed from 158 Tera Drive.
6. **Order.** On or before 28 August 2026 San Juan County and property owner Daniel Wright shall complete an “as built permit” process for each structure, building, hookup, or other facility identified in paragraph 3 above.
7. **Order.** On or before 11 September 2026 San Juan County and property owner Daniel Wright shall submit a joint affidavit to Administrative Law Judge Lyn Creswell that the work ordered in paragraph 6 has been completed.
8. **Decision.** The 12 April 2023 San Juan County business license application of Daniel Wright is denied.
9. **Order.** Daniel Wright shall *immediately* remove from 158 Tera Drive, and from any online postings, any references of/to short-rental activity and by close of business 10 April 2026 shall submit to Administrative Law Judge Creswell that the ordered removals have been accomplished.
10. **Order.** Daniel Wright shall by close of business 29 May 2026 pay to San Juan County (Utah) the net proceeds (revenues received minus any reasonable expenses incurred in renting structures) from all rental activities at 158 Tera Drive from 13 May 2025 until the date of this decision.
11. **Decision.** Daniel Wright shall be subject to appropriate fines and penalties for operating an overnight accommodations or similar business at 158 Tera Drive as long as the property is governed by the Spanish Valley Development Ordinances.

12. **Decision.** As of the date of this decision, the use of 158 Tera Drive during the ownership of Daniel Wright cannot be characterized as a public nuisance.
13. **Decision.** San Juan County is not equitably estopped from enforcing compliance with County zoning and business licensing ordinances at 158 Tera Drive.
14. **Decision.** The deadlines in this Decision and Order may be extended by Administrative Law Judge Lyn Creswell upon request and based on reasonable cause.
15. **Decision.** Administrative Law Judge Creswell shall continue jurisdiction in the matter until completion of the orders.
16. **Decision.** Either party may request clarification or direction from Administrative Law Judge Creswell regarding this Decision and Order.
17. **Decision.** Failure of Daniel Wright to comply with the orders herein subject him to fines and penalties set forth in the San Juan County Code.

A handwritten signature in black ink, appearing to read "Lyn L. Creswell", is written over a horizontal line. The signature is cursive and extends to the right of the line.

Lyn Loyd Creswell
San Juan County Administrative Law Judge

25 March 2026