

VISCO LLC
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Cedar City, UT 84720

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B: 1630 P: 987 Fee \$40.00
Carri R. Jeffries, Iron County Recorder Page 1 of 5
12/09/2022 12:58:48 PM By VISCO L L C

IRON COUNTY, UTAH
82 North 100 East, Suite # 102
Cedar City, Utah 84720

- CONDITIONAL USE PERMIT -

Date: December 1, 2022

APN: E-0144-0006-0000

The Applicant, **COMMERCE CROSSROADS LOGISTICS PARK LLC.**, has duly submitted a request for a Conditional Use Permit for "**General Industrial Activity**," to the Iron County Planning Commission. The Iron County Planning Commission having reviewed, discussed, and voted on the Conditional Use Permit application as submitted by the Applicant and having determined that the applicable ordinances and statutes have been complied with and that good cause exists for granting a Conditional Use Permit. Now therefore, the Iron County Planning Commission does hereby grant the Applicant a Conditional Use Permit as related to certain real property described as follows:

Approximately 42.54 acres – Located at approximately 1800 N 6100 W (taking access from Iron Springs Road), Cedar City, Utah – within the W½ Section 35 & E½ Section 34, T35S, R12W, SLB&M, Iron County, UT (being a portion of the 538.01 acre parcel E-0144-0006-0000), and more particularly described as follows:

NORTHWEST PARCEL: (LOT 19)

BEGINNING S.89°37'29"E. ALONG THE TOWNSHIP LINE 413.42 FEET AND NORTH 1101.01 FEET FROM THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 12 WEST, SLB&M; THENCE N.43°37'21"W. 1437.24 FEET, THENCE N.46°22'39"E. 640.24 FEET, THENCE S.43°39'53"E. 1436.77 FEET, THENCE S.46°20'07"W. 641.30 FEET TO THE POINT OF BEGINNING.
CONTAINS 21.14 ACRES OF LAND.

SOUTHEAST PARCEL: (LOT 20)

BEGINNING S.89°37'29"E. ALONG THE TOWNSHIP LINE 413.42 FEET AND NORTH 1101.01 FEET FROM THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 12 WEST, SLB&M; THENCE N.46°20'07"E. 641.30 FEET, THENCE S.43°39'53"E. 1341.15 FEET, THENCE N.46°20'07"E. 100.00 FEET, THENCE S.43°37'21"E. 96.64 FEET, THENCE S.46°22'39"W. 742.29 FEET, THENCE N.43°37'21"W. 1437.24 FEET TO THE POINT OF BEGINNING.
CONTAINS 21.40 ACRES OF LAND.

HAUL ROAD LEGAL DESCRIPTION:

A 40.00-FOOT-WIDE ACCESS ROAD BEING 20.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:
BEGINNING N.89°37'28"W. ALONG THE TOWNSHIP LINE 602.04 FEET AND NORTH 2112.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 12 WEST, SLB&M; THENCE S.43°37'21"E. 1792.53 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 53.00 FEET A DISTANCE OF 83.25 FEET (THE CHORD OF SAID CURVE BEARS S.1°22'39"W. 74.95 FEET), THENCE S.46°22'39"W. 2756.51 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 400.00 FEET A DISTANCE OF 54.15 FEET (THE CHORD OF SAID CURVE BEARS S.50°14'06"W. 54.11 FEET), THENCE S.54°06'46"W. 99.73 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET A DISTANCE OF 115.19 FEET (THE CHORD OF SAID CURVE BEARS S.21°06'49"W. 108.93 FEET), THENCE S.11°53'08"E. 195.64 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 500.00 FEET A DISTANCE OF 232.08 FEET (THE CHORD OF SAID CURVE BEARS S.1°24'41"W. 230.00 FEET), THENCE S.14°42'30"W. 153.07 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 300.00 FEET A DISTANCE OF 70.63 FEET (THE CHORD OF SAID CURVE BEARS

S.21°27'09”W. 70.46 FEET) MORE OR LESS TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF IRON SPRINGS ROAD.

All of said property being located in Iron County, State of Utah, and said Conditional Use Permit being granted for the use or uses of “General Industrial Activity” – Transload Rail Facility (Project), in the zone presently classified as I (Industrial), and said Conditional Use Permit granted subject to the following terms, provisions, and conditions, to wit:

1. **Compliance.** Applicant shall comply with all applicable Federal, State, and Iron County, Utah, laws, rules, and regulations related to the operation of a transload site/facility. If applicable, the Applicant must obtain a valid permit from the State of Utah’s DEQ for handling hazardous materials, as applicable, and will be subject to compliance with all requirements of such permitting. Applicant must provide the Zoning Administrator a copy of any such permit, if applicable.
2. **Authorization.** This permit authorizes development (construction and operation) of the project described in the application as “receiving railcars from Union Pacific and moving them from the main rail to a spur to be offloaded to trucks – ‘transloading’” with rail spurs to accommodate up to 60 railcars, and located as shown on the site plan/application, together with all materials and appurtenances identified in the application, forms, and maps as submitted, and hereby become part of this Conditional Use Permit. The transload facility, with roads (including a temporary haul road described above) and accommodations for office space and employee safety (Project) is anticipated to occur on 42.54 acres adjacent to the existing Union Pacific Rail – a portion of entire parcel/property.
3. **Probationary Period.** The Applicant hereby agrees to transition Project operations and facilities from temporary services to permanent facilities after a nine (9) month trial period, if the Applicant desires to continue Project operations. The Applicant may establish operations with temporary services as follows: haul water, utilize portable toilets, and generate power for electrical needs. Prior to September 1, 2023, Applicant must submit a detailed plan, to be approved by the County Zoning Administrator and appropriate County staff, providing for a permanent on-site water source, an approved wastewater treatment system, connection to the electrical grid, and an office/building with restrooms, and office space.
4. **Liability.** The Applicant hereby agrees to bear all liability from the project operations and project area and to notify any affected property owner of adjacent property or easement holder of any adverse impact to such surrounding properties. Applicant shall protect the ground water. All storage tanks shall be located at the original ground level and any potentially hazardous materials shall be stored in State approved containers.
5. **Set Backs.** Petitioners shall maintain operations an adequate distance from adjacent properties to prevent damage to adjacent properties, which properties include but are not limited to, fences, ditches, irrigation systems, roads, easements, rights-of-way, and utilities. In no case shall the banks, berms or storage materials be closer than twenty (20) feet from the project perimeter boundary fence.
6. **Lighting.** All outside and security lighting shall be of a type, height, and design to direct lighting downward, shielding, to the greatest extent practical and directed away from adjoining properties. Minimal lighting is desired to preserve the ‘night sky’ effect.
7. **Ownership.** The Applicant shall provide County Planning and Building Department Staff with _____ e to any new owners of the Conditional Use Permit.

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8. **Reclamation.** Applicant shall provide a plan of reclamation for the disturbed area to be approved by Iron County. Reclamation plan shall include the plan to establish vegetation upon removal of vegetated areas. Furthermore, any components that are abandoned or unused for more than two years shall constitute a public nuisance, subject to abatement at the expense of the Applicant and/or property owner. Failure to abate such nuisance after 30 day notice to do so shall authorize the County to remove the components at the property owner’s expense.
9. **County Road Ingress/Egress.** Applicant shall coordinate with the Iron County Engineer any requirements for encroachment in the County right-of-way, as required by Iron County Engineer. Applicant shall maintain a method to minimize track out of earthen materials onto any County road.
10. **Dust Plan.** Applicant shall submit an acceptable onsite dust plan for construction and use to the Iron County Building/Zoning Department, incorporating an on-site water truck to keep the temporary haul road, parking areas and internal roads from generating dust that could be blown or drift onto adjacent properties. Applicant shall be proactive in responding to any potential dust problems.
11. **Grading and Hydrology.** An acceptable grading and storm drainage plan, detailing run off, erosion control, contaminants potential, culverts, retention/detention basins, etc., as necessary, shall be prepared and submitted to the Iron County Building Department and the Iron County Engineer.
12. **Utilities.** All utilities, such as domestic water, irrigation water, fire protection, storm drainage systems, etc., shall be installed in accordance with established guidelines. All power and communication lines shall be placed underground except where topography, soil, or other conditions make underground installation impractical as evidenced by the Iron County Building Department.
13. **Fire Protection.** The Project design shall be reviewed by the Iron County Fire Warden/Marshal to ensure adequate ingress and egress and internal circulation for emergency vehicles. Applicant shall provide an adequate water supply system to satisfy fire suppression requirements according to the Iron County Fire Marshall and the Utah Wildland Urban Interface Code (Utah WUI Code).
14. **Sewage Disposal Requirements.** All sewage from the Project shall be discharged into a sewage disposal system approved by the Southwest Utah Public Health Department or Utah Department of Environmental Quality, as applicable.
15. **Refuse Collection/Solid Waste.** The storage, collection, and disposal of solid waste shall be accomplished so as to prevent fire and health hazards, rodent harborage, insect breeding, accidents and odor. Collection areas shall be screened with a view-obscuring fence or landscape and properly identified.
16. **Vegetation Removal.** In order to minimize fugitive dust and unnecessary soil erosion, Applicant should limit the removal of existing vegetation to only that necessary to construct accommodations permitted herein. Applicant should exercise all care to preserve existing vegetation. Fugitive dust impacts from the project site shall be closely monitored during construction and dust control methods shall be utilized as necessary to minimize fugitive dust from the Project site. After construction, the disturbed, undeveloped portions of the Project site are to be stabilized as needed to prevent the blowing of excess dust and dirt and to minimize erosion.

00800210

B: 1630 P: 989 Fee \$40.00
Carri R. Jeffries, Iron County Recorder Page 3 of 5
12/09/2022 12:58:48 PM By VISCO L L C

17. **Utah Prairie Dogs.** Applicant shall adhere to the Iron County Utah Prairie Dog General Conservation Plan, where applicable.

18. **Transferability.** This CUP runs with the property described herein and is non-transferable to any other location. The Applicant shall provide County Staff with notice of any change in ownership and give notice to the new owners of the Conditional Use Permit.

19. **Acknowledgement.** Applicant hereby acknowledges and agrees that the existing uses of neighboring properties include agriculture, and residential, and that these and other uses may generate noise, odors, blowing debris and other incidental impacts commensurate with the normal operation of these uses. Surrounding properties are zoned Agriculture and Industrial and could be used for additional activities that may generate noise, dust, odors, and light pollution. Applicant recognizes and understands the “coming to the nuisance” doctrine and hereby agrees to hold harmless Iron County and neighboring property owners in the continued and future prudent exercise of these uses and for those uses permitted for the zoning districts as they currently exist.

20. **Recording.** This Conditional Use Permit shall be signed by the Applicant and property owner and be recorded with the Office of the Iron County Recorder in a form required by that office. A recorded copy of this Conditional Use Permit shall be provided to the Iron County Building and Zoning Department.

21. **Validity.** This CUP is not valid until all required plans and permits are submitted and approved, and a recorded copy of the CUP is returned to the Iron County Building/Zoning Department. All of the application, forms, and maps as submitted are part of the CUP.

22. **Agreement.** By signing this CUP, the Applicant agrees to adhere to the conditions contained herein and as specified in the CUP application.

This Conditional Use Permit may be executed in any number of counterparts and each shall be considered an original and together they shall constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]

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B: 1630 P: 990 Fee \$40.00
Carri R. Jeffries, Iron County Recorder Page 4 of 5
12/09/2022 12:58:45 PM By VISCO L L C



DATED this 1st day of December, 2022.

IRON COUNTY ZONING DEPARTMENT:

[Handwritten Signature]

County Planner or Building Official

IRON COUNTY PLANNING COMMISSION:

[Handwritten Signature]

Roger Thomas, Chairman

APPLICANT/OWNER:

Commerce Crossroads Logistics Park LLC

By: *[Handwritten Signature]*

Name: James Barlow

Title: CEO

Certificate of Notary Public

On this 7 day of December, 2022 James Barlow,
personally appeared before me to be the signer of the foregoing document and acknowledges that he/she
signed it.

[Handwritten Signature]
Notary Public



State of Utah
County of Iron

My Commission Expires: 10/28/26

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