

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
January 3, 2007 - 5:00 p.m.**

In Attendance were:

Chris Peatross, Planning Commission Chairman
Leon Sweat, Planning Commission
Dean Brough, Planning Commission
Shelly Fabrizio, Planning Commission
Randy Mair, Planning Commission
Thomas Rather, Planning Commission
Mike Hyde, Community Development Administrator
Laraine Dickinson, Planning Secretary
Absent: Larain Mobley

Visitors:

Agenda Item

Darrin Brown (Tri County Health)	All
Stacey Williams	Junk Yard
Stacey Williams Jr.	
Keith E. Eddington	
Todd Moon	Café
George Bennett	
Raquel Hollingworth	

Chairman Peatross called the meeting to order at 5:00 P.M.

PUBLIC HEARINGS:

- A. Request by Stacey Williams for a Conditional Use Permit to operate a “Junk Yard” on Lots 37-40 and 46 of Block E, Unit 1, Vista Valley Subdivision, located in Section 22, Township 3 South, Range 8 West (on the North side of Highway 40, about 3 ½ miles east of Fruitland.**

Mr. Hyde stated that the applicant is requesting a conditional use permit for the storage of vehicles. Mr. Hyde referred to photos that had been taken of the property on December 8, 2006 but was informed that more of the vehicles had been removed since the photos had been taken. Mr. Hyde stated that the county has been working with the property owner on a code violation since July 2005. Since that time, 30 vehicles were removed in September 2005.

Mr. Hyde stated that in the Zoning Ordinance a "Junk Yard" is described as any lot or parcel of land for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery. All junkyards shall be screened by natural objects, planting, fencings, or other appropriate means so the junkyard is not visible from the main travel way. Mr. Hyde stated that the applicant is not running this as a commercial junkyard such as Herbert's Auto Wrecking just east of Roosevelt but they are using it for their own personal storage of vehicles. Mr. Hyde stated that the only way to legalize this activity and get it out of a nuisance violation situation was to have the owners apply for a conditional use permit.

Mr. Hyde indicated to the Planning Commission that there are findings for denial of this request and findings for approval of this request, with conditions, included in the agenda.

Mr. Hyde stated that the criteria for a conditional use permit would be the same in both reports with the first being the proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare. Mr. Hyde stated that in the report to deny, the county has received several letters from property owners stating it will make their properties less desirable for recreational use and re-sale values. A Mr. Everett Dahl (nearby property owner) has documented two lost sales of his property as a result of existing conditions of the subject property and other lands in the area. Other possible impacts to the public health would be associated with junk vehicle fluids leaking onto the ground. Also public safety would be jeopardized if adequate fencing were not installed to prevent unauthorized entry such as children from nearby property owners. General welfare of the public would be impacted by the nature of the use, which has a tendency to discourage investment in an area. Most of the lots in Vista Valley Subdivision are not conforming because they are only about 1/5 of acre in size and so a person would need to assemble surrounding lots to acquire 1 acre to allow a septic system. Mr. Hyde stated that the minimum value the county assigns to such lots is \$500.00 so the official values assigned by the county for tax purposes would not go any lower as a result of this use.

Mr. Hyde stated that the second criteria would be compliance with the Duchesne County General Plan. Mr. Hyde stated that there are two sections in the General Plan that would apply in this case; the first being "Duchesne County feels that residential, commercial and industrial development on private land should be allowed to continue in a responsible manner and in locations that contribute to the economic and social well-being of County residents." The County feels that "well kept" and "orderly" communities are desired and there are beatification goals in the county and the County Commissioners want to continue the enforcement of the nuisance ordinance. Mr. Hyde stated that based on these findings it seems contrary that the county would allow a junkyard in this location. Even with fencing, the junk would still be visible from lands higher in elevation in the vicinity.

Mr. Hyde stated the third criteria is whether or not the property is of adequate size to permit this kind of land use that would not be detrimental to adjoining and surrounding properties. The proposed five lots (each 50X130 feet in size) total about 3/4ths of an acre and so the size of the property is not adequate to buffer the adverse visual and aesthetic effects of a junkyard on surrounding properties.

Mr. Hyde stated that other conditional use permit standards are: (1) Landscaping, fences, walls and buffering to protect the appearance and character of the area. Mr. Hyde referred to photos that showed that the applicant has started a fence around the junkyard area but if this permit were approved the Commission would need to decide how tall of a fence would be required. (2) This would be parking including vehicular ingress and egress but as this is proposed not to be a public type business there shouldn't be much traffic in and out of this area. Access to this property is over dirt roads that are not maintained by the county. (3) This would be adequate water supply, sewage disposal, fire protection and adequate roads. The property has platted roads that are 50 feet wide so there is no need for more right of way. There is no water supply in this area nor is there any demand for water at this site unless there were a fire. The nearest fire station is located 3½ miles west in Fruitland. (4) Regulation of signs. There are no proposed signs going to be used. (5) Regards to nuisance factors. Normal conditions at a junkyard can be expected to produce noise, dust, odors and glare. (6) Regulation of operating hours. Since this junkyard will not operate as a business, there are no consistent operating hours anticipated.

Mr. Hyde stated with these findings we recommend denial of this conditional use permit. Mr. Hyde stated that in the findings to approve conditional use permit we look at the same criteria.

Mr. Hyde stated that (1) Public safety. Public health and safety would not be jeopardized if the junkyard were adequately fenced to prevent unauthorized entry and if vehicle liquids are disposed of properly. (2) The proposed land use fencing would need to be constructed to screen the area or even a building erected to store vehicles inside. (3) Regarding size. Even though it is only about 3/4th of acre the property size is adequate for the small-scale junk storage area proposed.

Mr. Hyde stated that other conditional use permit criteria could include these conditions: (1) If the permit were to be approved, the fencing would need to be completed to a height of at least eight feet around the entire site by a certain date. (2) Involving parking and road improvements. With the low level of public use no parking or road improvements would be necessary.

Mr. Hyde stated that there were several letters received from surrounding property owners stating their opinions of whether or not they wanted a junkyard in the area.

Chairman Peatross asked if anyone would like to speak at this time in favor.

Mr. Keith Eddington (Attorney) representing Mr. Williams. As indicated by Mr. Hyde this was an application for a junkyard only because there is not a better category to place it

in. Mr. Eddington stated that this is not the intent of Mr. Williams. Even though there has been a problem in the past with many vehicles on the property there has been 60 vehicles removed and about 20 vehicles remain at this time. Mr. Eddington stated that all but 5 vehicles could be up and running within the week but at this time his client does not want to license them all. Mr. Williams stated that he would like to keep these for family members as he considers them as heirlooms or could be heirlooms at some time. Mr. Williams referred to some of the vehicles as classic cars. Mr. Eddington stated that Mr. Williams has started to construct a fence around the area and depending on the decision tonight is willing to build the fence as high as need be to comply with screening. Mr. Williams's goal is not for selling parts or dismantling of the vehicles. Mr. Eddington stated that the photos taken on December 8, 2006 showed several vehicles that had since been removed. Chairman Peatross stated that he had driven out to the site and noticed considerable change from the photos taken. Commissioner Rather asked Mr. Eddington how many vehicles are there on the property now. Mr. Eddington stated that there were 20 vehicles now of which 5 are inoperable and the other 15 Mr. Williams stated that those could be up and running within the week.

Commissioner Brough stated that in the findings of fact on 7-18-05 Mr. Hall indicated by phone that the property is rented to his brother-in-law, Stacey Williams. Mr. Williams stated that he has been the owner of 50 lots with Mr. Hall but has spilt up the lots and these lots have been his for the past 15 years. Mr. Stacey Williams Jr. stated that the land referenced as being rented is a completely different parcel of land. Mr. Williams Jr. stated that this would not be used as a junkyard that it would be used to store classic and other family vehicles that we will be restoring. Mr. Williams Jr. stated that they would be building a 70 X 40 foot storage shed to put the vehicles in.

Chairman Peatross asked Mr. Williams Jr. why they have decided to build a storage unit now where before it would have probably avoided a problem with the county in the past. Mr. Williams Jr. stated he had come into some money at this time. Chairman Peatross asked why did you think it necessary to apply for a conditional use permit rather than to have constructed the storage unit as a private citizen. Mr. Williams Jr. stated that his father (Mr. Williams) had preceded his way in the beginning and now I am trying to straighten things out but our intention was not to have a junkyard just a place to store our own personal vehicles. Commissioner Sweat asked Mr. Williams Jr. is it my understanding that the storage shed would be going up in the near future. Mr. Williams Jr. stated that it would be within the next six months, I am getting bids at this time and will have it delivered to the property and we will put it up ourselves. Chairman Peatross stated that if a building were put in then this would solve the problem. Mr. Hyde asked if this one building were not big enough to store everything then would there be more than one building. Mr. Williams Jr. stated that he thought one would be big enough but if not then they would build another one. Commissioner Brough asked if they were going to work on the vehicles in this building do they have power there. Mr. Williams Jr. stated not at this time but in the future when they were able to buy more of the surrounding property then they would have the power put in.

Darrin Brown stated that if this proposal for a junkyard goes forward then there needs to be a plan with what would be done with all fluids, batteries, tires and mercury switches from the vehicles. The plan is needed if for any reasons there were complaints to Tri-County Health then they would be able to see if the applicants were following the plans.

Mr. Hyde asked Mr. Brown if there is only going to be restoration on the site and no dismantling would this be necessary. Mr. Brown stated that if there is only restoring of the vehicles I don't have a problem with that.

Mr. Hyde stated that with the discussion that has been presented tonight and input from Mr. Williams Jr. that there could be a third option and that would be to recess this until a storage shed can be built within six months as stated by Mr. Williams Jr. If this were done, they would no longer be in violation of the nuisance ordinance and a decision could be made at the Commission meeting in July to see what kind of progress has been made.

Mr. Zitting spoke in opposition, stating that his comments are based on this being a junkyard and stated that he would like his comments on record. Mr. Zitting read for the minutes his comments in opposition of this being approved as a junkyard (refer to file for letter). Mr. Hyde asked Mr. Zitting if he opposed to giving the applicants time to build a structure to store these vehicles and Mr. Zitting had no objection to that.

Commissioner Sweat stated that the third option would be more viable. So I would think to do away with this proposal of a conditional use permit and go with Mr. Williams's Jr. indication of putting up a storage shed and placing the vehicles inside that are restorable and getting rid of the things that are not restorable and that would solve the problem and there would not have to be a conditional use permit issued. The remainder of the Planning Commission was in agreement with this suggestion to postpone until the July 11, 2007 meeting to give the applicants time to build a storage building. Commissioner Mair did wonder whether a denial at this time would be appropriate. Commissioner Sweat asked then at the July meeting do we proceed with a conditional use permit as a junkyard. Mr. Hyde stated that hearing would be reopened at that time and have a status report on their progress and go from there. Commissioner Sweat stated that in the meantime if the applicant puts up a shed and has taken care of thing he can withdraw his request and the Planning Commission wouldn't have to do anything.

Commissioner Brough motioned to recess this hearing until the July 11, 2007 Planning Commission Meeting.

Commissioner Rather seconded that motion and it passed unanimously.

At this time Chairman Peatross recused himself from the next hearing, due to a potential conflict of interest.

B. Request by Todd Moon to construct a café on a 21.09 acre parcel on the north side of the Pariette Road, just south of Highway 40, within the Southeast ¼ of the Northwest ¼ of Section 34, Township 3 South,

Range 2 West, about two miles southwest of Myton.

Mr. Hyde stated that the applicant is proposing a 112-seat restaurant on 21.09 acres just south of Highway 40 on Pariette Road. Of the 112 seats, 84 are inside and 28 are in a patio area (which is also considered for future expansion).

Mr. Hyde stated that the criteria for a conditional use permit are (1) **Public health, safety and general welfare.** The health department approved a wastewater disposal permit for the proposed business by letter dated December 11, 2006. The health department will conduct inspections of the business for compliance with food safety standards. Another aspect of public health associated with restaurants is the disposal of garbage, the applicants have been in contact with K&K Sanitation and there will be a dumpster located on the northeast side of the paved parking lot. Also public safety will be protected if there is safe ingress and egress to and from the site and adequate parking. There will be 34 paved parking spaces for autos and light trucks and a large gravel parking area behind the restaurant for larger trucks. (2) **The proposed use be in compliance with the County's General Plan.** The county does encourage new business activity in a way that is consistent with the surrounding property owners. (3) **This is whether the property size is adequate to accommodate the use.** In this case an existing canal in the area will need to be relocated to make room for the construction of the building, parking areas, landscaping and wastewater disposal system in a manner that will not be detrimental to the public or nearby property owners. The irrigation entities have been contacted in regards of relocating the canal and the applicants have received a letter dated December 7, 2006 with their approval. Mr. Hyde stated that the other criteria for a conditional use permit would be landscaping, design, fences, walls and buffers. As shown on the site plan sod and flowerbeds will be provided adjacent to the restaurant and patio and natural grasses will be planted over the wastewater drain field and in areas west of the building. A sprinkler system will be installed using Johnson Water District culinary service.

Mr. Hyde stated that in regards to parking, loading and unloading, the County does not have formulas for the required number of parking spaces for land uses. The gravel areas will need to have dust control. Fill will need to be compacted to provide a suitable base for heavy vehicle travel.

Mr. Hyde stated regarding the need for adequate streets, water supply, sewage disposal and fire protection, that Pariette Road is paved and in good condition. The water supply would be Johnson Water District but they only have a two-inch water line, which is adequate for culinary water but inadequate for fire protection/fire hydrants. The Fire Marshal has provided a letter dated December 13, 2006 indicating that the water supply is not adequate for a fire suppression system in the building. However, it indicates that fire extinguishers, adequate fire exits and other measures will need to be taken and building code requirements will need to be met before a certificate of occupancy can be issued.

Mr. Hyde stated in regards to signs a letter from the applicant dated 12-26-06, proposes

to erect on-premise and off-premise advertising. The on-premise sign plans will need to be submitted with the building permit drawings so the Building Department can determine if a sign permit is required. Off-premise signs exceeding 32 square feet in size are considered billboards and require a conditional use permit. Off premise signs visible from Highway 40 require a permit from UDOT.

Mr. Hyde stated that nuisance factors such as noise, vibrations, smoke and dust also needs to be taken into consideration. The proposed use could generate an increase in noise and vibration in the area due to increased traffic. There could be additional smoke and pleasant odors from cooking activities. Also the applicant should be required to control dust with dust inhibitors as necessary.

Mr. Hyde stated that in regards to operating hours the applicant indicates that normal hours of operation of the café will be 5:00 a.m. to 3:00 p.m. on Mondays through Thursdays and 5:00 a.m. to 11:00 p.m. on Fridays and Saturdays. The café would be closed on Sundays. Also special events could be booked outside of these hours. The convenience store would be open from 5:00 a.m. to 6:00 p.m. Monday through Saturday.

Commissioner Sweat noted in a letter dated 12-26-06 from George Bennett the truck parking is set for two 12ft wide by three hundred fifteen foot long lanes. On the plat it shows that there could be four trucks there and I am wondering if there would be a gridlock by putting those trucks end to end. Vice Chairman Brough requested that the applicant address this issue.

Vice Chairman Brough called for those wishing to testify in favor.

Raquel Hollingworth stated that they would like to provide an option for the growing population of Duchesne County in dining and especially the growing oil field population. Ms. Hollingworth stated that they have been approached by several operations regarding a place where they would be able to conduct safety meetings and such and have a place to sit down which would be closer to the field or their offices without having to travel to either Roosevelt or Duchesne.

Ms. Hollingworth stated that as to the tractor/trailer parking there is plenty of room to expand as need be and they are also open to any suggestion as how to make this better. There is plenty of room between both sets of parking and so if need be one truck could back up and go through the middle or even around because there is enough space to do so. Commissioner Mair asked would the trucks be coming in from both directions. Mr. Hollingworth stated that if they were coming in from the southwest they would pull into the front section and if they were coming in from the opposite direction they would pull into the back section. Mr. Hyde asked Ms. Hollingworth if at some time there needs to be an expansion of the truck parking what is the feasibility. Ms. Hollingworth stated that it is very feasible because there is plenty of room between where the existing parking lot for trucks would be and where the canal is. Mr. Hyde stated that once the canal is moved that in the future if need be the parking for the big

trucks could even be diagonally like you see in most rest areas.

Commissioner Rather asked how safe is the intersection where vehicles would be entering and exiting the parking lot. Ms. Hollingworth stated that there seems to be plenty of visibility whichever way they are going. Commissioner Brough stated that driving in the area quite regularly he does not seem to think that there is a problem with visibility.

Darrin Brown stated that to him a ¾-inch water connection seems awfully small but it may work fine. Mr. Brown stated that on commercial drain fields he reviews them first before they go out and in this case I was unable to review this one and so I suggest that before you build this one not to until I can review it. He stated that they have a 70% failure rate on drain fields on most restaurants and this is not uncommon. Mr. Brown stated that there probably is a detailed plan which he hasn't seen but with the plan he has seen there isn't a grease trap and those kinds of things. Mr. Brown stated that the drain field looked awfully small for a restaurant enough though it looks big on the plans. Mr. Brown stated that even though there was a letter written for no fire suppression but that does not get them out of requirements for chemical fire suppression if there is going to be a grease fryer and other things like that. Mr. Brown stated that there needs to be a plan review for the restaurant done 30 days before any construction begins and I don't know if that has been done and that is for meeting the restaurant code not the building code.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Todd Moon, subject to the following conditions:

1. Applicant shall submit irrigation system and sign plans as part of the Building Permit application. If off-premise advertising signs exceeding 32 square feet in size are proposed, a conditional use permit will be required. A UDOT permit will be required for any off-premise signage visible from Highway 40.
2. Applicant shall apply a dust inhibitor to the gravel driveway and parking surfaces as necessary to control dust from vehicle movements.
3. Applicant shall receive the signatures of the Building Official and Fire Marshal on a Certificate of Occupancy to ensure all building and fire code requirements are met prior to opening for business.
4. All improvements shown on the approved site plan shall be completed prior to the issuance of a Certificate of Occupancy and opening for business unless a bond is posted to guarantee construction of such improvements by an agreed date.

Commissioner Fabrizio seconded that motion and it passed unanimously.

Minutes: Approval of the December 6, 2006 minutes

Commissioner Sweat motioned to approve the minutes of December 6, 2006 with corrections.

Commissioner Brough seconded that motion and it passed unanimously.

Adjournment:

Commissioner Brough motioned to adjourn the meeting at 6:20 P.M.
Commissioner Fabrizio seconded that motion and it passed unanimously.