

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
July 2, 2014 - 5:00 p.m.**

In Attendance were:

Kent Olsen, Planning Commission, Chairman
Ken Moon, Planning Commission
John Jorgensen, Planning Commission
Edward Roberts, Planning Commission
Brad Wells, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Shirley Gayler	Gayler-CUP
Pauline Curtin	Gayler-CUP
Randy LeBlanc	AWND-CUP
Georgann Nicholls	Gayler-CUP
Craig Nicholls	Gayler-CUP
Colby Collett	AWND-CUP
Fred Oliver	AWND-CUP
Anthony Whiting	AWND-CUP
Errol Whiting	AWND-CUP
JR Bird	Bird-Rezone

Chairman Olsen opened the meeting at 5:00 pm and read the rules of order. He asked if any of the Planning Commission members had any ex-parte contacts or conflicts of interest associated with any item on the agenda. Commissioner Jorgensen stated he had a conversation with JR Bird about getting a Johnson Water hook-up on the property he is proposing to re-zone but does not feel that will effect his decision either way. There were no objections to Commissioner Jorgensen participating in that hearing. Commissioner Olsen will excuse himself from the AWND Properties hearing as he is the real estate agent involved in that transaction. There were no other conflicts, so the meeting proceeded.

PUBLIC HEARINGS:

- A. Continuation of public hearing on a request by Paul Gayler for a Conditional Use Permit to operate a scrap metal yard on property owned by Shirley Gayler and Claudia Clegg, located just north of 39214 W 6750 South, in the Vista Valley Estates area east of Fruitland.**

Mr. Hyde reminded the commission and the audience that at the June 4, 2014 meeting of the Duchesne County Planning Commission, a public hearing that was held regarding the request for a Conditional Use Permit to operate a scrap metal yard on property owned by Shirley Gayler and Claudia Clegg, located just north of 39214 W 6750 South, in the Fruitland area. After testimony and discussion, the Planning Commission voted to recess the public hearing until 5:00 PM on July 2, 2014 and directed the planning staff to prepare findings of fact and conclusions of law that would support a denial of the request.

Mr. Hyde stated the applicant is proposing to operate a scrap metal yard at the subject location, which is zoned Agricultural (A-5). The office for this business is located in a home in the Roosevelt area. Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones. The permit is being sought in order to bring the current condition of the property into compliance with the County zoning, nuisance and solid waste ordinances.

Mr. Hyde stated the findings and conditions for denial include whether the applicants request 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. Based on the existing condition of the property, the proposed use is likely to continue being detrimental to public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity. The applicants have not demonstrated a willingness to promptly remove scrap metal in the past rather they have left unsightly materials out in plain view of other property owners for several years. The landowners need to be protected from potential adverse impacts from adjoining uses and that the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the subject property is .37 acres in size, which is not of sufficient size to locate the proposed scrap metal yard. Locating such a facility close to other residential uses raises the possibility of noise and visual degradation concerns.

Mr. Hyde indicated that the denial findings conclude that the request does not comply with the Conditional Use Permit requirements of the Duchesne County Zoning Code. The proposed use at this location will be unduly detrimental or injurious to property or improvements in the vicinity, and will be detrimental to the public health, safety or general welfare. The proposed use will not be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title. The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests.

Mr. Hyde stated in light of these plan policies, the staff recommendation is that the Conditional Use request should be denied to protect rural residential interests in the area, which have suffered long enough due to the visual blight on the subject property. The property on which the use, building or other structure is proposed is not of

adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties. The subject property is .37 acres in size, which is not of sufficient size to locate the proposed scrap metal yard. Locating such a facility close to other residential uses raises the possibility of noise and visual degradation concerns.

Mr. Hyde asked if there were any questions of the staff report. There was none so the applicant was invited to speak.

Paul Gayler explained this is a hobby and wants the business separated from the neighbors and his mother's home. He does not have any problem getting a survey prepared and installing a privacy fence. He is working a full time job in Roosevelt and this will be a part time venture.

There was some discussion about the scrap that is stacked on the trailers and a time frame for cleanup.

Brandy Gayler, the applicant's daughter stated if there is a fence, the neighbors won't be able to see or hear anything and since no one can enter the yard, there should not be any problems.

Commissioner Olsen asked if there was anyone else in favor of the request to speak. There was not, so anyone in opposition was invited to speak.

Georgann Nicholls, a neighbor, stated her concerns at the June 4th meeting. She is still concerned they will not get a survey or a fence and does not feel they will even get rid of anything. She submitted some photos of the location. The scrap on the trailers has been loaded for 2-3 years. It is an eye sore, a safety hazard and needs to be cleaned up and the permit denied.

Craig Nicholls, a neighboring resident and property owner, reminded the commission of the conditions of approval including access and the access for fire trucks, the fence requirement and the survey. Mr. Nicholls feels this is no place for a scrap yard. The scrap needs to be hauled off and the location should be cleaned up.

With no one else to speak in opposition Mr. Gayler was invited to speak in rebuttal.

Mr. Gayler stated he had hauled a load off two years ago then his truck broke down and he couldn't afford to fix it. Some of the junk came from the neighbors. He has a job now and is willing to install a fence and have a survey done. Mr. Gayler is ready to move on with the project when he can get this permit approved.

Mrs. Nicholls, in rebuttal, stated none of the scrap is hers. With no one else to speak either in favor or opposed to the applicant's request the public hearing was closed.

Commissioner Roberts stated due to the lack of space and the fact they have not made any attempt to cleanup or remove anything for a long period of time, he motioned to adopt the findings and conclusions to deny the applicant's request. Commissioner Jorgensen seconded the motion it passed with a vote of 4-1 with Commissioner Wells voting against the denial.

Mr. Hyde reminded the parties that this decision could be appealed within 10 days.

B. Recommendation to the County Commissioners regarding a request by Bird Properties LLC to rezone approximately 15.68 acres of land from A-5 to Commercial, located at 2455 W Highway 40 in the Roosevelt area.

Mr. Hyde referred the commission to some site and aerial photos of the location in there packets and stated in late May, 2014, the applicants purchased approximately 25.16 acres of land at 2455 West Highway 40 in the Roosevelt area. Currently, the county zoning in this area provides for a commercial corridor approximately 600 feet wide on either side of Highway 40. The southerly 15.68 acres of the applicant's property is zoned A-5, Agricultural. The applicant would like to have the entire parcel zoned commercial.

Some criteria for approval and consideration for a proposed amendment to the zoning map may include the following:

1. The overall community benefit of the proposed amendment.

Mr. Hyde stated the overall community benefit of the proposed amendment would be the provision of additional commercial business locations, which are needed in the Roosevelt area to support the growing economy and energy industry.

2. Consistency with the goals and policies of the general plan.

The General Plan contains the following statements regarding private land use.

"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 will continually review and amend its existing ordinances as necessary to accurately and adequately reflect the land-use preferences of Duchesne County residents."

The rezoning criteria of Section 8-1-7 of the zoning ordinance are established to aid the Planning Commission and County Commissioners in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.

3. Compatibility with the neighborhood;

Mr. Hyde stated the Highway 40 corridor already contains a number of existing businesses in this vicinity; including Big B Equipment, Paragon Oilfield Services, Besst Fire Safety Supplies, Hirschi's Auto Body Shop, Mike Boren Oilfield Services, All Star Electric, Basin Building Supply, a propane business, an irrigation supply store, storage units and other businesses that serve the energy industry. The applicant would like to

locate businesses compatible with the existing businesses on the subject property; however, it is difficult to make plans when a zoning boundary cuts diagonally through the property. One potential incompatibility is associated with the agricultural lands to the south and east. Commercial development can lead to the potential for windblown trash or trespassers if adequate fencing is not installed.

4. What changes have occurred in the neighborhood since the zoning ordinance and map or latest amendment was enacted.

Mr. Hyde indicated the commercial zoning strip was established along the Highway 40 corridor many years ago. The strip is about 600 feet wide on either side of the highway and the zoning was established without regard for property lines. Since that time, sites with highway frontage have gradually been developed. Few vacant locations with highway frontage are now available between this location and Roosevelt City.

5. Whether a change in the use for the affected properties will unduly affect the uses of adjoining properties.

Mr. Hyde stated the subject property currently is partially zoned Commercial (northerly 600 feet paralleling Highway 40) and Agricultural between the commercial strip and the south property line. There are agricultural uses to the south and east of the subject property on the Brighton Farms property. Development on the proposed commercial lands is not anticipated to unduly affect the use of these agricultural lands. However, the applicant should coordinate with Brighton Farms to install adequate fencing to help reduce the potential for trespass or blowing trash impacts to the agricultural lands.

6. Consider the interest of the applicant.

The subject property does not have an irrigation water source, so it is not feasible to use for agriculture. The applicant would like to use the property for businesses compatible with those existing along Highway 40, with the potential for storage units and an RV Park farther away from the highway.

Mr. Hyde's recommendation is the Planning Commission adopt the findings and conclusions and recommend the County Commissioners' approval of this rezone, requested by Bird Properties LLC, changing approximately 15.68 acres of land from Agricultural (A-5) to Commercial (C). As a condition of approval, the applicant shall coordinate with Brighton Farms to install adequate fencing to reduce the potential for trespass and blowing trash impacts on their abutting agricultural lands.

Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

JR Bird, applicant and owner of Paragon Oilfield Products, thanked Mr. Hyde for his efforts in preparing the staff report and stated they are currently renting in Ballard and want to expand their Forge manufacturing business in Duchesne County. He is working with the abutting property owners on some boundary line adjustments and hopes with the additional commercial property they can add an RV Park and storage units in the future. Mr. Bird has talked with Johnson Water, TriCounty Health and will get in contact with the Brighton's about the fence.

Mr. Bird asked if the commission had any questions.

Commissioner Olsen asked about the small strip of land running along Paragon's south property line. Mr. Bird replied he was not sure how that happened but that would be taken care of during the boundary line adjustment process and hopes his vision for the future will benefit all involved.

Commissioner Olsen asked if there was any one in the audience to speak either in favor or opposed to the request. There were none so the hearing was closed.

Commissioner Wells motioned that the Planning Commission adopt the findings and conclusions and recommend the County Commissioners' approval of this rezone, requested by Bird Properties LLC, changing approximately 15.68 acres of land from Agricultural (A-5) to Commercial (C). As a condition of approval, the applicant shall coordinate with Brighton Farms to install adequate fencing to reduce the potential for trespass and blowing trash impacts on their abutting agricultural lands. Commissioner Moon seconded the motion and it passed unanimously.

At this time Commissioner Olsen excused himself and Commissioner Moon conducted the next hearing.

C. Request for a Conditional Use permit by AWND Properties LLC to operate an electrical contractor's shop for Anderson Wood Construction at 11193 N 1620 West in the Neola area.

Mr. Hyde referred the commission to their packets including a letter from the applicant and some site photos of the location. He explained the applicant is a subsidiary of Anderson & Wood Construction Company, which is a contractor working in the area for Moon Lake Electric, installing power transmission and distribution lines. They plan to purchase the subject property as a home for the supervising foreman of their local operations, with the shop west of the existing home to be used for routine equipment maintenance. There would also be some outdoor storage of trucks and equipment near the shop. Photos of the types of equipment have been submitted by the applicant and include boom trucks, truck-mounted augers, small cranes and backhoes. Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones.

The conditional use permit criteria to be considered include the following:

- 1. 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 the proposed use has the potential to be detrimental to public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity if conditions are not imposed to mitigate potential impacts. Since public health impacts are not anticipated as wastewater disposal facilities are available at the existing home. Public safety could be a concern with increased traffic on 11000 North, which is not a county-maintained road and 1620 West, which is a narrow private easement. The general welfare could be impacted if the proposed use generates

nuisance noise or dust associated with equipment operations and movement in the area.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. In light of these plan policies, the Conditional Use request should be approved to support the creation of a new business site, knowing that conditions of approval will be imposed to protect rural residential and agricultural interests in the area.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde indicated the property is 19.88 acres in size, which is of sufficient size to locate the proposed business. The home and shop are already in place and no new buildings are proposed. There is adequate space near the shop for storage of vehicles and equipment.

Some additional conditions of approval include:

A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Mr. Hyde stated the nearest home, other than the home on the subject property, is located about 600 feet to the northeast. Due to the substantial setback from adjoining homes, it appears that fencing, walls or other buffers are not necessary. A fence would have to be very tall to screen the view of the types of trucks anticipated at the site. Most of the parcel is utilized for pasture and hay production. Requiring additional landscaping as part of this proposal does not appear necessary.

B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

Mr. Hyde stated there will be no need for the public to access this site to do business. The company maintains an office in the Moon Lake Electric building in Roosevelt in addition to its home office in Meridian, Idaho. Some company vehicles were observed being stored at the old Moon Lake facility on North State Street in Roosevelt. However, there will be company vehicles brought to this site and such parking areas will need to be provided with surfacing to ensure all-weather access to the parking area and to control dust. The current driveway and parking areas are not designed to

accommodate large truck traffic.

Ingress and egress for the property is via a private easement - dirt road (1620 West) to 11000 North, which is a county Class D dirt road that connects with the Uintah Canyon Highway. Class D roads are not maintained by the county, so the addition of more truck traffic to 11000 North and 1620 West causes maintenance and safety concerns. The road between the Uintah Canyon Highway and 1620 West should be upgraded to county class B standards before additional truck traffic is placed on it. 1620 West will also need to be upgraded before additional traffic is placed on it.

The proposed shop on the property was permitted by the county as an agricultural-residential garage-storage building. In order to convert it for use as a maintenance shop, it will need to have a concrete floor and be otherwise upgraded to meet building codes for that use.

C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection.

Mr. Hyde explained the property has access to the Uintah Canyon Highway via 11000 North, which is a Class D dirt road that is not maintained by the County. This road provides access to several homes and is in poor condition. Adding truck traffic associated with the proposed business is not advisable unless the road is upgraded.

Access to the site from 11000 North is via an easement-driveway that provides for one lane traffic on a dirt surface. This driveway is not wide enough for two-way traffic and is not designed for large truck traffic. It is especially narrow as it goes around an existing pond on the west side of the road. This road should be upgraded to a fire apparatus access road standard as set forth in the Wildland Urban Interface Code before any additional traffic is placed on it. Such roads are all-weather roads with a minimum width of 20 feet.

The property has an existing wastewater disposal system that was approved by the TriCounty Health Department when the existing home was constructed in 2006. The proposed business use will not trigger the need for a change in this system. The property receives water from a private well located northeast of the home and shop. The proposed business use will not affect the water supply to the home.

Mr. Hyde stated the location and repair of trucks and equipment at this site will increase the fire risk. There are no fire hydrants in the vicinity. The applicant should be required to meet with the Duchesne County Fire Chief to discuss alternate means of fire protection before starting business at this location.

D. Signs: Regulation of signs.

The applicant has indicated there will not be any signs.

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic

disturbances and radiation.

Mr. Hyde stated due to the substantial distance between the proposed shop and equipment parking area and existing homes, the potential effects of noise are mitigated. However, the applicant must comply with the county nuisance ordinance noise standards below:

G. Noise Disturbances:

1. *The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:*
 - a. *Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.*
 - d. *The use of any mechanical device, operated by compressed air, steam, gasoline or otherwise, unless the noise created is in connection with work being done by authorized agencies or an agricultural activity and/or is effectively muffled between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M.*

Based on the standards above, the applicant will need to ensure that no nuisance noise is generated earlier than 7:00 AM or later than 9:30 PM.

Mr. Hyde's recommendation is the Planning Commission approve the Conditional Use Permit requested by AWND Properties, LLC, subject to the following conditions:

1. Prior to conducting business activity at this site, the applicant shall:
 - a. Obtain a building permit and certificate of occupancy from the County Building Department to convert the existing agricultural-residential garage/storage building to a repair/maintenance shop. This includes fire protection measures as deemed appropriate by the County Fire & Emergency Management Director.
 - b. Construct the employee parking, truck and equipment storage areas and access driveway with an adequate surface of base rock and gravel to provide for all-weather access.
 - c. Improve 11000 North between the Uinta Canyon Highway and 1620 W to County B Road standards as approved by the County Public Works Director.
 - d. Improve 1620 West, between 11000 North and the driveway onto the subject property to the Fire Apparatus Road standards of the Wildland

- Urban Interface Code as approved by the County Fire & Emergency Management Director.
- e. Obtain a Duchesne County business license.

After explaining the conditions for approval Mr. Hyde stated he had prepared some findings to deny which conclude that the request does not comply with the Conditional Use Permit requirements of the Duchesne County Zoning Code, for the following reasons:

- a. The proposed use is likely to be detrimental to public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity due to the inadequacy of the road access and the proposed introduction of business activities into a predominately agricultural-residential area. Introduction of a business use into the area will generate noise, dust and visual quality degradation that surrounding owners should not have to bear. The types of vehicles proposed are not easily screened with a fence.
- b. The subject property has access via substandard roads, including 11000 North, which is a Class D dirt road that is not maintained by the County and 1620 West, which is a narrow private dirt lane that does not meet fire apparatus road standards. Adding business vehicle traffic to such roads raises safety and maintenance concerns.

Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Mr. Fred Oliver, Manager of Anderson Wood, thanked Mr. Hyde for preparing the staff report on their behalf and stated his concerns for the road improvement requirements and the cost to do that work. Their intent is to have the manager live at the residential home and have a mechanic do some minor repairs in the garage after it has been brought to current building code standards. There will not be a lot of traffic or any truck storage at this location and he anticipates during an average week maybe 2-3 pickups and 1-2 trucks for oil changes and repairs. Mr. Oliver stated there are a lot worse roads and a lot more traffic in the area than they will have.

There was some discussion about the road access, the upgrades needed and the cost to do those improvements.

Commissioner Moon asked if there were any other questions or comments. There were none. With no one in the audience to speak in favor of the request anyone in opposition was invited to speak.

Colby Collett, an adjoining neighbor, stated his concerns about public safety in a residential area, the road issues with the increased traffic and with no base on those roads and a pond nearby they tend to get muddy. Mr. Collett feels the cost outweighs the benefits and wants AWND to go elsewhere.

Randy LeBlanc, adjoining property owner, stated his concerns about the children in the neighborhood and their safety and the unimproved roads. It is essential that there be commercial and industrial zones in the county and businesses should use them. There is no room to even widen the roads even if they wanted to. Mr. LeBlanc is opposed to the approval of this permit and does not want Anderson Wood in the area.

Anthony Whiting, an adjoining property owner, first wanted to thank AWND for their efforts on installing the new poles and updating the service for Moon Lake Electric. He has the same concerns and issues as Mr. Collett and Mr. Le Blanc and would like to see their company in an industrial area also.

There was some discussion about the difference between Class B and D roads and the county standards that would be acceptable.

Errol Whiting, an adjoining property owner, stated he has lived here all his life and they have always had trouble with the roads in that area depending on the weather. Some years they are dry and other years they are so wet you sink on them. Mr. Whiting is not against the permit just concerned they will escalate from a conditional use permit to a commercial zone and then there will not be anything the neighbors can do about it.

Commissioner Moon asked if there were any other comments. There were none so the applicant was invited to speak in rebuttal.

Mr. Oliver feels his company would not be a burden the road. Everybody from the residents to local oil, and water truck companies use that road (11000 N) on a daily basis. The trucks should not be a problem. They are stored on the job site and would only be at this location for repairs.

Commissioner Moon asked if there were any other questions or comments. There were none so the public hearing was closed.

Commissioner Jorgensen motioned to adopt the findings and conclusions to deny the applicants request. There was not a second.

There was some discussion about their business license, the improvements that need to be made on 11000 N and the Wildlife Urban Interface Code Standards.

Commissioner Wells motioned to approve the Conditional Use Permit requested by AWND Properties, LLC, subject to the conditions in the staff report removing condition C. and change it to, require improvement of 1620 West, 11000 North and the driveway onto the subject property to the Fire Apparatus Road standards of the Wildland Urban Interface Code as approved by the County Fire & Emergency Management Director. Commissioner Roberts seconded the motion and it passed with a vote of 3-1 with Commissioner Jorgensen voting against the motion.

At this time Commissioner Olsen returned as chairman and finished conducting the meeting.

NEW BUSINESS:

None

Minutes: Approval of June 4, 2014 minutes:

Commissioner Moon moved to approve the minutes of June 4, 2014.
Commissioner Roberts seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

Mr. Hyde stated there no applications for the August meeting currently but there is still a couple of weeks to apply. He asked Commissioners Olsen and Wells about the training they attended on June 26th. They both agreed the training was interesting and informative and were glad they attended.

Adjournment:

Meeting adjourned at 6:50 p.m.