

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
June 4, 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  
Kathy Giles, Planning Commission  
Allen Lindsay, Planning Commission  
Brad Wells, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Georgann Nicholls	Gayler-CUP
Craig Nicholls	Gayler-CUP
Steven Nicholls	Gayler-CUP
Stephanie Nicholls	Gayler-CUP
Phillip Legg	Gayler-CUP
Arlene Legg	Gayler-CUP
Ben Henderson	Potter-CUP
Brett Anderson	Nielson-CUP
John Reyburn	Nielson-CUP
Pauline Curtin	Gayler-CUP
Shirley Gayler	Gayler-CUP
Chelsey Potter	Potter-CUP
Roni Potter	Potter-CUP
Gary Bennett	Nielson-CUP
Wayne McCandless	Nielson-CUP
Scott Hacking-DEQ	
Callie Allred	Nielson-CUP
Charlie Allred	Nielson-CUP
Carl Robinson	Nielson-CUP
Joanne Robinson	Nielson-CUP

Chairman Olsen opened the meeting at 5:00 pm, read the rules of order and asked if any of the Planning Commission had any ex-parte contacts or conflicts of interest associated with any item on the agenda. Commissioner Moon stated he will not participate in the Nielsen hearing as he owns and has land interest in gravel pits and crushers. There were no other conflicts, so the hearing proceeded.

## **PUBLIC HEARINGS:**

Since the applicant had not arrived for the first scheduled hearing, Chairman Olsen opened the second scheduled hearing

**Request by Nielson Construction for a Conditional Use Permit to locate a gravel pit and rock crusher on an 81.31-acre parcel owned by Kerry D. Mathews. The property is located on the north side of Cobble Hollow Drive, on the hill southeast of the Vonsville Subdivision, in the Roosevelt area.**

Mr. Hyde referred the commission to their packets and some site photos of the location and stated that Nielson Construction is applying for this permit to authorize a gravel pit, with rock crushing, on an 81.31 acre parcel of land owned by Kerry Mathews. This is the same property that Burdick Materials received a conditional use permit for on April 2, 2014. That decision was appealed to the County Commissioners and the request was subsequently withdrawn by the applicant. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used for a variety of construction activities, including oil well pads and roads.

The conditional use 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 explained the extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can occur if the extraction area is not reclaimed properly. The county has bonding and "material pit finishing" standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed. Other impacts can also occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process.

Mr. Hyde stated according to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. The County Public Works Director has commented that Cobble Hollow Drive was overlaid about five years ago; but with only 3 ½ inches of pavement. This is not sufficient for it to serve as a truck route. Also, the intersection of Cobble Hollow Drive and Highway 40 near 4000 South is not well-designed for heavy truck traffic entering or exiting the highway.

Mr. Hyde stated when a gravel pit was approved on Farrer property to the south in March 2012, a condition was imposed to require that operator to obey any weight restrictions placed on the county road and participate in any necessary road repairs as negotiated with the Public Works Director. A better option would be to not allow truck traffic on Cobble Hollow Drive and require that gravel trucks access Highway 40 from a route northward of the gravel pit. The applicant is in the process of securing easements and UDOT approval for such ingress and egress.

The applicant will need to comply with the county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Such time limits should be applied in this case.

**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 contains the following statements with respect to mining activities: *“Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region’s economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.”*

In this case, the applicants intend to use the rock products to support the construction and energy industries, which is beneficial to the economy of the county and in compliance with the general plan.

**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.**

The applicant had indicated the proposed mining would take place on an 81.31-acre parcel, which is certainly large enough to accommodate the proposed use. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished pit level. The applicants are also required to set the mining area back 660 from existing homes and the crusher is to be set back at least 1,320 feet from existing homes. These setbacks do not apply to homes on the applicant’s property. The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Specific conditions for approval of gravel pits include:

- A. Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in

effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department for approval prior to operations beginning. The applicant or authorized agent must follow this plan to control dust at active pit areas and driving surfaces. With the extraction of rock, haul roads between the quarry and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. The dust control plan must demonstrate that dust at the pit and along the haul road can be controlled.

**B. Bond Required:** A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

The bonding requirement has not been waived by the property owner. If the property owner feels that he has sufficient private reclamation requirements in place with the operator, the owner can waive the bonding requirement at any time prior to the commencement of excavation. The applicants understand that reclamation must occur in accordance with the county standards regardless of the bonding.

**C. Reconditioning:** Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning.

Mr. Hyde stated the “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents shall be subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

**D. Distance Requirement for Gravel Pits and Rock Crushing Operations:** Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of

a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

Mr. Hyde indicated the distance requirements of this section will be met. The proposed gravel pit boundaries must be set back at least 50 feet from the property line to meet the minimum standard of the ordinance. The gravel pit boundary will be set back 660 feet from the nearest homes as shown on the aerial photo attached. The rock crusher location will meet the ¼ mile setback requirement (from a dwelling or city limit line) as demonstrated by the aerial photo attached.

Mr. Hyde recommended approval of the Conditional Use Permit requested by Nielson Construction and Kerry Mathews, for extraction of earth products, subject to the following conditions:

1. The Owner and his authorized agent(s) shall control dust and noise so neither becomes a nuisance.
  - a. A dust control plan approved by the TriCounty Health Department shall be obtained prior to starting excavation and implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.
  - b. Owner and his authorized agents shall comply with the following hours of crusher operation: (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays).
2. Unless waived in writing by the property owner, the operators shall provide the County with bonding in the amount of \$5,000.00 for the first acre disturbed and \$3,000.00 for each additional acre disturbed, prior to the commencement of excavation.
3. The Owner or his authorized agents shall reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage, berming and/or fencing.
4. A DEQ Air Quality permit shall be obtained for the crusher to operate at this location and a copy provided to the County prior to the start of crushing operations.
5. Before starting excavation at the site, the Owner or his authorized agents shall obtain an industrial stormwater permit, if required, from the Utah Department of Environmental Quality.

6. The Owner and his authorized agents agree that ingress and egress from this gravel pit shall be only via an easement northward of the property to Highway 40. No gravel truck traffic shall be allowed on Cobble Hollow Drive.
7. The Owner and his authorized agents agree to maintain a 50-foot wide buffer between the excavation areas and the property lines, a 660-foot buffer between excavation areas and existing homes (except for the home of the Owner) and a 1,320-foot buffer between the crusher location and existing homes (except for the home of the Owner).

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Jorgensen asked Mr. Hyde if the asphalt plant needed a separate permit and if so could there be an additional condition to control the smell when they operating the plant? Mr. Hyde stated the plant is included as an accessory use of the gravel pit and will need to comply with DEQ air quality regulations.

Commissioner Olsen asked if they would be operating on Saturdays. Mr. Hyde stated the applicant would need to answer that question.

Commissioner Olsen asked if there were any other questions or comments. There were none so the applicant was invited to speak.

Wayne McCandless, a representative from Nielsen Construction, thanked Mr. Hyde for his efforts and stated they want this location to have a minimal impact on the residents and are going to tie into the existing roads that adjoin the Newfield locations in the area. The crusher has a dust control plan and they are working on the air quality permit. They are not sure what the plans for the asphalt plant or the working hours are at this time. It will depend on the bids they are awarded. Mr. McCandless stated they will abide by the conditions of approval and want to be good neighbors to the residents.

Commissioner Jorgensen stated the dust and traffic problems are a problem with gravel pit and crusher sites. Most companies have good intentions but then get lax and the complaints begin. Mr. McCandless stated they will have a water truck on site at all times.

Commissioner Lindsay asked if they have any problems with reclaiming the site after they have moved. Mr. McCandless stated they don't and the bonding will make sure it is graded out and re-seeded.

Mr. Hyde asked about their water source. Mr. McCandless stated they were still working on that but indicated they will have enough to keep the roads and their product wet at all times. Mr. Hyde suggested they have a water source and operator on site 24-7 and have names and phone numbers available if problems arise.

Commissioner Olsen asked about working on the weekends. Mr. McCandless stated

they usually only work 4-5 ten hour days during the week. The asphalt plant will be different since they lay asphalt in the evening when the traffic is minimal but that should only be for a week or so.

Commissioner Olsen asked if there were any other questions. There were none and with no one else to speak in favor, anyone in opposition was invited to speak.

Brett Anderson, an area resident stated his concerns about the traffic and the dust. He asked Mr. Hyde how long the permit is good for and who to call when there are complaints about the trucks and dust issues. Mr. Hyde replied the permits are good as long as they follow the conditions for approval. Mr. Hyde stated either the planning office or Nielsen Construction can be notified of any complaints. Mr. Anderson stated he is not opposed to the gravel pit but has concerns about the impacts it will have on the area.

Carl Robinson, an area resident and business owner, stated his concerns about the increased traffic on roads that weren't built for this kind of traffic, the winds and if they will be able to control the dust. The smell of an asphalt plant will be offensive to the residents and the property values will surely decrease. Mr. Robinson feels that gravel permits and crushers should be in an industrial zone not in an agricultural-residential area.

There was some discussion about dust and the prevailing winds and the impacts they will have on the area.

With no other questions or comments, the applicant was invited to speak in rebuttal.

Mr. McCandless acknowledged the concerns about the traffic and dust stating they will do what needs to be done to control any problems. As far as the decreased property values, he feels that will be minimal since this pit will be used for local roads only and oil and gas locations. Depending on the amount of successful bids Nielsen gets, this location will probably not be a long term location.

Mr. Hyde read a letter from Deanne Brighton stating her concerns and opposition to the approval of this permit. Mr. McCandless stated this is not a permanent site and they are aware of the issues and intend to minimize them.

Mr. Robinson stated he is not opposed but concerned about the dust, odor, traffic and chemicals they will be breathing. Commissioner Lindsay asked how far they live from this location. Mr. Robinson replied I mile to the southwest as the crow flies.

Charlie Allred, Cobble Hollow Drive resident, stated he is not opposed but concerned about the traffic on an already congested road and the dust issues.

There was some discussion about the dust, asphalt plant, the traffic and any improvements that will be made to their access road and Highway 40.

Commissioner Olsen asked if there were any other questions. There were none so the hearing was closed.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Nielson Construction and Kerry Mathews, for extraction of earth products, subject to the conditions 1-7 stated in the staff report with an additional condition stating:

8. If the Owner or his authorized agents decide to move an asphalt plant on to the property, it is allowed as an accessory use to the gravel pit; however, such a plant shall not operate at this location until an air quality permit or approval order is obtained from the Utah Department of Environmental Quality, Air Quality Division

Commissioner Giles seconded the motion and it passed unanimously with Commissioner Moon abstaining. Commissioner Lindsay noted to the applicant any complaints as to dust, odors and traffic issues you will return to the planning commission.

**Request by Paul Gayler for a Conditional Use Permit to operate a scrap metal yard on property owned by Shirley Gayler and Claudia Clegg, described as Lot G-88, Plat #10, Vista Valley Estates, located just north of 39214 W 6750 South, in the Fruitland area.**

Mr. Hyde referred the commission to their packets to some site and aerial photos and 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.

The Conditional Use criteria are as follows:

- 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 protect land, air, water and visual quality.

The Utah Department of Environmental Quality has a Solid and Hazardous Waste Division that regulates junk yards and scrap metal operations. The Division needs to be consulted by the applicant to determine if that agency will require the submittal of a "Plan of Operation" for the facility. Approval of the DEQ Solid and Hazardous Waste Division or an exemption from that agency must be received before a business license can be issued for the facility and before the use is established on the subject property.



The Utah Department of Environmental Quality has a Water Quality Division that regulates discharges of storm water from junk yards and scrap metal operations. The Division needs to be consulted by the applicant to determine if that agency will require the submittal of a “Storm Water Pollution Prevention Plan (SWPPP)” for the facility. Approval of the DEQ Water Quality Division or an exemption from that agency must be received before a business license can be issued for the facility and before the use is established on the subject property.

The Utah Department of Environmental Quality has an Air Quality Division that regulates discharges of pollutants into the air, such as may occur with cutting of metal with a torch. The Division needs to be consulted by the applicant to determine if that agency will require a permit for the facility. Approval of the DEQ Air Quality Division or an exemption from that agency must be received before a business license can be issued for the facility and before the use is established on the subject property.

Visual quality can be addressed through a requirement to erect a sight-obscuring fence around the subject property to screen the scrap metal from view by surrounding property owners. Such a fence should be at least six feet in height and scrap metal should not be allowed to be stacked in the yard higher than the fence height.

**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 stated the subject property is .37 acres in size, which is of sufficient size to locate the proposed scrap metal yard. However, locating such a facility close to residential uses raises the possibility of noise and visual degradation concerns. Thus, conditions should be imposed to require noise control and fencing to obstruct view of the yard.

The additional conditional use criteria are:

**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 noted in order to preserve the appearance of the area, the permit, if granted, should include a requirement to erect a sight-obscuring fence around the subject property to screen the scrap metal from view by surrounding property owners. Such a fence should be at least six feet in height and scrap metal should not be allowed to be stacked in the yard higher than the fence height. Before installing the fence, the boundaries of the property need to be determined by a surveyor.

**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 the applicant collects scrap materials at other locations and stores them at this location until there is enough to haul a full load to market in Salt Lake City. The public will not be doing business or bringing materials to the site. Thus, there is no need for an improved parking lot. However, the applicant will need to ensure that the roadway to the site from 39300 West or 6750 South is sufficient for all-weather travel to provide for emergency vehicle access to the yard as approved by the Fire Department.

**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.**

The subject property has legal access to Highway 40 via 39300 West (Hashknife Road), 6750 South (Stirrup Street) and Roundup Road as platted in the Vista Valley Subdivision. No additional right of way is required. Water supply and sewage disposal is provided by the applicant's mother's home to the south and a portable toilet. There is no water system in the area, so fire protection would need to be via an alternate method approved by the Fire Chief.

**D. Signs: Regulation of signs.**

The applicant has indicated the public will not be bringing scrap materials to this location, no signage is necessary.

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

The applicant has indicated they will operate within the hours allowed by the nuisance ordinance. Due to the proximity of the scrap yard to dwelling units, reasonable conditions should be imposed to prevent noise impacts.

**F. 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.*

Mr. Hyde stated 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. Fencing the yard with a sight-obscuring fence should help reduce noise. Dust is not anticipated to be an issue since the yard will be fenced (creating a windbreak) and there will be a low volume of traffic entering and leaving the facility.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Paul Gayler, P.A.G. Scrap Metal, subject to the following conditions:

1. Prior to opening for business, the applicant shall:
  - a. Erect a sight-obscuring fence around the complete perimeter of the scrap yard to a height of at least six (6) feet. The applicant shall not stack scrap metal higher than the height of the fence. Before installing the fence, the boundaries of the property need to be determined by a surveyor.
  - b. Provide for fire protection for the facility and emergency vehicle access as approved by the Duchesne County Fire Department.
  - c. Obtain an approval or exemption from the Utah DEQ Solid & Hazardous Waste Division.
  - d. Obtain an approval or exemption from the Utah DEQ Water Quality Division.
  - e. Obtain an approval or exemption from the Utah DEQ Air Quality Division.
  - f. Obtain a Duchesne County business license.
2. The applicant shall restrict operating hours to those permitted by the Noise Disturbance section of the Duchesne County Nuisance Ordinance (7 AM to 9:30 PM). With no weekend activity.

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Jorgensen asked if that area had been rezoned. Mr. Hyde replied when this subdivision was created in about the early 70's there was apparently no acreage limit. These small lots would not be possible with today's standards.

With no other questions or comments the applicant was invited to speak.

Shirley Gayler, property owner and co-applicant, stated she understands the conditions for approval and told the commission they have gathered scrap metal for ten years or more by cleaning up yards in the area and collecting the scrap. They are hoping to continue this business for her son and his future.

Commissioner Giles asked Mrs. Gayler if they just haul the scrap in and don't ever recycle or sell it. Mrs. Gayler stated we have just collected over the years.

Commissioner Olsen asked if there was anyone else in the audience to speak in favor of the applicant's request. There were none, so anyone in opposition was invited to speak.

Georgeann Nicholls, an adjoining property owner, stated she is completely opposed to this application. They have collected this junk for over 10 years and never moved or tried to sell any of it. This location is very visible to the residents that live in the area but because of the Gaylers it is hard to be proud of our homes. Mrs. Nicholls is concerned for the young kids that play in the area with all the rusty metal and chemicals that have leaked over the years. She stated enough is enough and it needs to be cleaned up and not made into a business. She wonders if there is some kind of deadline to make sure something is done.

Ben Henderson, a concerned citizen, stated this is a residential area and should not be a dumping zone for junk or scrap items. Scrap business should be in an industrial area or at a landfill.

Steve Nicholls, an adjoining property owner, stated there are old vehicles with antifreeze that has leaked they are not running, rusty parts everywhere, refrigerators with leaking freon and metal laying on the ground. He is also concerned about the possibility of fires starting and the lack of water to put it out. This is not a safe place for kids or adults to be and no place for a scrap yard and feels it just needs to be cleaned up.

Stephanie Nicholls, an adjoining property owner, stated she appreciates Mr. Hyde's efforts but this area is no place for a scrap yard. They have been collecting junk for a long time without a business license. Its time to get rid of this stuff and give the Gaylers a time limit to remove it.

Phillip Legg, an adjoining property owner, stated he ran a scrap yard for 20 years. There are mice, snakes, rats and a lot of liquid chemicals on the ground. It is not the place for a scrap yard and is opposed to the applicants request and hopes the commission just makes him clean it up.

Arlene Legg, a property owner stated she is embarrassed to say she lives there. This is a residential area with old people, homes, grandkids, gardens and weekend recreational sites. No one should have to either look or live by a junk yard. She is opposed to the applicants request and hopes the commission denies it.

Scott Hacking, Utah DEQ, explained what permits would be needed for Mr. Gayler to continue and feels the items that are hazardous waste should be moved to a different area and the stuff that is solid waste should go to a landfill.

Commissioner Olsen asked if cleanup could be enforced. Mr. Hacking stated it is complaint based and would requires an investigation.

There was some discussion about permits, a time limit for cleanup, a review process and what would happen if the applicants request is denied.

Mrs. Gayler, in rebuttal, stated she and her scrap yard have been there for a long time and now the neighbors have moved in and expect her to get rid of the scrap because they don't like to look at it.

Commissioner Giles explained to Mrs. Gayler the neighbors should not have to look at her scrap yard/junk and wonders how much it would cost to have it removed. Mrs. Gayler replied she was not going to get rid of it she would use it for decoration and to plant flowers.

Mr. Hyde read letters received from Rod Jacobson and Rena Legg, both in opposition to the applicant's request.

There was some discussion with the Planning Commission and Mr. Hyde about the definition of a scrap yard and whether it's junk or scrap, the health hazards associated with the contents and storage or if they are just collecting and never disposing of any of the items. Mr. Hyde gave some direction on what the commission's options were if they chose to deny the applicant's request.

Commissioner Roberts motioned to recess the hearing until July 2, 2014 and directed Mr. Hyde to prepare findings to support denial of the request. Commissioner Giles seconded the motion and it passed unanimously.

Mr. Hyde stated the Public Hearing would re-open July 2, 2014 at 5:00 pm.

**Request by Jeffrey & Roni Potter for a Conditional Use Permit to operate a scrap metal yard for up to one year on property owned by Best Western Land, LLC described as Lot 2, Sundance West Subdivision, Unit E, located at 808 North 20250 West (CR #297), between Duchesne and Talmage.**

Mr. Hyde referred the commission to their packets and some site photos and stated the applicants are proposing to operate a scrap metal yard at the subject location, which is zoned Agricultural (A-5). Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones. The property owner, Best Western Land LLC, has authorized the permit to be applied for on the basis that it will be limited to one year in duration. 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 highlighted sections of the staff report and stated the terms and conditions are the same as the previous hearing for the Gayler request.

Mr. Hyde recommended the Planning Commission approve the Conditional Use Permit requested by Jeffrey & Roni Potter and Best Western Land LLC, subject to the following conditions:

1. To legalize this land use, the applicant shall:

- a. Provide for fire protection for the facility and emergency vehicle access as approved by the Duchesne County Fire Department.
  - b. Obtain an approval or exemption from the Utah DEQ Solid & Hazardous Waste Division.
  - c. Obtain an approval or exemption from the Utah DEQ Water Quality Division.
  - d. Obtain an approval or exemption from the Utah DEQ Air Quality Division.
2. The applicant shall restrict operating hours to those permitted by the Noise Disturbance section of the Duchesne County Nuisance Ordinance (7 AM to 9:30 PM).
  3. The applicant shall maintain existing pinion-juniper trees in place around the scrap metal storage area to serve as a noise and visual buffer. No fencing is required if existing trees are left in place.
  4. This permit is effective for one year from the date the Planning Commission decision is mailed. At the conclusion of this one year period, as required by the property owner, all scrap metal, including vehicles missing parts, shall be removed from the property.

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Olsen asked about the location of this property. Mr. Hyde replied it is southeast of Pinn Willeys.

Commissioner Jorgensen asked why the applicants have applied for this permit. Mr. Hyde explained there was some involvement with DCFS and they notified the county of the conditions.

Commissioner Olsen asked if there were any other questions or comments. There were none so the applicant was invited to speak.

Roni Potter, the applicant explained the time line and the series of events and how this situation got out of control from a sick husband to the prices of scrap being at a minimum with no one to haul it away. Mrs. Potter stated they are not going to make a business out of this they just need some time to finish the cleanup and get it hauled away. The applicants are ok with the 1 year time limit and have done a lot of clean up so far and will continue with that.

Commissioner Olsen asked if there were any questions. There were none and with no one in the audience to speak in favor of the applicant's request, anyone in opposition was invited to speak.

Ben Henderson, an adjoining property owner stated he was concerned until Mrs. Potter stated this was a cleanup effort and not a business venture. He feels a recreational/residential area is not location where a scrap yard should be located.

There was some discussion about the inventory they currently have and how to control any additional inventory they might acquire. Mrs. Potter stated there will not be any additional inventory.

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

Commissioner Moon motioned to approve the Conditional Use Permit requested by Jeffrey & Roni Potter and Best Western Land LLC, subject to the conditions stated in the staff report. Commissioner Wells seconded the motion and it passed unanimously.

### **NEW BUSINESS**

None

### **Minutes: Approval of May 7, 2014 minutes**

Commissioner Moon moved to approve the minutes of May 7, 2014. Commissioner Jorgensen seconded the motion and it passed unanimously.

### **Commission Comments and Staff Information Items**

Mr. Hyde asked the commission to look over the flyer and consider attending the land use training on Vernal on the 26<sup>th</sup> of June. Commissioners Moon, Olsen, Lindsay, Wells and Giles stated they would plan to attend.

### **Adjournment**

Meeting adjourned at 8:00 p.m.