

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
January 7, 2015 - 5:00 p.m.**

In Attendance were:

Ken Moon, Planning Commission, Chairman
Kathy Giles, Planning Commission
John Jorgensen, Planning Commission
Edward Roberts, Planning Commission
Allen Lindsay, Planning Commission
Brad Wells, Planning Commission
Bobby Drake, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Debra Lindsay	
Larry Rasmussen	Rasmussen CUP
John Wills	Rasmussen CUP
Tami Merkley	Welding CUP
Nick Wagner	Welding CUP
Holi Wagner	Welding CUP
Vern Merkley	Welding CUP

Commissioner Moon opened the meeting at 5:00 pm and read the rules of order. New Planning Commission member, Bobby Drake representing the Neola area, was welcomed. Commissioner Moon asked if any of the Planning Commission had any ex-parte contacts or conflicts of interest associated with either item on the agenda. Commissioner Drake stated he made site visits but did not contact anyone. There were no other announcements, so the meeting proceeded.

Commissioner Moon opened elections for a new Chair and Vice Chair for 2015. Commissioner Giles nominated Commissioner Moon for Chairman for 2015. Commissioner Roberts seconded the motion and it passed unanimously. Commissioner Lindsay nominated Commissioner Giles for vice-chair for 2015. Commissioner Wells seconded the motion and it passed unanimously.

PUBLIC HEARINGS:

A. Consider revocation of a Conditional Use Permit granted on November 7, 2012 to Larry Rasmussen for failure to comply with the conditions of approval.

Mr. Hyde referred the commission to their packets and the minutes of the November 7,

2012 meeting of the Duchesne County Planning Commission, when a public hearing was held to consider a request by Larry Rasmussen to locate a truck parking area and future truck shop at 1064 W 1000 North in the Roosevelt area.

At the conclusion of the public hearing, Mr. Rasmussen stated that he agreed with the recommended conditions of approval, as follows:

1. Prior to beginning truck parking at this location, the applicant shall provide an all-weather parking and driving surface on the property to prevent mud from being tracked out onto Highway 121.
2. **By July 1, 2013, the applicant shall fence the perimeter of the property with a fence at least six feet in height.**
3. Within six months of the potential acquisition of the Elder property to the west, the applicant shall widen 1000 North to a paved width of at least 24 feet.
4. Prior to constructing a truck shop at this location, the applicant shall:
 - a. Obtain approval of a site landscaping plan from the Community Development Director;
 - b. Obtain a wastewater permit from the TriCounty Health Department (floor drains are not allowed in shops served by a septic system);
 - c. Receive approval of fire protection plans from the Building Official and Fire Chief (installation of a fire hydrant may be required);
 - d. Obtain a building permit.
5. Should noise complaints be received, the applicant agrees to limit noise from truck motors to the hours set forth in the Nuisance Ordinance (7:00 AM to 9:30 PM).
6. Applicant recognizes that off-premise advertising is not allowed in the A-2.5 zone and will consult with the County before installing any signs on the premises. On-premise signs should be limited to 32 square feet in size to maintain residential character.

Mr. Hyde stated failure to comply with Condition #2 is the reason for considering revocation or modification of this permit. The minutes show that the Planning Commission adopted the following findings associated with fencing improvements:

The initial phase of the project would provide a truck parking area with electrical service. The site plan shows no landscaping or fencing. Since there is a residence on the northwest side of the subject property, it would be reasonable for safety to require fencing of this parcel's perimeter to deter children from accessing an area where heavy trucks will be operating. When the truck shop is proposed in the future, the applicant should be required to provide the county with a site landscaping plan that shows at least xeriscape landscaping in areas not occupied by buildings, driveways and parking areas.

The July 1, 2013 deadline for fence construction passed with no fencing in place. On December 9, 2013, staff reminded Mr. Rasmussen of the fencing requirement. Mr. Rasmussen replied that he was trying to purchase the abutting Elder property to the west-northwest and would prefer not to install the fencing until he gets an answer on

this purchase. Based on this request and the approach of winter, staff granted a verbal extension of time to complete the fencing by April 30, 2014.

Photos of the site taken on June 5, 2014 reveal that the fencing had still not been installed. Staff contacted Mr. Rasmussen again (see letter dated June 9, 2014) and gave a final deadline of July 21, 2014 to complete the fencing. Mr. Rasmussen replied that he would inquire about the Elder property one more time. If they would not sell, he planned to ask the Planning Commission for permission to install a 4-foot fence rather than a 6-foot fence.

Mr. Hyde's inspection of the site on December 4, 2014 revealed that no fencing has been constructed. A public hearing was thus scheduled for January 7, 2015 to discuss potential revocation or modification of the permit conditions, with the Planning Commission.

Staff has indicated based on the staff report some options for the planning commission would include the following:

1. Revocation of the permit for failure to comply with the condition of approval requiring perimeter fencing and establishment of a deadline for all trucks and equipment to be removed from the site.
2. Establishment of a final deadline for fence installation, such as May 1, 2015, or the permit is considered null and void.
3. Modification of the fencing condition to allow a 4-foot fence rather than a 6-foot fence, with a date established for the fencing to be completed.

Mr. Hyde stated our office has received letters from Mr. Elder and Marie Anderton in favor of Mr. Rasmussen keeping his permit and that the fencing has not been a problem.

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

There was some discussion with the commission about the fencing requirements and the additional acreage Mr. Rasmussen would like to purchase from Mr. Elder

With no other questions, Commissioner Moon invited Mr. Rasmussen to speak.

Larry Rasmussen, applicant and property owner, stated he does not have a problem putting a 6 foot fence around the property; he was just trying to finalize the deal to purchase the additional property, but the seller is unable to sell for a few more months.

Commissioner Jorgensen asked Mr. Rasmussen if he would consider fencing 90% of the land and then finish when Mr. Elder is able to sell the land. Mr. Rasmussen stated he would do that.

Commissioner Giles asked if Mr. Rasmussen could give a date for the purchase of the additional land. Mr. Rasmussen stated they had a verbal agreement over a year ago and Mr. Elder is still unable to sell the acreage.

Commissioner Moon asked if there were any other questions.

John Wills, an adjoining property owner, stated he sold the land to Mr. Rasmussen and does not have any problems helping with the fence but security is not a problem according to Mr. Wills. Mr. Wills feels there are too many restrictions in Duchesne County and that is why the growth is moving to Uintah County.

Commissioner Moon asked if there was anyone to speak either in favor or against the revocation of Mr. Rasmussen's permit. There were none so the hearing was closed.

There was some discussion about a deadline for the land purchase and Commissioner Drake suggested April, 2015. Mr. Hyde stated if there is additional property purchased there will need to be a boundary line adjustment survey presented to the planning office which also means extra time. Commissioner Drake stated with the 90% installation of the fence, 30 days after the purchase of the additional ground and the approval of the boundary line adjustment October 1, 2015 should be the deadline.

Mr. Rasmussen stated when the land purchase is completed he will complete the fence and be finished 30 days later.

Commissioner Drake motioned to establish a deadline of April 30, 2015 for the applicant to construct the required six-foot tall fence around the perimeter of your property (excepting the perimeter abutting the portion of the Elder property planned for purchase). The Planning Commission also established a deadline of September 30, 2015 for completion of the acquisition of that portion of the Elder property and complete the fencing of the remaining perimeter. Commissioner Jorgensen seconded the motion and it passed unanimously.

B. Request by Vernon & Tami Merkley and Nick & Holi Wagner for a Conditional Use Permit to locate a pipe fabrication and welding business at 625 West Mortensen Lane.

Mr. Hyde stated the applicants are proposing to operate a pipe fabrication and welding business from their home. Initially, the welding would occur outdoors on an existing concrete slab. In the future, they plan for a metal building to house the welding shop plus two material storage buildings. Commercial uses such as this are a conditionally-permitted use in the agricultural-residential zones.

The planning commission may grant a conditional use permit if they find:

- 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 public health, safety and welfare issues potentially associated with this business include noise, fire danger and traffic safety issues. Regulating hours of operation should be considered to ensure that nuisance noise does not bother nearby

residents. Conditions should be imposed to ensure that adequate fire protection measures are in place for the outdoor welding activity and future structures anticipated. Conditions should be imposed to ensure that semi-truck traffic can enter and leave the property without creating a hazard on Mortensen Lane.

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, provided that conditions of approval are 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 10.87 acres in size. The welding activity is proposed to occur on the developed westerly portions of the site. There are no residences located in close proximity to the north, east or south of this location. To the west, there is a home on the Brokaw property, which is about 368 feet west of the west edge of the proposed concrete welding slab. The welding activity would be partially screened from view by trees and an existing barn structure. If conditions are imposed, the proposed use should not be materially detrimental to adjoining and surrounding properties.

In considering conditional use permits, the Planning Commission also evaluates the following:

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 indicated existing trees and structures provide a buffer between the welding site and the residence to the west and between the welding site and Mortensen Lane. The future metal building on the concrete slab, anticipated to be under construction within one year, will be painted to be compatible with the applicant's home. Pipe fencing exists to separate driveway areas from agricultural areas. This standard will be met once the shop and materials storage units are constructed.

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 adequate parking space exists near the concrete slab and residence for the potential four employees. Ingress and egress is sufficient for light trucks and passenger vehicles; however, as semi-truck traffic is anticipated, there may be a need for alterations of the existing driveway approaches to Mortensen Lane to ensure that semi-trucks can access and exit the site without creating a traffic safety hazard (such as utilizing both lanes of traffic to make turns). The application states that the access drives will be gated. A condition should be imposed to ensure that such gates are set back from Mortensen Lane sufficiently to allow the longest vehicle anticipated to pull totally off the county road before encountering a closed gate. Additional gravel surfacing may be needed to ensure that heavy vehicles can maneuver on the site without creating ruts or transporting mud onto Mortensen Lane.

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 stated the property receives access from Mortensen Lane, which is a paved county road that was reconstructed and paved in 2014 to accommodate heavy truck traffic. No additional right of way needs have been identified at this location. Any modifications of either existing driveway access to the business site will require consultation with and a road encroachment permit from the Duchesne County Public Works Department. Culinary water is available at this location from the Johnson Water district. Sewage disposal is from an existing wastewater system, approved by the TriCounty Health Department when the newer home on the parcel was constructed. Health Department approval will be needed if additional buildings with restroom facilities are constructed in the future. Fire protection is supplied by an existing fire hydrant on the Johnson Water line, which is located 190 feet northwest of the concrete slab, on the north side of Mortensen Lane. There is also water available from a frost-free hose connection on the east side of the existing barn.

D. Signs: Regulation of signs.

The applicant has indicated there are no plans to erect business signs for this location. If signage is installed in the future, signage should be limited to one sign, 32 square feet or less in size, to help maintain residential-agricultural character of the area.

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 county nuisance ordinance sets forth the following noise standards for motor vehicles:

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.

Mr. Hyde stated based on the standard above, no vehicles, forklifts, bobcats or other equipment associated with the business may generate nuisance noise, which is noise audible in a dwelling unit off the property, later than 9:30 PM or earlier than 7:00 AM.

F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

Operating hours should be limited to 7 AM to 9:30 PM to the greatest extent possible to help prevent the generation of nuisance noise impacting nearby residents.

Mr. Hyde's recommendation is that the Planning Commission approve the Conditional Use Permit requested by Vernon & Tami Merkley and Nick & Holi Wagner, subject to the following conditions:

1. Owners agree that operating hours shall be limited to 7 AM to 9:30 PM to the greatest extent possible to help prevent the generation of nuisance noise impacting nearby residents. No vehicles, forklifts, bobcats or other equipment associated with the business may generate nuisance noise, which is noise audible in a dwelling unit off the property, later than 9:30 PM or earlier than 7:00 AM.
2. Owners agree to provide and maintain sufficient base rock and gravel in parking and driveway areas to maintain an all-weather surface and avoid rutting and tracking of mud onto Mortensen Lane.
3. Owners agree to limit any future business signage on the premises to one sign not to exceed 32 square feet in area.
4. Owners agree to make any necessary alterations of the existing driveway approaches to Mortensen Lane to ensure that semi-trucks can access and exit the site without creating a traffic safety hazard (such as utilizing both lanes of traffic to make turns). Owners shall obtain a road encroachment permit from the Duchesne County Public Works Department before altering either driveway approach to the property from Mortensen Lane.

5. Owners agree that, if gates are installed along either driveway, such gates shall be set back from Mortensen Lane sufficiently to allow the longest vehicle anticipated to pull totally off the county road before encountering a closed gate.
6. Owners agree to initiate construction of business shop and storage buildings within one year of the date of this permit to help buffer the visual impacts of the business on the neighborhood. Permits are required for such buildings from the Duchesne County Building Department and approval of the TriCounty Health Department will be needed if new buildings include restroom facilities.
7. Owners agree to obtain a Duchesne County business license and maintain this license in effect during the course of operations.

Mr. Hyde referred the commission to their packets, a letter from the applicant and some site and aerial photos of the location and asked the commission if they had any questions of the staff report.

Commissioner Drake asked if the ingress and egress was suitable for a business. Mr. Hyde stated condition #4 is meant to address that question.

With no other questions the applicant was invited to speak.

Nick Wagner, applicant, stated it is their intention to get the business started and hopefully in 3-5 years move to another location or build a shop. There is another access to the east if the main one is not suitable for the workers and deliveries. Mr. Wagner asked if there were any questions.

Commissioner Lindsay asked Mr. Wagner if he had any concerns with the conditions for approval. Mr. Wagner said he did not.

Commissioner Roberts is concerned about the restroom facilities and suggested they have temporary facilities (portable toilets) available for his workers.

Commissioner Moon asked if there were any other questions or comments. There were none and with no one in the audience to speak either in favor or against the applicant's request the hearing was closed.

Commissioner Lindsay motioned to approve the Conditional Use Permit requested by Vernon & Tami Merkley and Nick & Holi Wagner, subject to the conditions stated in the staff report with an addition to #6 to include portable toilet facilities. Commissioner Roberts seconded the motion and it passed unanimously.

NEW BUSINESS:

Mr. Hyde reminded the Planning Commission they need to review the proposed meeting dates for 2015. Commissioner Jorgensen motioned to accept the calendar for 2015. Commissioner Wells seconded the motion and it passed unanimously.

Also, there is a handout included in your packets explaining a conditional use training webinar on January 15th that Mr. Hyde encouraged the commission to watch.

Minutes: Approval of November 5, 2014 minutes:

Commissioner Jorgensen moved to approve the minutes of November 5, 2014. Commissioner Roberts seconded the motion and it passed unanimously, with Commissioner Drake abstaining from the vote.

Commission Comments and Staff Information Items:

Mr. Hyde reminded the commission the next meeting would be February 11, 2015 and stated there was a possibility of 3 or 4 hearings including a couple of rezones and a possible appeal. There will be a ground breaking for the event center at the County Fairgrounds on January 15th. Lunch will be provided; if you'd like to attend, rsvp to the Chamber of Commerce before that date.

Adjournment:

Meeting adjourned at 5:50p.m.