

**GORAND JUNCTION PLANNING COMMISSION
MAY 30, 2006 MINUTES
7:00 p.m. to 11:30 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 7:00 p.m. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Dr. Paul Dibble (Chairman), Roland Cole, William Putnam, Patrick Carlow, and Reginald Wall, Tom Lowery, Lynn Pavelka-Zarkesh. Ken Sublett was present in the audience. Bill Pitts was absent.

In attendance, representing the City's Community Development Department, were Sheryl Trent (Assistant to the City Manager), Kathy Portner (Assistant Community Development Director) and Kristen Ashbeck, (Senior Planner).

Also present were Jamie Kreiling (Assistant City Attorney), Jim Shanks (Public Works-Riverside Parkway Manager) and Kent Marsh (Development Engineer).

Bobbie Paulson was present to record the minutes, and Conswello Antencio (S.O.S. Temporary Services) transcribed the minutes.

There were 16 interested citizens present during the course of the hearing.

I. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

II. FULL HEARING

CUP-2006-097 CONDITIONAL USE PERMIT – VAN GUNDY’S SAVAGE YARD

Request approval of a Conditional Use Permit and related Variances to zone district, landscaping and use-specific standards for operation of a salvage yard in a I-1 (Light Industrial) zone district.

PETITIONER: Randy Van Gundy – Van Gundy’s AMPCO, Inc.

LOCATION: 645, 647 4th Avenue

STAFF: Kristen Ashbeck, Senior Planner

STAFF'S PRESENTATION

Sheryl Trent gave a PowerPoint presentation which gave an overview of the request and staff’s recommendation. Ms. Trent said that staff and the applicant have come to an agreement on all of the conditions of the CUP permit but one. The one area of disagreement between staff and the petitioner is the stacking height of the recycled materials. Staff’s recommendation is 20 feet, with an allowance up to 25 feet for not longer than a continuous period of 90 days in a calendar year. The applicant is requesting 25 feet with an allowance up to 30 feet for a continuous period of 90 days in a calendar year. Ms. Trent added that as with every CUP application, staff is recommending that the site plan be reviewed administratively. This site plan, like any other site plan, must meet all of the Zoning and Development Code requirements.

Jamie Kreiling said the City's Zoning and Development Code includes different zoning districts where it's been determined that certain uses are allowed and certain uses may be allowed with a conditional use permit. A use that would require a conditional use permit is typically considered a desirable and necessary community asset; however, it also may have some unique impacts or objectionable characteristics that make it something that needs to be looked at a little more closely as to where it might be sited within a zoning district. The conditional use may be found to be appropriate and permitted within the zone district if the impacts or characteristics are mitigated sufficiently to be compatible with the surrounding properties. A CUP is a lawful use and is allowed; however, it must go through this process to determine its appropriateness because there are other factors to consider as previously mentioned. Other allowed uses normally go through a site plan review as indicated by Ms. Trent, for administrative approval, but a conditional use approval comes before the planning commission for a public hearing and there are additional criteria to be considered; five criteria in total.

The first three criteria are the same ones that are used for an allowed use. The last two criteria are the distinguishing criteria and are the ones that the Planning Commission will be focusing on in their approval. The first criterion is to consider the availability of complementary uses and the second is the compatibility of this use with the adjoining properties. The Planning Commission needs to consider whether or not all of the impacts have been sufficiently mitigated with different and or additional requirements than those normally described under the Code for the compatibility purposes.

There was reference made in the general project report by the applicant, and there is a letter from the DDA that is included within the staff report for the commissioners, indicating two variances that are being requested. After close review, staff has determined that the CUP process will address all the issues that need to be reviewed. Rather than having the applicant go through two processes, a CUP process and a variance process, they will go through one and all of the issues will be covered through the CUP process. Staff's basis for combining these processes is the uniqueness of this site. Ms. Kreiling disagreed with the petitioner's representative and that the existing use is not regulated under the Code because it existed before February 2nd of 2002 as is presented in the staff report. The CUP before the Planning Commission is for the entire site, however, staff has separated the site in the respect that part of it is considered existing use and part of it is considered a new use. The existing use is being considered under section 4.1 I-2 of the Code and the new use is being considered under section 4.3 D of the Code. After review staff has determined that processing this site under a CUP meets the intent of the code without separating the consideration for the variances. If the Planning Commission decides to approve the CUP this evening then the site plan will be administratively reviewed, considering the conditions that are set by the Commission as well as meeting the additional requirements of the Code.

Kathy Portner gave a PowerPoint presentation of the proposal. The site consists of 5.1 acres and has a future land use classification of commercial/industrial as do the properties to the north and to the south of the site. The future land use designation of those properties along 7th street on the west side is commercial. The future land use designation along the 5th Street Corridor is Park which is consistent with the desire expressed in the Growth Plan to have a parkway approach into the City. The I-1 zone district implements the commercial/industrial land use classification of the Growth Plan. A salvage yard operation may be permitted through a Conditional Use Permit

where adequate screening and buffering can be provided to ensure compatibility with surrounding uses.

The existing zoning of the subject property is I-1. It was recently rezoned and includes all of the area outlined in black on the site map. The property to the north of 4th Avenue is also zoned I-1 and the remainder of the surrounding property is zoned C-2 (General Commercial). The site is generally located between 5th Street and 7th Street, south of 4th Avenue and will soon be bordered by the newly constructed Riverside Parkway to the south.

Jim Shanks, Riverside Parkway Manager, gave a PowerPoint overview of the future parkway alignment and presented slides giving a visual depiction of what the parkway will look like when it's built. He pointed out the amenities that will be incorporated along the parkway including landscaping, buffering and screening. The construction of the section of parkway identified as phase 3 will be put to bid sometime this Fall. Digitally-enhanced photos were shown of the parkway from different angles. The first rendering was along 5th Street looking north showing the Riverside Parkway traversing east to west, with exit and entrance ramps to 5th Street with terraced walls and landscaping constructed along the ramps. Another rendering showed 7th Street and Struthers Avenue looking northwest. Mr. Shanks presented a drawing showing a section of roadway and the proposed 8 foot screening wall along the north side of the parkway. The view along that wall will depend on the height of the vehicle and the distance from the wall. The lane that is nearest to the wall will have a line of sight that will be at a higher angle than the interior lanes. Mr. Shanks added that further west the views of the Jarvis redevelopment site and the views of the Colorado River and Colorado National Monument will be spectacular.

Kathy Portner continued by outlining the review criteria for a CUP as outlined in Section 2.13 of the Zoning and Development Code. She pointed out that the last two criteria, the availability of complimentary uses and compatibility with adjoining property, are really the crux of staff's analyses for determining if the CUP should be granted. The proposed site is within an existing heavy commercial and light industrial land use area with rail service. Rail Service and the surrounding existing and proposed major roadways were major considerations in determining whether or not this property should be rezoned. The proposed site plan maximizes the efficient use of the site as a salvage yard and recycling business as was outlined by the applicant. There are some existing buildings on the site that will remain and be utilized for the proposed business with the exception of the southern most building which at some point in the future will be torn down and a new building will be constructed, as per the applicant. The applicant has indicated the maximum foot print that they would consider for that future building on the site plan and staff has agreed that it is appropriate under this CUP.

Outdoor storage in the eastern portion of the site will consist of integral units (storage racks) no taller than 10 feet. Ms. Portner pointed out that the Code would allow integral units up to 20 feet in height. Additional storage will occur in the rear area designated as area C. Outdoor storage is proposed on the western side of the property. The applicant is requesting a stacking height of 25 feet for this area with the allowance of up to 30 feet for no more than 90 days in a 12 month period through a temporary use permit that the City will issue. The business may temporarily stack at the maximum height during those times that their bailer equipment is being utilized out of town. Staff recommends a maximum of 20 feet for the stacking heights with the allowance of up to 25 feet for those periodic occasions. The 20 feet is comparable to what would be allowed

for integral units which as was mentioned previously. In addition, the 20 feet and is near the height of some of the existing buildings on the site and it has been determined that the 20 feet will not be visible above the Riverside Parkway or the 5th Street screening.

Ms. Portner showed photos of an existing 25 foot material stack at another site to give the Commission a feel of what the stacking height could look like. Other photos showed existing racks that are 15 feet in height and this application proposes 10 foot racks. Other photos taken of the subject site showed various perspectives of the 20 and 25 foot height in relation to existing buildings and from various points along 4th, 5th and 7th Streets,

Chairman Dibble asked how high the existing fence is along the viaduct? Ms. Portner estimated that it was approximately 6 feet tall.

The applicant is proposing screening on the 5th Street viaduct for a 200 foot section. The City has, through this CUP process, recommended that the applicant be responsible for the screening as depicted in the drawing. In addition, the City may extend that screening along additional portions of the viaduct and possibly upgrade it to be more compatible with the Riverside Parkway design.

Chairman Dibble asked if there was any indication of the length of that additional screening. Ms. Portner said that it has not been determined as of this date but that they would look at what made sense from an aesthetic stand point.

Ms. Portner said that the CUP would require landscaping along the 4th Avenue right-of-way and an 8 foot concrete wall that would be set back 5 feet back from the subject property line. In total the landscaped width will be 10 feet along 4th Avenue which will include shade trees and shrubs. The applicant has agreed to underground the utilities so that there will not be an interference with large shade trees with the over head lines. Along their east property line the applicant will provide a 50 foot landscaped strip from north to south and the building itself will provide additional screening. An existing chain link fence will remain and the applicant will put slats in this fence to meet screening the requirement. The existing fence along the southern boundary will also remain chain link with the slats and the wall will extend along the west property line for additional screening. On the outside of this wall and this portion of the fence, the applicant is proposing 20 feet of landscaping, some of which will be on the city property and some of which will be on the applicant's property.

Ms. Portner showed a picture from the rail yard across from 4th Avenue as it is today. This entire frontage will have the 8 foot concrete wall with a strip of landscaping in front. The power lines on that side of 4th Avenue will be under grounded. Ms. Portner then showed a slide of the same view with the proposed wall and screening.

Chairman Dibble asked if the Code required a certain caliper of trees to be planted. Ms. Portner said that that the Code required a minimum caliper of 2 inch.

Ms. Portner continued; a sign plan will also be required through the CUP process. The applicant is proposing three signs; a 15 square foot flush wall sign on the east facing façade of building, a 32 square foot flush wall sign on the north facing façade of building, and a 12 foot high, 32

square foot free-standing sign located on the westerly side of the main entrance from 4th Avenue. Ms. Portner pointed out that the proposed sign package is well below what would be allowed under the sign code in that district and staff feels that it is compatible with upgrades that are being done on this site.

In summary, staff is recommending that the Planning Commission make the following findings and conclusions: the requested CUP is consistent with the Growth Plan. Staff feels that the proposed upgrades to the site with the 8 foot wall, the landscaping at the side, the additional landscaping and screening along the Riverside Parkway and the 5th Street viaduct do meet the intent of the goal and policies as listed in the Growth Plan. Ms. Portner referred to Policy 13.7 in the Growth Plan that states that the views of Grand Mesa, Colorado National Monument and the Bookcliffs shall be preserved from public spaces such as Canyon View Park and Matchett Park as well as along major corridors identified through specific corridor planning. Ms. Portner stated that the City has not done any specific corridor planning in this area since the adoption of the Growth Plan. The intent of this goal is to do specific corridor planning and to identify important view corridors to preserve. Ms. Portner stated that the review criteria of Section 2.13, district performance standards and use specific standards, have all been met provided the site is administratively approved. The applicants must meet all requirements of the subsequent site plan review process including all planning, engineering and environmental permitting requirements and that would be required of them regardless of the CUP. The proposal meets the requirements of Section 4.2 G of the Code. The salvage yard shall operate as described in the applicant's general project report and as depicted on the CUP site and landscape plans. The CUP is compatible with the adjoining properties with elements of the plans designed and arranged as presented in the CUP site and landscape plans with the stack height of the storage limited as recommend by staff, which would be the 20 and 25 feet, and that there are complimentary uses supportive of the CUP. Staff recommends approval of the CUP provided the stacking height is limited to the 20 and 25 feet, and that the site plan is administratively approved with all of the elements of the site plan and use considered in the CUP and remainder of the Code requirements being met.

Commissioner Lowrey asked if there was a height limit for buildings in this zone? Ms. Portner said that in the commercial and industrial zones, the height limit is 40 feet. Commissioner Lowrey asked if staff would look buildings that were 40 feet height building in regards to the the site lines of the Colorado National Monument, the Grand Mesa and the Bookcliffs? Ms. Portner said that the issue is what is considered to be unsightly and what is not adding that the Code allows for buildings to be up to 40 feet.

Chairman Dibble asked if there were any plans for the area south of the parkway to the river. Ms. Portner said that staff will be initiating a planning process for the south downtown area but that has not yet started. Ms. Portner stated that she felt there would be a strong push for some type of redevelopment of that area between the river and the parkway.

Chairman Dibble how will the City enforce the CUP if the stack gets higher than 25 or 30 feet for longer than the 90 day period. Ms. Portner said the City would go through the normal enforcement process which typically the Code Enforcement Division issues some type of warning or writes a ticket if warranted. Generally Code Enforcement staff would try to work with the applicant to let them know that they are in violation. If there were continual violations

of the CUP, then the CUP could be brought back before the Planning Commission for them to decide whether additional action needs to be taken or if the permit should be revoked.

Chairman Dibble wanted to know what the reason was for 10 feet in the racking area rather than 20 feet if the Code allows the higher. Ms. Portner responded that the applicant proposed the 10 feet because of how their business operates and the type of units that are used.

Chairman Dibble asked for clarification; once the CUP has been granted, none of the conditions of the CUP can be changed unless it comes back through the planning process for an amendment. Ms. Portner replied affirmatively.

Mr. Putnam asked if the 90 days that they are proposing is in a calendar year or in a rolling 12 month period? Ms. Kreiling stated that as presented in the staff report, it is in a rolling 12 month period.

QUESTIONS

Commissioner Wall asked if the applicant would be required to maintain the opaque slats on the chain link fence? Mr. Jones replied that through the day-to-day operations of the Van Gundy business, a damaged fence or damaged slats will be noticed and probably corrected.

Commissioner Wall asked if the landscaping, particularly the trees, would be placed so that the any maintenance on the underground power lines would not damage the root system of the trees. Mr. Jones replied that the applicant will comply with all the standards and that this concern will be noted.

Chairman Dibble wanted to know if the site will be visible from the US Highway 50 bridge over the Colorado River? Mr. Jones replied that the Van Gundy site would not be visible because the Riverside Parkway is elevated. Chairman Dibble asked if it would be visible further south on 5th Street. Mr. Jones felt that Mr. Shanks would be more familiar with the Riverside Parkway design so he referred the question to him.

Commissioner Lowery asked if staff or the applicant has considered other options for screening the Van Gundy operations. The Growth Plan clearly states that the view will be preserved from major corridors. He felt that building a 8 foot wall was clearly violating the intent of the Growth Plan. Mr. Jones stated that the original proposal by the applicant included pine trees along the west and south side of the project which he felt would create a nice natural barrier. The wall is being recommended by City staff.

Commissioner Lowrey felt that the provisions in the Growth Plan have not been addressed and seem to be conveniently forgotten. He also questioned the contract between the City and Mr. Van Gundy which states that the City will represent Mr. Van Gundy. Mr. Coleman, Mr. Van Gundy's representative, responded that the City, from a legal point of view, has treated Dean Van Gundy on the CUP the same as they would treat anyone else and that the contract was only for the rezone request, not the CUP request.

Chairman Dibble asked the city's assistant attorney for comments regarding the contract Commissioner Lowrey referred to. Ms. Kreiling responded that the City is not representing the

applicant regarding this conditional use permit request. The applicant was required to submit their application and bring their proposal to the Planning Commission the same as anyone else would have had to do under any other conditional use permit request. The City has not been representing them in this matter and it would be the city's position that the paragraph that Mr. Lowrey has referred to only deals with the initial rezone, vacation and the simple subdivision. It does not include the conditional use permit.

Commissioner Lowrey read the contract stating that it refers to all authorizations, permits and required approvals by and from governed agencies and authorities, including the city, that excises jurisdiction over the property. Mr. Coleman restated that this refers to those three specific issues which were the rezone, subdivision and the vacation. The contract also refers to the CUP and that Mr. Van Gundy is responsible for that application.

Commissioner Lowrey again voiced his concern that the screening wall will inhibit the views from major corridors. The Growth Plan clearly states that these views are to be preserved and building walls doesn't seem like the appropriate way to screen. Mr. Coleman responded that the wall is a very small portion of State Hwy 50 and Riverside Parkway. Only 3 to 4 seconds of view would be blocked given the vehicles traveling speed.

Commissioner Lowrey suggested an alternative of building a roof approximately 40 feet high over the junk yard storage to provide the needed screening rather than building a wall along the parkway. He also suggested that the City may be able to cover some of the costs to build this roof. He stated that this is an extremely important piece of property according to the Growth Plan and is a key area of the downtown. Commissioner Lowrey said he was not against Mr. Van Gundy operating a salvage yard in this location but there should be some provisions to screen the business without obstructing the views. Mr. Coleman and Randy Van Gundy responded to the roof idea. They said that the columns that would support a roof like this would get in the way of normal operation and be a hazard to the equipment because they would not have adequate room to maneuver and added that the cost would be prohibitive.

Commissioner Wall asked how often the Van Gundy's would need to stack materials up to 30 feet high? Randy Van Gundy replied that it would only happen when the bailer was being used out of town. Commissioner asked on the site plan the areas referred to as sections 1 through 4 where will the piles be located and where will the stacking take place? Mr. Van Gundy said that stacked piles will be located in section 1, unprepared steel that needs to be cut and separated will be placed in section 2. The bailing scrap, loose tin and appliances will be put in section 3 and automobiles will be in section 4. He added that those stacks would be no more than three cars high.

Chairman Dibble wondered if it would be better to spread out instead of piling the materials higher. Randy Van Gundy said that they would need a large site in order to be able to do that. The machines they have are capable of stacking materials up to 30 or 35 feet and that is why they are asking for the 25/30 feet request for the stacks. The goal is to keep the stacks under 25 feet high but Mr. Van Gundy added that he did not want to be limited in case there isn't space to spread out.

Commissioner Wall asked how high the booms on the equipment reached? Mr. Van Gundy said that the equipment would only exceed that height restriction at the time they were in operation and moving materials. When the stacking equipment wasn't in use the boom would be down on the ground.

Chairman Dibble asked if there were any plans to screen the south side of the parkway. Mr. Shank said that there isn't any screening proposed on the south side at this time adding that at some point, the hope is, this area will be redeveloped. He said that they did discuss screening on both sides but opted to only screen the north side because they didn't want to create a tunnel affect as people drive through that area.

Chairman Dibble asked if screening was being considered for any other sections of the parkway? Mr. Shanks said that a wall with a landscaped berm is also proposed along the Riverside neighborhood that is intended to screen the parkway from the neighborhood. Also, as a part of the environmental mitigation going across Las Colona's Park site, a screened berm buffer will be constructed along the south side.

Chairman Dibble asked if the hill was going to be landscaped along the north side of the 8 foot wall. Mr. Shanks replied affirmatively that there will be landscaping along with bike and pedestrian pathways. The slope has a 3 to 1 drop; so the landscaping will be a challenge. The parkway staff will be working closely with local landscape architects and the Parks Department on how to design it the most efficient way.

Commissioner Lowrey asked how many feet above ground level the parkway pavement would be? Mr. Shanks estimated it to be an average of 12 to 15 feet above ground level. Mr. Shanks added that the highest point of the parkway (over 5th Street) to the lowest grade would be approximately 30 feet.

PETITIONER'S PRESENTATION

Robert Jones II, Vortex Engineering, 255 Vista Valley Drive, Fruita, Colorado, representing the applicant, stated that the site consists of two parcels located near several commercial and industrial uses. The two parcels are approximately five acres in size. The applicant has submitted a simple subdivision application to combine these parcels. According to the plat, the land shall be known as the Van Gundy North Subdivision. The site was recently rezoned to light industrial which was approved by the City Council on May 3rd, 2006. The Growth Plan shows this site as CI or Commercial Industrial.

Mr. Jones said that Mr. Van Gundy wanted to clarify that on the general project report page 12 it states that 10 to 15 tractor trailers per week will be used to load and ship materials from the Van Gundy's. Mr. Jones said this was an accurate estimate of the number of trucks during their liquidation period but the actual average number is about half of that.

Mr. Jones stated that this request is for a conditional use permit to operate a salvage yard in an I-1 light industrial zone district at 645 4th Avenue. In accordance with Section 2.13 of the Zoning and Development Code, the application for conditional use permit must comply with the following criteria: site plan review standards, zone district standards, use specific standards, availability of complimentary uses and compatibility with adjoining properties. The applicant

agrees with staff that the criteria to be evaluated are those sections pertaining to the availability of complimentary uses and compatibility with the adjoining properties. The other three criteria apply to any allowed use in the I-1 zone and are therefore much more fixed and routine in nature.

Criterion 4 was created to insure a use will have the availability of other uses that are complimentary to and support the proposed project. Uses available to the Van Gundy Salvage yard are local and regional business, schools, parks, hospitals and commercial facilities. Certainly this list is not exact but it does provide for the evidence for meeting criteria 4, the surrounding uses complimentary to the operation of the Van Gundy Salvage yard are more than most would think. There is a need for a recycling salvage yard in the community. The railroad is a vital and complimentary piece of infrastructure to an industrial use, especially the Van Gundy's business which has used the spur in the operation of its business.

Criterion 5 was established to make sure that the proposed use is compatible with the adjoining properties. The proposed site plan was designed in close collaboration with city staff, review agencies and neighboring property owners to ensure compatibility.

The 5.1 acres site is irregularly shaped due to the Riverside Parkway design. The site is narrow on the west and widens as it expands east as depicted on the site map. The west portion of the property, with the existing Van Gundy use, has no buildings or permanent structures and has been used for many years as a salvage yard. The east portion of the property has had various uses in the past although these uses have been industrial as defined by the Code. Three buildings exist on the east portion of the site, the two larger buildings extend almost the entire length of the east edge of the property. One of the existing buildings will likely be replaced.

The building located near the center of the site will help screen some of the view of the outdoor storage and the operations from the adjoining uses, especially those east of 4th and south of 7th Street. The applicant proposes outdoor storage on both the west and east portions. Storage racks will be used for the outdoor storage on the east portion and will be no taller than 10 feet. Mr. Jones added that the Code allows these to be up to 20 feet in height; however, the applicant has agreed to limit them to 10 feet. Additional storage will occur in the rear area designated on the site plan as area C and will not be higher than 10 feet. An 8 foot wall will be constructed along the north edge of the property and a 6 foot opaque fence will be constructed on the south. The outdoor storage will have three designated areas. An auto crusher preparation and storage area will be on the far west; an unprepared steel storage area denoted by area 2 is on the east; and further east toward the center denoted as area 1 is where the prepared steel storage will be located. To ensure compatibility with the surrounding area the applicant is requesting a stacking limit of 25 feet with the ability to request a temporary permit to go up to 30 feet for a period of 90 days in a 12 month consecutive period. Mr. Jones showed depictions of the various stacking heights.

The applicant feels the additional stacking height is necessary when their bailer machinery is used in outlying communities. During the absence of the machinery at the Van Gundy's site the materials received may need to stack higher than during normal operations. The site will be totally enclosed and screened with an 8 foot concrete wall that will be constructed with earth tone colors, stone patterns and columns between panels to visually break up the linear expanse of the structure. An 8 foot opaque gate will be designed and installed to the entrances on 4th Avenue

and a 6 foot opaque fence (chain link fence with earth tone slats) will be installed on the east and the south sides of the property. The wall will be constructed on the west and north of the property located 5 feet in from the property line. Landscaping will be included on the outer edge of the wall on the west and an additional 15 feet of landscaping will be installed immediately adjacent to the west edge of the site as indicated on the landscape plan. The I-1 zone normally only requires landscaping as a buffer along the first 50 feet of its site. For compatibility purposes, however, the applicant is proposing landscaping and additional screening the full length on the west side of the property. Five feet of landscaping between the wall and the property line will be included on the north side with approximately 5 additional feet of landscaping in the right-of-way. All of the area in front of the office (building A) will be landscaped and will include picnic benches for employees. Also, a landscape buffer will be placed on the east as required by the Code. Opaque slats will be added to the existing chain link fence along the eastern and southern boundaries. In addition the applicant has offered to landscape a strip of land 20 feet wide on the southern boundary.

As part of the Riverside Parkway project, the City will be constructing a 6-8 foot wall along the elevated parkway, which limit the view of the Van Gundy site from this roadway. The applicant has agreed to construct additional screening on 5th Street viaduct adjacent to the site, 200 feet in length and 6 feet in height. The panels used in the screening wall will most likely be angle lock panels from Empire Acoustical Systems. These panels consist of individual sections each about 12 inches wide and are mounted horizontally on top of one another or vertically side by side. The wall system is a composite panel type system with either perforated or solid metal facing and is available in several colors. The paint is a powder coating that is resistant to graffiti and will be earth tone color.

In Summary, the applicant believes this request is consistent with the purpose and intent of the Growth Plan and the review criteria in Section 2.13 of the Zoning and Development Code and is requesting approval of the Conditional Use Permit.

Mr. Coleman, Mr. Van Gundy's attorney, stated that this transaction occurred because the city needed Mr. Dean Van Gundy's property to build the parkway. Mr. Van Gundy was satisfied with his operations and had no reason to change his operation but the City approached him with this issue. The City wanted to build the bypass and the bypass was going to require a piece of the Van Gundy property. At this point the City and Mr. Van Gundy began looking at alternate sites. They looked at approximately 17 alternative sites but this is the only one they found that had adequate services needed for the business. Through all of the negotiations, there were a lot of compromises made. Mr. Van Gundy did not get what he wanted. What he wanted first and foremost was to be left alone and to stay in the same location. Mr. Van Gundy said he needed at least 10 acres of land with a rail spur that was not located in Loma, Fruita or Mack but in Grand Junction. He is a city business man and wanted to remain in the city. Mr. Van Gundy has made many concessions. He's agreed to additional screening and landscaping. The only request the applicant has with this CUP request is that he be allowed to stack up to 25 feet and 30 feet with a temporary use permit.

PUBLIC COMMENTS

FOR:

Richard Wattz (69 N. Pine, Hayden, CO. 81639 (970)276-4276) stated that Mr. Van Gundy has a right to run his business as he sees fit without any restrictions or conditions placed on it by the government. If any restrictions are imposed of the type that are being considered, it is a refusal to recognize any and all of the Van Gundy's rights and that is the denial that they or any man have any rights at all. The proper function of the government is not to give nor is it to revoke rights, the only proper function of government to defend rights, individual's rights.

Carl David Murphy (244 Sherman Drive, Grand Junction, CO, (970) 242-0131) stated that he owns and operates an auto wrecking business at 549 Noland Avenue. Mr. Murphy felt that the height limitation was absurd and that there would be no way he could operate his industry and keep everything below fence height, it's just not reasonable and it's just not realistic.

AGAINST:

Michael Ervin (2860 Elm Circle, Grand Junction, CO) stated his opposition to granting of CUP for this business. Mr. Ervin stated that Van Gundy's proposal does not legally obligate them to do anything. For instance on page eight (8) section C which starts out "We propose to continue the wall along the western edge of the property" and towards the bottom of the page is the statement "We are willing to contribute to the cost of installing Evergreens on the city property to our west **if** water can be found, the benefits for us would be to have the Evergreens grow as large as possible as quickly as possible while allowing us the fuller use of the property, the benefits to the city would be a nice green space/landscaping." This statement complies with the spirit of the Code but any attorney will tell you that this is not enforceable. This whole idea of complying with the spirit of the law has no legal foundation. Laws and Codes either allow you to do something or they prohibit you from doing something and there really is nothing in between. He referred to page 8, Section E, Item (1) where it read "the city's rules dealing with visual appearance of an operation such as ours are written from the perspective of the adjacent street in our case 4th Avenue." No where does the City Code address circumstances such as this where the viaduct is so high and near an industrial area. Most of the report is not relevant and should not weigh on the planning commission's decision. Another statement on page 22, section C states, "If we were required to meet the current city codes, set backs, landscaping rules and high restrictions at worst the business could fail and at best we would have to turn customers away dropping our volume and treating our viability. Even if we survive financially without the variances it could be impossible to operate efficiently and provide the service we are here for". This statement is strictly opinion, and there has been no independent study done to either confirm or negate this particular opinion and this information should not be taken into account. Other examples include page 23 where it states "as is seen through out this report the literal interpretation of the city rules to our circumstances is a classic example applied literally cause injury and the benefit is far out weight by the damage and detriment of Van Gundy's "again there has been no independent study to determine the efficacy of this statement. Page 24, item 11 states "the operation it self will be much neater looking" by whose criteria? By Van Gundy's criteria, by the city's criteria or by the community's criteria? Section (14) "for all these reasons we predict that the neighbors land values will increase" again there is absolutely no independent backing that this has any truth at all.

Karen Vogal (Chairman of the Downtown Development Authority) The DDA's position is that it supports the right of Van Gundy to do business at this site with some restrictions and standard so that this business does not reduce the property values in lower downtown and doesn't conflict with the growth plan and that it is consistent with the goals of the DDA. It is the DDA position that because this site is in a highly visible area in the downtown and should be designed and arranged to have a minimal impact on the use and enjoyment of adjoining properties and be held to a higher standard because it's located at a gateway. The Code is not black and white when it comes to fencing, buffering and screening. DDA requests that the applicant be required to enclose the entire operation with an 8 foot wall. The visual impact of varying fences and materials is not aesthetically pleasing.

DDA also requests that the height of the materials be kept at 20 feet if the materials are stacked in racks and fence height if they are not. She added that this practice is very common in all the cities that were found to have similar businesses. Every City had the same recommendation in their code and the same standard, so this request is not unusual or above what is normally expected from a salvage yard. Again because it's so centrally located versus out in some rural area, it needs to conform to a higher standard or the standard of the code itself.

A final item is the ongoing monitoring by staff. Because there will probably be some commercial redevelopment in the downtown area, the new parkway will be built and because of the 7th Street improvements that are being made, the CUP should have some sort of time limit. It should be reevaluated again in 5 or 10 years. If it's not working or there are some other issues, the planning commission would have the opportunity to reevaluate the project based on what has happened in past 10 years. DDA is requesting that the Commission consider the greater vision of the City of Grand Junction and not one business owner.

Bill Wagner (336 Main Street, Grand Junction, CO, 970/244-9074), a board member of the DDA, stated that the stacking height is really the issue. He felt that the height restriction should be limited to no more than fence high. Mr. Van Gundy should either find a site that works or make the operation more efficient so that it works within the confines of is there.

Harold Stalf (1135 Main Street, Grand Junction, CO, 970/256-4134), Executive Director of the DDA, pointed out the Van Gundy application repeatedly states that they need 10 acres to effectively function with their business. He said he agrees and that is why there are issues with this property. They are try to put a 10 acre operation on a 5 acre piece of land and it clearly doesn't work. He noted that there were other sites that were identified within Mesa County that are 10 acres and have rail spurs but were rejected. The Commission needs to be reminded that this was a volunteer transaction. Graffiti and tagging on any walls will be a huge enforcement issue. The Grand Junction Police Department has strongly recommended that vegetation be applied to those walls, i.e., ivy and other types of plants to discourage any graffiti problems. The elevated roadways also create a very unique situation which has been discussed at length at this meeting. The consolidation of the property by definition makes it a new application and the DDA requests that the Commission enforce what the Code requires for the height limitation and that is the height of the wall.

PETITIONER'S REBUTTAL

Mr. Jones stated that the current Van Gundy business operates on approximately six acres. When the relocation process started they were looking for a 10 acre site and they settled for this five acre site because it is located downtown and is next to a rail spur. Staff and the Van Gundys have spent a considerable amount of time assessing the stacking height. He reiterated that the view from 4th Avenue will be screened with an 8 foot concrete wall and the landscaping that is being proposed with the CUP. Mr. Jones said that he feels staff's main objection is the stacking height relative to the view looking along 4th Avenue. Once the vegetation has been established, the view along 4th Avenue will be very limited. The height limit in the I-1 zone for buildings is 40 feet. He also said that there are existing buildings along the east side of the property that provide some buffer. If an application were to be submitted today for a 40 foot building, the Code would allow it. He also pointed out that Code Enforcement has a process in place to ensure compliance with all the rules and regulations and staff will be monitoring the business for compliance with the CUP.

Mr. Jones said that he heard several comments regarding the general project report. He stated that the general project report was written early on in the process and is used as a guideline for staff and the Commission. The report explains the business practice and how the operations will work on this site.

Commissioner Wall asked Mr. Jones to address the line of sight display that was presented earlier and where it was taken from. Mr. Jones replied that it is from the 5th Street Bridge at an elevation of approximately 10 to 11 feet above the existing grade.

Mr. Jones also noted that the property owner east of this site supports this CUP. The City is basically the property owner to the south and to the west of this property and the railroad owns the property to the north and do not object to the CUP. Mr. Jones stated that he felt the DDA only looks at the downtown area while city staff is looking at the interest of the city as a whole.

DISCUSSION

Commissioner Lowrey felt that he could not grant this CUP under the conditions presented by staff. Maintaining views of the Grand Mesa, etc. as stated in the Growth Plan was his main concern.

Commissioner Putnam concurred with Commissioner Lowrey and added that the design needs to be compatible and what was presented would not be.

Commissioner Cole reminded the Planning Commission that they recommended to City Council that the zoning be granted for this property knowing at that time what kind of business was going to operate at this location. Staff and the Van Gundy's have negotiated and reached an agreement on all the requirements except for the height. He said he would be in favor of granting this CUP with the possibility of adding a time limit to re-review the CUP at a later time.

Commissioner Carlow stated that he thought the height limit might be an enforcement problem but beyond that he felt there was no other reason not to approve the CUP.

Commissioner Wall said that he would recommend the CUP be approved but with a maximum height of 25 feet. He would not be in favor of allowing up to 30 feet for the 90 days. Commissioner Wall added that the Van Gundy's seem to operate their business very efficiently and should be able to operate within that 25 foot maximum.

Commissioner Pavelka-Zarkesh she supports the CUP. She too said she is in favor of the 25 foot maximum height limit with no allowance for the 90 days.

Chairman Dibble said that he felt that with the improvements being made that the area would look better than it does today. He concurred with the other members and said he would grant the CUP and would also like to impose the maximum of 25 foot height maximum.

MOTION: (Commissioner Wall) “ Mr. Chairman, on item CUP-2006-067, I move that the Planning Commission conditional approve the Conditional Use Permit or a salvage yard with the findings of fact and conclusions with the exceptions of a 25 foot maximum stacking height, and a condition upon final approval of a site plan includes all elements of the plan approved for compatibility with adjoining properties and complying with the code and applicable city standards.”

Commissioner Cole seconded the motion. A vote was called and the motion passed by a vote of 5-2 with Commissioner Putnam and Lowrey voting against.

With no further business to discuss, the public hearing was adjourned at 11:30 p.m.