



**Benton County Planning Board  
Public Hearing  
Technical Advisory Committee Meeting**

December 5, 2012

6:00 PM

Benton County Administration Building  
215 East Central Avenue

**Meeting Minutes**

**PUBLIC HEARING:**

**Call to Order:** The meeting was convened at 6:00 PM by Planning Board Chair Mark Curtis.

**Roll Call:** Chair Mark Curtis, Jim Cole, Starr Leyva, Ken Knight, and Rick Williams were present. John Pate and Ashley Tucker were absent.

**Persons present in addition to the Board:** Benton County Administrator of General Services Elizabeth Bowen, Director of Planning and Environmental Services Christopher Ryan, Planning Division Manager Rinkey Singh, Planning Coordinator M.J. McGetrick, and County Attorney George Spence. Over 40 members of the public were present, as well as press representative Tom Sissom.

**Disposition of Minutes:** Mr. Curtis postponed approval of the November 21, 2012 Planning Board meeting minutes to the December 19, 2012 meeting

**General Public Comment:** None

**Old Business:** None

**New Business: GT Land Management LLC (USA Metal) – LSD #12-219, 13670 S. Highway 59, Gentry, AR**  
Represented by Mr. Tom Smith, Chief Operating Office and owner  
Joey Stevens, Red Line Construction, Springdale, AR

**Staff Comments:** Staff gave a project overview, which included drawings and photographs of the surrounding area and the overall site plan. It was noted that the site is located 1500' from Chesney Natural area and is situated within the Karst Conservation area. The 2004 agreement between the property owner and Benton County Planning was reviewed. This agreement approved five uses for the property: (1) Moving pieces of equipment to the location for a future auction, (2) Storing equipment inside the truck repair building, (3) Repairing trucks, (4) Storing sawdust that will be recycled in offsite poultry operations, and (5) Building homes on part of the property. Staff observed that site activity overall has increased, and that functions other than those approved in the 2004 agreement are occurring. Annual aerial photos from 2004 to 2012 which show this change in activity were presented. The applicant's proposed business functions and hours of operation were presented. Planning staff provided post TAC updates on the project, which included the following: The applicant has agreed to install 12' high screening fence, and to pave the access driveway in the front yard. The applicant is not requesting grandfathering of the 2004 agreement uses for this proposal. A fire hydrant and Knox box are required. Applicant has provided proof of service for solid waste disposal, but needs to secure Health Department approval for the septic system. The existing Stormwater Pollution Protection Plan (SWPPP) is not applicable for the new proposed facility, and the new SWPPP for USA Metals has not been submitted to ADEQ. The applicant needs to provide written confirmation of compliance with

environmental regulations from all applicable agencies. Staff visited the applicant's Fayetteville site on November 30, 2012. The applicant has provided certified receipts of notice to the abutting property owners.

Key outstanding issues are: (1) Compatibility of proposed use with surrounding residential and agricultural properties, (2) sufficiency of proposed parking buffer and screening, (3) confirmation of ADA requirements, (4) SWPPP Plan needs to be approved by ADEQ, (5) a fire hydrant must be installed on site, (6) proof of public utilities service agreements, (7) Health Dept. approval, (8) environmental compliance and permitting from ADEQ, (9) Building Permit for vehicle scale, (10) Nuisances affecting neighboring properties, including dust, noise, fire potential, hazardous materials, and exterior lighting, (11) Traffic Analysis – applicant may need to petition ATHD to provide truck turning warning signage. Other considerations include lighting needs and metal crushing procedures.

Staff concludes that the proposed project represents a shift in the nature and scale of the intended use from Commercial to Heavy Industrial, and does not adhere to the compatibility criteria regarding clustering and Right to Farm ( pg.38). Staff notes that the proposed metal transfer station is not compatible in this rural area with an existing development pattern comprised of predominantly residential or agricultural uses and recommends that an alternate location be explored. However, if the Planning Board, should approve the project, Staff recommends that: (1) all outstanding issues noted above are to be addressed to the Board's satisfaction; (2) that these stipulations specifically be considered as part of the decision:

1. Standard Conditions
2. Fire Department Requirements
3. Stormwater Management Plan Requirements
4. Department of Health Requirements
5. U.S Fish and Wildlife Service and others
6. Established appropriate location for bailing, and, saw or torch cutting activities on-site
7. Established appropriate screening and buffering measures
8. Established appropriate hours of operation
9. Regular site Inspections

**Applicant Comments:**The applicant indicated his business can comply with Staff's proposal. Height of the screening indicated on the site plan will be revised from that submitted.

**Gary Ingle, Environmental Services, Group, Inc. (ESGI), Little Rock:** ESGI has represented the applicant in the past, for other locations. He provided a copy of the SWPPP for the site. They have submitted an NOI and this plan to the necessary parties (ADEQ and US Fish & Wildlife). ADEQ has up to 180 days to respond, but ESGI expects a response from ADEQ Water Division in 2 to 3 weeks. US Fish & Wildlife usually responds in 2 to 4 weeks. Mr. Ingle made a presentation. ESGI is working on the environmental impact assessment with US Metals, and reviewed an outline of that assessment plan. Roll-Off Services was the previous business located at this site, and was the source of rodent issues and neighbor complaints. USA Metals has cleared the property, there is no longer a trash disposal business on site, and there no longer is a rodent or pest problem. There are no wetlands in the surrounding area, per the Corps of Engineers. No air permit will be required. Noise will be limited to vehicular traffic, and activity will be scheduled to avoid noise during church services held nearby. Waste will be limited to universal waste streams only – oil, gasoline, hydraulic fluid and antifreeze. These waste streams will be handled as hazardous materials, picked up by licensed carriers. ESGI will conduct weekly site visits, monthly storm water program, quarterly visual inspections, and an annual comprehensive inspection. Mr. Ingle presented photos of the site cleanup. He concluded that ESGI expects no environmental issues from this proposal, if the environmental requirements are followed.

**Board Discussion:** *(responses from Mr. Smith or others are in parentheses)*

- Who owns USA Metals? *(It is a minority owned company, owned by Mr. Smith's wife. There are 11 locations)*
- There is a concern about ESGI having no enforcement capability *(ADEQ relies on Best Management Practices. There are reporting requirements to ADEQ)*
- Your company's record at this location is not a good one *(The 2004 agreement provided for storing equipment for auction, which is what was done. It was not a dumping site.)*
- Why were you asked to leave Siloam Springs? *(We bought the facility from K&K recycling. We wanted to expand, but that large scale development was not approved. Our business had outgrown the current operation, and we agreed to close down the operation.)*
- Why does ESGI refer to this property as a "dump site"? *(It was used by Roll-off Services as a dumpster site. We had approximately 300 two to six yard containers stored there, which were recently moved to the Lowell facility to be sold. At times, the dumpsters had trash or residue remaining in them. This trash operation has ceased.)*
- When was Mr. Ingle hired? *(Mr. Ingle responded that ESGI was hired in September 2012 for the current operations, and the Gentry location was added two weeks ago.)*
- Mr. Smith started this operation in October 2012. Is ESGI aware of any SMPPP application being done? *(Mr. Ingle responded that he had no knowledge of any previous SWPPP application work for this operation.)*
- How is the facility classified by ADEQ for hazardous waste generation? *(Mr. Ingle responded Conditionally Exempt Small Quantity Generator, with the waste identified as Universal Waste.)*
- Who handles your waste? *(It is contracted through Used Oil Services, Springdale. Mercury switches are sent in to the ELVS program, State of AR.)*
- How is waste stored on site? *(Each offsite location is allowed only one 55 gallon drum of oil and antifreeze material -then it is vacuumed out. It is an outside operation, and the area is fully tarped.)*
- Who does your annual reports? *(ESGI)*
- What is the distance between the middle building and the far west building, and distance from the scale to those buildings and the office? *(There is about 25' between the buildings. The scale is about 10' wide, and is closer to the west building. It is a best estimate on the location of the lateral lines – they are further to the north than indicated on the drawing. The scale is not located over the septic tank, but does extend over the line that feeds the laterals.)*
- What will you do to protect the septic tank? *(Bollards have been installed to protect the septic system from being driven over. The lateral field has not been disturbed, and there is no plan to park in that area.)*
- Staff pointed out that the location of the vehicle scale is incorrect on the site plan. This needs to be corrected. Also, staff noted that the site map shows an incorrect location of the existing fire hydrant. It is 100' from the intersection of Highway 59 and Old Highway 59.
- What is the size of the line feeding that hydrant? *(Staff confirmed that it is a 6" line. The applicant needs to confirm that this meets the City of Gentry's Fire Department requirements for a new hydrant.)*
- Why is a crusher not listed on the "Occasional Equipment" Proposed Operations list? *(A Bailer is on the list, and this Bailer also does crushing. The Bailer will be brought to this site as needed.)*
- What are the hours of operation? Is the operation shut down on Sunday? *(Our intent is that processing will be closed on Sunday.)*
- What is the water flow requirement for firefighting? *(Our proposed operation will not have any fires - no cutting torches will be allowed. We have contacted Gentry Water Department to get the flow requirement, but they have not yet responded.)*
- The site plan includes a cutting torch as equipment – is the site plan incorrect? *(We have listed every piece of equipment that might be on the property at any time.)*

- Should the cutting torch be moved to “Occasional Equipment”? (*We will have a cutting torch there, but our cutting torch operator will not be on site.*)

**Public Comment:**

1. **Jay Williams, Gentry City Attorney:** The proposed site is within Gentry’s planning area. The big concern is this business changing the nature of the neighborhood to industrial. The area is rural and residential. Across the street is Tufco Flooring, which is light commercial. Gentry’s Comprehensive Plan, adopted in 2003, would prohibit heavy industrial usage in this area. He won’t address who has jurisdiction tonight. The City of Gentry asks the Board to look at what is appropriate for this area.
  - Board question: How far does Gentry’s Comprehensive Plan extend – does it include a five mile radius? (Mr. Williams responded that Planning Area boundary is Shady Grove Road, about ½ mile south of the subject property.)
2. **Terry McCormick, 7<sup>th</sup> Day Adventist Headquarters, Shreveport, LA.:** The church is a large landowner of the adjacent properties, and the nearby church and Ozark Academy. We are concerned that the human factor is not being addressed. A waste company is not compatible with the surrounding area – people in the area could be exposed to a toxic release.
3. **Paul Bonney, Administrator of the Gentry 7<sup>th</sup> Day Adventist Church:** We have 700 members. We have 236 acres, part of which is within 30’ of the proposed operation. We have presented a petition to deny the proposed operation. We have pristine property, and don’t want the potential of pollution. We ask that you consider the people.
4. **Monty Fisher, Principal of Ozark Adventist Elementary School, located ½ mile from the proposed site:** We have a concern about air pollution for students. We’ve considered building a new school facility adjacent to the proposed business. This won’t be an option for us if this application is approved. We also are concerned about truck and other traffic from the proposed business.
  - Board question: Where would the new school facility be located? (Mr. Fisher responded that it is the area labeled “EX” on the drawing, and is adjacent to the Teaching and Learning/Community Center.)
5. **Mike Dale, Principal of Ozark Adventist Academy (a secondary boarding academy):** We have over 100 boarding students. We have about 48 commuter students, also. School established 75 years ago, under the premise that a rural environment would be a safe environment for the students.
6. **Lloyd Clapp, Chair of Board, Total Life Community Center, located west of the proposed site:** We are an extension of the Gentry 7<sup>th</sup> Day Adventist Church – a ministry of that church. We have existed about 20 years, serving the community. We serve about 3000 people/year, distributing food and clothing to needy people. We provide education, and are used by Benton County as a polling site. We’re concerned about smoke, odors, health hazards, dust, watershed concerns, and rodents (we are a food distribution center). We have been considering expansion, but will have to look for other options if this application is approved. The proposed business is not compatible with the surrounding area, and poses a threat to Total Life Community Center’s practices.
  - Board question: Do you have well water or Gentry water? (Mr. Clapp responded they have water from the City of Gentry.)
7. **Jim Jensen, 13627 Old Highway 59, Siloam Springs:** As one of closest neighbors, who has lived there 53 years, I’m concerned about dust and airborne contaminants (my wife is ill), well water and stream contamination, noise, and the effect on property values. The proposed business does not fit the community.
8. **Richard Myers, 1384 S. Highway 59, Siloam Springs:** I’ve been an adjacent property owner since 1957. I’m concerned about water runoff contamination and well water quality – any runoff will go right to my pond, and I’m worried about my well. The proposed site is swamp.
9. **Dan Paskiewicz – neighbor within ½ mile:** We have a nice rural area –the proposed business does not fit and should be in an industrial area. I’m worried about air, water and noise pollution.

- Board question: Do you have well water or Gentry water? (Mr. Paskiewicz responded he has Gentry water.)
10. **Ryan Paskiewicz (son of Dan)** – We have several adopted children with disabilities, including one with a rare lung disease. We live ½ mile from the proposal site.
    - Board question: Where are you located? (Mr. Paskiewicz said he is the first “R” on the drawing.)
  11. **Tom Krein, 380 Wilson Drive, Gentry:** I’m located one to two miles from the proposed site. I’m concerned about traffic increase, environmental issues and Mr. Smith’s history of noncompliance, property devaluation, and quality of living decline. The City Siloam Springs asked Mr. Smith to move.
  12. **Donna Jensen, 13669 Old Highway 59 South** - lives across from US Metal: I’m already experiencing household dust from the site’s operations, as well as noise and yard lights shining into my living room. I’m also concerned about well water contamination, traffic safety, fires and property devaluation.
  13. **Mark Decker, 13441 Big Red Lane:** The security lights shine into his house. The marsh area has been there for over fifty years, and I have runoff concerns.
    - Board question: Do you have well water or Gentry water? (Mr. Decker has Gentry water.)
    - Board question: The statement was made that the marsh land came from road grading – what can you tell us? (Mr. Decker said the marsh area has been there a long time. When Highway 59 was being expanded, the Highway Department decided not to go through that area because of the wetland area.)
  14. **Jeanne Jensen, 13627 Old Highway 59:** I have concerns about ground and water contamination. Illegal hazardous waste materials was stored there three years ago and cleaned up by Triad. The Illinois Watershed Preservation Project does not support this proposal. The proposed heavy industry use is not compatible and will cause the area to deteriorate. Over 175 people have signed a petition asking you to deny this application.
    - Board Question: You mentioned working within 400 feet of an area storing hazardous waste – is it this proposed site? (Ms. Jensen responded it is the same site, owned by Mr. Smith.)
    - Board Question: Do you know what the hazardous waste was? (Ms. Jensen responded that the workers doing the cleanup said it was broken bags of charcoal, fertilizers, etc.)
    - Board Question: Do you know who the cleanup people were? (Ms. Jensen responded that the company was Triad, and the work was done about 3 years ago.)
    - Board Question: Has the applicant contacted you about this? (Ms. Jensen said she had not been contacted.)
  15. **Mike Parks, 121 S. Nelson, Gentry, Gentry Planning Commission:** This property is not in city boundary. City of Gentry has passed a recent Ordinance to adopt an amendment to the Comprehensive Plan for Planning and development in and around the City of Gentry. If it had been in the city, Gentry would deny the rezoning request.

Public Comment was closed.

The Board asked Mr. Smith about the Triad HAZMAT cleanup. Mr. Smith is not aware of any such cleanup and has not heard of a company called Triad. The Board asked Mr. Smith to respond to these citizen concerns. Mr. Smith requested more time to absorb these concerns, and added that his business has worked hard to be a good neighbor. The industry is not appealing, but it creates jobs and does a necessary service. He believes these complaints can be addressed. The Board was concerned that there is no plan in place, and there are stacks of items yet to be done. He purchased the property from Rockwell Transportation, and does not know what he is supposed to do with the property. He believes he has a sound plan, with effective Best Management Practices.

Mr. Knight moved to approve the establishment of US Metals, given the restrictions as stated by Planning Staff. No second to the motion was made.

Staff commented that this is not an appropriate use for this area, but there is much information yet to be gathered. Staff suggests tabling a decision until the necessary information is provided.

The Board asked Mr. Ingle what he expected ADEQ to do. Mr. Ingle believes that recommendations will be made, but he does not expect the permit to be denied. The ADEQ permit application was submitted the end of last week.

The Board discussed the need for an environmental impact assessment before making a decision. Mr. Smith was asked if he would table this for another meeting. Mr. Smith thought it would be the most appropriate action.

The Board discussed the involvement of an environmental engineer with the proposed operation. The Board is inclined to require monitoring wells. There was also Board concern expressed about the effect on the community of people and their quality of life.

Mr. Cole moved, seconded by Ms. Leyva, to table the application until the environmental study is completed. In discussing the motion, the Board was concerned about sufficient time for public notification, as well as the need for a complete submittal of all requested information.

The applicant agreed to do an update at next meeting at which time a new date for the continuation of the Public Hearing with Public Comment and a possible decision will be set.

Mr. Cole withdrew his motion, and Ms. Leyva withdrew her second.

Ms. Leyva moved, seconded by Mr. Cole, to table the project to the December 19, 2012 Planning Board meeting, where a progress discussion will be held, and a date for a continuation of the Public Hearing will be set. The motion passed 5-0.

Chair Curtis reminded the public in attendance that their comments are now part of the public record.

#### **TECHNICAL ADVISORY COMMITTEE**

**Call to Order: 8:53 PM**

**Old Business:** None

**New Business:** Area Lake Boat and Mini Storage Phase II, LSD#12-222, 15055 E. Highway 12, Rogers, AR

The application was represented by William Platz, who reviewed changes to the original proposal. The owner plans to add an office and small apartment for a resident manager. There will be a provision for handicap parking.

**Discussion:** Mr. Platz reviewed changes to the original application. Staff presented the project information to the Board, and the Board had discussion.

Staff reviewed the project timeline, and proposed Phase II changes. The proposed additions for Phase II of the project will include a 2800 sq. ft. building divided into a 250 sq. ft. office, 950 sq. ft. apartment, and 1600 sq. ft. equipment storage area. The applicant also proposes to change the dimensions of two storage

buildings originally approved as part of Phase I. The surrounding area is light commercial. The Road Department agrees with the site access.

Staff summarized the outstanding issues as the following:

1. **Proposed Use On-site:** The applicant should provide additional details as to the dimensions of the gravel storage lot i.e. Types of vehicles being stored, length of storage time, and access for equipment and RV's or trailers should be addressed. The applicant should provide office hours and estimated number of employees and customers who will access the site. The applicant should also address the changes proposed for building (1) one.
2. **Access:** The applicant is required to apply for a driveway permit through the Benton County Planning office in order to utilize the Pollock road access as a permanent access. The applicant should indicate details of driveway apron at Pollock Road as well as indicating traffic circulation on site.
3. **Nuisance and Compatibly:** The board may wish for details on the security lighting on site which may cause light pollution for adjacent residential property owners.
4. **Parking Areas:** The applicant should indicate a detailed intended use of the gravel parking area. The applicant should provide dimensions of the gravel parking area. The applicant should provide details as to the required security lighting for the gravel storage area.
5. **Parking Buffer and Screening On-site:** Staff recommends additional (4) four to 6 (six) foot fencing along Pollock Road and or a vegetative buffer screening the proposed parking area. The applicant should adjust the site plan to show adequate screening and buffering.
6. **Site Services - Drainage/ Stormwater Management Plan:** The Board may wish the applicant to provide additional detail in regard to storm water runoff which may be generated from additional construction in Phase II.
7. **Site Services - Firefighting Provision:** The applicant should provide a letter of compliance with local fire department as well as install emergency lighting at the office area.
8. **Site Services - Solid Waste Disposal:** The applicant is required to provide a statement on the plan explaining how solid waste will be disposed of. Applicant shall provide the service contract for solid waste disposal. Applicant should indicate location of solid waste receptacle on the site plan.
9. **Public Utilities Service Agreement:** Applicant is required to provide all public utilities service agreements or contracts.
10. **Health Department Approval:** Approval of a septic system for the proposed number of employees and predicted customers that may use ADA compliant restroom facilities. The applicant must have a commercial septic permit and, as noted above, and ADA compliant bathroom due to customers on site. The applicant shall show the specific location of not only the septic field but also the lines and the tank location.

Board discussion included the following:

- A concern about the gravel drive (according to Mr. Platz, this drive is for employee use only)
- Has the City of Rogers Planning been notified (Staff has done this, and has received no comment)
- Why is there so much required for this Phase II – it seems like overkill for adding an apartment. Staff responded that a mixed use application goes to highest common denominator for review.
- A waste receptacle will be required.
- A concern about tree removal (Mr. Platz reported that tree removal has been minimized.)

The Board agreed to move this project to a public hearing set for December 19, 2012.

**Other Topics:** Staff reminded the Board the next Monday, the Legislative Committee will have its first review of the Regulations. The Board is invited to attend.

The meeting adjourned at 9:17 PM.