

Speaker 1 ([00:01](#)):

Okay, this is Chairman Brad Holton. We've been in recess for approximately 17 minutes. We're coming back on. , We were still, , open to more public testimony and the applicant is not in the room, but they, we better wait till they're here, so can

Speaker 2 ([00:23](#)):

We address some of the things we heard and just clarify?

Speaker 1 ([00:26](#)):

, No, I'm uncomfortable with that. Let's go get the applicant in the room. I don't wanna, I don't wanna be caught in a procedural layer. Then you can address it. Yeah. Yeah. I appreciate your enthusiasm. <Laugh>

Speaker 3 ([00:47](#)):

Can we make any simple comments right now?

Speaker 1 ([00:50](#)):

No, you may not. <Laugh> Even though I might enjoy it. <Laugh> They're coming. Okay, good.

Speaker 4 ([01:02](#)):

They

Speaker 1 ([01:02](#)):

Ran? Yeah. <laugh>

Speaker 3 ([01:05](#)):

Unfortunate,

Speaker 1 ([01:06](#)):

No. Okay. Go ahead.

Speaker 5 ([01:15](#)):

Yeah. , so chairman, commissioners, I ... During staff site visit, there didn't appear to be any industrial or manufacturing on site. What appeared was strictly a staging area. , The contractor shop hasn't even been put onto the property yet. They are proposing a contractor shop in addition to the staging area. That's not what staff reviewed at this time was just a staging area. The RV on site, I just wanted to clarify. During staff site visit, it did appear that somebody was living on site. , At the Planning and Zoning Commission, it was testified that it was removed, or not removed, no longer being lived in. The property owner may own an RV, a personal RV, and keep it on site. It just can't have any occupants. That's when it's in violation. And in addition, with the code enforcement violations, , you know, there's been a, a, a lot of testimony on it.

([02:21](#)):

It is a code enforcement violation. , But they are ... The property owner is trying to gain compliance in order to do that is the conditional use permit for the staging area contractor shop, , which is before you today. That is what I had, and I know Dan has several other things that he wanted to go over.

Speaker 2 ([02:42](#)):

Thank, thank you, chair. Commissioners, so one, , comments I heard was, , a highway district and Upper Pleasant Ridge Road. As you know, we don't have jurisdiction over that road. It's a public road that's, , managed and in the jurisdiction of Highway District number four. A lot of the concerns about speed, , recklessness out there or traffic, they should really approach their board and try to get some changes through that board. Unfortunately, this is not the, the form for that, that change here. , Fencing, , there was a mention of setbacks. So fencing doesn't have setbacks, so you're allowed to put those on your pro- , on the property line. The only thing we require str- , setbacks for are structures. And fencing is not a structure. So, , it is on the property line, the, the, the fencing that is, , existing on that property.

([03:33](#)):

Just wanna let you know, if you look at the history of this, this is all done by land division. So the two properties, the one by, , owned by the Arbans and the current property, this was done through a land division back in 2003. So it's an agriculture zone that was split through the s- , division process that we currently still have. , Wells, I just wanted to give you some more information about this, , the water levels. I think you said it's a high water table. It really is. So the, the, the first, the two walls I looked at, the, the first, , encounter of water was 25 feet, and then static level was about 35 feet in this area. So, , wanted to go through, I heard concerns about noise. We don't have a noise ordinance, so that's something the sheriffs would look into.

([04:17](#)):

And then also, this does have a house on the, on the property, so the actual use versus personal private property use, they're allowed to have parties and enjoy themselves on their property. We have no code, , for that as part of this decision today. So, , is the noise being created by the business? You may have some requirements for that, but if it's by the house, that's a perfect personal property rights and we have no, no noise ordering us except for what the sheriffs might do if there's a complaint. , And then just wanted to go back to what, , to what, , Amber said. Usually right now, our code enforcement staff is what, three people for the whole county. And at the end of the day, what we try to seek for is compliance before we, we have to go and get things removed.

([05:06](#)):

Our code doesn't go right into restoration. It goes into, if they put a lot of money and stuff, we, we try to get them to comply first. And so why am I saying that is because we don't have a code right now that says you can't apply if you have a violation, you can't apply, you can try to gain it. And the, the, the application before you is not to determine if this, because of a violation, we shouldn't approve it or not. You just have eight findings you have to make based on the request in front of you. If it doesn't go through, then the code enforcement officer will enact the code for violations or if it goes through, there's conditions that they have to meet. If they don't meet, we, we enact the code violation again, have it removed if they can't meet the conditions, which would basically kill the, the conditional use permit process.

([05:51](#)):

And then I just wanna give you, again, understanding the code so everybody knows. Again, this is a use that's allowed in the agricultural zone subject to conditions. So what are other uses in this area that are very similar in our code? Mintal extractions allowed in the agriculture zone. I know people think that's

industrial, but we allow that in the agricultural zone subject to a conditional use permit. So it's a school, so it's quasi-public uses. So as a p- , special events facility, so it's an arena for commercial purposes. So we have a lot of these uses in the agriculture zone. Why? 'Cause a lot of these come from 1995 where we determined there's similar uses out in the agriculture area that produ- have equipment, noises, dust from the agriculture use that could be similar. And so if they can condition it enough, it could be appropriate for that area.

[\(06:40\)](#):

And that's why in the land use matrix and the purpose of a conditional use permit is the commission gets to look at the characteristics and determine whether or not the use would cause damage, hazard, nuisance, or other detriment to persons or properties in the vicinity. 77, , let's see, or 17, the commission gets to make the conditions. So the applicant can say, "This is the conditions we, we hope you can give us." We can recommend, based on approval, some of the conditions that we think would mitigate. Ultimately, the board gets to come up with the conditions, and those conditions can mitigate impacts, control the, the sequence and timing of the development, control the duration of the development, designate a specific location for that development, and so on. You, you get to do that. And the thing is, so as you saw in the, the application, the staff did recommend approval because, , there are a number, , doing site visits and looking at there, there are a number of properties out there that have equipment very similar out there, but it's for act purposes.

[\(07:45\)](#):

They have these equipment for that. Again, it could be conditioned to mimic some of that character. So we, we found that the character could be similar subject to conditions. And same with traffic, we got that information back from the highway district saying they had no issues with that. So we, we had to recommend approval because that's the information we had at that time. And so we do have those conditions, but I just wanted to bring back the reason why that's a conditional use permit. And I think there is a mistake there too. I think there's an assumption that because it's an allowed use subject to conditions that you can't deny, you can't. You, if it doesn't meet the findings, you can deny the application. As, , Commissioner Holton said, sometimes there's just too many conditions that it just can't be enforced. And that's up to you to make, but I just wanted to throw it up there, why there's, why is this as a conditional use permit and what the purpose of that whole application is for and that you can condition this and that there is enforcement for it and if they don't meet those conditions, we can take it away.

[\(08:43\)](#):

So I just wanted to go through those

Speaker 4 [\(08:45\)](#):

Codes. Thanks, Dan. Thank you.

Speaker 1 [\(08:54\)](#):

So point of clarification, is the house on this is, it's not being used as a resident currently? ,

Speaker 5 [\(09:02\)](#):

Through the chair, the house on the property is being used as a residence. There is a stationary and contractor shop in addition to the, the residence on the property.

Speaker 1 [\(09:14\)](#):

But they are, they are, their application is for the whole piece of property, including the house.

Speaker 5 ([09:20](#)):

It is not. It is, -

Speaker 1 ([09:22](#)):

The red line shows that it is, or am I misunderstanding what I'm looking at?

Speaker 5 ([09:26](#)):

Yes. With your permission, I would like to show the site visit that they-

Speaker 4 ([09:34](#)):

Site plan. Okay.

Speaker 5 ([09:35](#)):

Site plan. And, , if you see up at the top, that is the primary residence, and then- Oh, right there. Ah, hang on. Fancy. Okay. So, there is a primary residence right here, chairman. The dotted line is where they're proposing the staging area, and that is what the, , conditional use permit is for that area.

Speaker 2 ([10:07](#)):

And through the chair, there was concerns about them expanding ... So, this conditional use pers- can lock down that area specifically. If they want to expand, then they would have to come back through the process to expand, and they would have to go back to the hearing process to do so.

Speaker 5 ([10:21](#)):

Truman, there is a condition already ready, , if you were interested to lock it down to that specific area so that the proposed use wouldn't, wouldn't be able to grow without a modification.

Speaker 1 ([11:00](#)):

What page is that on, electronically?

Speaker 5 ([11:04](#)):

This does ...

Speaker 1 ([11:05](#)):

Let's see here. It should be down at the bottom of your window.

Speaker 5 ([11:09](#)):

385. Is that what, the exhibit 385? Oh,

Speaker 1 ([11:13](#)):

Okay. - 385. Okay.

Speaker 5 ([11:16](#)):

Is page

Speaker 2 ([11:18](#)):

64. 64.

Speaker 5 ([11:20](#)):

64. Thank you. All right.

Speaker 1 ([11:34](#)):

And where are the conditions at? What page are they at?

Speaker 5 ([11:39](#)):

The condition on the screen is one that I added based upon, , testimony. Okay. It's one I'm proposing if the, the board would like to move forward with approving. , I can go over all the conditions, but this is just one that I added based upon testimony. Okay.

Speaker 2 ([11:59](#)):

Do the chair, page 39 has staff's original re- recommended conditions, if you can- Okay.

Speaker 1 ([12:04](#)):

Thank you.

Speaker 3 ([12:23](#)):

Mr. Chairman, I have a question for staff.

Speaker 4 ([12:25](#)):

Sure.

Speaker 3 ([12:27](#)):

If, , let's say Mr. Whitted wanted to buy this piece of property and move all of his farm equipment onto this piece of property and build, would he be allowed to do that?

Speaker 2 ([12:38](#)):

Through the chair, , that's called agriculturally related activity. So, if it's storing your equipment on site for agriculture uses on the property or adjacent property, that wouldn't need a staging area requirement. It, you just do that as, as part of ag.

Speaker 3 ([12:56](#)):

So, then a follow-up to that is if you, , wanted to get a building permit for a shop to work on that equipment, would he be allowed to do so?

Speaker 2 ([13:07](#)):

For personal uses, yes. For commercial uses, no.

Speaker 3 ([13:11](#)):

Okay. Thank you.

Speaker 1 ([13:40](#)):

You're formulating a question.

Speaker 4 ([13:45](#)):

Well, I, I'll ask a question, Chairman.

Speaker 1 ([13:47](#)):

Okay.

Speaker 4 ([13:49](#)):

Dan or Amber, I looked at the video links that were provided. Is there a timestamp on those?

Speaker 5 ([13:58](#)):

, Commissioner Van Beek, they're within the letter, , the email that was provided, they have the time that the video is, and then the link was sent separately. So, I can give you the times. It's not a timestamped in the video, though.

Speaker 4 ([14:17](#)):

Okay, thank you. And do you mind providing that?

Speaker 5 ([14:19](#)):

I certainly can.

Speaker 4 ([14:20](#)):

Thank you.

Speaker 5 ([14:21](#)):

, Exhibit 5B, , where the videos are on the third page. On the first and second page of that, they have the actual times. , So, on February 4th, it was 7:10 AM video, February 7th, 7:15 AM, February 11th, 6:40, , 6:54 AM was a photo, February 13th, , 6:52 AM photo, February 21st, 80 AM video, February 25th, 7:11 AM video.

Speaker 4 ([15:15](#)):

Thank you.

Speaker 1 ([15:29](#)):

Amber, has the applicant been involved in any of the conditions?

Speaker 5 ([15:35](#)):

The conditions that went in front of planning and zoning, , the original representative and I worked through those conditions.

Speaker 4 ([15:50](#)):

How

Speaker 1 ([15:51](#)):

About-

Speaker 5 ([15:52](#)):

This added one, no. Okay.

Speaker 1 ([15:56](#)):

So, s- 7C, they, they haven't seen 'til today?

Speaker 5 ([16:00](#)):

7C, no one has seen 'til today.

Speaker 1 ([16:02](#)):

Okay. But the, the other through Clear Through 15, they're aware of

Speaker 5 ([16:06](#)):

Those? That is correct, Chairman.

Speaker 2 ([16:14](#)):

Do the chair just ... It, it is an addition, but at the same time, seven, the start of seven, it just says the proposed demand shall be in general compliance with the applicant's site plan, operations plan, a letter of intent. So, if you go to that site plan and see, that's the only area it's supposed to be in, they're supposed to be in substantial compliance. So, it does cover it, but that makes it very- Very clear. ... Clear of that's the only area that is supposed to be in.

Speaker 1 ([16:39](#)):

So, if it makes it, that's very clear, then the seven to seven is only the one acre area they can have a party all week long on the rest of the parcel?

Speaker 2 ([16:51](#)):

They, at the end, the, their house and anything outside of that commercial area or staging contractor shop, that's their personal use, they, that's outside of this decision. And just through the chair, I'll just add to it, if they ... But it started as two, my understanding is a landscaping business, which our code says it's unallowed use in the ag zone, doesn't even have to have a, a permit. And, and we, unfortunately, our code doesn't have a definition of what that means. And what it has always been is somebody who's just going out, mowing lawns, coming back, or it could be as, sometimes as big as people storing gravel on the site and people coming and grabbing it. Back in the days, it was a condition

use permit, but since 2012, it's been a landscaping business isn't allowed to use. So, when it turns more into a contractor shop staging area, that's when they get a permit, but they can maintain it as a landscaping business, then they don't even need an, a, a, a, a permit.

(17:46):

It's an approved use.

Speaker 4 (17:53):

So, Dan, Chairman, as a follow-up, clarify the difference for me at what the parameters are that qualify as a contractor staging area that would be different than a landscaping.

Speaker 2 (18:06):

Great question. , So, we haven't had a definition again for landscaping business since 2000, , before 2012. All we have, but you're gonna probably find them similar, , is the definition of a contractor shop, which is, , if I can find it in my code here. Is it up? There you go. May include but not limited to a building where a contractor conducts a, conducts a business, including offices and parking of equipment, and, , employee parking, which is probably no different than sometimes a landscaping business, depending on what they're doing. This is meant to have ... What we've seen in the past is somebody has an HVAC business and they're just kind of keeping stuff on site, has a few cars. They go in and out at the ... They're not really doing a lot of business, but they're maintaining their vehicles a little bit.

(19:03):

Somebody's coming in to collect a paycheck maybe, but they're able to do it in a way that doesn't impact the area. And then the staging area, of course, is just starring materials. , Yeah, that is our current definition. And unfortunately, we do have a l- unfortunately, we do still have a, a land use matrix that says landscaping business and currently does not have a definition that says what that means. We've taken it as it can't be more than this, so once it increases more into what it defined here, then we always say, "Go ahead and get a contractor shop," so ... Yeah.

Speaker 4 (19:40):

Chairman, a follow-up question in the videos, was there anything when you went out on site that would indicate that there was maintenance or other, ... I guess I, I d- would it include that to maintain vehicles on there? It, it was noisy. And is it any different than a farm operation? It's just more concentrated and next to, so ...

Speaker 5 (20:05):

Through the chair, when staff did their site visit, , there was no employees, , on site at the beginning. One employee came to drop off equipment and leave during the site visit. It wasn't a planned visit at all. I did not let them know I was coming at any, , indication. So it was just a, a normal day. Nobody was on site, and someone came, dropped off and left.

Speaker 4 (20:31):

Thank you.

Speaker 1 (20:40):

So I have a question to the board. Are you okay to have the applicant's representative back up because I don't feel that he addressed the comments that were from the concerned citizens directly? Do you want that to take place or are you good with where you're at with the testimony? Do

Speaker 4 ([21:01](#)):

You wanna entertain that chairman? That's fine.

Speaker 3 ([21:08](#)):

You wanna second bite at the apple for rebuttal? Is that what you're ...

Speaker 1 ([21:11](#)):

No, I don't know if I want second bite for the rebuttal, but, , he had the opportunity to give specifics of what they could be able to do to mitigate the neighbor's conver- concerns, and I didn't hear that. I heard that, "Well, it's highway's problem. Well, it's this. Well, it's that. " And so, , I, I guess I'm asking, did you hear, did you hear it differently?

Speaker 3 ([21:41](#)):

Well, I think you've given an accurate representation of what he said, but I think that's up to him to choose whether or not what he actually decides to say.

Speaker 1 ([21:50](#)):

Okay. All right. All right. So that's, so we'll leave it at that, because I understand about giving a second bite at the apple and, -

Speaker 3 ([22:01](#)):

I guess that was more clarification that, of what you were-

Speaker 1 ([22:05](#)):

Right.

Speaker 3 ([22:05](#)):

... Asking for.

Speaker 1 ([22:06](#)):

Right. Okay. All right. Where else do you wanna go with this?

Speaker 4 ([22:24](#)):

Chairman, I, we've heard testimony, so I move that we close public testimony so we can deliberate.

Speaker 3 ([22:30](#)):

I second.

Speaker 1 ([22:31](#)):

Okay. Motions have been made and seconded for deliberate to close public testimony. All those in favor say aye.

Speaker 4 ([22:38](#)):

Aye.

Speaker 1 ([22:38](#)):

Aye. Aye. Motion carries unanimously. So this is the period of time that, , the board goes into deliberation. As a reminder to the audience, decisions by the board must be based on information in the record and criteria outlined in Idaho State Code and Canyon County ordinances. No new information is to be presented or discussed, and we will not take comments from the audience. It's important that we are able to discuss our opinion and make specific findings, and therefore please be respectful as the board discusses the matter.

([23:39](#)):

So here's where I'm at. I didn't hear, ... I heard concerns from the neighborhood, which is what a public hearing is to do, and I didn't hear specific rebuttal, and he's only ... They're only fall- failing on two points, but I didn't hear specific rebuttal on the two points about specificity about the concerns of the neighbors. And so this is sort of a quasi-judicial position that we're in, and I feel that I did not get enough spec- specificity from the applicant. The burden of proof is on the applicant, and I didn't hear specificity as to what they could do to mitigate their concerns. Could they come back at a later date with a very clarified application that, , that addresses those? Yes. , simple examples, we just had one this week, the driveway, they could pave the driveway up to the face of this shop in their parking.

([24:54](#)):

There's, there's your dust mitigation concern plan. And I understand that there's a dust plan, but the dust plant, as I would understand, it has more to do with what they're storing and how they move about and how they load or unload. , They, , they could give a site plan that shows clearly how their entrance, how they're, how they're gonna bring equipment, whether it's ... They didn't even tell me whether it's a pickup or a trailer or it's a 10-wheeler, it's a semi. I had no specificity to that.

([25:31](#)):

So I'm not going to assume it's a Ford F-150. I can't ... I have to, I have to have some specificity about what kind of equipment is going to impact this neighborhood, this amended, this immediate vicinity. I don't have that. I'm a little bit frustrated. So the applicant's representative went through the legalities. I don't need to be schooled on that. This is not my first land use public hearing, nor is it my first appeal. I get what I have to work in. I also get what he has to address or the representative has to address, and I don't feel that I have enough information because I think it's disingenuous to advertise for a public hearing and have people show up and not address that. Is there people within the public that have way off base testimony? Absolutely. It's the public, but I didn't find that our testimony today had concerns that were way out of line.

([26:51](#)):

They, they, they resonated with me. And I think that there, there is things that it's possible that this applicant can address in a future application about what they just heard, what I just went through. And so I am really concerned about the agricultural area and keeping the integrity of the agricultural area sound and this, unless this was a, , a crew that goes through and hose row crop, it's, it's a difficult neighbor to have an agriculture that has 15 to 20 individuals coming and going outside all the time. You,

you have to moderate your spraying, you have to moderate what you're doing. So, , I, I do find that it's, that, that could be mitigated, mitigated, but I'm not gonna start creating 1500 ... I'm sorry, that's a gross exaggeration. I'm not going to create condition after condition trying to help this applicant be a good neighbor and not impact active agriculture.

(28:18):

If these people were growing winter wheat or they were growing field corn, that'd be one thing, but they aren't. They're growing seed crops and other high intensive crops that are very vital and very important and not interested in impacting the agriculture. Can they work around that? I believe that they could. They could be good neighbors. They could, they could, , coordinate with the farmer, they could coordinate with the crop that year, they could mitigate what they're doing or how they're doing it, but I don't hear that. I hear that I bought this piece of property and I want to use it for a commercial endeavor at a lower expense than other commercial property would be, and everybody can, can, , can put up with it, because I have my personal property rights. Guess what? The property immediately adjacent to you has their personal property rights, and the property next to them has their personal property rights.

(29:23):

So I have to weigh all of these property rights issues, and I'm not anti-business, I just would like everybody to be good neighbors, and for the life of me, I don't see how you can sit through a public hearing and not come back and start going through the bullet numbers of, of their, their concerns and saying, "We could do that. We can't do that. I, I think we could do this. " I think that's what I'm listening for in an appeal, and that's what I'm listening for in a land use is, is The concerns being weighed and validated by the applicant and trying to become a part of the neighborhood. That's what I'm looking for, and I did not get there today. So I'll hand it over to you too, and you can-

Speaker 4 (30:17):

Chairman, thank you for your comments. I find myself in the same place. There were things that, questions I had, and I'm known for asking a lot of them. The thing that this board, I believe, has done well is to deliberate decisions to get to common sense where sometimes it's not so common. But in the hearings that we have been a part of, we have had recently people come before the board of county commissioners with not just average, but exceptional presentations on working to be good neighbors and mitigate concerns before it gets to conflict or a civil dispute. And to your point, and the questions I ask are, are intentional. , There are things between the planning and zoning hearing and this Board of County Commissioners hearing that would have been the captain obvious. I'm gonna clean this up and make this an application that does not make it problematic for the people that live there.

(31:24):

We are charged to receive information without bias, hear public testimony, and weigh the evidence. I agree with you, , that the, the people that testified that live in this area that have to live in proximity, that matters to me. This board makes decisions that move forward for people's way and quality of life. I am frustrated as well by this area because there's so much diversity in what's been allowed. We have, this area has been contested for a long time. There's a battle between ag, a battle between industrial, a battle between rural residential. And at the, the end of it, I'm going to speak from a farmer's perspective. If the goal in Kenyon County is to protect ag, the Whittigs have a known reputation in the farming industry for running a quality operation, a multi-general op- , generational operation. That matters to me. We have friends in farming that have the same thing.

(32:39):

It becomes increasingly difficult. I don't care what you put next to it. We've heard testimony already that aerial fly-ons are no longer being done. When we grew wheat, we had, , a rust that was going to be the only way that we saved our crop, and that's what we did. And so how farmers navigate, it is a true statement. I didn't ask because I didn't know. I asked because I knew and he confirmed it. One of the most highly regulated industries or businesses that there is. I also am known as a commissioner that believes that people that want to run a business should know how to properly permit and put the business in place. I would have concerns if I were in proximity and there are housings developments scattered in there, but there are people living next door. I have no idea how long.

(33:37):

, Sewage was being discharged into a non-approved Southwest District Health site, but I would have concerns given what I heard today. If there's con- water contamination, I have no idea. , , 750 acres is no small potato, no pun intended. But in terms of farming, there's, there's a lot of ag in this area. It's a beautiful area, but it is also have a mixed use. So I admire people that want to run a business. I ran a business for 20 years in ag, but I had to follow the proper procedures to get there. And the people in the land use decisions that we've made that we've been affected by personally, the best way to get by in is to get by in to go into your neighbors and find out how can I help mitigate so that this isn't contentious. The change in elevation, 15 feet, , that, that's a lot of elevation change on a road.

(34:52):

Traffic safety is important. Commissioner Holton, you are correct in that we don't know what kind of traffic is coming in and out. Dan referenced a part of the section in our code. It's, it's sequence, it's timing, it's location, it's all of that. And even with the fumigation efforts that are out there, that spray operation that started yesterday on my farm finished within about a, and they weren't finished, but at, I looked at the speed at nine miles an hour and it went to 16 miles an hour and they shut down that spray operation because I went out and I said, "I went to D&B and I want to protect these plants." But it's also against a lot of spray at more than 10 miles an hour. So I think the best thing is for people, I agree with you on a different application to come if they want to, but there's gotta be some work.

(35:46):

I'm not interested either in helping people. That's not my job. Our job is to listen to the testimony and weigh and evaluate the burden of proof is on the applicant. I would not be in favor of approving this today because the statement that we heard re- repeatedly, which, , where does it stop? Where does a board look at what the long-term planning goals are in Canyon County? There are holes in our comp plan, in our definitions that we are working on, but in some instances, just because you can doesn't mean you should. So, , thank you.

Speaker 1 (36:33):

Tell us how much you care.

Speaker 3 (36:35):

, Mr. Chairman, it's, I guess I tend to, , read PNZ's, , deliberation, the questions that they asked and the FCOs that they produced and come to the same conclusion that the applicant did. , They did not provide much of any substantiation for their decision. , It's, this is one where I'm not necessarily in support of, but I can't, I can't come to a conclusion where the FCOs are gonna be solid enough to, , to deny this. Again, if, if the farming operation moved across the street or if the nature of the, the operation changed one that's already allowed, , we're, we're not even sitting here for this. So, I don't know what your guys'

FCOs are gonna look like. , The testimony that the applicant gave in the planning and zoning hearings stated that they were pickup trucks and trailers. They were not big rigs.

[\(37:57\)](#):

They were not 10-wheelers. , It's an application where people come, they park, they take different vehicles and they leave for the day. They're, they're not there by and large for the most part during the day. , As most CUPs that make it this far to get into front of us are. , I have lived in this county for, what, 34 years. I live right next door to an operation that looks like one of the pictures that were presented that didn't have anything to do with this application that operates under a CUP. , So I'm pretty well aware of what it looks like to start all hours of the morning and go all hours of the night and not look the best in the, in the process, but at the same time, , it's an allowed use. And what I'm hearing based on the comments that you and Commissioner Van Beek have made is that if we're, we're seeing more of these, like the land matrix usage should probably change our base designation, , as ag should change because I think more and more as we see these, , it's problematic that our base designation is ag, so everybody thinks that's a, that's a farmer on a tractor or somebody out there feeding us cattle or is animals or whatnot.

[\(39:41\)](#):

And, and so having the base designation to give people the idea that's what it is rather than this whole litany of other approved uses that we have, it's, it's a bit disingenuous to give people the idea that this is what the agricultural des- designation is, and then you go look at it and it's like, "Oh wait, it's got all these other uses to it. " So I'm not gonna belabor the point anymore. I'm fine being the, the one-off on this, but the way I see it, I see it more the way staff initially looked at it. It's not like I'm sitting here cheering for it. , I think the way it's conditioned and to the one acre, much of the testimony about the, the partying and whatnot, they can already do that. The, whether this happens or not is not going to change the fact, , everybody in that business could still show up to the house and still do that.

[\(40:46\)](#):

And there's, there's nothing that we can do in this process to make, to assure people are going to be good neighbors. , So anyways, that's-

Speaker 4 [\(40:59\)](#):

Okay.

Speaker 3 [\(41:01\)](#):

That's where I'm at.

Speaker 1 [\(41:02\)](#):

Okay. Dan, do you have any thoughts?

Speaker 2 [\(41:20\)](#):

-

Speaker 1 [\(41:21\)](#):

Or Amber?

Speaker 2 [\(41:22\)](#):

The chair, as you, you know, you have your, , options. The recent, again, , some of your concerns you've had, I know it wasn't vetted through vocal testimony, but if you go through, , exhibit three, A3, you'll see their operations plan where they talk about how they're gonna mitigate dust, the type of fencing, the type of vehicles, the hours that they're willing to uphold to, how they'll deal with, , that portion of land. , So again, , when staff reviewed this, we, we found it to meet the minimum requirements, and that's why we added conditions to make sure that they can be upheld. And we also add timeframes, understanding this isn't a violation, so we want them not to give them the full three to five years to comply, but if you notice, some of them are 30 days to comply or 90 days to comply, , depending on the type of development they have to do, like a, you know, fencing or landscaping or things like that.

[\(42:14\)](#):

So we did put some of those in there, so there is a, a rush to it, but, , the operations plan, I, I feel that, , captures a lot of the ways that, , they would, , reduce their impacts, , on that property. , But again, , when we write these things, , when we give our, , recommendation, it's usually at the time prior to getting testimony from the au- , the public, we usually do our analysis using our code and then just getting feedback from affected agencies. By the time it goes to the public hearing, , we, we don't really get to, , evaluate those comments that come in, and that's what the hearing body is able to do, and so it may differ from what we're recommending. At the end of the day, staff recommended approval with conditions, planning and zoning commission disagreed with staff and provided the FCOs in front of you.

[\(43:10\)](#):

, Today's an appeal of those, because that was the final decision you get to decide to uphold, , that decision, deny it, , or, you know, or approve it by denying their decision or if you need more information, you can always table it and request more information to, to make that decision.

Speaker 1 [\(44:02\)](#):

And you can also go to the, no, not yet.

Speaker 2 [\(44:08\)](#):

I'll let you guys decide <laugh> which one.

Speaker 1 [\(44:12\)](#):

I, I, I'd be, I would be disingenuous if I go back on what I said about I don't feel that the applicant addressed the concerns and, and I know that he roller skated in here on, on, on the legal winds of what I have to do and what the shortcomings of the planning and zoning was, and to some extent that was then and this is now, and I have to deal with what I, I've been presented with and what PNZ chose to do, I have to determine that as well as what I've heard. And so, , it, I believe that it's, it's possible that they can, , work with the neighbors and mitigate most all these concerns and be back. But I, I'm not at a place that I feel comfortable that, that, that I'm there. And I, and I, I didn't listen to the party, I didn't listen to the road, but the road still is, it still has an elevation issue, it still has, , things that could be addressed that they've looked at, that they've said that they've done X, Y, Z with the entrance into their property.

[\(45:40\)](#):

They chose to be silent on that. That's their choice, not mine. And so if they knew it was coming up, they could have, they could have given me a entry drawing, they could have given me some elevations to make me comfortable. Do I own the road? For the record, I don't. Highway district number four, but I own it. All of the stuff, the connectivity and all of that is in my belly whack. And, , if I have neighbors that are concerned about it, I have to listen to that.

(46:17):

I too am frustrated that there's, , non-conforming uses within the vicinity, and I too am not bringing that into my decision. I think that I commend the applicant that they actually came in and they're wanting to work with the county, and I'm a little bit frustrated that I'm in the position that I'm at. But if, if you wanna work with the county, then you need to also wanna work with your neighbors and try to address or try to mitigate those concerns. I think you could get there. I, I, I think that that can be done, but right now with what I have, I can't, so ...

Speaker 2 (47:03):

And through the chair side, , one of the options, again, is to uphold the Planning and Zoning Commission. You don't have to do the exact same findings though. You can just say we can concur and here's the additional things that we found, and it sounds like on four and seven, you just don't have enough information to ensure, , conditions can mitigate the impacts too that may negatively change the essential character as well as the interference that's caused by it. You just don't have enough information to make that. Right. And so that could be the finding and then, as you know, as these cases, if there is a way to gain approval- Yeah. ... What are the things that they should bring back if they reapply again?

Speaker 1 (47:40):

And that would be the way that they could gain approval is just by addressing what, what I've heard today and, and putting it in their application. I would, I would say that if you're gonna have ... I'm gonna put down a number. You're gonna have 30 or 40 trips. I'm, I'm doing the ingress, egress, bust loose and tell, tell me that you're gonna put asphalt or you're gonna put, , some kind of coating on the road that it isn't gonna be a dusty driveway for your neighbor. I mean, you're, you're doing an intense use here and you're changing it from just your neighbor. So do what you would have to do in a city or something else like that. Be, be, be above board. I'm not saying that you're being not above board, but do it, do it the way that it needs to be done to be a good neighbor.

(48:40):

So do you feel, Dan, that we can write FCOs to, , , to illustrate what I'm talking about in, in, in addition for our denial? To

Speaker 2 (48:54):

The chair, yes. Okay. So it sounds like you're just missing information to make those findings, so we can amend those. If that's the motion to deny based, , up- upholding that you couldn't make findings for four and seven, , and it's just because it's missing information about how dust, access, , the traffic, , and it sounds just, , in general, , , the, the, the operation would, , mitigate potential impacts to the surrounding agriculture use. Yeah. So we can just add that and then add, , what I'm hearing, you can disagree or agree, but I'm hearing is that ways they can possibly gain approval is to provide, , mitigation measures to those, to, to those, , those concerns to address

Speaker 1 (49:39):

Those. I, I agree.

Speaker 4 (49:41):

Chairman, can I add too, so Dan, it is concerning. We have cases in the county where raw sewage ... I have no idea what's happened on this process, but we did have an applicant that came and had Southwest District Health approval, looked at ... So there was some proactive positioning on the part of the applicant to make a presentation to the board. If there's been an upside, I really appreciate what the attorney said. People shouldn't be penalized, but on the other hand, if people have identified areas where they could have mitigated in good faith and made a presentation to the board, I'm talking about removing the RV. I don't have eyes on this, so I have no idea what that looks like. If it's still there, why is it still there? If there was a, a sewage of manmade, I have no idea what that looks like or how long it's been dumped on.

(50:34):

I, I don't know. That would be concerning to me as a neighbor. Would I like it if somebody approved that in proximity to my backyard? I can assure you I would not. So to have some assurance, and that would mean you'd get boots on the ground from a health department and look at maybe test, I don't know. That's not my job. It is the applicant's job to provide enough assurance to this board that we're making decisions that are in the best interest of the surrounding property owners, that we, as the chairman has indicated, respect all the property rights. That would be important to me to include in their decision or their, , recommendations on how to gain approval coming back.

Speaker 1 (51:14):

Commissioner Van Beek, if I might inject something that could be succinct. So could you, would you agree that we would request from the applicant next time that he has a letter from Southwest District Health that they've reviewed the site and- Yep. ... There's either no issues or whatever.

Speaker 4 (51:32):

Yep.

Speaker 1 (51:33):

So they could have that as an.

Speaker 4 (51:35):

Thank you, Chaman. Appreciate your help.

Speaker 1 (51:37):

Okay. You can put that in there. Okay.

Speaker 3 (51:42):

Mr. Chairman, is a motion and order?

Speaker 4 (51:45):

Yes, sir.

Speaker 3 (51:46):

Mr. Chairman, I move that we deny case number CU2025-0013-APL, and that staff will come back later with FCOs to be approved.

Speaker 4 ([51:58](#)):

I will second.

Speaker 1 ([51:59](#)):

Okay. Motions been made and seconded. All those in favor, say aye.

Speaker 4 ([52:04](#)):

Aye.

Speaker 1 ([52:05](#)):

Aye. All those in agreement? Aye. Opposed,

Speaker 4 ([52:12](#)):

Nay.

Speaker 1 ([52:12](#)):

Okay. Two, one. All right. Staff, do you have any other comments or questions before we would close?  
Through

Speaker 2 ([52:23](#)):

The chair, what, what we'll do is amend those, , FCOs to match what was state- stated and then come back at a different agenda state for

Speaker 1 ([52:30](#)):

Signing. Okay. All right. And that'll be on our agenda.

Speaker 2 ([52:33](#)):

Correct.

Speaker 1 ([52:33](#)):

Okay. All right. I don't have any other business. I'd make a motion. We adjourn.

Speaker 4 ([52:37](#)):

I second.

Speaker 1 ([52:38](#)):

Motion's been made and seconded for adjournment. All those in favor say aye.

Speaker 4 ([52:41](#)):

Aye.

Speaker 1 ([52:41](#)):

Aye. Aye. Motion carries. Let's consider ourselves adjourned.

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