



**Findings of Fact, Conclusions of Law, and Order**  
Conditional Use Permit - Appeal

**Findings of Fact**

1. The applicant, Chris Carpenter, representing Michael Rawdan/Easy Heating and Air, is appealing a Planning & Zoning Commission’s decision regarding the denial of Case CU2022-0004, a conditional use permit to allow a Contractor Shop within an “A” (Agricultural) Zoning District on parcel R22694. The property is located at 4541 Hemlock Way, Nampa, Idaho; also referenced as a portion of the NW¼ of Section 8, T3N, R1W, Canyon County, Idaho.
2. The Planning and Zoning Commission denied Case CU2022-0004 on January 5, 2022 (Exhibit 2 & 3). The Planning and Zoning Commission signed Findings of Fact, Conclusions of Law, and Order on January 19, 2023
3. The subject property is designated as “Agricultural” in the 2020 Canyon County Comprehensive Plan (Exhibit 1, Attachment 6iv).
4. The subject parcel is located within the Nampa Area of City Impact and is designated as “Medium-Density Residential” (Exhibit 1, Attachment 6v and Exhibit 5, Attachment 1).
5. The application was noticed in accordance with Canyon County Code §07-05-01. Property owners were noticed on March 10, 2023. Affected agencies and the City of Nampa were noticed on February 23, 2023. Legal noticing was published on March 10, 2023. A notice was posted on the subject property on March 17, 2023.
6. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on May 16, 2023 and all information in case file CU2022-0004-APL.

**Conclusions of Law**

For this request, the Board of County Commissioners agrees with the Planning and Zoning Commission’s findings and conclusions per the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

**1. Is the proposed use permitted in the zone by conditional use permit?**

The parcel is zoned “A” (Agricultural). Pursuant to CCZO §07-10-27, a contractor shop is allowed in an “A” Zone subject to a conditional use permit. Per CCZO Section 07-02-03, A contractor’s shop is defined as *“May include, but not be limited to, a building where a contractor conducts his business, including offices and parking of equipment and employee parking.”*

The applicants submitted a conditional use permit application on February 2, 2022, in accordance with CCZO §07-07-03. Upon denial by the Planning and Zoning Commission on January 19, 2023, the applicant submitted an appeal of the decision per CCZO Section 07-05-05 on February 3, 2023.

**2. What is the nature of the request?**

According to the applicant’s letter of intent (Exhibit 1, Attachment 3), the operation will be Monday-Friday from 8:00 a.m. to 5:00 p.m. with company vehicle parking to be utilized after hours and on the weekends. The approximate 22’ x 45’ shop will hold all other equipment needed by the company, and all work shall be conducted within the shop. There will be a main office located within the residence

that will have one (1) to five (5) employees daily, the entire property is enclosed by a six-foot privacy fence to create a barrier between the contractor shop and the surrounding properties.

The following conditions were considered by the Planning and Zoning Commission on January 19, 2023:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property, including the following:
  - a. Prior to the commencement of use, an approach permit is required from Nampa Highway District #1.
2. The applicant must apply with the Canyon County Development Services Building Department for a change of use occupancy and meet all requirements placed by the Building Official in compliance with the Canyon County Building Code.
3. The use shall be in substantial compliance with the letter of intent and site plan provided by the applicant (Attachment A) subject to the following restrictions:
  - a. Hours of operation shall not exceed 8:00 am to 5:00 pm, Monday through Friday. Employees working on-site daily shall not exceed five. All employee vehicles shall be parked on-site. Employee parking is prohibited on the public right-of-way
  - b. All vehicles and equipment shall be parked within the existing shop or enclosed by sight-obscuring fencing. Employee parking shall be located behind existing structures, landscaping, and/or fencing.
  - c. Structures and fences shall be maintained in good repair. Equipment, weeds, and trash shall be maintained to not become a public nuisance (Canyon County Code §02-01-05).
  - d. All exterior lighting shall be downward facing and directed away from adjacent properties.
4. Any expansion or modification of the approved use shall require approval through a conditional use permit modification.
5. This permit shall not be transferable to any other property or individual and is not valid for any business or use other than that specifically approved by the Planning and Zoning Commission.
6. This conditional use permit must follow land use time limitation as stated in CCZO 07-07-23: “When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date.
7. Any major changes in the proposed plan must get Fire District Approval from the Nampa Fire Department.

On February 3, 2023, the applicant submitted an appeal of the denial by the Planning and Zoning Commission regarding the request. The letter of appeal (Exhibit 4) states the denial was based on testimony that was not reviewed or verified to be true. The applicant believes the contractor shop including fabrication is not injurious to the character of the area, and that conditions of approval can restrict access to Hemlock Way addressing traffic issues.

### **3. Is the proposed use consistent with the Comprehensive Plan?**

The subject property is designated as “agricultural” on the future land use plan within the 2020 Canyon County Comprehensive Plan. The request is generally consistent with the following policies and goals of the Comprehensive Plan:

Chapter 1. Property Rights:

- Policy 1. No person shall be deprived of private property without due process of law.
  - o CU2022-0004 was heard and noticed in accordance with CCZO Chapter 7, Article 5 (Noticing, Hearing, and Appeal Procedures) and Chapter 1, Article 17 of the Canyon County Code (Land Use/Land Division Hearing Procedures).
  - o CU2022-0004-APL was heard and noticed in accordance with CCZO Chapter 7, Article 5 (Noticing, Hearing, and Appeal Procedures) and Chapter 1, Article 17 of the Canyon County Code (Land Use/Land Division Hearing Procedures).

Chapter 2. Population:

- Goal 2. To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs.
  - o See Applicant's Letter of Intent (Exhibit 1, Attachment 3 & 4) and Letter of Appeal (Exhibit 4).

Chapter 4. Economic Development:

- Goal 3. Create new jobs that are sustainable and lasting.
- Goal 4. Provide an economically viable environment that builds and maintains a diverse base of business.
- Policy 2. Support existing business and industry in the county.
  - o See Applicant's Letter of Intent (Exhibit 1, Attachment 3 & 4) and Letter of Appeal (Exhibit 4).

Chapter 5. Land Use:

- Goal 4. To encourage development in those areas of the county which provide the most favorable conditions for future community services.
- Policy 3. Encourage and support commercial and industrial development and guidelines to create jobs and expand the tax base. Create commercial, residential, and industrial zoning districts to help attract development.
  - o See Applicant's Letter of Intent (Exhibit 1, Attachment 3 & 4) and Letter of Appeal (Exhibit 4).

However, after the review of all information and testimony, the Board finds the request is not in general conformance with the following goals and policies:

Chapter 1. Property Rights:

- Policy 11. Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.
  - o The proposed use has been in violation since March 2021 (CDEF2021-0022).
  - o Letters of opposition (Exhibits 6, Attachment 1, 3-8), petitions (Exhibit 6, Attachment 9), and testimony (Exhibit 3) demonstrate the use creates impactful noise and traffic incompatible with the residential character of the subdivision.

Chapter 4. Economic Development:

- Policy 6. Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty of Canyon County.
  - o Letters of opposition (Exhibits 6, Attachment 1,3-8), petitions (Exhibit 6, Attachment 9), and testimony (Exhibit 3) demonstrate the use creates impactful noise and traffic incompatible with the residential character of the subdivision.

Chapter 5. Land Use:

- Policy 1. Review all residential, commercial, and industrial development proposals to determine the land use compatibility and impact to surrounding areas.
- Residential 1. Encourage residential development in areas where agricultural uses are not viable.
- Commercial and Industrial 1. Encourage commercial and industrial development where there is adequate access to the following services, if applicable: a. sufficient water; b. a system to discharge used water; c. power; d. transportation.
- Commercial and Industrial 2. Encourage industrial development that minimizes adverse impacts on adjacent non-industrial land uses.
- Commercial and Industrial 3. Consider commercial and industrial development outside the impact areas, when located along major roadways or transportation infrastructure, and with approval from the appropriate regulatory agencies concerning sewer and water.
  - o Letters of opposition (Exhibits 6, Attachment 1,3-8), petitions (Exhibit 6, Attachment 9), and testimony (Exhibit 3) demonstrate the use creates impactful noise and traffic incompatible with the residential character of the subdivision.
  - o The City of Nampa provided a comment letter requesting that the contractor shop use be denied, thus supporting the Planning and Zoning Commissioner's decision (Exhibit 5, Attachment 1). The subject parcel is located within the Nampa Area of City Impact and designated as "Medium-Density Residential".

**4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?**

The property is located within the Hill Creek Subdivision, a residential subdivision. Hill Creek Subdivision was approved in 1973 prior to the 1979 Zoning Ordinance; therefore, the property is zoned "A" (Agricultural, Exhibit 1n Attachment 6iii). The primary use is residential with smaller lot sizes (0.81 average lot size, Exhibit 1, Attachment 6vi). The contractor shop/fabrication use has been in violation since March 2021 (CDEF2021-0022).

The property is also very close to city limits and within the City of Nampa City Impact Area. The subject parcel is located within the Nampa Area of City Impact and designated as "Medium-Density Residential". For the initial application, the City of Nampa was noticed and did not provide a comment on this application. Notice sent, November 22, 2022, per Canyon County Code §09-11-25(5). On February 23, 2023, the City of Nampa provided a comment letter requesting that the contractor shop use be denied, thus supporting the Planning and Zoning Commissioner's decision (Exhibit 5, Attachment 1)

The proposed request is injurious to other property owners and the character of the neighborhood. Although the property is zoned "A" (Agricultural), it is located within an established residential subdivision that has been in residential use since 1973 (Exhibit 1, Attachment 6vi). Letters of opposition (Exhibits 6, Attachment 1,3-8), petitions (Exhibit 6, Attachment 9), and testimony (Exhibit 3) demonstrate the use creates impactful noise and traffic incompatible with the residential character of the subdivision.

**5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?**

The property has an existing septic system and well that will be utilized inside the home for those employees, but there will be no water or sewer connections within the shop. Nampa's City Services are not available to the property. Southwest District Health does not oppose the proposed use as long

as additional sewage or pressurized irrigation within the shop connects to city services or conducts an on-site evaluation to determine suitability (Exhibit 1, Attachment 7ii).

**6. Does legal access to the subject property for the development exist or will it exist at the time of development?**

The property has access to Hemlock Way, a Rural Local Roadway. The applicant will require a Commercial Access approach permit from Nampa Highway District #1 which will include a paved apron on the existing access point (Exhibit 1, Attachment 7i). However, the applicant has been accessing the property via the cul-de-sac which is injurious to the neighboring property (Exhibit 6). This entrance is the residential driveway for residential use of the property and has not been reviewed or approved by Nampa Highway District #1.

**7. Will there be undue interference with existing or future traffic patterns?**

The property has access to Hemlock Way which is classified as Rural Local Roadway per the Nampa Highway District #1 (Exhibit 1, Attachment 7i). However, the applicant has residential access to the property via the cul-de-sac which is injurious to the neighboring property (Exhibit 6). This access point was not clear in the application and was not reviewed by the Highway District.

**8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

The property is served by the Nampa Fire Protection District (Exhibit 1, Attachment 7iii). The request is approximately 3.5 miles from Nampa's Fire Station with an approximate response time of 8 minutes. The request will not create an increased personnel demand.

Essential services such as the County Sheriff, County Paramedics/EMT, Nampa Police Department, Boise Project Board of Control, and Nampa School District were notified initially on November 22, 2022, and again for the appeal on February 23, 2023. No comments were received. Therefore, the use is not anticipated to impact essential services.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **deny** the appeal approving the Planning and Zoning Commission's **denial** of Case #CU2022-0004, a Conditional Use Permit for a Contractor Shop for Parcel No. R22694.

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:




1. Relocate the business to a more compatible location such as commercial or industrial.

Pursuant to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

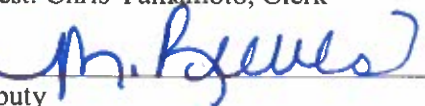
DATED this 16 day of MAY, 2023.

**CANYON COUNTY BOARD OF COMMISSIONERS**

- Motion Carried Unanimously
- Motion Carried/Split Vote Below
- Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<u>      </u>	_____	_____
 _____ Commissioner Brad Holton	<u>  X  </u>	_____	_____
 _____ Commissioner Zach Brooks	<u>  X  </u>	_____	_____

Attest: Chris Yamamoto, Clerk

By:   
\_\_\_\_\_  
Deputy

Date: 5-16-23