



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, September 7, 2023
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Brian Sheets, Commissioner
Patrick Williamson, Commissioner
Harold Nevill, Commissioner
Miguel Villafana, Commissioner
Geoff Mathews, Commissioner

Staff Members Present: Dan Lister, Assistant Planning Manager
Debbie Root, Principal Planner
Ivan Kowalczyk, Associate Planner
Jennifer Almeida, Office Manager

Chairman Sturgill called the meeting to order at 6:30 p.m.

Commissioner Villafana read the testimony guidelines and proceeded to the first business item on the agenda.

Item 1A:

Case No. SD2022-0024: Hornet Cove Subdivision - The applicant, Joe Rumsey, is requesting approval of a preliminary plat, irrigation and drainage plans for Hornet Cove Subdivision, a seven (7) residential lot development with a 2.08-acre average residential lot size on parcel R37877011B containing approximately 16.19 acres. The property is zoned rural residential and is located on Monarch Road 200 feet south of the intersection of Swallowtail and Monarch Roads, Middleton, ID and is a portion of section 7-5N-3W SW B.M; Canyon County, Idaho.

MOTION: Commissioner Nevill moved, seconded by Commissioner Williamson to postpone Item 1A, Hornet Cove Subdivision to a date certain of 10/19/23. Voice vote, motion carried.

Item 1B:

Case No. OR2022-0005 & CR2022-0011: Margaret Person / Steve Law- Margaret Person, being represented by Steve Law, is requesting (1) a Comprehensive Plan Map Amendment to amend the future land use designation of approximately 10.66 acres from "agriculture" to "residential, (2) a Conditional Rezone of approximately 10.66 acres from an "A" (Agricultural) zone to an "CR-R-1" (Conditional Rezone - Single-Family Residential) zone, and (3) a Development Agreement limited future development to seven lots. The subject property, R36963020 is located at 28753 Peckham Rd, Wilder, in the NW 1/4 of Section 20, T4N, R5W, BM, Canyon County, Idaho.

MOTION: Commissioner Nevill moved, seconded by Commissioner Sheets to postpone Item 1B, Margaret Person / Steve Law to a date certain of 10/19/23. Voice vote, motion carried.

Item 1C:

Case No. CU2023-0005: Schober and Son, LLC – The applicant, Schober and Son LLC, represented by Atlas Tower 1, LLC, is requesting a conditional use permit to construct a telecommunication facility

including a 100' monopole. The monopole will be designed as an Evergreen Pine Tree. The tower will be lit only in accordance with FAA regulations. The facility will provide co-location; the leasing of space to other service providers. The only utilities that will be provided are electrical and the site will have backup generators in the case of an emergency power loss. The subject property is located on Lone Star Road, also referenced as Parcel 31463010, a portion of the SW quarter of Section 19, T3N, R2W, BM, Canyon County, Idaho.

Planner Ivan Kowalczyk reviewed the staff report for the record.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

MICHAEL POWERS (Representative) – IN FAVOR – 3002 Bluff St., Boulder, CO 80302

Mr. Powers stated that the FCC has been empowered by Congress to completely regulate the wireless communication industry. The regulations pre-empt the local and state from regulating or making decisions based on how the federal government is regulating the technology. Mr. Powers compared the regulation to that of the FDA pre-empts the manufacturer, distribution, and sale of medication. The regulations are extensive and safety is absolutely a priority for the FCC and any complaints should be lodged with the FCC as the regulatory body. The particular site was chosen for siting based on its location from other smaller parcels and residential uses. The application met all of the County codes and no waivers or exemptions were requested. This application is quite typical of other wireless communication facilities in the County. Wireless antennas are everywhere. Wireless communication is a community resource and everyone uses it including first responders (police and fire).

Commissioner Nevil asked why a parcel that is considered prime farmland was selected to site the tower on. Mr. Powers responded that typical lease area is square 50 x50 ft. In this case, the landowner is a farmer and wanted to minimize impact. As a result, the application has a 46x25 ft. lease area to maintain irrigation and farming. Commissioner Nevill asked what the intended height of the tower would be. Mr. Powers stated that the proposed tower would be 100 ft. The height was reduced from 120 ft. to 100 ft. after discussion with staff. Commissioner Nevill asked what the normal power output is at the antenna. Mr. Powers replied that he is not an Electrical Engineer and not qualified to answer the question. He also stated that they were operating under AT&T's FCC licensee of which contains very specific regulations that must be followed. The FCC will require AT&T to comply with regulations. The requirements and specifications are quite complex. Commissioner Nevill asked what frequency the antenna operate in? Mr. Powers reiterated that he is not an Electrical Engineer, but could get the information if needed. The construction, attachment, and use of antennas are under a federal operated license. Commissioner Nevill inquired about the back up power plan is for the site and maintenance. Mr. Powers stated that a back up generator usually a diesel gen set with a bathtub underneath for catching any leaks. Over the last three years, back up batteries have been used to minimize the use of the generator. ATLAS Tower will not own or maintain the equipment, that responsibility falls on AT&T.

Commissioner Sheets inquired about a stealth mono-pine and asked for explanation. Mr. Powers noted that over the last ten years there have been attempts to disguise or acclimate the structure to what is around it, a mono-pine is a fake tree. Commissioner Sheets stated the Commission has not seen any pictures as to what that looks like or what the footprint is... will the footprint be bigger than a regular tall tree? Mr. Powers indicated yes, and no, provided that the branches weren't required to be attached below 15 ft. Commissioner Sheets noted testimony received in regard to views and property values and the lack of information supplied of how a "stealth mono-pine" will affect surrounding properties. Mr.

Powers stated that branch density does matter. Commissioner Sheets asked if there were other pine trees in the surrounding area. Mr. Powers indicated he did not believe so. Commissioner Sheets inquired about the purpose and need discussed in the proposal summary. Are there any other towers that provide similar service within the area? Mr. Powers indicated that within 1.5 miles there is no competing towers. Had there been a structure within the 1.5-mile radius that had the structural capacity for AT&T to install, they would have done it, as it is much cheaper.

Commissioner Williamson asked if the FCC controls the number of branches per foot? Mr. Powers indicated that FCC does not regulate that, provided, branches don't provide a hazard or something to that effect. The designers of the tower would be given a directive and their engineers would create construction drawings for the structure.

Chairman Sturgill asked if the antenna pattern would be omni-directional. Mr. Powers indicated that AT&T's design would be 3 or 4 antennas. Chairman Sturgill noted that the tower would be on the west side of the City of Nampa and asked if the majority of the subscribers initially would be within the City of Nampa and questioned why a tower wouldn't be located within the city. Mr. Powers replied most likely, yes, the initial subscribers would be within the city. However, there was not a way to locate the tower within city limits that was within the search ring. Chairman Sturgill stated that the site was selected because it was away from residences, and asked if the applicant would be comfortable with a condition of approval that would not allow the balance of the land to be developed so long as the tower was in place. Mr. Powers indicated he did not have authorization to answer that question and it was not practical to do so. He noted that they try to site locations in a corner to leave the rest of the parcel for what the landowner chooses to do with the land.

JUSTIN MACK – IN NEUTRAL– 11367 N. Kipling Way, Nampa, ID 83651

Mr. Mack lives directly north of the subject property. He had three (3) land use questions. One was answered regard to the monopole. He had a question about lighting and what was proposed. The documentation indicates that the lighting would be in accordance with FAA, what does that require? What is the plan for maintenance of the property? He is curious about fire suppression on the site. He has studied electronics, difficult math, and physics for his degree. There are multiple poles along Indiana at the end of Lonestar for radio frequencies.

DAVID HURT – IN OPPOSITION – 11256 W. Quartet St., Nampa, ID 83651

Mr. Hurt felt that it was a mischaracterization to say that this is farmland. There are 12 houses on the southside of Lonestar. The proposed tower is directly across the street from him. There are also subdivisions in the area (i.e. Mission Pointe). He has concerns regarding health. This proposed tower will negatively affect his property value due to the close location. The proposed tower should be located more to the west where there are not residential uses. The proposed use will negatively affect the character of the area and is injurious to him as well as his other neighbors.

Commissioner Nevill asked if there were any trees that could disguise the mono-pine. Mr. Hurt stated there are trees, but thought that they are further west. On the north side of Lonestar, right next to the tower, is Home Health Services that does memory care. If this 100 ft. tower fell it would land on the house/business; it is not a field. Mr. Hurt proceeded to point out where his home and the memory care center is located on a map.

Commissioner Williamson asked if Mr. Hurt tried to stay outside of cities because there's probably more towers scattered and more concealed. Mr. Hurt replied he's not opposed to cell towers; but this one is right in his backyard. There are three towers west of the proposed location.

JOSHUA SHIMANOUSKY – 11497 W. SOLO CT., NAMPA, ID 83651

Mr. Shimanousky wanted to discuss the health effects of MF and EMF but it sounded like he could not. He stated that you're three times as likely to suffer a miscarriage from MF radiation, he's not going to talk about the fact that children are vulnerable to EMF and MF radiation and there's a school nearby. He is concerned that the pole would obstruct the beautiful view that they have. It will impact his property value. There are no trees tall enough that will hide this pole. The urban development (HUD) classifies cell towers as hazardous and a nuisance to urban homes. They also declare that cell towers decrease property value. He is not a fan of a big corporation coming in and bullying people into having certain things; using the federal government to appeal and sue when food prices are skyrocketing and we're not empowering our farmers to grow, instead we're building towers.

JOSEPH STONE – 11426 LONESTAR RD. NAMPA, ID 83651

The property he owns is directly south of the subject property. Mr. Stone clarified that his property is not a home health care center anymore, it is just a single-family residence. He noted that he submitted a letter for the record. The proposed use has a very negative impact to property values as it borders his property. He has lost a sale for the property. Two others have expressed interest, if there is not a cell tower located there. He stated he met with ATLAS when they had their neighborhood meeting, we told them that this was, in our opinion, the worst location on our property line that they could pick. We offered to work with them so we would be in support rather than opposed. He referenced his letter, which highlighted in yellow what they felt would be a better location on the site. He also indicated he offered to more the lease over to his ground since it is not farm ground. They expressed interest, however, no response was received from subsequent contacts. He is the most affected by this tower. If it was moved to the corner to the eastern boundary of the property it would be less impactful. This also may have impact for him to locate a road on his property.

Commissioner Nevill asked about the road. Mr. Stone indicated this is the farmer's dirt road. Commissioner Nevill asked if there were trees in the area. Mr. Stone said there are trees on his property, and he would be willing to stipulate to future development on his property, they could put it just about anywhere they want. He would be willing to put in more trees to buffer and hide it.

Commissioner Sheets asked about the offer Mr. Stone had received for the sale of his property. Mr. Stone stated that the offer received was a private offer his property was not on the market. The offer would have been approximately February. Commissioner Sheets asked for clarification of the testimony provided by Mr. Stone in regard to being opposed to the tower on his neighbors' property but he's not opposed to it on his property. Mr. Stone clarified his testimony as, he's not opposed to the tower but he is opposed to the proposed location. If it was on his property he would not develop it further. The property is an investment property and the home there is a rental.

LISA SMITH – 14230 N. MISSION POINTE LOOP, NAMPA, ID 83651

Ms. Smith had come with a lot more in regard to health concerns. She did point out that property values would be impacted. Ms. Smith questioned the "need" for the tower as she had never heard of anyone in the area having bad service. What happens when the FCC changes their regulations? Ms. Smith stated there is not another 100 ft. pine tree in the area. She stated that she was not aware of any issue with first responders not having service to this area.

JUDY YOUNG – 13765 S. GREYBULL ST., NAMPA, ID 83651

Ms. Young referenced an article subtitled "Industry standards are biologically irrelevant." Ms. Young read some excerpts of the article, "according to current industry standards our bodies must not exceed a radio frequency exposure of 1.6 watts per kilogram averaged over 1 gram of tissue over a 30-minute period.

The safety standard set by the FCC has remained unchanged since 1996, which is 27 years ago. Technology has changed drastically since that time. The current FCC standard which considers average intensity over a few minutes is irrelevant to biology. It is more meaningful to determine intensity peaks rather than average values. Exposure to 2G, 3G, 4G and WIFI has been linked to stress, inflammation, cellular damage and cell death in animal and human cell studies. Telecommunication devices use pulses to transmit data. The more pulses sent out the higher the likelihood of potential biological effects. Ms. Young noted an article from Power Watch. Power watch is an organization that has conducted research of the links between EMF and health risks for more than 25 years. The organization is independent from government and industry. In the article, a list of 1670 peer reviewed scientific study papers about electronic fields published in scientific journals from 1979-2018. Power watch has selected these studies from about 15,000 scientific papers, most of which address EMF. Ms. Young went on to list the numbers associated with papers published with different technologies. Ms. Young stated he has seen a mono-pine tower and they are not pretty and they do not look like a real tree.

MARYAN SLAVIK – 11354 W. QUARTET ST. NAMPA, ID 83651

Mr. Slavik stated that he has four friends that work on installation of cell towers. On paper they look good but in practice it is a different story. His friends who work on cell towers have had to leave job sites due to headaches. To his understanding, cell companies can lease out to other companies and add antennas which increases radiation. Mr. Slavik stated that most of his neighbors did not receive notice of the hearing. Mr. Slavik wants to know if additional antennas are intended to be added to the tower.

STO WHITE – 11103 W. BLAINE AVE. NAMPA, ID 83651

Mr. White lives approximately one (1) mile from the proposed tower site. He added that there have been class action lawsuits that have been won. He referenced one from two years ago, which stated every municipality is responsible for adopting its own set of laws governing the placement, design standards and safety features for wireless telecommunication equipment. Mr. White stated that the P&Z Commission has more power than they think.

Commissioner Nevil asked for the legal reference for the court case Mr. White spoke of during his testimony. Mr. White replied that it is the Environmental Health Trust vs. FCC and The United States of America.

Planner Lister provided comment that there are jurisdictions that can regulate the siting and design of the facilities through use & design standards. Canyon County does not currently have ordinances in place that have these standards. The findings for a conditional use permit apply to the requested use.

Mr. White noted that the particular case provided examples of schoolboards that no longer allow cell towers or cell tower antennas near schools.

RUTH COOK – 14873 HENSEN DR., NAMPA, ID 83651

Ms. Cook stated that very little research has been done or it is inconclusive or the effort to provide information to the public has dwindled. People love fast online connections; however, health of other people should be considered, noting brain cancer and leukemia. The loss of property value should be considered once the tower is installed. Ms. Cook stated that information in regard to cell towers and health are not easily found, and appear to have decreased over the last 10 years.

JESSICA SHIMANOUSKY – 11497 W. SOLO CT. NAMPA, ID 83651

Ms. Shimanousky noted that the proposed tower is near residential subdivisions and a middle school is located approximately ½ mile from the tower. Ms. Shimanousky is worried about health effects of the tower including miscarriage. She also worries about her younger child and potential health impacts.

MICHAEL POWERS – Applicant (Representative) – REBUTTAL – 3002 BLUFF ST., BOULDER, CO 80302

Mr. Powers reiterated that the application is legal pursuant to County Code. Most of the comments received are in regard to Federal Law which is not proper subject matter for discussion. In regard to lighting, the FAA conducted a “no hazard to air navigation study” for this site. The study concluded that the site was legal and safe for air navigation at 125 ft. and there would be no lighting required. Mr. Powers addressed property values and the concerns of the surrounding property owners and noted that this is an asset that some people look for and want. He noted that most of America is within 1,000 feet of a cell tower antenna and 95-97% of daycare centers have connectivity. Mr. Powers stated that there is no right in Idaho for neighbors to control what their neighbors do on their land provided it is a legal application. The Environmental Health Trust case specifically focuses on EIS’s and NEEPA’s. This lawsuit has nothing to do with State Law. Mr. Powers encouraged those in opposition to go to the Federal Government to advocate. The proposed tower is sited to provide service to the area.

Commissioner Williamson asked for information in regard to fire suppression. Mr. Powers stated that all sites get regular maintenance and weeds are maintained. Technicians have apps to send notices out to the appropriate parties to get fixed. Commissioner Williamson questioned the need for the project and why the information wasn’t provided. Mr. Powers stated that it wasn’t provided in the application packet. It wasn’t required to be submitted but he would be happy to provide it should this be added as a condition of approval.

Commissioner Matthews asked if AT&T had any discussions about locating on existing towers in the area. Mr. Powers indicated that the mandate was to go inside search ring and unfortunately the ring did not include the existing towers.

Chairman Sturgill asked if any other providers could locate on the tower. Mr. Powers replied that they could apply to co-locate on the site.

Mr. Powers added that radio towers and cell towers don’t mix. There is no chance of a radio tower or a broadcast antenna being put on the proposed tower, the wattages are different.

Commissioner Nevill asked staff about an application that hasn’t been brought to hearing yet in regard to Mr. Stone’s application. Planner Kowalczyk explained the proposed application, however, it would be in the City of Nampa.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0005, seconded by Commissioner Sheets, voice vote, motion carried.

DELIBERATION:

Chairman Sturgill reminded the Commission that the request is for a Conditional Use Permit and the decision on this case is made by the P&Z Commission, unless appealed to the Board.

Commissioner Nevill referred to the criteria for a conditional use permit, and specifically # 4 as it pertains to, will the proposed use be injurious to property in the immediate vicinity or change the

essential character of the area? There has been photos and testimony provided in regard to this finding. The proposed mono-pine will not fit in with the area and he is concerned about the property values.

Commissioner Sheets agreed with Commissioner Nevill in regard to criteria number four. The proposed tower is being located near residential uses and subdivisions. There is a conflict with the proposed application and the properties in the immediate vicinity.

Commissioner Villafana stated that he is in the middle and he hears everyone's concerns. However, the criteria has been met. The criteria is very subjective. He stated he can see both sides of the issue.

Commissioner Williamson agreed with Commissioner Villafana and can also see both sides of the issue. Commissioner Williamson added that presenting more information beforehand would have been helpful for the Commission to see the visual representation of the need and the proposed mono-pine tower.

Commissioner Matthews agreed with Commissioner Villafana.

Commissioner Nevill stated that the applicant has met the requirements for the application, however, that gets you due process before the Commission. Testimony has been provided in regard to property rights on both sides of the issue. With that in mind, a decision can be made to say no. All of the information has to be considered.

MOTION: Commissioner Nevill moved to deny Case CU2022-0005, and adopt the Findings of Fact and Conclusions of law prepared by staff, with a modification to number 4:

The proposed use is injurious to property, noting the photos and testimony received that there are no trees that exist that would help to screen the mono-pine tower, all testimony received in regard to adverse effects on property values. Findings will be revised by staff and brought back to the P&Z Commission at a later date for signature. Motion seconded by Commissioner Mathews.

Discussion on the motion:

Commissioner Williamson noted there may be more people within 600 ft. that weren't able to attend the meeting.

Commissioner Villafana stated it is important to note that the finding states would the proposed use be injurious to property in the immediate vicinity.... although the tower would provide a service to the area, in the immediate vicinity it is more injurious than it is beneficial. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. OR2022-0003/Todd Lakey:** The applicant is requesting a zoning ordinance text amendment in accordance with CCZO §07-06-01 & 05. The application includes a proposed text amendment to add a definition for "Machine Shop" and to add "Machine Shop" to CCZO 07-10-27 Zoning Use Regulations. The request proposes "Machine Shop" as a conditional use in the Agricultural, Rural Residential and Neighborhood Commercial Zones and as an allowed use in the Service Commercial, Light Industrial, Heavy Industrial, and Mixed Use-Arterial zones.

Planner Debbie Root viewed the Staff report for the record.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

TODD LAKEY – Applicant (Representative) – IN FAVOR – 12905 VENIZIA Ct. Nampa, ID 83651

Mr. Lakey stated he submitted slides for his presentation, and was not aware they had to be submitted in advance.

Chairman Sturgill asked for a motion to accept the late exhibit of Mr. Lakey's slides. No motion was made.

Mr. Lakey noted this matter is legislative and his request is not site specific. The request is an amendment to the zoning ordinance and type of use. The proposal is in regards to smaller operations and shops. The type of operations that have minimal impact. These types of shops often supply agricultural operators. Mr. Lakey noted that a neighbor near him has a machine shop approved by CUP years ago, and it does not have any impact. In Mr. Lakey's written comments he supplied goals and policies from the comprehensive plan that align with the proposed ordinance amendment. In regard to compatibility, it is a low impact use that fits with other rural uses. The proposed uses are small footprints and smaller than ag operations. The operations would be in a rural type shop or barn, and would fit with surrounding agricultural uses. The only City that responded to the notification in regard to Rural Residential zones. Mr. Lakey referred the Commission to pg.12 of his submittal, Mr. Lakey discussed the uses in the table that are allowed in the AG zone some of which are far more impactful than what is being discussed. The Commissioners have the ability to add more restrictive language to the definition of a machine shop such as size, number of employees, and equipment.

Commissioner Nevill wanted to discuss potential safety uses. Commissioner Nevill noted the explosion that happened at the Idaho Ecology Waste site. It appears that the cause was magnesium dust and that is of concern in regard to this use. Commissioner Nevill would like to limit what can be done on sites and delivery/distribution. Fire fighting is also an issue in regard to the machine shop use, especially in agricultural or residential areas. Mr. Lakey replied that this is an advantage of a legislative action, the Commission has the ability to work on language and restrictions or bring language back.

Commissioner Williamson mirrored Commissioner Nevill's concerns in regard to scale. Mr. Lakey stated that the proposal is in regard to small scale and definition. If it is small scale machine shop, it could be left out of industrial zones. The less complicated option would be to define a small-scale machine shop. Commissioner Williamson questioned how the County could enforce what materials the machine shop would be utilizing. Mr. Lakey noted that if a property owner is operating outside of their CUP and the definition, they are in violation and their permit can be revoked. Commissioner Williamson noted the photos presented and potential traffic impacts on rural roads. Mr. Lakey replied that smaller operations would not have semi deliveries but the Commission would have to determine on a case by case basis what would be appropriate for conditions in that particular area.

Chairman Sturgill discussed violations of conditional use permits and observability. In the case of a machine shop and chemicals, it may not be noticeable by the County and has the potential to be dangerous to surrounding property owners. Mr. Lakey noted other uses that have the potential observation issues. Conditions are there to be enforced and that is the process.

Commissioner Sheets discussed machine shops and supplementary materials that are used, such as lubricants and solvents. Conditions can be placed to a certain extent for machine shops in residential areas, however, he was concerned that the Commission may not have the level of expertise required on the subject of machine shops to place appropriate conditions. Mr. Lakey replied that he is not an expert in machine shops and as part of the public hearing process information can be gathered from applicants

and/or agencies that regulate. A conditional use permit application would be required for these uses and the Commission has the ability to deny applications.

Commissioner Matthews noted his concerns in regard to future Commissions; the request is too broad.

Commissioner Williamson asked if the applicant received any industry input on the proposal due to the technical aspects of this application. Mr. Lakey noted that the applicant may be able to provide more information.

CHRISTINE V. JONES - IN FAVOR – 19814 LAHT CREEK CT., WILDER ID 83676

Ms. Jones lives next to the Sullivan's. Ms. Jones discussed the impact on the adjacent use and she was not aware it existed until she was told. There are no issues with noise, odors or traffic. She was home for a month and there were no issues with deliveries or anything outside of the ordinary. She is not concerned for her safety.

Commissioner Nevill discussed the Idaho Ecology Waste site explosion. He discussed the hypothetical question of impact to Ms. Jones. He asked if she would be in favor of reducing potential impacts in residential areas. Ms. Jones replied yes.

Chairman Sturgill asked Ms. Jones if she had any sort of machining background. Ms. Jones replied no. Chairman Sturgill asked Ms. Jones how close her residence is to the Sullivan's. She supplied an approximation of 50 yards. Chairman Sturgill asked how qualified Ms. Jones may be to monitor condition compliance. Ms. Jones said she did not have anything other than reasonable observation.

Commissioner Williamson asked if Ms. Jones had any small children. Ms. Jones replied no. Commissioner Williamson asked if her neighbor had any mechanism of children or farm animal to wander on to her neighbors' property. Ms. Jones replied yes, the machine shop is enclosed and there are fences.

JOSEPH SULLIVAN - IN FAVOR – 19736 LAHT CREEK WAY, WILDER ID 83676

Mr. Sullivan discussed agricultural operators that they have provided service to. The application pertains to small machine shops. It will not be a large shop. Mr. Sullivan was not aware that a machine shop was not allowed. Machine shops can provide a service to the agricultural community.

Chairman Sturgill asked if smaller shops were inspected by OSHA. Mr. Sullivan replied no, however, they were a member of the Idaho Manufacturers Alliance. He encouraged every manufacturer to join. Mr. Sturgill asked how the county can place conditions in regard to management of machine shops in rural areas and monitoring for safety so someone is not injured. Mr. Sullivan replied with a question as to how the County monitors machine shops in industrial areas? Mr. Sullivan feels there is no difference.

Commissioner Villafana discussed Mr. Sullivan's testimony in regard to being a service to agriculture. He asked Mr. Sullivan to put himself in his neighbor's shoes and what he could do to mitigate impacts on them. Mr. Sullivan noted that they have been in operation for two (2) years. He feels they currently have very minimal impact due to the fact many neighbors not even being aware that they operate at the location. There is one neighbor that is displeased with the use. Mr. Sullivan noted that for the past two years he has been maintaining the road. He is trying to be an asset to the community. Commissioner Villafana noted that Mr. Sullivan is in a subdivision that didn't allow the type of use and what the cost would be to move location to industrial. Mr. Sullivan did not know he was out of compliance. He has invested a large amount of money for his home and shop for a pristine operation. He needs the income from the shop to cover his costs. It would be detrimental to re-locate.

Commissioner Matthews stated his concerns are in regard to inexperienced operators. Mr. Sullivan disagreed, machine shops are not cheap to operate. It is incumbent on the person to operate safely.

Commissioner Nevill asked about Mr. Sullivan's machines and who set them up. Mr. Sullivan hired a local company to set it up. Commissioner Nevill asked what his product is. Mr. Sullivan stated his company makes a product for the film industry. Commissioner Nevill asked if his company is visited by the manufacturer for calibration. Mr. Sullivan replied that he takes care of most of that. Commissioner Nevill asked if Mr. Sullivan's machines were quiet because they were fully enclosed. Mr. Sullivan replied yes and proceeded to indicate which machines he has that are fully enclosed. Commissioner Nevill asked if there were external deliveries to the site. Mr. Sullivan indicated that they occasionally have freight. The last freight they had inbound was the first week in July and outbound was in June. The freight was on tractor trailers. Mr. Sullivan indicated there is a turnaround on his property.

Commissioner Nevill questioned staff about how long the applicant can operate out of compliance? Planner Lister indicated there was a decision made by the previous Director that allowed the applicant to operate so long as this application is moving forward.

Commissioner Williamson asked Mr. Sullivan if he had worked with any industry experts to get input. Mr. Sullivan stated that the Commission could petition the IMA (Idaho Manufacturers Alliance) to gather input.

DOUG AMICK – IN FAVOR – 26645 DESERT HILLS DR., WILDER, ID 83676

Mr. Amick stated he ran a machine shop for 25 years. OSHA does not conduct inspections. Mr. Amick has been on the advisory board for COSSA. There are many machine shops that are operating under the radar, he noted at least four (4) near his residence. Most small machine shops cannot afford to locate in an industrial area most of them begin in residential area and the equipment is costly. Mr. Amick indicated that if a person is prone to not follow rules you're going to find that whether the shop is small or large. If rules are placed on the approvals, you have to trust that the rules will be followed.

Commissioner Sheets asked about the illegal machine shops Mr. Amick testified to. Mr. Amick stated that there is a diesel repair shop, welding shop, and machine shop that custom builds stainless steel equipment. None are zoned for the use. Commissioner Sheets asked if there are any adverse impacts from the uses near him? Mr. Amick replied no. Mr. Amick added that his daytime job is the Public Services Director for the City of Greenleaf. Mr. Sullivan allowed Mr. Amick to machine a part and he noted his facility is very clean.

Commissioner Nevill asked Mr. Amick about fire suppression and his previous shop. Mr. Amick's previous shop was located within the city limits and did have fire flow. Mr. Amick noted that he also was employed for 30 years with Wilder Fire and retired as Chief. In his role as Chief, he would talk to property owners about materials they have and fire suppression requirements.

Commissioner Villafana asked staff if there was a place to check to see if people have CUPs. Planner Root suggested submitting the address to P&Z to research if there are applications or approvals.

Chairman Sturgill stated he's seen multiple businesses started in a garage and once they become a full-time endeavor for the operator they've located in industrial parks in a bay. Mr. Amick stated for some that would be an alternative for some but not all. It is dependent on the point at which they can fully transition to that being their full-time job and support the costs associated with the businesses. Chairman

Sturgill stated in large part the only difference would be the lease associated with the facility (bay). In his opinion that seemed like a small barrier. Mr. Amick stated that it is a bigger step when it is more than they can financially afford with their amount of work. It is more than the facility, it's paying personal bills in the middle while you don't have income.

JOSH JETTON – IN OPPOSITION – 27255 LOWER PLESANT RIDGE RD., WILDER, ID 83676

Mr. Jetton said most of his opposition was in regard to the specific property. However, what categorizes a "small shop." He indicated that the applicant's shop is 6,000 sq. ft. with 8 milling machines. Any new build over 5,000 sq. ft. would fire suppression systems. What about existing shops with these types of uses? Are there evacuation areas? Fire extinguishers? OSHA doesn't get involved with anyone that has ten employees or under unless something goes wrong. Mr. Jetton stated if you're putting in a business you would have to get 24-40 ft. wide roads, a 20 ft. circumference turn around and blacktop aprons according to fire district. Mr. Jetton was concerned that if this application passes, there would not be capacity to monitor the approvals and conditions. The subdivision they live in has CCR's that indicate residential uses only.

Commissioner Nevill stated that the one way to assist with concerns is to send this back for "re-wording." Commissioner Nevill asked if Mr. Jetton would be willing to take part in that. Mr. Jetton indicated yes, he would. He added that the applicant was served a cease and desist four months prior to hiring Mr. Lakey and they operated during that time. He noted concerns regarding the roads and deliveries and how that impacts the neighbors within the subdivision. Commissioner Nevill asked if there is a road user's maintenance agreement. Mr. Jetton indicated, yes, there is.

Commissioner Villafana asked what could make the situation better for Mr. Jetton so they could co-exist. Chairman Sturgill reminded the Commission that the line of questioning was site specific, and not in regard to the Ordinance.

Commissioner Williamson asked if there was anything in the proposed ordinance that wasn't included but should be. Mr. Jetton stated that language is one thing, but who checks into compliance? He feels that it opens up a "can of worms."

Commissioner Sheets asked Mr. Jetton whether a machine shop should be allowed in residential zones. Mr. Jetton stated, no, the infrastructure is not there to bring in the raw materials.

Planner Lister stated that the application was one of the mechanisms to solve a Code Enforcement violation. To date, staff has only received a definition and land use standards from the applicant. Typically, ordinance changes are vetted out via workshops. What is presented this evening is what was submitted by the applicant. Typically use standards would be required and the application is too vague.

Chairman Sturgill asked how a member of the public would initiate a change in the ordinance other than what we're seeing here? Perhaps staff could have said that maybe there is more to this .

Planner Lister stated that ordinances are typically ordered by the Board. Very rarely do we see a member of the public initiate the change. The precedence set is that once the Commission calls this a conditional use permit and a permit is denied, is it a taking?

Commissioner Mathews stated there is a known violation of CCR's here. The specific case is coming to us as a means to allow the use and fixing the violation.

TODD LAKEY – APPLICANT (REPRESENTATIVE) – REBUTTAL – 12905 VENEZIA COURT NAMPA ID 83651

Mr. Lakey reminded the Commission that this is a legislative request. Mr. Lakey stated they met with staff as soon as his client knew there was a County approval required. The County provides a process and fee for text amendments. The opportunity here is to try and put a box around this type of operation. It does not have significant impacts. The Commission can define “small” machine shops. If this is a CUP you also gain responses from agencies and CUPs can be denied. Mr. Lakey is willing to sit with staff and industry experts to help craft language. They are happy to participate in the process.

Commissioner Williamson asked if the item was to be continued to a later date, how much time would they need to get other experts together to help craft language? Mr. Lakey replied 30 days.

Commissioner Sheets asked about “putting a box” around the proposed uses. Mr. Lakey said a “small” shop would be 6,000 sq. foot and three (3) employees. At the end of the day, it is the Commission’s decision.

MOTION: Commissioner Sheets moved to close public testimony on Case OR2022-0003, seconded by Commissioner Villafana. Voice vote, motion carried.

DELIBERATION:

Chairman Sturgill cautioned the Commission about site specifics, but focused on the proposed ordinance. He discussed the options the Commission has in making a decision or continuing to a later date.

Commissioner Nevill was in favor of continuing the case. In order to not endanger the public, he would like to send it back for re-wording. We need specific actions in regard to small scale machine shops, standards, size of shop, traffic limitations, what can be manufactured limitations, no dangerous materials, and most importantly, fire suppression.

Commissioner Williamson would like to see the additional industry input to assist in drafting language.

Commissioner Matthews pointed out that these uses need to be limited to areas that can support the use. He is supportive of continuing, but the broader impacts need to be considered.

Commissioner Sheets stated he understands the nature of the request but there needs to be a reasonable expectation of residents as to what is allowed and not allowed in their neighborhoods. The county should not be supportive of commercial businesses in residential neighborhoods. He is not in favor of continuing the case. If there is direction from the Board of County Commissioners, the Commission can take it up at that time. He would adopt staff’s recommendation of denial.

MOTION: Commissioner Nevill moved to continue Case OR2022-0003 to a date certain of December 7, 2023 for the purpose of wordsmithing the language of the proposed ordinance so there is a definition and standards [size, square footage, traffic, what can be manufactured on site, number of employees, materials, and firefighting capabilities] seconded by Commissioner Williamson.

Roll call vote: 3 in favor, 3 opposed, motion failed.

MOTION: Commissioner Sheets moved to deny Case No. OR2022-0003 to recommend denial to the Board of County Commissioners and to adopt the Findings of Fact, Conclusions of Law, & Order as presented by staff, seconded by Matthews. Roll call vote: 5 in favor, 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 8/3/2023, seconded by Commissioner Matthews. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planner Lister reminded the Commission that the next P&Z meeting would be training with Code Enforcement. Discussion will be in regard to conditions and un-enforceable conditions.

Planner Lister noted that the Nampa Area of City Impact was approved by the Board. The next step would be to modify the Ordinance agreement with Nampa.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 11:51 pm.

An audio recording is on file in the Development Services Departments' office.

Approved this 19th day of October, 2023



Robert Sturgill, Chairman

ATTEST



Jennifer Almeida - Office Manager