



*2nd application*  
**APPEAL OF DECISION**  
 APPLICATION

<b>APPELLANT</b>	NAME:	JCEXCAVATION LLC <span style="float: right;">Juan Carlos Nieves</span>	
	MAILING ADDRESS:	3812 E Clear Springs Dr	
	PHONE:	(208) 401-5246	EMAIL: jceexcavation10@gmail.com
Property owner: <input checked="" type="checkbox"/>		Other Appellant: <input type="checkbox"/>	
Signature: <i>[Signature]</i>		Date: 02-11-2024	
Juan Carlos Nieves			

<b>REPRESENTATIVE: IF DIFFERENT FROM THE APPELLANT</b>	NAME:	Elizabeth Allen	
	COMPANY NAME:	Bristlecone Land Use Consulting LLC	
	MAILING ADDRESS:	123 11 <sup>th</sup> Avenue S #3953, Nampa, Idaho 83653	
	PHONE:	807 978 3439	EMAIL: elizabeth@bristleconelanduseconsulting.com

<b>SITE INFO</b>	STREET ADDRESS:	80 S. Robinson Road
	PARCEL NUMBER:	1530624010
	PARCEL SIZE:	2.3 acres

<b>CASE NUMBER OF REQUESTED APPEAL:</b>	CU2023-0002
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**FOR DSD STAFF COMPLETION ONLY:**

CASE NUMBER	CU2023-0002-APL	DATE RECEIVED:	2/12/2024
RECEIVED BY:	<i>[Signature]</i>	APPLICATION FEE:	φ
		CK CC CASH	

SCANNED

I, Alejandro Jimenez, hereby authorize JC Excavation LLC to modify my property (including but not limited to installing fencing, landscaping, and paving) located at 80 S. Robinson Road, Nampa, Idaho.

Alejandro Jimenez  
Alejandro Jimenez

2/11/24  
Date



# Bristlecone

## LAND USE CONSULTING

February 7, 2024

Canyon County Development Services  
111 North 11<sup>th</sup> Ave., #310  
Caldwell, Idaho 83605

### RE: JC EXCAVATION STAGING AREA – CU2023-0002 APPEAL

Dear Board of County Commissioners,

Bristlecone Land Use Consulting LLC is submitting this request on behalf of JC Excavation LLC for an appeal of the Planning and Zoning Commission denial of CU2023-0002 for a staging area on parcel R30624010 in an “A” (Agriculture) zone. This request is submitted within fifteen (15) days of the date the Planning and Zoning Commission’s Findings of Fact, Conclusion of Law and Order that were signed on February 1, 2024. The specific reasons for the appeal are as follows:

1. The Planning and Zoning Commission's decision was not based on substantial evidence.
2. The concerns brought up during the Planning and Zoning Commission public hearing can be appropriately mitigated.

### REQUEST

#### Conditional Use Permit for a Staging Area

When JC Excavation began using the subject property for a staging area, they were unaware that county approvals would be needed. After learning of the requirement, they applied for a Conditional Use Permit to bring the use into compliance. The staging area is currently utilized for the storage of equipment and staging materials, including two bulldozers, three excavators, five skid steers, one loader, eight dump trucks/trailers, ten flatbed trailers, eight pickup trucks, two hydraulic hammers, equipment buckets, and material storage. They currently have 20 employees and operate Monday through Friday. The average start and end times are 8:00 a.m. and 8:00 p.m. The hours change throughout the year due to seasonal and economic changes. Adequate employee parking is located between the dirt staging and equipment staging areas. The equipment staging area is located near the center of the subject property, adjacent to employee parking. To the west of the employee parking area, adjacent to Robinson Road, is the dirt staging area. See Exhibit A for site photos. We are proposing changes to the staging area, which will be explained in the following sections.

### CRITERIA ANALYSIS AND PROPOSED CONDITIONS

In the Order of the Planning and Zoning Commission FCOs, they identified the following actions that may be taken to obtain approval: “Reduce the intensity of the use by having fewer trips, less equipment, reduce noise and dust. The applicant may modify the operation, reduce equipment impact in the area as well as identify buffer areas between the properties where activities are taking place”. JC Excavation proposes taking the identified actions as explained in the following analysis of criteria and conditions to support approval of the Conditional Use Permit.

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

##### *Analysis of the character of the area:*

The zoning of the subject property and surrounding area is Agriculture with future land use designations of Agriculture. The surrounding uses include agricultural production, rural residential, scattered businesses, and

storage of various objects. Within one (1) mile of the property is a gravel pit to the north and a feedlot and dairy to the south. The staging area is a fair distance from homesites, with the closest homesite being approximately 300 feet away. There are also a few staging areas and similar businesses in the area shown in the table below (this list only includes businesses that are registered with the Secretary of State).

Business	Location	Distance from site	Exhibit
Elliot Scott Earthmoving	96 Robinson Blvd.	Southern neighbor	B, Image 1 and 2
Idaho Backhoe Inc	419 Robinson Blvd.	2,000 feet to the south	B, Image 9
New Life Landscape	6621 Amity Avenue	3,200 feet to the south	B, Image 10

Several properties store materials and vehicles without any mitigation measures (Exhibit B). The closest property, immediately adjacent to the north, has several semi-trailers and campers staged. (Exhibit B, Image 4-6). The area has active agricultural operations that generate dust, smells, and noise. Agricultural operations require a wide variety of equipment, including the same equipment used by JC Excavation, such as skid steers, dump trucks, bulldozers, excavators, and flatbed trailers that can be seen staged on properties throughout the area. This same equipment is used for maintaining irrigation canals and landscaping businesses (Exhibit B, Image 10). Due to the area's rural character, the proposed use of a staging area will not injure properties in the vicinity or negatively change the area's character.

*Proposed conditions:*

While no substantial evidence has been provided that the staging area would change the character of the area, we understand the concerns of the neighbors and the Planning and Zoning Commission and have identified the following conditions to alleviate these concerns.

- **Condition 1. A sight-obscuring berm fence shall be installed along the frontage of Robinson Road, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion. The berm and sight-obscuring fence shall be constructed and landscaped within six (6) months of the approval date of the CUP.**
- **Condition 2. A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging. The sight-obscuring fence shall be constructed within six (6) months of the approval date of the CUP.**

Conditions 1 and 2 will provide a buffer that will not only obscure the view of the staging area but also reduce sound from traveling.

- **Condition 3. No dirt shall be staged on-site.**

During the public hearing, there were concerns about dust from the staging area and backup alarms. When fill dirt is occasionally brought to and removed from the staging area, it requires the use of dump trucks/trailers and a loader that is equipped with safety backup alarms per OSHA requirements. JC Excavation is willing to modify the staging area by removing the storage of dirt. By eliminating dirt storage, equipment will not need to be used on-site; therefore, backup alarms will not be used. This condition also removes the potential for dust and leads to fewer trips by eliminating the need to transport fill dirt.

Images 1 and 2 on the next page show a site plan with the changes proposed to meet the actions that may be taken to obtain approval and mitigate concerns. As proposed, these changes will reduce the size of the operation.



Image 1. The original site plan that went before the Planning and Zoning Commission with proposed fencing and berm.



Image 2. Updated site plan with proposed changes to the staging area with the removal of dirt staging.

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

No evidence has been provided to indicate that the use of a staging area will cause undue interference with existing or future traffic patterns. Highway Districts must “consider the impacts of a proposed development on nearby land uses and transportation facilities” and require that developers/applicants provide a study if the development exceeds the threshold traffic volumes.<sup>1</sup> In other words, the Highway District would require a traffic impact study if the peak hour trips of the proposed use reached a level that would cause undue interference with traffic patterns.

Nampa Highway District No. 1 commented in response to the public agency notifications and responded, “For a commercial approach we require a paved apron per ACCHD Standards. I have attached a copy of our spec sheet

<sup>1</sup> Highway Standards & Development Procedures for the Association of Canyon County Highway Districts 2022 Edition <https://www.canyonhd4.org/download/2022-acchd-highway-standards-and-development-procedures-manual/?wpdmdl=1584&refresh=64a392b8be41f1688441528>

that we require the approach be built to. They would need to permit for any improvement to the access. No new points of access would be allowed as Robinson Rd is classified as a Principal Arterial. Per ACCHD Standards, there is no new direct access to arterial roadways.” The response by the Highway District provides sufficient evidence that the proposal does not create undo interference with traffic patterns.

*Proposed Condition*

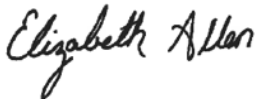
- **Condition 4. The applicant shall comply with Nampa Highway District access requirements.**

The apron will be paved per Nampa Highway District requirements. As explained in Condition 3, JC Excavation proposes removing the dirt and material staging area, reducing the number of trips.

## CONCLUSION

As shown in the analysis with supporting evidence and proposed conditions, the staging area will not change the area's character, and traffic will not be impacted. The proposed changes to the staging area and conditions are actions that were identified by the Planning and Zoning Commission to gain approval. JC Excavation is willing to accept the proposed conditions and is open to additional conditions to support approval. We respectfully request that the Board of County Commissioners reverse the Planning and Zoning Commission decision and approve the request with the proposed conditions.

Sincerely,



Elizabeth Allen

EXHIBIT A - SITE PHOTOS

Below are images of the site taken on July 6, 2023.



*Image 2 Staging area.*



*Image 3. Staging area. The trailers in the background are on the property to the north.*





Image 4. Employee parking.



Image 5. Driveway.



*Image 6. Existing dirt staging area.*

## EXHIBIT B

Images 1 through 8 were taken on July 3, 2023, providing context regarding the area's character. Images 9 and 10 are 2023 aerial images created on landproDATA mapping.



*Image 1. 96 Robinson that is used by Elliot Scot Excavation south of the site.*



Image 2. The southern side of 96 Robinson.



*Image 3. 81 Robinson has several vehicles and materials stored on the property.*



*Image 4. 64 Robinson with several vehicles, trailers, and jet skis stored on the property.*



*Image 5. 64 Robinson Blvd with several trailers, jet skis, and material stored on the property.*





*Image 6. 64 Robinson with several more vehicles and materials stored on the property.*



*Image 7. 61 Robinson and agricultural land.*



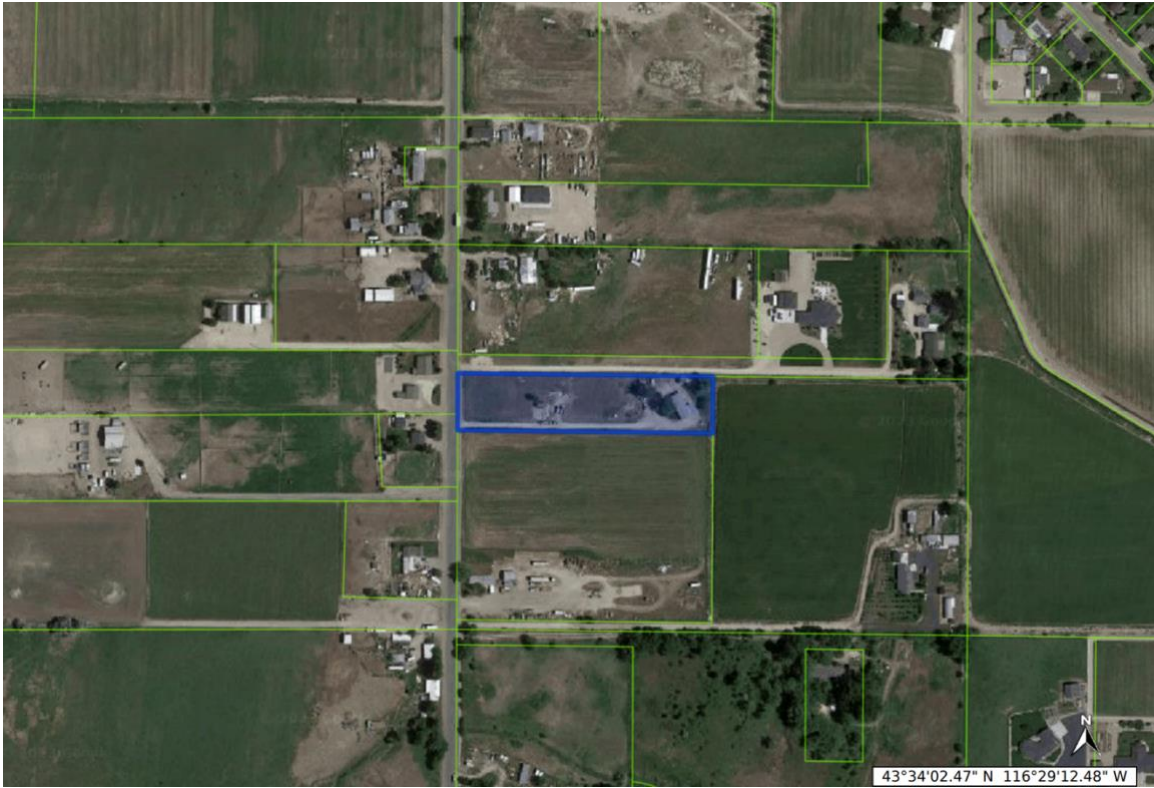
*Image 8. 52 Robinson Road*



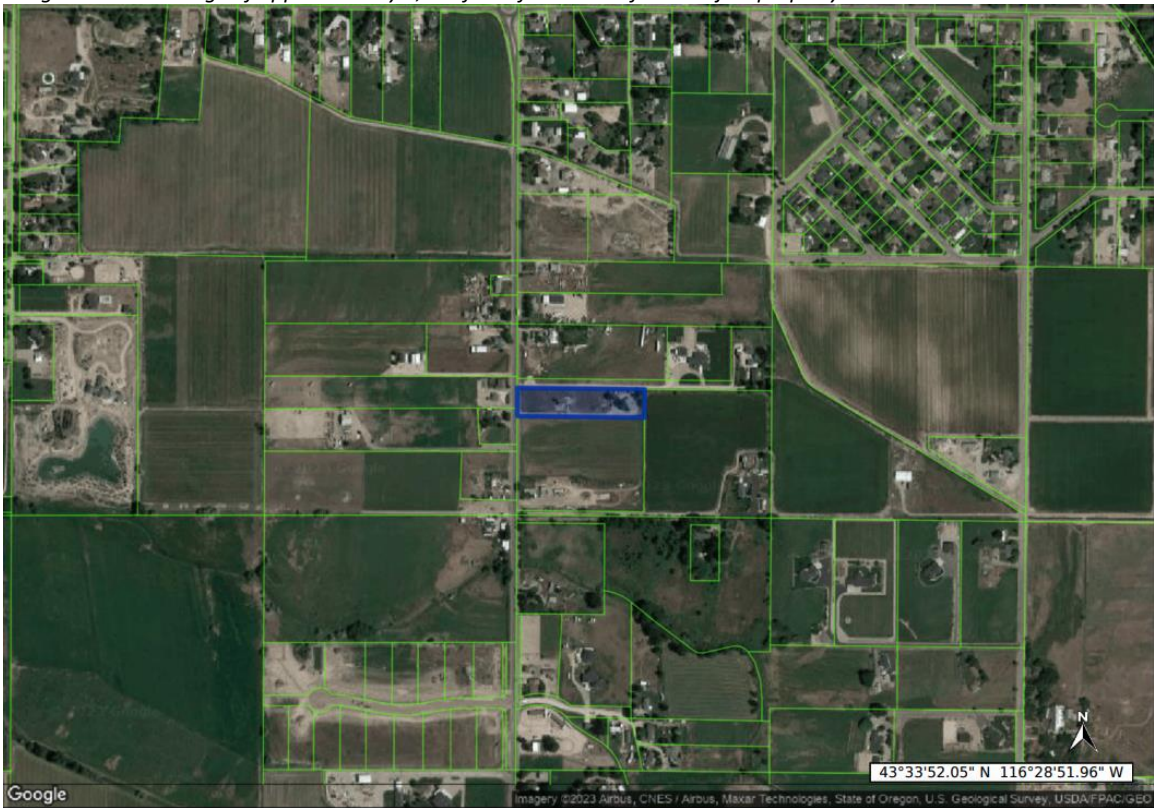
Image 9. 419 Robison. Idaho Backhoe Inc.



*Image 10. 6621 Amity Avenue, New Life Landscaping*



*Image 11. Aerial image of approximately 2,000 feet of the area of the subject property.*



*Image 12. Aerial image of approximately 4000 feet of the area of the subject property.*

EXHIBIT C

Below are examples of berms in the area taken on July 2 and July 6, 2023.



