



# **BOARD OF COUNTY COMMISSIONERS**

STAFF REPORT ADDENDUM

APPEAL: CU2023-0002-APL

**HEARING DATE:** May 29, 2024

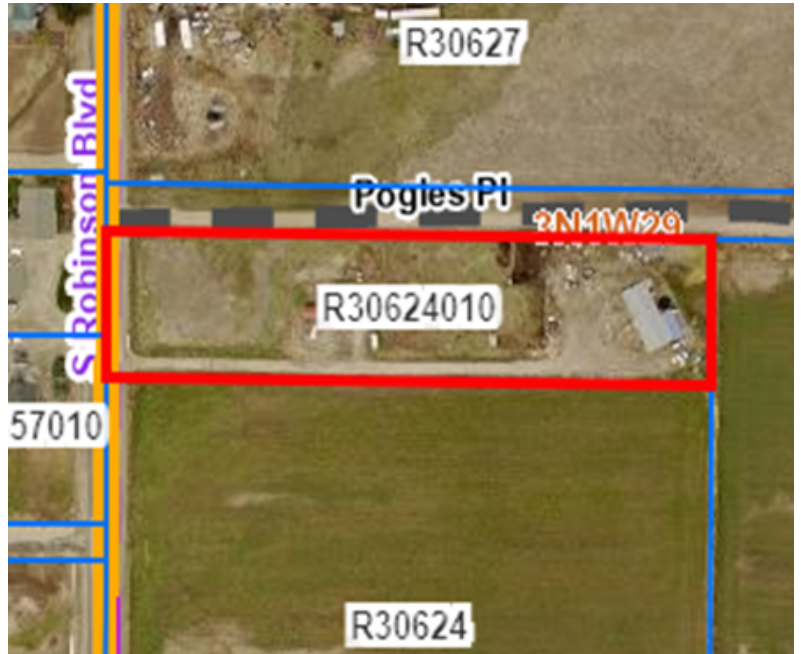
**OWNER:** Alejandro Jimenez

**APPLICANT/REP:** Elizabeth Allen,  
Bristlecone Land Use  
Consulting  
Juan Carlos Nieves,  
JC Excavation LLC

**PLANNER:** Michelle Barron,  
Principal Planner

**CASE NUMBER:** CU2023-0002-APL

**LOCATION:** 80 S Robinson Rd.  
Parcel #: R30624010



## **EXECUTIVE SUMMARY:**

Elizabeth Allen, Bristlecone Land Use Consulting LLC and Juan Carlos Nieves, JC Excavation LLC, appealed the decision of the Planning and Zoning Commission dated July 6, 2023 to the Board regarding the denial of Case CU2023-0002, a **Conditional Use Permit to allow a Staging Area** within an “A” (Agricultural) Zoning District.

The Planning and Zoning Commission heard and denied the original Conditional Use Permit application CU2023-0002 on June 15, 2023 and signed the FCO’s on July 6, 2023 (Exhibit G1, Exhibit E).

On July 14, 2023, an appeal was filed by Elizabeth Allen, Bristlecone Land Consultants, LLC pursuant to Canyon County Code §07-05-07

On September 21, 2023, the Board of County Commissioners remanded the appeal case back to the Planning and Zoning Commission to more wholly flush out the possible conditions and more fully consider the evidence. (Exhibit G1, Exhibit 2)

On January 18, 2024, the Planning and Zoning Commission heard the appeal and signed FCOs on February 1, 2024 in denial of the appeal and ultimately the Conditional Use Permit.



On February 12, 2024, a second appeal was filed by Elizabeth Allen, Bristlecone Land Consultants, LLC pursuant to Canyon County Code §07-05-07 (Exhibit B1). With this application, the applicant has removed the dirt storage on site. They have also proposed some conditions to mitigate concerns of the commission and neighbors. (pages 2 -4 of Exhibit B1, Attachment a)

The Planning and Zoning Commission denial was based on the evidence not meeting the Findings of Fact #4, #7 (Exhibit C1) after review of the Staff Report (Exhibit G1), public testimony and Commission discussion (Exhibit D1).

Pursuant to Idaho Code 67-6519, actions for approval were given that could be taken for a possible approval of the application as seen in the **Order** section of the Planning & Zoning Commission's FCO's signed on February 1, 2024 (Exhibit C1). The Commission recommended the applicant 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.

The appeal was filed within the 15 calendar days of the date the FCO's were signed in accordance with CCZO 07-05-05. The appellant is submitting the appeal based on the decision of the Planning and Zoning Commission was not supported by substantial evidence and the applicant was not provided with a fair hearing process. Details of the appeal can be found in Exhibits B1 including the applicant's appeal letter and proposed conditions.

Staff recommends discussing possible conditions that have been added to mitigate concerns that were brought up in the original hearing and second Commission hearing. Condition of approval number 3 was amended and conditions 4, 5 and 6 were proposed to mitigate concerns. The applicant has other recommended changes to conditions such as removing the storage of dirt on site.

### **Decision Options**

The Board has the following options in this case:

- 1) The Board may **approve** the appeal and conditional use permit with conditions.
- 2) The Board may **deny** the appeal and conditional use permit and direct staff to make findings of fact to support this decision.
- 3) The Board may **table the hearing** and request additional information on specific items.

### **EXHIBITS:**

Exhibit A1: BOCC Draft FCOs

Exhibit B1: Appeal documentation

Attachment a: Updated letter of intent and site plan

Attachment b: Appellant's Power Point presentation

Exhibit C1: Planning and Zoning Signed FCOs dated 2/1/24

Exhibit D1: Planning and Zoning Minutes from January 18, 2024 and February 1, 2024

Exhibit E1: Agency Comments prior to BOCC May 29, 2024.

Attachment a: Nampa Fire

Exhibit F1: Public Comments prior to BOCC May 29, 2024

Attachment a: Barbara Harris email 3/20/24  
Attachment b: Barbara Harris email 4/8/24  
Attachment c: Barbara Harris email 4/24/24  
Attachment d: Barbara Harris email 4/24/24  
Attachment e: Vincent & Tony Bujanowski  
Attachment f: Barbara Harris  
Attachment g: Karen Prescott  
Attachment h: Harry Robinson

Exhibit G1: Planning and Zoning Staff Report for January 18, 2024

Exhibit 1: Planning and Zoning Draft FCOs

Exhibit 2: BOCCs minutes from September 21, 2023

Exhibit 3: Updated documents from applicant

Attachment a: Updated letter of intent

Attachment b: Presentation materials

Exhibit 4: Agency Comments received between BOCC 9/21/23 public hearing and Staff Report

Attachment a: Nampa Fire District

Attachment b: Idaho Transportation Department

Exhibit 5: Public Comments received between BOCC 9/21/23 public hearing and Staff Report

Attachment a: Barbara Harris email dated 10/7/23

Attachment b: Barbara Harris email dated 10/23/23

Attachment c: Barbara Harris email dated 11/13/23

Attachment d: Barbara Harris letter dated 12/27/23

Exhibit A: BOCC Addendum and Draft FCOs for September 21, 2023 Appeal Hearing

Exhibit B: Appeal Application Documents

Exhibit C: Applicant Presentation pdf and PowerPoint

Exhibit D: Public Comments Received for Appeal Hearing

Attachment 1: Barbara Harris August 18 email

Attachment 2: Barbara Harris August 25 email

Attachment 3: Barbara Harris letter

Attachment 4: Harry Robinson letter

Exhibit E: Planning and Zoning Signed FCOs dated July 6, 2023

Exhibit F: Planning and Zoning Minutes June 15, 2023 and July 6, 2023

Exhibit G: Planning and Zoning Staff Report

Attachment 1: Parcel Tool

Attachment 2: P & Z Draft FCOs

Attachment 3: Submitted Application Materials

a: Letter of Intent

b: Letter of Intent #2

c: Site Plan

d: Land Use Worksheet

e: Neighborhood Meeting Information

Attachment 4: Maps

a: Aerial

- b: Vicinity
- c: Cases
- d: Zoning
- e: Canyon County Future Land Use
- f: City of Nampa Future Land Use
- g: Lot Report
- h: Gravel Pits, Dairies, Feedlots
- i: Soils
- j: Prime Farm Land
- k: Soils & Prime Farmland Report
- l: Plats & Subs

Attachment 5: Agency Comments

- a: City of Nampa
- b: Nampa Highway District

Attachment 6: Public Comments

- a: Barbara Harris #1
- b: Barbara Harris #2
- c: Tammy Shuyler



**DRAFT**

**Exhibit A1**

**BOARD OF COUNTY COMMISSIONERS**

**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:

**Jimenez – CU2023-0002-APL**

The Canyon County Board of County Commissioners considered the following:

- An appeal submitted by Bristlecone Land Use Consulting, representing JC Excavation regarding a Planning & Zoning Commission's decision for the denial of Case CU2023-0002, a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District.

[CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW¼ of Section 29, T3N, R1W, BM, Canyon County, Idaho]

### **Summary of the Record**

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in CU2023-0002-APL
  - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on July 6, 2023. (Exhibit E of the staff report)
  - C. An appeal filed by Elizabeth Allen, Bristlecone Land Use Consultants, LLC was submitted on July 14, 2023 pursuant to Canyon County Code §07-05-07 (Exhibit B & C of the Staff Report).
  - D. On September 21, 2023, the Board of County Commissioners remanded the application back to the Planning and Zoning Commission to more wholly flush out the possible conditions and more fully consider the evidence.
  - E. On January 18, 2024, the Planning and Zoning Commission heard the appeal and signed FCOs on February 1, 2024 in denial of the Appeal and ultimately the Conditional Use Permit.
  - F. On February 12, 2024, an appeal was filed by Elizabeth Allen, Bristlecone Land Use Consultants, LLC pursuant to Canyon County Code §07-05-07.

### **Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.



3. The Commission shall have those powers and perform those duties assigned by the board that is provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances CCZO §07-03-01 and §07-07-01.
4. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.
5. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.
6. The burden of persuasion is upon the applicant to prove that all criteria, are satisfied. CCZO §07-05-03.
7. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
8. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

**The application CU2023-0002 (CU2023-0002-APL) was presented at a public hearing before the Canyon County Board of County Commissioners on May 29, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:**

#### **FINDINGS OF FACT & CONCLUSION OF LAW**

- (1) The applicant filed an appeal to CU2023-0002-APL on February 12, 2024, pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to deny the findings signed by the Planning and Zoning Commission. (Staff Report Exhibits C1)
- (2) The Board reviewed the written findings (Staff Report Exhibit A), testimony, and evidence presented in the public hearings on the application. The Board remanded the case back to the Planning and Zoning Commission to more wholly flush out possible conditions and to more fully consider the evidence. (See Summery of the Record 1C and 1D)
- (3) The Board of County Commissioners found the criteria have not been adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
- (4) The Board reviewed the written findings from the second Planning and Zoning Commission decision (Staff Report Exhibit C1), testimony (Staff Report Exhibit D1), and evidence presented in the public hearings on the application. The Board, after reconsidering the Conditional Use Permit application along with proposed conditions of approval, finds the findings of fact decided by the original Planning and Zoning Commission decision (Staff Report Exhibit

E) is adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have not been met:

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

Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the “A” agricultural zone subject to an approved conditional use permit.

**Criteria 2: What is the nature of the request?**

The request for the staging area is for the applicant’s excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

**Criteria 3: Is the proposed use consistent with the comprehensive plan?**

The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
Chapter 4: Land Use and Community Design	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community’s interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.

P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.

**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?**

The proposed use was found to be injurious to other property owners in the immediate vicinity, and/or negatively change the essential character of the area.

The site visit showed the surrounding area, is clustered with agricultural production and other permitted and unpermitted businesses that utilize similar equipment and materials. Within one mile of the proposed staging area, there is an approved contractor shop/staging area with similar conditions (PH2013-9) approximately 300 feet south, gravel extraction operation to the north and a feed lot and a dairy to the South.

Public testimony on the January 18, 2024 hearing supported that the proposed use would be injurious to property owners in the immediate vicinity. Concerns regarding the size of the property in relation to the magnitude and scope of the business operation being too large were discussed, in addition to, concerns about the noise of the machinery used to load materials and dust abatement. According to the letter of intent filed with this appeal, the applicant has removed the dirt storage at the site. This will reduce the need for the machinery needed to load the trucks with dirt.

Evidence includes the application, additional materials provided by the applicant, public testimony, and the staff report and exhibits found in both case number CU2023-0002 and case number CU2023-0002-APL.

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

Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request. The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.

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

As conditioned the request will need to comply with Nampa Highway District requirements but the parcel does have legal access currently. According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit G1, Exhibit G, Attachment 5b in the Staff Report.

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

The request will cause undue interference with existing or future traffic patterns.

Per review by the Nampa Highway District, there is no indication that the use would increase the traffic enough to warrant a traffic impact study. Nampa Highway District required that a paved apron to meet Commercial standards be constructed. (Exhibit G1, Exhibit G, Attachment 5b from the Staff Report).

Public testimony given at the Planning and Zoning Commission hearing on June 15, 2023 (Exhibit G1, Exhibit F from the Staff Report for January 18, 2024) and testimony given at the January 18, 2024 public hearing, included concerns regarding the high traffic volume on Robinson Road and the potential impacts heavy equipment would have coming and leaving the property. With the appeal, the applicant has proposed removing the dirt storage on the site. This would decrease the amount of equipment coming and going throughout the day, essentially reducing the amount of heavy truck traffic.

**Criteria 8: Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, and 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?**

All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs. All essential services were notified and no comments of concern or objection were received.

Nampa Fire District does not oppose the application and verified that essential services will be provided to accommodate the requested use. (Exhibit G1, Exhibit 4, Attachment a)

- (5) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on April 17, 2024. Newspaper notice was published on April 19, 2024. Property owners within 600' were notified by mail on April 16, 2024. The property was posted on April 25, 2024.
- (6) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002-APL & Case #CU2023-0002.

**Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. Pursuant Canyon County Code Section 09-11-25, the City of Nampa provided comment on the request seen in Staff Report Exhibit G, Attachment 5a. Conditions have been applied to ensure the use does not impact Nampa's planned future use.

The City of Nampa was notified on February 23, 2023, August 9, 2023, December 6, 2023, and April 17, 2024, pursuant to Section 09-11-25 of the Canyon County Code. The comment letter received from the City of Nampa (Staff Report Exhibit G, Attachment 5a) are in regards to their Comprehensive Plan and their Future Land Use designation of Low Density Residential. The future designation does not support the staging area use.

According to Canyon County Code Section 09-11-17: Canyon County's Comprehensive Plan has jurisdiction within Nampa's area of City Impact. Canyon County shall give consideration to the city's comprehensive plan map designations when evaluating development requests within the Nampa area of city impact. Canyon County's Comprehensive Plan designates the Future Land Use of this area as Agriculture. As a condition of approval. the applicant has proposed the use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **deny** Case #CU2023-0002, a Conditional Use Permit for a Staging Area for Parcel No. R30624010.

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

1. 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.

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 \_\_\_\_\_ day of \_\_\_\_\_, 2024.



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	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Chris Yamamoto, Clerk

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

Date: \_\_\_\_\_



Exhibit B1,  
Attachment a

2nd application  
**APPEAL OF DECISION**  
APPLICATION

<b>APPELLANT</b>	NAME:	JCEXCAVATION LLC Juan Carlos Nieves	
	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: <u>[Signature]</u> Date: <u>02-11-2024</u> 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:	M. Burton	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-obscurer 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-obscurer fence shall be constructed and landscaped within six (6) months of the approval date of the CUP.**
- **Condition 2. A sight-obscurer fence shall be installed along the northern property line adjacent to the area used for staging. The sight-obscurer 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*

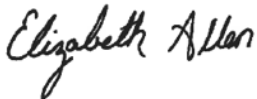
- **Condition 4. The applicant shall comply with Nampa Highway District access requirements.**

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,

A handwritten signature in black ink that reads "Elizabeth Allen". The script is cursive and fluid.

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 Robinson. Idaho Backhoe Inc.*





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

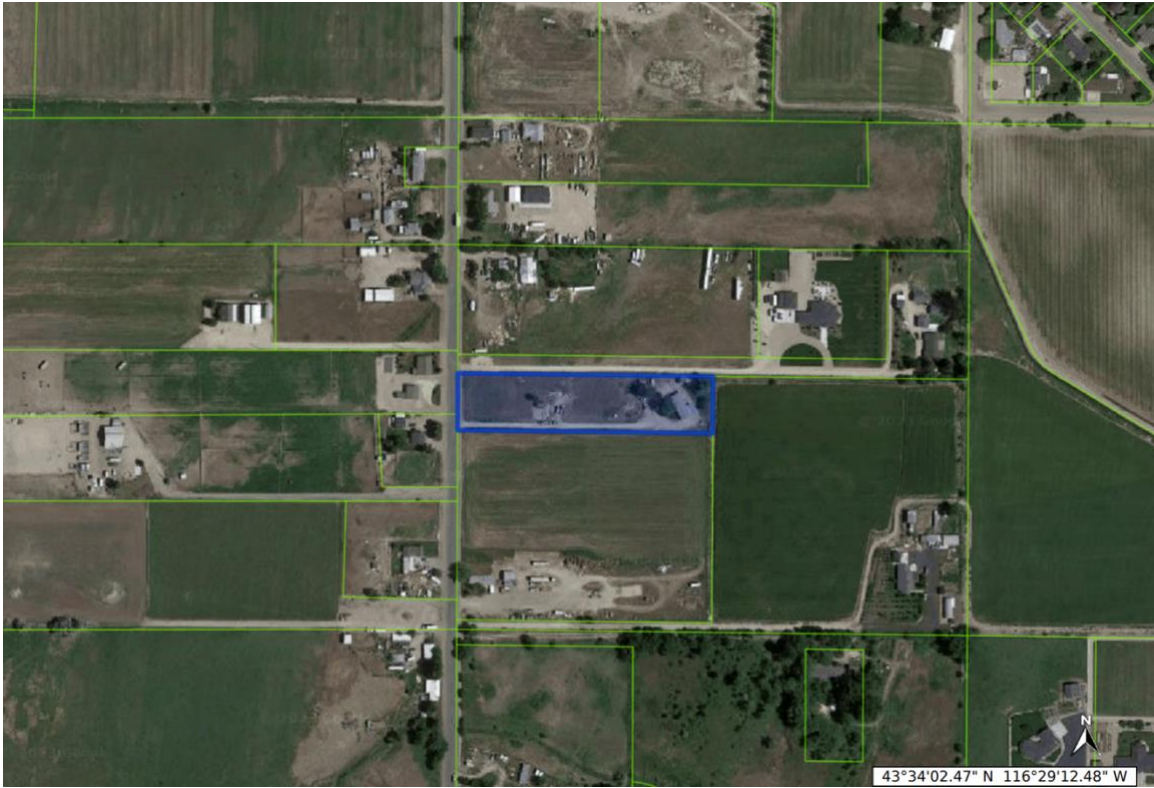


Image 11. Aerial image of approximately 2,000 feet of the area of the subject property.

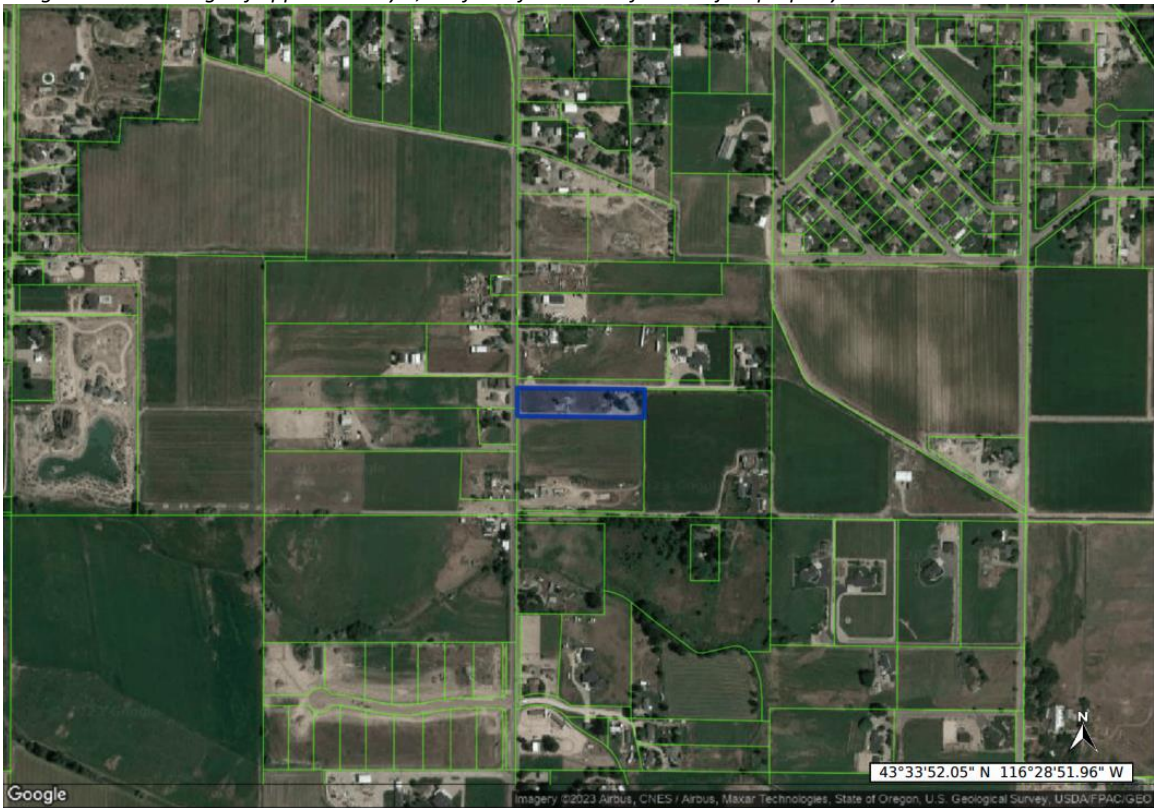


Image 12. Aerial image of approximately 4000 feet of the area of the subject property.



## EXHIBIT C

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







# JC Excavation CU2023-0002

Represented by: Elizabeth Allen



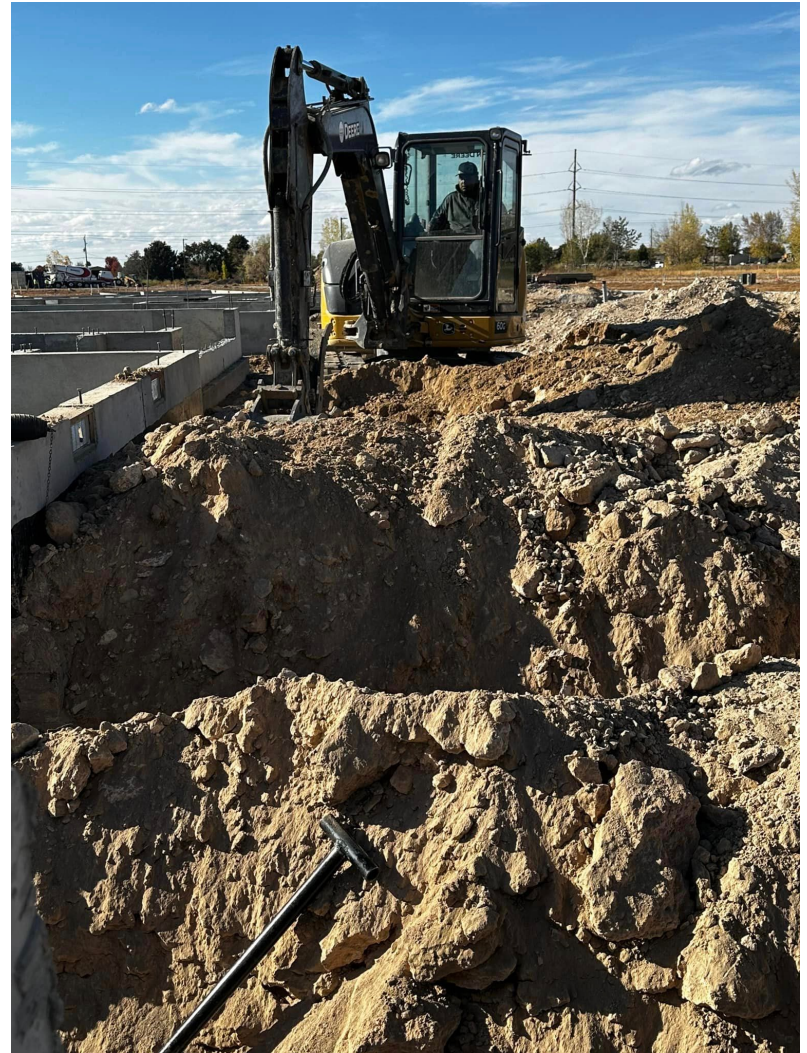
**Bristlecone**  
LAND USE CONSULTING

# JC Excavation LLC

Owner: Juan Carlos Nieves

Manager: Mario Nieves

Idaho Registered Business since 2017, providing quality services for construction projects throughout the Treasure Valley.





# Request: Conditional Use Permit – Staging Area

- Staging area for equipment and materials.





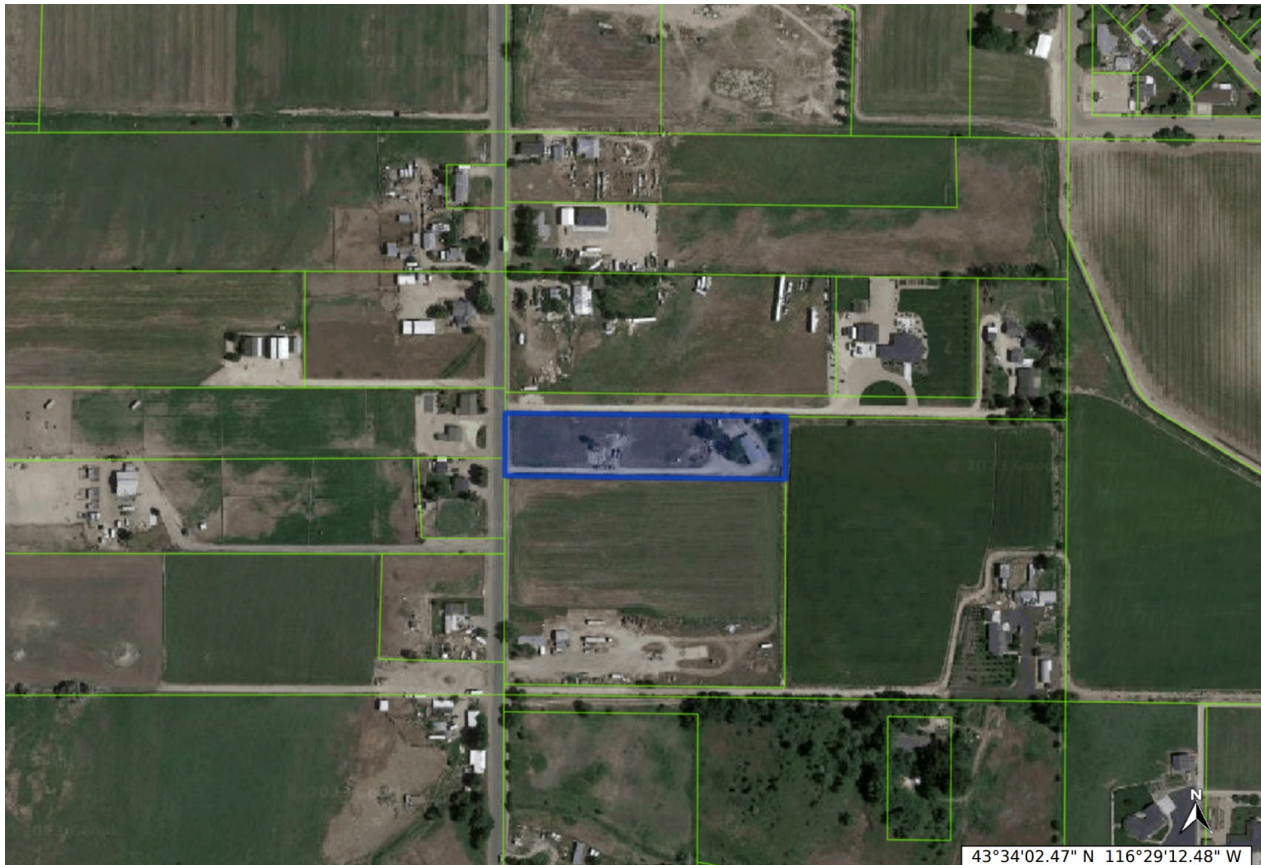






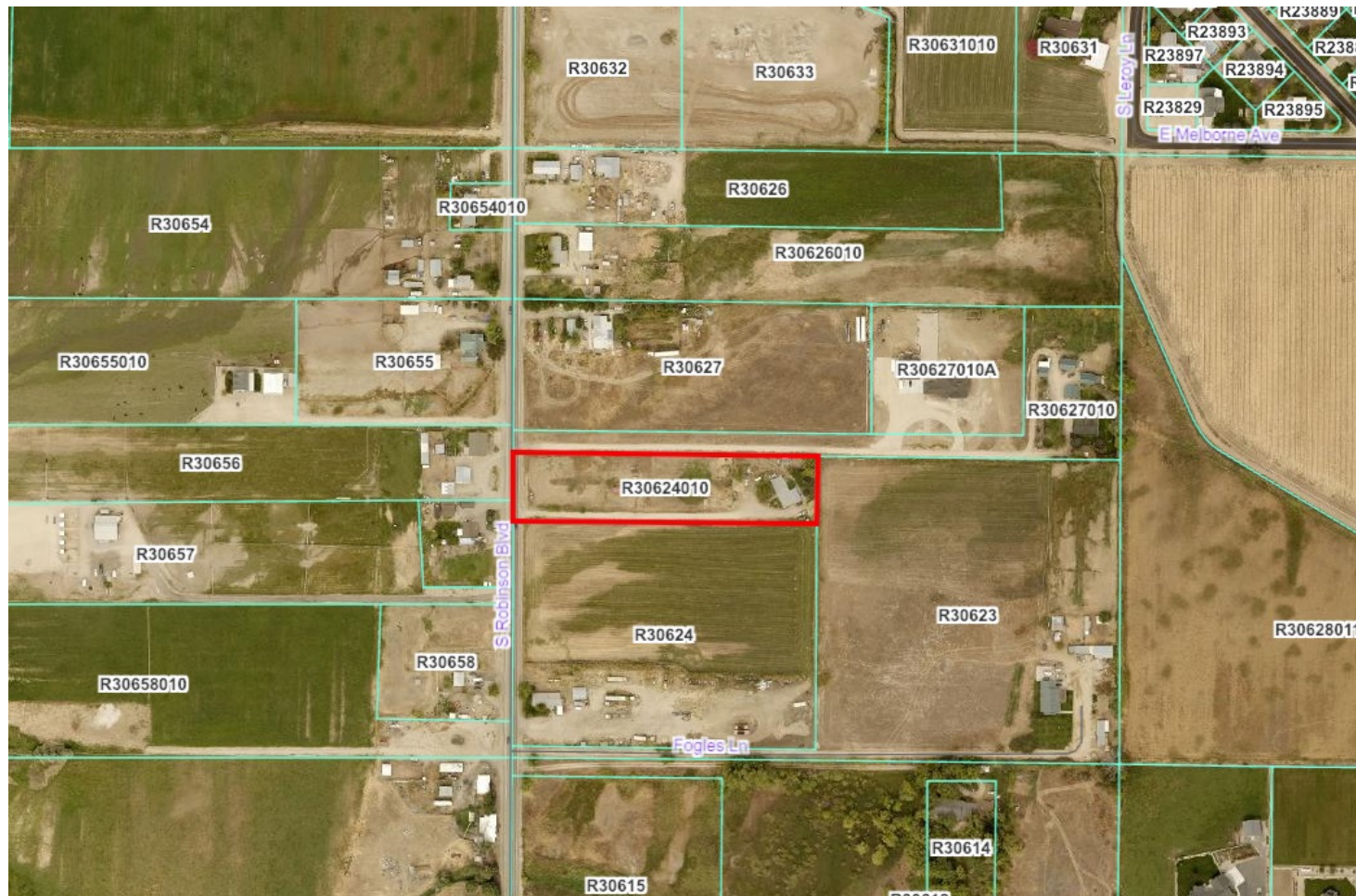
# Analysis

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?



# Character of the Area

- Zone: Agriculture
- Future Land Use: Agriculture





# Character of the Area

- Staging areas for two excavation businesses
- Staging area for a landscape business





# Character of the Area

## Unmitigated storage





# Character of the Area

## Unmitigated storage





# Character of the Area

Agriculture and rural residential





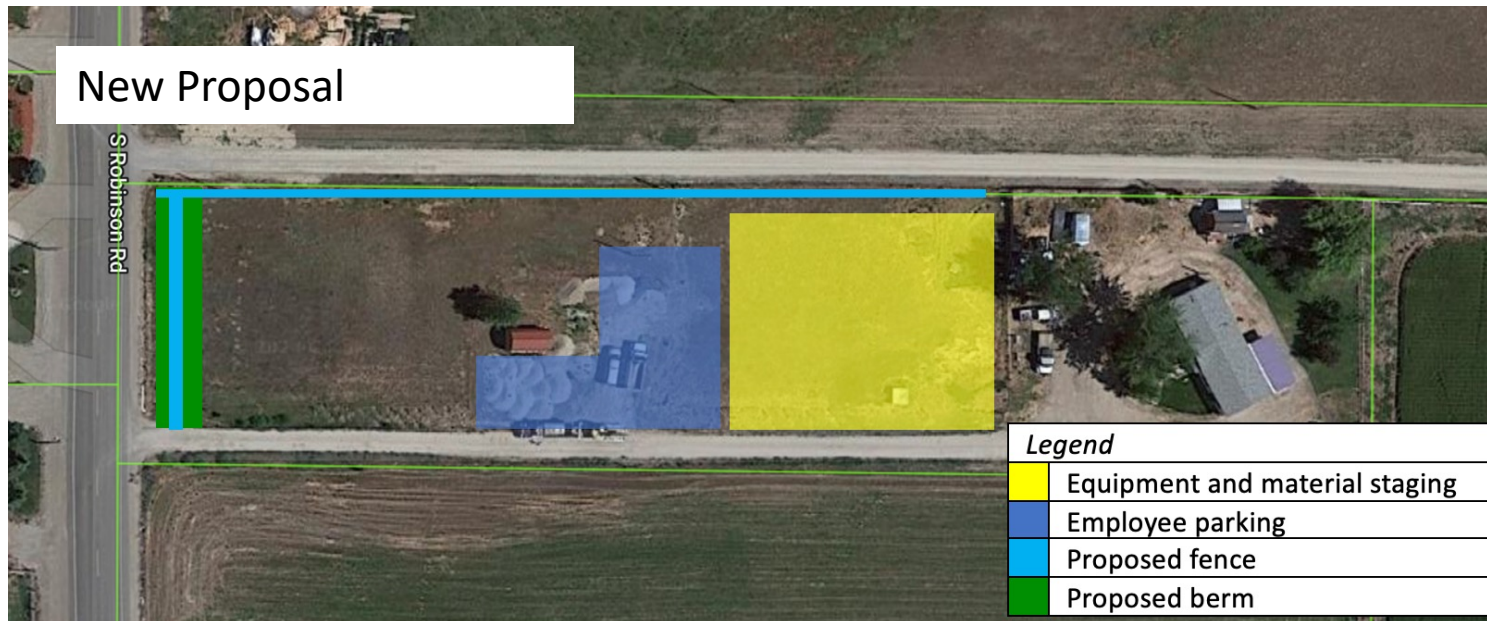
# Proposed Conditions

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

## Original Proposal



## New Proposal



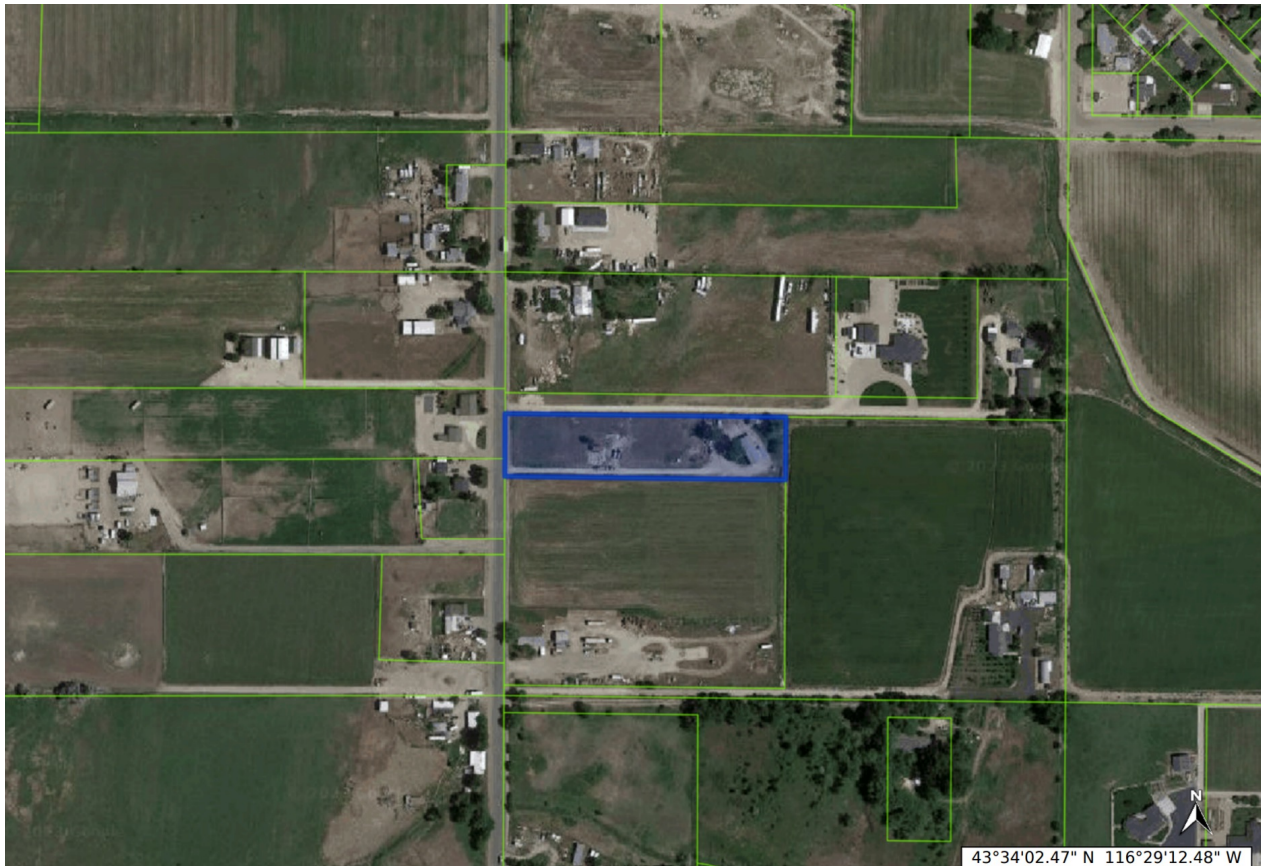






# Analysis

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



# Traffic

- Example of a use that would cause undue interference: residential at 10 ADT per dwelling

## 3110. Traffic Impact Studies

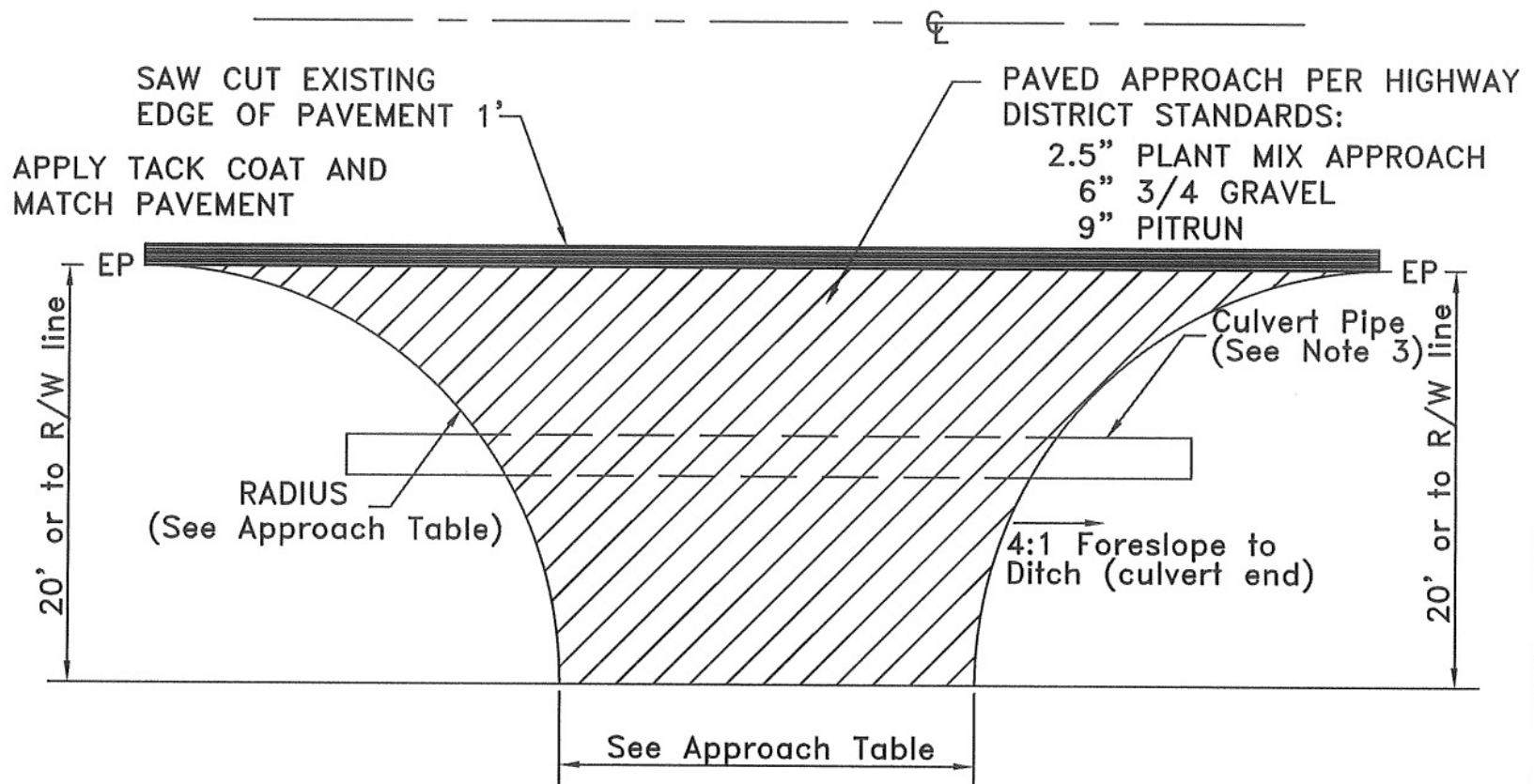
**3110.010.** The Highway District must consider the impacts of a proposed development on nearby land uses and transportation facilities. A traffic impact study (TIS) will be required if the proposed development exceeds the threshold traffic volumes identified in the following table:

Traffic Impact Study Thresholds *		
	Suburban	Rural
Peak Hour Trips	50	50
Average Annual Daily Trips	500	500



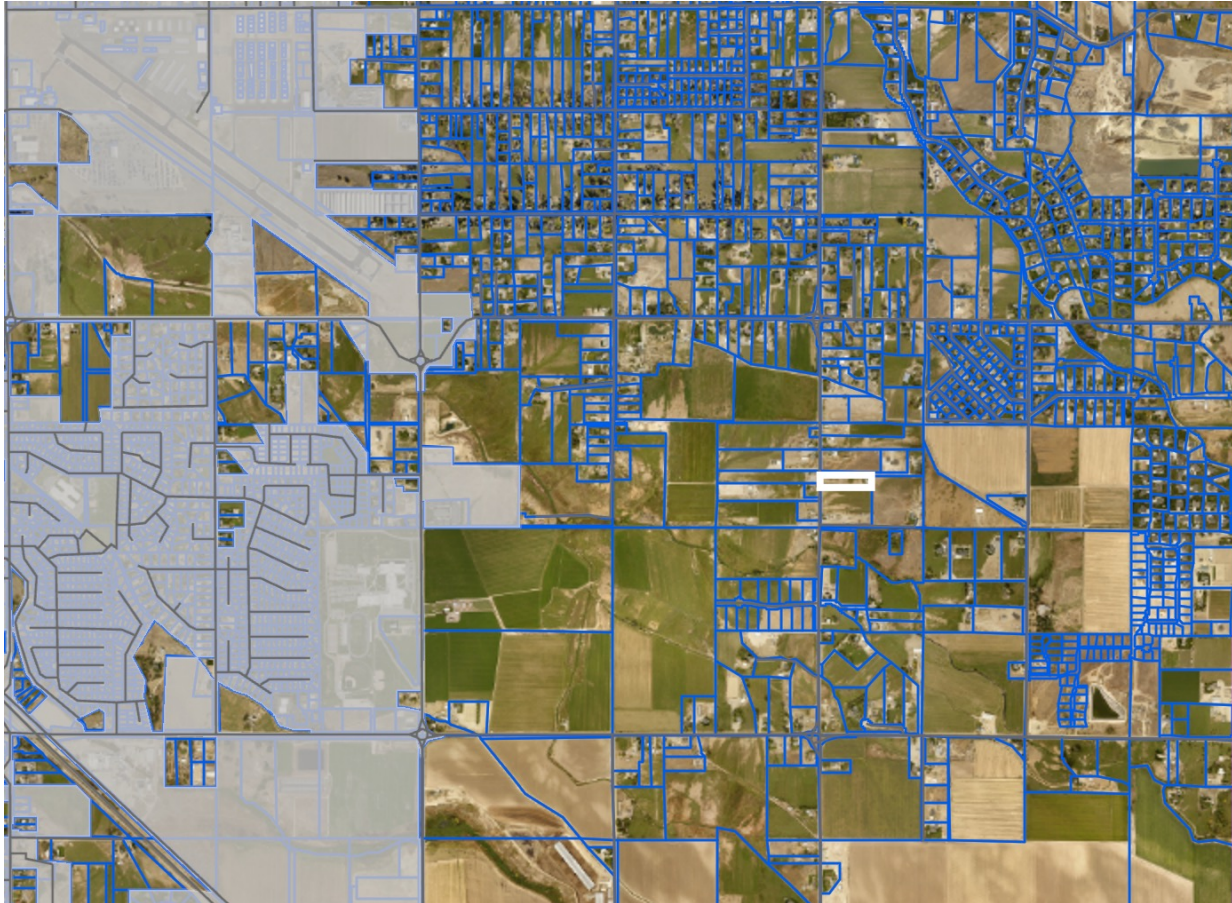
# Proposed Conditions

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



# Analysis

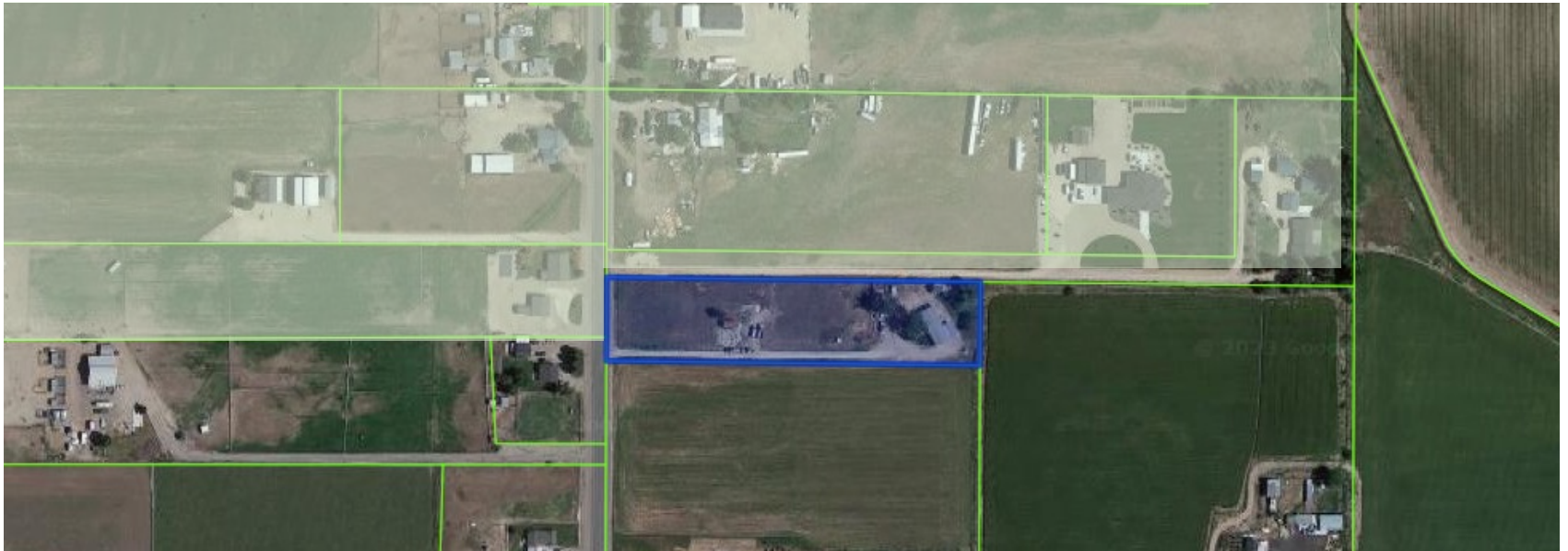
## Nampa Area of City Impact





# Proposed Condition

- **Condition 5. The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.**



# Conclusion

- The proposal does not change the character of the area.
- Traffic will not be impacted.
- We have added conditions to mitigate concerns and improve the character of the area.
- All criteria have been met for approval with conditions.



**Thank you!**



**PLANNING AND ZONING COMMISSION  
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:

**Jimenez – CU2023-0002-APL**

The Canyon County Planning and Zoning Commission considered the following:

- An appeal submitted by Bristlecone Land Use Consulting, representing JC Excavation regarding a Planning & Zoning Commission's decision for the denial of Case CU2023-0002, a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District.

[CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW¼ of Section 29, T3N, R1W, BM, Canyon County, Idaho]

**Summary of the Record**

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in CU2023-0002-APL
  - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on July 6, 2023. (Exhibit E of the staff report)
  - C. An appeal filed by Elizabeth Allen, Bristlecone Land Use Consultants, LLC was submitted on July 14, 2023 pursuant to Canyon County Code §07-05-07 (Exhibit B & C of the Staff Report).
  - D. On September 21, 2023, the Board of County Commissioners remanded the application back to the Planning and Zoning Commission to more wholly flush out the possible conditions and more fully consider the evidence.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.
3. The Commission shall have those powers and perform those duties assigned by the board that is provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances CCZO §07-03-01 and §07-07-01.



4. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.
5. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.
6. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
7. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
8. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

**The application CU2023-0002 (CU2023-0002-APL) was presented at a public hearing before the Canyon County Planning and Zoning Commission on January 18, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:**

#### **FINDINGS OF FACT & CONCLUSION OF LAW**

- (1) The applicant filed an appeal to CU2023-0002 on July 14, 2023 pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to deny the findings signed by the Planning and Zoning Commission. (Staff Report Exhibits B and C)
- (2) The Board reviewed the written findings (Staff Report Exhibit A), testimony, and evidence presented in the public hearings on the application. The Board remanded the case back to the Planning and Zoning Commission to more wholly flush out possible conditions and to more fully consider the evidence. (See Summary of the Record 1C and 1D)
- (3) The Planning and Zoning Commission finds the criteria are not adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
- (4) The Commission reviewed the written findings from the original Planning and Zoning Commission decision (Staff Report Exhibit E), testimony (Staff Report Exhibit F), and evidence presented in the public hearings on the application. The Commission, after reconsidering the Conditional Use Permit application along with proposed conditions of approval, finds the findings of fact decided by the original Planning and Zoning Commission decision (Staff Report Exhibit E) are not adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have not been met:

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

Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the “A” agricultural zone subject to an approved conditional use permit.

**Criteria 2: What is the nature of the request?**

The request for the staging area is for the applicant’s excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

**Criteria 3: Is the proposed use consistent with the comprehensive plan?**

The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
Chapter 4: Land Use and Community Design	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community’s interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.



P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.
----------	---------------------------------------------------------------------------------------------------

**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?**

The proposed use was found to be injurious to other property owners in the immediate vicinity, and/or negatively change the essential character of the area.

The site visit showed the surrounding area, is clustered with agricultural production and other permitted and unpermitted businesses that utilize similar equipment and materials. Within one mile of the proposed staging area, there is an approved contractor shop/staging area with similar conditions (PH2013-9) approximately 300 feet south, gravel extraction operation to the north and a feed lot and a dairy to the South.

Public testimony on the January 18, 2024 hearing supported that the proposed use would be injurious to property owners in the immediate vicinity. Concerns regarding the size of the property in relation to the magnitude and scope of the business operation being too large were discussed, in addition to, concerns about the noise of the machinery used to load materials and dust abatement.

Evidence includes the application, additional materials provided by the applicant, public testimony, and the staff report and exhibits found in both case number CU2023-0002 and case number CU2023-0002-APL.

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

Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request. The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.

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

As conditioned the request will need to comply with Nampa Highway District requirements but the parcels do have legal access currently. According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit G, Attachment 5j in the Staff Report for January 18, 2024.

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

The request will cause undue interference with existing or future traffic patterns.

Per review by the Nampa Highway District, there is no indication that the use would increase the traffic enough to warrant a traffic impact study. Nampa Highway District required that a paved apron to meet Commercial standards be constructed. (Exhibit G, Attachment 5b from the Staff Report for January 18, 2024).

Public testimony given at the Planning and Zoning Commission hearing on June 15, 2023 (Exhibit F from the Staff Report for January 18, 2024) and testimony given at the January 18, 2024 public hearing, included concerns regarding the high traffic volume on Robinson Road and the potential impacts heavy equipment would have coming and leaving the property.

**Criteria 8: Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, and 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?**

All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs. All essential services were notified and no comments of concern or objection were received.

Nampa Fire District does not oppose the application and verified that essential services will be provided to accommodate the requested use. (Exhibit 4, Attachment a from the Staff Report for January 18, 2024)

- (5) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on December 6, 2023. Newspaper notice was published on November 10, 2023. Property owners within 600' were notified by mail on December 6, 2023. Full political notice was provided on December 6, 2023. The property was posted on December 19, 2023.
- (6) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002-APL.

### **Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. Pursuant Canyon County Code Section 09-11-25, the City of Nampa provided comment on the request seen in Staff Report Exhibit G, Attachment 5a. Conditions have been applied to ensure the use does not impact Nampa's planned future use.

The City of Nampa was notified on February 23, 2023, August 9, 2023 and December 6, 2023, pursuant to Section 09-11-25 of the Canyon County Code. The comment letter received from the City of Nampa (Staff Report Exhibit G, Attachment 5a) are in regards to their Comprehensive Plan and their Future Land Use designation of Low Density Residential. The future designation does not support the staging area use.

According to Canyon County Code Section 09-11-17: Canyon County's Comprehensive Plan has jurisdiction within Nampa's area of City Impact. Canyon County shall give consideration to the city's comprehensive plan map designations when evaluating development requests within the Nampa area of city impact. Canyon County's Comprehensive Plan designates the Future Land Use of this area as Agriculture. As a condition of approval, the applicant has proposed the use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.

### **Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **denies** Case #CU2023-0002, a Conditional Use Permit for a Staging Area for Parcel No. R30624010. Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

1. 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.

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 1 day of February, 2024.

**PLANNING AND ZONING  
COMMISSION CANYON COUNTY,  
IDAHO**

  
Robert Sturgill, Chairman



State of Idaho )

SS

County of Canyon County )

On this 1 day of February, in the year 2024, before me Amber Lewter, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Amber Lewter

My Commission Expires: 10/20/2029



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, January 18, 2024  
6:30 P.M.

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

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

Staff Members Present: Sabrina Minshall, Director of Development Services  
Carl Anderson, Planning Supervisor  
Michelle Barron, Principal Planner  
Debbie Root, Principal Planner  
Hether Hill, Principal Planner  
Amber Lewter, Hearing Specialist

**Chairman Sturgill** called the meeting to order at 6:32 p.m.

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

Chairman Sturgill advised that the hearing is being broadcast live on the Canyon County YouTube page. There had been requests made for the second case RZ2021-0056 & SD2021-0059- Farmington Hills to be postponed. A request was made by the applicant as well as several of the public. Chairman Sturgill advised there is a letter from the applicant asking for the case to be postponed. Chairman Sturgill explained with how many people signed in for testimony the case will more than likely get continued. Director of Development Services Sabrina Minshall asked for the letter from the applicant to be read into the record. Secretary Commissioner Villafana read the letter requesting the hearing to be postponed to a date certain due to the representative being ill and is not able to make it to the hearing. Commissioner Nevill asked if he is able to ask questions to the applicant without starting the case. Chairman Sturgill stated the case would need to be started to get the applicant on the stand. Commissioner Nevill asked if they should proceed with the hearing and when it is time for that case make a motion for the case to be continued. Chairman Sturgill explained he is having the discussion now so that if the Commissioners decide to continue the case the people don't have to sit and wait for the first case. Commissioner Nevill stated he is not comfortable tabling the case without knowing who is present for the hearing that can represent and answer questions. Commissioner Sheets stated they can open the case and table it at anytime but he is comfortable moving forward with the case because they have the staff reports and the case will more than likely get continued to another date. Commissioner Williamson asked staff which date would the case get tabled to. Director of Development Services Sabrina Minshall stated March 7<sup>th</sup> would be the next available date. Chairman Sturgill asked if there was a motion to table case RZ2021-0056 & SD2021-0059. No motion was made, the case will continue as planned.

**Item 1A:**

**Case No. SD2020-0023 — Kelly Ridge - Approval of revised FCO's.**



**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

**Item 1B:**

**Case No. CU2023-0014 — York —** Approval of revised FCO's.

**MOTION:** Commissioner Mathews moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

Commissioner Nevill abstained.

**Item 2A:**

**Case No. CU2023-0002-APL- Jimenez:** The applicant, Bristlecone Land Use Consulting, representing JC Excavation, is appealing a Planning & Zoning Commission's decision regarding the denial of Case CU2023-0002 a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District. The subject property is located 80 S. Robinson Rd. Nampa, ID. on Parcel R30624010; also referenced as a portion of NW 1/4 of Section 29, Township 3N, Range 1W; BM; Canyon County, Idaho. On September 21, 2023, the Board of County Commissioners remanded this application back to the Planning and Zoning Commission.

**Planner Michelle Barron** reviewed the Staff report for the record.

Chairman Sturgill stated the County received a letter from Ms. Harris on December 29, 2023 exhibit 5, attachment B which were photos showing activity on site. Three of the photos appeared to show active work. In the staff report, it states that no work can be conducted on site. Chairman Sturgill asked for clarification on what work can or cannot be conducted onsite with a staging area CUP. Planner Michelle Barron stated the images are of them loading the supplies into their dump truck, that is considered supplies and falls within the staging area boundaries.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Elizabeth Allen (Representative) — IN FAVOR — 1830 Williams Lane, Nampa, ID 83686**

Ms. Allen advised the applicant has had an Idaho business since 2017 providing services in construction to sites around the valley. Ms. Allen stated the staging area is for storing of equipment and materials including two bulldozers, excavators, skid steers, loaders, dump trucks, trailers, flat bed trailers, pickup trucks, hydraulic hammers, equipment buckets and dirt storage. All work is conducted off site but in order to get the material to the site you have to use the equipment, that is why there are pictures showing equipment moving dirt. Ms. Allen went over pictures showing the location of the equipment. Ms. Allen went over the background of the CUP with the neighborhood meeting, the first P&Z hearing and the appeal. Ms. Allen went over criteria 4, stating the proposed use will not negatively change the area. The character of the area is an agricultural zone, with a future land use of agriculture, primarily farm land. Ms. Allen stated there are staging areas that have been approved and staging areas that have not gone through the CUP process in the area. Ms. Allen showed pictures of the area showing other staging areas on the other properties. Ms. Allen went over criteria 7, stating the proposed use will not affect traffic patterns. Ms. Allen stated there is no evidence showing traffic will be impacted but there is evidence indicating it won't affect the traffic. For example, the Highway District responded that they had no

concerns, having a paved apron which the applicant has agreed upon and no traffic impact study is required. A traffic impact study is required if it meets their threshold of where the traffic could be impacted and this use doesn't meet the threshold. Ms. Allen stated the proposed use is almost a mile from Nampa City limits and by the time the city gets to this location, the use wouldn't be feasible. There is a proposed mitigation that the operation will cease once the City hits two sides of the property. Ms. Allen stated at the first hearing the applicant didn't get the opportunity to flush through the conditions because it was late. At this hearing they have proposed conditions. They are proposing a berm and a site obscuring fence along Robinson Rd and stockpiles of dust will be watered to prevent dust. Those are in addition to what staff is recommending and they are open to exploring other conditions as well to mitigate any concerns.

Commissioner Nevill asked if the applicant owns the parcel. Ms. Allen advised the applicant does not own the parcel but the property owner has agreed to allow the use and the conditions that are proposed. The owner was not able to make it to the hearing. Commissioner Nevill asked what proof there was that the owner is ok with the use and conditions. Ms. Allen stated the owner signed the document for the conditional use permit. Commissioner Nevill stated in the presentation there was mention of the statement he made that it was late and they shouldn't be asked to craft conditions at that time of night. He stands by that statement. Commissioner Nevill stated this is a much better application and asked why they didn't see the best application the first time. Ms. Allen stated a lot of the time it is a property owner or business owner who is told they need a CUP and they do not have the experience as a Planner or an Attorney, they don't have the knowledge of the code.

Commissioner Williamson asked about a letter from one of the neighbors made a comment about wanting fencing on the southern boundary would the client be ok with doing that. Ms. Allen stated they have discussed that and the applicant is open to putting a site obscuring fence along that boundary. Commissioner Williamson asked if there is residence on the property. Ms. Allen stated there is a house with residence on the eastern side of the property and they are a family member of the applicant. Commissioner Williamson asked if there will be fencing to separate the work area and the residential area. Ms. Allen stated they are not proposing fencing there and there is some landscaping in between. Commissioner Williamson asked how much dust the gravel driveway creates. Ms. Allen stated it is dirt and could explore some mitigation.

Commissioner Mathews asked how many equipment on the property has backup warning beepers. Ms. Allen deferred to the client.

Commissioner Sheets stated there is two grounds for appeal stating it isn't supportive or have substantial evidence and that they had an unfair hearing. In regards to the unfair hearing portion on page 5, section 2C references a statement Commissioner Sheets made in a separate case referencing to the City of Middleton. Commissioner Sheets reviewed the minutes and he didn't see anything related to the City of Nampa that he may have made to the particular case in question. Commissioner Sheets asked for clarification how a statement he made during another case impacts this case. Ms. Allen stated in the recording for the same hearing there was a case in Middleton where Commissioner Sheets made that comment. It was not brought up during this hearing because it is irrelevant. Ms. Allen stated she put it in the record knowingly and takes accountability. Commissioner Sheets clarified he did not contribute to an unfair hearing and that the statement in the report is irrelevant and unfair to him. Commissioner Sheets stated he will not be basing his decision on the statement he just wanted to clear up the record. Chairman Sturgill asked if the comment in the report was indicated that it was for a different case. Commissioner Sheets confirmed. Ms. Allen apologized.



**Juan Carlos Nieves — IN FAVOR — 3812 E Clear Springs Dr, Nampa, ID 83686**

Mr. Nieves stated Ms. Allen covered everything. The staging area Mr. Nieves is willing to add any conditions the Commissioners need. Mr. Nieves clarified the house behind the staging area is 100 ft away plus the house has 40 ft of yard that is fenced all around, another driveway, and another fence. The house and the staging area has a large separation. There is a shared driveway between the two that is all gravel. Mr. Nieves stated no work is done on site and they are not there every day, times they are there to load up varies from once a month, once a week or twice a week. Mr. Nieves stated he is willing to add any conditions such as fencing.

Commissioner Mathews asked how much of the equipment that is kept on site have backup beepers. Mr. Nieves stated they have five skid steers, two excavators, and two dozers. Most of them are on the trailer and not being used and rarely used in the mornings. Commissioner Mathews asked what they use to load the trucks. Mr. Nieves advised they use the skid steers or excavators and it takes about 3 minutes of time to load.

Commissioner Williamson asked if the campers that are on the property are the residence or if they will be moved. Mr. Nieves stated the campers are for his employees but is willing to have them take them elsewhere. Mr. Nieves clarified no one lives in the campers.

Commissioner Villafana asked how the hours change depending on the season. Mr. Nieves stated in the winter they hardly work and work mostly in the summer time.

**Barbara Harris — IN OPPOSITION — 73 S Robinson Rd, Nampa, ID 83687**

Ms. Harris stated the pictures that she submitted compared to staff's and the applicants look significantly different. Mr. Harris stated it isn't uncommon for trash to be on the ground, some of the trucks haven't been moved for nearly two years. Her front window is about 150 ft from this property. Ms. Harris advised that it is more than once or twice a week that the trucks are loaded with the backup alarms and creating dust. The issue is the noise, the dust and the large trucks. Ms. Harris stated that in the winter it is less but during the summer it is several times a week, occasionally as late as 7 or 8 pm. Ms. Harris stated they got evidence showing the disruption, she sent a picture on Thanksgiving morning from her window. There are seven homes that surround the subject property. Ms. Harris doesn't agree with the statement from the Highway District because it isn't just the frequency it is the size of the trucks.

Commissioner Nevill asked if the new conditions are an improvement. Ms. Harris stated they are, she see's what they will do but she would like to see what happens if they don't do what they say. Commissioner Nevill stated they lose their conditional use permit. Ms. Harris stated they don't have a CUP right now yet they are operating and have done so for the past two years. Commissioner Nevill asked if there are similar operations nearby. Ms. Harris stated there isn't any that is as busy, loud or dusty as the subject property.

**Harry Robinson — IN OPPOSITION — 73 S Robinson Rd, Nampa, ID 83687**

Mr. Robinson provided his background, he has over 50 years of construction experience and managing projects. In his opinion the subject property is 50% junk yard and 50% working construction yard, he wouldn't describe it as a staging area. Mr. Robinson stated for the conditions he would suggest an eight-foot berm in 16 layers. The berm should be evergreen, planted on both sides of the berm, staggered. The fence on the north side Mr. Robinson suggests to be eight feet high and completely screen off the property. Mr. Robinson believes the conditions need to be installed, inspected and approved before the conditional use permit is approved.

Commissioner Nevill asked if the conditions were crafted to include Mr. Robinson's words if that would be more of a mitigation. Mr. Robinson stated yes, he would work with them.

Commissioner Williamson asked where Mr. Robinson is getting his definition of a staging area. Mr. Robinson stated from his experience and codes through the United States.

**Elizabeth Allen (Representative) — REBUTTAL - 1830 Williams Lane, Nampa, ID 83686**

Ms. Allen advised she has already presented all the evidence and the neighbors have been nothing but hostile to her client. They have added the condition of the site obscuring fence and they have proposed the dust mitigation. Ms. Allen stated staging areas are common in this area.

Commissioner Sheets asked if there are any mitigations for noise making. Ms. Allen stated she isn't sure if the backup alarms can be turned off. The berms and fence will help somewhat for the noise but landscaping would help more.

Commissioner Mathews stated the equipment is all confined into a small two-acre lot and the shown areas nearby have larger lots with a larger setback from the road. His concern is the size of the property, the noise and the dust all compact on a small piece of property. Ms. Allen stated she is happy to explore any mitigations.

**MOTION:** Commissioner Nevill moved to close public testimony on Case CU2023-0002-APL, seconded by Commissioner Sheets, voice vote, motion carried.

**DELIBERATION:**

Planner Michelle Barron advised she has some possible conditions written down to explore such as adding removing the campers from the staging area and a site obscuring fence on the south property line if the Commissioners are headed towards approval.

Commissioner Nevill stated the application is better but could be even better with crafted conditions. Commissioner Nevill is uncomfortable crafting conditions themselves and asked if it would be appropriate to postpone the hearing and direct staff and the applicant to create conditions together.

Commissioner Mathews stated he agrees with Commissioner Nevill, he would also ask getting together with Mr. Robinson and Ms. Harris to craft conditions.

Commissioner Williamson stated for the condition of removing the RV's off the property he would take it further and condition they must remove all equipment that isn't used for the business.

Commissioner Nevill asked what date would be available to postpone the case to. Planner Michelle Barron stated the date certain could be February 15, 2024 but all the conditions would need to be in place by the 5<sup>th</sup> of February. Otherwise March 7<sup>th</sup>.

Planner Michelle Barron stated there is a County Engineer on staff to help with conditions.

**MOTION:** Commissioner Nevill moved to continue Case CU2023-0002-APL to a date certain of March 7, 2024 and direct staff, applicant and opposition to craft conditions. Seconded by Commissioner Mathews.

**Discussion on the Motion:**



Commissioner Sheets is concerned with the lot size, there is no room for buffering between the properties.

Commissioner Dorsey doesn't agree that they need to get with opposition to craft conditions as well as removing the backup alarms isn't possible due to them going to offsite work areas where the backup alarms are mandated. Commissioner Dorsey is not in favor with continuing the case.

Commissioner Villafana agreed with Commissioner Dorsey. Condition 5 already mitigates the dust. The area is an agricultural area so the noise is warranted. Commissioner Villafana agrees with the added condition of removing the campers. Commissioner Villafana is not in favor of continuing the case and is ready to decide.

Commissioner Mathews stated the residents in opposition were in their homes before the applicant and backup beepers are a different noise than you get from farm equipment.

Chairman Sturgill stated he is not going to support a continuance he isn't convinced that this request can be conditioned properly to be appropriate and not negatively impact the area. As long as there is loading or unloading he believes it will negatively impact the area.

Roll call vote: 2 in favor, 5 opposed, motion failed.

**DELIBERATION:**

Commissioner Williamson asked Commissioner Villafana if there was a motion to approve he would want to add the conditions from Mr. Robinson. Commissioner Villafana confirmed that to be correct.

**MOTION:** Commissioner Williamson moved to approve Case CU2023-0002-APL with amended condition no. 4 adding a fence to the southern border and adding a condition no. 12 to remove campers, equipment and machinery not related to the business. Seconded by Commissioner Villafana.

**Discussion on the Motion:**

Commissioner Nevill asked if there will be any specifics on the motion about the berm. Commissioner Williamson stated no because of spacing. Commissioner Nevill asked if there will be any conditions on noise mitigation. Commissioner Williamson stated that is in the realm of OSHA and he doesn't believe we can get the backup beepers to be shutoff, farming uses a lot of the same equipment and it is zoned ag.

Commissioner Nevill stated he is not in favor of crafting conditions he believes the case should be continued or denied.

Commissioner Mathews stated due to the size of the property and noise of the backup beepers within close proximity, he doesn't believe they can improve the quality of life.

Roll call vote: 3 in favor, 4 opposed, motion failed.

**MOTION:** Commissioner Nevill moved to deny Case CU2023-0002-APL and amending finding of facts 4 and 7 based on the Findings of Fact and Conclusions of Law and conditions of approval. Seconded **by** Commissioner Mathews.

**Discussion on the Motion:**

Commissioner Sheets stated one of the reasons the case got remanded was because they didn't say what the applicant could do to gain approval. They would need to identify what hearing criteria they are using to change and what the applicant could do to gain approval.

Commissioner Nevill stated the denial is based on findings of facts 4 and 7. Due to pictures, testimony and exhibits that indicate that this is a use that will impact negatively the surrounding properties. Number 7 there is evidence provided that Robinson is already a disaster of a road and this would make it worse. To gain approval they could work on all the conditions that were mentioned in the hearing that they didn't have time to work on.

Commissioner Sheets stated to gain approval they could have a less intense use, different equipment that could be used on the property as well as a guarantee of how many fewer trips will be generated.

Commissioner Nevill stated he accepts Commissioner Sheets suggestion of approval.

Planner Michelle Barron asked for clarification. Commissioner Sheets stated the applicant could modify the operation to reduce the equipment impact of the area as well as identify a buffer area between the properties where activity is conducted.

Commissioner Mathews stated he isn't sure if they want to request lowering the equipment fleet because that could impact the applicant's ability to stay in business. Commissioner Mathews stated the applicant needs a bigger piece of property.

Chairman Sturgill asked staff if they could bullet point the ideas for approval for the Board of County Commissioners. Planner Michelle Barron stated it would be good to have that but if they don't feel like there is anyway to get approval on this particular property that can be stated. Planner Michelle Barron stated it is a conditional use permit and will not be going in front of the board unless it is appealed. Chairman Sturgill stated that is what they are preparing for. Planner Michelle Barron stated the FCO's will be drafted and they can look over them to ensure everyone is on the same page.

Planner Michelle Barron asked if Commissioner Nevill wanted to use the same FCO's as the original hearing. Commissioner Nevill stated the original answers to the FCO's are adequate for questions 4 and 7.

Roll call vote: 5 in favor, 2 opposed, motion passed.

Chairman Sturgill set expectations for the next case. They will go through staff report, testimony in favor and then will see where they are at with time and if they have time to start opposition, they will.

**Item 2B:**

**Case No. RZ2021-0056 & 02021-0059- Farmington Hills:** Middleton 187, LLC and TBC Land Holding, LLC are requesting a Conditional Rezone of approximately 217 acres from an "A" (Agricultural) zone to "CR-R1" (Single Family Residential) zone with municipal sewer and water subject to a pre-annexation agreement with the City of Middleton and development agreement with Canyon County. Also requested is approval of a preliminary plat, phasing plan, landscape, irrigation, drainage, and hillside development plans for Farmington Hills Subdivision. The proposed development contains 492 total lots: 421 residential lots with an average lot size of 12,780 sq. ft. and 71 common lots. The properties are designated "Residential" in the Canyon County 2020 Comprehensive Plan. The subject parcels R37605, R37605010,



R37602010, R37597 are located north of Foothill Road between Lansing Lane and Duff Lane, Middleton, in a portion of the SW ¼ and the SE ¼ of Section 33, T5N, R2W, BM, Canyon County, Idaho.

**Planner Debbie Root** viewed the Staff report for the record.

Commissioner Williamson asked for clarification about the bus stops in the subdivision. Planner Debbie Root stated as this development unfolds they will be providing collector roadways in the subdivision which the buses will be driving and bus stops will need to be provided. Commissioner Williamson asked if the density is as dense as it can get even if annexed into the city. Planner Debbie Root stated if it was annexed to the city the development could be proposed at a denser rate, the proposed subdivision is as dense as the county can provide for. Commissioner Williamson asked if there is an R2 zone. Planner Debbie Root stated the original application requested R2 zoning, she had them consider R1 zoning.

Commissioner Mathews asked for clarification for the numbers within a mile for the schools. Planner Debbie Root stated that is counting development that was platted from the 30's to now, the lots are already calculated into the capacity number for the schools. Planner Debbie Root advised the Superintendent of the school and City of Middleton were not able to come to the hearing. The Planning Director for the City of Middleton wrote a letter that provided numbers that are consistent with the numbers from the Superintendent from the school.

Commissioner Nevill asked how much an elementary school costs to build. Planner Debbie Root advised she doesn't have that information.

Chairman Sturgill asked for clarification on the wells. Planner Debbie Root explained the developer will construct the well but eventually will be owned by the City of Middleton. Chairman Sturgill asked if the \$1500 per lot to the school is intended to address buildings or operating expenses. Planner Debbie Root stated it provides for additional infrastructure.

Commissioner Mathews asked if the developer will be required to bond their obligation for the road construction. Planner Debbie Root advised all the roads within the development will be public roads and the Highway District will not bond for road construction, there is plans in place to get the roads completed and an agreement with the developer, Highway District 4 and the City of Middleton.

Commissioner Williamson asked where the nearest city water and sewer services from the subject property. Planner Debbie Root advised they are currently three-quarter mile south on Duff.

**Chairman Sturgill** affirmed the witnesses to testify.

### **Testimony:**

#### **Zane Cradic (Representative) — IN FAVOR — 24715 Titanium Place, Meridian, ID, 83642**

Mr. Cradic introduced himself as the engineer for the project. Mr. Cradic stated the property is in compliance with the comprehensive plan for 2020 and 2030. The area is trending towards residential development with the City of Middleton 1200 feet away of the property boundary. Mr. Cradic went over the details of density for the project as well as the amenities the subdivision will have. They will have collector size roads. The phasing plan is having 13 phases for 30-60 lots. The intent is to have 1-2 phases a year over 7-10 years. Mr. Cradic explained they cannot sell the lots without building the stop light, the municipal well, etc. The homes will be semi to customizable homes that fit the area. Mr. Cradic's testimony time ended. An additional 5 minutes was requested.

**Motion:** Commissioner Nevill moved to provide an additional 2 minutes of testimony time. Seconded by Commissioner Sheets. Voice vote, motioned passed.

Mr. Cradic continued his testimony stating they will be bringing city services to the project and will annex as soon as it can be annexed. Mr. Cradic stated the project is below the density the City would be asking for. Mr. Cradic explained when he spoke to the school district he was told there a \$1100 impact fee per lot, they are exceeding that amount and providing \$1500 to the school district per lot. The project will provide high quality housing to Canyon County with roadway improvements, and infrastructure improvements.

Commissioner Sheets asked for clarification for who on the team will be answering which questions. Mr. Cradic provided that information. Commissioner Sheets asked why they are proceeding with the development now. Mr. Cradic explained we are at a record low lot backlog. Commissioner Sheets asked about the Traffic Impact Study being done during school breaks and COVID. Mr. Cradic stated that is why they went back and re-issued a study and believes it to be realistic now. Commissioner Sheets asked what the mitigation is for 7-10 years of construction noise. Mr. Cradic stated that is why they are doing phases for the construction.

Commissioner Nevill asked if the land is rented or if the owner is farming. Mr. Cradic advised the land is currently leased to farmers. Commissioner Nevill asked what is being produced. Mr. Cradic stated corn on the eastern half and on the western half they rotate crops. Commissioner Nevill asked how many lots are available to split. Mr. Cradic stated he believes they can do four splits using Administrative Decision. Commissioner Nevill asked why take the property out of ag land and into production right now when 87% of the county that is saying to preserve ag land. Mr. Cradic stated the city is moving into that direction and they are not far from the city and residential properties are on all 5 sides of the property.

Commissioner Williamson asked if there will be any changes from the pipeline folks that will change what is shown. Mr. Cradic stated the pipeline gave their approval with no red flags. Commissioner Williamson asked for clarification of the number of homes. Mr. Cradic advised the project is 420 lots with 72 common lots. Commissioner Williamson asked if Mr. Cradic sat down with Black Canyon Irrigation District and explain the proposed changes will work. Mr. Cradic stated he has done extensive work and explanation.

Commissioner Mathews asked about the gas pipe. Mr. Cradic advised that William's Pipeline has certain requirements and have to update pipes based on development. They are working on updating the pipes prior to the development.

Chairman Sturgill asked how deep the pipeline is buried. Mr. Cradic stated it varies but typically has 6 feet of cover.

Commissioner Villafana asked why not to wait to annex through the city. Mr. Cradic advised initially they were planning on doing larger lots with private wells and sewer, as they went through the process they realized the needs for transportation, water, fire suppression outweighed what was feasible with the larger lot sizes. That is why they lowered the lot size so they had the funds to help the community as well.

**Josh Leonard — IN FAVOR — 251 E Front #310, Boise, ID, 83701**

Mr. Leonard introduced himself as the attorney. Mr. Leonard addressed the question of why now stating over the course of 10 years with 420 lots phased starting the process now they won't be selling any infrastructure for at least a year. The property is large and the construction will be contained and nobody



will be next to the construction for 10 years where it would impact them. Mr. Leonard stated he doesn't believe the neighbors would want them to wait to annex with the city because lot sizes would be smaller. Mr. Leonard stated the project is not causing deficiencies into the schools, deficiencies already exist. The applicant worked with the school district for about a year to get the cost of per student and then exceeded the contribution amount. In the school's letter they mentioned the appreciation of the contribution as well as making the intersection safer before development occurred.

Commissioner Nevill asked if the school would ask for more money if they could. Mr. Leonard stated he is sure that is the case and it isn't the school's fault that they can't it is the failure of bonds.

Commissioner Sheets asked for clarification of **the per** student cost. **Mr.** Leonard stated Mr. Heath would have that information, he does know that was a number provided by the school district. Commissioner Sheets asked if they waited for the city if they would do the smaller density. Mr. Leonard stated he can't speak for the applicant but the applicant has proven he isn't just for the cash with the 75 feet of easement which isn't required.

Chairman Sturgill asked for clarification on the legality with the school deficiencies. Mr. Leonard provided information and explained that legally they need to take all infrastructure into account not just the schools.

Commissioner Williamson asked if Purple Sage and North Middleton Rd will be improved before infrastructure. Mr. Leonard stated Mr. **Cradic would** be best to answer that.

**Todd Campbell — IN FAVOR — 13852 Meadow Lane, Boise, ID 83704**

Mr. Campbell introduced himself as the land owner. Mr. Campbell stated the project that is before them includes three years of meetings with ITD, Canyon County Highway District, Canyon County Staff, and City of Middleton working diligently with them asking what they want. The project is improving the intersections, providing easements, roads, and mitigations of many things trying to be an asset to the community. The need for homes is present, they are sold as fast as they are built.

Commissioner Sheets asked if there are any conditions that Mr. Campbell would like removed. Mr. Campbell stated he is happy to do any and all of them.

Commissioner Nevill asked what is being raised on the land. Mr. Campbell stated his partner Mr. Dean works directly with the farmers and the leasing but he understands it is mostly corn.

Chairman Sturgill asked if everyone should get approved for development. Mr. Campbell stated he believes **there is a comprehensive plan and codes for a reason and if everything is complied** with then development should be approved.

Commissioner Dorsey asked if this isn't approved where would the 420 lots be put. Mr. Campbell stated he isn't sure.

**Dean Waite — IN FAVOR — 2154 E Timber Trail St, Kuna, ID 83634**

Mr. Waite introduced himself as an employee of the owner. Mr. Waite believes that Farmington Hills is providing many benefits to the community such as assisting financially to the schools for the students. Mr. Waite advised the price that was given to them by the school district is the price to temporarily house students. Another benefit is taking pressure of state street and having the Willis Rd collector, this helps with traffic and bussing for students. The intersections at Duff and 44 and Lansing and 44 are huge

problems and will not happen publicly for 10 years, the applicant is providing a private solution to the public problem. Mr. Waite advised he isn't sure of the current productivity of the farming on the land. He does know the rates paid by the farmers are significantly lower than other farm land and when asking them to get caught up to other rates, the farmer stated it isn't feasible for him to pay the rates and farm this land.

Commissioner Sheets confirmed the price per student is the cost to build temporary infrastructure.

Commissioner Nevill confirmed the temporary infrastructures is a modular.

Commissioner Williamson asked what the speed limit will be for the collector roads. Mr. Waite stated the speed will be determined by Highway District 4.

**Joe Roth — IN FAVOR — 223 W Grandean Way, Eagle, ID, 83616**

Mr. Roth stated he is in favor of the project because he has children starting to drive and the applicant is doing something about the dangerous roads. In his opinion they should already have traffic lights.

Commissioner Williamson asked why this location is important for his kids driving. Mr. Roth stated his children go to school in the area.

**Chase Rowley — IN FAVOR — 1525 N Sea St, Middleton, ID, 83644**

Mr. Rowley stated he is in favor of the project because of Mr. Campbells willingness to help the safety of the roads. His wife got into an accident and it was due to the infrastructure.

**Chairman Sturgill advised the case is going to be continued. He entertained re-opening the public comment period. No motion followed.**

**Theresa Denham — IN OPPOSITION — 25381 Kimpton, Middleton, ID, 83644**

Ms. Denham stated that the comprehensive plan speaks on behalf of preservation of agriculture and the map shows the area as agriculture or rural residential. Ms. Denham believes this is the beginning of an R3 zone stretching into agricultural land. Ms. Denham stated the project is violating many Canyon County Codes and is violating the Constitution. Ms. Denham's 3-minute testimony time ended, she requested an additional 6 minutes of testimony time.

**Motion:** Commissioner Nevill moved to provide an additional 3 minutes of testimony time. Seconded by Commissioner Sheets. Voice vote, motioned passed.

Ms. Denham continued testimony stating the project is in conflict with public interest primarily because of pipeline safety and violating 67.65.12 designated agricultural use in the comprehensive plan. Ms. Denham stated the contract that was created started some of the land use changes, this property is not contiguous to the City of Middleton and it is not in compliance with the AOI map. Ms. Denham stated the builder and the City of Middleton have a pre-agreement to annex through the city and change the land to R3.

Commissioner Nevill clarified the County does not have a R3 zone. Ms. Denham stated that is once the land gets annexed through the City it will be rezoned to R3. Commissioner Nevill asked for R3 definition. Ms. Denham stated lots as low as 8,000 sq. feet.

Commissioner Williamson asked if the codes Ms. Denham was listing off were based on the 2020 comp

plan or the 2030 comp plan. Ms. Denham stated she included both comp plans.

**Antonio Conti — IN OPPOSITION — Middleton, ID, 83644**

Mr. Conti stated he is in opposition because of the pre-annexation agreement, the size of the lots isn't compatible, and the water lines are more than they need which proves there are plans to grow further north.

Commissioner Dorsey asked if Mr. Conti is more in favor of having 1 acre lots with individual well and septic. Mr. Conti confirmed he is.

**Marty Denham — IN OPPOSITION — 25381 Kimton, Middleton, ID, 83644**

Mr. Denham is against the development because it states it will annex, an annex requires an ordinance which there hasn't been one. He believes they made an annex agreement without following the legal guidelines. Mr. Dunham is concerned about the depletion of the aquafer. The City of Middleton is asking for a well to help with water problems but it is out of the same aquafer. Mr. Denham stated the development is inconsistent with the comprehensive plan. Mr. Denham believes the project is stealth R3 zone. Mr. Denham states there are no underground waters, rivers or lakes, the aquafer is sand and gravel and having to many rooftops will dry out the aquafer.

**Bob Ubry — IN OPPOSITION — 24106 Painted Horse Ct, Middleton, ID 83644**

Mr. Ubry stated the development is violating several codes to the comprehensive plan for 2020 and 2030. Mr. Ubry doesn't believe adding a traffic light is going to mitigate the traffic. Mr. Ubry doesn't agree with the pre-annexation.

**Suzanne Ubry — IN OPPOSITION — 24106 Painted Horse Ct, Middleton, ID, 83644**

Ms. Ubry states the development is violating 1,2,3,4,5,6, and 8 of the findings. The properties in the impact area are agricultural or rural residential, the proposed project doesn't fit the area. There is no evidence that the impact studies were different from 2021 to 2023. Ms. Ubry's 3-minute testimony time ended, she requested an additional 2 minutes.

**Motion:** Commissioner Williamson moved to provide an additional 2 minutes of testimony time. Seconded by Commissioner Nevill. Voice vote, motioned passed.

Ms. Ubry continues testimony stating that roadways are getting built to Star which is not supporting agriculture and heading towards high density residential instead of following the comprehensive plan.

**Kim Takagi — IN OPPOSITION — 24323 Duff Lane, Middleton, ID, 83644**

Ms. Takagi stated the land produces about 40 tons of hay in a cutting and have about 150 cows in the under crop within the same year. Ms. Takagi stated it is prime farm land and state-wide importance. Ms. Takagi stated people go 60 down the road during the day and 100 at night, there is cows out all the time, that it is a rural area, this project will suck up the agricultural land.

**Michael Wedman — IN OPPOSITION — 24085 Pheasant Ridge Ct, Middleton, ID, 83644**

Mr. Wedman presented a late exhibit. No motion was made at this time to put the late exhibit into evidence.

Mr. Wedman stated he made a map because all the maps available didn't have the details of the subdivision inside. Mr. Wedman described how he made the map and where he got his information. The ending result is showing a demographic change in the area of 42,100% in the category of lots less than .4



acres. Mr. Wedman stated the proposed development doesn't meet the area.

Commissioner Sheets asked to preliminarily review the late exhibit. Commissioner Williamson asked for a copy as well.

**Motion:** Commissioner Sheets moved to approve the late exhibit as exhibit 59. Seconded by Commissioner Williamson. Voice vote, motioned passed.

**Bret Cartier — IN OPPOSITION — 24602 Blaze Ave, Middleton, ID, 83644**

Mr. Cartier stated the proposed development is inconsistent with the 2020 comp plan in relation to public schools in page 11 paragraph 2, it is also inconsistent with population section 2, goal 1 and 3 and policy 2, 3, 4, and 9. Mr. Cartier finds it troubling that the school district hasn't had a chance to speak to County officials. Mr. Cartier stated the schools are over capacity and provided information on growth. Mr. Cartier believes this is irresponsible growth.

Commissioner Dorsey asked the pricetag of the portables for the schools. Mr. Cartier stated the portables are \$ 250,000 a piece and you get two classrooms per portable. Commissioner Dorsey stated the schools and roads are over capacity and asked what got us to this point and what will get us out. Mr. Cartier stated over development got us to this point and believes letting the infrastructure catch up is what will get us out.

Planner Deb Root stated they took Mr. Gee's offer seriously and it must be noticed on an agenda like a workshop presentation. He was going to come testify to the specific questions for this case but wasn't able to make it. Chairman Sturgill asked to extend the invitation for the March 7<sup>th</sup> continuation. Planner Debbie Root stated she would extend the invitation.

**Greg Baker — IN OPPOSITION — 9863 Meadow Park Blvd, Middleton, ID, 83644**

Mr. Baker stated the road in the immediate area of the development are all farm land roads. Both Lansing and Duff have blind hills, there are blind spots. Mr. Baker stated in July 2023 Highway District 4 measured the average speed was 69 mph and 85% of the drivers were exceeding the speed limit downhill. Mr. Baker believes that this development will add 2,526 trips every week day out of Farmington Hills. All the surrounding properties will decrease in value. Mr. Baker wishes the property to stay agricultural or changed to rural residential.

**Jamie Sharpe — IN OPPOSITION — 9221 Willow View Dr, Middleton, ID, 83644**

Ms. Sharpe stated it is heartbreaking to see how much of the farm land has disappeared because you can't get it back. Ms. Sharpe stated her quality of life will be impacted because her family is involved in 4H, and they moved out there to live in the country, not the city. Ms. Sharpe stated she has felt the effects of the overcrowded school district with her children in the school district. Ms. Sharpe is concerned if the temporary infrastructures are safe for the kids. Ms. Sharpe stated Canyon County is one of five major global seed producer regions in the world and if development continues at the rate it is going agriculture will be gone.

**MOTION:** Commissioner Sheets moved to continue Case RZ2021-0056 & SD2021-0059 to a date certain of March 7, 2024, seconded by Commissioner Williamson, voice vote, motion carried.

**APPROVAL OF MINUTES:**

Commissioner Villafana and Chairman Sturgill was not present for the December 21, 2023 hearing and abstained voting.

**MOTION:** Commissioner Nevill moved to approve the minutes from December 21, 2023 with the approved revisions done via email, seconded by Commissioner Mathews. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

No Comments at this time due to the late hour.

**ADJOURNMENT:**

**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Mathews. Voice vote, motion carried. Hearing adjourned at 11:59 PM.

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

Approved this 15<sup>th</sup> day of February, 2024

A handwritten signature in blue ink, appearing to read "Robert Sturgill", is written over a horizontal line.

Robert Sturgill, Chairman

ATTEST  
A handwritten signature in blue ink, appearing to read "Amber Lewter", is written over a horizontal line.

Amber Lewter — Hearing Specialist



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, February 1, 2024  
6:30 P.M.

---

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

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

Staff Members Present: Jay Gibbons, Assistant Director of Development Services  
Carl Anderson, Planning Supervisor  
Dan Lister, Principal Planner  
Amber Lewter, Hearing Specialist

**Chairman Sturgill** called the meeting to order at 6:31 p.m.

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

**Item 1A:**

**Case No. CU2023-0002-APL — Jimenez — Approval of revised FCO's.**

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

**Item 2A:**

**Case No. CR2022-0033 — Kelley:** The applicants, Shawn & Rae Lynn Kelley, are requesting a conditional rezone of parcel R38194010A from an "A" (Agricultural) zone to a "CR-R-1" (Conditional Rezone — Single Family Residential). The request includes a development agreement limiting development to three (3) buildable lots. The 4.12-acre parcel is located at 24720 Harvey Road, Caldwell, also referenced as a portion of the NWX of Section 35, T5N, R3W, B-M Canyon County, Idaho.

**Planner Dan Lister** reviewed the Staff report for the record.

Commissioner Williamson asked how far City services are from the subject property. Planner Dan Lister advised they are over a mile away. Commissioner Williamson asked if the ditch is an open lateral. Planner Dan Lister confirmed that is correct. Commissioner Williamson confirmed all the lots are will take access from the existing private lane.

Commissioner Nevill asked why there isn't a road user's agreement if the road is a private lane. Planner Dan Lister explained it is only servicing one house at this time and there is a condition that a road users' agreement will be established before final plat.

Commissioner Sheets asked if there is an existing utility easement on Harvey Rd. Planner Dan Lister stated



he didn't see an existing easement.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Shawn Kelley (Representative) — IN FAVOR — 24720 Harvey Rd, Caldwell, ID 83607**

Mr. Kelley stated the reason for the road location is because that is what Highway District 4 required. Mr. Kelley addressed the reason why Black Canyon Irrigation could not find the irrigation rights is because it was tied into Drakes Subdivisions irrigation pump, Black Canyon Irrigation will split the 3 lots off and there will be annual fees off of the irrigation pump.

Commissioner Williamson asked if there will be a water users' agreement. Mr. Kelley stated according to Black Canyon Irrigation the three lots will go into the irrigation rotation and pay an annual fee. Commissioner Williamson asked if Mr. Kelley plans on keeping the extra surface water rights or giving them back to the ditch company. Mr. Kelley stated that Black Canyon Irrigation said he gets 1 inch per year and whatever isn't used stays in the canal and goes down, he isn't sure what is done with it after that.

Commissioner Nevill confirmed with Mr. Kelley that he is in agreeance with the conditions of approval.

Commissioner Villafana asked if the perimeter of the subdivision will be fenced. Mr. Kelley stated he doesn't have any plans to do so at this time.

Commissioner Williamson referenced exhibit 4E page 2, the letter from Black Canyon Irrigation stating that fencing will be required along the lateral and then they later stated that fencing is recommended. Mr. Kelley advised he is going to leave fencing up to the property owners.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CR2022-0033, seconded by Commissioner Villafana, voice vote, motion carried.

**DELIBERATION:**

**MOTION:** Commissioner Williamson moved to approve Case CR2022-0033 based on the Findings of Fact and Conclusions of Law and conditions of approval and forward the recommendation to the Board of County Commissioners. Seconded by Commissioner Mathews.

**Discussion on the Motion:**

Commissioner Dorsey asked for clarification on the irrigation users' agreement as well as the fencing requirement along the lateral. Planner Dan Lister stated the conditions state if you have the water rights you need to use them or prove at the time of plat why you can't use them. The letter from Black Canyon Irrigation shows they are working on that part. At the plat stage other conditions can be made. Planner Dan Lister explained Black Canyon used to require fencing but there was a change in policy, and now they recommend fencing.

Roll call vote: 7 in favor, 0 opposed, motion passed.

**Item 2B:**

**Case No. SD2022-0057 — Kimber Ridge Subdivision #3:** The applicant, Jerry Uptmor, is requesting a

short plat, Kimber Ridge Subdivision #3, a two-lot subdivision. The 4.05-acre lot is zoned "R-R" (Rural Residential). The subject property is Lot 14, Block 1 of Kimber Ridge Subdivision #2, also referenced as Parcel R37886213, a portion of the NE¼ of Section 18, T5N, R3W, BM, Canyon County, Idaho.

**Planner Dan Lister** viewed the Staff report for the record.

Commissioner Sheets asked how long after the Final Plat was approved on June 1, 2022 did this application come in. Planner Dan Lister advised the application was submitted December 8, 2022.

Chairman Sturgill stated he requested the past minutes from when the original plat was approved.

**MOTION:** Commissioner Nevill moved to accept late exhibits 8a, 8b, and 8c for the past hearing minutes. Seconded by Commissioner Sheets. Voice vote, motion carried.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Jerry Uptmor (Representative) — IN FAVOR — 27751 Gray Sage Rd, Caldwell, ID, 83607** Mr. Uptmor agreed with Staff's report and stood for questions.

Commissioner Nevill confirmed with Mr. Uptmor that he agrees with the conditions. Commissioner Nevill asked for Mr. Uptmor's thoughts on the fencing recommendation from Black Canyon Irrigation District. Mr. Uptmor stated if he gets the split he will be putting fencing on his lateral and will leave the option for the property owner on the split. Commissioner Nevill asked Mr. Uptmor's thoughts on the road user's maintenance agreement for the shared access. Mr. Uptmor stated he already put a driveway in and made it extra wide in anticipation of the split. Commissioner Nevill asked if the property is on a hill. Mr. Uptmor stated it is a slight hill to get to the top, basically a null.

Planner Dan Lister advised that hillside development is part of the platting process and it was already determined that the subject property doesn't slope over 15%.

Commissioner Sheets asked if there is an HOA. Mr. Uptmor stated there are CCNR's but there isn't an HOA. Commissioner Sheets asked if the plans conformed with the CC&R's. Mr. Uptmor confirmed that it does.

Commissioner Williamson asked why Mr. Uptmor wants to split the 4-acre lot. Mr. Uptmor stated that is the reason he bought the 4-acre lot instead of the other lots. He was originally looking at a smaller lot and the developer Dennis Jones convinced him to buy the 4-acres because it is zoned rural residential for a minimum of two acres. This appealed to Mr. Uptmor to help with some of the cost. Commissioner Williamson asked if it was the developer that suggested buying the 4-acres and then doing a split. Mr. Uptmor stated that is correct and that the developer has an additional 4-acre lot that he is doing the same thing with.

Commissioner Dorsey asked if the property has surface water rights. Mr. Uptmor stated it does not. Commissioner Dorsey asked what Mr. Uptmor's plan is for irrigation water rights or if he would be comfortable with additional conditions. Mr. Uptmor stated he would be comfortable with Planning and Zoning giving recommendations.

Commissioner Mathews stated he could purchase additional water rights through the Department of Water Resources.

**Diana Hoffman — IN OPPOSITION — 27990 Gray Sage Rd, Caldwell, ID, 83607**

Ms. Hoffman stated that traffic and speeding has increased from construction workers and the influx of residents. Notus Parma Highway District has posted a 20 mph sign and it continues to get ignored. Ms. Hoffman has put signs up asking to slow down, those get ignored. Ms. Hoffman believes having an additional well in the area will negatively impact the resource of water. Ms. Hoffman stated the switchback is a steep hill and is concerned for the Fire Department and EMT's needing to go to the property.

Commissioner Nevill asked if any of the concerns are with Mr. Uptmor or just the developer. Ms. Hoffman stated adding an additional home would contribute with the concerns she already has.

**Marina Peters — IN OPPOSITION — 17134 Big Sage Ct, Caldwell, ID, 83607**

Ms. Peters stated she is opposed to the subdivision for many reasons. When the land was sold prior to 2016 the potential buyers in Silver Sage Subdivision were told the subdivisions would not be connected, when the land was rezoned from ag to rural residential they were told it was one homeowner with a couple homes for his children. Then it turned into **14** homes. Now the once dead-end road has Kimber Ridge residents speeding down the road. Ms. Peters stated the schools are over capacity. Ms. Peters stated it takes the Fire Department about 30 minutes to get to the area and there were 5 fires last year.

Commissioner Williamson asked if the fires are in her subdivision or the Kimber Ridge Subdivision. Ms. Peters stated there was one in Kimber Ridge which was a brush fire.

Commissioner Nevill asked for clarification on the schools being over capacity. Ms. Peters stated she has two kids in Mill Creek and she believes they are over capacity 130%. Commissioner Nevill asked where the other four fires were. Ms. Peters stated two fires were off of Sand Hollow and the other one or two were in Butterfly Ridge. Commissioner Nevill asked how the fires occurred. Ms. Peters stated the one in Kimber Ridge was a brush fire during construction, the one on Butterfly Ridge was brush fire, one in Sand Hollow was a brush fire, and the last one was a home fire.

**Jeffy Uptmor - REBUTTAL - 27751 Gray Sage Rd, Caldwell, ID, 83607**

Mr. Uptmor stated the brush fire in Kimber Ridge was the well drillers who were drilling a well took the blow torch to clear out some tall grass and the wind caused the fire. The fire department came out and put it out. Mr. Uptmor stated the grade going up to the house is less than 15%. He put a large pad near his shop for the Fire Department to be able to turn around and it meets the Fire Departments requirements. Mr. Uptmor stated there isn't going to be a bunch of splits because with rural residential they have to be 2 acres. There are only three 4-acre lots in the subdivision, his, one that won't be split and one other. Mr. Uptmor stated the signs for traffic to slow down work. He sees people speeding and then slow down on that road.

Commissioner Williamson asked with the five fires in a year make Mr. Uptmor consider other fire suppression measures. Mr. Uptmor stated it doesn't because there is so much space between each lot and the lot he has is three quarters surrounded by the irrigation ditch.

Planner Dan Lister reminded the Commission that this isn't a rezone request, it is a subdivision plat. The area is zoned rural residential. The lot has been approved by the Fire District.



Commissioner Nevill asked what they are able to consider and if they can consider 2-acre lots are smaller than the lots around. Planner Dan Lister advised they cannot because the area is zoned rural residential which allows 2-acre lots. The split will not have impact on any essential services because that was already determined at the re-zone. The findings for this case are if the split meets the minimum requirement and if there is any improvement the Commissioners want to recommend. Additional conversation transpired regarding the rezone and short plat.

Chairman Sturgill asked why the case was brought forward as a short plat instead of a modification to the plat Planning and Zoning approved. Planner Dan Lister explained those plats have already been decided upon and the change is to one lot within the plat. Additional conversation occurred in regards to the difference of the plat that was approved and the case before them.

Commissioner Villafana asked if the lot sizes were a concern previously and the average lot sizes are 3.3 acres, the request is 2-acres, when do we stop allowing re-plats. Planner Dan Lister explained it would have to meet the standards for the zone it is in or have to go through the process of rezoning. Commissioner Villafana asked why there wasn't a condition on the rezone for splitting the properties. Planner Dan Lister stated it was a full rezone and not a conditional rezone.

**MOTION:** Commissioner Williamson moved to close public testimony on Case SD2022-0057, seconded by Commissioner Mathews, voice vote, motion carried.

**DELIBERATION:**

Commissioner Dorsey stated he understands the codes and why staff recommended approval but he sits on a Planning and Zoning Commission and in the name is planning, he see's the frustration because by code it is allowed, but he feels this is a loophole.

Commissioner Nevill stated he believes they get to make land use decisions and that includes if smaller lots are appropriate for the zone due to traffic or school impacts, they are able to say no to the application. Chairman Sturgill stated he understands the frustration for the Commissioners but for the interest of driving towards a motion he suggested they review the criteria.

Commissioner Mathews stated his concern is if the original plat said that the lots could be subdivided and the Commission says they can't that is an arbitrary action on Planning and Zoning Commission.

Commissioner Williamson proposed a condition of approval that the applicant would need to reach out to the fire district and see if there needs to be any modifications.

Chairman Sturgill proposed they continue the case and ask for the original developer to come in and provide a revised plat showing all the subdivisions that are contemplated. Planning Supervisor Carl Anderson stated the application meets the zoning ordinance and is permitted under the current code. He suggested the Planning and Zoning Commission entertain the application before them and if there are conditions on the current application however for the previous application has already been approved.

**MOTION:** Commissioner Mathews moved to approve Case CR2022-0033 based on the Findings of Fact and Conclusions of Law and conditions of approval and forward the recommendation of approval to the Board of County Commissioners. Seconded by Commissioner Sheets.

**Discussion on the Motion:**

Commissioner Sheets stated he believes this is a loophole. To have a final plat approved and before the ink is dry an application comes in to start changing it, he believes the code needs to reflect something to that effect that a replat within a certain amount of time will not be considered by this body because they took evidence and made their decision based on a representation that lasted for five months. He doesn't like it but according to the code he doesn't have a reason to deny the case.

Commissioner Villafana agrees with Commissioner Sheets. The issue is the case meets the criteria, another split is allowed, and it is a loophole.

Commissioner Williamson agrees with the other Commissioners.

Roll call vote: 4 in favor, 2 opposed, 1 abstained, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from January 4, 2024 with the approved revisions done via email, seconded by Commissioner Mathews. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Commissioner Nevill believes if they cannot do anything about land use then they shouldn't have to hear the case.

Assistant Director of Development Services Jay Gibbons expressed gratitude for the Commissioners hard work. He understands the frustration in regards to timing for the previous case, the applicant had to go through the process and will continue to go through the process. Assistant Director of Development Services Jay Gibbons advised they are actively reviewing the current codes in regards to several items and amendments have been identified to move forward.

Planner Supervisor Carl Anderson provided future hearings that are scheduled.

Commissioner Dorsey thanked the Chairman for allowing him to abstain his vote in the previous case.

Planner Dan Lister stated staff tries to make the best staff reports so the Commissioners can make their decisions and asked if the Commissioners need more information to let them know.

**ADJOURNMENT:**

**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 8:33 PM.

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

Approved this 15th day of February, 2024



Robert Sturgill, Chairman

AIST

JAVAP<sup>I</sup>



Amber Lewter— Hearing Specialist

Michelle Barron

**From:** Ron Johnson <johnsonrl@nampafire.org>  
**Sent:** Monday, May 6, 2024 3:00 PM  
**To:** Michelle Barron  
**Subject:** [External] RE: [EXTERNAL]Agency Notification CU2023-0002-APL JC Excavation, LLC  
**Attachments:** CUP2023-0002\_Fire District Comments.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good afternoon,

I have no new comments. Original Fire District comments are attached.

Please contact me if you need any additional information.

Thanks,



**Ron Johnson**  
**Deputy Chief / Fire Marshal**  
9 12<sup>th</sup> Ave South, Nampa, ID  
O: 208.468.5760  
C: 208.250.7005  
[Nampa Fire Website](#) - [Facebook](#)

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**From:** Amber Lewter <Amber.Lewter@canyoncounty.id.gov>  
**Sent:** Wednesday, April 17, 2024 11:54 AM  
**To:** 'laclairc@cityofnampa.us' <laclairc@cityofnampa.us>; 'watkinsk@cityofnampa.us' <watkinsk@cityofnampa.us>; 'addressing@cityofnampa.us' <addressing@cityofnampa.us>; 'critchfieldd@cityofnampa.us' <critchfieldd@cityofnampa.us>; 'clerks@cityofnampa.us' <clerks@cityofnampa.us>; 'timc@cityofnampa.us' <timc@cityofnampa.us>; 'drhorras@kunaschools.org' <drhorras@kunaschools.org>; 'bgraves@kunaschools.org' <bgraves@kunaschools.org>; 'rreno@kunaschools.org' <rreno@kunaschools.org>; Ron Johnson <johnsonrl@nampafire.org>; Rob Johnson <johnsonre@nampafire.org>; Julie Linan <linanj@nampafire.org>; 'Eddy Thiel' <eddy@nampahighway1.com>; 'tritthaler@boiseproject.org' <tritthaler@boiseproject.org>; 'gashley@boiseproject.org' <gashley@boiseproject.org>; 'D3Development.services@itd.idaho.gov' <D3Development.services@itd.idaho.gov>; 'niki.benyakhlef@itd.idaho.gov' <niki.benyakhlef@itd.idaho.gov>; Brian Crowthorsh <Brian.Crowthorsh@canyoncounty.id.gov>; Christine Wendelsdorf <Christine.Wendelsdorf@canyoncounty.id.gov>; Michael Stowell <mstowell@ccparamedics.com>; 'shankelc@cityofnampa.us' <shankelc@cityofnampa.us>  
**Subject:** [EXTERNAL]Agency Notification CU2023-0002-APL JC Excavation, LLC

**CAUTION:** This email originated outside the Nampa Fire domain. DO-NOT CLICK on links or open attachments unless you recognize sender email or are sure content is safe.

Dear Agencies,



Please see the attached agency notice regarding the scheduled Board of County Commissioners' hearing on this project. We had previously requested your agency provide comments for the noticed land use application and if any agency comments received, they were included in the Staff review.

No response is required unless there is an update to your original comments. Written testimony is due by **May 11, 2024**. If the comment deadline is on a weekend or holiday, it will move to close of business 5pm the next business day. Please direct your comments or questions to planner **Michelle Barron** at [michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov).

Thank you,



**Amber Lewter**

Hearing Specialist

Canyon County Development Services Department

111 N. 11<sup>th</sup> Ave., #310, Caldwell, ID 83605

Direct Line: 208-454-6631

Fax: 208-454-6633

Email: [amber.lewter@canyoncounty.id.gov](mailto:amber.lewter@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Development Services Department (DSD)

**NEW** public office hours

**Effective Jan. 3, 2023**

Monday, Tuesday, Thursday and Friday

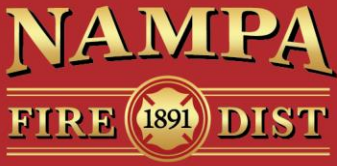
8am – 5pm

Wednesday

1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

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STRENGTH IN UNITY

ADMINISTRATIVE OFFICE  
9 – 12th Avenue South Nampa, ID 83651

208.468.5770

**DATE:** December 29, 2023  
**TO:** Canyon County Development Services Department  
**FROM:** Ron Johnson, Nampa Fire District, Fire Marshal  
**PROJECT ADDRESS:** 80 S. Robinson Rd.  
**RE:** CUP2023-0002

This application is for conditional use permit for staging of excavation equipment at 80 S. Robinson Rd.

The Nampa Fire District does not oppose the application with the following comments.

Comments:

1. Essential services will be provided to accommodate the requested use.
2. Services will not be negatively impacted by this use and will not require additional public funding in order to meet the needs created by the requested use.
3. The property is located 2.1 miles from Nampa Fire District Station 5 with an approximate response time of 5 minutes. This is an adequate response time to respond to hazards at this location.

Regards,

Ron Johnson  
Fire Marshal  
Nampa Fire Protection District

**Michelle Barron**

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**From:** Michelle Barron  
**Sent:** Wednesday, March 20, 2024 3:11 PM  
**To:** 'Barbara Harris'  
**Subject:** RE: [External] 80 S Robinson

That is my fault. I have been out of the office caring for my Mother in Law and then she passed. It will be scheduled soon.

Thanks,

*Michelle Barron*  
*Principal Planner*  
*Canyon County Development Services Department*  
*111 N. 11th Ave., #310, Caldwell, ID 83605*  
Direct Line: 208-455-6033  
DSD Office Phone: 208-454-7458  
Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)  
Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

---

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Wednesday, March 20, 2024 1:22 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** [External] 80 S Robinson

I have not received any notification of a hearing???? On this appeal. Justice delayed is justice denied.

Barbara



---

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Monday, April 8, 2024 8:56 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** Re: [External] 80 s Robinson

So they change the application and then what. Seems to me that nothing is going to happen and no one including p&z staff gives a woot what the commission says. All this was just a waste of time. Just FYI do you know what an engine lift looks like? Well there is one sitting out front of the junk pile across the street, but of course they aren't doing any maintenance or mechanic work over there.

Barbara

On Monday, April 8, 2024 at 04:57:12 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

Good Afternoon Barbara,

I just received a hearing date confirmation today. It will be on Wednesday, May 29<sup>th</sup> at 1:30pm. I do know that the applicant is working on some changes. Their preliminary hearing materials will be on the website soon. As soon as it gets scheduled, it goes up, so it should be there in the next day or so. You can find that at <https://www.canyoncounty.id.gov/land-hearings/> under BOCC hearings. You will have to scroll down to May 29<sup>th</sup> to find it.

Sorry for the wait and your frustration. Hopefully it will soon be resolved.

Thanks,

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID 83605*

Direct Line: 208-455-6033

DSD Office Phone: 208-454-7458

Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

---

**From:** Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>  
**Sent:** Monday, April 8, 2024 3:35 PM  
**To:** Michelle Barron <[Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)>  
**Subject:** [External] 80 s Robinson

The weather is heating up and drying out, they will be flinging dirt over across the street. That makes breathing difficult for us. I have weeds in my yard I have never even seen before! They come and go 7 days a week and until 9 ay night. Their CU was turned down 2xs but it doesn't seem to matter. Were those hearing just an expensive show. Frankly they are better off now than if it had been approved. They are teflon now no rules at all. This is just not right.

No hearing no movement nothing? Nobody gives a dam about our rights.

Barbara

**Michelle Barron**

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**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Wednesday, April 24, 2024 11:04 AM  
**To:** Michelle Barron  
**Subject:** Re: [External] 80 S Robinson

I jumped the gun on what is in the app does show conditions but no specs and who monitors that and what happens if they don't? Do they get the permit before they build fences and berms or after? What about maintenance. A berm covered with weeds is not going to help. I really appreciate the removal of dirt storage that is a big one. They shouldn't be bringing equipment in at 9:30 at night or on Sundays and holidays either. That is NOT unusual for them.

The app says the future coming is Ag but the city of Nampa plan which is the future is low density Residential. You are aware of all the houses going on around here. Traffic getting horrible.

Barbara

On Wednesday, March 20, 2024 at 03:11:24 PM MDT, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

That is my fault. I have been out of the office caring for my Mother in Law and then she passed. It will be scheduled soon.

Thanks,

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID 83605*

Direct Line: 208-455-6033

DSD Office Phone: 208-454-7458

Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)



---

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Wednesday, March 20, 2024 1:22 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** [External] 80 S Robinson

I have not received any notification of a hearing???? On this appeal. Justice delayed is justice denied.

Barbara

**Michelle Barron**

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Exhibit F1,  
Attachment d

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Wednesday, April 24, 2024 10:35 AM  
**To:** Michelle Barron  
**Subject:** Re: [External] 80 s Robinson

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I thought you said they had amended their application? I am not seeing any changes this the same stuff and with the exception of pics of berms, what has changed?

Barbara

On Monday, April 8, 2024 at 04:57:12 PM MDT, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

Good Afternoon Barbara,

I just received a hearing date confirmation today. It will be on Wednesday, May 29<sup>th</sup> at 1:30pm. I do know that the applicant is working on some changes. Their preliminary hearing materials will be on the website soon. As soon as it gets scheduled, it goes up, so it should be there in the next day or so. You can find that at <https://www.canyoncounty.id.gov/land-hearings/> under BOCC hearings. You will have to scroll down to May 29<sup>th</sup> to find it.

Sorry for the wait and your frustration. Hopefully it will soon be resolved.

Thanks,

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID 83605*

Direct Line: 208-455-6033

DSD Office Phone: 208-454-7458

Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

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**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Monday, April 8, 2024 3:35 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** [External] 80 s Robinson

The weather is heating up and drying out, they will be flinging dirt over across the street. That makes breathing difficult for us. I have weeds in my yard I have never even seen before! They come and go 7 days a week and until 9 ay night. Their CU was turned down 2xs but it doesn't seem to matter. Were those hearing just an expensive show. Frankly they are better off now than if it had been approved. They are teflon now no rules at all. This is just not right.

No hearing no movement nothing? Nobody gives a dam about our rights.

Barbara



RECEIVED  
MAY 01 2024

BY: \_\_\_\_\_

57 S. Robinson Rd  
Nampa, Idaho, 83687  
April 30 2024

Canyon County  
Development Services Department  
111 North 11<sup>th</sup> Avenue, Suite 310  
Caldwell, Idaho, 83605

Dear Honorable City Counsel Member/ Members:

I am writing to you regarding Bristlecone Land Use representing JC Excavation case number CU2023-0002 appeal.

My concern regarding this company allowed to operate a commercial business in an Agricultural/Residential Zone. My concerns are listed below.

- Increase in heavy equipment traffic on Robinson. Since I live close to the Victory roundabout I hear the compression brakes on a constant basis. We're already dealing with a flow of heavy traffic due to the increase in sub-division builds.
- Depreciation of my home and land value.
- I am concern others may try to start their own commercial business which may become a nuisance to their neighbors, just like the family who ran a motorcycle business out of their home.
- Concern in losing our Agricultural Zone which may affect those of us who own livestock.

Please keep these concerns in mind and vote NO in granting JC Excavation an appeal for a zone change.

Thank you for your time in this matter.

Sincerely,



Vincent & Tonya Bujanowski

May 1, 2024

Canyon County Commissioners  
1115 Albany Street  
Caldwell, Idaho

RECEIVED  
MAY 01 2024  
BY: \_\_\_\_\_

Re: JC Excavation Staging Area – CU2023-0002

Commissioners:

This is hearing number four on this matter. **Two years** after JC Excavation moved into the location. It has been declined twice by P&Z. This has become absurd.

Not much has changed since the first application. This is not an activity that belongs in the middle of a bunch of homes. The new application does acknowledge that the storage, loading and unloading of material and the large truck traffic created by the business is an unacceptable activity in this location as they have made it a Condition in their application.

Bristlecone states that the closest homesite is 300 feet away. My front door is 110 feet from this property as is my neighbor at 81 S. Robinson. Properties at 74 and 76 S Robinson are about 150 feet away and there is a home located on the property itself. Yes, there are three or four more homes located about 300 feet away on Robinson.

The Application cites a gravel pit and a dairy in the area. Businesses 1 mile or even ½ mile away are irrelevant to this issue. It is the character and environment of the immediate neighborhood that is in question. There is nothing remotely Agricultural about JC Excavation, it is a construction business. Bristlecone's statement that there is no negative impact to the nature of the area is absolutely not true. It is highly disruptive with trucks and trailers coming and going as late as 9:30 and 10:00 at night and on weekends and holidays. JC doesn't own the property and does not live anywhere near here, he has no stake in this neighborhood. There is a depreciation of property value. Would you want his business across the street from your house?

I don't care what the Highway District says. The number of trips is not the problem, it is the nature of the traffic and Robinson Road that is. Bristlecone says there is no evidence of a hazard. Do we have to have a traffic accident to provide "evidence" of a hazard? I watch this situation daily. **I assure you there will be a major accident here sooner or later.** Grace alone has prevented it so far.

Elliot Scott Earthmoving's lot is on an adjacent property. Testament to why no more CUPs should be approved here. Scott was approved 10 years ago; it doesn't belong here now either. For all the same reasons. Neither is Scott as busy as JC. CUPs by their nature are exceptions to zoning. How many can be approved in an area before you end up effectively changing the zoning itself? There is no "right" to an exception. The neighbors do have a right to expect that the existing zoning and their homes will be honored by the County.

I adamantly recommend you decline this application, however if you do approve it, any conditions imposed should be completed and inspected BEFORE the permit is issued. To issue the permit then have to engage in enforcement would be ridiculous.

I hope you will choose to honor the decisions of the P&Z Commissioners and the wishes of the homeowners that live here. I leave this in your capable hands.

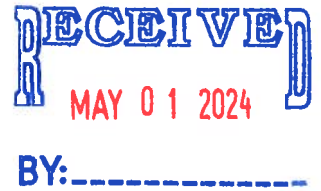
Sincerely,

  
Barbara Harris, 73 So. Robinson Rd.

This letter is in regards to Case CU2023-0002.

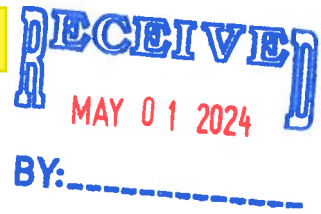
I Live about 2 houses down from the said property. I do not approve of this staging area. It is a site I do not like looking at. It depreciates my property value. His big trucks make a racket slowing down to turn in. On our road it is 50mph and only 2 lanes, I feel it is a hazard. I have lived here for 24 years, I picked this place because it is zoned residential/agricultural. I do not approve of that changing. Please deny case CU2023-0002,

Karen Prescott  
61 S. Robinson Rd  
208-412-0939



Being previously denied, I don't understand why he is still operating his "staging area". It hasn't been approved so he doesn't have a permit.





April 25, 2024

Board of Canyon County Commissioners

RE: Appeal of P & Z Denial of CUP CU2023-0002  
Parcel R30624010 80 S. Robinson Rd, Nampa, ID

Dear Commissioners:

My name is Harry Robinson and live directly across the road from the referenced parcel. My address is 73 S. Robinson Rd. I'm an Idaho registered professional civil engineer and have 50 years of experience in managing heavy industrial construction projects such as rapid transit systems, airports, tunnels, pump stations, pipelines, etc. throughout the US. I've been involved with obtaining project site permits, construction yard permits and staging area permits. These permits have different requirements.

The activities of JC Excavation is 50% junkyard and 50% active construction yard as I have observed every day for almost 2 years. It is not a staging yard by any stretch of the imagination.

The unsightly broken down dump trucks, junk RV trailers, piles of worn out tires, piles of debris, dust from large equipment loading and unloading dirt, noise from the backup alarms and loud diesel engines have significantly reduced the quality of life for all of the surrounding properties. This operation does not belong in an area that is becoming a high end low density residential area. Million dollar homes are being built North and South of JC Excavations business.

I hope that the Board of Commissioners agree with the Planning and Zonings 2 decisions to deny the CUP for JC Excavation who does not even own the referenced property.

If the Board decides to override the P&Z decisions then the only thing that I can do as a professional civil engineer is suggest remediation improvements to the property to alleviate the disruptive construction activities.

Please reference the attached Drawing # 1.

1. Construct an 8 foot high solid fence on the North, East and South property line.
2. Construct an 8 foot high gate at the entrance 80 feet away from the road to allow large trucks with long trailers to completely get off of the road to open the gate.
3. Construct an 8 foot high dirt berm with 6 foot high evergreen trees on both sides of the berm and staggered the trees so that it provides a solid barrier when viewed from the road.
4. Construct a wheel wash basin to wash the rocks and mud from the trucks and trailers before entering the roadway during the wet season. This will reduce vehicle damage on the 50 MPH road.
5. Install a "Trucks Entering the Highway" sign at least 200 feet South of the property and North of the property.
6. Dust Control should be done with a water truck and water obtained from offsite. Who is going to monitor the dust control? (good luck on that one)

Whatever improvements that the Board requires should be installed, inspected and approved by the County before issuing the CUP. In the meantime JC Excavation operations be directed to stop routine operations on the property until improvements are complete. Otherwise they will continue to operate as usual and the improvements will be dragged on or not implemented at all in my opinion.

Thank you for your time and consideration to deny the CUP as referenced.

A handwritten signature in blue ink that appears to read "Harry Robinson".

Harry Robinson PE  
Attachment: Drawing 1

RE: APPEAL # CU2023-0002

SUGGESTED IMPROVEMENTS BY: HARRY ROBINSON  
CIVIL ENGINEER  
ID LIC. # P-13489

NEW 8' HIGH SOLID FENCE  
SEE DETAIL "A"

NEW BERM  
SEE DETAIL "B"

80 S. ROBINSON RD

PLOT PLAN

NTS

NEW WHEEL WASH BASIN

SEE DETAIL "C"

NEW 8' HIGH GATE

200' TO  
DRIVEWAY

SIGN: (TRUCKS ENTERING HIGHWAY)  
NORTH & SOUTH OF DRIVEWAY

6X6X12 TREATED POST

8' ON CENTER

2X6 TREATED RAILS

CONCRETE AROUND  
POST

DETAIL "A"

NTS

WEED BARRIER  
W/ GRAVEL

STAGGER TREES  
6' ON CENTER

8' MIN.

O.G.

45°

INSTALL 16" DEEP LAYERS  
COMPACT TO 95%

DETAIL "B"

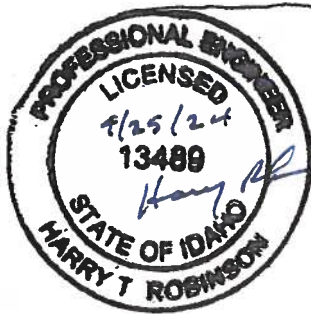
NTS

REMOVABLE TRAFFIC GRATE

8' LONG X 4' WIDE  
CONCRETE BOX

MIN. WIDTH

DETAIL "C"



DRAWING #  
4/25/2024



# **PLANNING & ZONING COMMISSION**

STAFF REPORT ADDENDUM

APPEAL: CU2023-0002-APL

**HEARING DATE:** January 18, 2024

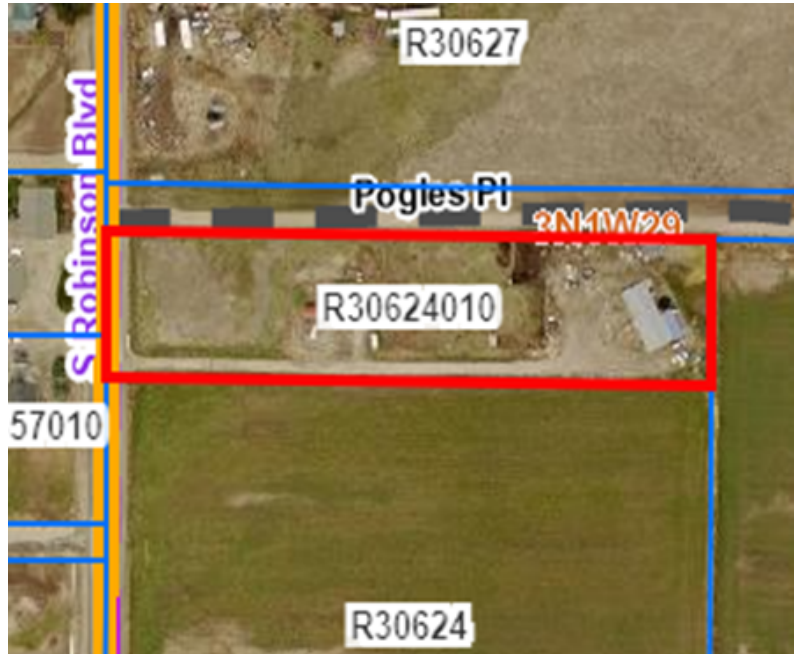
**OWNER:** Alejandro Jimenez

**APPLICANT/REP:** Elizabeth Allen,  
Bristlecone Land Use  
Consulting  
Juan Carlos Nieves,  
JC Excavation LLC

**PLANNER:** Michelle Barron,  
Principal Planner

**CASE NUMBER:** CU2023-0002-APL

**LOCATION:** 80 S Robinson Rd.  
Parcel #: R30624010



## **EXECUTIVE SUMMARY:**

Elizabeth Allen, Bristlecone Land Use Consulting LLC and Juan Carlos Nieves, JC Excavation LLC, appealed the decision of the Planning and Zoning Commission dated July 6, 2023 to the Board regarding the denial of Case CU2023-0002, a **Conditional Use Permit to allow a Staging Area** within an “A” (Agricultural) Zoning District.

On September 21, 2023, the Board of County Commissioners remanded the appeal case back to the Planning and Zoning Commission to more wholly flush out the possible conditions and more fully consider the evidence. (Exhibit 2)

Planning and Zoning Commission heard and denied the original Conditional Use Permit application CU2023-0002 on June 15, 2023 and signed the FCO’s on July 6, 2023 (Exhibit E).

The Planning and Zoning Commission denial was based on the evidence not meeting the Findings of Fact #4, #7 and The Nampa Area of City Impact (Exhibit E) after review of the Staff Report (Exhibit G), public testimony and Commission discussion (Exhibit F).

Pursuant to Idaho Code 67-6519, The Planning and Zoning Commission did not give actions that could be taken for a possible approval of the application as seen in the **Order** section of the FCO’s signed on July 6, 2023 (Exhibit E).



The appeal was filed within the 15 calendar days of the date the FCO's were signed in accordance with CCZO 07-05-05. The appellant is submitting the appeal based on the decision of the Planning and Zoning Commission was not supported by substantial evidence and the applicant was not provided with a fair hearing process. Details of the appeal can be found in Exhibits B, C and 3 including the applicant's appeal letter and proposed conditions.

Staff recommends discussing possible conditions that have been added to mitigate concerns that were brought up in the original hearing. Condition of approval number 3 was amended and conditions 4, 5 and 6 were proposed to mitigate concerns.

### **Decision Options**

The Commission has the following options in this case:

- 1) The Planning and Zoning Commission may **approve** the conditional use permit with conditions.
- 2) The Planning and Zoning Commission may **deny** the conditional use permit and direct staff to make findings of fact to support this decision.
- 3) The Planning and Zoning Commission may **table the hearing** and request additional information on specific items.

### **EXHIBITS:**

- Exhibit 1: Planning and Zoning Draft FCOs
- Exhibit 2: BOCCs minutes from September 21, 2023
- Exhibit 3: Updated documents from applicant
  - Attachment a: Updated letter of intent
  - Attachment b: Presentation materials
- Exhibit 4: Agency Comments received between BOCC 9/21/23 public hearing and Staff Report
  - Attachment a: Nampa Fire District
  - Attachment b: Idaho Transportation Department
- Exhibit 5: Public Comments received between BOCC 9/21/23 public hearing and Staff Report
  - Attachment a: Barbara Harris email dated 10/7/23
  - Attachment b: Barbara Harris email dated 10/23/23
  - Attachment c: Barbara Harris email dated 11/13/23
  - Attachment d: Barbara Harris letter dated 12/27/23
- Exhibit A: BOCC Addendum and Draft FCOs for September 21, 2023 Appeal Hearing
- Exhibit B: Appeal Application Documents
- Exhibit C: Applicant Presentation pdf and PowerPoint
- Exhibit D: Public Comments Received for Appeal Hearing
  - Attachment 1: Barbara Harris August 18 email
  - Attachment 2: Barbara Harris August 25 email
  - Attachment 3: Barbara Harris letter
  - Attachment 4: Harry Robinson letter
- Exhibit E: Planning and Zoning Signed FCOs dated July 6, 2023
- Exhibit F: Planning and Zoning Minutes June 15, 2023 and July 6, 2023
- Exhibit G: Planning and Zoning Staff Report

Attachment 1: Parcel Tool

Attachment 2: P & Z Draft FCOs

Attachment 3: Submitted Application Materials

- a: Letter of Intent
- b: Letter of Intent #2
- c: Site Plan
- d: Land Use Worksheet
- e: Neighborhood Meeting Information

Attachment 4: Maps

- a: Aerial
- b: Vicinity
- c: Cases
- d: Zoning
- e: Canyon County Future Land Use
- f: City of Nampa Future Land Use
- g: Lot Report
- h: Gravel Pits, Dairies, Feedlots
- i: Soils
- j: Prime Farm Land
- k: Soils & Prime Farmland Report
- l: Plats & Subs

Attachment 5: Agency Comments

- a: City of Nampa
- b: Nampa Highway District

Attachment 6: Public Comments

- a: Barbara Harris #1
- b: Barbara Harris #2
- c: Tammy Shuyler



**PLANNING AND ZONING COMMISSION  
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:

**Jimenez – CU2023-0002-APL**

The Canyon County Board of County Commissioners  
consider the following:

- An appeal submitted by Bristlecone Land Use Consulting, representing JC Excavation regarding a Planning & Zoning Commission's decision for the denial of Case CU2023-0002, a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District.

[CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW¼ of Section 29, T3N, R1W, BM, Canyon County, Idaho]

**Summary of the Record**

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in CU2023-0002-APL
  - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on July 6, 2023. (Exhibit E of the staff report)
  - C. An appeal filed by Elizabeth Allen, Bristlecone Land Use Consultants, LLC was submitted on July 14, 2023 pursuant to Canyon County Code §07-05-07 (Exhibit B & C of the staff report).
  - D. On September 21, 2023, the Board of County Commissioners remanded the application back to the Planning and Zoning Commission to more wholly flush out the possible conditions and more fully consider the evidence.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.
3. The Commission shall have those powers and perform those duties assigned by the board that is provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances CCZO §07-03-01 and §07-07-01.



4. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.
5. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.
6. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
7. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
8. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

**The application CU2023-0002 (CU2023-0002-APL) was presented at a public hearing before the Canyon County Planning and Zoning Commission on January 18, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:**

#### **FINDINGS OF FACT & CONCLUSION OF LAW**

- (1) The applicant filed an appeal to CU2023-0002 on July 14, 2023 pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to deny the findings signed by the Planning and Zoning Commission. (Staff Report Exhibits B and C)
- (2) The Board reviewed the written findings (Staff Report Exhibit A), testimony, and evidence presented in the public hearings on the application. The Board remanded the case back to the Planning and Zoning Commission to more wholly flush out possible conditions and to more fully consider the evidence.
- (3) The Planning and Zoning Commission finds the criteria are adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
- (4) The Commission reviewed the written findings from the original Planning and Zoning Commission decision (Staff Report Exhibit E), testimony (Staff Report Exhibit F), and evidence presented in the public hearings on the application. The Commission, after reconsidering the Conditional Use Permit application along with proposed conditions of approval, finds the findings of fact decided by the original Planning and Zoning Commission decision (Staff Report Exhibit E) are not adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have been met:

##### **Criteria 1: Is the proposed use permitted in the zone by conditional use permit?**

Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the "A" agricultural zone subject to an approved conditional use permit.

**Criteria 2: What is the nature of the request?**

The request for the staging area is for the applicant's excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

**Criteria 3: Is the proposed use consistent with the comprehensive plan?**

The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
Chapter 4: Land Use and Community Design	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.

**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?**

With the proposed conditions of approval, the proposed use will not be injurious to other property owners in the immediate vicinity, or negatively change the essential character of the area.

Evidence provided by the appeal applicant (Staff Report Exhibits B, C and 2), from the original Staff Report for the Planning and Zoning hearing and the evidence presented by the applicant stated that there were similar businesses in the area, both permitted and not permitted. (Staff Report Exhibit G) The area is a mix of agricultural production, scattered businesses, rural residential and storage of various objects.

The site visit showed the surrounding area, is clustered with agricultural production and other permitted and unpermitted businesses that utilize similar equipment and materials. Within one mile of the proposed staging area, there is an approved contractor shop/staging area with similar conditions (PH2013-9) approximately 300 feet south, gravel extraction operation to the north and a feed lot and a dairy to the South.

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

Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request. The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.

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

As conditioned the request will need to comply with Nampa Highway District requirements but the parcels do have legal access currently. According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit G, Attachment 5j.

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

The request will not cause undue interference with existing or future traffic patterns.

Within the surrounding area, there are clusters of agricultural production as well as permitted and unpermitted uses that utilize heavy equipment and materials similar to this request.

Per review by the Nampa Highway District, there is no indication that the use would increase the traffic enough to warrant a traffic impact study. Their only requirement is to add a paved apron to meet Commercial standards (Exhibit G, Attachment 5b).

Public testimony given at the Planning and Zoning Commission hearing on June 15, 2023 (Exhibit F), included concerns regarding the high traffic volume on Robinson Road and the potential impacts heavy equipment would have coming and leaving the property.

**Criteria 8: Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, and 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?**

All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs. All essential services were notified and no comments of concern or objection were received.



Nampa Fire District does not oppose the application and verified that essential services will be provided to accommodate the requested use. (Exhibit 4, Attachment a)

- (5) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on December 6, 2023. Newspaper notice was published on November 10, 2023. Property owners within 600' were notified by mail on December 6, 2023. Full political notice was provided on December 6, 2023. The property was posted on December 19, 2023.
- (6) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002-APL.

### **Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. Pursuant Canyon County Code Section 09-11-25, the City of Nampa provided comment on the request seen in Staff Report Exhibit G, Attachment 5a. Conditions have been applied to ensure the use does not impact Nampa's planned future use.

The City of Nampa was notified on February 23, 2023, August 9, 2023 and December 6, 2023, pursuant to Section 09-11-25 of the Canyon County Code. The comment letter received from the City of Nampa (Exhibit G, Attachment 5a) are in regards to their Comprehensive Plan and their Future Land Use designation of Low Density Residential. The future designation does not support the staging area use.

According to Canyon County Code Section 09-11-17: Canyon County's Comprehensive Plan has jurisdiction within Nampa's area of City Impact. Canyon County shall give consideration to the city's comprehensive plan map designations when evaluating development requests within the Nampa area of city impact. Canyon County's Comprehensive Plan designates the Future Land Use of this area as Agriculture. As a condition of approval, the applicant has proposed the use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.

### **Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case #: CU2023-0002, a conditional use permit for a staging area on parcel R30624010 subject to the following conditions of approval:

#### Conditions of Approval:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall comply with Nampa Highway District access requirements.
3. A sight obscuring berm fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion. The berm must be constructed and landscaped within 6 months of the approval date of the CUP.
4. A sight-obscuring fence shall be installed along the northern property line adjacent to the staging area use. Fence shall be constructed within 6 months of the approval date of the CUP.
5. Stockpiles of dirt will be watered during movement to prevent dust.
6. The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.
7. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.

8. Signage shall meet all applicable requirements of CCZO §07-10-13 requirements prior to constructing any signs on the property.
9. The hours of operation shall be 8:00 a.m. to 8:00 p.m. Monday through Friday, as proposed in the applicant's letter of intent (Staff Report Exhibit G, Attachment 3).
10. 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.
11. This permit shall be granted only to JC Excavation. The use shall expire upon change of ownership.

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 \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**PLANNING AND ZONING  
COMMISSION CANYON COUNTY,  
IDAHO**

\_\_\_\_\_  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Commissioner Van Beek made a motion to deny Case No. CR2023-0024, a conditional rezone on parcels R36368 and R36368011, approximately 48.17 acres from an “A” (Agricultural) zone to a “CR-M-1” (Conditional Rezone – Light Industrial), including the conditions of the development agreement. Commissioner Brooks seconded the motion for discussion. Director Minshall said the motion should include the draft FCO’s with either a dissention or an agreement just to make sure it is reflected in the record. Commissioner Van Beek withdrew her motion and then made the following motion: To deny Case No. CR2023-0024, a conditional rezone of 48.17 acres because at this time the proposed conditional rezone is not more appropriate than the current zoning designation of agricultural; and there is an uncertainty that adequate services will be provided because we don’t know the use and we don’t know what the transportation needs will be and other things required to expand the industrial corridor there. There will be traffic impacts for the farmers on mobilization of equipment and aerial applications in that area with increased density whether its residential or industrial, and there is still an argument that on an industrial property where there are Bureau of Reclamation irrigation concerns the ability to mitigate those concerns and provide adequate services for fire under the fire code. She does not have an understanding of how to mitigate those impacts at this time. Commissioner Brooks seconded the motion for discussion. He is of the opinion that FCO’s can be generated to alleviate his concerns for criteria Nos. 5, 6, and 8, but he is unsure of criteria No. 2. He cannot use the fact that the designations in both the area of impact of Greenleaf and the County comprehensive plan both have this as an area of transition to M-1 so as far as stating that this is more appropriate, preponderance of proof being borne by the applicant, he cannot say definitively that it is more appropriate. Commissioner Van Beek said one of the questions she asked was if the properties that were zoned industrial if there was demand in that particular area for M-1, those properties are available and they are not at capacity and if Greenleaf wanted to generate an urban renewal area they could potentially find support for that they could potentially clean that area up and make that look like some of the other industrial corridors that do accommodate. The motion carried unanimously. Director Minshall will bring back the FCO’s for the Board’s consideration. The hearing concluded at 4:16 p.m. An audio recording is on file in the Commissioners’ Office.

#### ATTEND RIBBON CUTTING CEREMONY FOR FEDERATED ORDNANCE

The Board attended a ribbon cutting ceremony for Federated Ordnance, located at 1906 Smeed Parkway in Caldwell, Idaho.

#### SEPTEMBER 2023 TERM

CALDWELL, IDAHO    SEPTEMBER 21, 2023

#### APPROVED CLAIMS

- The Board has approved claims 598712 to 598740 in the amount of \$74,674.04
- The Board has approved claims 598549 to 598590 in the amount of \$12,847.58



- The Board has approved claims 598505 to 598548 in the amount of \$523,069.38
- The Board has approved claims 598776 ADV in the amount \$445.91
- The Board has approved claims 598741 to 598775 in the amount of \$9,985.97

#### APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- BOE in the amount of \$9280.00 for the Information Technology department (PO #5780)
- BOE in the amount of \$6181.86 for the Information Technology department (PO #5781)

#### COMMUTER VEHICLE AUTHORIZATION FORM

The Board approved a commuter vehicle authorization form for Amber Walker.

#### APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for:

- Dalton Kelley, Criminal DPA I
- Shireen Rezaei, Criminal DPA I
- Edmy Vega, Deputy Public Defender I
- Steven Higgins, Director of Information Technology
- Brett Lahey, Housekeeper – Floor Care
- Chad Shumaker, Maintenance Technician
- Demi Etheridge, HR Business Partner
- Jennifer Allen, HR Business Partner
- Cindy Lorta, HR Business Partner
- Kendra Elgin, HR Business Partner
- Nicole Ahlstrom, Benefit and Training Business Partner

#### CONSIDER FINAL PLAT FOR HESSE ACRES

The Board met today at 9:15 a.m. to consider a final plat for Hesse Acres. Present were: Commissioners Leslie Van Beek and Brad Holton, Principal Planner Debbie Root, Representatives for Hesse Acres and Deputy Clerk Jenen Ross. Ms. Root provided a brief overview stating that they have been approved for 9 residential lots, a common lot and a private road. They've received all the signatures on the final plat mylar and have met the conditions of the preliminary plat requirements; the final plat is ready for Board signatures. Commissioner Van Beek made a motion to sign the Hesse Acres, Case no. SD2023-0003, final plat as presented by DSD staff. The motion was seconded by Commissioner Holton and carried unanimously. The meeting concluded at 9:17 a.m. and an audio recording is on file in the Commissioners' Office.

## MEETING WITH COUNTY ATTORNEYS FOR A LEGAL STAFF UPDATE AND TO CONSIDER ACTION ITEMS

The Board met today at 9:30 a.m. with county attorneys for a legal staff update and to consider action items. Present were: Commissioners Leslie Van Beek and Brad Holton, Chief Deputy P.A. Carl Ericson, Deputy P.A. Oscar Klaas, Deputy P.A. Zach Wesley, Deputy P.A. Laura Keys, Coroner Jennifer Crawford (left at 9:35 a.m.), Controller Zach Wagoner (left at 9:59 a.m.), HR Director Kate Rice (left at 10:01 a.m.), Chief Deputy Sheriff Doug Hart (left at 9:59 a.m.), EOM Christine Wendelsdorf (left at 9:59 a.m.), Emergency Technical Services Manager Kim Dickson (left at 9:59 a.m.), Cpt. Harold Patchett (left at 9:48 a.m.), Lt. Travis Engle (left at 9:48 a.m.), Cpt. Ray Talbot (left at 9:59 a.m.), COO Greg Rast and Deputy Clerk Jenen Ross. The action items were considered as follows:

***Consider Agreement for Pathology Services between Owyhee County and Canyon County:*** There is very little change from the previous agreement with the only real change is the charge for x-rays if needed during the autopsy. Everything else remains the same. Mr. Ericson and Coroner Crawford addressed Commissioner Van Beek's questions. Upon the motion of Commissioner Van Beek and second by Commissioner Holton the Board voted unanimously to sign the agreement for pathology services between Owyhee County and Canyon County (agreement no. 23-127).

***Consider Renewal with Delta Dental of Idaho:*** The only change is a 3% increase from \$4.91 to \$5.06 per month, per employee. Upon the motion of Commissioner Van Beek and second by Commissioner Holton the Board voted unanimously to sign the renewal with Delta Dental of Idaho (agreement no. 23-126).

***Consider Level Agreement with Preventative Health:*** This is the same agreement as last year where the majority of the costs are billed to the insurance company. The only time there is cost to the county is if there are not enough participants at the health fair or if the county cancels. Upon the motion of Commissioner Van Beek and second by Commissioner Holton the Board voted unanimously to sign the level agreement with Preventative Health (agreement no. 23-125).

***Consider Resolution Authorizing Transfer of Money from Inoperative Fund Pursuant to Idaho Code Section 31-1508:*** As discussed in a previous meeting, this is to transfer monies from the inoperative indigent fund to the general and tort funds. Upon the motion of Commissioner Van Beek and second by Commissioner Holton the Board voted unanimously to sign the resolution authorizing transfer of money from inoperative fund pursuant to Idaho Code section 31-1508 (resolution no. 23-214).

### ***Opening of Inmate Phone/Tablet Services and Equipment Information Packages Received:***

The following six responses were received:

- CTel  
Received September 14, 2023
- ViaPath Technologies

Received Sept 20, 2023

- HomeWav  
Received September 20, 2023
- ICSolutions  
Received September 20, 2023
- NCIC Warehouse  
Received September 20, 2023
- Crown Correctional Telephone, Inc.  
Received September 20, 2023

***Consider Memorandum of Understanding for Delivery of Technical Support & Direction by Canyon County IT Director to Canyon County Emergency Technical Services:*** Chief Hart and Director Rast provided background on this project and how this provides a solution so that efforts between CCSO and CCIT aren't duplicated. Mr. Rast spoke about how the MOU will provide back-up to the 911 system, provides privileges, and consolidation of helpdesk services along with several other benefits. There is a \$10,000 salary differential added to the CIO position as specialty pay for this additional duty. Additionally, Mr. Rast explained how the MOU clearly outlines the responsibilities of each party. Upon the motion of Commissioner Van Beek and second by Commissioner Holton the Board voted unanimously to sign the MOU for delivery of technical support & direction by Canyon County IT Director to Canyon County Emergency Technical Services (agreement no. 23-124).

*A request was made to go into Executive Session as follows:*

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 10:01 a.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) regarding records exempt from public disclosure and to communicate with legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Holton and carried unanimously. Present were: Commissioners Brad Holton and Leslie Van Beek, Chief Deputy P.A. Carl Ericson, Deputy P.A. Oscar Klaas, Deputy P.A. Zach Wesley, Deputy P.A. Laura Keys, and COO Greg Rast. The Executive Session concluded at 10:10 a.m. with no decision being called for in open session.

The meeting concluded at 10:10 a.m. and an audio recording of the open portion of the meeting is on file in the Commissioners' Office.



PUBLIC HEARING - APPEAL BY BRISTLECONE LAND USE CONSULTING, REPRESENTING JC EXCAVATION, LLC, FOR A CONDITIONAL USE PERMIT TO ALLOW FOR A STAGING AREA, CASE NO. CU2023-0002-APL

The Board met today at 1:30 p.m. to conduct a public hearing in the matter of an appeal by Bristlecone Land Use Consulting, representing JC Excavation, LLC, of the Planning & Zoning Commission's decision regarding the denial of Case CU2023-0002 a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District, Case No. CU2023-0002-APL. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, DSD Planner III Michelle Barron, Deputy PA Zach Wesley, Elizabeth Allen, Juan Carlos Nieves, Joe Palmer, other interested citizens, and Deputy Clerk Monica Reeves. Before opening the hearing, Chairman Holton addressed the applicant and their representative regarding his concern that part of Elizabeth Allen's documentation makes the allegation that the P&Z Commission deliberation process was unfair and that the applicant was not part and parcel of that and that Ms. Allen felt that it came to a different conclusion than if she was involved. He is uncomfortable having the Board hear the case under that precept, knowingly taking a faulty work product from the P&Z Commission and having a hearing on it. Elizabeth Allen said her representation is going to be on the findings the P&Z Commission made; they made comments during their deliberations that she will review, that they could condition it but they didn't have time so instead of reverting it back for staff, the applicant, and the Commissioners to come up with conditions they ended it, but they stated that after they closed public testimony. Chairman Holton uncomfortable proceeding if she feels the process was unfair to her applicant. Ms. Allen said she believes they followed the hearing process, but the comments made during the hearing process were not how a Commissioner should professionally handle a hearing. Chairman Holton does not want to knowingly go into a hearing when Ms. Allen is saying it seems to have been flawed at the P&Z Commission level. Commissioner Van Beek said if the information wasn't presented in coherent way that's not on the P&Z Commission. Ms. Allen said if the Board feels more comfortable with it going back to the P&Z Commission she and her client respect that, or, she can remove that portion of her testimony and just cover the criteria that the Commission found. Commissioner Van Beek would like to discuss the issue in Executive Session with legal counsel, which was held as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND  
COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY  
LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 1:36 p.m. pursuant to Idaho Code, Section 74-206(1) (d) records exempt, and (f) to communicate with legal counsel. The motion was seconded by Commissioner Brooks. Commissioner Holton asked the Commissioners for their vote and Commissioner Van Beek said her vote is "yes"; Commissioner Brooks said his vote is "yes"; and Commissioner Holton said his vote is a "yes" to go into Executive Session. The motion carried unanimously. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, DSD Planner III Michelle Barron, and Deputy PA Zach Wesley. The Executive Session, which took place in the Commissioners' breakroom, concluded at 1:44 p.m.

While in open session, Chairman Holton said after conferring with legal counsel it is the Board's request that the case back to the P&Z Commission and that they more wholly flush out the possible conditions that would be able to be considered. Ms. Allen said that is appropriate. Chairman Holton said with that agreement the Board will vacate the appeal scheduled for today. Michelle Barron said the earliest the case could be heard by the P&Z Commission would be November 16, 2023, as a new hearing, a new application. Upon the motion of Commissioner Van Beek and the second by Commissioner Brooks, the Board voted unanimously to remand the appeal of the P&Z denial of Alejandro Jimenez for a staging area, Case No. CU2023-0002, to November for a new hearing to more fully consider the evidence. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 1:47 p.m. An audio recording of the open portion of the meeting is on file in the Commissioners' Office.

## SEPTEMBER 2023 TERM

CALDWELL, IDAHO    SEPTEMBER 22, 2023

### APPROVED CLAIMS

- The Board has approved claims 598620 to 598649 in the amount of \$21,408.06
- The Board has approved claims 598688 to 598711 in the amount of \$12,359.00
- The Board has approved claims 598359 to 598397 in the amount of \$95,560.33
- The Board has approved claims 598398 to 598440 in the amount of \$121,792.97
- The Board has approved claims 598441 to 598462 in the amount of \$100,661.14
- The Board has approved claims 598463 to 598504 in the amount of \$106,272.89
- The Board has approved claims 598591 to 598619 in the amount of \$102,820.61
- The Board has approved claims 598650 to 598687 in the amount of \$217,930.73
- The Board has approved claim 598777 in the amount of \$1,746.00

### APPROVED CATERING PERMITS

- The Board approved Idaho Liquor Catering Permits for Van Lith Ranch to be used 9/30/23 and 10/1/23.

### APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Best Buy in the amount of \$4201.85 for the Information Technology department
- Dell in the amount of \$1899.36 for the Information Technology department

### ACTION ITEM: CONSIDER NOTICE OF PUBLICATION OF FY2023 BUDGET ADJUSTMENTS



**JC Excavation**  
**Conditional Use Permit–Staging Area**  
80 S. Robinson Road.





November 27, 2023

*Via Electronic Submission*

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

**RE: JC EXCAVATION STAGING AREA – CONDITIONAL USE PERMIT**

Dear Planning Staff and Planning and Zoning Commissioners,

On behalf of the applicant, JC Excavation LLC, Bristlecone Land Use Consulting LLC, is pleased to submit this application for a Conditional Use Permit for a Staging Area at 80 S. Robinson Road. JC Excavation LLC, owned by Juan Carlos Nieves and managed by Mario Nieves, has been a registered business with the Idaho Secretary of State since 2017 and provides quality services for construction projects in the Treasure Valley. In June 2022, JC Excavation began leasing the western portion of the subject property for a staging area.

**SECTION 1. REQUEST**

**Conditional Use Permit**

When JC Excavation began using the 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.

*Proposal Details*

The staging area is 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 dirt 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 material staging and equipment staging areas. For certain jobs, some equipment remains on the job site. Since they started using the site, they relocated the equipment from the Robinson Road frontage to the center of the site to address a neighbor's concern about the view from their property.

As shown in Image 1, 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 material staging area. Image 1 also shows a proposed berm and fence along Robinson Road and a fence along the northern property line along the area utilized for the use.



Image 1. Site Plan with proposed fencing and berm.

### Neighborhood Meetings

Before submittal, they held two neighborhood meetings. Letters were sent to twenty neighbors. Four individuals attended the first meeting, and six individuals at the second. Concerns brought up included other uses in the area and traffic. A neighbor derailed the meeting by harassing the applicant. They interrupted the discussion by asking, "Where do you come from?" and harassing the owner for having a different ethnic background than themselves. These neighbors created a hostile environment for the applicant and the others in attendance. They also harassed another property owner who disagreed with them. The video from this meeting will be included as part of the record for this case. The hostility and discrimination from this neighbor made it difficult for JC Excavation to have constructive discussions about mitigation measures before submission.

### Background Application Submittal and First Public Hearing

On February 9, 2023, the applicant submitted a conditional use permit application for a staging area in an "A" (Agricultural) zone. A staging area is defined in Canyon County Code as "an area where equipment and materials are stored for use conducted entirely off-site."

At its June 15, 2023, public hearing, with a staff recommendation of approval, the Canyon County Planning and Zoning Commission voted to deny the applicant's case for a staging area, case No. CU2023-0002. In the motion for the denial, the Commission changed the findings for criteria 4 and 7 and the language regarding the Nampa Area of City Impact. The Planning and Zoning Commission's findings were signed on July 6, 2023.

During the public hearing, the commission raised concerns that they believed could be mitigated through conditions. During rebuttal, Juan Carlos Nieves testified that he would be willing to agree to any conditions of approval. At this time, the Commission did not explore what conditions could be added or what information would be needed to help them make an informed decision. During deliberations, after public testimony was closed, Commissioner Nevill stated, "I think this could be conditioned, but we can't do it at this table tonight; it is going to require some crafting of conditions." This statement indicates that the applicant was not provided a fair hearing and that staff and the applicant were not provided time to propose additional conditions. In addition, the decision made was not based on factual evidence. In the following sections, we provide an analysis of CUP criteria and have provided evidence and crafted conditions shown in Section 3 to support approval.

After the Planning and Zoning Commission denied this Conditional Use Permit, we submitted an appeal to the Board of County Commissioners. Before the start of the public hearing on September 21, 2023, it was determined that the case should go back before the Planning and Zoning Commission for a second public hearing to hear new information and conditions of approval to be considered for approval.

## SECTION 2. ANALYSIS

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

Yes, per Canyon County Zoning Ordinance §07-10-27, the proposed use of a staging area is permitted in the Agricultural zone with the approval of a conditional use permit. Similar uses, such as a landscape business that stores equipment on materials, are allowed outright.

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

The request is for the approval of a Conditional Use Permit for a staging area in an Agricultural zone for JC Excavation. See the request details in Section One above for more details.

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

The request is consistent with at least six (6) goals and two (2) policies from the 2030 Comprehensive Plan, as shown below:

#### **Chapter 1 Property Rights**

- *G1.01.00 Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.*
- *G1.02.00 Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.*

Approval of this CUP honors individual property rights and, through the conditions proposed, will protect public health, safety, and welfare. As shown in the site photos and the site Plan, the staging of materials and equipment is maintained and kept in good condition.

#### **Chapter 2 Population**

- *P2.01.01 Plan for anticipated population and households that the community can support with adequate services and amenities.*
- *G2.02.00 Promote housing, business, and service types needed to meet the demand of the future and existing populations.*

#### **Chapter 3 Economic Development**

- *G3.01.00 Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.*
- *G3.05.00 Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.*

#### **Chapter 3 Land Use and Community Design**

- *G4.01.00 Support livability and high quality of life as the community changes over time.*
- *P4.01.02 Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.*



JC Excavation provides necessary services for developing housing, business, services, amenities, and transportation that help create livable and high-quality communities that develop in Canyon County and the greater region. Approval of this request provides the implementation of the Comprehensive Plan by helping meet the goals and policies outlined above. Through the approval of this CUP, they will continue to have a space to store materials and equipment necessary to continue operation.

The 2030 Comprehensive Plan Future Land Use Map designates the subject property and the surrounding properties as Agriculture, which aligns with the current zoning designation of Agriculture.

**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 zoning of the subject property and surrounding area is Agriculture with future land use designations of Agriculture. Based on Google Street images dating back to 2007, the site used for staging had been unutilized for some time. As stated in the original case staff report, 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 are used to store materials and vehicles in the area without any mitigation measures (Exhibit B). The closest property immediately adjacent to the north has several scattered semi-trailers in various states of disrepair, cars, jet skis, recreational vehicles, snowmobiles, a washer, and multiple materials (Exhibit B, Image 4-6).

The area has active agricultural production that generates dust, smells, and noise. Farming requires various 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).

Aerial site images are shown in Exhibit B, Images 11 and 12, showing a birds-eye view of the rural character. As described and shown in the images in Exhibit B, it shows the existing rural character of the area. The analysis provides evidence that the proposed use of a staging area will not injure properties in the vicinity or negatively change the area's character. The conditions presented in Section 3 will provide an opportunity to improve the site and location.

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

The proposed use is for storing materials and equipment and does not require water, sewer, irrigation, drainage and stormwater drainage facility, or utilities. As a condition of approval, we are proposing that stockpiles of dirt be watered during movement to prevent dust. An existing well will be utilized to water the dirt stockpiles.

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

The subject property has existing legal access to Robinson Road. In accordance with Nampa Highway District No 1. requirements, the driveway apron will be paved to accommodate the use.

**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 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 undue interference with traffic patterns.

**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 proposed staging area does not require essential services and will not negatively impact existing or future services.

During the first hearing, there was a discussion regarding the City of Nampa without a debate on how far the city limits are or Canyon County code. As stated in County Code 09-11-17(1), Applicable Comprehensive Plan: “Comprehensive Plan: The Canyon County comprehensive plan, as amended, shall apply to the Nampa area of city impact. Canyon County recognizes that city of Nampa has also developed a comprehensive plan and accompanying map for the Nampa area of city impact. Canyon County shall give consideration to the city’s comprehensive plan designations when evaluation development requests with the Nampa area of city impact.” While hearing a different case on the same evening, Commissioner Sheets told that applicant, “*You are working with the County, and you are subject, and this application is going through the County; it is not going through Middleton.*” This statement is unfair and indicates that the Commission is picking and choosing what City they decide to agree or not agree with despite the Canyon County code requiring the County code and Future Land Use map to apply in both cities’ areas of city impact.

While we understand the concerns regarding Nampa, the city limits are approximately one (1) mile from the site. Over time, Nampa city limits may reach the site, and at that time, the area’s character will have changed enough that a staging area would not be appropriate. We are proposing a condition in Section 3 to mitigate the concern and ensure that the site will meet the vision of Nampa when city limits are closer.

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<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>

### SECTION 3. CONDITIONS

As explained above and in the evidence provided in Section Two and Exhibit B, the proposed staging area is consistent with the area's existing character. As shown in the site images in Exhibit A, the use is orderly and maintained. Concerns, including noise, dust, and views, were raised during the public hearing. To mitigate these concerns, we are proposing the following conditions. These conditions, with the conditions initially offered by staff, are shown in Exhibit D.

- **A berm and sight obscuring 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.**
- **A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.**

Berms and sight-obscuring fences are adequate mitigation measures for screening uses and reducing noise and dust. The staging area located at 419 S. Robinson Blvd also utilizes sight-obscuring fencing. This measure will provide an opportunity to improve the look of the area. See Exhibit C for examples of berms in the area.

- **Stockpiles of dirt will be watered during movement to prevent dust.**
- **The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.**

This condition will address concerns regarding the City of Nampa to ensure that the use does not continue when it grows.

### SECTION 4. CONCLUSION

As shown in the analysis with supporting evidence, a staging area will not change the area's character, and traffic will not be impacted. The applicant is willing to accept the proposed conditions and is open to additional conditions to support approval. We respectfully request that the Planning and Zoning Commission approve the request with the proposed conditions and those initially offered by the Development Services staff.



## 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. 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 Robinson. Idaho Backhoe Inc.*



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



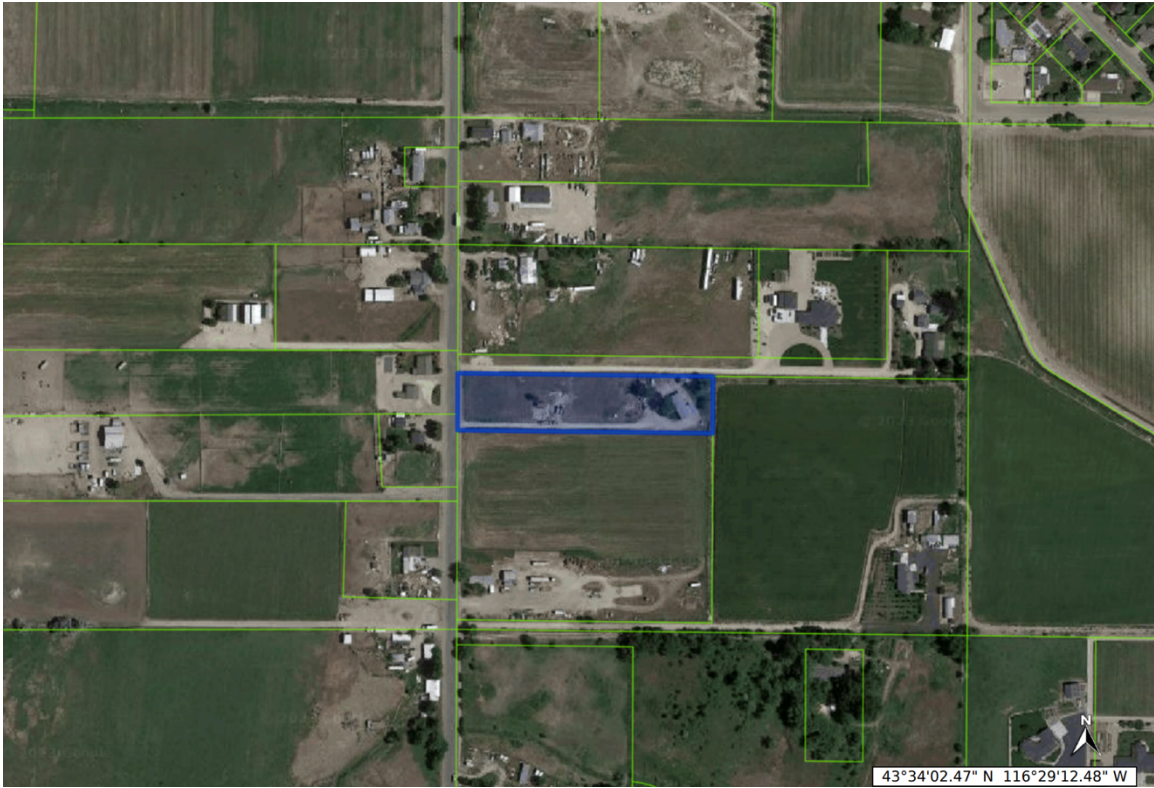


Image 11. Aerial image of approximately 2,000 feet of the area of the subject property.

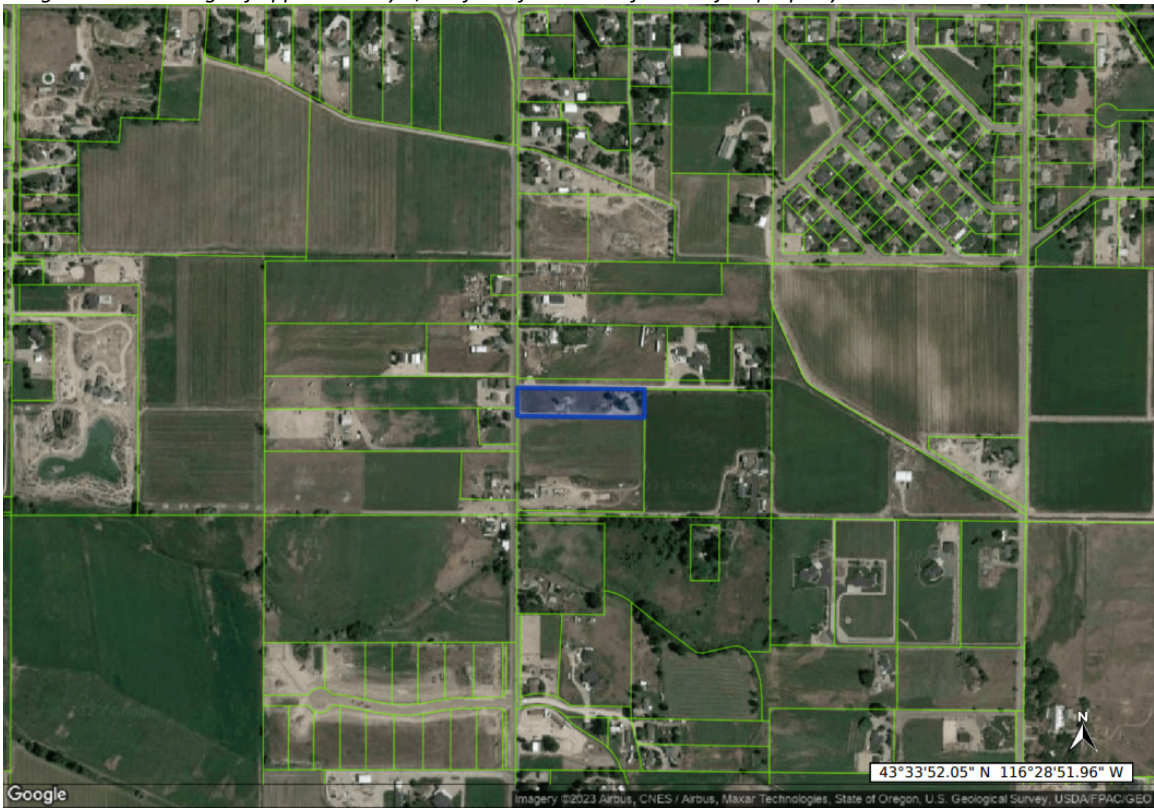


Image 12. Aerial image of approximately 4000 feet of the area of the subject property.



## EXHIBIT C

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







## EXHIBIT D

The following is a complete list of the staff-recommended conditions of approval in addition to the proposed conditions. Condition 3 was removed and replaced with specific language.

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall comply with Nampa Highway District access requirements.
3. A berm and sight obscuring 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 frontage of the property off Robinson Rd must have a privacy berm or fence. The berm/fencing shall be maintained and kept in good repair shall be kept weed free and/or maintained.
4. A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.
5. Stockpiles of dirt will be watered during movement to prevent dust.
6. The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.
7. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.
8. Signage shall meet CCZO §07-10-13 requirements.
9. The hours of operation shall be 8:00 a.m. to 8:00 p.m. Monday through Friday, as proposed in the applicant's letter of intent (Exhibit B Attachment 1a, 1b).
10. 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.



# JC Excavation CU2023-0002

Represented by: Elizabeth Allen



**Bristlecone**  
LAND USE CONSULTING

# JC Excavation LLC

Owner: Juan Carlos Nieves

Manager: Mario Nieves

Idaho Registered Business since 2017, providing quality services for construction projects throughout the Treasure Valley.





# Request: Conditional Use Permit – Staging Area






- Staging area for equipment and 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 dirt storage.









Legend	
	Equipment staging
	Employee parking
	Material staging
	Proposed fence
	Proposed berm

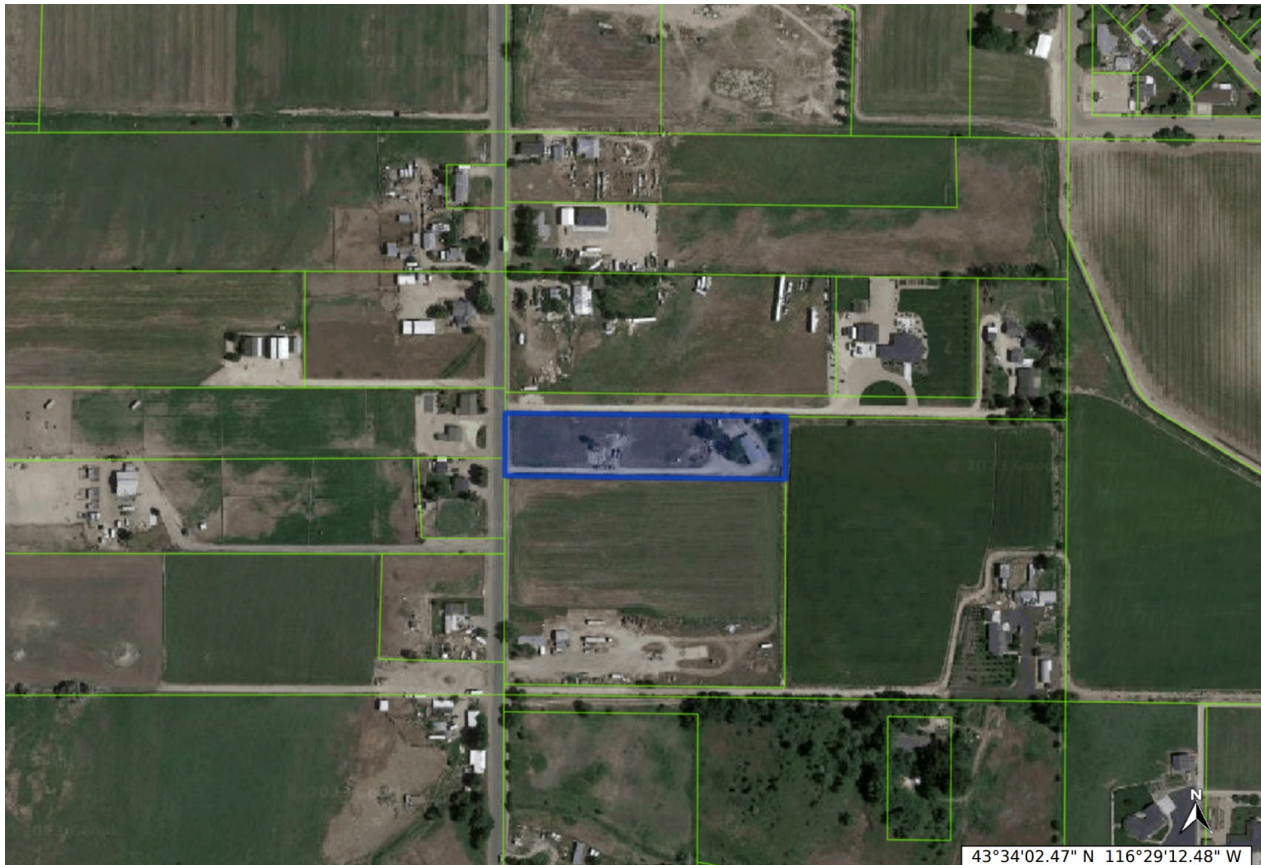
# CUP History

- Neighborhood Meetings: Two held before submittal.
- February 9, 2023 – CUP application submittal for a staging area. Defined as “an area where equipment and materials are stored for use conducted entirely off-site.”
- June 15, 2023 – P&Z public hearing with a staff recommendation of **approval**. P&Z denial with changes to criteria 4 and 7.
- September 21, 2023 – Appeal hearing date for the BOCC. Sent back to P&Z.



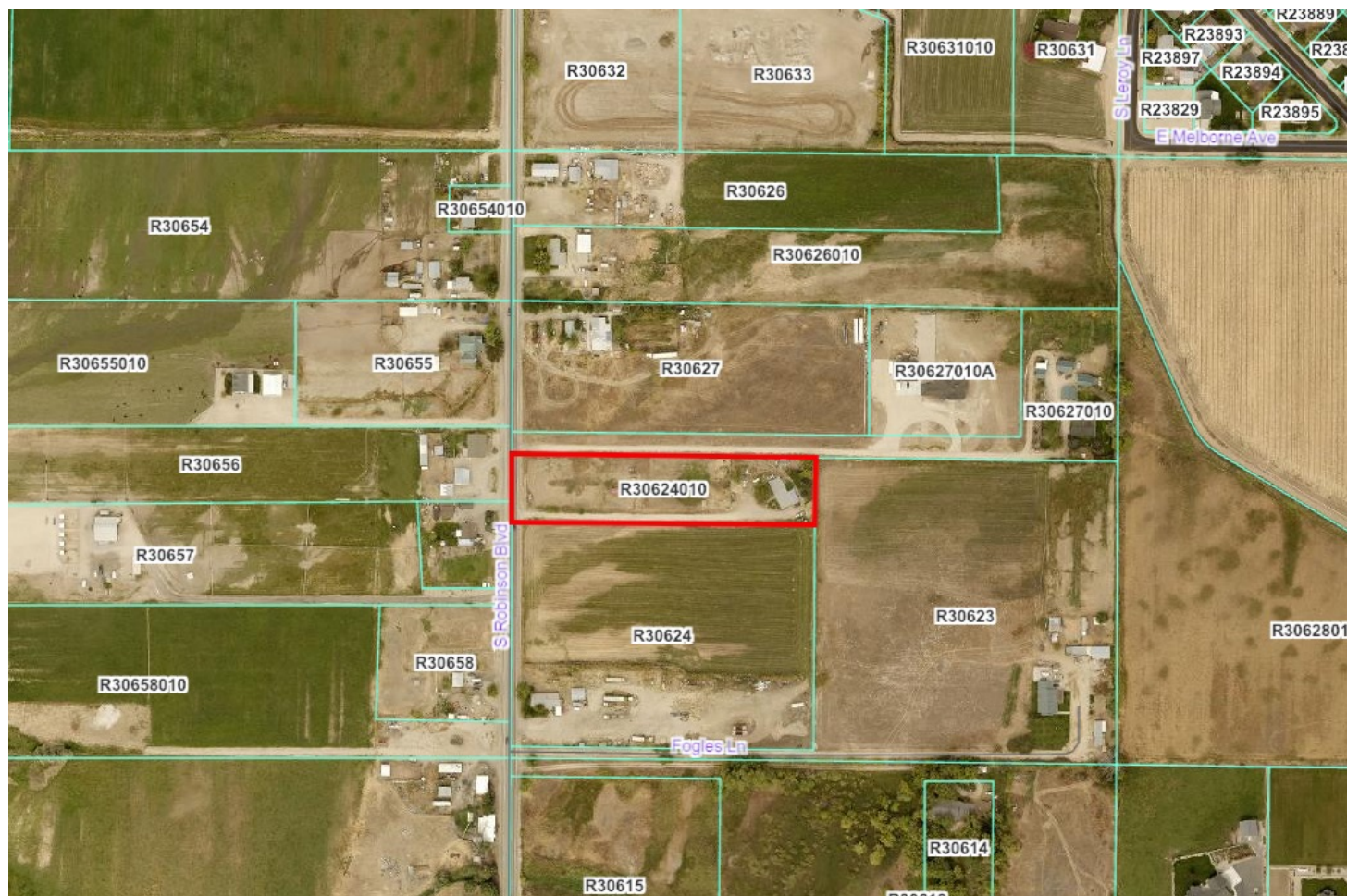
# Analysis

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?



# Character of the Area

- Zone: Agriculture
- Future Land Use: Agriculture





# Character of the Area

- Staging areas for two excavation businesses
- Staging area for a landscape business





# Character of the Area

## Unmitigated storage





# Character of the Area

## Unmitigated storage





# Character of the Area

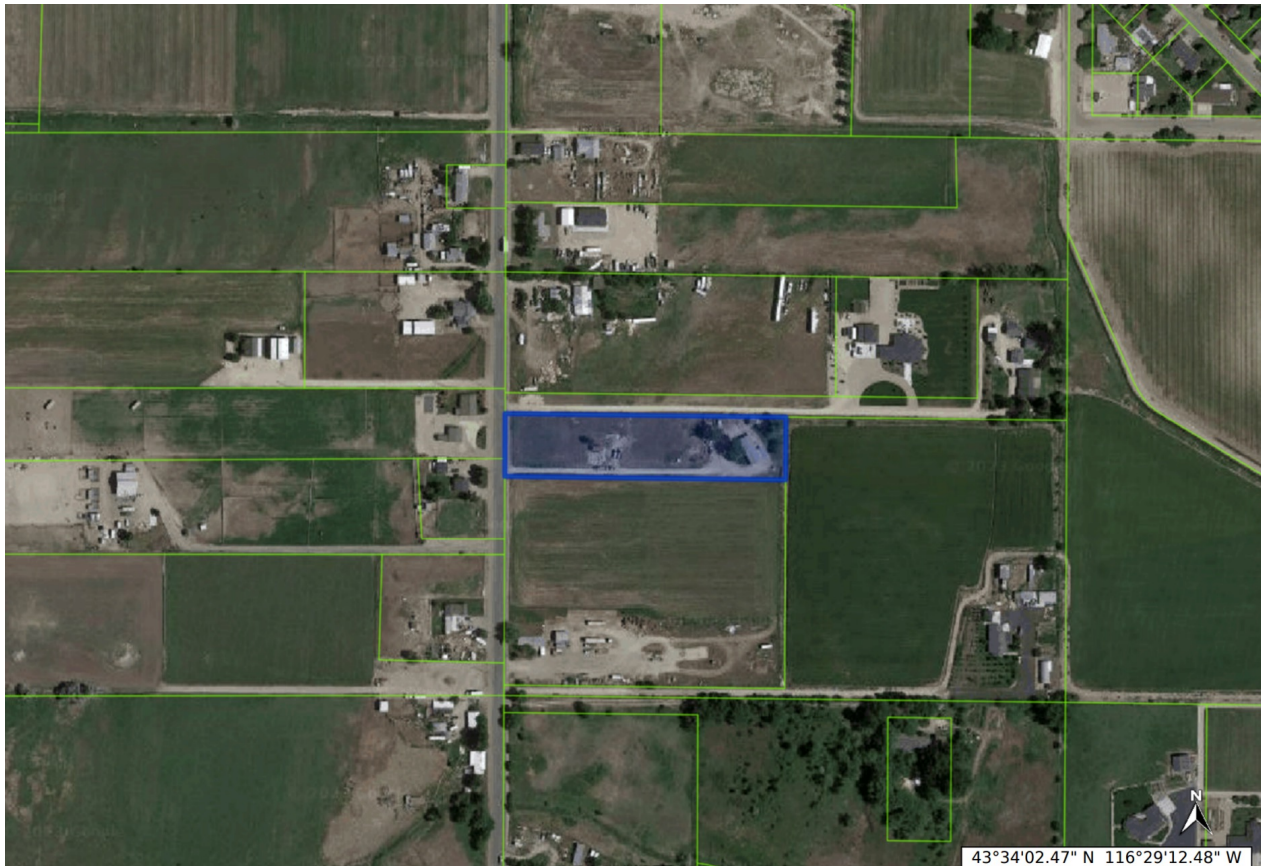
Agriculture and rural residential





# Analysis

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



# Traffic

- Example of a use that would cause undue interference: residential at 10 ADT per dwelling

## 3110. Traffic Impact Studies

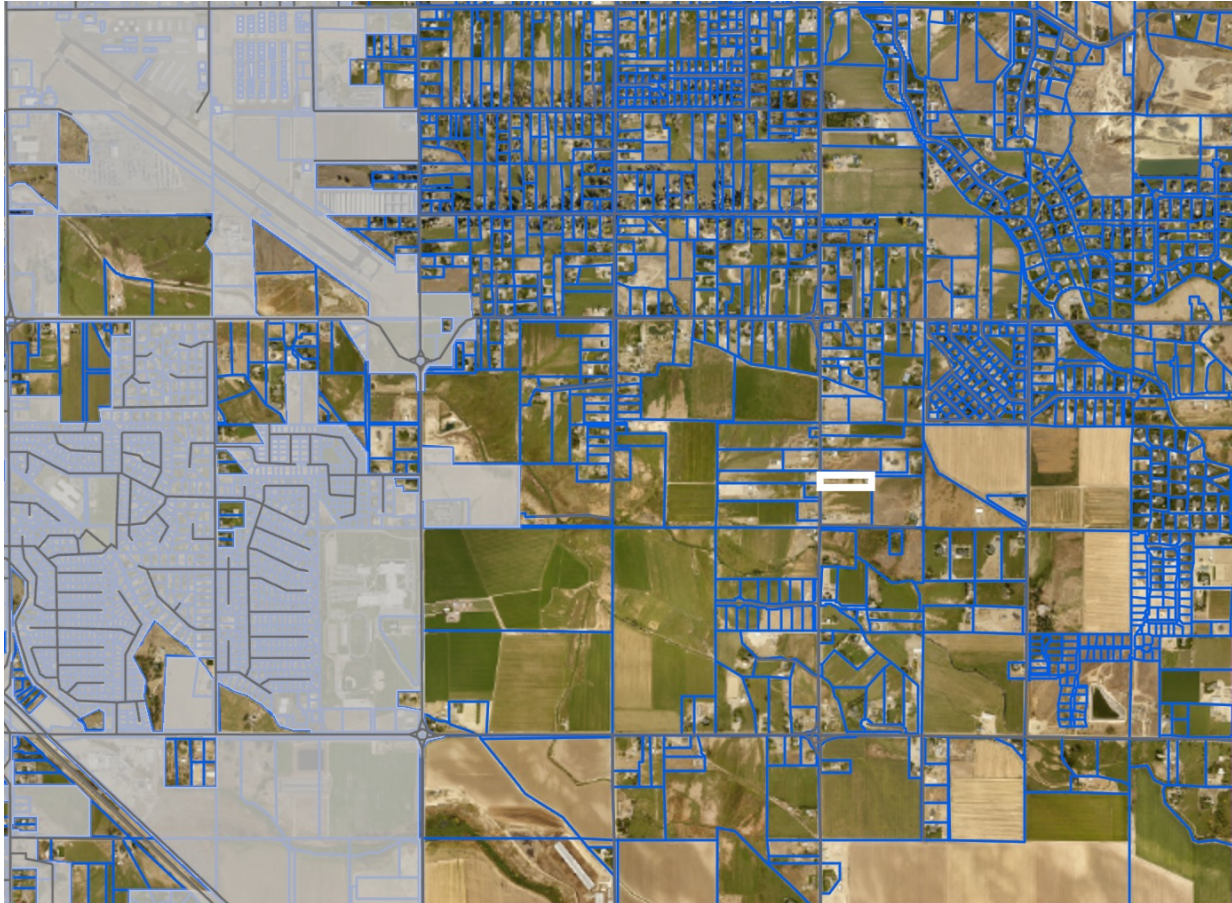
**3110.010.** The Highway District must consider the impacts of a proposed development on nearby land uses and transportation facilities. A traffic impact study (TIS) will be required if the proposed development exceeds the threshold traffic volumes identified in the following table:

Traffic Impact Study Thresholds *		
	Suburban	Rural
Peak Hour Trips	50	50
Average Annual Daily Trips	500	500



# Analysis

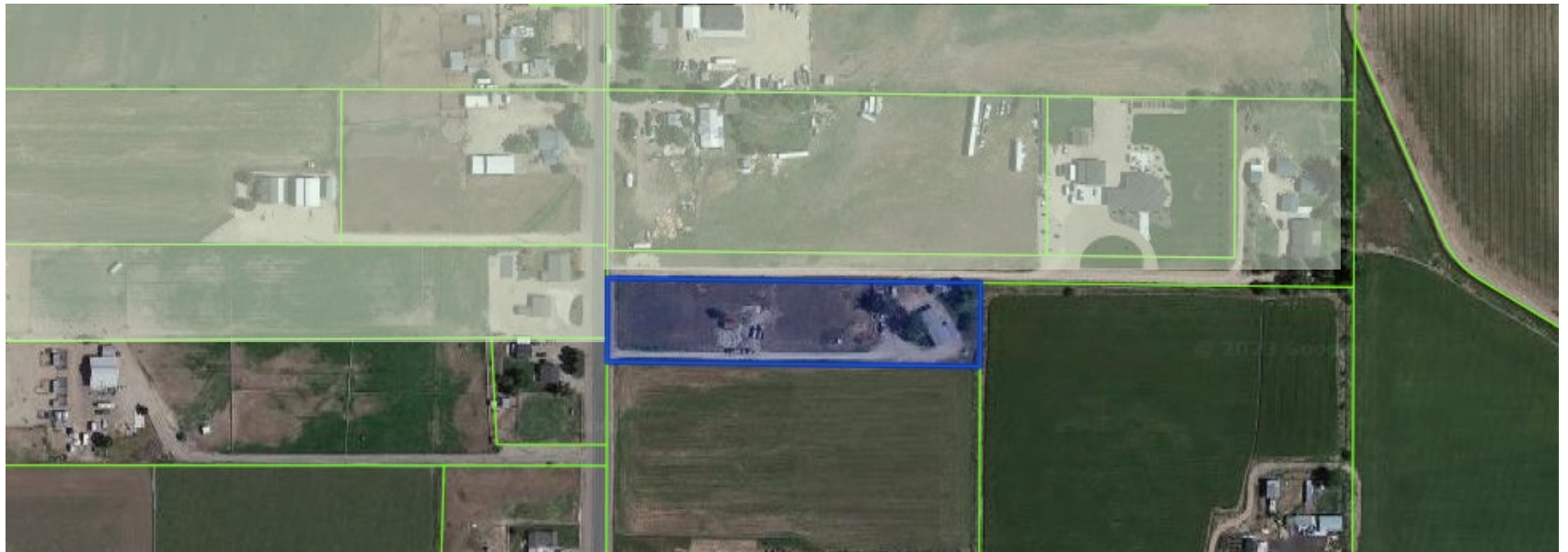
## Nampa Area of City Impact





**The Commission's finding that the use will impact Nampa's vision for the area is premature and not based on factual evidence.**

- Canyon County Comprehensive Plan applies.
- City limits: Over one mile from the site.
- Our proposed mitigation measure: The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.



# Unfair Hearing Process: Deliberations

Commissioner Nevill stated,

“I think this could be conditioned, but we can’t do it at this table tonight; it is going to require some crafting of conditions.”

This statement indicates that the applicant was not provided a fair hearing and that staff and the applicant were not provided time to propose additional conditions.

# Proposed Conditions

- A berm and sight obscuring fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion.
- A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.
- Stockpiles of dirt will be watered during movement to prevent dust.
- The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.





# Conclusion

- The proposal does not change the character of the area.
- Traffic will not be impacted.
- We have added conditions to mitigate concerns and improve the character of the area.
- All criteria have been met for approval with conditions.

**Thank you!**



## Neighborhood Meeting



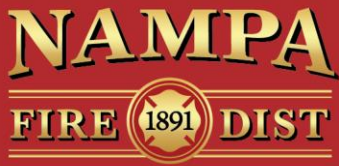
## Neighborhood Meeting



## Neighborhood Meeting







EXCELLENCE  
SERVICE  
STRENGTH IN UNITY

## Exhibit 4, Attachment a

ADMINISTRATIVE OFFICE  
9 – 12th Avenue South Nampa, ID 83651

208.468.5770

**DATE:** December 29, 2023

**TO:** Canyon County Development Services Department

**FROM:** Ron Johnson, Nampa Fire District, Fire Marshal

**PROJECT ADDRESS:** 80 S. Robinson Rd.

**RE:** CUP2023-0002

This application is for conditional use permit for staging of excavation equipment at 80 S. Robinson Rd.

The Nampa Fire District does not oppose the application with the following comments.

Comments:

1. Essential services will be provided to accommodate the requested use.
2. Services will not be negatively impacted by this use and will not require additional public funding in order to meet the needs created by the requested use.
3. The property is located 2.1 miles from Nampa Fire District Station 5 with an approximate response time of 5 minutes. This is an adequate response time to respond to hazards at this location.

Regards,

Ron Johnson  
Fire Marshal  
Nampa Fire Protection District

Exhibit 4,  
Attachment b

**Archived:** Friday, January 5, 2024 5:31:18 PM  
**From:** [Niki Benyakhlef](#)  
**Mail received time:** Thu, 12 Oct 2023 08:52:43  
**Sent:** Thu, 12 Oct 2023 14:52:34  
**To:** [Michelle Barron](#) [Michelle Barron](#)  
**Cc:** [Pam Dilbeck](#)  
**Subject:** [External] RE: Agency Notice of Case CU2023-0002-APL Jimenez  
**Importance:** Normal  
**Sensitivity:** None

---

Good Morning, Michelle –

After careful review of the transmittal submitted to ITD on October 5, 2023 regarding CU2023-0002-APL Jimenez, the Department has no comments or concerns to make at this time.~This application does not affect the state highway system.

Thank you,



Niki Benyakhlef  
*Development Services Coordinator*

~

~

**District 3 Development Services**  
O: 208.334.8337 | C: 208.296.9750  
Email:~[niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov)

Website:~[itd.idaho.gov](http://itd.idaho.gov)

~

~

**From:** Pam Dilbeck <[Pam.Dilbeck@canyoncounty.id.gov](mailto:Pam.Dilbeck@canyoncounty.id.gov)>  
**Sent:** Thursday, October 5, 2023 1:36 PM  
**To:** [laclairc@cityofnampa.us](mailto:laclairc@cityofnampa.us); [watkinsk@cityofnampa.us](mailto:watkinsk@cityofnampa.us); Nampa City Clerk <[clerks@cityofnampa.us](mailto:clerks@cityofnampa.us)>; Char Tim <[tinc@cityofnampa.us](mailto:tinc@cityofnampa.us)>; Danielle Horras <[drhorras@kunaschools.org](mailto:drhorras@kunaschools.org)>; Brian Graves Kuna SD <[bgraves@kunaschools.org](mailto:bgraves@kunaschools.org)>; Robbie Reno Kuna SD <[rreno@kunaschools.org](mailto:rreno@kunaschools.org)>; [mitch.kiester@phd3.idaho.gov](mailto:mitch.kiester@phd3.idaho.gov); Anthony Lee <[anthony.lee@phd3.idaho.gov](mailto:anthony.lee@phd3.idaho.gov)>; Nampa Rural Fire District <[johnsonrl@nampafire.org](mailto:johnsonrl@nampafire.org)>; Rob Johnson Nampa Fire <[johnsonre@nampafire.org](mailto:johnsonre@nampafire.org)>; [eddy@nampahighway1.com](mailto:eddy@nampahighway1.com); Boise ProjectBoardofControl <[tritthaler@boiseproject.org](mailto:tritthaler@boiseproject.org)>; GAshley <[gashley@boiseproject.org](mailto:gashley@boiseproject.org)>; D3 Development Services <[D3Development.Services@itd.idaho.gov](mailto:D3Development.Services@itd.idaho.gov)>; Niki Benyakhlef <[Niki.Benyakhlef@itd.idaho.gov](mailto:Niki.Benyakhlef@itd.idaho.gov)>; Brian Crawforth <[Brian.Crawforth@canyoncounty.id.gov](mailto:Brian.Crawforth@canyoncounty.id.gov)>; 'mstowell@ccparamedics.com' <[mstowell@ccparamedics.com](mailto:mstowell@ccparamedics.com)>; Curt Shankel <[shankelc@cityofnampa.us](mailto:shankelc@cityofnampa.us)>  
**Subject:** Agency Notice of Case CU2023-0002-APL Jimenez

~

**CAUTION:** This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Dear Agencies:

Please see the attached agency notice regarding the scheduled Planning & Zoning Commission hearing on this project. We had previously requested your agency provide comments for the noticed land use application and if any agency comments were received, they were included in the Staff report. No response is required unless there is an update to your original comments.

This is the notification that a hearing date of November 16, 2023 at 6:30 pm has been set for this case along with a final deadline of **October 28, 2023** for agency comments. **Any written testimony or exhibits received after the agency comment deadline will need to be brought to the public hearing and read into the record by the person submitting the information.** If it is a large document that can't easily be read into the record, the hearing body will determine if they will accept it as a late exhibit.

Please direct your comments or questions to Planner Michelle Barron at [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Thank you,



**Pam Dilbeck**

Sr. Administrative Specialist

Canyon County Development Services Department

111 N. 11<sup>th</sup> Ave., #310, Caldwell, ID 83605

Direct Line: 208-455-5964

Fax: 208-454-6633

Email: [Pam.Dilbeck@canyoncounty.id.gov](mailto:Pam.Dilbeck@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Development Services Department (DSD)

**NEW** public office hours



Effective Jan. 3, 2023

Monday, Tuesday, Thursday and Friday

8am – 5pm

Wednesday

1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

~

~

~

~

**Michelle Barron**

---

**From:** Michelle Barron  
**Sent:** Monday, October 16, 2023 6:05 PM  
**To:** 'Barbara Harris'  
**Subject:** RE: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

Good Afternoon Barbara,

All of the information that was previously presented will be provided to the Planning and Zoning Commission. Everything that was submitted for the previous P & Z hearing and the BOCC hearing, that was remanded back to P & Z will be provided.

This application is actually an appeal of the first application. The Board remanded it back to the Planning and Zoning Commission to assure that proper hearing procedures are upheld. I, as the planner assigned to this case, will present a Power Point presentation, then the applicant will give their presentation. An appeal of a previous hearing is an available option, so the case is allowed as an appeal.

If you would like to present a PowerPoint, it would be best to submit it prior to the deadline. It would be up to the Planning and Zoning Commission to accept something at the time of the hearing, but if it was submitted prior to deadline, it will be part of the record. Neighbors can be represented by you, but it doesn't add up their time for testimony. The hearing body is typically generous about allowing additional time if you ask for it.

If you have legal representation, they can just show up. No need to register them.

Thanks,

*Michelle Barron*  
*Principal Planner*  
*Canyon County Development Services Department*  
*111 N. 11th Ave., #310, Caldwell, ID 83605*  
Direct Line: 208-455-6033  
DSD Office Phone: 208-454-7458  
Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)  
Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)  
Office Hours:  
Monday, Tuesday, Thursday and Friday 8am – 5pm  
Wednesday 1pm – 5pm  
\*\*We will not be closed during lunch hour \*\*

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Wednesday, October 11, 2023 12:36 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I am pretty sure you are rolling your eyes right now and will likely not read this email to the end. However, before you move on, I do have some questions that should be answered, considering that I am the property taxpayer here and the applicant is not.

Will all the info that was presented in first application be moved to the new one, or do we have to start over. Why were we not given 30 days notice to reply in writing prior to the meeting?

Can you tell me what is different about this application than the first one. Is it just a Power Point presentation that this consulting firm will present? The facts still remain the same. Is there new information to present that would warrant a new hearing?

I would like to know if I have Power Point work do I need to present it before the 28th or can I give it over at the hearing as part of my testimony. Can the other neighbors who will be attending the hearing, give their testimony time to me, to speak in their behalf?

If I choose to engage counsel, do I need to register them by the 28th. What is that process?

I would like to know how many trips in and out you have estimated will be taken by this applicant. If you could give me that number I would appreciate it. I would also like to know if the City of Nampa is still opposed to the application.

What is the advantage of hearing this again? Was he not heard the first time?

Who is going to compensate me and my neighbors for the loss of property value resulting from this improper placement and approval of this activity in our neighborhood.

Barbara

On Tuesday, October 10, 2023 at 05:46:22 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

Good Afternoon Barbara,

The Board of County Commissioners remanded the case back to the Planning and Zoning Commission to be heard again on November 16, 2023 at 6:30 pm. You should be receiving a notice in the mail in the near future.

Thanks,

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID 83605*

Direct Line: 208-455-6033



DSD Office Phone: 208-454-7458

Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website: [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Office Hours:

Monday, Tuesday, Thursday and Friday 8am – 5pm

Wednesday 1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

**From:** Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>

**Sent:** Saturday, October 7, 2023 10:00 AM

**To:** Michelle Barron <[Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)>

**Subject:** [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I understand that the County Commissioners have sent this back to P&Z and did not approve the appeal. I am not sure what went on there, but it seems to me that the county has spent about as much money and time as they should on this "beat it to fit" project. It is not as if you don't have other things to do, I see all the Conditional Use permit signs everywhere for subdivisions. That is because the best use of property in this neighborhood is residential.

There are many alternatives for this business. Multiple use areas are just a few miles away in appropriate locations. He said himself in the last hearing that he could move anytime.

This business in this location complies more clearly to the county's definition of a Public Nuisance than to anything else. What do you think they are "staging" for, a used RV show?? There are more rvs in the back my camera won't pick them up. This place is a mess, check out the weeds, the refuse, the "probably" unlicensed and unusable trucks, the piles of scrap lumber and metal. Noise, dust and traffic safety considerations as well. Reread the definition of Public Nuisance.

When do they actually have to comply with the Zoning regulations? It has actually been near 2 years now that this has been going on. When are the rights of the landowners like me considered. Would you like to look at this from your front window? How do you think it would impact your property value and private enjoyment of your home and property.

Can you please let me know what is going on?

Barbara



**Archived:** Monday, January 8, 2024 1:49:30 PM

**From:** [Barbara Harris](#)

**Mail received time:** Mon, 23 Oct 2023 15:15:14

**Sent:** Mon, 23 Oct 2023 21:14:59

**To:** [Michelle Barron](#)

**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

**Importance:** Normal

**Sensitivity:** None

**Attachments:**

[image001.png](#) 

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I think that is why the cut off, they stopped the recording then came back and started a 2nd recording.\~ It was all there.\~ I am still confused about the reasons for the appeal, but we will see.\~

Barbara

On Monday, October 23, 2023 at 02:10:08 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

Barbara,

\~

They did go into executive session to discuss the matters with the legal staff, so there may be a very long pause in the recording.\~ I'm not sure they stopped the recording when that happened.\~ There were still people in the room, so you may hear background noise.\~

\~

Thanks,

\~

*[Michelle Barron](#)*

*[Principal Planner](#)*

*[Canyon County Development Services Department](#)*

*[111 N. 11th Ave., #310, Caldwell, ID\~ 83605](#)*

Direct Line:\~ 208-455-6033\~\~\~\~\~\~\~

DSD Office Phone:\~ 208-454-7458

Email:\~ [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website:\~ [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Office Hours:

Monday, Tuesday, Thursday and Friday 8am – 5pm

Wednesday 1pm – 5pm



**\*\*We will not be closed during lunch hour \*\***

\~

\~

---

**From:** Barbara Harris <bdeaneusa@yahoo.com>

**Sent:** Monday, October 23, 2023 2:08 PM

**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>

**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

\~

Thanks, hope you are feeling better. I found that site once before and part of the audio worked great where they took the vote but the major piece would not run.\~ I will try it again.\~

\~

Barbara

\~

\~

On Monday, October 23, 2023 at 12:35:22 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

\~

\~

Barbara,

\~

I apologize for the late response.\~ I have been down with some virus since last Tuesday.\~ I am working from home today and was looking through my email.\~ There would still be an opportunity for the client or for an opposing party to appeal the decision that comes from the Planning and Zoning hearing.\~ It would then go back to the BOCC.\~

\~

If you would like to hear the audio from the public hearing where the BOCC decided to remand it back to the P & Z, it is available out on the website.\~ <https://agenda.canyoncounty.id.gov/Agenda?date=2023-09-21>\~ Then, you just scroll down to the hearing and click on the audio files.\~ It includes the discussion why it was sent back to the P&Z.

\~

Nampa has not commented any differently than their original letter.

\~

Thanks,

\~

\~

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID\~ 83605*

Direct Line:\~ 208-455-6033\~\~\~\~\~\~

DSD Office Phone:\~ 208-454-7458

Email:\~ [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website:\~ [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Office Hours:

Monday, Tuesday, Thursday and Friday 8am – 5pm

Wednesday 1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

\~

\~

---

**From:** Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>

**Sent:** Tuesday, October 17, 2023 8:51 AM

**To:** Michelle Barron <[Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)>

**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

\~

Thank you for that info. \~Do they get endless appeals just because they don't like the outcome or was there some reason they felt they did not get a fair hearing the first time?

\~

Is the city of Nampa still opposing the application?

\~

Barbara

\~

\~

On Monday, October 16, 2023 at 06:05:04 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

\~

\~

Good Afternoon Barbara,

\~

All of the information that was previously presented will be provided to the Planning and Zoning Commission.\~ Everything that was submitted for the previous P & Z hearing and the BOCC hearing, that was remanded back to P & Z will be provided.\~

\~

This application is actually an appeal of the first application.\~ The Board remanded it back to the Planning and Zoning Commission to assure that proper hearing procedures are upheld.\~ I, as the planner assigned to this case, will present a Power Point presentation, then the applicant will give their presentation. An appeal of a previous hearing is an available option, so the case is allowed as an appeal.

\~

If you would like to present a PowerPoint, it would be best to submit it prior to the deadline.\~ It would be up to the Planning and Zoning Commission to accept something at the time of the hearing, but if it was submitted prior to deadline, it will be part of the record. Neighbors can be represented by you, but it doesn't add up their time for testimony.\~ The hearing body is typically generous about allowing additional time if you ask for it.

\~

If you have legal representation, they can just show up.\~ No need to register them.

\~

Thanks,

\~

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID\~ 83605*

Direct Line:\~ 208-455-6033\~\~\~\~\~\~\~

DSD Office Phone:\~ 208-454-7458

Email:\~ [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website:\~ [www.canyoncounty.id.gov](http://www.canyoncounty.id.gov)

Office Hours:

Monday, Tuesday, Thursday and Friday 8am – 5pm

Wednesday 1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

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**From:** Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>

**Sent:** Wednesday, October 11, 2023 12:36 PM

**To:** Michelle Barron <[Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)>

**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

\~

I am pretty sure you are rolling your eyes right now and will likely not read this email to the end.\~ However, before you move on, I do have some questions that should be answered, considering that I am the property taxpayer here and the applicant is not.\~

\~

Will all the info that was presented in first application be moved to the new one, or do we have to start over.\~ Why were we not given 30 days notice to reply in writing prior to the meeting?

\~



Can you tell me what is different about this application than the first one.\~ Is it just a Power Point presentation that this consulting firm will present?\~ The facts still remain the same.\~ Is there new information to present that would warrant a new hearing?

\~

I would like to know if I have Power Point work do I need to present it before the 28th or can I give it over at the hearing as part of my testimony.\~ Can the other neighbors who will be attending the hearing, give their testimony time to me, to speak in their behalf?

\~

If I choose to engage counsel, do I need to register them by the 28th.\~ What is that process?

\~

I would like to know how many trips in and out you have estimated will be taken by this applicant.\~ If you could give me that number I would appreciate it.\~ I would also like to know if the City of Nampa is still opposed to the application.

\~

What is the advantage of hearing this again?\~ Was he not heard the first time?

\~

Who is going to compensate me and my neighbors for the loss of property value resulting from this improper placement and approval of this activity in our neighborhood.\~

\~

\~

Barbara

\~

\~

On Tuesday, October 10, 2023 at 05:46:22 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

\~

\~

Good Afternoon Barbara,

\~

The Board of County Commissioners remanded the case back to the Planning and Zoning Commission to be heard again on November 16, 2023 at 6:30 pm.\~ You should be receiving a notice in the mail in the near future.

\~

Thanks,

\~

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID\~ 83605*

Direct Line:\~ 208-455-6033\~\~\~\~\~\~\~

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\~

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**From:** Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>

**Sent:** Saturday, October 7, 2023 10:00 AM

**To:** Michelle Barron <[Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)>

**Subject:** [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

\~

I understand that the County Commissioners have sent this back to P&Z and did not approve the appeal.\~ I am not sure what went on there, but it seems to me that the county has spent about as much money and time as they should on this "beat it to fit" project. It is not as if you don't have other things to do, I see all the Conditional Use permit signs everywhere for subdivisions. That is because the best use of property in this neighborhood is residential.\~

\~

There are many alternatives for this business.\~ Multiple use areas are just a few miles away in appropriate locations. He said himself in the last hearing that he could move anytime.

\~

This business in this location complies more clearly to the county's definition of a Public Nuisance than to anything else.\~What do you think they are "staging" for, a used RV show??\~ There are more rvs in the back my camera won't pick them up.\~ \~This place is a mess, check out the weeds, the refuse, the "probably" unlicensed and unusable trucks, the piles of scrap lumber and metal.\~ Noise, dust and traffic safety considerations as well.\~ Reread the definition of Public Nuisance.\~\~

\~

When do they actually have to comply with the Zoning regulations?\~ It has actually been near 2 years now that this has been going on.\~ When are the rights of the landowners like me considered.\~ \~Would you like to look at this from your front window?\~ How do you think it would impact your property value and private enjoyment of your home and property.

\~

\~

Can you please let me know what is going on?\~\~

\~

\~

\~

Inline image

Barbara

\\~

\\~



**Archived:** Monday, January 8, 2024 1:52:03 PM  
**From:** [Barbara Harris](#)  
**Mail received time:** Mon, 13 Nov 2023 10:29:03  
**Sent:** Mon, 13 Nov 2023 17:28:55  
**To:** [Michelle Barron](#) [Michelle Barron](#)  
**Subject:** Re: [External] Juan Nieves CU2023-002-APL  
**Importance:** Normal  
**Sensitivity:** None

---

Actually the number of cases you have is a good point.\~ Why does this case deserve so much attention?\~

I looked at the definition of "staging".\~ No pun intended, but you could drive a truck though that.\~ I don't know if you saw my husband's letter.\~ He is a civil engineer and is pretty clear that what is being conducted across the street does not qualify as a "staging" area.\~ It is a working yard.\~ big difference. Where did you get the detailed description of that was referenced in that last hearing?\~ I couldn't find anything like that in the documents.\~ Is it just subjective?

Also, why would a conditional use for "staging" be appropriate for a construction/excavation business in an Agricultural zone.\~ Seems that would be natural for agricultural equipment, but not just any equipment???

I am trying to come up with the rational for this whole thing.\~ Why would the county have a plan, coordinate with the city, then through a monkey wrench into it.\~ It is zoned agricultural but is clearly moving very rapidly to residential (low density, not so low) which is exactly the Plan, right?.\~ What is the rational for subverting that?.\~ A conditional use permit is not just a temporary thing.\~ It changes the entire trajectory of the area for years. Also, why would the county ignore its agreement with the city not to do this sort of thing??

This whole thing makes no sense to me. I am certainly very effected by this to the tune of a lot of money and particularly in terms of the impact on the environment near my home and the homes of the others around the property.\~ The emotional impact is pretty significant too, I have this mess on my mind every day and every time I drive out my drive way or look out my front window.\~ Waiting for someone to wrap a car or motorcycle around one of those trucks.\~

Under the regular rules of the Agricultural zone, most of the junk piled over there would not be tolerated, but he just seems to do whatever he wants without repercussions.\~ He was told in the last meeting that he couldn't have those rvs over there, but he just keeps moving them in. ???

Help me understand this?

On Monday, November 13, 2023 at 09:26:28 AM MST, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

Barbara,

\~

I will be checking into the name change, I believe it was in error.\~ That was the name of the original application, not the appeal.\~ The hearing has been postponed at the request of the applicant.\~ The consultant was not able to attend the meeting on the 16<sup>th</sup> of November.\~ I am sure you are frustrated and would like to get this all shorted.\~ The January 18<sup>th</sup> date was the earliest that we could reschedule because of the amount of cases that we have coming up.\~

\~

Have a nice day,

\~

*Michelle Barron*

*Principal Planner*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID\~ 83605*

Direct Line:\~ 208-455-6033\~\~\~\~\~\~\~

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\~

\~

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**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Thursday, November 9, 2023 3:36 PM  
**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>  
**Subject:** [External] Juan Nieves CU2023-002-APL

\~

I just got a public hearing notice for this same property at 80 so Robinson.\~ What happened to the appeal hearing that was scheduled for November 16?\~ I see the names are changed, what happened to Bristlecone?\~\~

\~

This is becoming a little crazy.\~ I did not get any notice that the November 16 case has been postponed just this new hearing notice.\~ This is just the gift that keeps on giving.\~\~

\~

How many times does he get to change the name and appeal?\~\~

\~

Help me out here are we starting over?? What is the deal?

\~

Barbara

December 27, 2023  
Canyon County  
Planning and Zoning Commission  
111 North 11<sup>th</sup> Avenue, Suite 310  
Caldwell, Idaho 83605  
Case No. CU2023-0002-APL



## Exhibit 5, Attachment d

Gentlemen:

I have been fighting this nightmare for almost 2 years now. Mr. Nieves dba JC Excavation has been allowed to occupy the property at 80 S. Robinson with complete impunity from all zoning regulations for that entire period to the detriment of all the surrounding properties. He had his hearing, now here we are again, I am not sure what was “unfair” about the last hearing or what the basis for this appeal could be, but the case was heard, and the proceedings and conclusion was consistent with the zoning regulations and appropriate management of the Code.

County Zoning states: Land uses are compatible if: *a) they do not directly or indirectly interfere or conflict with or negatively impact one another; and b) they do not exclude or diminish one another's use of public or private services.*

The use by Mr. Nieves is highly incompatible. The surrounding properties are mostly homes. Property values have been seriously impacted as has the “livability” of the area. You don’t have to be a “planner” to recognize that a busy construction yard does not belong in the middle of a bunch of homes. The entire nature of the area has changed. Most people who see it define it as a “junk yard”.

County Zoning states: A “Hazard” is defined as a “*probable source of danger*”. A two-lane highway, with a 50 mile an hour speed limit, no turn lanes, and inadequate ingress and egress for very large excavation trailers and equipment, certainly qualifies as a “probably source of danger”. Robinson is already carrying more traffic than it was designed for and it is increasing daily. As I have stated before, **there will be a major traffic accident in front of my home involving this equipment if this situation is allowed to continue. I hope no one has to die to prove the point.**

The County’s agreement with the City of Nampa indicates that the County will cooperate with the City and honor the Comprehensive plan in any deliberations and will give “great weight” to the recommendations of the City regarding zoning changes. While the County Commissioners can ignore that if they choose, the City has recommended that approval of this application be denied. There should be a letter to that effect in your packet. There does seem to be a compelling reason to ignore that recommendation.

Not only is this property currently surrounded by homes, but the Plan anticipates the area will become “low density residential”. In fact, it is already moving very rapidly to that definition. There have been seven homes built within a half mile of 80 S. Robinson since the original CU meeting. Who knows how many subdivision applications you have before you for the immediate area.

The zoning regulations define a Public Nuisance as a property on which inoperable and unlicensed vehicles are stored, refuse, used tires, scrap wood and metal is stored, and where weeds are allowed to grow unchecked. I have attached pictures, enough said. I am not sure what is in the metal buckets and



cans sitting on the ground and under tarps are. The old trucks have not moved for over a year. There are also four or five recreational vehicles stored on the property they don't move either.

Conditional Use permits are a serious matter, affecting not only the property in question but also all surrounding properties extending into the future. There should be a compelling reason to grant such exceptions, such as the improvement or benefit of the surroundings or that there is no other alternative available. There are many alternative properties available to this excavation company in areas properly zoned for their activity. The negative impact to the surroundings is real and serious. If you have ever lived near a new-home construction site you will know how disruptive, dirty, and noisy it is. Living near this business is very much that way only it is constant and there is no end to it involves very large equipment, trailers and vehicles that constantly moving in and out.

Please also note that some of the pictures I have included were taken on Thanksgiving Day. You can see one of them was taken from my front living room window. Equipment trucks and trailers come into the property and employees leave as late as 9 PM. Causing an additional hazard since no one expects those vehicles to be making turns on the road in the dark that late.

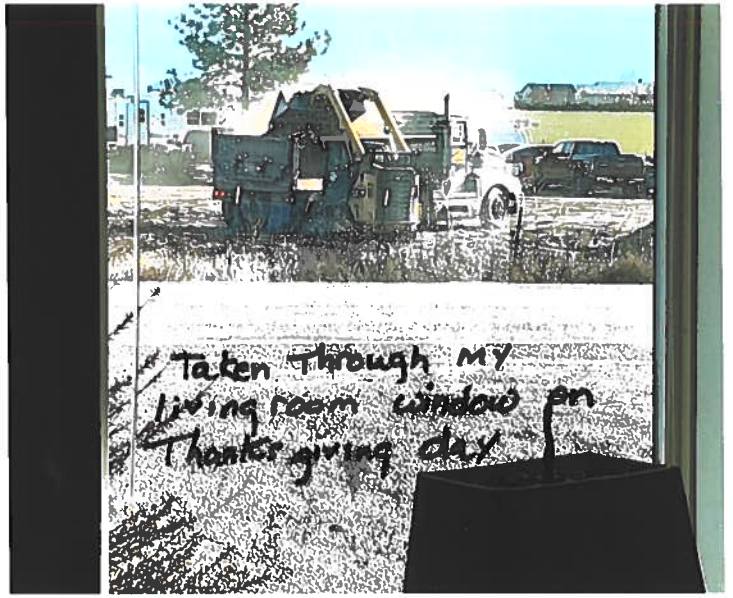
There was nothing unfair about the original hearing. We all followed the rules and have been compliant with zoning regulations and procedures from the start. We the property owners, pay taxes and have lived in this neighborhood for many years and expect that the zoning regulations will protect us as they were originally designed to do. JC Excavation is a renter, has no stake in the area, and is requesting that we the property owners pay the price for his convenience.

Your original decision was correct and should be upheld.

Thank you for your attention.

Sincerely,

  
Barbara Harris









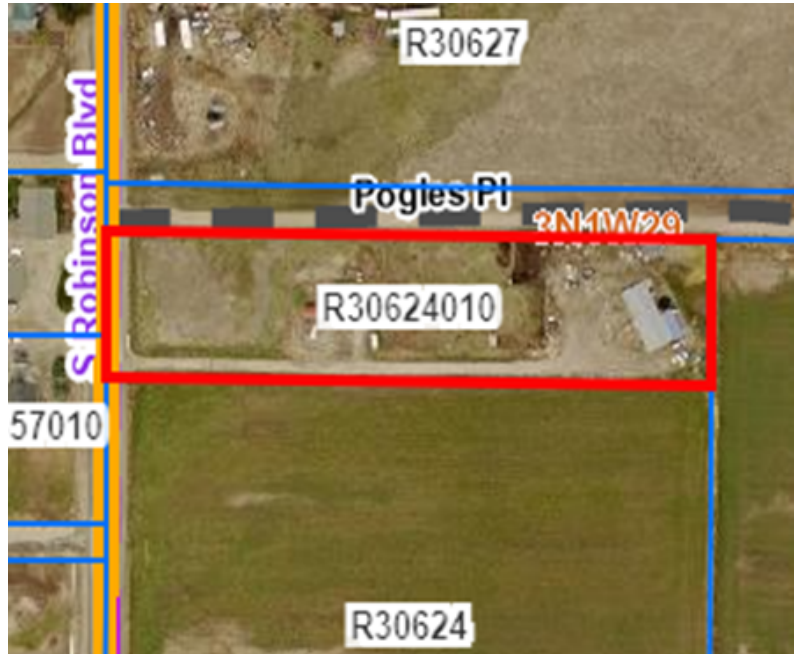


# BOARD OF COUNTY COMMISSIONERS

STAFF REPORT ADDENDUM

APPEAL: CU2023-0002-APL

HEARING DATE:	9/21/2023
OWNER:	Alejandro Jimenez
APPLICANT/REP:	Elizabeth Allen, Bristlecone Land Use Consulting Juan Carlos Nieves, JC Excavation LLC
PLANNER:	Michelle Barron, Principal Planner
CASE NUMBER:	CU2023-0002-APL
LOCATION:	80 S Robinson Rd. Parcel #: R30624010



## EXECUTIVE SUMMARY:

Elizabeth Allen, Bristlecone Land Use Consulting LLC and Juan Carlos Nieves, JC Excavation LLC, are appealing the Planning and Zoning Commission’s decision regarding the denial of Case CU2023-0002, a **Conditional Use Permit to allow a Staging Area** within an “A” (Agricultural) Zoning District.

Planning and Zoning Commission heard and denied the original Conditional Use Permit application CU2023-0002 on June 15, 2023 and signed the FCO’s on July 6, 2023 (Exhibit E).

The Planning and Zoning Commission denial was based on the evidence not meeting the Findings of Fact #4, #7 and The Nampa Area of City Impact (Exhibit E) after review of the Staff Report (Exhibit G), public testimony and Commission discussion (Exhibit F).

Pursuant to Idaho Code 67-6519, The Planning and Zoning Commission did not give actions that could be taken for a possible approval of the application as seen in the **Order** section of the FCO’s signed on July 6, 2023 (Exhibit E).

The appeal was filed within the 15 calendar days of the date the FCO’s were signed in accordance with CCZO 07-05-05. The appellant is submitting the appeal based on the decision of the Planning and Zoning Commission was not supported by substantial evidence and the applicant was not

provided with a fair hearing process. Details of the appeal can be found in Exhibits B and C including the applicant's appeal letter and proposed conditions.

### **Decision Options**

The Board has the following options in this case:

- 1) The Board of County Commissioners may **approve** the appeal and **overturn** the Planning & Zoning Commission's denial of the conditional use permit.
- 2) The Board of County Commissioners may **deny** the appeal and **uphold** the Planning & Zoning Commission's decision and direct staff to make findings of fact to support this decision.
- 3) The Board of County Commissioners may **table the hearing** and request additional information on specific items.

### **EXHIBITS:**

Exhibit A: BOCC Draft FCOs

Exhibit B: Appeal Application Documents

Exhibit C: Applicant Presentation pdf and PowerPoint

Exhibit D: Public Comments Received for Appeal Hearing

Attachment 1: Barbara Harris August 18 email

Attachment 2: Barbara Harris August 25 email

Attachment 3: Barbara Harris letter

Attachment 4: Harry Robinson letter

Exhibit E: Planning and Zoning Signed FCOs

Exhibit F: Planning and Zoning Minutes June 15, 2023 and July 6, 2023

Exhibit G: Planning and Zoning Staff Report

Attachment 1: Parcel Tool

Attachment 2: P & Z Draft FCOs

Attachment 3: Submitted Application Materials

a: Letter of Intent

b: Letter of Intent #2

c: Site Plan

d: Land Use Worksheet

e: Neighborhood Meeting Information

Attachment 4: Maps

a: Aerial

b: Vicinity

c: Cases

d: Zoning

e: Canyon County Future Land Use

f: City of Nampa Future Land Use

g: Lot Report

h: Gravel Pits, Dairies, Feedlots

- i: Soils
- j: Prime Farm Land
- k: Soils & Prime Farmland Report
- l: Plats & Subs

Attachment 5: Agency Comments

- a: City of Nampa
- b: Nampa Highway District

Attachment 6: Public Comments

- a: Barbara Harris #1
- b: Barbara Harris #2
- c: Tammy Shuyler





## BOARD OF COUNTY COMMISSIONERS

### FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

**Jimenez – CU2023-0002-APL**

The Canyon County Board of County Commissioners consider the following:

- An appeal submitted by Bristlecone Land Use Consulting, representing JC Excavation regarding a Planning & Zoning Commission's decision for the denial of Case CU2023-0002, a conditional use permit to allow a Staging Area use within an "A" (Agricultural) Zoning District.

[CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW¼ of Section 29, T3N, R1W, BM, Canyon County, Idaho]

#### Summary of the Record

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in CU2023-0002-APL
  - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on September 21, 2023. (Exhibit E of the staff report)
  - C. An appeal filed by Elizabeth Allen, Bristlecone Land Use Consultants, LLC was submitted on July 14, 2023 pursuant to Canyon County Code §07-05-07 (Exhibit B & C of the staff report).

#### Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504.
4. The Board can sustain, modify or reject the Commission's recommendations. *See* CCZO §07-05-03.
5. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.

6. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.
7. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
8. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
9. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

**The appeal of Case CU2023-0002 (CU2023-0002-APL) was presented at a public hearing before the Canyon County Board of County Commissioners on September 21, 2023. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:**

#### **FINDINGS OF FACT & CONCLUSION OF LAW**

- (1) The applicant filed an appeal to CU2023-0002 on July 14, 2023 pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to deny the findings signed by the Planning and Zoning Commission. (Staff Report Exhibits B and C)
- (2) The Board reviewed the written findings (Staff Report Exhibit A), testimony, and evidence presented in the public hearings on the application. The Board finds the findings of fact decided by the Planning and Zoning Commission (Staff Report Exhibit E) are adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
- (3) The Board reviewed the written findings from the Planning and Zoning Commission (Staff Report Exhibit E), testimony (Staff Report Exhibit F), and evidence presented in the public hearings on the application. The Board finds the findings of fact decided by the Planning and Zoning Commission (Staff Report Exhibit E) are not adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have been met:
  - a. **Criteria 1: Is the proposed use permitted in the zone by conditional use permit?**  
The Board concurs with the Planning and Zoning Commission. Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the "A" agricultural zone subject to an approved conditional use permit.
  - b. **Criteria 2: What is the nature of the request?**  
The Board concurs with the Planning and Zoning Commission. The request for the staging area is for the applicant's excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

c. **Criteria 3: Is the proposed use consistent with the comprehensive plan?**

The Board concurs with the Planning and Zoning Commission. The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
Chapter 4: Land Use and Community Design	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.



**d. 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?**

The Board does not concur with the Planning and Zoning Commission. The Planning and Zoning Commission stated the proposed use was found to be injurious to other property owners in the immediate vicinity, or negatively change the essential character of the area.

Evidence provided in the original Staff Report for the Planning and Zoning hearing and the evidence presented by the applicant stated that there were similar businesses in the area, both permitted and not permitted. (Staff Report Exhibit G) The area is a mix of agricultural production, scattered businesses, rural residential and storage of various objects.

The site visit showed the surrounding area, is clustered with agricultural production and other permitted and unpermitted businesses that utilize similar equipment and materials. Within one mile of the proposed staging area, there is an approved contractor shop/staging area with similar conditions (PH2013-9) approximately 300 feet south, gravel extraction operation to the north and a feed lot and a dairy to the South.

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

The Board concurs with the Planning and Zoning Commission. Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request. The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.

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

The Board concurs with the Planning and Zoning Commission. As conditioned the request will need to comply with Nampa Highway District requirements but the parcels do have legal access currently. According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit G, Attachment 5j.

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

The Board does not concur with the Planning and Zoning Commission. Public testimony given at the Planning and Zoning Commission hearing on June 15, 2023 (Exhibit F), included concerns regarding the high traffic volume on Robinson Road and the potential impacts heavy equipment would have coming and leaving the property.

Per review by the Nampa Highway District, there is no indication from that the use would increase the traffic enough to warrant a traffic impact study. Their only requirement is to add a paved apron to meet Commercial standards (Exhibit G, Attachment 5b).

**h. Criteria 8: Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, and 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 Board concurs with the Planning and Zoning Commission. All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs. All essential services were notified and no comments of concern or objection were received.

- (4) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 9, 2023. Newspaper notice was published on August 11, 2023. Property owners within 600' were notified by mail on August 9, 2023. Full political notice was provided on August 9, 2023. The property was posted on August 21, 2023.
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002-APL.

## **Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. Pursuant Canyon County Code Section 09-11-25, the City of Nampa provided comment on the request seen in Staff Report Exhibit G, Attachment 5a. Conditions have been applied to ensure the use does not impact Nampa's planned future use.

The City of Nampa was notified on February 23, 2023 and August 9, 2023, pursuant to Section 09-11-25 of the Canyon County Code. The comment letter received from the City of Nampa (Exhibit G, Attachment 5a) are in regards to their Comprehensive Plan and their Future Land Use designation of Low Density Residential. The future designation does not support the staging area use.

According to Canyon County Code Section 09-11-17: Canyon County's Comprehensive Plan has jurisdiction within Nampa's area of City Impact. Canyon County shall give consideration to the city's comprehensive plan map designations when evaluating development requests within the Nampa area of city impact. Canyon County's Comprehensive Plan designates the Future Land Use of this area as Agriculture. As a condition of approval, the applicant has proposed the use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.

### **Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approve** the appeal of Case #: CU2023-0002-APL **overturning and approving** the decision the Planning and Zoning made regarding CU2023-0002, a conditional use permit for a staging area on parcel R30624010 subject to the following conditions of approval:

#### Conditions of Approval:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall comply with Nampa Highway District access requirements.
3. A sight obscuring berm fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion. The berm must be constructed and landscaped within 6 months of the approval date of the CUP.
4. A sight-obscuring fence shall be installed along the northern property line adjacent to the staging area use. Fence shall be constructed within 6 months of the approval date of the CUP.
5. Stockpiles of dirt will be watered during movement to prevent dust.
6. The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.
7. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.
8. Signage shall meet all applicable requirements of CCZO §07-10-13 requirements prior to constructing any signs on the property.
9. The hours of operation shall be 8:00 a.m. to 8:00 p.m. Monday through Friday, as proposed in the applicant's letter of intent (Staff Report Exhibit G, Attachment 3).
10. 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.
11. This permit shall be granted only to JC Excavation. The use shall expire upon change of ownership.

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 \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CANYON COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_ Motion Carried Unanimously  
\_\_\_\_\_ Motion Carried/Split Vote Below  
\_\_\_\_\_ Motion Defeated/Split Vote Below

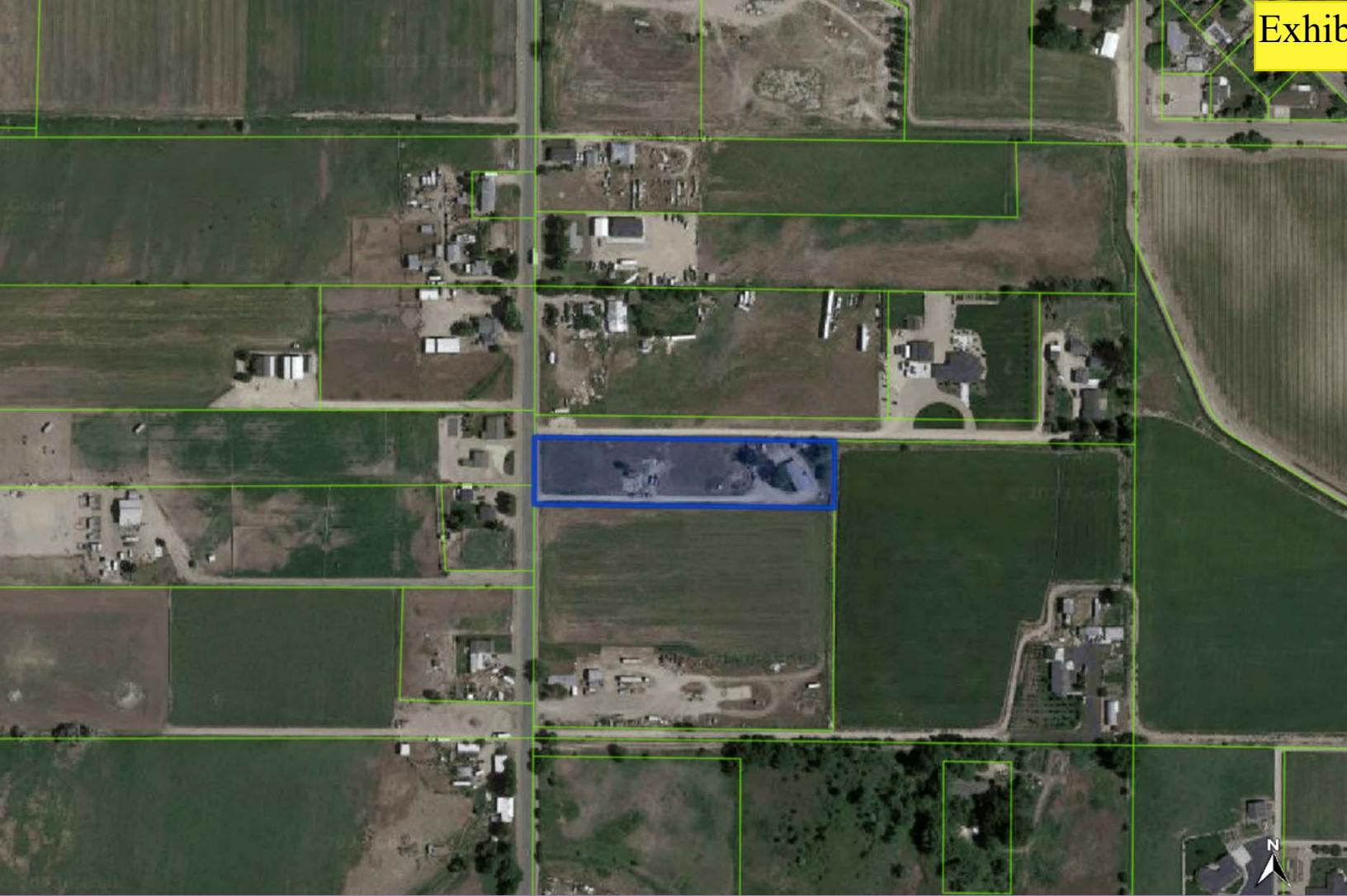
	Yes	No	Did Not Vote
_____ Commissioner Leslie Van Beek	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Chris Yamamoto, Clerk

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

Date: \_\_\_\_\_





**CU2023-0002 JC Excavation  
APPEAL**  
80 S. Robinson Blvd





## APPEAL OF DECISION MASTER APPLICATION

<b>PROPERTY OWNER</b>	OWNER NAME: Alejandro Jimenez
	MAILING ADDRESS: 240 N. McDermott Road, Nampa, ID 83687
	PHONE: [REDACTED] EMAIL:
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If the owner(s) is a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Alejandro Jimenez</u> Date: <u>7-7-23</u>	

<b>APPLICANT: IF DIFFERING FROM THE PROPERTY OWNER</b>	OWNER NAME: Juan Carlos Nieves, Applicant / Elizabeth Allen, Representative
	COMPANY NAME: JC Excavation LLC / Bristlecone Land Use Consulting LLC
	MAILING ADDRESS: 3812 E. Clear Springs Dr, Nampa, 83686 / PO Box 3953, Nampa, 83653
	PHONE: 208-401-5246 / 907-978-3439 EMAIL: jcexcavation10@gmail.com / elizabeth@bristleconelanduseconsulting.com

<b>SITE INFO</b>	STREET ADDRESS: 80 S. Robinson Road, Nampa, ID 83686
	PARCEL NUMBER: R30624010
	PARCEL SIZE:

<b>CASE NUMBER OF REQUESTED APPEAL:</b>	CU2023-0002
-----------------------------------------	-------------

### FOR DSD STAFF COMPLETION ONLY:

CASE NUMBER	<u>CU2023-0002-APL</u>	DATE RECEIVED:	<u>7/14/23</u>
RECEIVED BY:	<u>S. Hammond</u>	APPLICATION FEE:	<u>600.00</u> <input checked="" type="radio"/> MO <input type="radio"/> CC CASH



# Bristlecone

## LAND USE CONSULTING

July 14, 2023

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

**Re: Appeal of Planning and Zoning Commission Decision on Conditional Use Permit for JC Excavation CU2023-0002.**

Dear Development Services staff and Board of County Commissioners,

On behalf of the applicant/appellant, Bristlecone Land Use Consulting LLC, representing JC Excavation LLC ("Appellant"), I am submitting this appeal of the Planning and Zoning Commission's ("Commission") denial of CU2023-0002, an application for a staging area on parcel R30624010 in an "A" (Agriculture) zone.

The grounds for this appeal are as follows:

- The decision of the Planning and Zoning Commission was not supported by substantial evidence.
- The applicant was not provided with a fair hearing process.

The factual basis from the record and arguments supporting this appeal are outlined in four (4) sections in this document and exhibits, including proposed conditions of approval to mitigate concerns.

Sincerely,

Elizabeth Allen



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## CU2023-0002 APPEAL

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### SECTION 1. OVERVIEW

#### **History**

JC Excavation LLC, owned by Juan Carlos Nieves and managed by Mario Nieves, has been a registered business with the Idaho Secretary of State since 2017 and provides quality services for construction projects in the Treasure Valley. In June 2022, JC Excavation began leasing the western portion of the subject parcel for a staging area. Based on Google Street images dating back to 2007, the site used for staging had been unutilized for some time.

#### **Conditional Use Permit**

When JC Excavation began using the 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.

#### *Proposal Details*

As outlined in the application for CU2023-0002, the equipment and staging materials include 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 dirt 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 vary slightly throughout the year due to seasonal and economic changes. Adequate employee parking is located between the material staging and equipment staging areas. For certain jobs, some equipment remains on the job site. Since they started using the site, they relocated the equipment from the Robinson Road frontage to the center of the site to address a neighbor's concern about the view from their property.

#### *Neighborhood Meetings*

Before submittal, they held two neighborhood meetings. Letters were sent to twenty neighbors. Four individuals attended the first meeting, and six individuals at the second. Concerns brought up included other uses in the area and traffic. A neighbor derailed the meeting by making false and inappropriate accusations. They interrupted the discussion by asking, "Where do you come from?" and harassing the owner for having a different ethnic background than themselves. These neighbors created a hostile environment for the applicant and the others in attendance. They also harassed another property owner who disagreed with them. The video from this meeting will be included as part of the record for this case. The hostility and discrimination from this neighbor made it difficult for JC Excavation to have constructive discussions about mitigation measures before submission.

#### *Application Submittal and Public Hearing*

On February 9, 2023, the applicant submitted a conditional use permit application for a staging area in an "A" (Agricultural) zone. A staging area is defined in Canyon County Code as "an area where equipment and materials are stored for use conducted entirely off-site."

At its June 15, 2023, public hearing, with a staff recommendation of approval, the Canyon County Planning and Zoning Commission voted to deny the applicant's case for a staging area, case No. CU2023-0002. In the motion for the denial, the Commission changed the findings for criteria 4, 7, and the language regarding the Nampa Area of City Impact. The Planning and Zoning Commission's findings were signed on July 6, 2023.

During the public hearing, the commission brought up concerns that they believed could be mitigated through conditions. During rebuttal, Juan Carlos Nieves testified that he would be willing to agree to any conditions of approval. At this time, the Commission did not explore what conditions could be added or what information would be needed to help them make an informed decision. During deliberations, after public testimony was closed, Commissioner Nevill stated, "I think this could be conditioned, but we can't do it at this table tonight; it is going to

require some crafting of conditions.” This statement indicates that the applicant was not provided a fair hearing and that staff and the applicant were not provided time to propose additional conditions. In addition, the decision made was not based on factual evidence. In the following sections, we provide an analysis of the criteria changed by the Commission to deny the request and have provided evidence and crafted conditions shown in Section 3 to support the reversal of the denial.

## SECTION 2. ANALYSIS

### **A. The Commission's finding that the applicant's staging area will be “injurious to other property in the immediate vicinity and/or negatively change the essential character of the area” is not supported by substantial evidence.**

The zoning of the subject property and surrounding area is Agriculture with future land use designations of Agriculture. As stated in the case staff report, 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 are used to store materials and vehicles in the area without any mitigation measures (Exhibit B). The closest property immediately adjacent to the north has several scattered semi-trailers in various states of disrepair, cars, jet skis, recreational vehicles, snowmobiles, a washer, and multiple materials (Exhibit B, Image 4-6).

The area has active agricultural production that generates dust, smells, and noise. Farming requires various 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).

Aerial site images are shown in Exhibit B, Images 11 and 12, showing a birds-eye view of the rural character. As described and shown in the images in Exhibit B shows the existing rural character of the area. The analysis provides evidence that the proposed use of a staging area will not be injurious to properties in the vicinity or negatively change the area's character. The conditions presented in Section 3 will provide an opportunity to improve the site and location.

### **B. The Commission’s finding that the applicant's staging area will create “undue interference with existing or future traffic patterns” is not based on factual evidence.**

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 provided comment 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 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 undue interference with traffic patterns.

**C. The Commission's finding that the use will impact Nampa's vision for the area is premature and not based on factual evidence.**

There was discussion during the hearing regarding the City of Nampa without a debate on how far the city limits are or Canyon County code. As stated in County Code 09-11-17(1), Applicable Comprehensive Plan and Comprehensive Plan, "Comprehensive Plan: The Canyon County comprehensive plan, as amended, shall apply to the Nampa area of city impact. Canyon County recognizes that city of Nampa has also developed a comprehensive plan and accompanying map for the Nampa area of city impact. Canyon County shall give consideration to the city's comprehensive plan designations when evaluation development requests with the Nampa area of city impact." While hearing a different case on the same evening, Commissioner Sheets told that applicant, "You are working with the County, and you are subject, and this application is going through the County; it is not going through Middleton." This statement is unfair and indicates that the Commission is picking and choosing what City they decide to agree or not agree with despite the Canyon County code requiring the County Future Land Use map to apply in both cities' area of city impact.

While we understand the concerns regarding Nampa, the city limits are approximately one (1) mile from the site. Over time Nampa city limits may reach the site, and at that time, the area's character will have changed enough that a staging area would not be appropriate. We are proposing a condition in Section 3 to mitigate the concern and ensure that the site will meet the vision of Nampa when city limits are closer.

### **SECTION 3. CONDITIONS**

As explained above and the evidence provided in section two and Exhibit B, the proposed staging area is consistent with the area's existing character. As shown in the site images in Exhibit A, the use is orderly and maintained. Concerns, including noise, dust, and views, were raised during the public hearing. To mitigate these concerns, we are proposing the following conditions. These conditions, with the conditions originally proposed by staff, are shown in Exhibit D.

- **A berm and sight obscuring fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion.**
- **A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.**

Berms and sight-obscuring fences are adequate mitigation measures for screening uses and reducing noise and dust. This measure will provide an opportunity to improve the look of the area. See Exhibit C for examples of berms in the area.

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<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>



- **Stockpiles of dirt will be watered during movement to prevent dust.**
- **The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.**

This condition will address concerns regarding the City of Nampa to ensure that the use does not continue when it grows.

#### **SECTION 4. CONCLUSION**

As shown in the analysis with supporting evidence, a staging area will not change the area's character, and traffic will not be impacted. The appellant 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 decision of the Planning and Zoning Commission and approve the request with the proposed conditions added to the conditions originally offered by the Development Services staff.

## EXHIBIT A - SITE PHOTOS

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



*Image 1 Staging area.*





*Image 2. Staging area. The trailers in the background are on the property to the north.*





*Image 3. Employee parking.*



Image 4. Driveway.





*Image 5. 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 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*



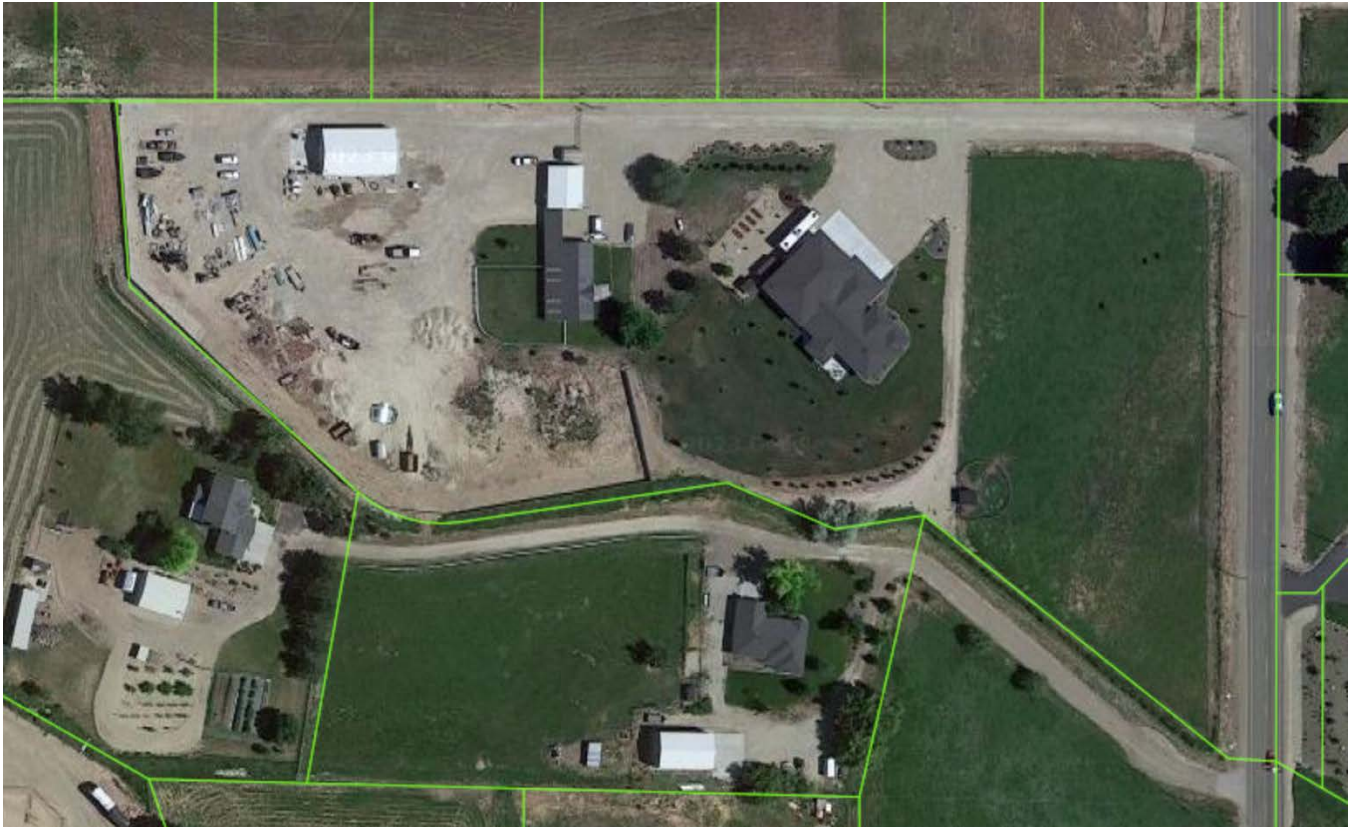


Image 9. 419 Robinson. Idaho Backhoe Inc.





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



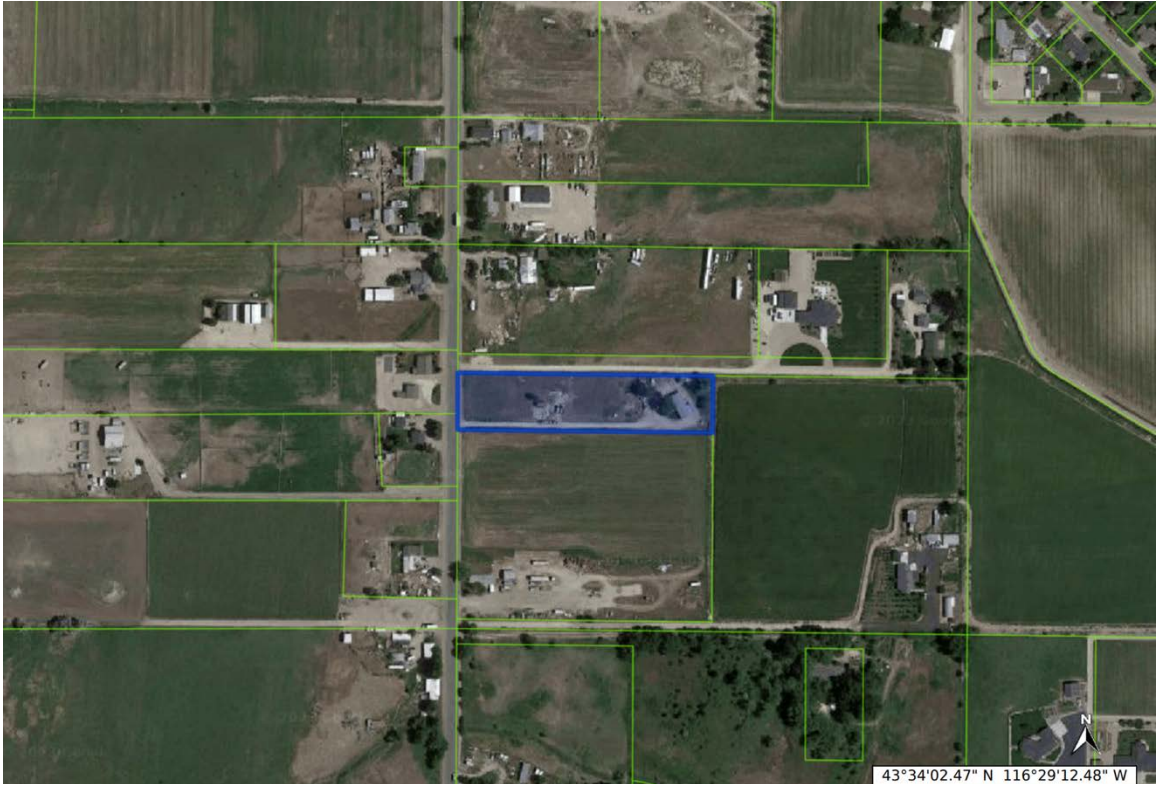


Image 11. Aerial image of approximately 2,000 feet of the area of the subject property.

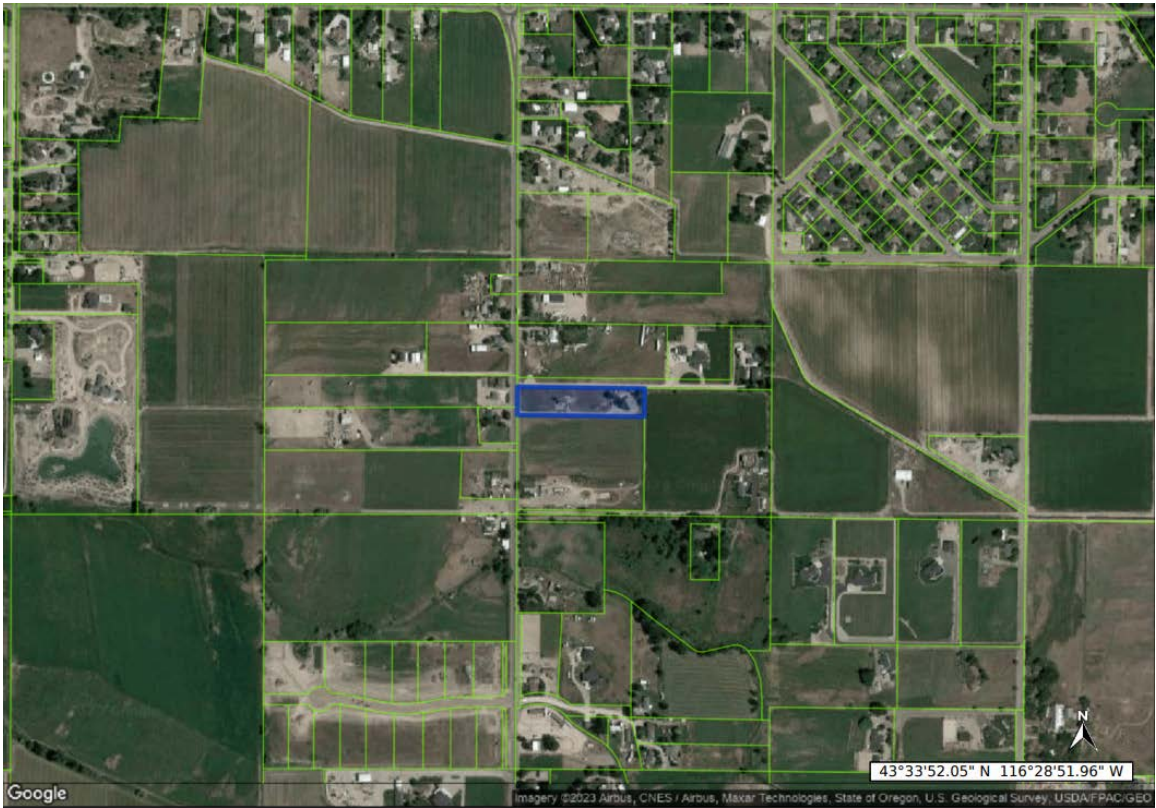


Image 12. Aerial image of approximately 4000 feet of the area of the subject property.



## EXHIBIT C

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







## EXHIBIT D

The following is a complete list of the staff-recommended conditions of approval in addition to the proposed conditions. Condition 3 was removed and replaced with specific language.

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall comply with Nampa Highway District access requirements.
3. A berm and sight obscuring fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion. The frontage of the property off Robinson Rd must have a privacy berm or fence. The berm/fencing shall be maintained and kept in good repair shall be kept weed free and/or maintained.
4. A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.
5. Stockpiles of dirt will be watered during movement to prevent dust.
6. The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.
7. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.
8. Signage shall meet CCZO §07-10-13 requirements.
9. The hours of operation shall be 8:00 a.m. to 8:00 p.m. Monday through Friday, as proposed in the applicant's letter of intent (Exhibit B Attachment 1a, 1b).
10. 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.

# JC Excavation CU2023-0002-APL

Represented by: Elizabeth Allen



**Bristlecone**  
LAND USE CONSULTING



# Appeal of CU2023-0002 Decision

Grounds for appeal:

- The decision of the Planning and Zoning Commission was not supported by substantial evidence.
- The applicant was not provided with a fair hearing process.

# JC Excavation LLC

Owner: Juan Carlos Nieves

Manager: Mario Nieves

Idaho Registered Business since 2017, providing quality services for construction projects throughout the Treasure Valley.





# Request: Conditional Use Permit – Staging Area

- Staging area for equipment and 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 dirt storage.





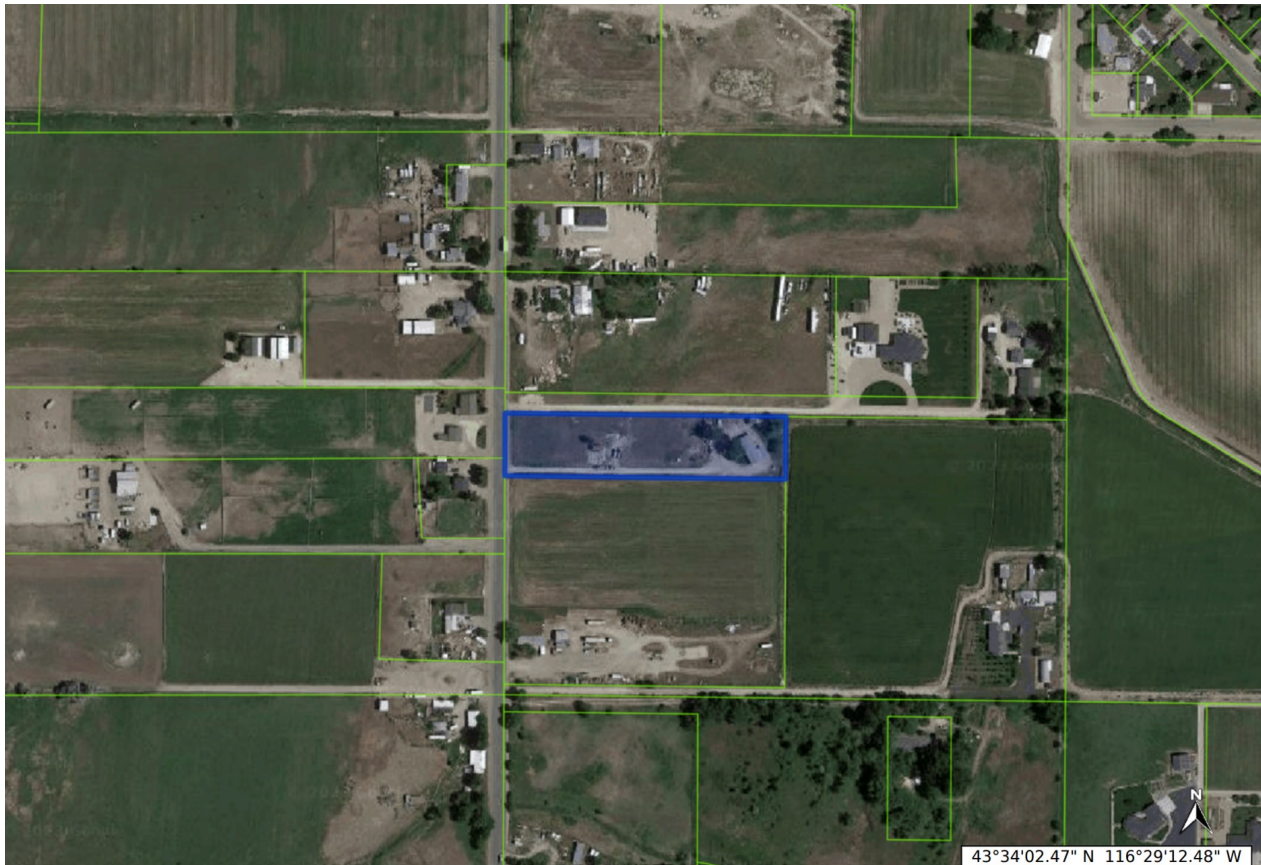


# CUP History

- Neighborhood Meetings: Two held before submittal.
- February 9, 2023 – CUP application submittal for a staging area. Defined as “an area where equipment and materials are stored for use conducted entirely off-site.”
- June 15, 2023 – P&Z public hearing with a staff recommendation of **approval**. P&Z denial with changes to criteria 4 and 7.

# Analysis

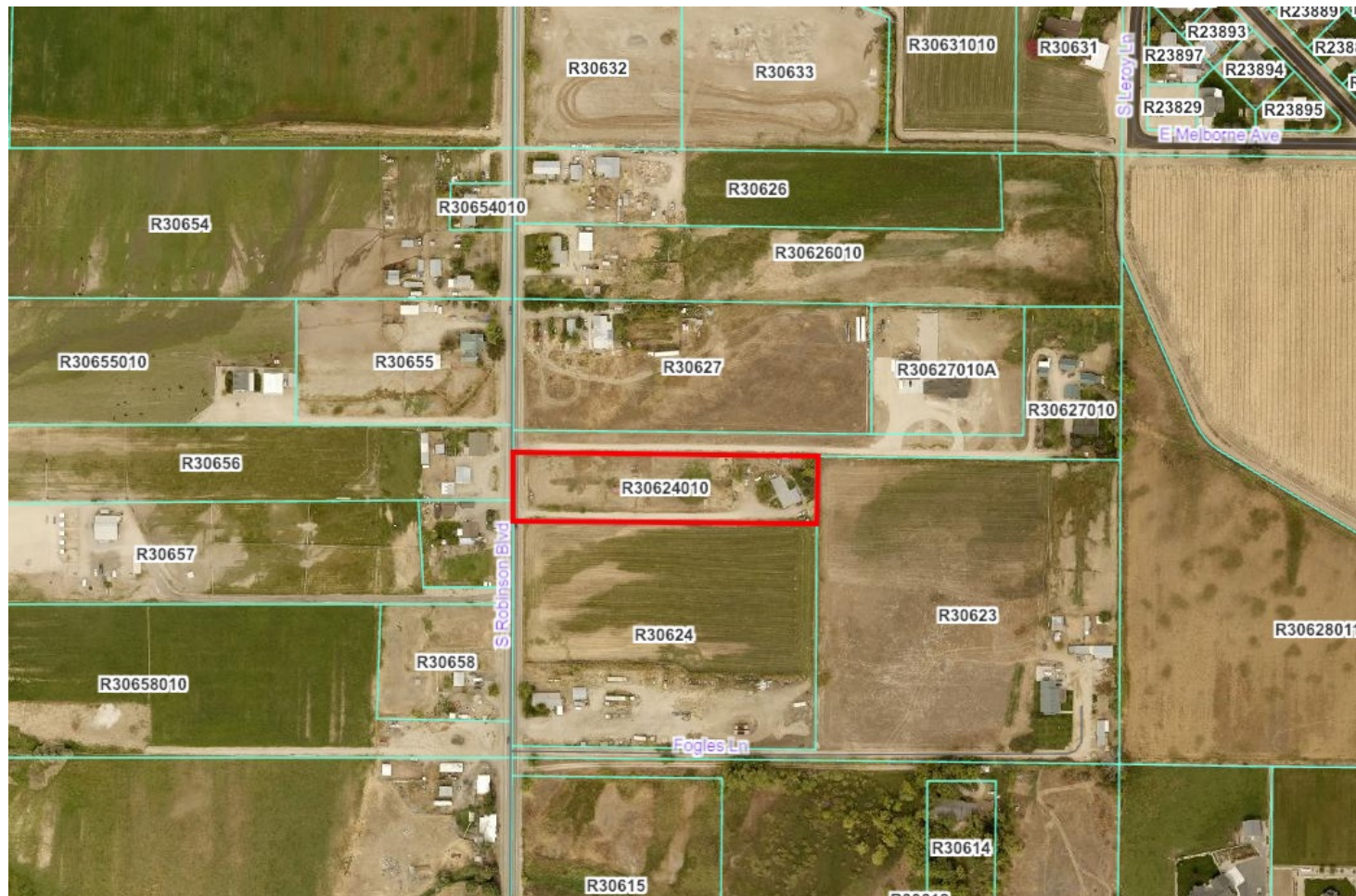
Criteria 4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?





# Character of the Area

- Zone: Agriculture
- Future Land Use: Agriculture





# Character of the Area

- Staging areas for two excavation businesses
- Staging area for a landscape business





# Character of the Area

## Unmitigated storage





# Character of the Area

## Unmitigated storage





# Character of the Area

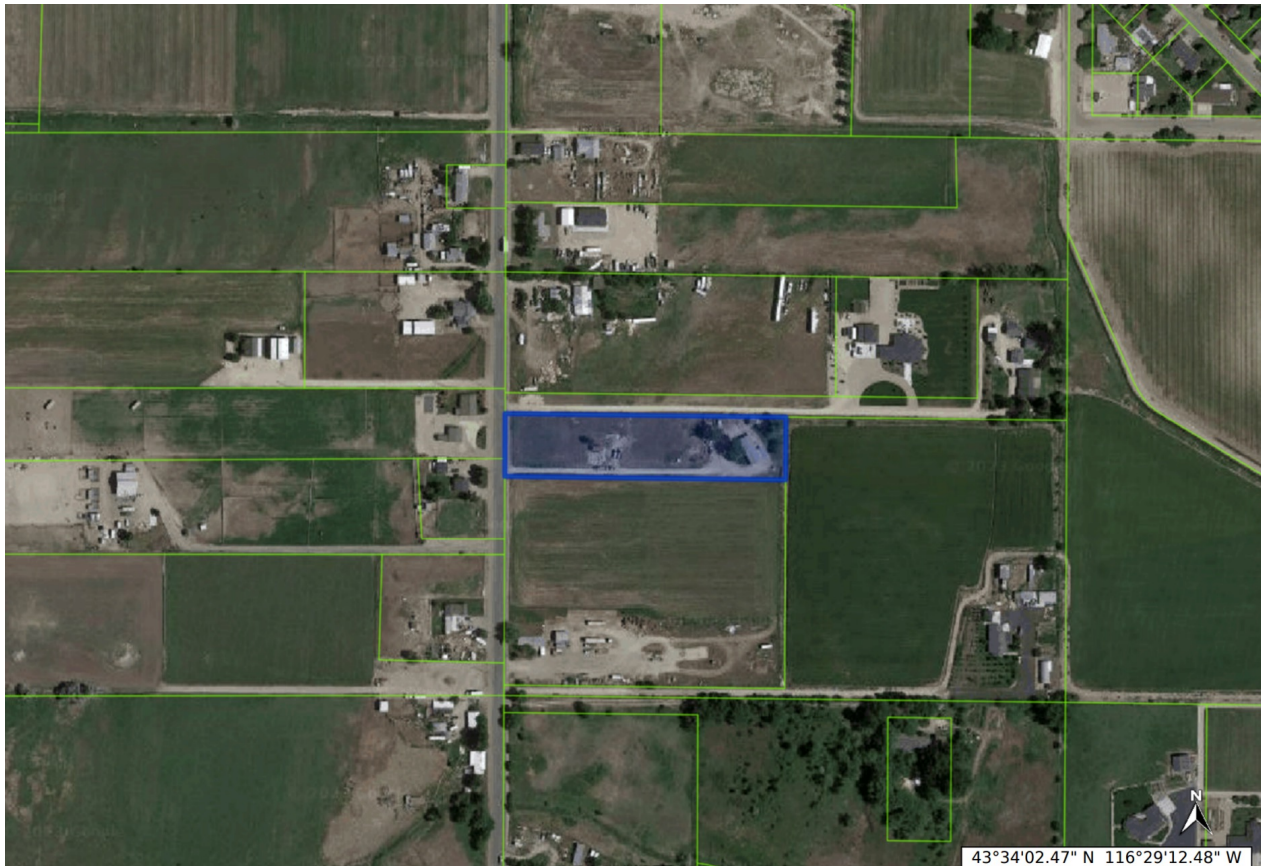
Agriculture and rural residential





# Analysis

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





# Traffic

- Example of a use that would cause undue interference: residential at 10 ADT per dwelling

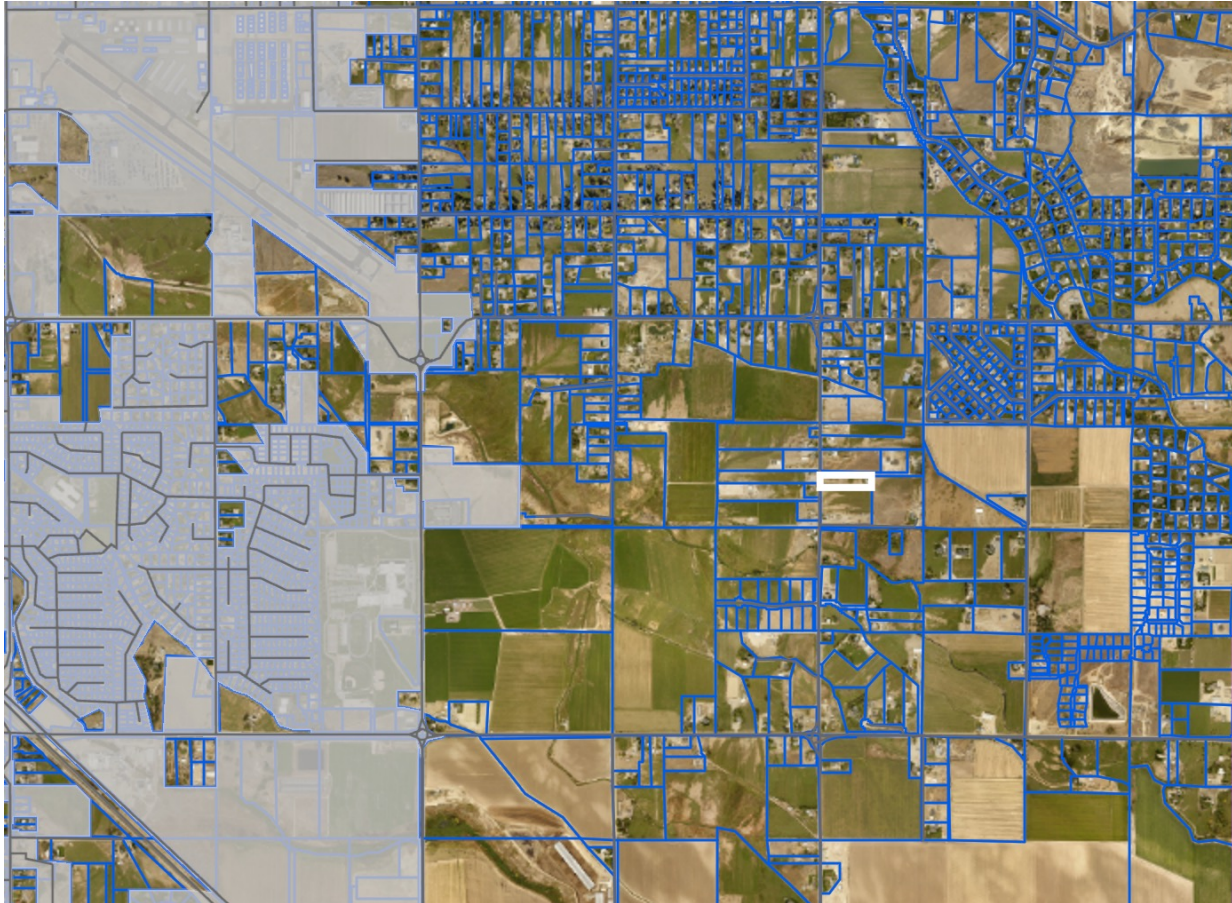
## 3110. Traffic Impact Studies

**3110.010.** The Highway District must consider the impacts of a proposed development on nearby land uses and transportation facilities. A traffic impact study (TIS) will be required if the proposed development exceeds the threshold traffic volumes identified in the following table:

Traffic Impact Study Thresholds *		
	Suburban	Rural
Peak Hour Trips	50	50
Average Annual Daily Trips	500	500

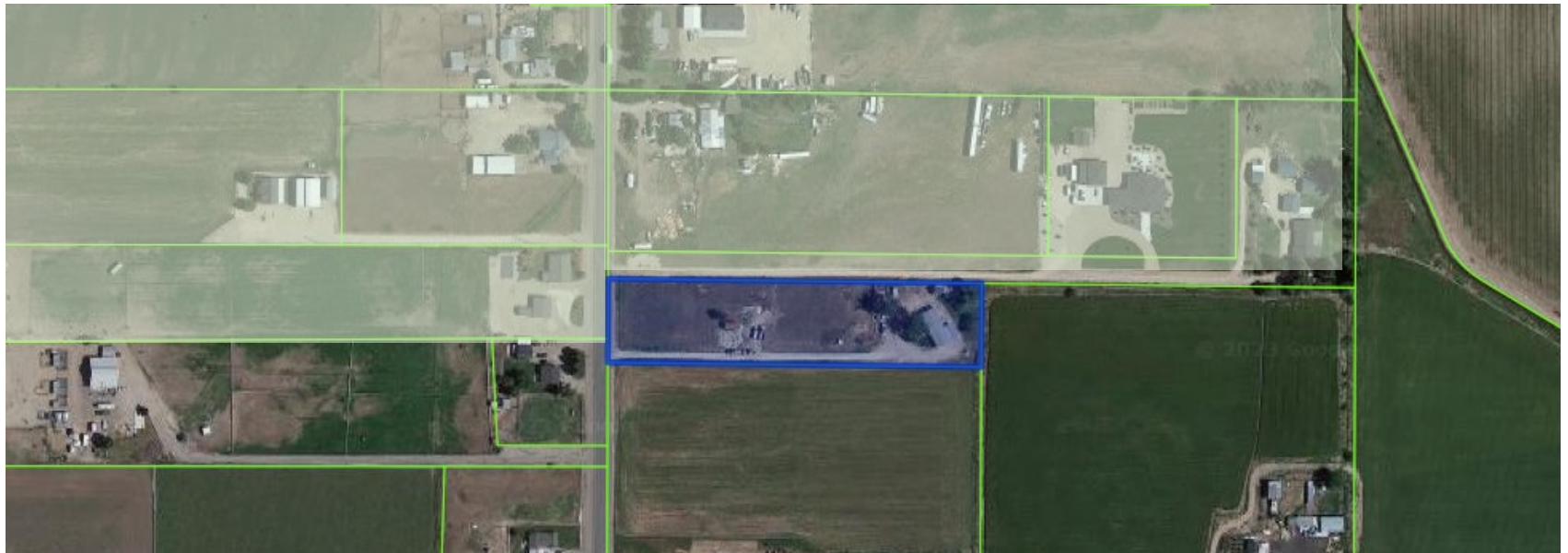
# Analysis

## Nampa Area of City Impact



**The Commission's finding that the use will impact Nampa's vision for the area is premature and not based on factual evidence.**

- Canyon County Comprehensive Plan applies.
- City limits: Over one mile from the site.
- Our proposed mitigation measure: The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.





# Unfair Hearing Process: Deliberations

Commissioner Nevill stated,

“I think this could be conditioned, but we can’t do it at this table tonight; it is going to require some crafting of conditions.”

This statement indicates that the applicant was not provided a fair hearing and that staff and the applicant were not provided time to propose additional conditions.

# Proposed Conditions

- A berm and sight obscuring fence shall be installed along the frontage of Robinson Blvd, outside of any right-of-way, easements, and sight triangles. The berm shall be planted with landscaping to prevent erosion.
- A sight-obscuring fence shall be installed along the northern property line adjacent to the area used for staging.
- Stockpiles of dirt will be watered during movement to prevent dust.
- The use of the staging area shall terminate at such time that Nampa city limits are touching the subject property on two sides.







# Conclusion

- The proposal does not change the character of the area.
- Traffic will not be impacted.
- We have added conditions to mitigate concerns and improve the character of the area.

**Thank you!**

## Neighborhood Meeting





## Neighborhood Meeting



## Neighborhood Meeting



**Michelle Barron**

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Friday, August 18, 2023 3:07 PM  
**To:** Michelle Barron  
**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I did get that website to open, however there is really nothing there but the notice of what time and place of the hearing. I would like to know the basis for his appeal, as he got a more than fair hearing from the P&Z commission. I also would like to know the basis for consideration that was on the little presentation by the planner. As I recall there were 7 criteria, 4 of which he did not meet outright and the other three of which you had to squint real hard to get past. Can you send me that information? If it supposed to be on the website, can you give me some guidance as to where I can find it or when can I expect it since my written response has to be presented by September 2.

Will JC's consulting firm be able to present information other than what was presented at the P&Z hearing? If so what will that be? Can you also send or tell me where I can find the definition of "staging" that is used by the P&Z is. It is apparently quite different from the one my engineer husband with 40 years of construction experience has ever used. (By the way that engineer husband won the National Build America award for one of his projects so I assume he is qualified to render an opinion.)

I am sorry if I sound a bit short. I have been fighting this for almost 2 years now. This construction equipment yard across the street from my home and in the middle of all the other residences in the neighborhood has created a very big problem for all of us. If this is approved by the Commissioners it will show a great lack of respect for the residents who showed up at the hearing, have complained and written and are baring the burden of this blatant disregard for the county's own code and the recommendation and agreement with the city of Nampa.

Big question: Why would P&Z be so eager to approve this Conditional Use?? It makes no sense to me. What is the incentive. Once this is approved how will other egregious exceptions be declined? Taken to its absurd extent, you could put almost anything , anywhere as long as you called it "staging".

Oh yes, JC has never indicated in all the years that he has been in business that any part of his business was agricultural related until the meeting on June 15.

Barbara

On Thursday, August 17, 2023 at 05:11:35 PM MDT, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

Barbara,  
 I actually have called you back. Monday, I received your voicemail and the mailbox is full. I appreciate you letting her me know. I had the person that sends those out to send out a correction notice.

Thank you,  
 Michelle Barron

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Thursday, August 17, 2023 3:16:03 PM  
**To:** Michelle Barron  
**Subject:** [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I have called you twice and left messages however have not had any contact or acknowledgement. I want to make sure that you are aware that your Legal Notice which I recieved 8/11 is not valid since the map included on the notice is not



correct and does not indicate the appropriate property. The property on the map on the notice is approximately 3 miles from the property in question.

Barbara

## Michelle Barron

---

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Friday, August 18, 2023 8:05 AM  
**To:** Michelle Barron  
**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

How about the website, I would like to know the basis of the appeal. I hope you do know that this operation is Not a staging operation it is a working equipment yard by any definition. He has had a very negative affect on our neighborhood. He is a renter and has no stake in the property or the negative effects. We residents who have homes surrounding this property should not have to pay for his convenience

Barbara

On Thursday, August 17, 2023 at 05:11:35 PM MDT, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

Barbara,  
I actually have called you back. Monday, I received your voicemail and the mailbox is full. I appreciate you letting her me know. I had the person that sends those out to send out a correction notice.

Thank you,  
Michelle Barron

---

From: Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>  
Sent: Thursday, August 17, 2023 3:16:03 PM  
To: Michelle Barron  
Subject: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I have called you twice and left messages however have not had any contact or acknowledgement. I want to make sure that you are aware that your Legal Notice which I recieved 8/11 is not valid since the map included on the notice is not correct and does not indicate the appropriate property. The property on the map on the notice is approximately 3 miles from the property in question.

Barbara

**Michelle Barron**

---

**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Friday, August 25, 2023 2:55 PM  
**To:** Michelle Barron  
**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Thank you. I think I found what I need. I sent my letter to the Board of Commissioners address on the legal notice to your attention.

I sincerely appreciate your communication. This has been a very difficult thing for us and for the neighbors. Hopefully it will resolve itself appropriately.

I am very glad you visited the site. That makes me feel much better.

Barbara

On Monday, August 21, 2023 at 11:18:52 AM MDT, Michelle Barron <michelle.barron@canyoncounty.id.gov> wrote:

Good Morning Barbara,

When you go to the website, on the top menu line, there is a heading called Land Hearings. If you click on that, it will give you the option to click an arrow for P & Z/HE Hearings or BOCC Hearings. Click on the BOCC Hearings drop down arrow. That is where you will find the scheduled upcoming hearings and recent hearings that have happened. The information for the application can be clicked on there. That has the information that Bristlecone Consulting has presented in the appeal. Here is the direct link to the page I was referring to, if you just want to go to that. Scroll down to the 12 box it will say September 21, 2023 at 1:30 pm. The application is in that box. It will download so that you can view it. <https://www.canyoncounty.id.gov/elected-officials/commissioners/dsd/land-hearings/>

You are free to email your letter of opposition to this email address. I will also make sure that the information from the Planning and Zoning Commission hearing is posted in the Preliminary Hearing Materials. That should be out there today sometime.

The applicant will be able to present their case, just like at the previous hearing.



As far as a definition of for Staging Area, that can be found at [https://codelibrary.amlegal.com/codes/canyoncountyid/latest/canyoncounty\\_id/0-0-0-2365](https://codelibrary.amlegal.com/codes/canyoncountyid/latest/canyoncounty_id/0-0-0-2365) under Canyon County Zoning Ordinance 07-02-03 Definitions.

Thanks,

*Michelle Barron*

*Planner III*

*Canyon County Development Services Department*

*111 N. 11th Ave., #310, Caldwell, ID 83605*

Direct Line: 208-455-6033

DSD Office Phone: 208-454-7458

Email: [Michelle.Barron@canyoncounty.id.gov](mailto:Michelle.Barron@canyoncounty.id.gov)

Website: [www.canyonco.org/dsd](http://www.canyonco.org/dsd)

\*\*\***NEW** public office hours\*\*\*

**Effective Jan. 3, 2023**

Monday, Tuesday, Thursday and Friday

8am – 5pm

Wednesday

1pm – 5pm

\*\*We will not be closed during lunch hour \*\*

---

**From:** Barbara Harris <bdeaneusa@yahoo.com>

**Sent:** Friday, August 18, 2023 3:07 PM

**To:** Michelle Barron <Michelle.Barron@canyoncounty.id.gov>

**Subject:** Re: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

I did get that website to open, however there is really nothing there but the notice of what time and place of the hearing. I would like to know the basis for his appeal, as he got a more than fair hearing from the P&Z commission. I also would like to know the basis for consideration that was on the little presentation by the planner. As I recall there were 7 criteria, 4 of which he did not meet outright and the other three of which you had to squint real hard to get past. Can you send me that information? If it supposed to be on the website, can you give me some guidance as to where I can find it or when can I expect it since my written response has to be presented by September 2.

Will JC's consulting firm be able to present information other than what was presented at the P&Z hearing? If so what will that be? Can you also send or tell me where I can find the definition of "staging" that is used by the P&Z is. It is apparently quite different from the one my engineer husband with 40 years of construction experience has ever used. (By the way that engineer husband won the National Build America award for one of his projects so I assume he is qualified to render an opinion.)

I am sorry if I sound a bit short. I have been fighting this for almost 2 years now. This construction equipment yard across the street from my home and in the middle of all the other residences in the neighborhood has created a very big problem for all of us. If this is approved by the Commissioners it will show a great lack of respect for the residents who showed up at the hearing, have complained and written and are baring the burden of this blatant disregard for the county's own code and the recommendation and agreement with the city of Nampa.

Big question: Why would P&Z be so eager to approve this Conditional Use?? It makes no sense to me. What is the incentive. Once this is approved how will other egregious exceptions be declined? Taken to its absurd extent, you could put almost anything , anywhere as long as you called it "staging".

Oh yes, JC has never indicated in all the years that he has been in business that any part of his business was agricultural related until the meeting on June 15.

Barbara

On Thursday, August 17, 2023 at 05:11:35 PM MDT, Michelle Barron <[michelle.barron@canyoncounty.id.gov](mailto:michelle.barron@canyoncounty.id.gov)> wrote:

Barbara,

I actually have called you back. Monday, I received your voicemail and the mailbox is full. I appreciate you letting her me know. I had the person that sends those out to send out a correction notice.

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From: Barbara Harris <[bdeaneusa@yahoo.com](mailto:bdeaneusa@yahoo.com)>

Sent: Thursday, August 17, 2023 3:16:03 PM

To: Michelle Barron

Subject: [External] case CU2023-002-APL Bristlecone Land Consulting representing JC Excavation

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Barbara



August 21, 2023

Canyon County Board of Commissioners  
1115 Albany Street  
Caldwell, Idaho 83605



RE: Case CU2023-0002-APL Bristlecone Land Use Consulting representing JC Excavation

Ladies and Gentlemen of the Commission:

I once again rise to object to the issuing of a Conditional Use Permit in the above zoning case.

I live at 73 South Robinson and own the property at 85 South Robinson, both properties located directly across the street from 80 South Robinson.

First, I want to make clear that the property map on the Legal Notice sent out on August 10 is not correct. The property depicted there is about 3-4 miles from the property in question.

I will not waste your time rehashing what has already been covered in the original hearing. The letter will address the following:

1. The JC Excavation operation is not consistent with the area. Approval would change the nature of the area (or what it was before they moved in)
2. Approval of this permit would be in opposition to the recommendation of the City of Nampa, the Cities plan, and the Counties agreement to honor that Plan in zoning decisions.
3. JC Excavation is noisy and dusty and poses a traffic problem that degrades the environment of the homes that surround it.
4. The approval of this Conditional Use permit and operation of this business has a negative effect on the property value of the surrounding properties
4. JC Excavation is neither "agricultural" or "staging."

I will point out that 8 neighbors turned out for that meeting to object to the application before the Planning and Zoning Commission. There were also numerous complaints filed about the zoning issue prior to the hearing. Those were not noted in the original hearing.

I do hope that the enforcement officer's reports have been made available to you. Two officers have made several trips to the property, so I know that they are personally aware of how it looks and what the operation really is.

I am sure you will hear a lot of very well-presented information from the consulting firm. They don't live with this operation every day, nor do the P&Z Planners. They only hear what they are told by the applicant. They have never talked to the neighbors.

This operation is totally incongruent with the surrounding area, it is extremely disruptive and has changed the entire nature of the neighborhood. It is located in the middle of, and very near to several homes. It is noisy and dusty and poses a dangerous traffic situation. Its presence has placed a very negative influence on the property values of all the surrounding properties.

JC Excavation is a renter at 80 So Robinson rd. He has no stake in the surrounding environment or impact on surrounding property value. He did not bother to check the zoning regulations when he located his business there and now wants us to bear the burden of that for his convenience.

JC Excavation is NOT operating a "Staging" yard from this location! The term "Staging" is one of those terms that can mean anything if you squint hard enough and want it to fit, so it is best defined in the negative: "Staging" yards do not have employees show up every day and disperse equipment to multiple locations around the Valley and then return that equipment at the end of the day. "Staging" yards do not have every piece of equipment owned, stored long term on the property. "Staging" yards do not have passenger cars and trucks, and employee rv's stored long term on the property. "Staging" yards do not have construction refuse, old tires, piles of broken concrete, railroad ties and derelict trucks and trailers stored on the property. "Staging" yards do not have material dropped and reloaded at the site daily and all day. These characteristics are the definition of a "Working equipment yard".

There is also nothing agricultural about JC Excavation. JC Excavation has been in the Valley for many years, at no time has JC Excavation represented itself in any way as agricultural in nature until the P&Z meeting when he was prompted to do so under the term "landscaping" when he started with 20% then ended with 40% as his testimony.

I want to make sure that amid the "information avalanche" you are probably receiving that I cut to the chase of what you are being asked to do. The Commissioners are being asked to override the decision of the P&Z Commission, the recommendation of the City of Nampa (and the County's agreement with the city), the code enforcement reports and the surrounding neighbors, you should consider where does the "exception" stop? How many of these appeals do you want to hear? If this business is approved, how do you decline other applications that teeter on the edge of that definition that will come to you in the future? How do you reconcile this business with the City's plan for "low density residential.

This area of Robinson is not wide-open agricultural land, it is an area that is largely residential (in fact there is an occupied residence located on the property itself) and rapidly moving even more toward a residential area. Just look at the application for residential subdivisions currently before P&Z today as well as the City of Nampa's plan.

JC runs a fine business, it is just in the wrong place, and he has other alternatives. Being forced to comply with the zoning requirements at this location is not unreasonable. In his own words at the P&Z Hearing, he indicated, if ruled against, he would simply move to another location.

Approving this application on appeal is just not an appropriate thing to do. Making this exception to the code would be an act highly disrespectful of all the surrounding property owners who do follow the code and expect others to do the same.

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Barbara Harris". The signature is fluid and cursive, with the first name being more prominent.

Barbara Harris and B Double D Ranch

August 21, 2023

RECEIVED  
AUG 23 2023  
RECEIVED

Canyon County Commissioners  
1115 Albany Street  
Caldwell, Idaho 83605

RE: Case CU2023-0002-APL Bristlecone Land Use Consulting representing JC Excavation

Ladies and Gentlemen of the Commission:

My name is Harry Robinson, I am a Civil Engineer licensed in the State of Idaho. I live with my wife, Barbara Harris across the street from the property being considered by your commission on appeal for a Conditional Use permit under a provision for "staging".

My wife has already written to you about the other issues regarding this application, her letter will be in your documents.

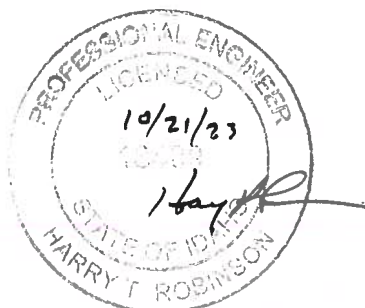
I want to add my voice, education and experience to inform you that the business being operated by JC Excavation at 80 So Robinson Rd does not conform to any definition of "staging" that I have ever encountered in my, over 50 years' experience working and managing construction projects all over the United States. This is a "working equipment yard" NOT a "staging" area.

To approve this as "Staging" would be to stretch that definition beyond recognition.

Sincerely



Harry Robinson







## PLANNING OR ZONING COMMISSION

### FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:  
**[Jimenez] – [CU2023-0002]**

The Canyon County Planning and Zoning Commission considers the following:

1) Conditional Use Permit  
 [CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW¼ of Section 29, T3N, R1W, BM, Canyon County, Idaho]

Parcel Size: 2.26 acres

#### Summary of the Record

1. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2023-0002.

#### Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
  - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
  - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics that require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance, or another detriment to persons or property in the vicinity. *See* CCZO §07-07-01.
  - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.
  - e. Use Standards – Staging Area: (1) All work shall be conducted off-site. (2) Business vehicles shall be operable and parked on site, not on a public or private road. (3) Persons not employed on the premises may visit the premises to pick up equipment and materials to be used elsewhere, including trucks offloading or transferring equipment and/or materials to other vehicles. (4) Employees may meet on the

premises to share rides to and from job sites. (5) Employees' vehicles shall be parked on-site and not on a public or private road. *See* CCZO §07-14-29.

2. The commission shall have those powers and perform those duties assigned by the board that is provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.
3. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai County Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
6. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

**The application (CU2023-0002) was presented at a public hearing before the Canyon County Planning and Zoning Commission on (06/15/2023). Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Planning and Zoning Commission decide as follows:**

#### **CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05**

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

**Conclusion:** The proposed use is permitted within the current zoning designation.

- Findings:**
- (1) Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the "A" agricultural zone subject to an approved conditional use permit.
  - (2) The Conditional Use Permit was submitted to Canyon County Development Services, on February 09, 2023.
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The request for the staging area is for the applicant's excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

- Findings:**
- (1) Letter of Intent seen in Exhibit B Attachment 1a, 1b.
  - (2) Site Plan seen in Exhibit B Attachment 1c
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (4) Evidence includes associated findings and evidence supported within this document.

##### **3. Is the proposed use consistent with the comprehensive plan?**



**Conclusion:** The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

**Findings:** (1) Below are the following Goals and Policies found to be consistent with the 2030 comprehensive plan:

<b>Chapter 1: Property Rights</b>	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
<b>Chapter 2: Population</b>	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
<b>Chapter 3: Economic Development</b>	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
<b>Chapter 4: Land Use and Community Design</b>	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.

(2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No.CU2023-0002.



(3) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The proposed use was found to be injurious to other property owners in the immediate vicinity, or negatively change the essential character of the area.

- Findings:**
- (1) The area is primarily a mix of agricultural production and residential uses making the request inconsistent with the area.
  - (2) Public testimony on the June 15<sup>th</sup>, 2023 hearing supported that the proposed use would be injurious to property owners in the immediate vicinity and negatively change the essential character of the area.
  - (3) The site visit showed the surrounding area, is clustered with agricultural production and other unpermitted businesses that utilize similar equipment and materials.
  - (4) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (6) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request.

- Findings:**
- (1) The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** As conditioned the request will need comply with Nampa Highway District requirements but the parcels do have legal access currently.

**Findings:** (1) According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit B Attachment 3b.

(2) Notice of the public hearing was provided per CCZO §07-05-01.

- Affected Agencies: February 23, 2023
- Newspaper Publication: May 05, 2023
- Property Owners (600' by mail): May 05, 2023
- Full Political Notice: May 04, 2023
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(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

(4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The request will cause undue interference with existing or future traffic patterns.

**Findings:** (1) Per public testimony at the June 15<sup>th</sup>, 2023 hearing the proposed request will cause an undue interference to existing or future traffic patterns.

(2) Notice of the public hearing was provided per CCZO §07-05-01.

- Affected Agencies: February 23, 2023
- Newspaper Publication: May 05, 2023
- Property Owners (600' by mail): May 05, 2023
- Full Political Notice: May 04, 2023
- Property Posting: May 11, 2023

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

(4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs.

**Findings:** (1) All essential services were notified and no comments of concern or objection were received.

(2) Notice of the public hearing was provided per CCZO §07-05-01.

- Affected Agencies: February 23, 2023
- Newspaper Publication: May 05, 2023
- Property Owners (600' by mail): May 05, 2023
- Full Political Notice: May 04, 2023
- Property Posting: May 11, 2023

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

(4) Evidence includes associated findings and evidence supported within this document.



**Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT  
AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. The conditions applied require future development to work with the City of Nampa.

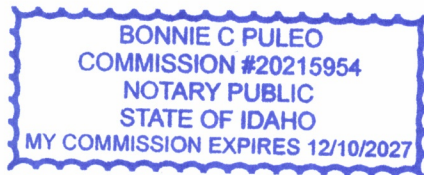
- Findings:** (1) Pursuant Canyon County Code Section 09-11-25.
- (2) The City of Nampa provided comment on the request seen in Exhibit B Attachment 3a stating they recommend denial of the application.
- (3) Notice of the hearing was provided:
- Affected Agencies: February 23, 2023
  - Newspaper Publication: May 05, 2023
  - Property Owners (600' by mail): May 05, 2023
  - Full Political Notice: May 04, 2023
  - Property Posting: May 11, 2023
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

**Order**


Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **denies** Case #CU2023-0002, a Conditional Use Permit for a Staging Area for Parcel No. R30624010. Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

1. No actions were given.

**DATED** this 6 day of July, 2023.



**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this 6<sup>th</sup> day of July, in the year 2023, before me Bonnie Puleo, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: Bonnie C. Puleo  
My Commission Expires: 12/10/2027





CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, June 15, 2023  
6:30 P.M.

---

1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

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

Staff Members Present:      Dan Lister, Planning Official  
                                         Jenna Petroll, Planner  
                                         Sage Huggins, Planner  
                                         Samantha Hammond, Planner  
                                         Michelle Barron, Planner  
                                         Deb Root, Planner  
                                         Bonnie Puleo, Hearing Specialist

**Chairman Robert 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.

- **Case No. RZ2021-0061/AG Development, LLC:** AG Development LLC, represented by Hatch Design Architecture, is requesting a conditional rezone of parcel R33952010 from an "A" (Agricultural) zone to a "CR-C-2" (Conditional Rezone - Service Commercial). The request includes a development agreement limiting the types of uses that will be allowed on the property. The applicant is proposing to have a mixed-use storage facility and a business/flex (non-retail) complex on the subject property. The 11.41-acre parcel is located at 9145 Hwy 44, Middleton; also referenced as a portion of the NE¼ of Section 09, Township 4N, Range 2W; BM; Canyon County, Idaho.

**Planner Jenna Petroll** reviewed the Staff report for the record.

**Chairman Robert Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Jeff Hatch – Applicant (Representative) – IN FAVOR – 200 W. 36<sup>th</sup> Street Boise ID 83714**

Mr. Hatch said this project is just west of Lansing Lane in an area that is fairly rural but there is a lot of development in the vicinity. The proposed site plan has a series of self-storage buildings with a leasing office and that is the project for the County to consider at this time. He showed the additional three buildings that would not be built until the property is connected to Middleton city services. They did a similar project in Nampa about a year before this one and it was requested that they go talk to the city to

allow them to provide commentary and objectives as to what they would like to see and to buy off on their annexation. He said they didn't get a response from Nampa on that project so when AG Development came to them, they advised them to talk to Middleton to understand the city's objectives and the future needs for the area. They worked with them to develop a pre-annexation agreement with the city's conditions for the property. They feel this is a property that can stand on its own, both now while it is in the County and later when it is annexed into the city. The driveway area will be improved with landscaping. They also had some initial discussions with Idaho Transportation Department about access with the secondary driveway and ITD said they do not want it. He showed an email from the city of Middleton about the pre-annexation agreement which said they have no objections to the project. All proposed utilities on site are self-sustaining now and in the future. He said future land use will be in line with this development. They have been working with some of the neighbors and will continue work with them on landscaping and lighting issues to ensure it is cohesive and meets their expectations on buffering and screening.

Commissioner Villafana asked what the plan is for filling in the drainage ditch. Mr. Hatch said they are proposing to work with the irrigation company to tile the ditch so it is a drivable surface and vehicles can drive over it. Commissioner Villafana said the traffic study indicated there would be about 400 daily trips. What challenges do they see for retail offices with such low of daily trips passing down that road? Mr. Hatch said they will talk to the city of Middleton to re-evaluate the use for the rest of the project when the property is annexed into the city.

Planner Jenna Petroll said the types of uses used for the traffic generation study were non-retail which was why there were only 400 trips. It was conditioned it as non-retail.

Commissioner Williamson asked for clarification on the driveway. Was it going to be developed all the way through so that commercial customers and businesses would be able to use it or will they install landscaping to deter people from cutting through and using it? Mr. Hatch said they will put up a couple of trees to deter people from using it. Commissioner Williamson asked Mr. Hatch to explain the plan for the utility corridor shown in exhibit C of the pre-annexation agreement. Mr. Hatch said it was their intent to provide Middleton with the easements they are requesting. Property easements are on the site plan and they will maintain those or change them based on the city's needs.

Commissioner Sheets asked Mr. Hatch about the pre-annexation agreement and the utility corridor agreement. Commissioner Sheets said the city has designated the area as residential/special use; the County identifies it as future commercial. Was it a requirement from the city imposed upon them to sign the pre-annexation agreement and utility corridor? Commissioner Sheets wanted to know what the city of Middleton required of them and why. Mr. Hatch said they went to the city to tell them what they wanted to do and to validate some of their concerns. He said if they went to the city, told them what they wanted to do and it wasn't complimentary to the city's future land use but they still wanted it, they needed to substantiate that. Mr. Hatch said they established the pre-annexation agreement to prove to the County that the city supported the development and the utility infrastructure. Commissioner Sheets emphasized that this application is going through the County and not the city of Middleton.

Commissioner Nevill said there are 13 drafted conditions of approval and asked if they were okay with the conditions including the new suggested modification? Mr. Hatch said yes, they have reviewed the 13 conditions and are comfortable with them, including the modification. Commissioner Nevill said item number two asks if the proposed use is more appropriate than the existing use. The structures are in a flood plain; can he convince Commissioner Nevill that structures in a flood plain are more appropriate than flat land in a flood plain. Mr. Hatch said he has put more storage facilities in flood plains nationwide than anything else. They don't want to put hospital or residential there. He said for use in a flood plain, they are looking at FEMA maps and benchmarks for an elevation that is appropriate for content to be stored on the site. They feel they can coordinate with FEMA on that. Commissioner Nevill asked if it was conceivable that they might raise the elevation of the building pad. Mr. Hatch replied yes and provided an example of a project in Boise in which they raised the site seven feet. Commissioner Nevill asked what



agreements would be issued between the proposed site owner and the owner of the house with the utility easement that comes through the homeowner's property? He said what if the owner of the house says 'no', you can't use their land for an easement?

Planner Jenna Petroll said the access easement and the utility easement are in two different locations. The access easement does run through the home's property and there is a current road users' maintenance agreement. The utility easement will be 100% on the applicant's property. They are not the same easement.

Commissioner Sheets asked the applicant if the city of Middleton compensated them for the pre-annexation agreement or the utility corridor agreement. Mr. Hatch said no, they did not.

**Andrew Peterson – IN FAVOR – 11865 W. Skyhaven Street Star ID 83669**

Mr. Peterson said they have been working with Canyon County and Middleton because they know they are in their impact zone. They knew the city could give a recommendation of approval or denial for this project. They met with the mayor and showed him what they wanted to do; originally it was all a storage facility. They worked it out to find out what they could do to make everyone happy. They had the idea of a storage site in front and businesses in back just to mitigate that. They received a letter from the city with a pre-annexation letter and some requirements which were easements for future sewer and water lines. They drew three lines where the easements would be which was fine as that was not going to be where buildings were going to be placed. They plan on bringing the site two feet above the base flood elevation level. There are currently two entrances to the property and they worked with Idaho Transportation Department on the best solution for those.

Commissioner Sheets asked if during the discussions with the city of Middleton they indicated that it would be required to have their buy-off as part of the application? Mr. Peterson replied no, they wanted it and just wanted to make everyone happy. Commissioner Sheets said he didn't like what happened.

**Rick York – IN FAVOR – 5340 N. Vercelli Way Meridian ID 83646**

Mr. York works for the Bank of Idaho. They have recently partnered on several self-storage facilities in the Treasure Valley and most are leased at rates of over 90%. The demand has never been greater and they don't expect that to change in the immediate future. With the amount of new residential homes in the area, a self-storage facility such as this is almost a necessity. He said they did a project in the last year and within six months it was fully leased then everyone else was put on waiting lists. Based on the studies they have received, the tenants occupying these spaces are changing. It is not just residents, they are seeing small businesses using these facilities to store goods, documents and safeguard equipment. It is more cost effective for a business to lease a self-storage unit than try to lease commercial real estate space. By adding self-storage facility such as this they think they are saying 'yes' to small business and encouraging entrepreneurs. Community banks love projects like this: they feel they are providing a service they think the community needs now and well into the future.

Chairman Sturgill said that per the development agreement, warehousing is not allowed and Mr. York's testimony said that warehousing of some nature might be in these facilities. Can he explain how this facility will be different from the areas and properties where warehousing is permitted? Mr. York explained small business using these facilities for document or equipment storage is not on the same scale as the industrial or warehousing that he is referencing.

**Steve Hammons – IN OPPOSITION – 9156 Jordan Lane Middleton ID 83644**

Mr. Hammons owns the property directly to the south. He said he is not going to oppose this; he should but the owner has the right to sell that property and as long as it is a conforming use, he doesn't feel they should stop it. He doesn't know if he is really in opposition or not. He said the bank representative was right; Republic Storage down the street was at 97% capacity in less than two years and they are doubling its size now. He has had the owners at his kitchen table and they said they would do several things to



make it right for him. It is going to affect his property value and he is going hold them to what they have said and he is hoping the Commissioners will hold them to that also.

Commissioner Sheets asked Mr. Hammons if he looked at the conditions proposed for the project. Mr. Hammons said no. Commissioner Sheets asked if those promises had been put in writing? Mr. Hammons said Andrew and Greg wrote them down and he wrote them down. Commissioner Sheets said he wanted to know if they were making promises, that they were legally enforceable promises. Mr. Hammons said they might not be legally enforceable but that he was hoping they were good men. Commissioner Sheets asked Mr. Hammons if there was anything he wanted added into the list of conditions to ensure those promises were kept. Mr. Hammons said no, he had nothing at this point. He wouldn't mind putting his list in with the County's list. Commissioner Sheets said it will go in front of the Board of County Commissioners for another hearing.

Planning Official Dan Lister explained that County code requires interaction with cities if the project is in the area of city influence and they have 30 days to review it. Recommendations that are provided are required to be given 'great weight' but don't have to be adopted. He also provided historical information on the progression of the case and why the applicant spoke to the city. The city of Middleton does show it as future residential, however they also support mixed use in that area.

**Jeff Hatch – Applicant (Representative) – REBUTTAL – 200 W. 36<sup>th</sup> Street Boise ID 83714**

Mr. Hatch said the warehousing concern can be addressed in the CC&Rs and they would be open to a condition stating that. They will continue to work with the neighbor and prior to going to the Board of County Commissioners, they will review and provide the list to the planner. The ambiguity of feedback from a city they are eventually are going to annex into is confusing as he acknowledged they are currently in the County. They are trying to play nice with everyone. He said the value in the feedback is the need for the utility easements to be strategically located and now is the opportunity to do so, but it will take decades for them to have connections there. He is open to collaborations and considerations from both a city and county standpoint to improve those.

Commissioner Williamson asked if they should add the requirement to provide the (neighbor's) list to the conditions of approval. Planning Official Dan Lister said there was no list provided to the Planning and Zoning Commission, so there was nothing on the record to provide to the Board of County Commissioners. They didn't list the items in testimony on the record, so they would have another opportunity in front of the Board of County Commissioners to provide those specifics. Commissioner Williamson stated he was just trying to avoid having the application remanded back to the Planning and Zoning Commission if a new list was provided.

Commissioner Nevill asked if warehousing might happen on site. Mr. Hutch said no, if we apply a condition that warehousing be restricted in the CC&Rs, it gives Canyon County the chance to review those CC&Rs. Mr. Hutch confirmed that warehousing was not allowed and felt the condition of approval restricting warehousing covered it.

**MOTION:** Commissioner Nevill moved to close public testimony on Case RZ2021-0061, seconded by Commissioner Mathews. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill said he was comfortable moving forward with approval for the application as long as they get the correct wording down for draft condition #4, which he believes he can provide.

Commissioner Villafana said he agrees with Commissioner Nevill: one of his big concerns was the flood zone which Mr. Hatch answered. He would also like to emphasize the need for a strong liability and flood insurance policy.

Commissioner Sheets said based on the requirements provided for them to review, he believes it fits and is within the proposed land use zones. Idaho Transportation Department said it won't cause any

traffic impacts or require any mitigation. He said he was not too thrilled with the interaction that happened with the city of Middleton. Commissioner Sheets felt the city extorted the applicants into granting the city property rights without compensating them for it. He felt the city fed them a line that their blessing on this would affect their application. They had valuable property rights that could have been negotiated in the future and they were not subject to forced annexation. The applicants wanted to do mini-storage on the entire property but the city saying they wanted to do mixed use there transformed it into requiring city services. He was very unhappy with the way it went but that is irrelevant with what is before them right now. He thinks it doesn't conflict with the Comprehensive Plan and is appropriate for the zone. The agreement is already signed with Middleton. Commissioner Dorsey confirmed that the Planning and Zoning Commission has nothing to do with the city of Middleton annexation agreement.

**MOTION:** Commissioner Nevill moved to approve Case RZ2021-0061 including the Findings of Facts, Conclusions of Law and modified Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 7 in favor 0 opposed, motion passed.

- **Case No. VAC2023-0001/Philip & Glenda Horton:** The applicants, Philip & Glenda Horton, are requesting a plat easement vacation to remove the 12 foot utility and irrigation easement along the northeast and south property boundaries located on Lot 4 Block 1 Kodiak Subdivisions. The 20 ft Easement for Kennedy Lateral will not be affected with this application. The applicant's property is located at 4832 Meadowlark Ln, Nampa, the request affects only parcel R30430103, Lot 4 Block 1 within Kodiak Subdivision); also referenced as a portion of the NW¼ of Section 08, Township 3N, Range 1W; Canyon County, Idaho.

**Planner Sage Huggins** reviewed the Staff report for the record.

**Chairman Robert Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Phil Horton – Applicant – IN FAVOR – 4832 Meadowlark Lane Nampa ID 83687**

He had no additional testimony and there were no questions from the Commissioners.

**MOTION:** Commissioner Sheets moved to close public testimony on Case VAC2023-0001, seconded by Commissioner Mathews. Voice vote, motion carried.

**DELIBERATION:**

No Commission deliberation.

**MOTION:** Commissioner Nevill moved to approve Case VAC2023-0001, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets. Roll call vote: 7 in favor 0 opposed, motion passed.

- **Case No. CU2023-0002/Alejandro Jimenez–Juan Nieves:** The applicant, Juan Nieves, is requesting a conditional use permit to allow a staging area on parcel R30621010. The property is zoned "A" (Agricultural). The property is located at 80 S Robinson Rd, Nampa, Idaho; also referenced as a



portion of the NW¼ of Section 29, T3N, R1W, Canyon County, Idaho.

**Planner Samantha Hammond** reviewed the Staff report for the record.

**Chairman Robert Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Juan Carlos Nieves – Applicant (Representative) – IN FAVOR – 3812 E. Clear Springs Dr. Nampa ID 83686**

Mr. Nieves requested the conditional use permit; he owns the excavation company. He is renting the property to hold all his trucks and equipment. When he moved in, he didn't know he needed the conditional use permit. He said the neighbors told him he didn't belong to that place and want him out. He came to the county and just wanted to do everything right and doesn't want to be breaking any laws. Not all the employees have their cars there: some employees take company pickups home so there aren't always cars parked there. He only has 5 employee cars. He said his company trucks and equipment are mostly what is seen on the property. He put the hours of operation at 8 am – 8 pm; sometimes they get off a little earlier, sometimes they get off a little later. On the same property, there is a house in the back and there are other people living there. That house is not part of his rental. He wanted to clarify that if neighbors see people on weekends, driving onto the property, it's the people living in the house in the back. Sometimes his employees will be there on Saturdays to check the equipment. He said the most important thing here is that they want to do everything right.

Commissioner Williamson asked how long he has been renting and storing the equipment on the property? Mr. Nieves said since last May. Commissioner Williamson said he was concerned about the start time: they won't be able to leave until 8:00 am. Mr. Nieves said that most guys come in at 7:45- 7:50 am and leave by 9:00 am.

Commissioner Nevill asked who owns the trailers shown in one of the photographs? Mr. Nieves replied they belong to some of his employees who asked to keep them there. Commissioner Nevill said the trailers could become a problem; it's only for staging his excavation equipment. The trailers wouldn't be included in the permission. Mr. Nieves said that wasn't a problem and they could remove them. Commissioner Nevill said there are seven conditions of approval; has he seen them? Mr. Nieves said yes. Commissioner Nevill asked if he would be okay adding a condition that would state he has to remove the trailers. Mr. Nieves said yes. Commissioner Nevill asked what would happen to his business if the conditional use permit was denied. Mr. Nieves said he might struggle a little bit until he found another place to move to. It would be hard for him. Commissioner Nevill said that he said he checks trucks on Saturday; does he do maintenance on the trucks? Mr. Nieves said that the tires are taken care of by Les Schwab and for oil changes and bigger maintenance items, he takes it to a mechanic. He fixes small things on site. Mr. Nieves said he keeps all the equipment at the back of the property to minimize any noise. Planner Samantha Hammond suggested the cleanest way to handle that would be to state all operation maintenance must happen during operating hours.

Commissioner Mathews asked how long his lease was? Mr. Nieves said they never talked about length of time. Commissioner Mathews asked if this activity was for a particular project or is it for all of their work. Mr. Nieves said he was eventually hoping to purchase his own place away from everybody and move out. Planner Samantha Hammond clarified that this conditional use permit was for the operation of his entire business, not just one project.

Commissioner Villafana asked if a landscaping business is allowed in the agricultural zone? Staff replied yes. Commissioner Villafana asked if excavating was also allowed. Planner Samantha Hammond said code is vague on what excavation is; this request is for the staging area only. Commissioner Villafana asked how much of his business is excavating versus landscaping. Mr. Nieves said 30-40% is landscaping and the rest of the work is excavating.



Planning Official Dan Lister and Samantha Hammond explained County Code for long term staging versus overnight parking.

Mr. Nieves said within a mile of his property, there are six different landscaping companies and another two excavating companies, on Robinson Road.

Chairman Sturgill asked Planner Samantha Hammond about similar conditional use permits in the area.

Ms. Hammond pointed to exhibit B(2c) which showed any conditional use permits but said the data was pulled from 2018 so it doesn't show anything since 2018. She also said there are a number of code enforcement violations in that area.

Commissioner Williamson asked Mr. Nieves if he did anything to mitigate dust when he stores dirt on the property. Mr. Nieves said not currently, because they don't haul in and out every day.

Commissioner Sheets asked the applicant if he had reviewed the staff report. Mr. Nieves responded yes. Commissioner Sheets said there are some potential impacts including movement of large vehicles and dust. There are suggested mitigations including a privacy fence; would he be willing to build a fence around the area? Mr. Nieves said he would be willing to build a berm around the area with the most noise. He didn't feel there was really heavy traffic in the morning. Commissioner Sheets asked if he would be willing to implement dust mitigation measures? Mr. Nieves said yes, he could have some of his guys water during the day.

**Mario Nieves – IN FAVOR – 823 E. Hawaii Avenue Nampa ID 83686**

Mr. Nieves said there is no work happening at the site unless they bring a dump truck to dump or pick up dirt on the site. There is no other work happening there. He said there is a lot of traffic anyway, especially because Robinson Road was closed due to a roundabout being built. That caused a lot of traffic in the area because it was closed for six months.

**Joe Palmer – IN OPPOSITION – 104 South Robinson Road Nampa ID 83687**

Mr. Palmer said he is in opposition to this because has to live next door to it. He has been in construction his whole life and he knows what it means to build a fence or a berm. A fence or berm isn't going to stop the backup alarms at 8:00 am. They have to have those because of an OSHA requirement. He said the property is an eyesore; they can't build a berm big enough to hide it. He said he didn't know how he ran the business out of two acres: it is jam packed. He doesn't want to listen to the noise. He said contamination will happen; fuel will get spilled on the ground and he doesn't want to drill another well. The roundabouts are finished on Robinson and he still had to sit for 10 minutes to get onto Robinson Road from his lane. Putting big trucks on the highway is asking for trouble.

Commissioner Nevill said the City of Nampa is recommending denial because they have a different plan for this area; what is his vision of the future of this property? Mr. Palmer said he moved to live in the country, for some peace and quiet and to raise some animals. They had no idea they would have some construction outfits move in and have to face that. He would like to see it stay the way it is. Commissioner Nevill asked if there were other construction companies on the street. Mr. Palmer said yes; Scott Construction gets a job and his equipment leaves for a couple of weeks. There isn't the coming and going every day. The former owner of that company had a conditional use permit and he thinks it transferred to the new owner.

Commissioner Williamson said it looks like he is disputing conditions #3, #4 and #7. Mr. Palmer said yes. Chairman Sturgill asked Mr. Palmer how long he had lived there. Mr. Palmer said 45 years. Chairman Sturgill asked what the subject property was used for in the past and Mr. Palmer said it was pasture.

**Barbara Harris – IN OPPOSITION – 73 South Robinson Road Nampa ID 83687**

Ms. Harris said she lives directly across the street from the subject property. She asked if they received her letter and photos. The Commissioners confirmed they did. She wanted to show them how it looked last week with photos. Planner Samantha Hammond said the new process is not to accept late exhibits



unless the Commission votes to accept them. Ms. Harris described the photos she took: there are higher weeds, additional piles of concrete and old stumps. The city of Nampa expects this to go more residential, not in the opposition direction. This business is located in a cluster of residential properties. It is noisy, dirty and dangerous. She said they do load up the equipment and leave in the morning and come back at night. The big problem, she said, is the big trucks that come and go are 15 cubic yard dump trucks and larger. Most days they bring material and dump it. They have compression brakes that slow in front of her house. She doesn't know what they are bringing in, but she is breathing it. There is all this noise including the slamming of tailgates and back up alarms. She said it is an eyesore.

**MOTION:** Commissioner Mathews moved to grant 2 more minutes of testimony to Barbara Harris, seconded by Commissioner Villafana. Voice vote, motion carried.

Ms. Harris continued: the traffic is bad and 50 mph is a minimum speed. Her real estate agent said there will be a significant change in their property values. It has changed the tenor of the neighborhood and impacted her lifestyle. She looks out her front window and sees a mess. She said this doesn't belong in the middle of a residential area and Nampa knows that. All the properties are small agricultural and residential. The traffic issue will be a huge one; if the Commissioners approve this, there will be an accident in front of her house. It is not an "if", it's a "when".

Commissioner Nevill asked if she agrees that it is low density residential. She said yes. Commissioner Nevill asked if she was aware of any other construction companies in the area. She said "Scott's" is down the road. She supported that business a few years ago but probably wouldn't now because businesses like that don't belong in a residential area. She said Scott's a totally different business: he stores his trucks at the back of the property and there is no coming and going on a daily basis.

Commissioner Williamson asked Ms. Harris about conditions of approval 3, 4 and 7. He asked if she didn't think there was any way to mitigate those issues. She said a perimeter fence isn't going to change the Comprehensive Plan and it won't affect the traffic issue. She believes it is injurious to her property and those in the immediate vicinity. She didn't have any information on the sanitary services for that property or any septic system approved for 23 employees. Her well is less than 150 feet from that property.

Chairman Sturgill asked if she was suggesting that this property is being used for more than a staging area with material was being dumped and re-loaded at the site. Ms. Harris said yes, not every day but often.

**Diana Shelubay – IN OPPOSITION – 3447 W. Remembrance Drive Meridian ID 83642**

Ms. Shelubay was there for her parents who live at 70 S. Robinson Road. She said they don't have anything against the applicants but her parents, who migrated from Ukraine decades ago, built their dream home four years ago to have it now be affected. As a realtor, she said these properties will be affected. The tenants dump a lot of concrete that doesn't get moved very often. Her kids go to her parents' house and they have to breathe the diesel fumes from the trucks. She expressed concerns about a farmer who grows corn right by the property and if diesel fuel spills, she asked what will happen to that corn?

**Juan Carlos Nieves – Applicant (Representative) – REBUTTAL – 3812 E. Clear Springs Dr. Nampa ID 83686**

Mr. Nieves said the backup alarms on the trucks only happen when they are working from that property. He said what Mrs. Parker said about the pictures, he felt like she was calling the planner a liar. He said trucks come and go and when the planner came to take the pictures, most of the trucks were gone. He acknowledged that he does have more trucks than is shown in the photos. He said he does start the trucks in the morning, but they don't run all day at that location.

Commissioner Dorsey asked him to explain the dumping and unloading on site. Is it just his trucks that are unloading? Mr. Nieves said when they are doing a job and they have extra dirt, they bring it to the yard. When they need it somewhere else, they haul it out. Commissioner Dorsey asked about other materials like concrete. Mr. Nieves said that he does dump concrete but he only dumps concrete on site when the dump is closed. Once it opens, he picks it up and hauls it off.



**MOTION:** Commissioner Williamson moved to close public testimony on Case CU2023-0002, seconded by Commissioner Mathews. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Villafana asked Planner Samantha Hammond how long would the business have to move if they were denied? Ms. Hammond replied she couldn't answer that question; the case would be turned over to Code Enforcement. Planning Official Dan Lister said it depends on how long the case has been active and how much time they have already given them to abate the situation. Commissioner Villafana asked if they could appeal to the Board of County Commissioners and the planner replied yes. Commissioner Nevill said they could put some additional conditions in the conditional use permit to mitigate all the issues but he felt this application was too flawed to fix. The biggest issue is that the City of Nampa has a different vision for the area and they have an agreement with the city to try to help each other. He didn't see overwhelming evidence that he would not want to help them with their plans for low density residential. He recognizes that by voting for denial, he is causing a significant problem for Mr. Nieves and he applauds his business ownership and that he employs people. He hopes that it is true that he moves and continues his business. He thinks the area is in transition and doesn't feel that either one of the construction outfits mentioned during testimony need to stay there. He said this is not the character of the area. He would be in favor of denial.

Commissioner Mathews said he agreed with Commissioner Nevill. He is concerned that there is no term to the lease which could mean it is a perpetual thing. He said it is inconsistent with what the city of Nampa is doing and where the area is headed. He doesn't think it is an appropriate use of the property.

Commissioner Villafana asked if they could put in a condition that as higher density of residential encroaches they would have a certain number of days to vacate, or a condition that will not allow any additional permanent structures to be put on the site. He said, as of now, Nampa doesn't have any houses out there yet. If we look at it as of right now, this business is allowed through a Conditional Use Permit. It could be years before houses are built in the area. Planner Samantha Hammond said any additional buildings put on the site would be out of the scope of the conditional use permit and they would need to come in for a building permit to do that. She said it was hard to condition city expansion as you don't know when or how that would happen. She doesn't know how code would allow that wording. There was discussion about traffic in the area.

Commissioner Williamson said this is Canyon County and while he appreciates the comments from the city of Nampa, this is the county. He was on the fence about this application. If approved, he would want see some form of mitigation for the dust and weeds.

Commissioner Dorsey asked the planner if when the city Nampa comes along, could they make another decision and say the use is no longer appropriate? The planner described the process if the property was annexed in and how the existing conditional use would be handled.

Commissioner Sheets said in the abstract, he agrees with the staff report. For this specific property, he disagrees with it. Based on the testimony heard tonight, the prior use was a pasture then the character of the property changed. He said the activities are relatively close to the other properties so he finds under condition of approval #4, it would be injurious to the area. He said that also goes with condition of approval #7; the traffic patterns. He understands they can't control what goes on down the road, but they can control what happens here. The staging area would increase the immediate area's traffic with large vehicles and equipment. He thinks there will be undue influence on current and future traffic patterns. Based on those observations and the testimony they heard, he is not in favor of this as presented.



**MOTION:** Commissioner Nevill moved to deny Case CU2023-0002 including the Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Mathews. Roll call vote: 4 in favor, 3 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 5/18/2023, seconded by Commissioner Villafana. **Commissioner Mathews, Commissioner Dorsey and Chairman Sturgill abstained from the vote.** Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planner Jenna Petroll announced that this would be her last hearing as she was moving to the East Coast. Planning Official Dan Lister listed off some future workshops with the Board of County Commissioners with local Fire Departments, the City of Middleton regarding their area of city impact and aligning the County and city's visions for the future, discussions about private roads and an outline on how they want to amend the private road county code. He summarized some past workshops with the Board of County Commissioners. Planner Michelle Barron pointed out that the Commissioners always have the decision option to table or continue the case and instruct the applicant to work with staff on any issues that may need to be addressed.

**ADJOURNMENT:**

**MOTION:** Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote motion carried. Hearing adjourned at 9:56 pm.

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

Approved this 20th day of July, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Hearing Specialist



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

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

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

Staff Members Present: Sabrina Minshall, Director of Development Services  
Dan Lister, Planning Official  
Michelle Barron, Planner (present but not called during roll call)  
Madelyn Vander Veen, Planner  
Bonnie Puleo, Hearing Specialist

**Chairman Robert 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.

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case CU2023-0002/Alejandro Jimenez – Juan Nieves. Motion seconded by Commissioner Mathews. Voice vote, motion carried.

- **Case No. OR2023-0002/Nampa Area of City Influence:** The City of Nampa is requesting to expand their impact area boundary in accordance with Idaho Code §67-6526 and Canyon County Code §09-11-27. The expansion area is approximately 2,600 acres located north of Lake Lowell.

**Planning Official Dan Lister** reviewed the Staff report for the record.

**Chairman Robert Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Doug Critchfield – Applicant (Representative) – IN FAVOR – 500 12<sup>th</sup> Ave. South, Nampa ID 83651**

Mr. Critchfield said it is important in a public setting to define what the area of city impact is. He said this is not an annexation map; it is the map utilized by the city to plan for future growth. A property owner who is outside the area of city impact can annex into the city of Nampa. He said the reason they are proposing this is it will give definition to the area for future annexation. It will also help them anticipate future economic growth, where to locate schools and transportation corridors where denser population could be located. It also helps with the budgeting and zoning of the area. He showed the current 'future land use map' and showed the area, which is a small portion of the total area of city impact. Mr. Critchfield



said in 2016, working with the County and the city of Caldwell, they developed this new area of city impact but the City Council of Nampa voted against it. They rejected the expansion because they felt it wasn't the right time, that development hadn't moved far enough in that direction and there was opposition from landowners. As a result, they pulled back from expanding the area of city influence and just allowed annexation and development in the current area of city impact. He said Nampa has developed out to Midland at this point. Most of the areas around Midway are owned by property owners who are interested in development. Mr. Critchfield has a timeline he is willing to share; it has been about a two year process. He said they have been out to the public several times and had lots of feedback. They have sent out mailers to individual property owners in the area and have done background work with the County and city of Caldwell. The city of Nampa is proposing three different land uses in this area of impact expansion: Mixed Use area (higher density), Low Density residential (which is one to two and a half dwellings per acre) and what their Comprehensive Plan calls Agricultural which is very low density residential (one dwelling unit per acre and greater). This would allow uses that would preserve large areas of agricultural land with clustered housing. He said that area is considered a buffer area between the lake and the development in Nampa. The trade area is an area that is largely served by Nampa already and access to those trade areas is on collector routes; both north and south. In terms of the geographic factors, Mr. Critchfield said they reached out to Deer Flat Wildlife Refuge on several occasions over the last two years and they never responded back to them on this proposed AOI expansion. He said as it has to be an area that can reasonably be annexed into the city in the future, there is already some development that is occurring in that area. He showed on a map how growth is already moving in that direction. Mr. Critchfield wanted to show how the expansion would help with agricultural land use: the density should occur in the city. Traditional view of agriculture is contiguous agricultural land that is production. The city's view is more of open space, farmer's markets, preservation of natural areas and local produce production. Those are two very different views of the land use and the city wishes to help the County preserve the traditional agriculture use on the periphery but within the area of impact, the city's agricultural land use is a little more dense. Mr. Critchfield said there is a compatibility issue between the city's land use decisions and the County's. Agriculture is interpreted differently so he said they need some clarity on that. They need a long term land use vision to plan for utilities, transportation and services to support the citizenry in that area. If the area of city impact is approved. He said they plan on updating their future land use map and comprehensive plan. They will also have to update the joint powers agreement and along with the County, they will be taking a more detailed look at the area and coordination with staff and officials.

Commissioner Williamson asked if what is defined as agricultural in the city is what is considered R-R and R-1 in the County. Mr. Critchfield answered yes. Commissioner Williamson also asked if they will be encouraging or requiring pre-annexation agreements for any development in the newly designated area of city impact. Mr. Critchfield responded that pre-annexation is a tool they have used to encourage growth that is more compatible with the city's requirements while it is in the County but that would be a future discussion.

Commissioner Nevill said he was concerned that there was no input from Deer Flat Wildlife Refuge. He is mostly concerned about the lower area and asked why would the city's definition of agriculture (which is R-1) be a better buffer in that area than the County's definition of agriculture? Mr. Critchfield said the city believes the areas along the lake need to be preserved and the city would like an active role in helping to preserve them as much as they can. There is an option in their agriculture designation to cluster housing on small lot clusters, while preserving large areas of land similar to Harris Ranch in Boise. The city feels that type of approach (is preferable) versus leaving it in agriculture where it could go several different directions and there could be rezone requests in that area. Commissioner Nevill asked if that southern area plan would be laid out ahead of time so someone in the future couldn't put a house there. Mr. Critchfield said if this was approved the city would work with the county to take a more detailed look at the area and develop a sub-area plan to act as an overlay to the future land use map. They feel there are



options to create that buffer. Commissioner Nevill asked staff if they would see that (sub-area) plan. Planning Official Dan Lister said yes, it would go through the hearing process. Commissioner Nevill asked what the city's vision was for what will happen to the Bowman gravel pit. Mr. Critchfield said the city has looked at that area but they haven't done any specific planning for that area. Right now, they are looking at large land use designations, but once they get into more specific plan work, they will have more of an idea of how to approach that area. Commissioner Nevill asked about a small four acre area on the map and confirmed that it was contiguous with the city.

Commissioner Sheets said based on a lot of the issues brought before the Commission, the difficulty in providing city services to one to two acre parcels, was he thinking the cluster communities is the way to provide city services to those areas? Mr. Critchfield said that is one of the approaches but the intent is preserve large tracts of land. From a financial standpoint, it makes sense to cluster them as much as they can. Commissioner Sheets asked if one to two acres lots are impractical? Mr. Critchfield said they see subdivisions that have that kind of request, but he deferred to the city engineer about the practicality of the cost.

Commissioner Villafana referenced attachment F30; he said he likes the idea of the city having higher density housing and expanding from the inside out. Those fields inside the city limits that are still being farmed; is there any incentives provided to develop those areas? Mr. Critchfield said planning responds to development requests to define where they should go to help create as much compatibility as possible. Any project has to meet the future land use map in order to not create a spot zone. He said inside the city limits, any agricultural area has to meet certain standards, outside the city limits but in the area of city impact, that could be farmed in perpetuity. The city is not going to tell farmers they have to get out because the city wants to develop it. Mr. Critchfield said there are a number of infill areas inside the city limits and they are encouraging people to infill before they move outside the city. They are not going to force people to annex in if they didn't want to unless they need to have utility connections.

Commissioner Dorsey said agriculture in a city is a little counterintuitive to him. He would feel better if it was called 'open space'. In his opinion, this is urban sprawl and is wasting agricultural land. He asked why is it called agricultural? Mr. Critchfield said at some point in the process, they posted to the community that they were changing the agricultural designation to low density residential. There was pushback from the public on changing it even though none of the definitions or terms under the title changed. Not changing the definition was largely responding to public opinion. He said responding to urban sprawl is the reason they are expanding the area of city impact; to help define land uses such that they are not creating subdivisions scattered all over the place. They are trying to grow in an orderly fashion. He said they are not interested in sprawl; they are interested in building density within the city limits and infill areas. As they slowly grow, they will have definition on what is supposed to happen in those areas.

Commissioner Williamson said he mentioned setbacks for agriculture. He asked what the setbacks are that the city imposes on distance (for agriculture). Mr. Critchfield said he didn't know but the agriculture definition is only within the city limits, not the area of city influence.

Commissioner Dorsey asked if there was concern that keeping some of the open spaces in the city impact would lead development to push further out. He asked is there anything they can do to mitigate that? Mr. Critchfield explained the annexation requirements, process and how it progresses. He said there are some enclaved areas.

Chairman Sturgill asked where their water will be drawn from to serve this area. Mr. Critchfield referred the question to the city engineer who would be testifying next. Chairman Sturgill asked if the city believed their expansion will be inhibited in the future based on the availability of water. Mr. Critchfield deferred the question to the city engineer.

**Daniel Badger – IN FAVOR – 500 12<sup>th</sup> Ave. South, Nampa ID 83651**

Mr. Badger is the city engineer who works on the city's utilities. The city's master plan determines the locations, needs and the size needed. He showed the sewer master plans on a map. He said there will be



a new lift station constructed with the Middlebury subdivision and is within the city limits. The south area will be served by the existing Middleton trunk. Mr. Badger said generally speaking, domestic water is one half mile west of Middleton Road. Their domestic water master plan identifies the need for a new groundwater source as they grow out into the area, in 2040 or beyond. The city does a water rights study and works with Idaho Department of Water Resources on their 'Reasonable Anticipated Future Needs' (RAFN) water rights study. They work on acquiring the water rights well in advance. The city is not concerned about them; they believe they have the water rights they need and are constantly evaluating that. They work with IDWR and their groundwater modeling and keep up with the anticipated uses and needs throughout the city.

**MOTION:** Commissioner Sheets moved to grant 2 more minutes of testimony to Daniel Badger, seconded by Commissioner Nevill. Voice vote, motion carried.

Mr. Badger continued: he said the population in that area is about 6000. The majority (80%) are in the city limits and the current area of city influence. In answer to the questions about the lavender farm and the unused gravel pit; they met a couple of times with the property owners and discussed converting the gravel pit to soccer fields when they were finished and continuing to operate the lavender farm.

Commissioner Nevill asked about southern area and sewer and water. He asked if they were subservice water rights. Mr. Badger said yes, it was subservice and groundwater rights and said the southern area is not where they would need those, it is likely on the western area. Commissioner Nevill asked if there were hook up fees when they extend those services. Mr. Badger said yes, and he explained the costs associated with hooking up with water. Commissioner Nevill asked if city services become available, does the city require property owners to hook up to the city. Mr. Badger said the city code does not require homeowners with an existing residence to connect to city services just because they are adjacent to those services. The only time they are forced into that is because of state code; if a sewer line becomes available and a septic system fails, they are required to connect to the city's system. Commissioner Nevill asked how the city feels about some of the enclaved areas still retaining their old septic systems. Mr. Badger said the city takes a long view on that; at some point the services will be needed. They will create a new local improvement district to fund the installation of gravity sewers and water mains. Commissioner Nevill asked what the typical hook up fee is. Mr. Badger said water, sewer and irrigation costs about \$9000 for a new connection. Commissioner Nevill asked about irrigation and how the city is moving away from the irrigation water to another (city) source. Mr. Badger said the city has its own municipal irrigation district that overlays the local flood district. He explained how someone migrates from their irrigation district to the city's irrigation district and how the resident is billed. There was additional discussion about adding soccer fields to the existing gravel pit.

Commissioner Sheets thanked Mr. Badger for the population numbers. He said those people could be politically impacted; they can't vote for people in the city but the city can influence decisions at the County level. The city is not accountable to those people who live in the area of city impact. Commissioner Sheets asked what the water treatment plant capacity was now. Mr. Badger said the water treatment plan has a capacity of 18 million gallons per day. In their waste water treatment plant master plan, they feel there is adequate capacity with future upgrades and they are currently in the middle of an upgrade now. Mr. Badger explained where the waste water treatment plant was located.

Commissioner Williamson clarified that when Mr. Badger spoke about the 'flood district', he meant the irrigation district. Commissioner Williamson asked about how the irrigation water is distributed. Mr. Badger explained how the city puts in regional pump stations that can handle a larger volume of water but are using the same canal delivery system. The canals direct the water to their pump stations and through the city's pressurized irrigation system.

Chairman Sturgill said he had some concerns about the water supply. He didn't hear about any modeling of long term water supply and the re-charge rates of aquifers. He said maybe that isn't the city's responsibility but his concern is the city will acquire water rights and provide water to these homes until



there is a water emergency in this part of the valley then there are draconian restrictions imposed on existing users because the city overbuilt based on the existing water supply. He asked if his concern was well founded. Mr. Badger said the city works with the Idaho Department of Water Resources who does the groundwater modeling to identify the city's future needs and put those into their models. They are active with them and continually updating them with their future needs, and based on those modeling activities with IDWR and those that the city has done on their own, he is comfortable that they have adequate groundwater supply to serve the needs of the area along with the city of Caldwell. He said his discussions with the individual with IDWR who does the modeling, they don't anticipate any problems within any reasonable timeframe.

Commissioner Dorsey said Idaho code says they can't deny residential or city water but they can deny new irrigation wells for agriculture. Is he talking about the water table or the ability to get a permit? Mr. Badger said he is speaking of the groundwater model and what they anticipate in that area, not the permitting of it. Commissioner Dorsey asked since they will have agriculture in Nampa, what steps were they taking to prevent individuals from taking groundwater from being used as irrigation water, using city water sources from ground water instead of surface water right irrigation. Mr. Badger said 90% of their irrigation water is surface water; there are very few irrigation wells using groundwater. They require if there are surface water rights, those must be used. If they don't have a surface water right, they must have a groundwater right to be served from the municipal irrigation district. City code does not allow the use of their domestic water system for irrigation with very few exceptions.

**Rodney Ashby – IN FAVOR – 500 12<sup>th</sup> Ave. South, Nampa ID 83651**

Mr. Ashby would like to follow up with the last discussion. Nampa was the leader last year to start a water conservation committee, bringing in agencies to identify specific ways to preserve surface water. He said they have seen a dramatic decrease in the amount of irrigation water used in the last year. When they talk about agriculture in the city, they don't want to portray it to the Commission that it is Nampa's interest to have large plots of land for agricultural production. He said that isn't the role of the city and hasn't been the role of the city. The city's use of the term 'Agriculture' is a misnomer, which is why they wanted to change the name to 'very low density residential'. The city has multiple ways to try to preserve as much agricultural land as possible, for as long as possible and one way they do that is infill development. Their comprehensive plan speaks to infill development as the primary way to preserve agricultural land. He said if it was left up to the Nampa city planners, they would grow as much density in the core of their community, as dense as reasonable, to preserve the agricultural land that would remain in the county. Mr. Ashby said development of land is not just planners' decision, it's a political process as well and has to accommodate the rights of property owners and their wishes to develop their properties.

**MOTION:** Commissioner Nevill moved to grant 2 more minutes of testimony to Rodney Ashby, seconded by Commissioner Sheets. Voice vote, motion carried.

Mr. Ashby continued: He said their hope is for a collaborative process. In 2008, they coordinated with the County and the city of Caldwell to negotiate the boundary between Caldwell and Nampa. It's their intent to continue that collaboration to plan for growth instead of being reactive to development.

Commissioner Villafana asked if the city is incentivizing anyone to build up (multi-stories) not out, especially in the downtown areas. There is a demand for condos and he saw that Nampa grew by 4000 in 2022. Mr. Ashby said there are no specific incentives but they have outlined a goal in their Comprehensive Plan to create that density. They have specific area plans identifying locations where development like that should go. They are looking at some areas in north Nampa for that. The only process incentives they have is that it is supported by their Comprehensive Plan, which was updated in 2020, and it was the first time it really addressed density.

Commissioner Sheets asked what plans the city of Nampa have for legacy areas that are ½ to 2 acres that are in the expansion area? He restated his question: What are their plans for type B and C annexations



(which are annexations without the homeowner's consent)? What is the city's plan for those parcels that are less than 5 acres and those communities? Mr. Ashby said they don't like the term 'forced annexation' and they have no intention of forcing anyone to annex in. There have been some instances in the far distant past when that occurred but that was a different council and a different time. He assures the Commissioner that his discussions with the mayor and city council indicate there are no plans for that to happen. Commissioner Sheets asked Mr. Ashby if he was talking about current property rights or speculative property rights. Mr. Ashby said he wasn't speaking about either one; it was probably both. Commissioner Sheets asked what would be the city's position if the expansion of area of influence proposal doesn't go through. Mr. Ashby said he couldn't speak from the mayor or the council's perspective but there isn't really a solution for them to do anything; it is up to the County to approve it. They will continue to plan for the area.

Commissioner Nevill said it was incredibly important to hear from the city of Nampa in writing when the Commission hears cases in their city of impact. He thinks it is a good idea that there is as much cooperation as possible between the county and the city. Mr. Ashby said their impact area requires the County contact them for comment on development in those areas whereas they are not required to contact them outside the impact area. The expansion of the impact area allows them to coordinate with the County on those issues. He agreed (it was important) and they will continue to make comments and send them to the County.

Commissioner Williamson asked about re-naming the Agricultural designation in the city. There was discussion about the designation of the agriculture zoning in the city and the history of trying to change the name. Mr. Ashby said they try to talk about "open space" versus calling it agriculture. Commissioner Williamson asked what happens to the existing homes' ground water rights if a resident ties into the City Water system. Mr. Ashby deferred to the city engineer for comment on that.

**Daniel Badger – IN FAVOR – 500 12<sup>th</sup> Ave. South, Nampa ID 83651 (recalled to testify)**

Mr. Badger said in reference to the question on groundwater rights, if a property owner is changing from an individual well to the city water system, the city requires the property owner to disconnect the well from the home so there is no cross-connection. There are some situations where they can use it for their irrigation, but in many cases, they will abandon or cap the well. The property owner would still retain the water right and could sell it, although it might not be worth much.

**Elizabeth Allen – IN FAVOR – 1330 Williams Lane Nampa ID 83686**

Ms. Allen was working at the County when they were having discussions about Nampa's area of impact expansion. County staff did a lot of work on it and she is in favor of it. She said the expansion of the area of influence could provide the opportunity for transfer of development rights for infill projects. While she was working on projects for the County she spoke to Deer Flat Wildlife Refuge and they told her that they couldn't comment on land uses that are outside their property boundaries.

Commissioner Nevill said that (no comment from Deer Flat Wildlife Refuge) didn't use to be the case. In the early 2000's, they had Refuge staff in (for hearings) quite often and they spoke passionately about the impacts of too much housing too close to the preserve. He asked what changed. Ms. Allen said the refusal to comment was a policy on the Refuge's side. She said she wasn't sure at what level that decision was made but they couldn't comment. She was told that directly by Refuge staff.

Commissioner Sheets asked where they would find that sort of documentation. Commissioner Sheets said he didn't see Deer Flat Wildlife Refuge on the notification list for this particular application. Ms. Allen said staff would have to clarify but on something like this, they would be notified. She received the information on the no comment policy via correspondence from the Wildlife Refuge when she was working for the County. It might be helpful to get a formal letter from them about their comment policy.

Commissioner Mathews asked Ms. Allen if they were putting an airport by the Refuge, the birds and airplanes would be a danger (to each other). Ms. Allen said she believes if that were to happen, the FAA

would step in and she didn't believe that their regulations would allow an airport to be located next to a wildlife refuge.

Planning Official Dan Lister reminded the Commissioners that this was simply a boundary adjustment and there was no agreement that would come with it. Any future planning will come later. The County's Comprehensive Plan would supersede it and the city of Nampa would have 30 days to comment on any development proposals.

**MOTION:** Commissioner Nevill moved to close public testimony on Case OR2023-0002, seconded by Commissioner Williamson. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill said all his concerns had been addressed and the city has answered all his questions even when the questions weren't directly related to the city of impact area expansion but were things they all wanted to know. He is most pleased with the fact that all they are doing is giving an opportunity for cooperation to occur and other final decisions will determine actual land uses. Given that, he is in favor of this proposal.

Commissioner Sheets said there are three factors to look at: trade area, the geographic factors and the areas that can be reasonably expected to be annexed into the city in the future. He said based on those three factors, sufficient evidence from the staff report and the testimony received that night exists that those three requirements are met. Based on that information, he is in favor.

**MOTION:** Commissioner Williamson moved to recommend approval of Case OR2023-0002, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Nevill. Roll call vote: 7 in favor, 0 opposed, motion passed.

- **Case No. CU2022-0031/Tyler Toups:** Anna Canning with Centurion Engineers, representing Tyler Toups, is requesting a conditional use permit for RV storage located on parcel R34738010. The requested use includes up to 48 RV, trailer, and boat spots and does not include any structures. The northern half of the parcel, which is the proposed site of the RV storage, is zoned "C-1" (Neighborhood Commercial). The subject property is located at 22906 Channel Rd, Caldwell.

**Planner Madelyn Vander Veen** reviewed the Staff report for the record.

**Chairman Robert Sturgill** affirmed the witnesses to testify.

**Testimony:**

**David Crawford – Applicant (Representative) – IN FAVOR – 2323 S. Vista Ave. #206 Boise, ID 83705**

Mr. Crawford is with Centurion Engineers. This is an outdoor storage facility and they have asked to change the hours to 8 am to 10 pm. Most storage facilities operate on a 24 hour basis, but the owner has no desire to operate that way. The owner is a long haul truck driver and he lives on the portion of the site that is zoned agricultural. They intend to comply with all the conditions of approval except for the hours of operation which they are requesting be changed. They held a neighborhood meeting on the site and most neighbors were generally in agreement, however they had a subsequent conversation with a neighbor who didn't want any development next to them. They feel a storage facility is a great neighbor; particularly one that shuts down at 10 pm. It has low traffic volumes and people just need to be able to



get there after using their boat at the lake. There will be no effluent disposal on site: it would have to be taken care of at appropriate effluent stations offsite.

Commissioner Nevill asked if there was any information on how long RVs or boats take to get up to speed if they are leaving the facility and pulling onto the highway. Do they have any concerns about concerns over traffic if they are coming west on Highway 44 and have to stop for opposing traffic? Is there any way for traffic to get around (them)? Mr. Crawford said he has no information on that, he is not a traffic analysis guy and they rely on the traffic governing body to dictate what goes on. As a civil engineering firm, what they are used to is if there are any concerns about a normal 'T type' intersection that the highway district may have, especially with special vehicles, they will impose a condition when they have the opportunity, if they believe one is required. They can ask for additional right of way or even widening of the road to add a center turn lane but they didn't see any of that here.

Commissioner Williamson asked, in his experience with highway districts, do they take future growth into consideration when they do these analyses. Mr. Crawford said in his experience, yes, they do. Over time, there is volume added to roads due to growth but they didn't see any of that here.

Commissioner Nevill asked if Mr. Crawford had been on site. Mr. Crawford said no. Commissioner Nevill pointed out that there seems to be very little shoulder on the south side of the road; did he have any idea if there was any shoulder on the north side of the road. Mr. Crawford said the person who did the site visit and was supposed to be here tonight, went on vacation. Mr. Crawford had not been to the site.

Planner Madelyn Vander Veen showed some photos that showed some room on the side of the road; Commissioner Nevill clarified that he was talking about the barrow pit.

Chairman Sturgill asked if the owner be managing the storage facility as he lives on site. Mr. Crawford said yes, he will be managing it when he is there. When he is gone, his wife will be managing it.

Commissioner Sheets clarified that there will be no services (water, sewer); it will be a concrete surface. Mr. Crawford said it will be compacted gravel and it is really only intended as a pick up and drop off location. Commissioner Sheets asked if he would oppose adding a condition #12 that stated they will actively prohibit discharge or storage of effluent on the premises. Mr. Crawford said they were not opposed to that but that he felt the biggest deterrent is just not having a place to do it. Commissioner Sheets said if he wasn't opposed to it, he is not opposed to it.

Commissioner Mathews asked if there were going to be assigned spaces. Mr. Crawford said he wasn't aware of assigned spaces.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CU2022-0031, seconded by Commissioner Villafana. Voice vote, motion carried.

#### **DELIBERATION:**

Commissioner Nevill said he was really concerned about turning off of Highway 44. He understands that Idaho Transportation Department was only concerned about signs but he feels this was a perfect example of a request that needs to be postponed until the applicant gets an answer from ITD on the turn. They do have written testimony from someone who said cars go around on the shoulder which he felt was dangerous. He has no problem with the use but he thinks there is a big problem with not getting comments from ITD on the turn. They are talking about RVs and boats which move out at 5 mph until they get up to speed. He believes they should think about postponing the item.

Commissioner Sheets said he would like to add condition #12 to it which would state, "RV storage facility shall actively discourage and prohibit any effluent discharge within the storage facility".

Director of Development Services Sabrina Minshall said the word "discourage" would be challenging but part of that is what the applicant can do to hold the person accountable. She suggested the wording that said "the applicant will add to all lease agreements a clear statements that it is not allowed or they will be removed." Commissioner Sheets provided specific wording to add to the conditions of approval regarding effluent discharge.



Commissioner Williamson said they only have testimony about other RV boat storage facilities operating 24 hours per day. He said 8 am to 10 pm makes some sense if someone is coming from Lake Lowell. He was thinking about people coming from Lake Cascade or Lake Payette, which is when the 10 pm (closing) makes a lot more sense. He said there are some places that open earlier because people want to be out and, on the road, earlier to get to their destination by 8 am. He is comfortable with the 8 am to 10 pm. Commissioner Sheets pointed out that there are three different hours of operation in the application, staff report and the conditions of approval. The planner explained the genesis of the change in hours of operation. Commissioner Sheets pointed out that with the extended hours of operation (8 am to 10 pm), the public didn't have a chance to see that and comment on those hours. He said he was comfortable with 8 am to 6 pm.

**MOTION:** Commissioner Nevill moved to postpone Case CU2022-0031 until such time as the applicant can receive from the Idaho Transportation Department an answer to the question about acceleration and turn lanes off Highway 44. Motion seconded by Commissioner Mathews. There was discussion about the motion to postpone about adding information on the extended hours. Roll call vote: 6 in favor, 1 opposed, motion passed.

**MOTION:** Commissioner Nevill later modified the motion to postpone Case CU2022-0031 to a date certain of **August 3, 2023**. Motion seconded by Commissioner Mathews. Roll call vote: 7 in favor, 0 opposed, motion passed.

#### **APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 6/1/2023, seconded by Commissioner Sheets. Voice vote, motion carried.

#### **DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planning Official Dan Lister reminded the Commission of the Board workshops coming up:

July 27<sup>th</sup> at 2:30 pm: Workshop with the city of Middleton regarding their Area of City Influence and development goals and;

August 17<sup>th</sup> at 2:30 pm: Private Road discussion.

Director of Development Services Sabrina Minshall said they are working on getting a workshop with Idaho Transportation Department and the Board which is tentatively scheduled for August 3<sup>rd</sup> at 2:30 pm. ITD reached out to Canyon County about the topic on development impact fees and proportionate shares between ITD and local cities. She said ITD is working on the third corridor study for Highway 44. She thanked Chairman Sturgill and Commissioner Mathews for attending the Fire District workshop a couple of weeks ago and discussed some of the concerns that came out of that workshop. Director Minshall said they were going back to the Board the next week and hopefully again in August to discuss the Comprehensive Plan with the Commissioners.

Commissioner Mathews and Chairman Sturgill discussed what they learned from the fire workshop including statistics about smoke alarms and fire sprinklers. There was additional discussion about some of the concerns brought up during the workshop by fire districts.

#### **ADJOURNMENT:**

**MOTION:** Commissioner Sheets moved to adjourn, seconded by Commissioner Mathews. Voice vote, motion carried. Hearing adjourned at 9:41 pm.



## Planning and Zoning Commission Canyon County Development Services Dept. Conditional Use Permit: CU2023-0002

**HEARING DATE:** 06/15/2023

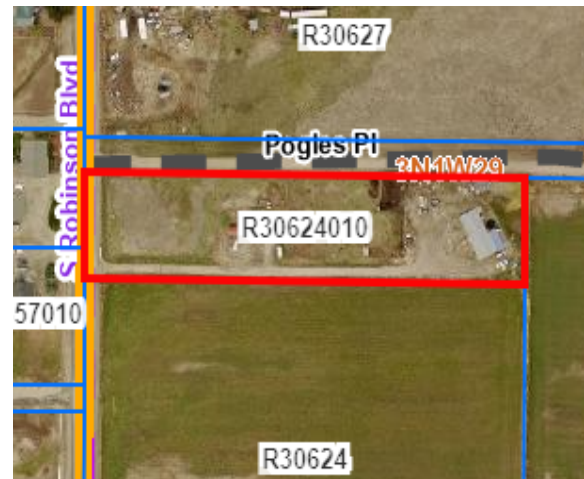
**OWNER:** Alejandro Jimenez

**APPLICANT/REP:** Juan Carlos Nieves

**PLANNER:** Samantha Hammond, Planner I

**CASE NUMBER:** CU2023-0002

**LOCATION:** 80 S Robinson Rd.  
Parcel #: R30624010



### **PROJECT DESCRIPTION:**

- The applicant, is requesting a Conditional Use Permit for a staging area, on parcel R30624010. The staging area is to be used for the applicant's excavation equipment for their business.

### **PARCEL INFORMATION:** Exhibit A (*Parcel Tool Info*)

### **PROJECT OVERVIEW**

- Juan Carlos Nieves, the applicant, is requesting a Conditional Use Permit to have a staging area on parcel R30624010, also referred to as 80 S Robinson Rd, Nampa ID.
- The proposed request as seen in the letter of intent/site plan (*Exhibit B Attachment 1a, 1b, 1c*) includes:
  - Staging Area Use: The staging area is for the storing of equipment and materials only. All work will take place off-site, the applicant states within their letter of intent
  - Hours of Operation: Monday through Friday 8:00 a.m. to 8:00 p.m.
  - Equipment: The following is the type of equipment that is utilized on this lot:
    - 8 Skid steers
    - 1 Loader
    - 8 Dump Trucks
    - 10 Flatbed Trailers
    - 8 Pickup Trucks
    - 2 Hydraulic Hammers
- Parking: The applicant shows there is adequate parking for all vehicles and employees.

### **Existing Conditions:**

- The existing conditions are primarily Agricultural and Rural residential.

**Surrounding Land Use Cases:**

- Within the surrounding area there are nine approved subdivisions. Within 1 mile of the location, there are 50 Conditional Use Permits approved or active, these cases range from prior subdivisions/land division to higher intensity uses. The case maps show a lower number of CUPs as the maps are pulled from after 2018.
- Currently on Robinson Rd. other production businesses do not seem to be permitted by a CUP.

**Access and Traffic:**

- There will be no undue interference with the existing traffic patterns. The applicant states within their letter of intent, vehicles will be taken off-site as needed on the job sites, and can sometimes be left at the site. As conditioned the applicant must comply with Nampa Highway Districts requirements.
- The road is currently being used for access by other operations that require large trucks and machinery, these include allowed uses, agricultural operations, and unpermitted uses.

**Facilities:**

- The staging area does not require additional facilities on the parcel. All affected agencies were noticed and no comments were received regarding the application.
- A porta potty will be located at the site for the employees to utilize.

**Essential Services:**

- The request is not found to create a negative impact on essential services, all essential services were noticed, and no comments were received regarding the application.

**COMPREHENSIVE PLAN ALIGNMENT:**

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.



P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
<b>Chapter 4: Land Use and Community Design</b>	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.

#### **POTENTIAL IMPACTS:**

- Potential impacts of the request are as follows:
  - Movement of large vehicles could affect the flow of traffic.
  - Dust created at the site by the movement of the heavy equipment, this can be mitigated through watering the roads and parking areas.
  - Visibility of equipment and materials, this can be mitigated through a berm or fence on the frontage of the lot.

#### **COMMENTS:**

- Agencies:
  - The City of Nampa, Exhibit B Attachment 3a
  - Nampa Highway District, Exhibit B Attachment 3b
- Public:
  - Barbara Harris #1, Exhibit B Attachment 4a
  - Barbara Harris #2, Exhibit B Attachment 4b
  - Tammy Shuyler, Exhibit B Attachment 4c

### **RECOMMENDATION:**

- Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Conditional Use Permit for a Staging Area.
- Staff is **recommending approval** of the request as provided in the draft Findings of Fact, Conclusions of Law, and Order found in *Exhibit B*.

### **DECISION OPTIONS:**

- Planning and Zoning Commission may **approve** the Conditional Use Permit with conditions; or
- The Planning and Zoning Commission may **deny** the Conditional Use Permit and direct staff to make findings of fact to support this decision; or
- The Planning and Zoning Commission may **continue the discussion** and request additional information on specific items

### **ATTACHMENTS/EXHIBITS:**

Exhibit A: Parcel Tool Report

Exhibit B: Planning and Zoning FCOs

Attachment 1: Submitted Application Materials

- a: Letter of Intent
- b: Letter of Intent #2
- c: Site Plan
- d: Land Use Worksheet
- e: Neighborhood Meeting Information

Attachment 2: Maps

- a: Aerial
- b: Vicinity
- c: Cases
- d: Zoning
- e: Canyon County Future Land Use
- f: City of Nampa Future Land Use
- g: Lot Report
- h: Gravel Pits, Dairies, Feedlots
- i: Soils
- j: Prime Farm Land
- k: Soils & Prime Farmland Report
- l: Plats & Subs

Attachment 3: Agency Comments

- a: City of Nampa
- b: Nampa Highway District

Attachment 4: Public Comments

- a: Barbara Harris #1
- b: Barbara Harris #2
- c: Tammy Shuyler

## R30624010 PARCEL INFORMATION REPORT

6/5/2023 9:46:02 AM

PARCEL NUMBER: **R30624010**

OWNER NAME: **JIMENEZ ALEJANDRO**

CO-OWNER: **LOZANO DORA LUZ MEZA**

MAILING ADDRESS: **80 S ROBINSON RD NAMPA ID 83687**

SITE ADDRESS: **80 S ROBINSON RD**

TAX CODE: **0100000**

TWP: **3N** RNG: **1W** SEC: **29** QUARTER: **NW**

ACRES: **2.26**

HOME OWNERS EXEMPTION: **No**

AG-EXEMPT: **No**

DRAIN DISTRICT: **NOT In Drain Dist**

ZONING DESCRIPTION: **AG / AGRICULTURAL**

HIGHWAY DISTRICT: **NAMPA HWY DIST**

FIRE DISTRICT: **NAMPA FIRE**

SCHOOL DISTRICT: **KUNA SCHOOL DIST**

IMPACT AREA: **NAMPA**

FUTURE LAND USE 2011-2022 : **Res**

FLU Overlay Zone Desc 2030:

FLU RR Zone Desc 2030:

FUTURE LAND USE 2030: **AG**

IRRIGATION DISTRICT: **BOISE PROJECT BOARD OF CONTROL**

FEMA FLOOD ZONE: **X** FLOODWAY: **NOT In** FLOODWAY FIRM PANEL: **16027C0403F**

WETLAND: **NOT In WETLAND**

NITRATE PRIORITY: **ADA CANYON**

FUNCTIONAL Classification: **Major Collector**

INSTRUMENT NO. : **2022014687**

SCENIC BYWAY: **NOT In Scenic Byway**

LEGAL DESCRIPTION: **29-3N-1W NW TX 18047 IN SWNW**

PLATTED SUBDIVISION:

SMALL CITY ZONING:

SMALL CITY ZONING TYPE:



### DISCLAIMER:

1. FEMA FLOOD ZONE REFERS TO THE DESIGNATED FEMA FLOOD AREAS, POSSIBLY ONE (1) OF SEVERAL ZONES - SEE FIRM PANEL NUMBER.
2. THIS FORM DOES NOT CALCULATE DATA FOR PARCELS INSIDE CITY LIMITS SO WATCH YOURSELVES.
3. WETLANDS CLASSIFICATION WILL POPULATE IF "ANY" PORTION OF SAID PARCEL CONTAINS A DELINEATED WETLAND.
4. COLLECTORS AND ARTERIALS ARE BASED ON THE SHERIFFS CENTERLINE WITH AN ADDITIONAL 100 FOOT BUFFER.

CANYON COUNTY ASSUMES NO LIABILITY FOR DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OR MISUSE OF THIS PARCEL INFORMATION TOOL OR ANY OF THE INFORMATION CONTAINED HEREIN.





**PLANNING OR ZONING COMMISSION  
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:  
**[Jimenez] – [CU2023-0002]**

The Canyon County Planning and Zoning Commission considers the following:

- 1) Conditional Use Permit  
[CU2023-0002, 80 S Robinson Rd, Nampa. (Parcel Number: R30624010), a portion of the NW<sup>1</sup>/<sub>4</sub> of Section 29, T3N, R1W, BM, Canyon County, Idaho]

Parcel Size: 2.26 acres

**Summary of the Record**

1. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2023-0002.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
  - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
  - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics that require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance, or another detriment to persons or property in the vicinity. *See* CCZO §07-07-01.
  - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development;(6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.
  - e. Use Standards – Staging Area: (1) All work shall be conducted off-site. (2) Business vehicles shall be operable and parked on site, not on a public or private road. (3) Persons not employed on the premises may visit the premises to pick up equipment and materials to be used elsewhere, including trucks offloading or transferring equipment and/or materials to other vehicles. (4) Employees may meet on the

premises to share rides to and from job sites. (5) Employees' vehicles shall be parked on-site and not on a public or private road. *See* CCZO §07-14-29.

2. The commission shall have those powers and perform those duties assigned by the board that is provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.
3. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai County Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
6. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

**The application (CU2023-0002) was presented at a public hearing before the Canyon County Planning and Zoning Commission on (06/15/2023). Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Planning and Zoning Commission decide as follows:**

#### **CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05**

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

**Conclusion:** The proposed use is permitted within the current zoning designation.

**Findings:** (1) Per Canyon County Zoning Ordinance §07-10-27, a staging area is allowed in the “A” agricultural zone subject to an approved conditional use permit.

(2) The Conditional Use Permit was submitted to Canyon County Development Services, on February 09, 2023.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

(4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The request for the staging area is for the applicant's excavation business. This includes the capability to store the necessary materials and vehicles on site, allowing the employees to come and retrieve the proper equipment and materials daily. All work is to be done off-site.

**Findings:** (1) Letter of Intent seen in Exhibit B Attachment 1a, 1b.

(2) Site Plan seen in Exhibit B Attachment 1c

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

(4) Evidence includes associated findings and evidence supported within this document.

##### **3. Is the proposed use consistent with the comprehensive plan?**

**Conclusion:** The request is consistent with seven (7) goals and ten (10) policies from the 2030 Comprehensive Plan.

**Findings:** (1) Below are the following Goals and Policies found to be consistent with the 2030 comprehensive plan:

Chapter 1: Property Rights	
<b>G1.01.00</b>	<b>Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.</b>
P1.01.01	No person should be deprived of private property without due process of law.
Chapter 2: Population	
<b>G1.02.00</b>	<b>Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition, and preserve it for future generations without becoming a public nuisance.</b>
<b>G2.02.00</b>	<b>Promote housing, business, and service types needed to meet the demand of the future and existing population.</b>
Chapter 3: Economic Development	
<b>G3.01.00</b>	<b>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</b>
P3.01.01	Direct business development to locations that can provide necessary services and infrastructure.
P3.01.02	Support suitable sites for economic growth and expansion compatible with the surrounding area.
P3.01.03	Support business development in opportunity zones, foreign trade zones, and urban renewal districts.
<b>G3.05.00</b>	<b>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</b>
Chapter 4: Land Use and Community Design	
<b>G4.01.00</b>	<b>Support livability and high quality of life as the community changes over time.</b>
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.01.02	Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.
<b>G4.03.00</b>	<b>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</b>
P4.03.01	Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
P4.04.01	Support development in locations where services, utilities, and amenities are or can be provided.

(2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No.CU2023-0002.



(3) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** Through the conditions of approval, the proposed use is not found to be injurious to other property owners in the immediate vicinity, or negatively change the essential character of the area.

- Findings:**
- (1) The area is a mix of agricultural production, residential, and scattered business making the request consistent with the area.
  - (2) Case map, Exhibit B Attachment 2c shows approved cases within the surrounding area.
  - (3) The site visit showed the surrounding area, is clustered with agricultural production and other unpermitted businesses that utilize similar equipment and materials.
  - (4) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No.CU2023-0002.
  - (6) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** Adequate sewer, water, drainage, irrigation, and utilities will be provided to accommodate the request.

- Findings:**
- (1) The request includes no increase or effect on the use of sewer, water, drainage, irrigation, and utilities. All the affected agencies were notified and no comments were received.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** As conditioned the request will need comply with Nampa Highway District requirements but the parcels do have legal access currently.

- Findings:**
- (1) According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit B Attachment 3b.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01.

- Affected Agencies: February 23, 2023
- Newspaper Publication: May 05, 2023
- Property Owners (600' by mail): May 05, 2023
- Full Political Notice: May 04, 2023
- Property Posting: May 11, 2023

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
- (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The request will not cause undue interference with existing or future traffic patterns.

- Findings:**
- (1) According to the comment letter received from Nampa Highway District, the applicant will need to comply with all standards set forth by the highway district as seen in Exhibit B Attachment 3b.
  - (2) Currently within the surrounding area, there are clusters of agricultural production as well as permitted and unpermitted uses that utilize heavy equipment and materials similar to this request.
  - (3) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (5) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** All essential services will be adequately provided to the request and will not negatively impact or require more public funding for the requested needs.

- Findings:**
- (1) All essential services were notified and no comments of concern or objection were received.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01.
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.
  - (4) Evidence includes associated findings and evidence supported within this document.

**Canyon County Code 09-11-25 (Area of City Impact Agreement) –NAMPA AREA OF CITY IMPACT  
AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25. The conditions applied require future development to work with the City of Nampa.

- Findings:**
- (1) Pursuant Canyon County Code Section 09-11-25.
  - (2) The City of Nampa provided comment on the request seen in Exhibit B Attachment 3a.
  - (3) Notice of the hearing was provided:
    - Affected Agencies: February 23, 2023
    - Newspaper Publication: May 05, 2023
    - Property Owners (600' by mail): May 05, 2023
    - Full Political Notice: May 04, 2023
    - Property Posting: May 11, 2023
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0002.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case # CU2023-0002, a conditional use permit of parcel R30624010 subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. The applicant shall comply with Nampa Highway District access requirements.
3. The frontage of the property off Robinson Rd must have a privacy berm or fence. The berm/fencing shall be maintained and kept in good repair shall be kept weed free and/or maintained.
4. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.
5. Signage shall meet CCZO §07-10-13 requirements.
6. The hours of operation shall be 8:00 a.m. to 8:00 p.m. Monday through Friday, as proposed in the applicant's letter of intent (Exhibit B Attachment 1a, 1b).
7. 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.



**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

\_\_\_\_\_  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Dear, Canyon County

I Juan Carlos Nieves (owner) of JC Excavation LLC and Mario Nieves (manager) are currently applying for a conditional use permit, we are located at 80 S Robinson Road Nampa, Idaho. We are currently renting this place from Mr. Alejandro Jimenez and Mrs. Dora Luz Meza Lozano landlords of this place. Thanks to them I have all of my equipment at this place.

Currently I have 20 employees, working for me right now, a couple of them work from different place. Three of them live on the same property (a house in the back of the property). The rest of the employees come every day to the yard. Our start time is at 8:00 am and by 9:00 am most of my employees are gone to do their job. It is a little hard to tell you guys the time we get off because it all depends on the job. We may get back to the yard between 3-8pm daily, it all depends on how busy we are at the job site. The hours change from winter to summer. These hours change from summer to wintertime. Not all employees get back at the yard at the same time. We work Monday through Friday, rarely on Saturdays but we do have a few Saturdays here and there. Currently due to the economy currently we have been working two to three days per week.

Here is a quick description of all the equipment we have right now 2 bull dozers, 3 excavators, 5 skidsteers, 1 loader, 8 dump trucks, 10 flatbed trailers. 8 pickup trucks. 2 hydraulic hammers and some buckets.

Sometimes we leave equipment at the job sites, or some employees take some pickups with them to their house.

During this time, we held two neighborhood meetings as required when applying for the permit. We sent out 20 letters to the neighbors around the area on the first meeting. From those 20 letters only 4 people showed up husband and wife and a mother and her daughter. The couple lives across the street from our work yard. The purpose of the meeting is to inform them about our intention of applying for a permit and they do not like to listen. Since the first meeting all the do argue and yell as well as insulting people who don't agree with them. They insulted the home owner calling him stupid for buying the house for a lot more of money than what the property was worth. This happened during the first meeting on 1-25-23 in which the owner wasn't present. On the 2<sup>nd</sup> meeting, we also sent 20 letters to the neighborhood area and 6 people showed up. 2 couples husband and wife's and two other guys, again the same couple from last time started yelling causing a scene. They started arguing with an older gentleman who disagreed with them. Eventually we had the meeting until the older gentleman had enough and decided to leave. When he was pulling out the angry neighbor threw a piece of paper to his car. I as the owner I don't want any problems with any of the neighbors, I don't think we are doing anything wrong. We just get out car's trucks etc. and get going to our job site we are not there making any noise. We told them if they need anything they can count on us for any needs they might need. We also want to mention that here on the Robinson road there are a couple of businesses which they also have trucks and they are located at 96 s Robinson road and 415-419 s Robinson road. Also, behind our yard there is a guy who owns a company of big trucks. I hope you guys understand that it is not our intention to bother anyone other than do our job and get to work. All I want is a place to have my equipment without bothering anyone. We are really far away from the street to the closest neighbor to be able to hear the noise when we start up our cars and trucks in the morning. Thanks for your understanding.

Sincerely, JUAN CARLOS NIEVES (OWNER) 208-401-5246

Mario Nieves (manager) 208-405-3722

Dear Canyon County,

I Juan Carlos Nieves owner of JC Excavation LLC and Mario Nieves (manager) want to give you guys a description of what type of work we do. JC Excavation does all about excavation services (mainly residential), such as basements, foundation excavation, utilities (water, sewer power), backfill and gravel prep for concrete. We also do dirt work such as hauling dirt or hauling dirt off. We are located at 80 S Robinson road and this is the reason why we are applying for a permit to be able to stay here. The yard where we are located consists of 3 different divisions. The first one is by the entrance. Here is where we storage dirt from jobs where we have dirt left over. We do not bring dirt to the yard every day, it could be once a week or once a month or not bring any at all it all depends on the job. The second part of the yard, which is in the middle, it is where we have our small office where the employees' clock in and clock out. Outside the office employees park their vehicles from Monday to Friday. Here at the office is where we have our safety meetings as well, I Juan Carlos Nieves (owner) provide all my employees a portable restroom so they can use it whenever they want while they are at the yard, the restroom is maintained weekly. We also have a dumpster where we throw away all of our trash and it is picked up weekly as well. The 3<sup>rd</sup> part of the yard away from the street and all the houses we have our trucks and equipment. This is where we store all the sewer pipes, water line, power conduit and all the materials we use. On the north east of the property along the fence we have our equipment such as skid steers and excavators as well as attachments such as buckets and hydraulic hammers. All of these things we have them at 80 S Robinson road in Nampa, ID if you have any questions don't hesitate to ask.

Sincerely, Juan Carlos Nieves (owner) 208-401-5246

Mario Nieves (Manager) 208-405-3722







**LAND USE WORKSHEET****CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx)

Phone: 208-454-7458

Fax: 208-454-6633

**LAND USE WORKSHEET**

Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

**PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:****GENERAL INFORMATION****1. DOMESTIC WATER:** ☒ Individual Domestic Well ☐ Centralized Public Water System ☐ City☐ N/A – Explain why this is not applicable: \_\_\_\_\_☐ How many Individual Domestic Wells are proposed? 2**2. SEWER (Wastewater)** ☒ Individual Septic ☐ Centralized Sewer system☐ N/A – Explain why this is not applicable: \_\_\_\_\_**3. IRRIGATION WATER PROVIDED VIA:**☐ Surface ☒ Irrigation Well ☐ None**4. IF IRRIGATED, PROPOSED IRRIGATION:**☐ Pressurized ☐ Gravity**5. ACCESS:**☐ Frontage ☐ Easement Easement width \_\_\_\_\_ Inst. # \_\_\_\_\_**6. INTERNAL ROADS:**☐ Public ☒ Private Road User's Maintenance Agreement Inst # \_\_\_\_\_**7. FENCING**☐ Fencing will be provided (Please show location on site plan)

Type: \_\_\_\_\_ Height: \_\_\_\_\_

**8. STORMWATER:**☒ Retained on site ☐ Swales ☐ Ponds ☐ Borrow Ditches☐ Other: \_\_\_\_\_**9. SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY:** (i.e. creeks, ditches, canals, lake)N/A

## RESIDENTIAL USES

### 1. NUMBER OF LOTS REQUESTED:

- ☐ Residential \_\_\_\_\_ ☐ Commercial \_\_\_\_\_ ☐ Industrial \_\_\_\_\_  
☐ Common \_\_\_\_\_ ☐ Non-Buildable \_\_\_\_\_

### 2. FIRE SUPPRESSION:

- ☐ Water supply source: well

### 3. INCLUDED IN YOUR PROPOSED PLAN?

- ☐ Sidewalks ☐ Curbs ☐ Gutters ☒ Street Lights ☐ None

## NON-RESIDENTIAL USES

### 1. SPECIFIC USE: \_\_\_\_\_

### 2. DAYS AND HOURS OF OPERATION:

- ☐ Monday 8:00 to 8:00  
☐ Tuesday 8:00 to 8:00  
☐ Wednesday 8:00 to 8:00  
☐ Thursday 8:00 to 8:00  
☐ Friday 8:00 to 8:00  
☐ Saturday \_\_\_\_\_ to \_\_\_\_\_  
☐ Sunday \_\_\_\_\_ to \_\_\_\_\_

### 3. WILL YOU HAVE EMPLOYEES? ☒ Yes If so, how many? 20 ☐ No

### 4. WILL YOU HAVE A SIGN? ☒ Yes ☐ No ☒ Lighted ☐ Non-Lighted

Height: 3.3 ft Width: 6.6 ft. Height above ground: 2 ft

What type of sign: Tarp Wall \_\_\_\_\_ Freestanding \_\_\_\_\_ Other \_\_\_\_\_

### 5. PARKING AND LOADING:

How many parking spaces? For employees 20 For the company 20 or more

Is there is a loading or unloading area? Yes



**ANIMAL CARE RELATED USES**

**1. MAXIMUM NUMBER OF ANIMALS:** N/A

**2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?**

☐ Building    ☐ Kennel    ☐ Individual Housing    ☐ Other N/A

**3. HOW DO YOU PROPOSE TO MITIGATE NOISE?**

☐ Building    ☐ Enclosure    ☒ Barrier/Berm    ☐ Bark Collars

**4. ANIMAL WASTE DISPOSAL**

☐ Individual Domestic Septic System    ☐ Animal Waste Only Septic System

☐ Other: N/A

**NEIGHBORHOOD MEETING SIGN-UP****CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx)

Phone: 208-454-7458

Fax: 208-454-6633

**NEIGHBORHOOD MEETING SIGN UP SHEET****CANYON COUNTY ZONING ORDINANCE §07-01-15**

Applicants shall conduct a neighborhood meeting for any proposed comprehensive plan amendment, zoning map amendment (rezone), subdivision, variance, conditional use, zoning ordinance map amendment, or other requests requiring a public hearing.

**SITE INFORMATION**

Site Address: <u>80 s Robinson Rd</u>	Parcel Number: <u>R 30624010</u>	
City: <u>Nampa</u>	State: <u>Idaho</u>	ZIP Code: <u>83686</u>
Notices Mailed Date: <u>01-27-2023</u>	Number of Acres:	Current Zoning:
Description of the Request:		

**APPLICANT / REPRESENTATIVE INFORMATION**

Contact Name: <u>Juan Carlos Nieves</u>		
Company Name: <u>JC EXCAVATION LLC</u>		
Current address: <u>80 s Robinson Rd</u>		
City: <u>Nampa</u>	State: <u>Id</u>	ZIP Code: <u>83686</u>
Phone:	Cell: <u>(208) 401-5246</u>	Fax:
Email:		

**MEETING INFORMATION**

DATE OF MEETING: <u>01-25-2023</u> <u>02-04-2023</u>	MEETING LOCATION: <u>80 S Robinson Rd</u>	
MEETING START TIME: <u>5:00 pm</u> <u>5:30 pm</u>	MEETING END TIME: <u>5:15 pm</u> <u>6:00 pm</u>	
ATTENDEES: <u>2 Neighbors (first meeting)</u> <u>6 Neighbors (second meeting)</u>		
NAME (PLEASE PRINT)	SIGNATURE:	ADDRESS:
1. <u>Grant Peterson</u>	<u>Grant Peterson</u>	<u>74 S. Robinson Rd</u>
2. <u>Michael Koehn</u>	<u>Michael Koehn</u>	<u>87 S Robinson Rd</u>
3. <u>Nicole Koehn</u>	<u>Nicole Koehn</u>	<u>81 S. Robinson Rd</u>
4. <u>Danara Harris</u>	<u>Danara Harris</u>	<u>86 S Robinson Rd</u>
5. <u>Harvey Robinson</u>	<u>Harvey Robinson</u>	<u>73 S. Robinson Rd</u>
6.		
7.		
8.		
9.		

**Notice of Neighborhood Meeting**  
**Conditional Use Permit**  
**Pre-application requirement for a Public Hearing**

Date

Dear Neighbor,

We are in the process of submitting an application for a Conditional Use Permit (*or variance, zoning ordinance map amendment, expansion or extension of nonconforming uses, etc.*) to Canyon County Development Services (DSD). One of the requirements necessary prior to submitting the application is to hold a "neighborhood meeting" and provide information to our surrounding neighbors (Canyon County Zoning Ordinance § 07-01-15).

This meeting is for informational purposes and to receive feedback from you as we move through the application process. This is **not** a Public Hearing before a governing body of the County. Once our application has been submitted and processed, a public hearing date will be scheduled. Prior to the scheduled date you will receive an official notification from Canyon County DSD regarding the Public Hearing via postal mail, newspaper publication, and/or a display on the property for which the Conditional Use Permit (or other case type) is applied.

The Neighborhood Meeting details are as follows:

Date: 01-25-2023

Time: 5:00 pm

Location: 80 S Robinson Road

Property description:

First meeting

The project is summarized below:

**Site Location:**

**Proposed access:**

**Total acreage:**

**Proposed lots:**

We look forward to the neighborhood meeting and encourage you to attend. At that time we will answer any questions you may have.

Please do **not** call Canyon County Development Services regarding this meeting. This is a PRE-APPLICATION requirement and we have not submitted the application for consideration at this time. The County currently has no information on this project.

If you have any questions prior to the meeting, please contact me at (phone, email, written correspondence).

Sincerely,



`01-23-23

**From: Juan Carlos Nieves**

Owner JC EXCAVATION LLC 80 S Robinson Road Nampa ID 83687

**To: All Neighbors**

Dear Neighbors

My Name is Juan Carlos owner of JC Excavation LLC, my managers name is Mario and we both would like to inform you about our move to the neighborhood at 80 S Robinson Road. We are submitting an application for a conditional use permit to Canyon County Development services. We would like to have a neighborhood meeting for information purposes and to receive feedback from you as we moved on with the application process. We would like to explain what type of work we do, and what our schedule looks like. We will be discussing our employees' and introducing ourselves to all of you. We want to explain what JC Excavation is all about. We hope to see you there on Wednesday January 25<sup>th</sup> at 5:00 PM

This was our first meeting

Sincerely,

Juan Carlos Nieves

Owner of JC EXCAVATION LLC

**Notice of Neighborhood Meeting  
Conditional Use Permit  
Pre-application requirement for a Public Hearing**

Date

Dear Neighbor,

We are in the process of submitting an application for a Conditional Use Permit (*or variance, zoning ordinance map amendment, expansion or extension of nonconforming uses, etc.*) to Canyon County Development Services (DSD). One of the requirements necessary prior to submitting the application is to hold a "neighborhood meeting" and provide information to our surrounding neighbors (Canyon County Zoning Ordinance § 07-01-15).

This meeting is for informational purposes and to receive feedback from you as we move through the application process. This is **not** a Public Hearing before a governing body of the County. Once our application has been submitted and processed, a public hearing date will be scheduled. Prior to the scheduled date you will receive an official notification from Canyon County DSD regarding the Public Hearing via postal mail, newspaper publication, and/or a display on the property for which the Conditional Use Permit (or other case type) is applied.

The Neighborhood Meeting details are as follows:

Date: 02-07 2023  
Time: 5:30 pm  
Location: 80 S Robinson Road  
Property description:

Second meeting

The project is summarized below:

Site Location:  
Proposed access:  
Total acreage:  
Proposed lots:

We look forward to the neighborhood meeting and encourage you to attend. At that time we will answer any questions you may have.

Please do **not** call Canyon County Development Services regarding this meeting. This is a PRE-APPLICATION requirement and we have not submitted the application for consideration at this time. The County currently has no information on this project.

If you have any questions prior to the meeting, please contact me at (phone, email, written correspondence).

Sincerely,

01/27/23

80 S Robinson Road  
Nampa ID 83686

Dear Recipient:

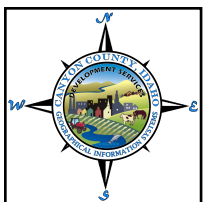
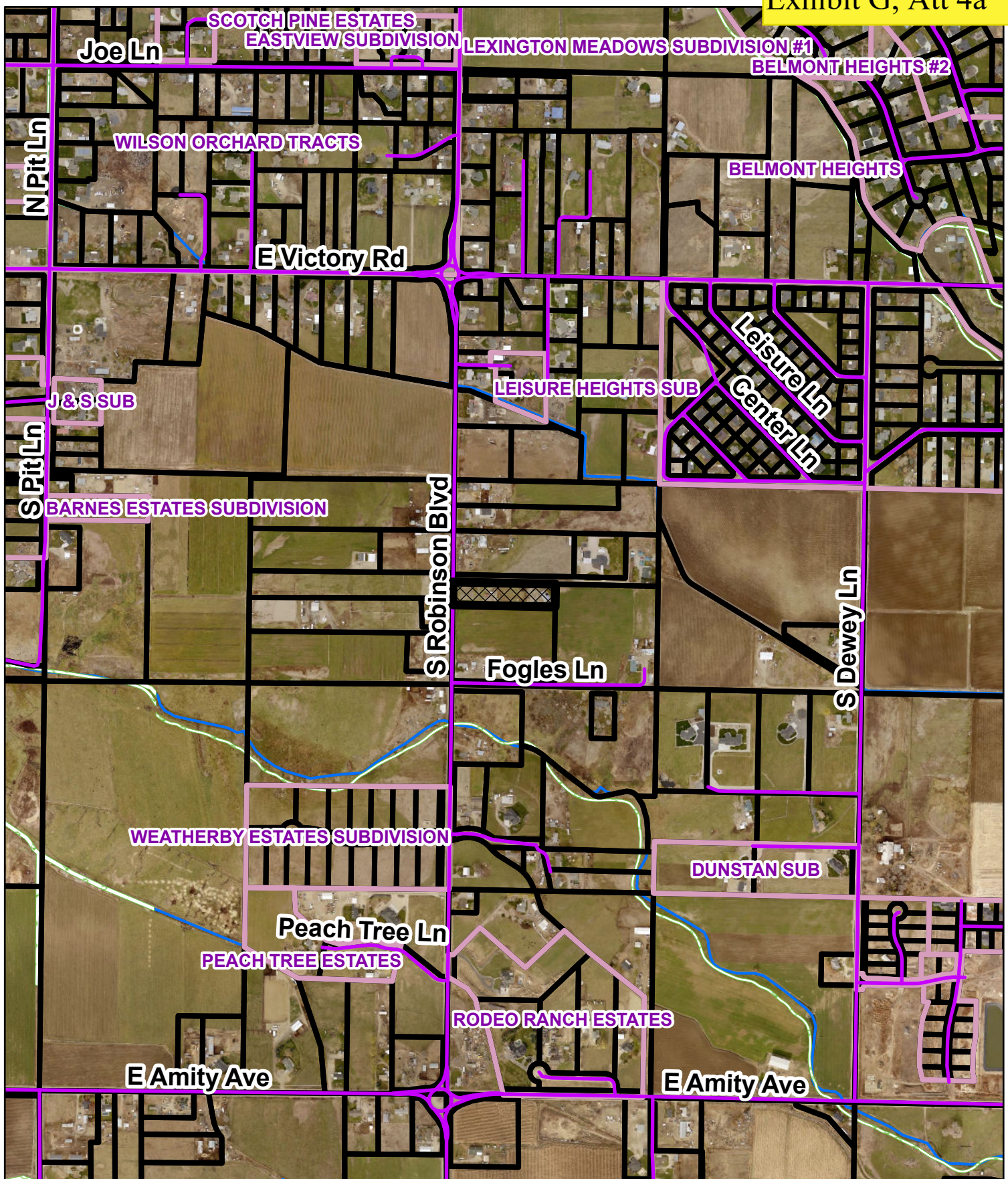
We will be having another neighborhood meeting at 80 S Robinson Road on Tuesday February 7th. We made a mistake during the first letter we sent out, we needed to give 10 days' notice instead of two. This meeting is for the pre-application requirements for a public hearing. We are applying for a conditional use permit with the Canyon County development services and are required to have this meeting. This meeting is to inform you about our company and any questions you may have for us. We want to receive feedback from you as well. Juan Carlos, owner of JC Excavation, will be there as well as Mario, his manager, to answer all your questions. Please feel free to join us if you have time and we will see you there.

*This was our second meeting*

Sincerely,

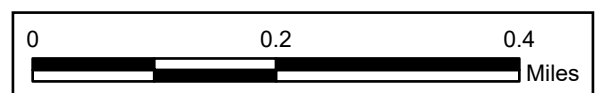
Juan Carlos Nieves (OWNER)



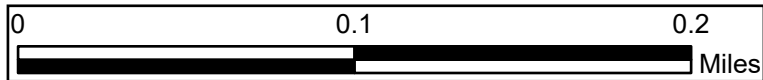
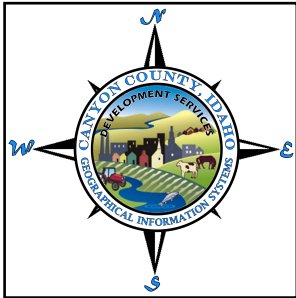
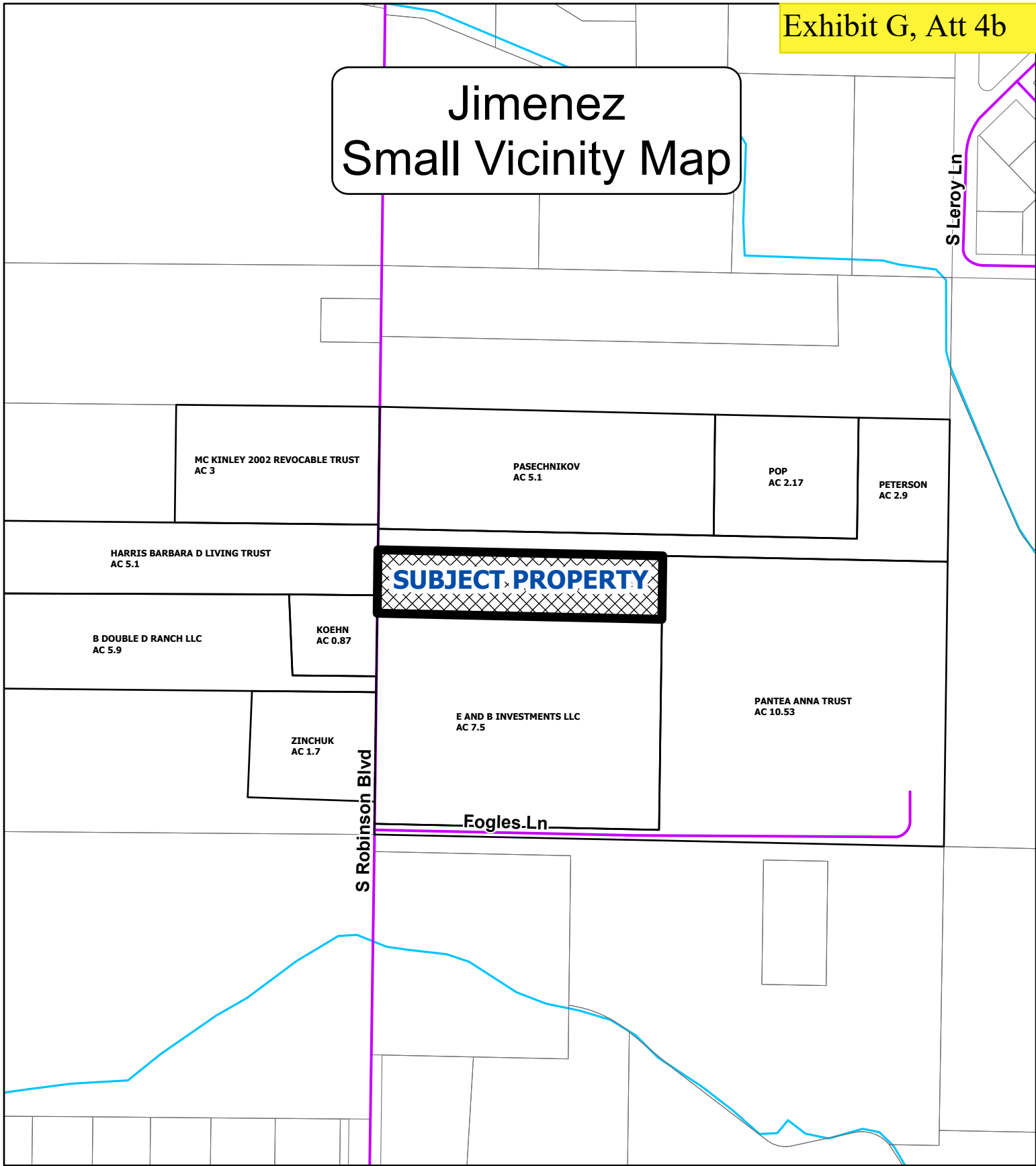


### Legend

-  Wetlands
-  City\_Limits



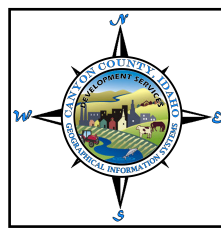
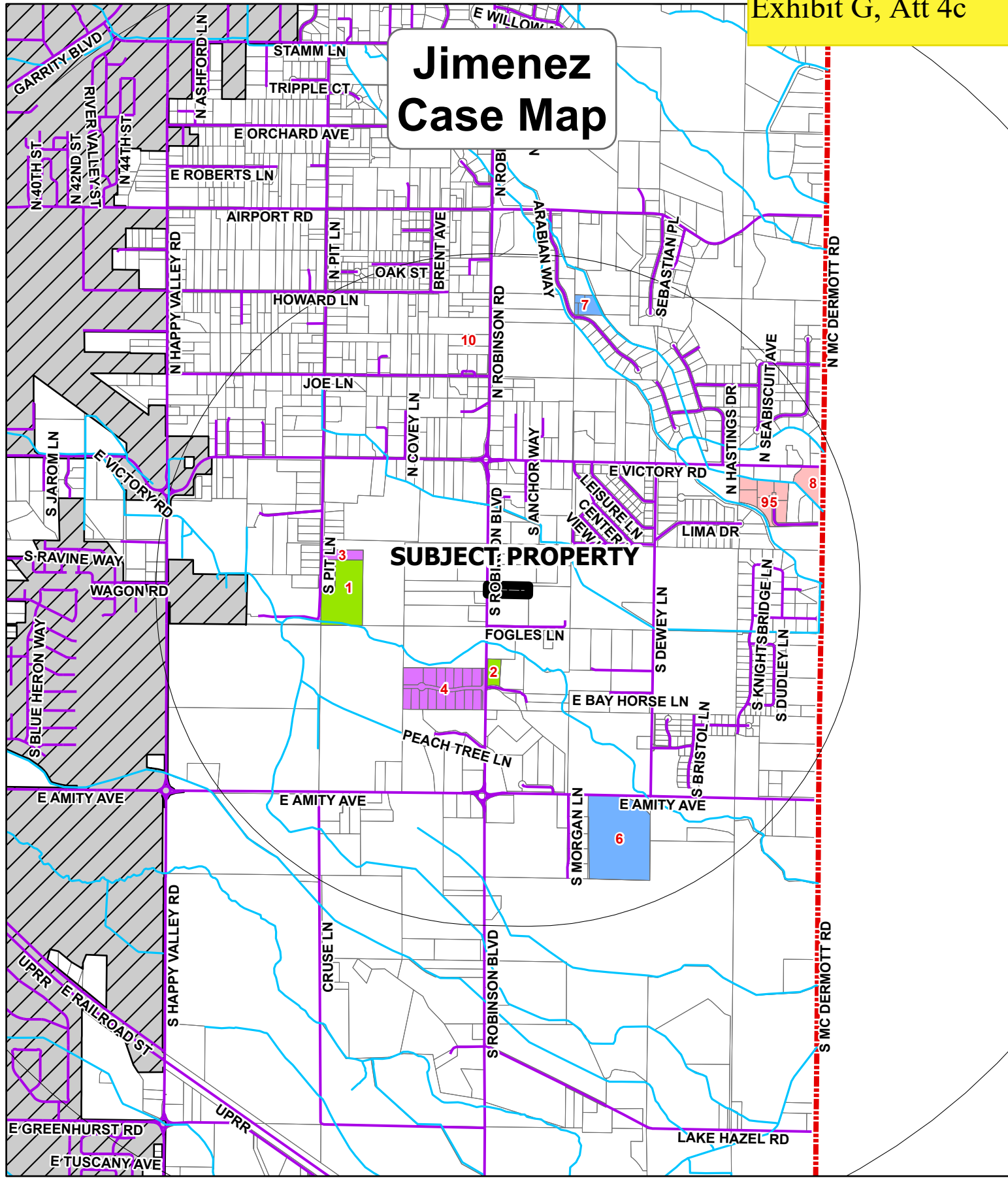
# Jimenez Small Vicinity Map








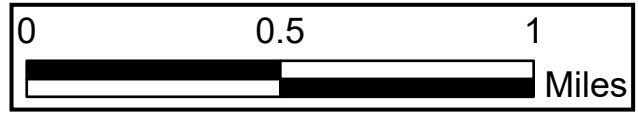


# Jimenez Case Map

**SUBJECT PROPERTY**

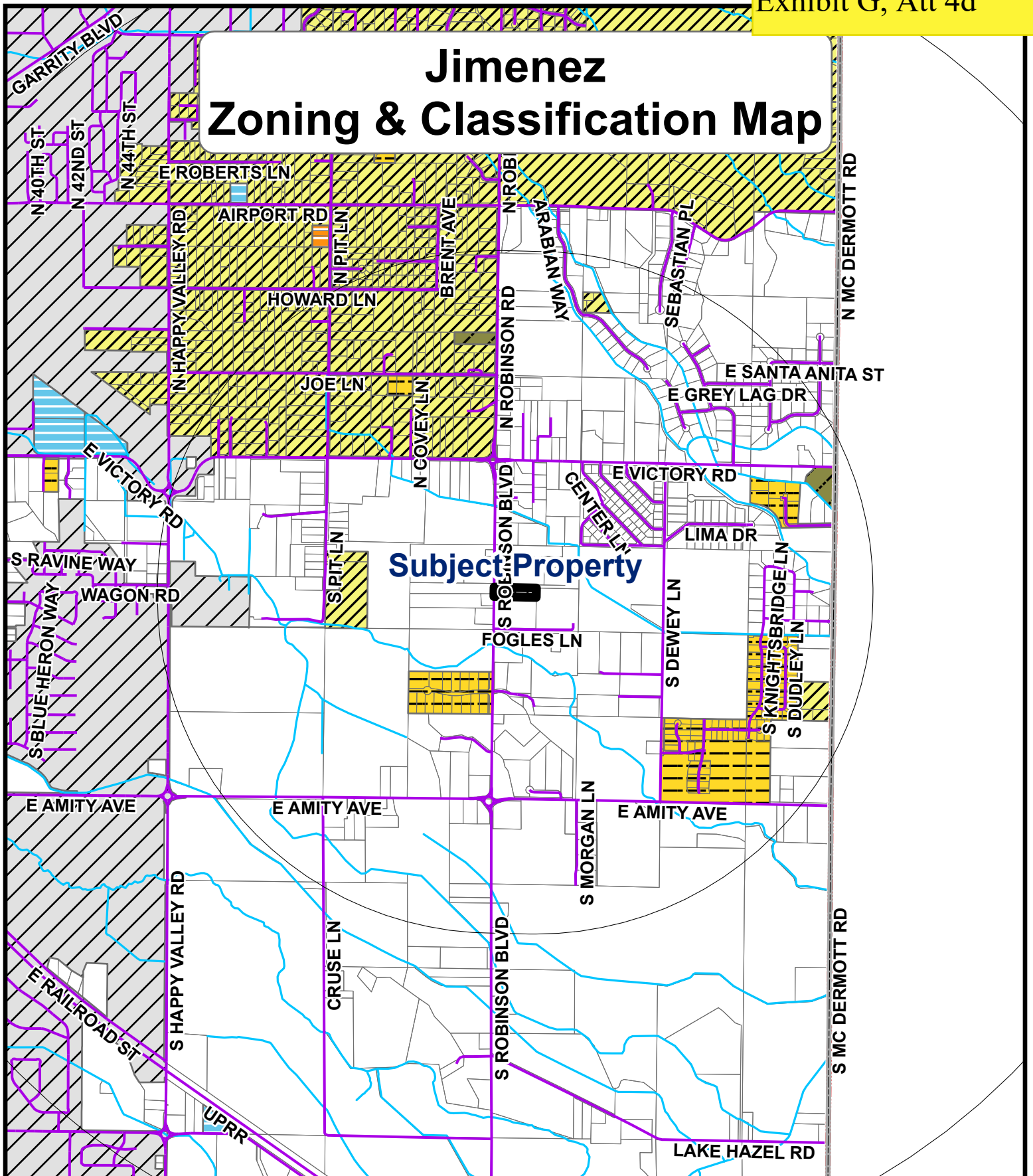


YEAR			
	2018		2021
	2019		2022
	2020		

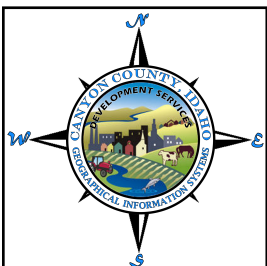




# Jimenez Zoning & Classification Map

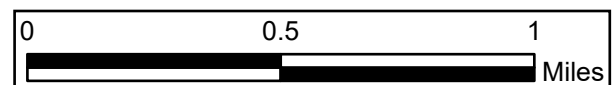


**Subject Property**

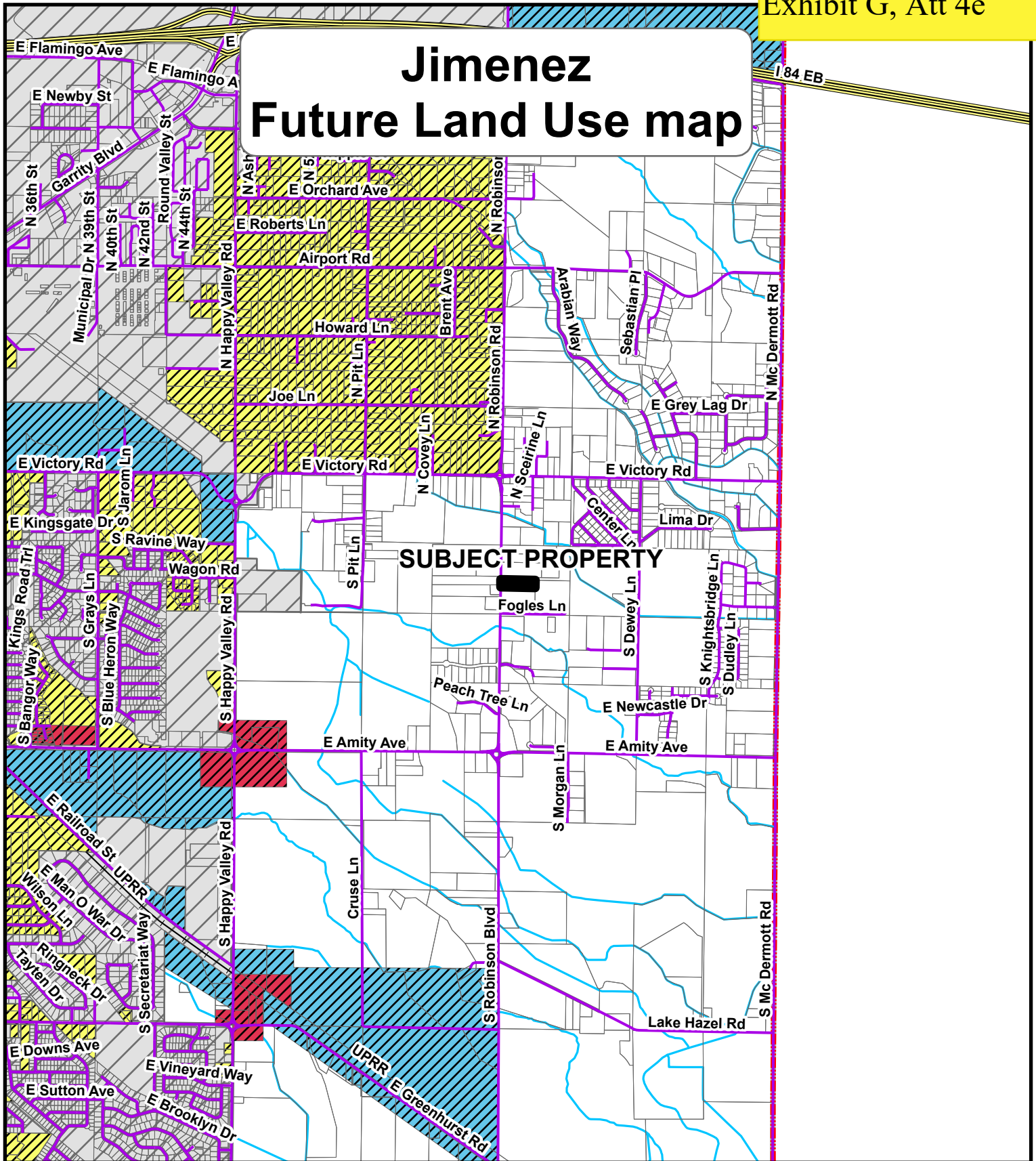


## ZONING

	RR		R2		C2		M2
	CR-RR		C		CR-C2		AG
	R1		C1		M1		
	CR-R1		CR-C1		CR-M1		



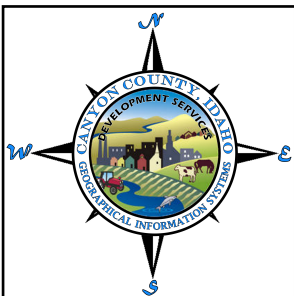
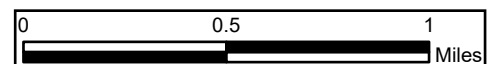
# Jimenez Future Land Use map



## Legend

Future Land Use 2030

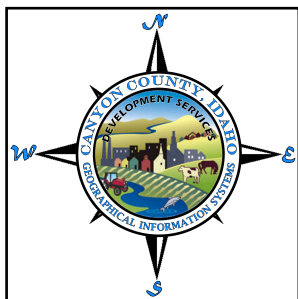
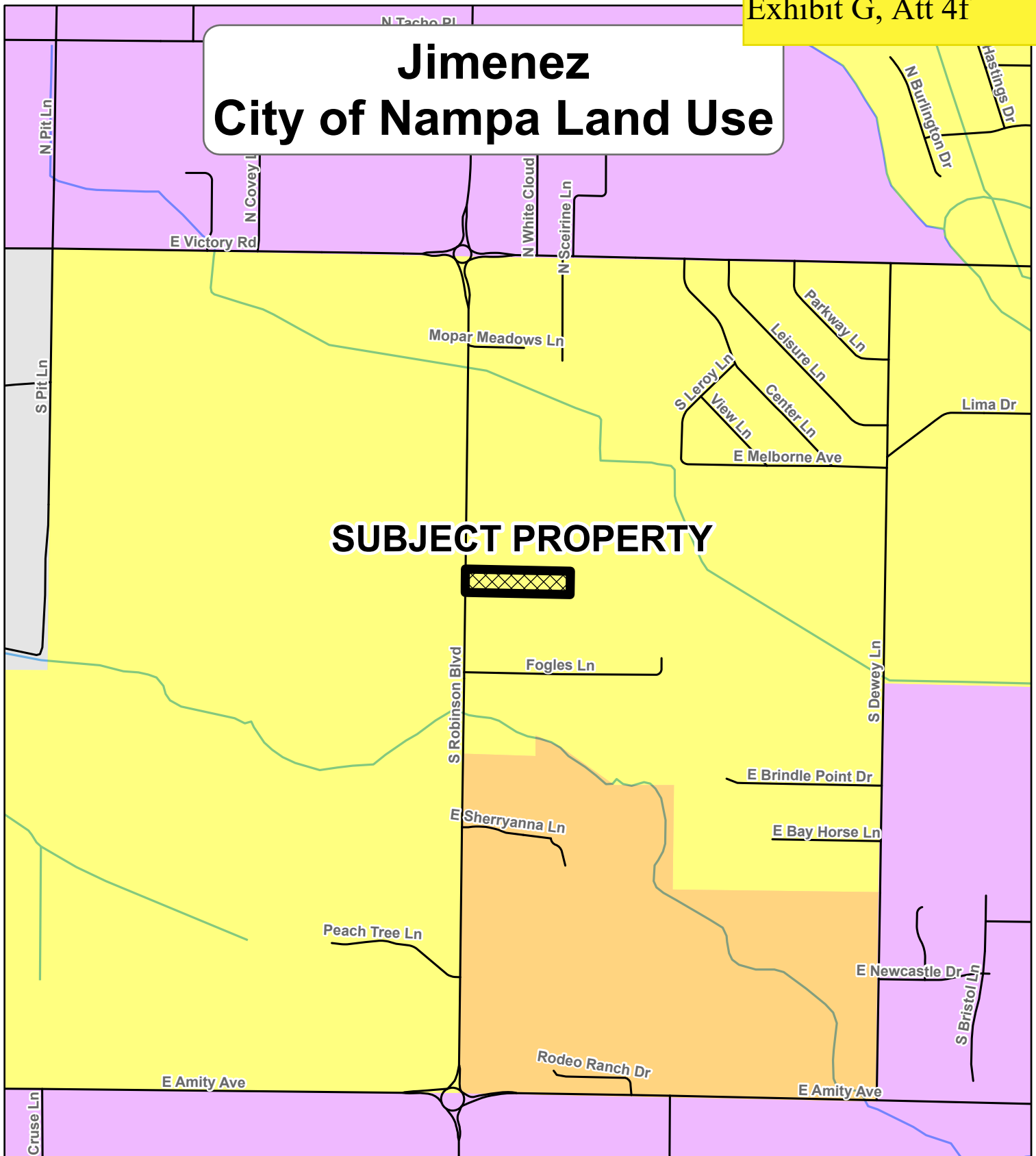
- COMMERCIAL
- INDUSTRIAL
- RESIDENTIAL



# Jimenez

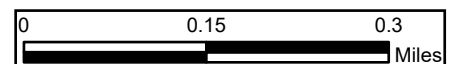
## City of Nampa Land Use

**SUBJECT PROPERTY**



### NampaCompPlan

- Agricultural
- Airport
- Commercial
- Downtown
- Education, Public Administration, Healthcare and Other Institutions
- Industrial
- Parks
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Residential Mixed Use
- Community Mixed Use





## SUBDIVISION & LOT REPORT

NUMBER OF SUBS	ACRES IN SUB	NUMBER OF LOTS	AVERAGE LOT SIZE	
39	888.43	771	1.15	
NUMBER OF SUBS IN PLATTING	ACRES IN SUB	NUMBER OF LOTS	AVERAGE LOT SIZE	
0	0	0	0	
NUMBER OF LOTS NOTIFIED	AVERAGE	MEDIAN	MINIMUM	MAXIMUM
20	5.87	5.10	0.33	20.14
NUMBER OF MOBILE HOME PARKS	ACRES IN MHP	NUMBER OF SITES	AVG HOMES PER ACRE	MAXIMUM
0	0	0	0	0

## PLATTED SUBDIVISIONS

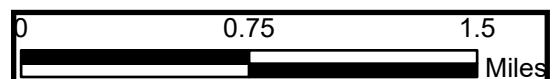
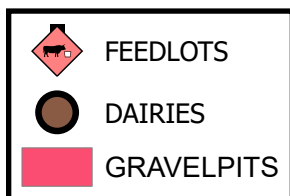
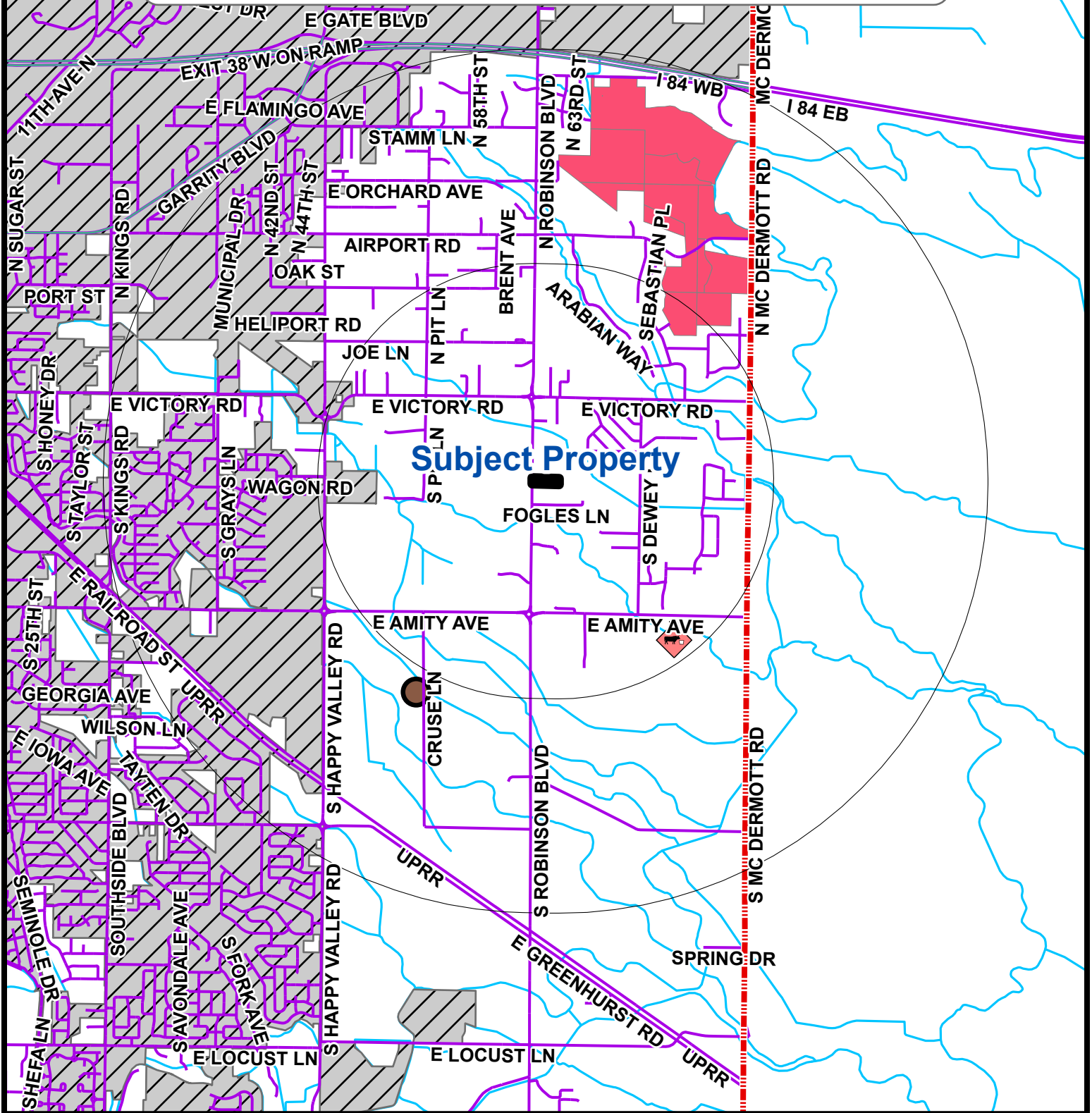
SUBDIVISION NAME	Label	LOCATION	ACRES	NO. OF LOTS	AVERAGE LOT SIZE	CITY OF...	Year
RODEO RANCH ESTATES	1	3N1W29	22.54	7	3.22	COUNTY (Canyon)	2001
SCOTCH PINE ESTATES	2	3N1W19	4.20	4	1.05	COUNTY (Canyon)	2004
SUNSET PARADISE SUB	3	3N1W29	2.76	2	1.38	COUNTY (Canyon)	2002
VICTORY HEIGHTS SUB	4	3N1W29	38.36	29	1.32	COUNTY (Canyon)	1970
WAR EAGLE MEADOWS	5	3N1W30	11.36	9	1.26	COUNTY (Canyon)	1997
BELMONT HEIGHTS #2	6	3N1W20	39.53	22	1.80	COUNTY (Canyon)	2002
BELMONT HEIGHTS #3	7	3N1W20	51.05	42	1.22	COUNTY (Canyon)	2004
CLARK THEURER REPLAT	8	3N1W19	9.49	11	0.86	COUNTY (Canyon)	1972
CLARK THEURER #2	9	3N1W19	20.03	45	0.45	COUNTY (Canyon)	1977
COUNTRY MEADOWS	10	3N1W19	6.69	19	0.35	COUNTY (Canyon)	1992
EAGLE HEIGHTS 1ST DIV	11	3N1W19	76.50	64	1.20	COUNTY (Canyon)	1909
J & S SUB	12	3N1W30	1.99	2	1.00	COUNTY (Canyon)	2004
LEISURE HEIGHTS SUB	13	3N1W29	40.70	78	0.52	COUNTY (Canyon)	1972
PEACH TREE ESTATES	14	3N1W30	7.73	2	3.86	COUNTY (Canyon)	1998
DUNSTAN SUB	15	3N1W29	10.24	2	5.12	COUNTY (Canyon)	2006
WAYNE RUSSELL SUB	16	3N1W30	19.08	4	4.77	COUNTY (Canyon)	2005
EASTVIEW SUBDIVISION	17	3N1W19	4.76	4	1.19	COUNTY (Canyon)	2006
LEXINGTON MEADOWS SUBDIVISION #1	18	3N1W20	30.93	29	1.07	COUNTY (Canyon)	2006
SCHWISOW POINTE SUB	19	3N1W20	8.67	2	4.34	COUNTY (Canyon)	2005
BELMONT HEIGHTS	20	3N1W20	32.40	29	1.12	COUNTY (Canyon)	2001
JAIALDI ESTATES SUBDIVISION	21	3N1W20	18.36	14	1.31	COUNTY (Canyon)	2007
BRITTANIA HEIGHTS SUBDIVISION	22	3N1W29	35.86	34	1.05	COUNTY (Canyon)	2008
HILL AND PETTY ESTATES SUB	23	3N1W19	3.47	2	1.73	COUNTY (Canyon)	2005
SUNSET PARADISE SUBDIVISION NO. 2	24	3N1W35	7.24	3	2.41	COUNTY	2010
WHISPERING PINES GLEN SUBDIVISION	25	3N1W29	2.92	2	1.46	COUNTY (Canyon)	2011
BRITTANIA HEIGHTS SUBDIVISION NO. 2	26	3N1W29	13.30	26	0.51	COUNTY (Canyon)	2017
BASIN VIEW SUBDIVISION	27	3N1W29	7.78	3	2.59	COUNTY (Canyon)	2018
BRITTANIA HEIGHTS SUBDIVISION NO. 3	28	3N1W29	10.21	23	0.44	COUNTY (Canyon)	2018
WILSON ORCHARD TRACTS	29	3N1W19	221.59	128	1.73	COUNTY (Canyon)	1917
NAMPA ORCHARD TRACTS	30	3N2W25	60.51	22	2.75	COUNTY (Canyon)	1909
BRITTANIA HEIGHTS SUBDIVISION NO. 4	31	3N1W29	10.80	26	0.42	COUNTY (Canyon)	2019
BARNES ESTATES SUBDIVISION	32	3N1W30	2.39	1	2.39	COUNTY (Canyon)	2020
BRITTANIA HEIGHTS SUBDIVISION NO. 5	33	3N1W29	4.75	13	0.37	COUNTY (Canyon)	2021
BRITTANIA HEIGHTS SUBDIVISION NO. 6	34	3N1W29	0.73	2	0.36	COUNTY (Canyon)	2021
BRITTANIA HEIGHTS SUBDIVISION NO. 4	35	3N1W29	10.80	26	0.42	COUNTY (Canyon)	2019
BRITTANIA HEIGHTS SUBDIVISION NO. 7	36	3N1W29	5.39	13	0.41	COUNTY (Canyon)	2022
WINDMILL RANCH SUBDIVISION	37	3N1W29	10.72	7	1.53	COUNTY (Canyon)	2022
RED COW FOLD SUBDIVISION	38	3N1W20	2.47	2	1.23	COUNTY (Canyon)	2023
WEATHERBY ESTATES SUBDIVISION	39	3N1W30	20.14	18	1.12	COUNTY (Canyon)	2023

## SUBDIVISIONS IN PLATTING

SUBDIVISION NAME	ACRES	NO. OF LOTS	AVERAGE LOT SIZE

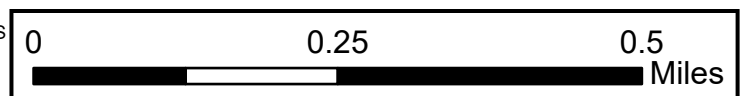
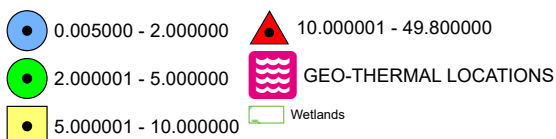
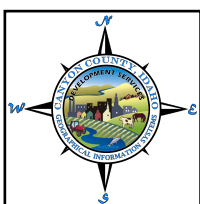
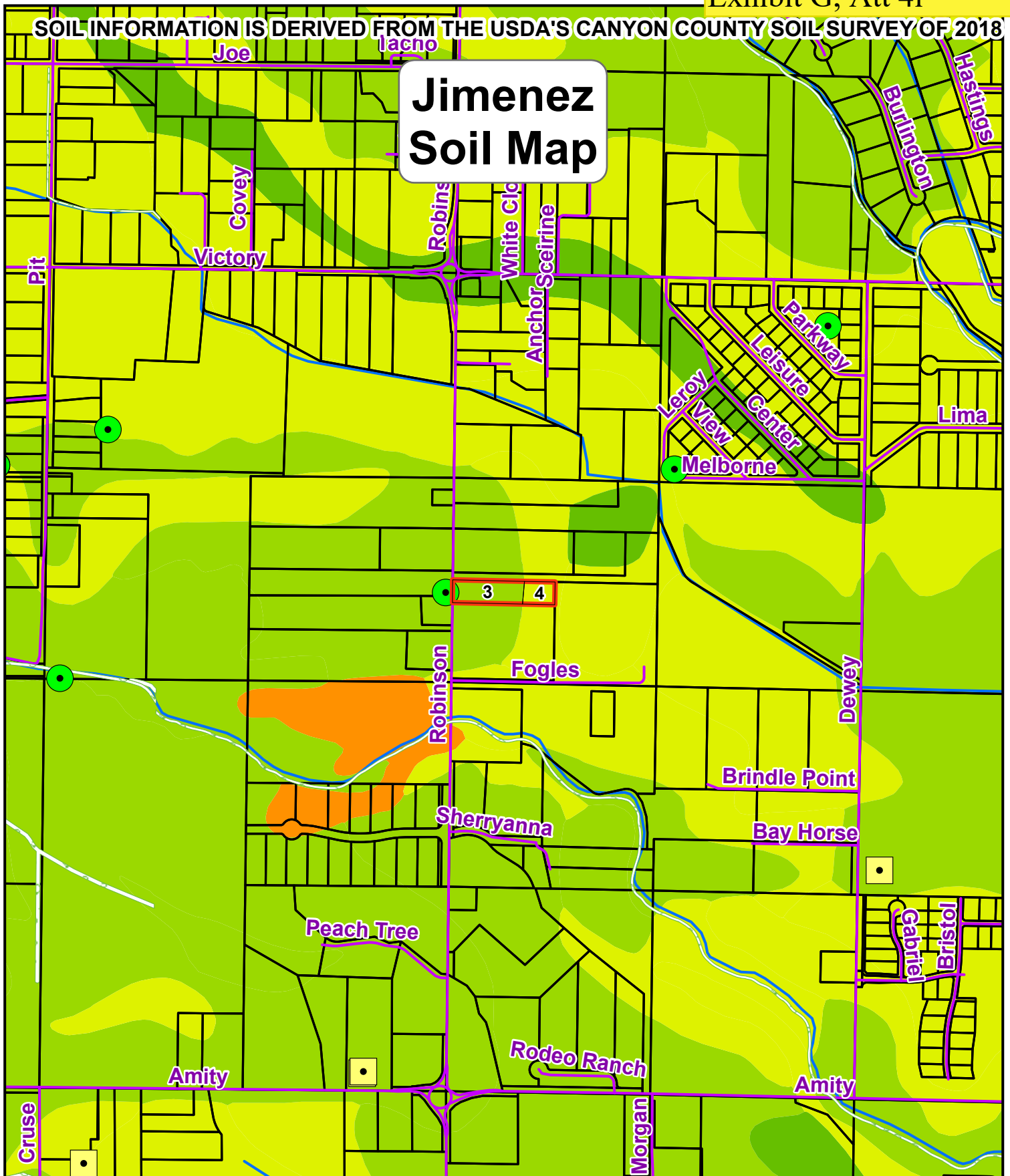
# Jimenez

## Dairy, Feedlot, and Gravel Pit Map



SOIL INFORMATION IS DERIVED FROM THE USDA'S CANYON COUNTY SOIL SURVEY OF 2018

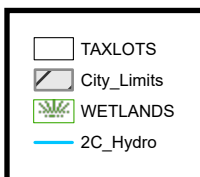
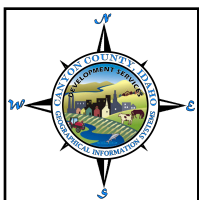
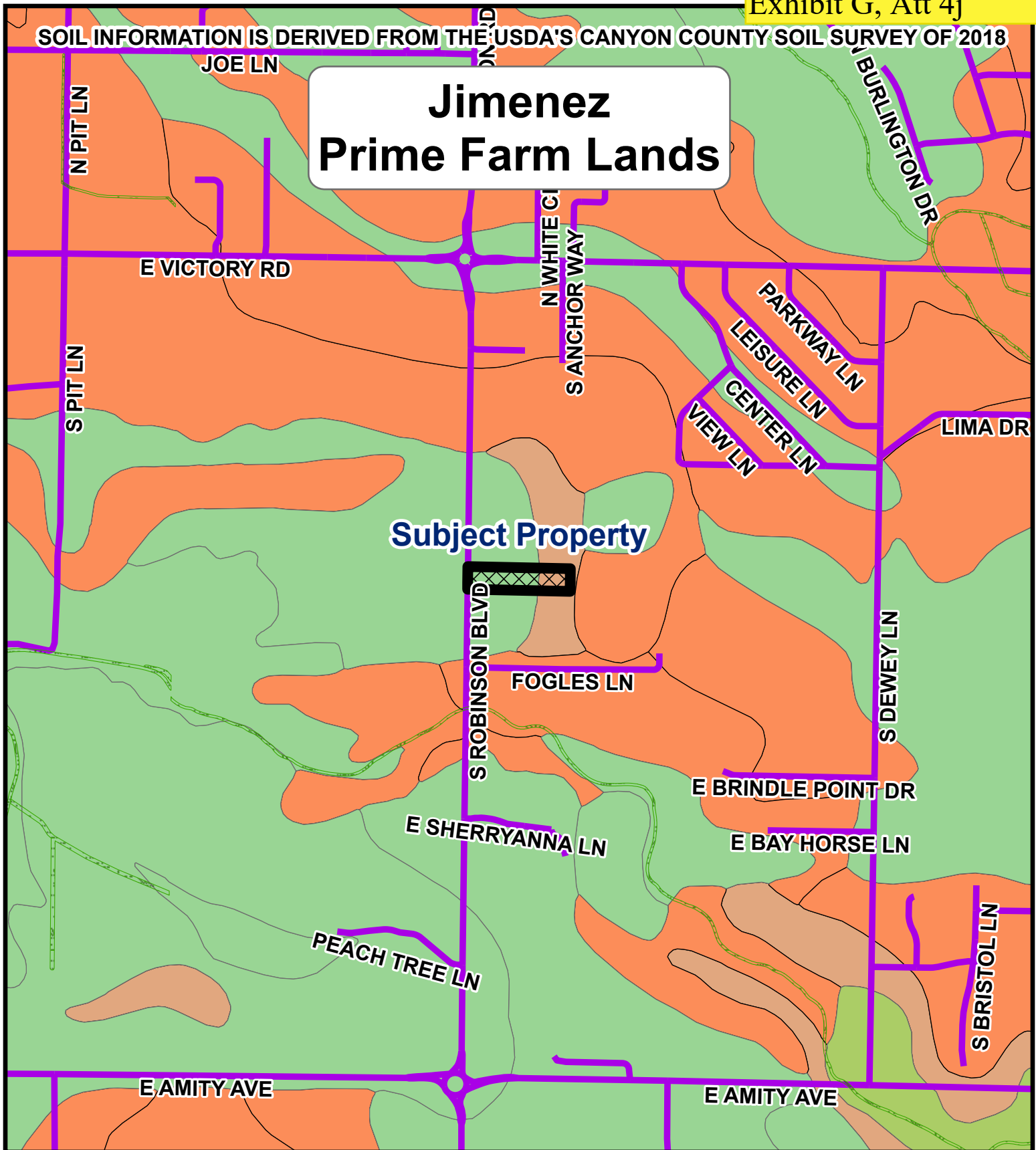
# Jimenez Soil Map





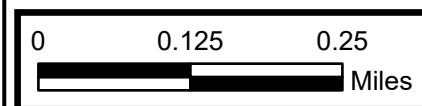
SOIL INFORMATION IS DERIVED FROM THE USDA'S CANYON COUNTY SOIL SURVEY OF 2018

# Jimenez Prime Farm Lands



## FARMLAND

- Farmland of statewide importance
- Farmland of statewide importance, if irrigated
- Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium
- Not prime farmland
- Water/Gravel Pit/ Rock outcrop/ Riverwash/ Terrace Escarpments
- Prime farmland if irrigated
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and reclaimed of excess salts and sodium



## SOIL REPORT

SOIL CAPABILITY CLASS	SOIL CAPABILITY	SQUARE FOOTAGE	ACREAGE	PERCENTAGE
4	MODERATELY SUITED SOIL	30317.76	0.70	30.78%
3	MODERATELY SUITED SOIL	68171.40	1.57	69.22%
		98489.16	2.26	100%

## FARMLAND REPORT

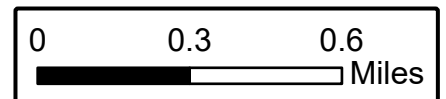
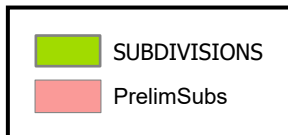
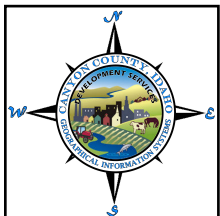
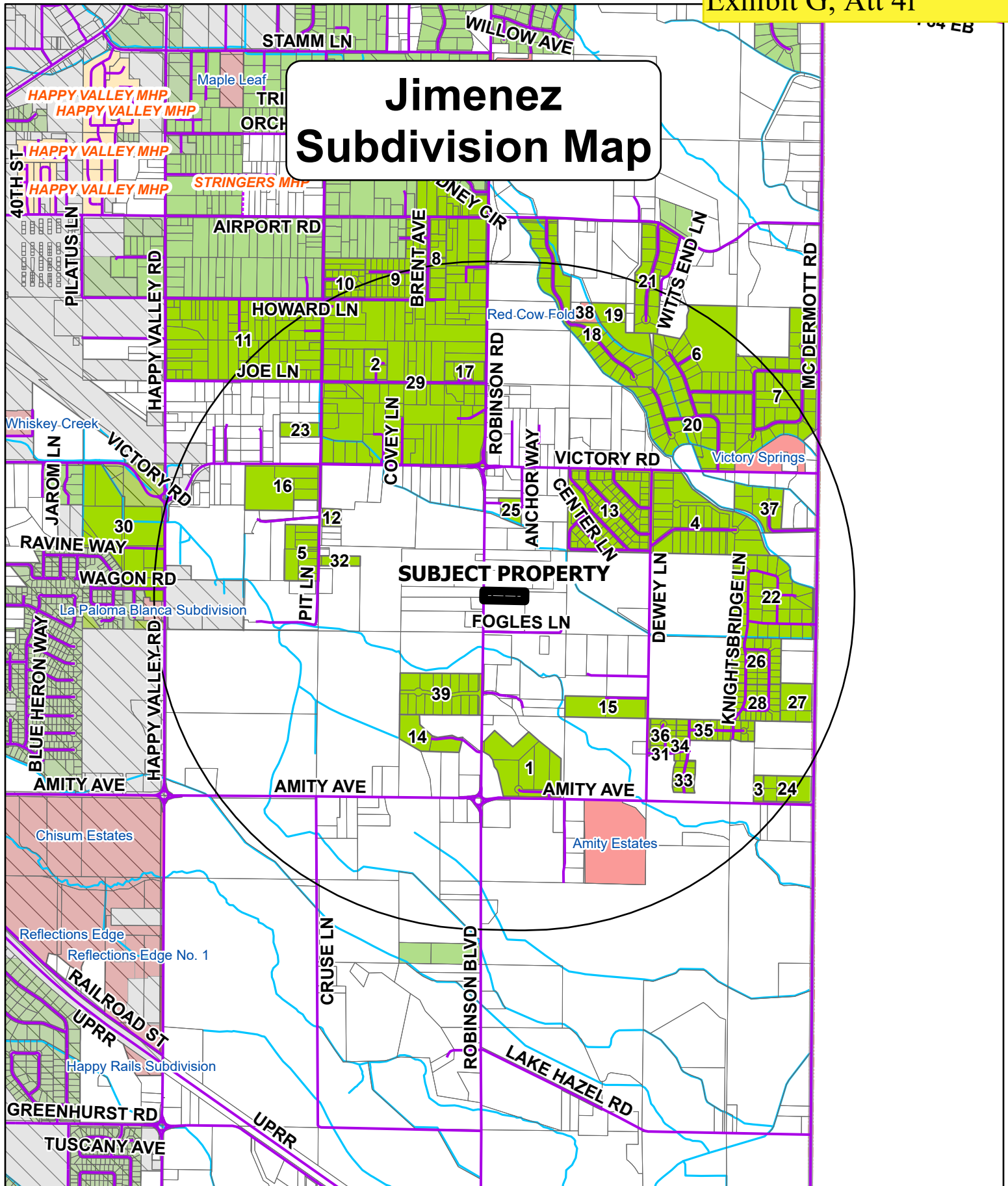
SOIL NAME	FARMLAND TYPE	SQUARE FOOTAGE	ACREAGE	PERCENTAGE
EvC	Farmland of statewide importance, if irrigated	30317.76	0.70	30.78%
EhB	Prime farmland if irrigated	68171.40	1.57	69.22%
		98489.16	2.26	100%

SOIL INFORMATION IS DERIVED FROM THE USDA's CANYON COUNTY SOIL SURVEY OF 2018

GRADE	SOILTYPE
1	BEST SUITED SOIL
2	BEST SUITED SOIL
3	MODERATELY SUITED SOIL
4	MODERATELY SUITED SOIL
5	LEAST SUITED SOIL
6	LEAST SUITED SOIL
7	LEAST SUITED SOIL
8	LEAST SUITED SOIL
9	LEAST SUITED SOIL



# Jimenez Subdivision Map



**Samantha Hammond**

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**From:** Doug Critchfield <critchfielddd@cityofnampa.us>  
**Sent:** Thursday, February 23, 2023 4:18 PM  
**To:** Samantha Hammond  
**Cc:** Rodney Ashby; Caleb Laclair  
**Subject:** [External] RE: [External]Agency Notice Jimenez / CU2023-0002

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Samantha - The subject property is located at 80 S Robinson Rd in Nampa. It is within the Nampa Area of City Impact. This area is designated as "Low Density Residential" on the Nampa Future Land Use Map. Staging and storage of large construction equipment is inconsistent with the Low Density Residential Land Use designation as described in the 2040 Nampa Comprehensive Plan.

Nampa Planning and Zoning requests denial of this proposal.

Sincerely,

Doug

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**From:** Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>  
**Sent:** Thursday, February 23, 2023 3:24 PM  
**To:** Robyn Sellers <sellersr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>; Kristi Watkins <watkinsk@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Addressing <Addressing@cityofnampa.us>; Doug Critchfield <critchfielddd@cityofnampa.us>; Nathan Haveman <havemann@cityofnampa.us>; Char Tim <timc@cityofnampa.us>; Danielle Horras (drhorras@kunaschools.org) <drhorras@kunaschools.org>; Brian Graves Kuna SD <bgraves@kunaschools.org>; Robbie Reno Kuna SD <rreno@kunaschools.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Jack Nygaard <jack.nygarrrd@phd3.idaho.gov>; Ron Johnson <johnsonrl@nampafire.org>; johnsonre <johnsonre@nampafire.org>; 'eddy@nampahighway1.com' <eddy@nampahighway1.com>; 'TRitthaler@boiseproject.org' <TRitthaler@boiseproject.org>; 'gashley@boiseproject.org' <gashley@boiseproject.org>; 'd3development.services@itd.idaho.gov' <d3development.services@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; Joe Huff <huffj@cityofnampa.us>  
**Subject:** [External]Agency Notice Jimenez / CU2023-0002

**Caution:** This email originated from outside of the City of Nampa domain. Do not click on links or open attachments unless you recognize sender email or are sure content is safe. Highlight the suspect email and send using your Phish Button or call the helpdesk at 208-468-5454

Good afternoon;

Please see the attached agency notice. The hearing date has not yet been set, however **the due date for comments is March 27, 2023**. Please direct your comments or questions to Planner Samantha Hammond at [Samantha.hammond@canyoncounty.id.gov](mailto:Samantha.hammond@canyoncounty.id.gov).

Thank you,

**Samantha Hammond**

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**From:** Eddy Thiel <eddy@nampahighway1.com>  
**Sent:** Thursday, April 20, 2023 3:40 PM  
**To:** Samantha Hammond  
**Subject:** [External] FW: Agency Notice Jimenez / CU2023-0002  
**Attachments:** CU2023-0002 Agency Notification Packet.pdf; Commercial Approach Spec..pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Samantha,

Here is the email I sent you on Feb. 23.

Thank you,

Eddy

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Eddy Thiel  
ROW  
eddy@[nampahighway1.com](mailto:eddy@nampahighway1.com)  
4507 12<sup>th</sup> Ave. Rd. • Nampa, id 83686  
TEL 208.467.6576 • FAX 208.467.9916

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**From:** Eddy Thiel  
**Sent:** Thursday, February 23, 2023 3:46 PM  
**To:** Samantha Hammond <Samantha.Hammond@canyoncounty.id.gov>  
**Subject:** FW: Agency Notice Jimenez / CU2023-0002

Good Afternoon Samantha,

According to the information provided, it appears the patron is wanting to use this property for a commercial staging lot with heavy equipment going in and out of the property frequently.

For a commercial approach we require a paved apron per ACCHD Standards. I have attached a copy of our spec sheet 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.

If you have any questions or comments feel free to contact us.

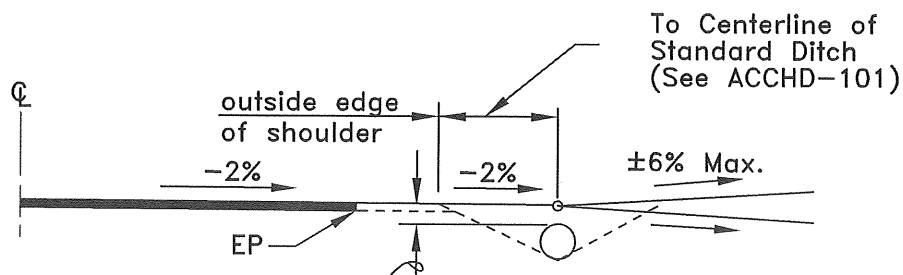
Thank you,

Eddy

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Eddy Thiel  
ROW





12" Minimum Pipe Cover

APPROACH TYPE	Appr. Width*		Min.**
	Min.	Max.	Radius
Residential, Three or More	24'	30'	20'
Commercial (One Way)	20'	30'	20'
Commercial (Two Way)	24'	40'	20'

**\*\* Or based on applicable commercial design vehicle.**

3. CULVERT PIPE SHALL BE 12" MIN. DIAMETER. CULVERT PIPE SHALL EXTEND TO THE INTERSECTION OF THE DITCH LINE AND THE 4:1 APPROACH FORESLOPE. PIPE MATERIAL SHALL BE EITHER 0.064" THICK CORRUGATED STEEL, 0.060" CORRUGATED ALUMINUM OR CLASS V REINFORCED CONCRETE.

N.T.S.

REVISÉ 12/08

**Samantha Hammond**

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**From:** Barbara Harris <bdeaneusa@yahoo.com>  
**Sent:** Tuesday, February 14, 2023 12:19 PM  
**To:** Samantha Hammond  
**Subject:** [External] 80 so Robinson Road, JC EXcavation

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

The neighborhood meeting with the occupant of the property above, JC Excavation, was held on Feb 7. Several residents came to the meeting to express their concerns about the location of this type of business in the middle of a residential area. (there are 11 homes within 600 feet of the property)

With the exception of one neighbor who thought everyone should be able to do whatever they wanted on their property, all others objected to having a very active excavation business located on the property.

Most of the neighbors have filed complaints with your office already and an enforcement officer has investigated and issued a cease and desist order, I understand.

Neighbors were mystified that the occupant was quite confident that his application for a Conditional Use permit would be granted based on his conversations with you. He indicated that you had informed him that he could ignore any notices of violation of the code and just apply and all would be fine. He said that you had told him that all he had to do was maybe build a fence. But that he could continue to operate in violation of the code.

None of us in attendance were clear on how you could authorize the ignoring of your own rules. Has the zoning plan changed and no one told us?

There are a variety of reasons this business poses a problem in locating on 80 So Robinson. The business has 23 employees that come and go all day. Very heavy trucks and trailers go in and out all day and dump and reload dirt and gravel and refuse construction material on the property. Robinson Road is already carrying more traffic than it was designed to carry and will be carrying more when the McDermitt overpass is completed. The road is narrow and people go very fast. Fifty miles per hour is the speed limit, however, that appears to be the minimum not the maximum. These heavy trucks pose a serious traffic hazard going in and out of the property. I have watched many "near misses" already. It is only a matter of time until a major accident occurs.

We as residents have the right to quiet enjoyment of our homes, however, if this business is approved it will drastically (has already) the nature of our neighborhood. It will be converted from a residential area to an industrial area. Already one of the other neighbors, seeing the activity on 80 So Robinson has decided he can store large trailers on his property as well.

I actually own 2 properties within 600 feet of 80 So Robinson, my home at 73 So Robinson directly across the road, within 75 feet of the piles of rubble and another 6 acres at 85 So Robinson.

I understand that there is a process and that the P&Z board will make the decision, however, based on the conversation with the occupant of the property, and the fact that he has been given so many assurances by you, it appears the process and authority has been usurped.

I think we as property owners and neighbors deserve an explanation to this issue.



Date May 23, 2023

Canyon County Development Services  
Planning and Zoning Commission  
111 North 11<sup>th</sup> Avenue, Suite 310  
Caldwell, Idaho 83605

RE: Case No. CU2023-0002, Parcel R30621010  
Juan Nieves, applicant

Dear Commission members:

My name is Barbara Harris, I live with my husband at 73 So Robinson Road which is located directly across Robinson Road from the property in question at 80 S Robinson. The front window of my home is less than 110 feet from the property in question. I also own the property located at 83 S. Robinson.

I strenuously object to granting the conditional use permit being considered for 80 So. Robinson and JC Excavation.

JC Excavation operation has severely impacted me and my property. It is noisy, dusty and poses an extreme traffic hazard in front of my home. I have been informed by a realtor that this operation across from my home has a negative affected my property value.

The one-mile stretch between Victory and Amity on Robinson where the property is located is zoned agricultural/residential. It is a neighborhood in transition, in that at one time it was clearly a "farm" area. It is now far more residential than agricultural. There are over 32 residences independent of the newly developed Wetherby Estates Subdivision located on the road. Most of the properties are small acreages of 5 to 10 acres or less with homes sites. Agricultural activities being small groups of animals, horses, sheep, and a few cattle.

Wetherby Estates subdivision which is located less than ¼ mile from 80 So Robinson is a clear indication that the neighborhood is moving rapidly to an even more dense residential.

First let me say, I have no particular problem with JC Excavation other than it is located in the wrong place for its activities. The JC Excavation operation is completely inconsistent and incongruent with this neighborhood. The proposal for the Conditional use Permit states that it is being proposed under the allowed exception of "Staging" of equipment. I was not able to find any definition of the word "staging". However, since this is zoned as Agricultural area, I would assume that the original definition of "staging" would have been intended to apply to agricultural equipment used in farming activities. The only relationship between JC Excavation and agriculture is dirt. JC Excavation is strictly a heavy construction equipment business.

I have attached many pictures of the operation being conducted by JC Excavation on the property so that you might see the extent of the activity. Every morning 10+/- employees arrive at the property and park their cars for the day. Large trucks and trailers with excavation equipment move out of the property then return in the evening. During the day large dump trucks (15 CU FT and larger) come and go from



the property. The trucks dump dirt and gravel on the ground near Robinson Road, a loader then loads the dirt onto other dump trucks to move it. There are now large piles of dirt drying out and dust is blowing across the road into my home and weeds growing on the piles. The trucks make acceleration and braking noise, the loader's backup alarm beeps and the tail gates of the dump truck bang several hours a day.

Along with storing dirt, the business is currently storing cars, trucks, trailers and construction equipment of all shapes and conditions on the property along with piles of tires, scrap lumber and other miscellaneous metal and other materials. This is not something anyone wants to or should have to look at through their front room window. I also do not believe that is what was intended by the term "staging".

Robinson road is still a rather narrow two-lane road with a speed limit of 50 miles per hour, (there is no turn lane) with large dump trucks, and heavy equipment trailers going in and out of the drive-way all day, the opportunity of a serious accident is extremely high. I have witnessed more than one "near miss".

Although I have no specific information about the issue, I do have concerns about my well water as well with the dumping of miscellaneous materials just 100 feet from my well head. I have no information about the septic system; however, I think it is likely that it is not sized for a commercial operation with multiple employees.

The responsibility of the Planning and Zoning Commission is very important. Its function ensures community consistency so that property and homes are protected from disruptive and destructive activities. When someone purchases property in any area, the zoning rules for use are very clear and available. Minor exceptions to zoning are essential but should only be approved if the exception does not pose a negative impact to the other property owners in the area or change the basic nature of the area. In fact, exceptions should be granted only to benefit community members who are in compliance with the zoning restrictions (or at least do no harm)

This property was leased to and occupied by JC Excavation last Fall over the objections of me and my neighbors. (Please see the files) It was inspected by an enforcement officer at the time, who found it in violation of the zoning ordinance. In spite of that finding JC has been allowed to operate unobstructed since that time. I am puzzled about that. Seems that zoning exceptions should be applied for and granted in advance of the occupation of the property violating the zoning not after. Particularly if neighbors have lodged complaints.

I personally have always considered Planning and Zoning as the "rural homeowner's association", enforcing appropriate use and condition of property consistent with the stated zoning. There is no reason that my property and that of my neighbors should be degraded by granting of the exception being considered for 80 S. Robinson and JC Excavation.

I want to also make it clear that I am not ignoring the fact that Scott Excavation at 96 S Robinson Rd is operating just about ¼ mile from the site under consideration. That Conditional Use was granted several years ago. Scott also operates very differently, in that the activity level is much less on a daily basis. I would not support that Conditional Use today either. It perhaps is a great demonstration as to how one exception is like a cancer that spreads quite easily to change the nature of an area. Once others see a pile of junk and scrap accumulating on a property they assume that it must be just fine to do the same.

I formally request that the application for Conditional Use for the property at 80 So Robinson Rd, Nampa, Idaho 83687 be denied.

Sincerely

*Barbara Harris*  
*Harry Robinson*

Barbara Harris

Harry Robinson

See Attached picture book

















This photo is  
just to show  
these  
ts























**Samantha Hammond**

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**From:** Tammy Shuyler <tammyshuyler@gmail.com>  
**Sent:** Wednesday, May 24, 2023 9:24 PM  
**To:** Samantha Hammond  
**Cc:** Tammy Shuyler; Tony Shuyler  
**Subject:** [External] Case No. CU2023-0002 Public Hearing written testimony

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Canyon County Commission:

We write regarding the upcoming public hearing for the above referenced case. We are neighbors just south of 80 S Robinson at 415 S Robinson Blvd. We are asking that the Commission recommend a 6' privacy fence to be installed around the perimeter of the staging. Additionally, we would like to see a reasonable buffer area between the fence and Robinson Road.

Thank you,

Tammy and Tony Shuyler  
415 S Robinson Blvd  
208-484-9278  
[TammyShuyler@gmail.com](mailto:TammyShuyler@gmail.com)