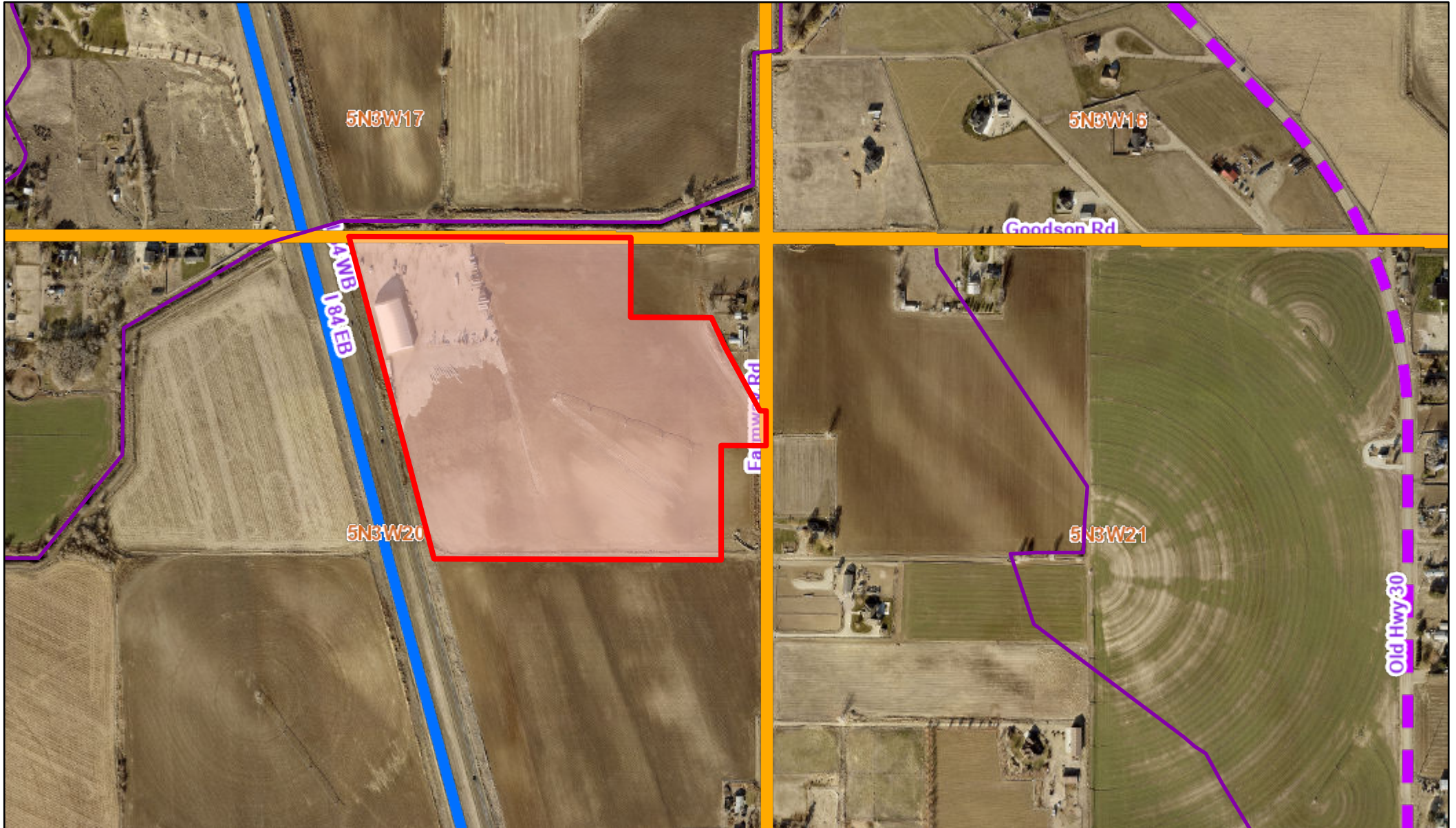










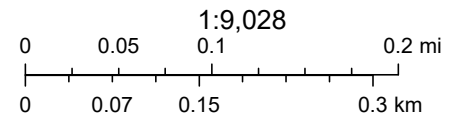


Canyon County, ID Web Map



3/21/2025, 10:18:12 AM

- | | | |
|---|---|---|
|  Multiple Parcel Search _Query result |  City Limits |  Major Collector |
|  Hydro_NHDFlowline |  Sections | Imagery_2022 |
|  County Boundary | ITDFunctionalClassification |  Red: Band_1 |
|  Current Impact Area |  Interstate |  Green: Band_2 |



Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA



APPEAL OF DECISION APPLICATION

APPELLANT	NAME: Erlebach Properties, LP	
	MAILING ADDRESS 17050 Stiehl Creek Drive, Nampa, ID 83687	
	PHONE [REDACTED]	EMAIL: [REDACTED]
Property owner: <input checked="" type="checkbox"/>		Other Appellant: <input type="checkbox"/>
Signature: <i>Norm C Erlebach</i>		Date: <i>19 MAR 2025</i>

REPRESENTATIVE: IF DIFFERENT FROM THE APPELLANT	NAME: Todd Lakey (Lakey Villegas); Landon Brown (Hawley Troxell)	
	COMPANY NAME: Lakey Villegas Law and Policy; Hawley Troxell	
	MAILING ADDRESS: 141 El Carlton Ave, Meridian, ID 83642; 877 W. Main St. #200, Boise, ID 83701	
	PHONE [REDACTED]	EMAIL: [REDACTED]

SITE INFO	STREET ADDRESS: SW Corner of Goodson Road and Farmway Road
	PARCEL NUMBER: R37905
	PARCEL SIZE: 44 acres (only 11 acres requested for CUP use)

CASE NUMBER OF REQUESTED APPEAL:	CU2023-0024
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FOR DSD STAFF COMPLETION ONLY:

CASE NUMBER	<i>W2023-0024-APL</i>	DATE RECEIVED:	<i>3.20.25</i>
RECEIVED BY:	<i>Emily Bunn</i>	APPLICATION FEE:	<i>\$1600</i> CK CC CASH



APPEAL OF DECISION CHECKLIST

GENERAL APPEAL PROCEDURE CCZO - Section 07-06-05 or 07-06-07

THE FOLLOWING ITEMS MUST BE SUBMITTED WITH THIS APPLICATION TO BE DEEMED COMPLETE (PLEASE CHECK OFF THE ITEMS REQUIRED):

Description	Applicant	Staff
Master Application completed and signed	X	✓
Letter of Intent/Statement of Reason	X	✓
Fee: \$600.00	X	✓
Fees are non-refundable		

*DISCLAIMER: The subject property shall be in compliance with the public nuisance ordinance, the building code and the zoning code before the Director can accept the application.

Affidavit is also included ✓



Canyon County Development Services
 111 North 11th Avenue, #310
 Caldwell, Idaho 83605
www.canyoncounty.id.gov
 208-454-7458

AFFIDAVIT OF LEGAL INTEREST

I, Dave Erlebach (name), 17050 Stiehl Creek Drive (address)
Nampa (city), Idaho (state), 83687 (zip code)

being first duly sworn upon oath, depose and say:

- That I am the owner of record of the property described on the attached application and I grant my permission to
Todd Lakey 141 E. Carlton Ave, Meridian, ID 83642
Landon Brown 877 W. Main St. #200, Boise, ID 83701
 (name) (address)
 to submit the accompanying application pertaining to the subject property.

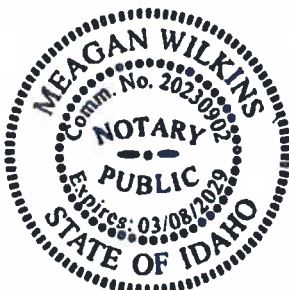
- I agree to indemnify, defend and hold Canyon County and its employees harmless from any claims to liability resulting from any dispute as to the statements contained herein or as to the ownership of the property, which is the subject of the application.

Dated this 19th day of March, 20 25.

Dave C. Erlebach
 (signature)

STATE OF IDAHO)
)
) ss
)
 COUNTY OF CANYON)

On this 20 day of March, in the year 20 25, before me Meagan Wilkins, a notary public, personally appeared Dave Erlebach, 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: Meagan Wilkins
 My Commission Expires: 03/08/2029

Letter of Intent

A. Introduction

Dave Erlebach is the owner of Erlebach Properties, L.P., the Applicant of CU2023-0024. Mr. Erlebach also owns and operates a construction company called Industrial Builders, Inc. As the owner of a successful construction company, Mr. Erlebach needs a contractor shop and staging area in Canyon County, Idaho, to assist with his construction company. Mr. Erlebach desires to use 11 acres of his property located near Farmway Road and Goodson Road for this purpose. Specifically, the 11 acres will consist of two structures: (1) a 115 foot x 100 foot structure that will be used as an office to deploy equipment; and (2) a 110 foot x 208 foot structure that will be used to store and park construction equipment. The 11 acres will also consist of surface parking where equipment and materials can be stored for use in the construction company.

Mr. Erlebach is willing to comply with all ordinances, regulations, and conditions of approval that the Board deems necessary to approve this application. He will limit his use of the property as required by law and this Board. He simply wants to operate the Contractor Shop and Staging Area within the bounds of the law. Most importantly, Mr. Erlebach will not perform any manufacturing or construction at the property. The 11 acres will be limited to simply operating as a Contractor Shop and Staging Area.

Staff correctly analyzed the Application and found it to be in compliance with the zoning ordinance and recommended approval with conditions. Mr. Erlebach remains committed to complying with the recommended conditions of approval suggested by planning staff. If the Board desires additional conditions, Mr. Erlebach is willing to consider and comply with all reasonable conditions necessary to allow him to use his property as a Contractor Shop and Staging Area. He seeks only to use his property consistently with Canyon County's land use matrix.

B. Appeal Summary

CU2023-0024 ("Application") was submitted by Erlebach Properties, L.P. ("Applicant") to seek a Conditional Use Permit ("CUP") to use property located near Farmway Road and Goodson Road ("Property") as a Contractor Shop and Staging Area. The Canyon County Planning and Zoning Commission ("Commission") misunderstood the intent and purpose of the Application, and erroneously believed that Applicant would perform manufacturing at the Property. As a result, the Commission denied the CUP and found that Applicant would need to seek a rezone if it wanted to perform manufacturing. The Commission's Findings of Fact, Conclusions of Law and Order ("Order") is erroneous because: (1) the Order is not supported by substantial evidence in the record; (2) the Order is arbitrary, capricious, and an abuse of discretion; and (3) the Order was made upon unlawful procedure.

Further, the Order is prejudicial to Applicant's substantial rights, including private property rights and due process rights. Applicant seeks only to use its Property as allowed by the Canyon County Code and Idaho Statutes. Applicant meets the CUP criteria set forth in Canyon County Code to operate as a Contractor Shop and Staging Area. Applicant is willing to condition its use of the Property as required to comply with all necessary laws and to mitigate any negative impacts caused by the proposed uses. Unfortunately, the Commission disregarded the Application's request

to operate a Contractor Shop and Staging Area and focused on whether the Applicant would be allowed to manufacture at the Property. At the hearing, Commissioner Sheets recognized that this was an application for a CUP for a Contractor Shop and Staging Area and not consideration of a request for manufacturing yard when he described why he was voting against the motion to deny the application. By converting the Application to a request for manufacturing, the Commission violated Applicant's due process rights to have its application for a Contractor Shop and Staging Area processed and considered according to applicable laws.

Lastly, the Order violates Idaho Code § 67-6535's mandate that the denial of an application be "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." In fact, the Order is completely devoid of any findings of fact that the Commission relied on to reach its decision, and contains no explanation of the rationale for making the decision. As a result, the Order fails to meet the standards required to uphold a denial of a CUP.

Each of these arguments will be discussed in turn.

C. Appeal Argument

1. The Order is Not Supported by Substantial Evidence in the Record.

The Commission denied the CUP on two grounds: (1) the proposed use will be injurious to other property in the immediate vicinity and will negatively change the essential character of the area; and (2) the proposed use will have undue interference with the existing and future traffic patterns. However, the Commission failed to support these conclusions with any facts in the record. Contrarily, all facts in the record indicate that the use will not injure surrounding properties, will not change the character of the area, and will not have undue interference with traffic patterns.

Injury to Surrounding Properties or Change the Character of the Vicinity.

The Commission found that using the property as a Contractor Shop and Staging Area would be injurious to surrounding properties or change the character of the vicinity as a result of: (1) safety issues; (2) heavy truck traffic; (3) the use is not agricultural in nature; and (4) manufacturing associated with the use. However, the findings do not support any of these conclusions. Indeed, the Order is completely devoid of any factual finding supporting these conclusions.

Regarding safety issues, the Order does not specify the safety concerns at issue. There is not a single finding that addresses potential safety issues with using the Property as a Contractor Shop and Staging Area. It is unclear what the Commission believes will present a safety issue.

If the Commission is referring to the increase in truck traffic as the safety issue, then the record demonstrates that no such safety issue exists. The record shows that the proposed use would be limited to 10 daily roundtrips of construction equipment. In other words, 10 times per day, a vehicle would leave the property with construction equipment and return to the property with the same equipment at the end of the day. HD4's comment demonstrates that this increase in traffic would only result in minimal traffic impacts. HD4 never suggested that 10 trips per day would result in more vehicle collisions, pedestrian collisions, or any other traffic-related accident. There

is simply no evidence to suggest that 10 daily trips will lead to significant safety issues as a result in the minimal increase in traffic in the surrounding area. There are no studies, reports, or expert opinions claiming that the surrounding area would suffer an increase in traffic safety issues as a result of 10 daily trips. The record has no credible facts confirming that traffic safety issues will in fact arise as a result of Applicant's Contractor Shop and Staging Area.

To the extent that public testimony guessed that more traffic accidents could occur with 10 additional daily trips, such testimony is pure speculation and cannot be relied upon. "A speculative harm is not sufficient to confer standing" in land use matters. *Coalition for Agriculture's Future v. Canyon County*, 160 Idaho 142, 148 (Idaho 2016). If speculative testimony is insufficient to allow a person to challenge a CUP, then certainly the Commission and this Board cannot rely on speculation to establish the existence of an injury. Beyond mere speculation, no testimony or fact in the record supports a finding that Applicant's Contractor Shop and Staging Area would result in safety issues to the surrounding properties.

To be clear – if there is a real safety issue, Applicant is willing to implement any necessary condition of approval to alleviate safety issues in the community. Applicant is serious about ensuring that its use of the property remains safe to all members of the community. Applicant does not object to any reasonable condition of approval designed to mitigate potential safety concerns.

Regarding heavy truck traffic, the record shows that the proposed use would be limited to 10 daily roundtrips of construction equipment. The Order does not contain any factual findings describing how 10 daily trips would injure surrounding properties. The Order does not describe how 10 daily trips would cause excessive noise, light pollution, odors, or other pollutants or nuisances that could be harmful to neighboring properties. The Order does not describe how 10 daily trips would result in unreasonable fire risks to neighboring properties or increased auto collisions. The Order is completely devoid of any facts or explanation describing how 10 daily trips would injure surrounding properties.

Contrarily, the Order does make a factual finding that noise from the truck traffic will not injure surrounding properties. The Order confirms that the Property will not increase sound levels in the immediate vicinity, and that the adjacent interstate "will likely drown out any noise created by this property." (Order, § 4(3).) Thus, it is clear that the Commission was not concerned about noise caused by 10 daily trips. So, what exactly is the Commission's concern about the 10 daily trips? The Order fails to identify any evidence in the record to support the finding that heavy truck traffic would somehow injure surrounding properties.

Additionally, the Order does not indicate how 10 daily trips would change the character of the vicinity. Applicant proposed using a vehicular route that would include Goodson Road, Farmway Road, and Old Highway 30. These roads currently allow travel by truck and trailer. In fact, Old Highway 30 is regularly used by trucks carrying trailers, farm equipment, and heavy equipment. Highway District No. 4 ("HD4") reviewed the application and found that "the estimate peak hour trips from the development are not anticipated to materially impact the adjacent intersection of Goodson Rd and Farmway Rd due to its very low background volume." Further, HD4 found that the 10 daily trips would result in the intersection of Goodson Road and Old Highway 30 operating at an approximately 16 second delay per vehicle during the PM peak hour.

With this data, HD4 had no objections to the CUP as there would be no material impact on the traffic that would not be resolved by impact fees.

There is no evidence in the record to dispute HD4's conclusion that 10 daily trips will not negatively impact traffic along Goodson Road, Farmway Road, or Old Highway 30. There is no evidence in the record to rebut that the impact fees will not resolve any potential injury. There is no evidence demonstrating that similar truck traffic does not already exist on those roads; in fact, the record demonstrates that there is similar truck traffic in the area. Accordingly, there is no evidence to support a finding that the 10 daily trips will change the character of the vicinity.

Next, the Commission found that the proposed use was not agricultural in nature. It is unclear how the non-agricultural nature of the use would create an injury to surrounding properties. The Order does not provide any rationale or explanation of any injury that might occur at a result of a non-agricultural use. The Canyon County Code contemplates that non-agricultural uses may occur in the agricultural zone without creating any injury. This is the very reason why conditional use permits exist – to allow a non-agricultural use to be performed in an agricultural zone subject to certain conditions designed to mitigate impacts. Since CUPs are allowed in the agricultural zone, and specifically CUPs for a Contractor Shop and Staging Area are allowed in the agricultural zone, it is unclear why the Commission found the non-agricultural use proposed by the CUP as grounds to deny the CUP. In any event, the Order simply contains no evidence of factual findings to support the conclusion that the non-agricultural use of the property would injure surrounding properties, or destroy the character of the area.

Contrarily, the proposed use will consist of two shops and a staging area where equipment and materials will be stored. The surrounding area consists of several parcels that have large shops and areas to store equipment and materials. The application materials contain several photos of surrounding properties that have the same character and look—a large shop and staging area for equipment and materials. Clearly, the facts in the record confirm that Applicant's Contractor Shop and Staging Area will be consistent with the character of the vicinity.

Lastly, the Commission found that a manufacturing use would create injury to surrounding properties or destroy the character of the area. The problem with this conclusion is that Applicant is not requesting to perform any manufacturing whatsoever on the property. In fact, Applicant's original Letter of Intent clarified on three occasions that Applicant would not perform any manufacturing or construction work on the property ("Applicant will not use the Property for any manufacturing or construction work, but will use the Property consistent with the Contractor Shop and Staging Area conditional uses" (p. 2); "Applicant will not be performing any manufacturing or construction on the Property" (p. 5); "Since the Property will not engage in manufacturing or construction work, the fire risks associated with equipment storage is minimal." (p.5)). At the public hearing, Applicant confirmed that it would not perform any manufacturing or construction at the property. Applicant was even willing to include a condition of approval specifically stating that no manufacturing or construction was allowed to be performed on the property. Staff included this condition of approval in its recommendation.

Further, the Order describes the nature of the request for the CUP (Order, § 2.) The Order describes that Applicant will use the property as an office to deploy equipment to construction locations, and as storage of multi-use equipment and supplies for use in Applicant's construction

business. This is consistent with the application materials and Applicant's testimony at public hearing. As a result, the Commission's conclusion that the proposed use was "manufacturing" appears to be based solely and entirely on a misunderstanding of the application, or on improper speculation. Certainly, there are no facts in the record to support a finding that manufacturing was requested or would occur at the property under the CUP. And even if there was some evidence to suggest that Applicant intended to perform manufacturing (which Applicant does not intend to do), this concern could be addressed by a condition of approval stating that Applicant will not perform any manufacturing or construction on the property.

At the public hearing, members of the public testified in opposition to the Application and suggested that it was possible that manufacturing could occur inside the shop without any outsider's knowledge. Of course, such testimony is pure speculation and cannot be relied upon as part of the decision-making process. Unfortunately, the Commission relied on this speculation and ultimately found that the CUP was improper because of "manufacturing associated with the use." This conclusion was improper, without factual support, and contrary to the CUP criteria set forth in Canyon County Code.

To be clear – Applicant will not perform any manufacturing or construction on the Property. The Property will be used exclusively as a Contractor Shop and Staging Area. No manufacturing or construction will occur onsite. Applicant is willing to include a prohibition on manufacturing and construction on the Property in the conditions of approval.

Based on the foregoing, the Commission's finding that the proposed use will be injurious to surrounding properties, or will change the character of the vicinity, is simply not supported by any facts in the record. Had the Commission relied on the facts in the record, the Application, and staff's report, and disregarded all speculative comments, the Commission would have concluded that the proposed use will not result in injury to surrounding properties and will not change the essential character of the vicinity. As a result, the Commission erred in denying the CUP on these grounds.

Interference with Existing or Future Traffic Patterns.

The Commission found that using the property as a Contractor Shop and staging area would have undue interference with existing and future traffic patterns due to the volume of heavy truck traffic. This finding is not supported by substantial evidence in the record.

As an initial matter, the Order only contains findings demonstrating that the proposed use will not interfere with traffic patterns. Specifically, Section 7 contains the following findings:

- The traffic count to and from the property would be around 10 daily trips.
- HD4 commented that "The estimated peak hour trips from the development are not anticipated to materially impact the adjacent intersection of Goodson Rd and Farmway Rd due to its very low background volume."

- HD4 commented that “The intersection of Goodson Rd and Old Hwy 30 is anticipated to operate at LOS B (approximately 16 sec delay per vehicle) during the PM peak hour under current background conditions with the additional site traffic.
- HD4 commented that “Additional incremental delay from the new trips generated by the development are expected at all intersections along the Old Hwy 30 corridor, including Galloway, Purple Sage, Willis, and SH 44.”
- HD4 commented that “It appears any impacts to traffic would be mitigated by transportation impact fees to fund improvements to the highway system made necessary from new growth and development within the Mid-Star Service Area, which includes the subject property.”
- ITD stated that they have “no comments or concerns at this time as the development is a significant distance from any interchanges granting access to I-84, therefore minor impact can be anticipated.

The term “undue interference” means that the Commission must find that the use will create “excessive, unwarranted, or improper” interference with traffic patterns. A minor impact on traffic is not sufficient. It must be an excessive, unwarranted, or improper impact.

The findings identified by the Commission confirm that the 10 daily trips added to the traffic pattern will not result in undue interference. Specifically, the findings show that the 10 daily trips will not “materially impact the adjacent intersection,” will only result in potential “incremental delays” at other intersections, and can be mitigated by impact fees. These findings, identified by the Commission, only establish a very minor impact on traffic patterns. Evidence of minor impacts on traffic cannot support a conclusion that the proposed use will result in “undue interference.” The Commission’s conclusion that these minor impacts would cause “undue interference” in traffic patterns simply misunderstands, misinterprets, or misapplies the correct standard required by the Code. Minor impacts do not equal undue interference. Otherwise, every single CUP that results in an extra car on public roads would be denied for its “minor impacts” to the traffic pattern. Such a conclusion would be absurd and contrary to the intent of the CUP process. Further, such a conclusion would entirely ignore and dismiss the professional and expert comments provided by HD4 and ITD, which confirmed that no major impacts on traffic would occur.

To be clear – Even though the traffic impacts would be minor, Applicant is willing to do anything reasonable to mitigate these minor impacts. This includes paying impact fees, mandating a specific travel route for its trucks, or anything else the Board believes is necessary to mitigate impacts or interference with traffic patterns.

Based on the foregoing, the Order fails to identify any evidence to support its conclusion that the proposed use would create undue interference with the traffic patterns. Had the Commission relied on the Application, HD4’s comment, ITD’s comment, and staff’s report, and disregarded all speculative comments, the Commission would have concluded that the proposed use will not create undue interference with traffic patterns. As a result, the Commission erred in denying the CUP on this ground.

2. The Order is Arbitrary, Capricious, and an Abuse of Discretion.

Under Idaho law, a government decision cannot be arbitrary, capricious, or an abuse of discretion. I.C. § 67-5279(3)(e). A government decision is considered arbitrary, capricious, or an abuse of discretion if it is made without a rational basis or in disregard of the facts and circumstances presented or without adequate determining principles. *A&B Irrigation Dist. v. Idaho Dep't of Water Res.*, 153 Idaho 500, 511 (Idaho 2012). Here, due to the absence of any factual findings to support its conclusions, the Order is entirely arbitrary and capricious.

Specifically, the Commission's conclusions related to traffic completely disregard the facts in the record. The record contains comments from HD4 and ITD. These comments demonstrate that 10 daily trips will have minimal impact on traffic and roads, and such impacts can be mitigated by impact fees. The Commission disregarded these facts when it concluded, without any supporting evidence, that 10 daily trips would result in safety concerns, injure surrounding properties, change the character of the area, and unduly interfere with traffic.

Additionally, the Commission disregarded the Application and Applicant's testimony regarding manufacturing. The Application repeatedly informed the Commission that no manufacturing or construction would occur at the property. Applicant confirmed at the public hearing that no manufacturing or construction would occur at the property. Applicant was willing to include a condition of approval stating that no manufacturing or construction was allowed at the property. Despite all this evidence, the Commission concluded, without any supporting evidence beyond mere speculation, that Applicant was proposing a manufacturing use. The Commission disregarded the evidence in the record when it concluded, without a rational basis, that Applicant would be performing manufacturing at the property.

Further, the Commission failed to apply adequate determining principles when it denied the CUP because the use was "not agricultural in nature." Canyon County Code allows a person to use agricultural land for non-agricultural purposes so long as the person qualifies for a conditional use permit. The Code specifically recognizes that agricultural land can be used as a Contractor Shop and Staging Area subject to the CUP process. By denying the CUP on the basis that the proposed use is not agricultural, the Commission violated the Code by failing to recognize that a Contractor Shop and Staging Area are conditionally permitted in the agricultural zone. Thus, the Commission's Order is arbitrary and capricious.

3. The Order Was Made Upon Unlawful Procedure.

The Commission followed unlawful procedure when it *sua sponte* changed the nature of the application. After closing the public hearing and commencing deliberation, the Commission informally changed the CUP application from requesting a Contractor Shop and Staging Area to an application requesting a manufacturing use. The Commission spent a significant portion of deliberation determining whether manufacturing could be performed at the location. The Commission ultimately decided that manufacturing could only be completed in the industrial zone, and therefore, Applicant was required to submit a rezone application in order to seek a manufacturing use.

However, Applicant is not seeking permission to operate a manufacturing use. The application repeatedly confirmed that Applicant was not seeking manufacturing and would not perform any manufacturing at the property. The Applicant testified at the public hearing that no manufacturing would occur at the property. Applicant sought approval to operate a Contractor Shop and Staging Area. Staff confirmed this fact to the Commission. The Application was only for approval to operate a Contractor Shop and Staging Area. Nonetheless, the Commission ignored the Application, ignored Applicant's testimony, and concluded that a manufacturing use was not appropriate in the agricultural zone.

The Commission's decision was made upon unlawful procedure. The Commission was required to consider the application before the Commission. The Commission had no authority to change the Application, particularly when the Application repeatedly stressed that Applicant would not provide any manufacturing services at the property.

The Commission's decision to change the Application during deliberation deprived Applicant of its right to due process of Canyon County's CUP application process. Applicant had the right to have its application determined based upon the representations and requests made in the Application, and based upon Applicant's (and staff's) representations and testimony at the public hearing.

The Commission's Order itself confirms that the Commission considered the application to be for a manufacturing use. The Order provides guidance on actions that can be taken to obtain CUP approval. The Commission's guidance to the Applicant was to rezone the Property to an industrial zone. Rezoning the Property would only be necessary if Applicant was seeking to use the Property for an industrial use, such as manufacturing. If the Commission was truly considering whether to approve a Contractor Shop and Staging Area, the Commission would have provided guidance on what Applicant could do to obtain a valid CUP in the agricultural zone, where such uses are conditionally approved. However, the Commission did not consider the merits of the Application in front of it, but instead altered the Application to be a request for a manufacturing use and denied the application. This is an Order made upon an unlawful procedure.

4. The Commission's Errors Resulted in Substantial Prejudice to Applicant's Rights.

The Commission's decision to deny the CUP resulted in substantial prejudice to Applicant's property rights and due process rights. First, Applicant has a right to use its property as allowed under applicable laws, rules, and regulations. Applicant only desires to use its property in such a manner. Canyon County Code allows a person to use agricultural property as a Contractor Shop and Staging Area so long as the property meets the Code's CUP criteria, when fairly and properly applied. Applicant is willing to comply with all conditions and requirements necessary in order to meet the CUP criteria.

However, in this case, Applicant was denied that opportunity because the CUP criteria was not properly applied. Instead of applying the correct criteria, the Commission ignored the application, disregarded facts in the record, and erroneously concluded that Applicant was seeking permission to perform manufacturing services. These actions resulted in a violation of Applicant's right to have his application processed in accordance with Canyon County Code and Idaho Statute.

5. The Order Fails to Meet the Statutory Requirement of a Reasoned Statement.

Idaho Code requires that a CUP denial be 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.” I.C. § 67-6535(2). The Commission’s Order fails to adhere to this statutory requirement.

First, as discussed above, the Order does not contain the facts relied upon by the Commission to deny the CUP. For example, there are no facts identified in the Order to determine that a safety issue existed, that traffic would injure surrounding properties, or that any manufacturing would occur at the property. The Order denied the CUP on those grounds, but failed to include any facts to support such a conclusion.

Further, the Order does not contain any rationale explaining how the facts relied upon supported the conclusion. For example, there is no explanation for why the proposed use would result in a safety issue. Nor is there any explanation for why 10 daily trips would injure surrounding properties and unduly interfere with the traffic patterns. And, there is no rationale explaining why the Commission changed the application to a request for manufacturing.

Accordingly, the Order fails to comply with the statutory requirements for a reasoned statement.

D. Appeal Request

Applicant respectfully requests that this Board approve CU2023-0024 and issue a conditional use permit allowing Applicant to use the Property as a Contractor Shop and Staging Area. The Commission found that the Contractor Shop and Staging Area would cause injury to surrounding properties or change the essential character of the vicinity. The Commission also found that the Contractor Shop and Staging Area would interfere with traffic patterns. However, the Commission’s findings in these regards were based entirely on speculation, an inaccurate understanding of the Application, and an inaccurate understanding of the CUP criteria. Had the Commission relied on the facts in the record, the Application, HD4’s comment, ITD’s comment, and the staff report, the Commission would have concluded that the Application met all relevant CUP criteria.

Specifically, with conditions of approval imposed, the Contractor Shop and Staging Area will not cause injury to surrounding properties or change the essential character of the vicinity. The proposed use will not produce any noise that could be considered injurious (the Commission already found that sound levels will not significantly increase). The proposed use will not produce any light pollution (condition of approval #5 requires Applicant to install all exterior lighting downward and away from surrounding properties). The proposed use will not produce excessive dust (condition of approval #12 requires Applicant to control dust in accordance with applicable laws). The proposed use will not cause a visual nuisance (condition of approval #8 requires Applicant to install a site-obscuring fence). The traffic impacts will be minimal (as found by HD4

and ITD). The proposed use will not create any health impacts (condition of approval #4 requires Applicant to comply with Southwest District Health requirements). The proposed use will not create any excess fire risks (condition of approval #2 requires Applicant to comply with all Fire District requirements). The proposed use will not create any nuisances (condition of approval #11 requires Applicant to comply with the Code's nuisance requirements). With conditions of approval imposed, the proposed use will be safe to surrounding properties and consistent with the character of the vicinity.

Further, with conditions of approval imposed, the Contractor Shop and Staging Area will not cause undue interference with traffic patterns. The traffic impacts will be minimal (as found by HD4 and ITD). Applicant will pay impact fees to mitigate any minimal impacts to the roads (condition of approval #3 requires Applicant to comply with HD4 requirements, including paying impact fees). With conditions of approval imposed, the Contractor Shop and Staging Area will not cause undue interference with traffic patterns.

Accordingly, we respectfully request that the Board reverse the Commission's erroneous decision and findings as it relates to injuring surrounding properties or changing the character of the vicinity, and unduly interfering with traffic patterns and approve Mr. Erlbach's application for a CUP. The Board should conclude that this Application satisfies all CUP criteria in Canyon County to operate as a Contractor Shop and Staging Area.

Applicant has no objections to the conditions of approval recommended by Staff. Applicant is willing to consider any other conditions of approval that the Board believes is necessary to mitigate potential impacts. Applicant simply wants to use its Property as a Contractor Shop and Staging Area consistent with all applicable laws, rules, and regulations.

Canyon County Development Services

111 N. 11th Ave. Room 310, Caldwell, ID 83605
(208) 454-7458

Building Divsn Email: buildinginfo@canyoncounty.id.gov **Planning Divsn Email:** zoninginfo@canyoncounty.id.gov

Receipt Number: 84934

Date: 3/21/2025

Date Created: 3/21/2025

Receipt Type: Normal Receipt

Status: Active

Customer's Name: Candice White - Hawley Troxell

Comments: CU-2023-0024-APL - appeal

Site Address: 0 GOODSON RD, Caldwell ID / Parcel Number: 37905000 0

CHARGES

<u>Item Being Paid For:</u>	<u>Application Number:</u>	<u>Amount Paid:</u>	<u>Prevs Pymnts:</u>	<u>Unpaid Amnt:</u>
Planning - Any Decision Appealed to the Board	CU2023-0024-APL	\$600.00	\$0.00	\$0.00

Sub Total: \$600.00

Sales Tax: \$0.00

Total Charges: \$600.00

PAYMENTS

<u>Type of Payment:</u>	<u>Check/Ref Number:</u>	<u>Amount:</u>
Credit Card	173035925	\$600.00

Total Payments: \$600.00

ADJUSTMENTS

Receipt Balance: \$0.00