



**PLANNING COMMISSION MEETING**  
117 South Main Street, Monticello, Utah 84535. Commission Chambers  
March 14, 2024 at 6:00 PM

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**AGENDA**

Google Meet joining info Video call link: <https://meet.google.com/ust-hood-zzu> Or dial: (US) +1 661-552-0879 PIN: 960 575 714#

**GENERAL BUSINESS**

**Welcome / Roll Call**

**Pledge of Allegiance**

**Approval of Minutes**

1. Planning Commission Meeting Minutes from February 8, 2024

**PUBLIC COMMENT** - *Time reserved for public comment on items or issues not listed on the agenda.*

**ADMINISTRATIVE ITEMS**

2. Review of Current Planning Commission Bylaws. Kristen Bushnell, Planning Administrator
3. Annual Open Meetings Act Training

**LEGISLATIVE ITEMS**

4. Consideration and Approval of a Conditional Use Application for a HipCamp to be Located near Looking Glass Rock for Where the Wild Things Camp, Steven Alba
5. Consideration and Approval of a Temporary Conditional Use Application for a RV Trailer extension during home build to be Located at 304 Bobbie Lane in La Sal, Victor Najera
6. Review of Tomco Preliminary Plat Subdivision, Ben Tomco

**BUILDING PERMIT(S) REVIEW**

7. Review of March Building Permits

**ADJOURNMENT**

**\*\*In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice\*\***



**PLANNING COMMISSION MEETING**  
117 South Main Street, Monticello, Utah 84535. Commission Chambers  
February 8, 2024 at 6:00 PM

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**MINUTES**

**GENERAL BUSINESS**

**Welcome / Roll Call**

Planning Commission Chair Trent Schafer called the meeting to order at 6:00 pm.

**PRESENT:**

Chairman Trent Schafer  
Vice-Chairman Lloyd Wilson  
Commissioner Cody Nielson (arrived approx. 6:30pm)  
Commissioner William John Johnston  
Commissioner Shea Walker  
Commissioner Melissa Rigg  
Commissioner Ann Austin  
County Administrator Mack McDonald  
Planning & Zoning Administrator Kristen Bushnell  
County Chief Deputy Attorney Mitch Maughan  
Deputy Attorney Jens Nielson  
Board of County Commissioner Silvia Stubbs

**Pledge of Allegiance**

The Planning Commission conducted the Pledge of Allegiance.

**Approval of Minutes**

**1. Minutes for Meeting on January 11, 2024**

Need to revisit recording to update motions being made away from Chairman Schafer.

Motion made by Commissioner Rigg to approve the meeting minutes with corrections.  
Seconded by Commissioner Johnston.

Voting Yea: All in favor.

Motion carries.

Commissioner Austin asked to address Item #6 of the Agenda as the packet of information was substantial, over 750 pages, and she felt that while the discussion was appropriate for tonight's meeting that we should postpone the vote to give more time for due diligence and consideration.

Chairman Schafer clarified the procedure to move forward with Administrator McDonald. There was no deadline for the courts, however, this process has been on-going for several years and time is of the essence.

Commissioner Austin made a motion to change Agenda Item #6 from an action item to a discussion item only. No second was made.

Motion fails.

## **PUBLIC COMMENT**

Public Comment was offered for anything not on the agenda. Public Comment will be allowed for individual Administrative and Legislative Items.

Public comment provided by Ms. Huckabee in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Sloan in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Smith in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Shapiro in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Whitensy in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Smires in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Wysey in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Vandyke in favor of the Love's Travel Stop proposal.

Public comment online provided by Ms. Daley in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. McNeill in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Steward in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Angel in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. Turk in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Larry in opposition to the Love's Travel Stop proposal.



Public comment online provided by Ms. Clark in opposition to the Love’s Travel Stop proposal.

Public comment online provided by Ms. Margalese in opposition to the Love’s Travel Stop proposal.

Public comment online provided by Mr. Allred in opposition to the Love’s Travel Stop proposal.

**The meeting was recorded electronically and audibly. A transcript of the meeting, including a verbatim discussion of the Love’s Travel Stop issue was transcribed by CHERYL J. HAMMER, RPR; UTAH CCR 126919357-7801 of Veritext Legal Solutions (801)746-5080; A COPY OF THIS TRANSCRIPT IS INCLUDED HEREWITH AND BY REFERENCE MADE A PART OF THESE MINUTES.**

## ADMINISTRATIVE ITEMS

### 2. Review of 2022 Planning Commission Bylaws.

**Time stamp 0:13:00 (audio)**

Administrator Bushnell, in an effort to move the meeting quicker this evening, will include this as an informational item to commissioners now and will continue the discussion at the March Planning Commission.

## LEGISLATIVE ITEMS

### 3. Consideration and Approval of a Conditional Use Permit Allowing for a RV Park/Wedding Venue for Lot 10 Spring Draw Subdivision Phase 2, Old La Sal, Kyle Lankford

**Time stamp 1:06:00 (audio)**

Administrator Bushnell explained this application is an extension of a Conditional Use Permit previously approved in November 2023 as the landowner was able to acquire adjacent parcels towards their endeavor. Applicant Lankford further clarified that the changes were to move the main building further North onto the newer property and create several camp sites.

Commissioner Rigg questioned the amount of tent sites for a public water system. Lankford explained that the tent sites would use the original restrooms provided.

Motion made by Commissioner Walker to approve the Conditional Use of this permit including:

- Must coordinate with the Division of Drinking Water to avoid a public water system or the creation of a Public Water System and pass that off through the County Administrator
- Must comply with any State or Federal fire restrictions
- Must comply with all building permit requirements

- Must comply with San Juan County Health Department requirements and Utah State water system requirements. Including having an engineer design the appropriate septic systems for the uses.
- Must comply with San Juan County business license requirements.

Seconded by Commissioner Wilson.

Voting Yea: All in favor.

Motion carries.

#### **4. Consideration and Approval of a Conditional Use Permit for 4110 South Highway 191, APC Towers LLC, Romano & Associates**

##### **Time stamp 1:14:00 (audio)**

Administrator Bushnell gave an overview of project near Shirt Tail. Commissioner Schafer spoke in favor of the tower due to the continuous cell service between Blanding and White Mesa.

Commissioner Nielson disagreed with the location due to the proximity to the Blanding airport and having air traffic, despite the approval letter included from the FAA.

Administrator Bushnell discussed the uncertainty of this tower being able to reach the voids in service at the bottom of White Mesa Hill, Recapture Reservoir and the canyons along Highway 95. Commissioner Nielson reinforced the concern for the voids in service in this corridor and suggested that there were other possible locations for this tower that would provide similar coverage and be away from the airport.

Applicant Curry spoke about the engineering behind getting the best coverage area and that they did have height restrictions with the FAA.

Commissioner Nielson asked about the availability to users on the tower. Curry stated that the towers are open to 4-5 carriers, offered openly to leasing space.

Commissioner Austin asked about the process for Variances on telecommunication towers. Administrator McDonald explained that the variance request goes through Lyn Creswell, Administrative Law Judge.

Motion made by Commissioner Wilson to approve the Conditional Use of this permit including:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.
- The tower shall be operated in compliance with federal regulations.

- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed at owner's expense.
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.
- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35'.

Seconded by Commissioner Johnston.

Voting Yea: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson, Commissioner Walker, Commissioner Austin

Abstain: Commissioner Rigg

Motion carries.

**5. Consideration and Approval of a Conditional Use Permit for Utah State Route 95, Vertical Bridge Development LLC, Romano & Associates**

**Time stamp 1:29:00 (audio)**

Administrator Bushnell gave an overview of the project between Natural Bridges and the turn off to Hall's Crossing. This telecommunication tower is an off-grid system including solar panel arrays and battery storage.

Commissioner Rigg stated that she believes this should go to a public hearing due to this site location being in the middle of Bears Ears National Monument. While recognizing that there is not cell coverage in the area, she believes this is an inappropriate site.

Commissioner Rigg motioned for this Conditional Use to go to Public Hearing.

Seconded by Commissioner Austin.

Voting Yea: Commissioner Rigg and Commissioner Austin

Voting Nay: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson, Commissioner Walker

Motion fails.

Applicant Curry explained that this was the height required to get the bare minimum of coverage in that area. The geographical features do no favor other locations.

Commissioner Rigg stressed that this kind of development needed to have tribal, BLM, National Parks, and other land management agencies input before moving forward. She questioned if it was appropriate to jump at the first proposal, in this area, instead of having all options available.

Commissioner Nielson stressed the importance of safety along this corridor. There are more and more people in this area and that requires more and more emergency services and availability to obtain help. Commissioner Johnston agreed strongly that due to the recreational activities of this area, emergency access needs to be available.

Commissioner Austin suggested more but shorter towers. She also stressed the carelessness of visitors if they know that they can get emergency help.

Commissioner Austin made a motion to deny the Conditional Use Permit.

Seconded by Commissioner Rigg.

Voting Yea: Commissioner Rigg and Commissioner Austin

Voting Nay: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson and Commissioner Walker

Motion fails.

Commissioner Walker suggested that this tower is reactive to the Bears Ears National Monument that has brought in many more people and he supports getting this in as we are already behind the curve of services.

Motion made by Commissioner Nielson to approve the Conditional Use of this permit including:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.
- The tower shall be operated in compliance with federal regulations.
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed at owner's expense.
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.

- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35’.

Seconded by Commissioner Walker.

Voting Yea: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson and Commissioner Walker

Voting Nay: Commissioner Rigg and Commissioner Austin

Motion carries.

**6. Consideration and Approval of the Love’s Travel Stop, Proposed Along HWY 191, within Spanish Valley on 13.06 acres as a Mixed-Use and Permitted Under the Controlled District Highway Commercial (CDh) Zoning. Mack McDonald, Chief Administrative Officer.**

**Time stamp 1:47:30 (audio)**

Administrator McDonald addressed the history of the Application for Love’s Travel Stop & Country Stores for a truck stop, café, fast food establishment and related use in Spanish Valley. Love’s commenced the application process in May of 2019. (Love’s submitted its application using Grand County forms and sent its payment to Grand County. At the time, Grand County provided plan review and building inspection services in the Spanish Valley area under an inter-local agreement.

A group identified as “The Northern San Juan County Coalition” has opposed this project, attacking San Juan County’s ordinances; the application of these ordinances by staff and Commissioners, together with other issues. Issue related to this matter have gone to the district court, the Utah Court of Appeals and back to the district court.

Most recently, the Planning Commission has been ordered by the Seventh Judicial District Court in and for San Juan County, State of Utah, to determine whether Love’s proposed travel stop on property it owns on the east side of U.S. Highway 191 and south of Sunny Acres Lane in the Spanish Valley area of San Juan County is a permitted use and whether it requires a variance or a conditional use permit. In 2019, the San Juan County Planning and Zoning Director at the time, approved the project as a permitted use.

The Love’s property is currently zoned Highway Commercial (HC) under the Spanish Valley Development Ordinance (SVDO). But before that, the property was zoned Controlled District Highway Commercial (CDh) under the San Juan County Zoning Ordinance (2011) (SJZO). Although Bird approved Love’s plan as a permitted use, he did not explain why it was a permitted use. The district court determined that the travel stop was a mixed use, not entirely any single one of the permitted uses listed for the CDh zone in the ordinance. Citing SJZO section 12-2’s provision in the list of permitted uses in the CDh zone that it included “[o]ther uses approved by the Planning Commission as being in harmony with the intent of the neighborhood commercial zone and similar in nature to the above listed uses,” the court held that “the Planning Commission (not this court) must first determine from substantial evidence whether this project is ‘an automobile service station,’ a ‘restaurant,’ or both. And if so,

whether two or more permitted uses can be combined and still be in harmony with the Highway Commercial zone.”

The court directed the Planning Commission to decide that issue “and determine whether the use also requires a variance or conditional use permit.” Administrator McDonald reminded the commissioners of their roles and the importance of creating sufficient findings regardless of how the vote and other matters.

After some discussion, the planning commissioners first discussed which ordinance should apply as that would be consequential in their findings.

Commissioner Rigg made the motion that the Love’s application was complete and that the 2011 Ordinance applies due to the fact that the application was submitted and complete prior to the 2019 moratorium and Spanish Valley Ordinance adoption. Findings also include that the application fee was paid, sketch plan was reviewed, that the applicant did their due diligence of everything that was asked of them at the time.

Seconded by Commissioner Johnston.

Voting Yea: Commissioner Nielson, Commissioner Rigg, Commissioner Johnston, Chairman Schafer, Commissioner Wilson and Commissioner Walker

Voting Nay: Commissioner Austin.

Motion carries.

The Commissioners then discussed whether a truck stop, café, general store, etc. are permitted uses under the ordinance. Commissioner Nielson stressed that all automobile service stations are mixed-use in nature, that most have other services, such as eateries associated with them. Commissioner Wilson commented that this included uses such as garage storage of automobiles, and commercial parking lots. Commissioner Walker suggested that the uses are similar in nature.

Commissioner Austin stressed that the definition of a Truck Stop is far beyond an automobile service station and the level of impact that type of development has on the surround area. Commissioner Rigg does not think this was a permitted use.

Commissioner Nielson made the motion that the uses of the Love’s Truck Stop are permitted due to the similarity of the permitted uses listed for the Highway Commercial District and is in harmony with the intent of the zone as per the 2011 Ordinance. Those uses listed include a restaurant, drive-in café, automobile service station, commercial parking lot, and the purpose and use is permitted because it is in harmony.

Seconded by Commissioner Wilson.

Voting Yea: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson and Commissioner Walker

Voting Nay: Commissioner Rigg and Commissioner Austin

Motion carries.

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**BUILDING PERMIT(S) REVIEW**

**7. February Building Permits**

**Time stamp 3:15:00 (audio)**

**ADJOURNMENT**

**Time stamp 3:16:30 (audio)**

Motion to adjourn was made by Commissioner Walker. Seconded by Commissioner Rigg.

Voting Yea: All in favor.

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NORTHERN SAN JUAN COUNTY                    )  
COALITION,    )  
  Claimant,                    ) File No. 3.00002  
  vs.    )  
SAN JUAN COUNTY,                                    )  
  Respondent.                    )

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EXCERPTS FROM THE  
SAN JUAN PLANNING COMMISSION  
MEETING OF  
FEBRUARY 8, 2024  
RE: LOVE'S TRAVEL STOP

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(Reporter's Note: All names are phonetic.)

TRANSCRIBED FROM RECORDING BY:  
CHERYL J. HAMMER, RPR  
WASHINGTON CCR 2512; OREGON CCR 21-0013  
UTAH CCR 126919357-7801; IDAHO CCR 1206



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(BEGINNING OF TRANSCRIPTION)

(Beginning of excerpt.)

MADAM COMMISSIONER AUSTIN: Chair, I've never

asked to address the agenda before, but I have an issue with an agenda item.

CHAIRMAN SCHAFER: Okay.

MADAM COMMISSIONER AUSTIN: I'd like to make

a motion that we change item six to a discussion item tonight. And my reasoning is that this packet, this was over 750 pages, and I don't think anybody really could get through all of this, and out of respect for due process, I really feel like just discussing this, there's a lot to cover. There's a lot of questions, I think, potentially.

That it would show some respect to the item, however many countless hours have been put into that by all parties. I just -- since this item is over 700 pages long, it seems to warrant more consideration than just the few days that we've had to cover it. So that's my motion.

SIR COMMISSIONER: What is procedure there?

ADMINISTRATOR MCDONALD: With her motion

It's up to the

1 chair, if he wants to entertain the motion and a  
2 second.

3 SIR COMMISSIONER JOHNSTON: So, so she's  
asking  
4 to postpone it, is what Ann's asking for.

5 CHAIRMAN SCHAFER: Postpone the vote?

6 MADAM COMMISSIONER AUSTIN: Just discuss  
it  
7 tonight.

8 SIR COMMISSIONER JOHNSTON: But allow it  
for  
9 discussion.

10 CHAIRMAN SCHAFER: Well, it's been going  
on  
11 for a couple of years now. So, I mean, up to you all.

12 SIR COMMISSIONER WILSON: Okay. Is there  
--  
13 is there a deadline on it, Mack?

14 ADMINISTRATOR MCDONALD: What?

15 SIR COMMISSIONER WILSON: A deadline to  
the  
16 courts?

17 ADMINISTRATOR MCDONALD: I don't believe  
so, no. I

18 haven't -- in the judge's motion and summary of their,  
19 I can't find -- but we wanted to get this before you  
20 this month, so as soon as possible after he made his  
21 ruling that come out. So there's nothing that's in

San Juan Commission Meeting; February 28, 2024 (Excerpts) - February 19, 2024  
22 his remanding back to the planning commission to  
23 consider the items that states that this has to be  
24 done by a specific date.

Item 1.

25 I know that both parties, all parties

1 involved would -- obviously time is of the essence  
2 with this application. It was started back in 2019,  
3 and here it is 2024. But I think, you know, you're  
4 not changing -- you're not adding an agenda item to  
5 it. It's just a motion to --

6 SIR COMMISSIONER WILSON: Modify.

7 ADMINISTRATOR MCDONALD: -- to modify.

8 MADAM COMMISSIONER AUSTIN: I'd just also  
9 like to comment that we have new commissioners now.  
10 Not everybody's as familiar with this agenda item as  
11 others, and just to give it fair consideration.

12 CHAIRMAN SCHAFFER: Okay.

13 MADAM COMMISSIONER AUSTIN: Because I  
know

14 out of that 700 pages there are items that we've seen  
15 before --

16 CHAIRMAN SCHAFFER: Uh-huh.

17 MADAM COMMISSIONER AUSTIN: -- but there  
are

18 new commissioners that probably haven't.

19 CHAIRMAN SCHAFFER: That brought back a  
lot of

20 pain.

21 MADAM COMMISSIONER AUSTIN: That what?

22 CHAIRMAN SCHAFFER: That brought back a  
lot of

23 pain, the 757 pages. I lived it. Uh-huh.

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24

MADAM COMMISSIONER AUSTIN: And I'm  
assuming

25

that those wouldn't have been included if they weren't

1 something we should -- that were relevant to the  
2 decision.

3 CHAIRMAN SCHAFFER: Okay. I have a motion  
to  
4 change item six from an action item to a discussion  
5 item only. Do I hear a second? Okay.

6 MADAM COMMISSIONER AUSTIN: All I can do  
is  
7 try.

8 SIR COMMISSIONER WILSON: Absolutely.

9 CHAIRMAN SCHAFFER: (Inaudible) for lack  
of a  
10 second.

11 SIR COMMISSIONER WALKER: Okay.  
Appreciate  
12 the thought.

13 CHAIRMAN SCHAFFER: I think Ann asked for  
this  
14 to be put on there, the review of the bylaws.

15 MADAM COMMISSIONER AUSTIN: Well...

16 ADMINISTRATOR MCDONALD: Do you want to  
do  
17 the comments?

18 MADAM COMMISSIONER RIGG: I actually like  
19 that we postpone that item, because we've got so much  
20 other stuff on the agenda.

21 CHAIRMAN SCHAFFER: You know, I have to  
admit,

22 I didn't read it because I was reading everything  
23 else.

24 MADAM COMMISSIONER RIGG: I read it. I  
25 didn't read it because I was reading everything else.



1 ADMINISTRATOR BUSHNELL: Well, and I  
2 would say on that administrative item, that's more for  
3 your information. It was informational only. So we  
4 can move along while still including that and you can  
5 read it at your own leisure.

6 CHAIRMAN SCHAFER: And actually, I  
7 skipped  
8 over probably one of the important line items.

9 ADMINISTRATOR MCDONALD: Yeah.

10 CHAIRMAN SCHAFER: Public comment. Okay.  
11 So  
12 we're going to have public comment, and this will be  
13 for anything that's not or on -- anything that is not  
14 on the agenda or on the agenda. You'll be limited to  
15 three minutes. We'll take in-house first. When you  
16 come up, state your name and where you reside.

17 SIR COMMISSIONER WILSON: I have a  
18 question.

19 CHAIRMAN SCHAFER: Sure.

20 SIR COMMISSIONER WILSON: If members of  
21 the  
22 community would like to pass their time, are you going  
23 to allow that? If they have an attorney online that  
they would like to pass their time to them for more  
than their three minutes, would you allow that?

CHAIRMAN SCHAFER: No.

SIR COMMISSIONER WILSON: No? Okay.

24

CHAIRMAN SCHAFER: And let's not be

25

repeattitious. If somebody's already said residential

1 zone, we don't need to keep repeating that. We got a  
2 bunch of letters that talked about a residential zone.  
3 So, you know, we can hear it, but don't keep repeating  
4 it.

5 So with that, who would like to be  
6 the...

7 MS. HUCKABEE: And nobody will repeat  
8 mine because I'm the only one experienced (inaudible).

9 ADMINISTRATOR BUSHNELL: It would be  
10 very helpful for me taking the minutes if you'll just  
11 state your name.

12 MS. HUCKABEE: Oh, I will. Yeah.

13 My name's Marlene Huckabee. I live  
14 right on the line of county -- San Juan County, Sunny  
15 Acres in Spanish Valley. So I'm going to read mainly  
16 because I'll veer off if I don't.

17 Okay. So I've lived on the border for  
18 30 years, and most of you know my story, but there's  
19 some new members and people that don't know me that I  
20 want to talk about my passion of my land.

21 So around 1998, I had visited Moab  
22 many times, as my son lived there. I wanted to find  
23 property I could afford to get paid off before I  
24 retired. It took a couple of visits to Moab to find  
25 what I could afford and what spoke to me.

1 I saw my property one time, and that  
2 day I said to the realtor, who owns over the fence?  
3 She said, a school trust land. I thought, great. I  
4 love schools. I'm all for it.

5 So I thought it was great, until I  
6 realized that SITLA is in the real estate business.  
7 They love to lease, rent, and sell their property, of  
8 which they never bought. They got it free, and they  
9 don't pay taxes.

10 So the property was a real dump. It  
11 was poverty flats, but it had trees, it had the view  
12 of the La Sals and the behind the rocks. I fell in  
13 love. I could visualize me living there.

14 I looked beyond the broken cars,  
15 freezers, refrigerators, the mountain of empty beer  
16 cans, no real yard, just stuff, junk everywhere. I  
17 didn't care. I wanted it. I signed the papers. I  
18 drove back to Denver, where I lived and worked.

19 So fast-forward five years, then to my  
20 surprise, the company I worked for offered an early  
21 leave. Wow. I put my house up for sale. It sold. I  
22 moved to Moab in October of 1994. It was -- I was in  
23 hog heaven. My junk pile.

24 So for the last 30 year, I have put my  
25 heart, soul, love to improve, clean up, nurture my

1 beautiful place I call home. Not for the purpose of  
2 making money, gouging renters, putting trailers and  
3 space for people to park their tents. No. I moved  
4 there for the rest of my life. I don't want to move.  
5 I'm too old.

6 When I found the possibility of a  
7 Love's truck stop, my heart stopped. I could not  
8 believe it. It was about five years ago. It made me  
9 sick, the thoughts of losing our precious dark sky,  
10 quiet nights, my trees full of birds. They sleep  
11 there at night. They'll leave because of the drone of  
12 the motors, the idling exhaust, the gas that per --  
13 and oil that permeates the air. Probably the  
14 butterflies will leave. Everything will leave.

15 Please consider this when you make  
16 your choice. I want San Juan to prosper and  
17 (indecipherable; interference). I'm on the library  
18 board for San Juan, and I know how tight the budget is  
19 and the truck stop is not the experience that most  
20 visitors come to see. They come to see the beautiful  
21 sights. Thank you.

22 CHAIRMAN SCHAFFER: Thanks, Marlene.

23 SIR COMMISSIONER WILSON: Thanks,  
Marlene.

24 MS. HUCKABEE: And I have some  
25 pictures. If I can show them maybe later?

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1 CHAIRMAN SCHAFFER: Sure.

2 MS. HUCKABEE: Oh. I stole them.

3 ADMINISTRATOR BUSHNELL: I'll just hold  
4 on to all this.

5 MS. SLOAN: I'm Holly Sloan, resident  
6 of northern San Juan County and a member of the  
7 Northern San Juan County Coalition.

8 By March of 2019, it was understood  
9 there was significant opposition to a truck stop at  
10 Sunny Acres Lane. In response, in April, members of  
11 the county commission started asking for a moratorium  
12 to temporarily stop development and allow for more  
13 community input into the preparation of the Spanish  
14 Valley zoning ordinances.

15 The moratorium was delayed based on  
16 staff and county attorney interventions. Neighbors  
17 worried these delays created a window for Love's to  
18 slip in an application.

19 Here's what we now know. On April  
20 16th, the moratorium was discussed by the county  
21 commission. A previous county administrator asked  
22 that no action be taken.

23 On April 25th, the same county  
24 administrator notified SITLA the moratorium would come  
25 up again on May 7th. SITLA immediately notified

1 Love's. Eight days later, Love's filed its  
2 application, four days before the commission was  
3 expected to act.

4 But on May 7th, the moratorium was  
5 delayed again, this time by the former county  
6 attorney. Several of us questioned his actions. And  
7 I have a copy of the -- of a letter sent after that  
8 meeting that I'll give to you to put into the record.

9 Walter Bird sent an approval as -- an  
10 approval letter to Love's three days after this delay.  
11 The court has determined this approval was illegal.  
12 The moratorium was unanimously approved on May 21st.

13 This sequence of events raises  
14 questions about the integrity and the transparency of  
15 this process.

16 In June of 2019, as a result of a  
17 GRAMA request, the coalition received a copy of Walter  
18 Bird's approval letter. A letter was -- an appeal  
19 letter was sent. We waited. We followed up. No  
20 word. Six months passed.

21 We hired attorneys to get the county's  
22 attention. We wanted to make our case to the appeal  
23 body, the county commission. Going to court was not  
24 you our ambition. After nine months of pressing for  
25 an appeal, the county attorney replied that we would

1 not get a hearing. Having no other option, the  
2 coalition appealed to district court.

3 For four years, the county, joined by  
4 Love's Corporation, chose to argue our right to appeal  
5 rather than the merits of our case. It's ironic that  
6 tax dollars were spent trying not to listen to  
7 citizens. The court has ordered you to determine  
8 whether Love's can provide substantial evidence that a  
9 truck stop is a permitted use. I don't believe they  
10 have.

11 The coalition has provided evidence  
12 that a truck stop is not an automobile station or a  
13 restaurant or any of the other permitted uses in the  
14 2011 ordinance. Fifty-three trucks around the clock  
15 make a difference and persuasive. Ombudsman opinion  
16 agrees with us.

17 We have shown that the application was  
18 incomplete and Love's does not have a vested right.  
19 Regardless of which ordinance used, this application  
20 needs to be denied. Thanks.

21 CHAIRMAN SCHAFER: Thanks.

22 MS. SLOAN: Here's -- shall I give  
23 these to you, a copy of my speech and the letter?

24 ADMINISTRATOR BUSHNELL: Sure. Thanks.

25 MS. SLOAN: Uh-huh.



1 MR. SMITH: Anybody want to follow  
2 along?

3 CHAIRMAN SCHAFER: You're long-winded and  
4 (indecipherable).

5 MR. SMITH: I'm gonna try.

6 My name is Colby Smith, from San Juan  
7 County. I'm a member of the Northern San Juan County  
8 Coalition.

9 We saw the supreme court -- some of us  
10 saw a supreme court argument this morning, so I'm  
11 starting out with the supreme court. John Marshall,  
12 who was the fourth chief justice of the United States,  
13 famously wrote in 1803 that we live in a nation of  
14 laws and not of men.

15 In saying that, he ordered James  
16 Madison, he is the guy who wrote the constitution,  
17 ordered him to do something that the law required, but  
18 that Madison didn't want to do.

19 This is relevant, I think, to the  
20 decision you have in front of you today, because the  
21 question in front of you is what the law in San Juan  
22 County, contained in its ordinances, requires. It's  
23 not a question of what ADMINISTRATOR MCDONALD wants or  
24 what I want or  
25 what Trenton Lloyd wants or anyone else. It's a  
question of what the law requires.

1           The whole reason the coalition took an  
2 appeal from Walter Bird's approval of the Love's truck  
3 stop in 2019 was to make sure that San Juan County  
4 followed its own laws. It took us almost five years  
5 to get there, and we had to go all the way to the Utah  
6 Supreme Court and back down again, but ultimately the  
7 district court said that Walter's approval was  
8 illegal.

9           Now the district court has put in  
10 front of you -- sorry -- the question whether to  
11 approve the truck stop in the Sunny Acres location.  
12 Regardless of what you or I may personally want, the  
13 law's clear. The truck stop is not allowed.

14           First, the 2011 zoning ordinance is  
15 clear. It says, and I quote, the following uses may  
16 be permitted in -- by variance within each subzone,  
17 and then it lists 11 permitted uses. As you know, a  
18 variance is a technical term under the zoning  
19 ordinance. There's a whole chapter, chapter 4,  
20 devoted to it in the ordinance, and there's an  
21 application form on the county website.

22           Love's never submitted that form.  
23 They never sought a variance. And it doesn't matter  
24 whether we think the variance requirement is stupid or  
25 makes no sense. It's there. It's the law. It's what

1 the law requires, and Love's didn't seek it.

2 That means the Love's application was  
3 incomplete when it was made, and under Utah law, that  
4 means Love's has no vested right to have the  
5 application considered under the old 2011 ordinance.  
6 Instead, the application has to be considered under  
7 the ordinance that's in place today, the Spanish  
8 Valley ordinances, and those ordinances are clear; a  
9 truck stop is not allowed in the highway commercial  
10 district north of the Ken's Lake cutoff road. The  
11 parcel proposed by Love's is out of bounds, and that  
12 should be the end of your decision-making process.

13 As many of you know, many people in  
14 the community, including the coalition, fought hard to  
15 have the new ordinances put in place, and the  
16 coalition advocated strongly for the September 13th  
17 version of those ordinance, which I know sticks in  
18 some of your craw, precisely because the planning  
19 commission had recommended making changes to the truck  
20 stop provision.

21 So, yes, you ended up with ordinances  
22 that still have a draft line on them, but they are the  
23 law and you have no choice other than to implement  
24 them. Thank you.

25 CHAIRMAN SCHAFFER: Thanks.

1 MR. SHAPIRO: My name is Mark Shapiro.  
2 I live at Pack Creek Ranch, and I'm a member of the  
3 Northern San Juan County Coalition.

4 The case before you is particularly  
5 hard for two reasons. First, the county staff  
6 effectively dumped their incompetence in your lap.  
7 They did not follow their own zoning regulations.  
8 They did -- incredibly, the Love's application and fee  
9 were submitted in Grand County, which reviews  
10 construction in northern San Juan County, but not  
11 building applications.

12 How many cases have you heard in the  
13 past four years where a San Juan County project was  
14 first submitted in Grand County?

15 The second reason this is a hard case  
16 is the level of citizen involvement it has generated.  
17 Residents helped develop a Spanish Valley plan which  
18 envisioned what the community should look like in the  
19 future. A lot of people participated. They had  
20 strong and definite ideas. Some of those may be  
21 different from the ones that you hold, but everyone  
22 agrees on what that -- on that -- what everyone agrees  
23 to is that change is coming in Spanish Valley driven  
24 by SITLA and San Juan County government.

25 Would hope that we can learn from the

1 sad lessons of other western towns facing  
2 developmental pressure, that sacrifice their quality  
3 of life today for profit and tax revenue tomorrow.  
4 These development cases are not usually a yes/no  
5 question. If we say no to a particular use or a  
6 particular location, that usually doesn't mean that we  
7 say no to everything. But isn't that how the decision  
8 is often framed?

9 A Love's truck stop is a classic  
10 example. There's already a Love's in Grand Junction,  
11 Green River, and Cortez. If the company wants to  
12 serve truck traffic on Highway 191, where else would  
13 it build than in San Juan County? The question is  
14 what location for a truck stop would have the least  
15 negative impact? Sunny Acres Lane is not that  
16 location.

17 So you now get to wrestle with the  
18 dual questions of what to do with the original Love's  
19 application and what to do with a concept of a truck  
20 stop in Spanish Valley.

21 The first question is the easier of  
22 the two. San Juan County staff screwed up, but still  
23 hope to squeeze through an application that was  
24 incomplete and which a district court judge has  
25 determined to be illegal.

1           But the second question goes to the  
2 heart of our responsibility to Spanish Valley, that  
3 place the many people here and online tonight call  
4 home. Do we want a big, bright, noisy truck stop next  
5 to people's homes as a gateway to a vibrant community  
6 of the future? Do we want to tell residents that  
7 it'll be better not participate in public meetings  
8 because others will make decisions for them?

9           I've served on a lot of committees in  
10 my life, but never one quite like yours. You  
11 volunteer untold hours of time to have to make really  
12 tough decisions. Now you face one of the most  
13 important decisions I can imagine. I would suggest  
14 you tell San Juan County and Love's what is on the --  
15 a lot of people's minds tonight. We can do better.

16           CHAIRMAN SCHAFER: Thank you.

17           SIR COMMISSIONER NIELSON: Sorry,  
everybody.

18           CHAIRMAN SCHAFER: Find you a spot.

19           MADAM COMMISSIONER RIGG: Glad you're  
here,

20           Cody.

21           SIR COMMISSIONER NIELSON: You got enough  
22 room?

23           (Chattering among the commission.)

24           MS. WHITENSY: Thank you. My name is



1 a couple of decades now, and I'm one of the neighbors  
2 who formed the Northern San Juan County Collision some  
3 years ago, so my voice might be heard from the far  
4 edge of the county. And I thank you for listening to  
5 me today. And I apologize if there's some repetition  
6 in here, but these are my own words and I didn't have  
7 privy to everybody else's. So I'm just going to go  
8 for it.

9 I know you're here to consider whether  
10 Love's as a travel stop is a good fit for the  
11 commercial zone, and I believe a major truck stop at  
12 that proposed site does not meet the requirements for  
13 the commercial zone as was envisioned by the community  
14 when the zone was established.

15 I don't need to tell you that planning  
16 for a community is a lot more than meeting commercial  
17 needs. This venture would also be a bad fit for the  
18 immediately adjacent residential zone, my  
19 neighborhood. I'm not antitrucker. I know where my  
20 food comes from, and I'm proud of the professional  
21 truckers in my family.

22 Every year I drive across the US to  
23 visit family in the east and I visit a lot of truck  
24 stops. When I roll in with my diesel pickup in the  
25 middle of the night I'm glad there's a bustling place



1 with bright lights where I can get fuel, leave my  
2 trash, and rest for a bit without disturbing the peace  
3 of others.

4 I've been paying attention while  
5 traveling, and one thing I've noticed is generally  
6 truck stops are not located adjacent to established  
7 residential neighborhoods. And why is that? Because  
8 nobody really wants to live behind a truck stop or mix  
9 with truck stop traffic when trying to get home.

10 Residential neighborhoods and truck  
11 stops have some very opposing purposes. No matter how  
12 nice you make it look, a truck stop still needs to be  
13 what it is.

14 You've already heard that we, the  
15 residents, have put a lot of time and effort into  
16 trying to create a stable, livable future for our  
17 community. What we came up with is not perfect, but  
18 it's what we're trying to create.

19 What I envisioned for the end of our  
20 residential street on Sunny Acres was maybe a store or  
21 restaurant, Outfitter, storage units, but not a  
22 brightly lit, all night, multi-purpose destination for  
23 large commercial traffic. I believe the zoning  
24 ordinance reflects that. It's not a good fit for this  
25 location.

1           Why did the proponents of this truck  
2 stop avoid talking to neighbors and try to go around  
3 the county's established planning process? Maybe  
4 because they too know a truck stop at the proposed  
5 location is not really a good fit for San Juan County  
6 or its residents. But they are willing to sacrifice  
7 the peace and the investment others have made in their  
8 property and homes, and they are willing to test the  
9 strength of San Juan County's planning process.

10           The proponents of this venture did not  
11 properly apply for approval at the start and now they  
12 expect the current ordinance to be ignored. This too  
13 is not a good fit. Time and again I've heard people  
14 say we don't want to be another Moab. If we allow  
15 proponents to step around our established planning  
16 process and brush aside what plans we've made, we  
17 won't even it as another Moab. We'll be aiming for a  
18 hodgepodge tourist suburb of Moab, with an expensive  
19 infrastructure burden left for San Juan County.

20           This is not the home we envisioned and  
21 it's not a good fit. Thanks.

22           CHAIRMAN SCHAFER: Thank you.

23           MS. SMIRES: Good evening. I want to  
24 thank the committee members for the work that they do.  
25 My name is Linda Smires. I'm a retired physician,

1 who's a member of the Northern San Juan County  
2 Coalition, and my husband and I live in northern San  
3 Juan County.

4 I want to speak to the effects a truck  
5 stop would have on the health in our community. While  
6 my specialty is obstetrics and gynecology, I have a  
7 master's degree in organic chemistry, so I have  
8 experienced the chemicals that result in birth defects  
9 and adversely affect the health of the mother.

10 In preparation for this meeting, I  
11 performed a literature search of toxic environmental  
12 agents. Spanish Valley is obviously a valley,  
13 surrounded by tall rims that trap air pollution.

14 One of the biggest sources of air  
15 pollution is burning fossil fuels like diesel, which  
16 semitrucks of course do. The most concerning  
17 byproducts of burning diesel are particulate matter,  
18 nitrogen oxide, and sulfur dioxide. There is no safe  
19 threshold for fine particles.

20 In a valley that traps pollutants,  
21 building a 53-bay truck stop, with engines running day  
22 and night, will drastically increase the airborne  
23 particulate matter. A truck stop is not just getting  
24 gas, but hours of burning diesel fuel in one place for  
25 mandated rest for the truckers.

1 Preterm birth is associated with  
2 increasing inhalation of fine particles by the mother.  
3 But not only the fetus is affected. Older adults are  
4 also at increased risk of harm. Aging reduces the  
5 lung's breathing ability, and air pollution makes it  
6 worse.

7 Risks of air pollution on unborn and  
8 young children resulted in a scientific consensus  
9 recently among expert scientists and health care  
10 professionals through a project called TENDR,  
11 T-E-N-D-R, which stands for targeting environmental  
12 neurodevelopmental risk.

13 Disorders identified that are  
14 associated with pollution from particulate matter,  
15 nitrogen oxide and sulfur dioxide, include learning  
16 disabilities, attention deficit order disorder,  
17 autism, and behavioral and intellectual delays.

18 Adults at risk are those older than  
19 65, patients with asthma, COPD, patients with  
20 cardiovascular disease, those who are obese or  
21 diabetic, current and former smokers, and those with  
22 lung cancer. Basically, many of the people who now  
23 live in Spanish Valley will be at significant health  
24 risk.

25 Please don't put a 53-bay truck stop

1 25 feet from residential Spanish Valley. There are  
2 people trying to live in a safe environment and Love's  
3 can't put up a fence to protect them from these health  
4 dangers. The air doesn't care about a fence. Please  
5 do not allow the community to be subjected to these  
6 health risks.

7 If anyone would like references for  
8 those comments, Mr. McDonald has my email address.  
9 Thank you very much.

10 CHAIRMAN SCHAFER: Thank you. Next.

11 MR. WYSEY: Good evening. My name is  
12 John Wysey. I live in Grand County. I do live in  
13 Spanish Valley, and whatever happens in San Juan  
14 County affects me downstream, because I'm a downstream  
15 user.

16 I'm a professional river guide. I  
17 have been for 45 years. I lived in the Colorado River  
18 basin my entire life. I started in Los Angeles  
19 County, and then I ended up in Maricopa County. When  
20 I moved to Maricopa County there were 500,000 people,  
21 and now there's 5 million. So maybe understand why I  
22 came to Grand County to be by the river. I would  
23 never leave it.

24 Why -- obviously I didn't become a  
25 river guide to make lots of money, and it's true I get

1 to see wonderful scenery and stuff like that, but the  
2 reason why I stayed a river guide is because of the  
3 people. I took the governor down the Colorado River,  
4 I've taken congressmen. I've taken down movie stars.  
5 I've taken down lots of professors. I've done science  
6 trips. We have very wonderful conversations on these  
7 river trips. It's a great environment to make friends  
8 and learn about our natural world.

9 And I think one of the most profound  
10 things I've ever learned was a professor from the  
11 University of Arizona, and I said what -- why are our  
12 reservoirs going empty? Why is our aquifers going  
13 empty? And he said to me, it's because we don't have  
14 good planning and zoning, and he said to me, he said  
15 -- I go, well, what do you mean by that? And he goes  
16 -- he said, well, we've built very big things in all  
17 the wrong places.

18 And I think that that's not only true  
19 for San Juan County, that's true for Manhattan Island.  
20 That's true for -- the reason why I left Phoenix.  
21 It's, you know, the aquifers are empty there and so  
22 are the reservoir, and there's 5 million people there  
23 that depend on good water -- water. And I was a  
24 newspaper boy there, and I can't tell you how many  
25 times I had to go through the streets in a foot --

1 foot of water because of rain, floods, and things of  
2 that nature.

3 Well, that's not -- that's happening  
4 in where I live. I -- I've had a to run away from  
5 fires. I live next to Pack Creek. I have had to run  
6 away from floods three or four times. I cleaned out  
7 my basement last year, and so I talked to the road  
8 department and they said we got -- we got a planning  
9 and zoning problem, and they said yes, they did, and  
10 they spent money -- they spent a lot of money to fix  
11 it. They spent more money to fix it than it would  
12 have done to do good planning and zoning at the  
13 beginning.

14 So this, this is a problem that isn't  
15 local. This is a world problem, you know, and it's a  
16 really important job. And thank you for doing this  
17 work. It's a thankless job, but it is so important.  
18 Thank you.

19 CHAIRMAN SCHAFFER: Thank you.

20 SIR COMMISSIONER WILSON: Thank you.

21 CHAIRMAN SCHAFFER: Any other in-house?

22 MR. VANDYKE: Good evening. My name  
23 is Kim VanDyke, and I reside in Huntsville, Utah. I  
24 also have been employed by Love's Travel Stops, is our  
25 proper name, for 27 years, and I'm the one that found

1 this site.

2 I know there's a three minute limit  
3 here, but what I would ask right away is the  
4 permission to take longer so I could address some of  
5 these comments that were just made, or give a quick  
6 summary and come back when -- if you have comments.  
7 Either way, I would appreciate having a little bit  
8 more time. I think there's already been 10 spoke, so  
9 that's 30 minutes. I only get three. It's going to  
10 be pretty hard to speak my heart of what has happened  
11 on our side of this thing.

12 ADMINISTRATOR MCDONALD: Kim, were you the  
-- sorry.

13 Were you the applicant on here?

14 MR. VANDYKE: I am the applicant.

15 ADMINISTRATOR MCDONALD: We'll give you  
time to address

16 any questions that come after I present today. And  
17 it's just standard procedure that the applicant is  
18 here to answer questions. (Inaudible.)

19 MR. VANDYKE: Can I address a couple  
20 while they're fresh real quick?

21 ADMINISTRATOR MCDONALD: Absolutely.

22 MR. VANDYKE: Just a couple notes, and  
23 quite a few have spoken. I would just first start  
24 with one comment that was made, that if we really

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25 cared, we would have met with the locals. I met twice

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1 with everyone in this room down there. So I've  
2 already done it twice.

3 I set up the meetings to hear what the  
4 locals had to say so I could address those issues. I  
5 also have -- because of those, I also would emphasize  
6 that besides the fact that when I came and found this  
7 site, it was where we're supposed to be. I find the  
8 travel centers for Love's everywhere out west, and we  
9 look for spots that are commercial zoned and have our  
10 zoning.

11 This one's automobile services and  
12 restaurants, both of which are part of what we do.  
13 And it was zoned at that time, at that time for --  
14 specifically for our use. It has changed, but again,  
15 we applied within the time frames that were allowed  
16 there. We didn't make any of the other decisions.

17 I met with the group twice. With  
18 that, changed our initial site plan completely away to  
19 compromise the best we could. Immediately. Took all  
20 those trucks that were shown on the map within 35 feet  
21 of the nearest home to 500 feet to the opposite side  
22 of our site plan. I have those site plans. Obviously  
23 we got delayed for the next five years.

24 We worked on that. We offer fencing.  
25 Dark sky lights. Not every travel center is a blazing

1 sun ball. We comply with dark sky all over the  
2 country. We try to do those things to mitigate these  
3 things.

4 Also a comment was made about the  
5 chemicals coming out of vehicles. It's not only the  
6 semitrucks that have this, but I would emphasize that  
7 semitrucks since 2010 all comply with the federal  
8 mandated particulate matter, period. None of them are  
9 on the road today. They comply with what the federal  
10 government guidelines are plus they work hard to make  
11 sure they turn off their vehicles. They're not  
12 burning all night. They have generators that they can  
13 utilize. Sometimes they have to have them. I don't  
14 think any of us would want to be in 30 below zero or  
15 110 degrees without an air conditioner.

16 They move our goods across our country  
17 for all of us to take and have a home, have a garden,  
18 have a car, et cetera, et cetera.

19 Water. Again, because a big  
20 building's coming in, it seems like that's not the  
21 problem. The growth problem happens because these  
22 truckers are moving goods because we're growing due to  
23 the population growth.

24 So those are just a few of the quick  
25 ones that I gathered. I'd like that time back to help

1 answer specific questions and in more depth, if I may.

2 CHAIRMAN SCHAFER: Thanks.

3 Any other in-house?

4 ADMINISTRATOR BUSHNELL: Jumped the gun  
5 here.

6 CHAIRMAN SCHAFER: We will move on to  
online

7 comments. So raise your hand, unmute yourself.

8 ADMINISTRATOR MCDONALD: We have four that  
have raised

9 their hand already on here. So if you want, you can  
10 call on those. If you're using Google, there's a  
11 raise-your-hand feature under -- let's see. So you  
12 have -- just down at the bottom of Google Meets, you  
13 can kind of see that raise-your-hand feature there.

14 CHAIRMAN SCHAFER: Monet, let's hear from  
you.

15 Monet? Can't hear you.

16 SIR COMMISSIONER WILSON: She's muted.  
Sound

17 problem.

18 CHAIRMAN SCHAFER: Don't you love  
technology.

19 Carolyn, you want to try to come in?

20 MS. DALEY: Okay. I'm right here.

21 How are you doing?

22 CHAIRMAN SCHAFER: We got you.

23 MS. DALEY: Okay. Let me get my

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24 little speech here pulled up.

Item 1.

25 Good evening, planning commissioners.

1 This is Carolyn Daley. I'm from Spanish Valley. I  
2 know some of you on the commission. The others may  
3 have heard my name, if you have listened to any of the  
4 court appeals. I am the principal founder of the  
5 Northern San Juan County Coalition, or NSJCC, back in  
6 2019.

7 We had nine -- 91 members comprised of  
8 both Republican and Democrats that came together to  
9 have a united voice to oppose the Love's truck stop.  
10 I want to remind you too that at that time, Landmark  
11 Design sought public input for their draft county  
12 zoning ordinances. Their report is no longer  
13 available online, because I looked for it last night.

14 But I researched my old emails and  
15 found that 92 percent of the more than 175 public  
16 comments opposed having a truck stop at this location  
17 on Sunny Acres Lane. That's 161 people from our small  
18 community that felt strongly enough against this to  
19 send in a public comment.

20 We opposed it then and still oppose it  
21 now. We've had to spend a lot of our time and money  
22 from our own pockets to do so.

23 Trucks are by no means regular gas  
24 stations. This truck stop would have 50-plus bays for  
25 truck parking, which would inflict 24/7 noise and air

1 pollution to the surrounding neighborhood as well as  
2 cause traffic congestion on Highway 191, possibly  
3 accidents, and possibly increased crime.

4 Can you imagine 57 semitrailer trucks  
5 running and all parked together in one spot? I ask  
6 each of you on the commission, would you and your  
7 family like to live near something like that? We in  
8 Spanish Valley sure don't want to.

9 It's the sworn duty of county  
10 commissioners to protect the health, safety, and  
11 welfare of the public. Please do the right thing  
12 tonight and deny the Love's truck stop application.

13 Thank you for your consideration of my  
14 views. And I also want to thank my neighbors who  
15 drove to the meeting to attend in person. I think you  
16 all did a fantastic job.

17 CHAIRMAN SCHAFER: Thanks, Carolyn.  
18 Shaunda.

19 MS. McNEILL: Thank you. My name is  
20 Shaunda McNeill, and I am an attorney for the Northern  
21 San Juan County Coalition. The coalition appreciated  
22 the opportunity to submit a memorandum to you all  
23 regarding the Love's truck stop application.

24 Our brief begins at page 658 of your  
25 packet, so I know that's a lot of pages, but I hope

1 you've taken the time to read it, because this issue  
2 is very important to the members of the coalition,  
3 particularly those who live near to the proposed truck  
4 stop site, which is many.

5 The coalition has put significant  
6 time, effort, and resources to ensure that the county  
7 follows the law in acting on the Love's application,  
8 and these efforts so far have been validated by the  
9 Utah Court of Appeals and the Seventh District Court.

10 The coalition and its members have  
11 been denied the opportunity to make a full  
12 presentation to you this evening, but we do appreciate  
13 the three minute comments and we are going to use them  
14 to the best of our abilities here.

15 But I did want to mention that we do  
16 have some due process concerns with the fact that the  
17 Love's attorneys, we understand, will be given much  
18 more time to present to you all and this access to  
19 this body of decision makers is lopsided, and we  
20 believe that's a due process issue.

21 But my colleague Matt Steward and I  
22 are here virtually and happy to address any questions  
23 that may come up later this evening.

24 As stated in our memorandum, the  
25 Love's application is incomplete. It lacks the



1 information this bodily -- this body normally requires  
2 before it considers a project with the impact of a  
3 truck stop. The application was also submitted  
4 erroneously on a Grand County form and doesn't even  
5 provide all the information required by that form,  
6 such as topography at five foot intervals and layout  
7 of water supply, drainage systems, sewer treatment  
8 systems.

9 How can it be that a 13-acre truck  
10 stop is approved without anyone in this -- on this  
11 body considering the implications for water supply,  
12 drainage, and sewage, deceleration and acceleration  
13 lanes. These are the types of issues that should be  
14 raised in a CUP application, but none was filed here.

15 So for these and many other reasons,  
16 we believe Love's has not met its burden here to  
17 demonstrate that this application should be granted.

18 The Love's brief argues that its  
19 application is complete because Walter Bird approved  
20 it. But of course Mr. Bird's approval has already  
21 been declared illegal by Judge Torgerson in the  
22 Seventh District Court. So that approval is not an  
23 indication of the completeness of the application.

24 Applying the 2019 Spanish Valley  
25 ordinance is necessary because the application was

1 incomplete, and also because efforts to amend the  
2 zoning ordinance were ongoing when the application was  
3 filed. Please keep in mind that the development  
4 moratorium was enacted on May 21, 2019, which is less  
5 than 180 days of when we believe the county began  
6 reviewing -- formally reviewing drafts of the Spanish  
7 Valley ordinances in around December of 2018.

8 The development moratorium prohibited  
9 approval of the Love's application, but the result  
10 that that application is not vested under LUDMA for  
11 review under the 2011 ordinance.

12 CHAIRMAN SCHAFER: Thank you.

13 MS. McNEILL: Thank you.

14 CHAIRMAN SCHAFER: Matt, let's hear from  
you.

15 MR. STEWARD: Thank you. Thank you to  
16 the commission for their civic duty and the citizens  
17 who have presented here.

18 Look, this is an important decision,  
19 but it is an easy decision from you, legally. And  
20 I'll explain why. You only reach the question of  
21 whether a truck stop is a restaurant or an automobile  
22 service station, which it is neither, if Love's meets  
23 its burden in showing its application is grandfathered  
24 in under the 2011 ordinance. It is not.

25 They submitted a form to Grand County,

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1 and I quote, this track is within the county limits of  
2 San Juan County and in the jurisdiction of Grand  
3 County. False. It is not in the jurisdiction of  
4 Grand County.

5 You're going to hear from Love's  
6 attorney say, well, wait a second. You know, they've  
7 got this interlocal agreement. That interlocal  
8 agreement, read it. It's for Grand County to provide  
9 building inspection services in the Spanish Valley  
10 because of the limited resources for building  
11 inspection services in San Juan County. It does not  
12 deal with land use applications. That is not in  
13 dispute.

14 The plain language of that interlocal  
15 agreement that Love's relies upon in its brief. It  
16 actually goes so far as to say Love's was obligated to  
17 make this application to Grand County because of the  
18 interlocal agreement. False. It's not true. That  
19 governs a building permit, not a land use application.

20 And when the Love's representative  
21 said, hey, if a mistake was made, it wasn't us, that's  
22 wrong, because they knew this use required a  
23 conditional use permit application, a form provided by  
24 San Juan County, that even as we sit here today has  
25 not been done. Right?

1                   And they say, well, it's also  
2 grandfathered because Walter Bird approved it. I will  
3 suggest that was at best government incompetence and  
4 at worst conspiratorial malfeasance between the county  
5 and Love's.

6                   It is time to make the right decision.  
7 This citizen group is not going away. You cannot find  
8 that they have satisfied their burden as a matter of  
9 law. And it's only then do you reach the question of  
10 whether a truck stop is a restaurant or a service  
11 station.

12                   And I will suggest to you, Exhibit 2  
13 of our brief is an opinion by the Utah land use  
14 ombudsman about a truck stop in Wellsville. And you  
15 know what he says? A truck stop is not a restaurant,  
16 it's not a service station, and the fact that it may  
17 include those services doesn't make it something that  
18 it's not.

19                   CHAIRMAN SCHAFFER: Thanks, Matt.

20                   MR. STEWARD: Thank you.

21                   CHAIRMAN SCHAFFER: Jean.

22                   MR. STEWARD: Do you have any -- do  
23 you have any questions for me? Because I really do  
24 mean this is not a close call on your part from a  
25 legal --

1 CHAIRMAN SCHAFFER: Jean Turk.

2 MR. ANGEL: Hello. I'm here with my  
3 wife, Jean Turk, and my name is name is Bradley Angel,  
4 and we live at 4463 Sunny Acres Lane.

5 And kind of like Marlene Huckabee  
6 spoke earlier, we've been there for 32 years. I love  
7 our home there. It's very, very special. And we  
8 respectfully urge the planning commission and the  
9 county to reject this outrageous proposal for a  
10 massive, unhealthy, dangerous truck stop in a  
11 residential neighborhood, that also apparently does  
12 not comply with legal requirement.

13 The proposed truck stop would without  
14 a doubt -- and it is not even open to debate --  
15 without a doubt, it would be a major health threat to  
16 local residents, an enormous traffic hazard that, I'm  
17 sure, would cause horrible accidents at some point,  
18 and would cause -- destroy the quality of life of all  
19 the residents in our beautiful neighborhood.

20 There would be massive air pollution,  
21 noise, traffic, bright lights, and destruction of the  
22 character of our neighborhood and community.

23 On a personal note, I have moderate to  
24 severe asthma, as my physicians broke the news to me a  
25 number of years ago. If Love's truck stop is

1 approved, I would have no choice but to sell my  
2 beautiful property and move. It would break my heart,  
3 and it would just be a hor -- horrible.

4 In my comments that I have submitted  
5 to the planning commission, I included a document, one  
6 of many, on the Utah -- from the Utah Department of  
7 Environmental Quality's website, and in particular --  
8 and specifically their air quality program. And I'll  
9 just quote very quickly, and this echoes what the  
10 physician said earlier.

11 The document -- and I sent you the  
12 link as well as the article -- it says health effects.  
13 Be idle free. And that's idling of trucks. What you  
14 see and can't see can hurt you. And the document  
15 states in part, while children, the elderly, and  
16 people with respiratory ailments are most vulnerable  
17 to the pollutants from vehicle exhaust, these  
18 emissions affect -- affect everybody.

19 Pollutants released during diesel  
20 idling have been linked to the increased incidence of  
21 asthma, allergies, lung and heart disease, and cancer.

22 So to Love's truck stop, I say no  
23 thank you. You can take a hike. Go put this  
24 somewhere away from homes, in a more appropriate  
25 location, and don't threaten our health and

1 well-being.

2 So I respectfully ask that the county  
3 and representatives on this commission, who, again, we  
4 really appreciate the time you put into this, please  
5 reject this illegal and unhealthy and dangerous  
6 proposal. Thank you.

7 MS. TURK: So Jean Turk. I'm making  
8 my comments.

9 Again, I hope that you will reject  
10 this proposal. Somebody said -- talked about good  
11 fences. Good fences make good neighbors, but no fence  
12 would protect these neighbors in Spanish Valley from  
13 the lights, loss of wildlife, air and ground pollution  
14 that would be caused by this proposal.

15 I also wanted to address the  
16 individual who said he -- he coordinated a couple of  
17 public meetings. At one of those meetings somebody  
18 said, what about drug use and sex trafficking that is  
19 sometimes associated with these large facilities, and  
20 the individual said, it's not that big of a problem.  
21 Did not deny that it wasn't a problem; just said it  
22 wasn't as big as you would think, and to me, this is  
23 heartbreaking.

24 This is a residential neighborhood,  
25 essentially, and to bring in more drugs, sex

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1 trafficking to a town, it's just -- it's just  
2 unforgivable. So please, please deny this proposal.

3 CHAIRMAN SCHAFFER: Thank you. Let's try  
4 Larry.

5 LARRY: Good evening. I don't have  
6 any prepared comments, so this will be short. But I  
7 did want to say that I was compelled by the legal  
8 arguments that I heard this evening, and hope that the  
9 board can respond to those and hear your opinions on  
10 those.

11 I also wanted to mention that Marlene  
12 is a good friend of mine. I've gone down and visited  
13 her little oasis or little whirl oasis that is  
14 directly adjacent to that 13-acre property, and it  
15 would be a real negative impact, to say the least, to  
16 have that truck stop next door to here.

17 Thank you.

18 CHAIRMAN SCHAFFER: Thank you. Monet, try  
19 it  
20 again.

21 MS. CLARK: Okay. Can you hear me  
22 this time?

23 CHAIRMAN SCHAFFER: Yep. Go for it.

24 MS. CLARK: I'm Monet Clark. I live  
25 in Spanish Valley.

I was a party to the original appeal



1 that was brought against the purported Love's  
2 approval, and I feel that I must be here tonight to  
3 again say that I am opposed to having the Love's truck  
4 top at the location of Sunny Acres Lane and the  
5 highway.

6 I feel that Love's can still be in the  
7 valley. All they have to do is apply for a truck stop  
8 at the other approved zone location, which would be  
9 south of the Ken's Lake Road. There are spots in the  
10 2019 Spanish Valley ordinance that's zoned for truck  
11 stops.

12 It's a wider location. Nobody lives  
13 there. Nobody lives around there. It's wider,  
14 therefore more airflow possibly to carry away the  
15 fumes, the vapors, so they don't come right down the  
16 valley.

17 I'm very concerned about the health  
18 effects of a truck stop nearby where people are living  
19 and already have businesses. We've got noise  
20 pollution, light pollution, the echo effect into the  
21 valley. People who live far, far away will hear all  
22 those trucks. And it would just degrade our  
23 environment and our quality of life.

24 And there's no need, because Love's  
25 could buy land from SITLA at the same place, same

1 landfill out at the approved location. So I do  
2 encourage Love's to please consider resubmitting the  
3 application for the correct location that's already  
4 been set aside to them. Thanks so much.

5 CHAIRMAN SCHAFER: Thanks, Monet.

6 Okay. Laura. Laura, can you hear us?

7 LAURA: Yeah.

8 CHAIRMAN SCHAFER: There you go.

9 MR. MARGALESE: So my name is Allen  
10 Margalese. My wife Laura and I are part of the  
11 coalition. We live in San Juan County near the  
12 proposed truck stop.

13 I was going to talk about the noise  
14 problem, the traffic problem, the dark sky problem,  
15 the pollution problems that proposed truck stop will  
16 bring to us in Spanish Valley and Moab, but it seems  
17 that this was not part of the legal issue to be  
18 discussed tonight.

19 Then I started reading some of that  
20 750-page document, and I believe that there's some  
21 obvious flaws. Love's talks about the truck stop  
22 being in the control district and that users of the  
23 control district should all be in harmony. It used  
24 this word harmony multiple times.

25 It's obvious that this truck stop will

1 not be in harmony with the residential users of the  
2 area. If the coalition and other residents of the  
3 Moab community believe this relationship was  
4 harmonious, this meeting would not be taking place.

5 Harmony, the dictionary, excluding the  
6 musical term, is a pleasing arrangement of parts; a  
7 congruence; the quality or state of agreeing. There's  
8 no harmony between the Love's truck stop at the  
9 proposed location and the residents of this area.

10 Another flaw is the term truck stop or  
11 travel stop. I lost something there. Yes, you can  
12 pump gas, you can clean your windshields, et cetera,  
13 at a truck stop or a travel stop, but all I know is  
14 that my father-in-law had a gas station for almost 60  
15 years. In those 60 years, that gas station never let  
16 a truck park and run its engine all night. That only  
17 happens at a truck stop, not at a service station or a  
18 garage.

19 Thanks for listening to us. And  
20 everyone drive home safely, especially if you have  
21 snowy roads up there.

22 CHAIRMAN SCHAFFER: Thank you. Jim  
Allred.

23 LAURA: Thank you.

24 MR. ALLRED: Hi. This is Jim Allred.  
25 I have a cabin in the Pack Creek area, and as I listen

1 to all this, the main thing that I think about is, and  
2 that I think we should all think about, everybody on  
3 the commission, is what if this was a proposal in your  
4 neighborhood or close enough to your house that you've  
5 made into a -- an investment and love.

6 I would also ask the representative  
7 from Love's if Huntsville -- his neighborhood in  
8 Huntsville would appreciate this type of a very large,  
9 disruptive facility in a residential area. Thank you.

10 CHAIRMAN SCHAFER: Thank you, Jim. Okay.  
Any

11 other in-house, or we're moving on? Okay. Since we  
12 jumped around.

13 (End of excerpt.)

14 \*

15 (Beginning of excerpt.)

16 CHAIRMAN SCHAFER: Oh, you got the staff.

17 ADMINISTRATOR MCDONALD: Yes. Let me...  
Let's see. I

18 pulled the packet. Let me grab real fast. Sorry I  
19 didn't realize something. Let me get into my emails  
20 real fast and see where we have the packet. Staff  
21 report.

22 Okay. Just wanted to make sure. And  
23 I sent this too -- sorry it was separate -- with all  
24 the information that we had sent out to you. But

San Juan Commission Meeting; February 28, 2024 (Excerpts) - February 19, 2024  
25 basically, what this item consists of is consideration

Item 1.

1 and approval of the Love's Travel Stop proposal on  
2 highway 191 with -- within Spanish Valley on 13.06  
3 acres as a mixed use and permitted -- as let's see.  
4 Let me start that over. So 13.06 acres as a mixed use  
5 and permitted under the control district highway  
6 commercial zoning.

7 In the packet, and I have kind of laid  
8 it out for you to help summarize it, but -- let me  
9 spin down so the audience can also see this.

10 Hopefully you can see that, everybody. Let me...

11 Okay.

12 So the planning commission has been  
13 ordered by the Seventh Judicial Strict Court in and  
14 for San Juan County, State of Utah, to determine  
15 whether Love's proposed travel stop on property it  
16 owns on the east side of the US Highway 191 and south  
17 of Sunny Acres Lane in the Spanish Valley area of San  
18 Juan County is a permitted use, whether the use is a  
19 mixed use, automobile service station, a restaurant,  
20 or both, and whether two or more permitted uses can be  
21 combined and still in harmony with the neighborhood  
22 commercial zone's intent and similar to other  
23 permitted uses. And also whether it requires a  
24 variance or conditional use permit.

25 The Love's property is currently zoned

1 highway commercial under the Spanish Valley  
2 development ordinances, but before that, the property  
3 was zoned a control district highway commercial under  
4 the San Juan County Zoning Ordinance 2011.

5 Although the planning administrator at  
6 the time approved Love's plan as a permitted use, he  
7 did not explain why it was a permitted use. The  
8 district court determined that the travel stop was a  
9 mixed use, not entirely a single one of the permitted  
10 uses listed for that commercial zone or that control  
11 district highway zone in the ordinance.

12 Citing the San Juan Zoning Ordinance  
13 section 12-2, provided in the list of permitted uses  
14 in the control -- or that commercial control district  
15 highway zone, that included other uses approved by the  
16 planning commission as being in harmony with the  
17 intent of the neighborhood commercial zone and similar  
18 in nature due to the above listed uses.

19 We've provided each of you that zoning  
20 ordinance from 2011 so that you have that as a quick  
21 reference and can review chapter 12 and those uses  
22 that are define -- described in there. We've also  
23 provided you with a current zoning ordinance for  
24 Spanish Valley as well. So you have all of those for  
25 your ability to reference those throughout this

1 discussion.

2 The court held that the planning  
3 economics, not this court, must first determine from  
4 substantial evidence whether this project is an  
5 automobile service station, a restaurant, or both, and  
6 if so, whether two or more permitted uses can be  
7 combined and still be in harmony with the highway  
8 commercial zone.

9 The court directed the planning  
10 commission to decide that issue and determine whether  
11 the uses also require a variance or a conditional use  
12 permit. And then just as the history, and it was, you  
13 know, indicated before and in this -- in the reports  
14 that you see with the application.

15 As indicated in the staff letter here  
16 of May 10, 2019, the Love's Travel Stop and Country  
17 Store, Incorporated, via Kim VanDyke, the county  
18 received an email of documents and application on May  
19 3, 2019, and by US Postal Service on May 6th a hard  
20 copy of materials consisting of a sketch plan, project  
21 proposal, and an application for a commercial  
22 development per Love's proposed Spanish Valley travel  
23 stop along Highway 191.

24 The application was included -- it  
25 included a check dated May 3, 2019, in the amount of

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1 \$550. So that is the staff report.

2 Let me kind of, just as a reminder.  
3 You've heard a lot of comments this evening. You've  
4 received several months through email as well. So as  
5 they come in to staff, we forwarded those comments --  
6 any comment that we received to you, planning  
7 commissioners, so you have those out of courtesy.

8 But do note that this is not a public  
9 hearing item and so the comments, although we received  
10 comments here tonight, those cannot be used to  
11 formulate your decision.

12 We -- and the law determines that  
13 that's public clamor, and it's really up to you as  
14 planning commissioners to debate this and to make the  
15 discussion and have, you know, a valid discussion  
16 about this application, and with that, formulate, you  
17 know, make a motion, and based off of that discussion,  
18 and it's you as planning commissioners that this is  
19 now set before to make that decision.

20 When you look at this motion -- and I  
21 want to point out, as I formulated the consideration  
22 and approval in the staff report -- and we've listed  
23 the motions in here to kind of help be a guide to you.  
24 I want to point out that this is staff's opinion.

25 Now, staff, I wish in a perfect world

1 we could be perfect. We're not, and this is one of  
2 those things that you see as a result of, you know,  
3 staff trying to do their best and, you know, as I look  
4 through and try to figure out -- I came in after this  
5 time frame and imagine the whirlwind that this had  
6 caused trying to figure out what is going on and what  
7 are we doing? Do we have a planning application?

8 And, you know, when somebody submits  
9 something, is there a San Juan County application?  
10 And there wasn't. Why is this check, you know,  
11 written out to Grand County? I don't know. Let me  
12 research it and look into it and try to figure it out.

13 But the item -- the agenda item on  
14 here is -- is strictly from staff. That's -- it's my  
15 opinion, you know, as titling an agenda item. So I  
16 wanted to point that out, that staff's opinion, my  
17 opinion, is with this. And reading through the  
18 judge's intent, his language remanding this back to  
19 the planning commission to consider, why, you know,  
20 staff was, you know, quote/unquote, illegal in, you  
21 know, just passing this through and not taking it  
22 before the planning commission at the time under the  
23 zoning -- the ordinance that was applied at that time.

24 As I kind of look through that, that  
25 history of how this came about, without a San Juan

1 County application, and knowing -- also finding out as  
2 I researched it that Grand County is under contract --  
3 was under contract with San Juan County to perform our  
4 building inspections.

5 And so as they reviewed those building  
6 inspections, they also collected the fees for that.  
7 And with the collection of the fee, it makes sense  
8 that -- and confusion, I could totally see, the  
9 writing on the wall is how do -- how do people know  
10 where to apply to. And I'm hoping that through the  
11 measures and steps that we've taken to try to become a  
12 little bit more efficient in not only our website, but  
13 our processes and procedures here, we've eliminated  
14 and fine tuned things as -- but back then it was  
15 literally kind of knowledge or understanding that  
16 Grand County was the one that performed this for us.

17 So because of that, it would also make  
18 sense in my point of view that they would also have to  
19 get Grand County this information on an application so  
20 that Grand County knew what to -- to inspect under  
21 that contract that we had with them.

22 Later on, you know, as months and my  
23 tenure started here and as we got through, I'm like,  
24 this is so super confusing. Let's do our own building  
25 inspection. And the commissioners here, I was able to

1 help them to understand the confusion that's out there  
2 and they were willing to -- to cancel that contract  
3 with Grand County, so that now all the inspections are  
4 handled by San Juan County.

5 We have a building inspector that's  
6 becoming certified and is about to finalize all of his  
7 certifications here in the county so that we don't  
8 have to out source. We still do today out source  
9 several sections of building inspections to Jones &  
10 DeMille, because he's not fully certified yet. But it  
11 was taking this under our -- our umbrella fully, as  
12 much as we could, and removing Grand County from that  
13 process so that it's a little bit more clear.

14 As you see on our website, we're fine  
15 tuning the applications and that to help developers as  
16 they come to San Juan County and want a development to  
17 develop here that we can avoid the confusion that was  
18 of the past.

19 Now, why this -- why control district  
20 highway commercial, for me? As I looked at kind of  
21 the judge's statements through here, he referenced  
22 that within that decision. Now, I also thought  
23 through it, and fast-forwarding today, you know,  
24 within the last couple months, and especially as you  
25 new planning commissioners here, you have reviewed

1 development proposals and applications that have come  
2 to San Juan County, but at the same time knowing that  
3 we're about to change our zoning ordinances.

4 That we're, like, 90 percent finished  
5 in that process, yet at no time -- point in time has  
6 staff come to you and said, hey, please don't consider  
7 this overnight overlay district because the new zoning  
8 doesn't -- it doesn't consider those. It doesn't have  
9 that in there. We have applied the current zoning  
10 ordinances that we have in those decisions and in our  
11 staff reports.

12 So same thing here. Going in  
13 time, what we're asking you tonight is on the  
14 recommendation, number one, make a motion stating that  
15 Love's application is incomplete and cannot be  
16 considered, or make a motion stating that the Love's  
17 application is complete, but that the commercial  
18 control district, highway commercial zoning -- they  
19 should have shortened this stuff back then in 2011.  
20 Make it easier for the presenters.

21 But that that zone -- let's see.  
22 Application is complete, but that the control district  
23 highway commercial zoning does not apply to the  
24 application, that it is denied as a prohibited truck  
25 stop under the Spanish Valley development ordinances

1 enacted in November 2019, 2019, and/or a temporary  
2 land use regulation adopted May 21, 2019, that  
3 prohibited applications for commercial projects at  
4 this location.

5 Then also in that, if you choose that,  
6 state the facts and reasoning supporting that motion,  
7 or make a motion stating that the Love's application  
8 was complete and that that control district highway  
9 commercial zoning applies.

10 And, here's the next part of it, the  
11 proposed use is permitted because it fits one or more  
12 of the permitted uses listed in that zone -- and  
13 you've got to specify which ones -- and is approved.  
14 You also have to state reasons why it is approved in  
15 there, why you feel that that is -- that it fits  
16 within those permitted uses within that zone.

17 Or, the list goes on, the proposed use  
18 is permitted because it is harmony with the intent of  
19 the neighborhood commercial zone and is similar in  
20 nature to the listed zoning uses, and then state why,  
21 and is approved, and state the facts and reasons  
22 supporting the motion.

23 Or, the proposed use either fits one  
24 or more of the uses listed for the zone, and specify  
25 which one, and state, which is in harmony with the

1 intent of the neighborhood commercial zone and similar  
2 in nature to the listed zoning uses, state why, but  
3 requires a variance to be granted by the planning  
4 commission and is referred to staff to recommend  
5 variance terms. Then state facts and reasons  
6 supporting the motion.

7 Or, the proposed use does not fit one  
8 or more of these uses listed for the zone and it is  
9 not in harmony with the intent of the neighborhood  
10 commercial zone and similar in nature to the listed  
11 control district commercial uses, and is therefore  
12 another use that must be approved as a conditional use  
13 and is referred to staff to determine the project's  
14 reasonably anticipated detrimental effects and  
15 recommend reasonable conditions to mitigate those  
16 detrimental effects if possible. And then state the  
17 facts and reasons supporting the motion.

18 So there's a lot of language in there,  
19 a lot to consider, and so I'm hoping that in your mind  
20 you can start over. And I appreciate the fact of your  
21 willingness to go through the packet and to -- and to  
22 Ann, I totally agree with Ann's comment. It was a lot  
23 to read, but a lot of it was zoning ordinances.

24 And so I'm hoping that you -- at the  
25 most, you were able to see the different pieces that

1 we put together in the packet.

2 Now, one of the things that it -- that  
3 we wanted to do and I didn't want to do is have a big  
4 attorney show, where you have multiple attorneys  
5 stating their facts, stating their sides, like this  
6 was a court hearing.

7 And so following just our process, a  
8 standard process that we've had here for a while now,  
9 is you heard the staff report presented by me. We do  
10 have the applicant here, and the applicant can answer  
11 any of the questions that you may have of the  
12 applicant, but at no point in time am I turning it  
13 over to a Love's attorney or the opposing side  
14 attorney, because I feel that we have -- and I have  
15 provided you their arguments already in two different  
16 sections of your -- of your staff report.

17 So we've given you that information  
18 already. That shouldn't have to be argued. You have  
19 that and you've read that. But we do have the  
20 applicant. Like I mentioned to Kim earlier, is that  
21 we'll give you an opportunity to answer any questions  
22 that you may have going forward.

23 But as far as staff wise, we really  
24 feel that similar to the situation that you're in  
25 today, is we're about ready to adopt newer ordinances



1 that were not applying to applications coming before  
2 us. So I'd like to take you back into time to that  
3 2019, and we received these in May.

4 In the packet, you see staff's reply  
5 to the applicant saying, hey, this is what I think is  
6 looking at your -- your application. That's -- that's  
7 what we're looking at today. And so taking you back  
8 into that 2019 -- that May 8, 2019.

9 It was interesting when I got here,  
10 looking at the delay in the moratorium, and you can  
11 always argue the merits of why there was a delay in  
12 the moratorium. What I found and what I think, and I  
13 can't speak for commissioners that were there at the  
14 time, that a moratorium was placed on the county  
15 agenda that was drafted by someone outside of the  
16 county. It wasn't drafted by the county attorney.

17 And that's when the county attorney  
18 says, hey, but wait, you know, I have some concerns.  
19 And so that prolonged the placing of the moratorium.

20 It wasn't, that I know of, that I can  
21 find, that I can see, you know, staff's intention to  
22 delay. It was literally things -- so the county  
23 attorney represents their client, the county, in all  
24 legal matters, and imagining you're the county  
25 attorney and all of a sudden the moratorium is placed.

1 You've never seen. You didn't give that advice to the  
2 commission, to say, hey, you know, here's how to do  
3 it. Here's how to structure it and here's, you know,  
4 what we're looking for and the merits of the  
5 moratorium itself.

6 From what I can find, what I can tell,  
7 that didn't happen. So there was a delay. There was  
8 a stall. It's like, hey, wait. I have some concerns,  
9 because ultimately the county attorney represents us.

10 And so that kind of gives you a little  
11 background story to -- to the situation that we're in,  
12 what the judge did, he's like, okay, staff did wrong,  
13 and, you know, whether that was an interpretation on  
14 staff's part. We do take some liberty in trying to  
15 interpret the ordinance, but also so should you as  
16 planning commissioners, is you have that ability as  
17 it's given to you from the commissioners, from the  
18 board of commissioners to the planning commission, to  
19 interpret the ordinances that they have adopted and  
20 approved.

21 And so we're asking you to do -- to do  
22 that tonight and to just reset, start all over back to  
23 -- to 2019. It was a good year for me. I'm hoping it  
24 was a good year for all of you. But hopefully, you  
25 know, first --

1 CHAIRMAN SCHAFFER: Not so much.

2 ADMINISTRATOR MCDONALD: -- is that  
determination of

3 where we're at. You know, what -- do you agree with  
4 us that, you know, applying these newer ordinances or  
5 the old ordinances really should be there, and then  
6 looking at each of those motions to help get a  
7 finalization to us.

8 Now, I don't think this will be final.  
9 Obviously we've got a -- for me in my head, and I  
10 haven't spoken to the attorneys about this, but  
11 there's got to be a report back to the judge and I'm  
12 sure it'll continue on on both sides of this case.

13 And so when you look at these motions  
14 -- and you have seen it, and I have advised you of  
15 this in other decisions -- is making sure that in your  
16 motions that there's a statement of why you make that  
17 motion. And I have told you in the past, literally as  
18 we looked through the minutes, I have seen where, you  
19 know, the planning commission has approved a  
20 conditional use and we cannot find those conditions  
21 that were approved.

22 So you see the minutes of the  
23 reflection of that. In today's minutes that you  
24 review, they're not just little summary on there.  
25 They're extensive, and they have the reason why you

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1 made the motion. They have your intentions and that  
2 discussion in our minutes so that we have a clear  
3 record.

4 And we're asking for that again  
5 tonight, that as you deliberate and you make the  
6 decisions tonight, we've kind of helped provide some  
7 guidance in the recommendations and the motions that  
8 you may make. We've tried to be fair on both sides  
9 and not heavy-handed in one or the other. We've given  
10 you options, so that as a planning commission, as a  
11 body, that you can clearly make the decisions that you  
12 intend as a body and going forward with -- with this  
13 development or this project and what happens within  
14 Spanish Valley and probably more holistically, what  
15 happens within the county.

16 SIR COMMISSIONER WILSON: Okay. You have  
17 to  
18 educate me real quick.

18 CHAIRMAN SCHAFFER: Boy, that's a big  
19 task.

19 SIR COMMISSIONER WILSON: I know. I  
20 know.

20 Control district. Before that, before 2019, was it  
21 just highway commercial, that thousand foot? Where --  
22 where does the control district come into this?

23 I mean, if you look at our new  
24 ordinance, which is the 2019, it is highway

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1 ADMINISTRATOR MCDONALD: Highway  
commercial.

2 SIR COMMISSIONER WILSON: The  
understanding

3 in 1978 --

4 ADMINISTRATOR MCDONALD: Uh-huh.

5 SIR COMMISSIONER WILSON: -- it was  
a

6 thousand foot of highway commercial. The con --  
7 control district. Did it become a control district  
8 when this ordinance went into place in 2011 or was it  
9 always a control district?

10 ADMINISTRATOR MCDONALD: So here's how I  
look at it, is

11 all I can do -- I don't know the history here. I  
12 wasn't here. The way that I look at our -- our  
13 ordinances now is, is literally black and white. I  
14 can't -- there's nothing in here that references the  
15 past, before we enacted these.

16 So all I do is I go right to 2011, and  
17 whatever it is in 2011, that's how I read it, because  
18 I wasn't here.

19 SIR COMMISSIONER WILSON: And this is it?

20 ADMINISTRATOR MCDONALD: That is it.

21 SIR COMMISSIONER WILSON: A hundred  
percent?

22 ADMINISTRATOR MCDONALD: A hundred  
percent.

23

SIR COMMISSIONER WILSON: But what call  
out

24

the thousand foot highway commercial being a control

25

group?

1 ADMINISTRATOR MCDONALD: Can't find it.

2 SIR COMMISSIONER WILSON: So we -- we are  
3 just considering any 1,000 foot of highway commercial  
4 throughout the entire county, that this is the highway  
5 through the La Sal, 191, everything is control  
6 district?

7 ADMINISTRATOR MCDONALD: Everything is  
control.

8 SIR COMMISSIONER WILSON: (Indecipherable;  
9 overspeak.)

10 ADMINISTRATOR MCDONALD: And we have -- so  
in your

11 packet, you have the old maps and it's kind of --  
12 because I went there in my head as well, as I go, how  
13 do I know where -- where this was even at?

14 We don't have those -- that planning  
15 map on our website anymore. It's long gone.

16 SIR COMMISSIONER WILSON: Yeah.

17 ADMINISTRATOR MCDONALD: You know, and so  
where -- where

18 were the zones at? Is this highway commercial? Was  
19 it really? I mean, we've had that problem here in the  
20 past because of our zoning maps have been kind of in  
21 disarray and hard to -- to navigate and hard to read.

22 In the packet, there was -- in the  
23 presentations, an old map that showed the zones. And  
24 let me try to -- to get to it so that you can see what





1 SIR COMMISSIONER WILSON: Well, I know  
for a

2 fact before 2019, the -- the zoning map for Spanish  
3 Valley --

4 ADMINISTRATOR MCDONALD: Yes.

5 SIR COMMISSIONER WILSON: -- was highway  
6 commercial, thousand foot agricultural. That's it.

7 SIR COMMISSIONER JOHNSTON: That was the  
whole

8 upper end of the valley.

9 SIR COMMISSIONER WILSON: Every bit of  
it.

10 SIR COMMISSIONER JOHNSTON: There was no  
zone

11 before that.

12 SIR COMMISSIONER WILSON: So according to  
the

13 ordinance that I'm looking at, that we are banking off  
14 of from 2011, I don't see any residential housing and  
15 highway commercial. And that's a thousand foot.

16 So let's back this up to the beginning  
17 of the argument. Why is there a bunch of residential  
18 in a highway commercial where we're supposed to put  
19 highway commercial stuff? So we've got  
20 (indecipherable).

21 ADMINISTRATOR MCDONALD: Uh-huh.

22 SIR COMMISSIONER WILSON: It's accessed  
off

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23 the highway. We got all the residents in on Sunny  
24 Acres there. I mean, how far do we go back on this  
25 argument?

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1           The residences should have never been  
2 within the highway commercial. That was a commercial  
3 zone designed for these specific things in our  
4 ordinance and even before that.

5           SIR COMMISSIONER JOHNSTON: Well, and the  
6           other  
7 part of that, and I feel bad for people that's bought  
8 within that thousand feet, because before all of them  
9 homes was built out there, the old Murphy farm and  
10 stuff, which I am an opponent, years later and  
11 developed a bunch of that, but...

12           But that all of those homes were built  
13 back when nobody cared --

14           SIR COMMISSIONER WILSON: Right.

15           SIR COMMISSIONER JOHNSTON: -- whether it  
16 was  
17 commercial, agriculture, and the county never enforced  
18 nothing anyway.

19           But all of these people that bought  
20 within the -- that area, if they would have looked at  
21 just the San Juan County straight zone down the  
22 highway --

23           SIR COMMISSIONER WILSON: Uh-huh.

24           SIR COMMISSIONER JOHNSTON: -- it's a  
thousand  
feet commercial on both sides and it's always been for  
a hundred years.



1 and part of my stuff has fallen in that and Dwight's  
2 stuff, but even though I feel bad for them, they  
3 should have realized that before they bought it and  
4 tried to say, now we don't want no commercial around  
5 us, because it was always commercial. It's been  
6 commercial way before they bought it, years before  
7 they bought it.

8 SIR COMMISSIONER WILSON: 1978.

9 SIR COMMISSIONER JOHNSTON: Yeah. So, so  
how

10 do you -- once there, how do we be fair to them?

11 SIR COMMISSIONER WILSON: Right.

12 ADMINISTRATOR MCDONALD: One of things  
kind of to help

13 you through the answer to that question, when you look  
14 at chapter 12 of the 2011 ordinance, it shows you all  
15 of the control districts and what is permitted uses  
16 within control districts.

17 SIR COMMISSIONER WILSON: Yeah.

18 ADMINISTRATOR MCDONALD: So it kind of  
takes it as a big

19 umbrella and then it breaks it down into subsets  
20 within that --

21 SIR COMMISSIONER NIELSON:  
(Indecipherable;  
22 overspeak.)

23 ADMINISTRATOR MCDONALD: -- chapter 12.  
So in here, it

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24 has those permitted uses, agriculture, residential,  
25 commercial, highway commercial, and industrial. And I

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1 can't tell what you they did in the past and why,  
2 but...

3 SIR COMMISSIONER WILSON: Well, that's  
4 the  
5 thing. We have no proof that anything was ever ran  
6 through the special provisions of how to create the  
7 subzones --

8 ADMINISTRATOR MCDONALD: Uh-huh.

9 SIR COMMISSIONER WILSON: -- within the  
10 control district. Was it -- (indecipherable) ever  
11 done. There was no subzone for the community areas in  
12 it, I mean, and we have nothing on that.

13 ADMINISTRATOR MCDONALD: Here's the map  
14 that I have that  
15 showed. At the time as they were going through all of  
16 the changes and discussion, it kind of showed --

17 SIR COMMISSIONER WILSON: Uh-huh.

18 ADMINISTRATOR MCDONALD: -- the  
19 residential area, that  
20 highway commercial. This is the thousand foot  
21 corridor that you're talking about in here.

22 SIR COMMISSIONER WILSON: But, but if you  
23 look at it, it says highway commercial. It doesn't  
24 say control district.

25 ADMINISTRATOR MCDONALD: Highway  
26 commercial.



24

SIR COMMISSIONER WILSON: Yeah. Yeah,  
that's

25

the part I don't get.

1 MADAM COMMISSIONER AUSTIN: Yeah, rely  
on

2 Landmark's --

3 SIR COMMISSIONER WILSON: I know, but even --

4 MADAM COMMISSIONER AUSTIN: -- in the  
5 existing zone and maps.

6 SIR COMMISSIONER WILSON: Even in --  
this is

7 actually our map that they used --

8 MADAM COMMISSIONER AUSTIN: Oh, really?

9 SIR COMMISSIONER WILSON: -- to  
duplicate

10 before previous existing.

11 ADMINISTRATOR MCDONALD: This is just  
the presentation.

12 MADAM COMMISSIONER AUSTIN: How that we had a  
13 subzone for La Sal junction being community  
14 commercial. Where is that map?

15 ADMINISTRATOR MCDONALD: I -- I could  
not tell you. I

16 would have to --

17 MADAM COMMISSIONER AUSTIN: Well, it's  
in

18 our --

19 ADMINISTRATOR MCDONALD: I would have to  
pull that.

20 MADAM COMMISSIONER AUSTIN: That's what  
we

21 considered when we were looking that the application.

22 ADMINISTRATOR MCDONALD: Yeah.

23 MADAM COMMISSIONER AUSTIN: Where is  
that

24 map?

25 SIR COMMISSIONER WILSON: Yeah. That's  
what

1 I want to know.

2 MADAM COMMISSIONER AUSTIN: Or how did  
3 staff  
4 term that the meeting that that junction was community  
5 highway control district?

6 ADMINISTRATOR MCDONALD: Because it's  
7 outside of the  
8 Spanish Valley.

9 MADAM COMMISSIONER AUSTIN: But, yeah, so  
10 where is that county wide, not, you know.

11 SIR COMMISSIONER WILSON: Yeah, she's  
12 saying  
13 not including Spanish Valley. Where -- where do we  
14 find that that La Sal junction was part of the control  
15 district?

16 ADMINISTRATOR MCDONALD: On our website,  
17 we have that  
18 map.

19 SIR COMMISSIONER WILSON: That one is  
20 actually --

21 ADMINISTRATOR MCDONALD: Uh-huh.

22 SIR COMMISSIONER WILSON: -- specified on  
the  
map?

ADMINISTRATOR MCDONALD: Yes. Yep. Same  
with La sal.

MADAM COMMISSIONER AUSTIN: So then why  
isn't

there consistency this map where it would show us that

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23 it's control district highway?

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24 ADMINISTRATOR MCDONALD: That was at the  
time of the  
25 zoning changes. This is what was presented during

1 that time.

2 MADAM COMMISSIONER AUSTIN: That La sal  
3 would  
4 be --

5 ADMINISTRATOR MCDONALD: That's where I  
6 found --

7 MADAM COMMISSIONER AUSTIN: There  
8 should be a  
9 map of the old zone.

10 SIR COMMISSIONER WILSON: It looked  
11 just like  
12 that.

13 ADMINISTRATOR MCDONALD: Which is here.  
14 This is the one.  
15 This is the existing zoning that was used in the  
16 presentation.

17 MADAM COMMISSIONER AUSTIN:  
18 (Indecipherable;  
19 overspeak.) Don't have a giant county wide?

20 SIR COMMISSIONER JOHNSTON: No. We've  
21 been  
22 waiting for that for about 10 years.

23 ADMINISTRATOR MCDONALD: So we do -- we do  
24 have on our  
25 website.

26 SIR COMMISSIONER WILSON: (Indecipherable;  
27 overspeak.) They look just like this.

28 ADMINISTRATOR MCDONALD: We have --

29 MADAM COMMISSIONER AUSTIN: Okay.

30 ADMINISTRATOR MCDONALD: -- on our website  
31 Page 87

23 map. So once the Spanish Valley zoning was approved,  
24 they also approved the Spanish Valley map, which was  
25 adjusted for those zones in Spanish Valley that now

1 came about with the zoning change, but it left the  
2 rest of the county within the same zoning.

3 And that's -- that's where we have  
4 kind of this problem nowadays, is you have all these  
5 old agriculture A1 zones and these highway commercial  
6 districts. One (indecipherable) pointed out up in La  
7 sal, he's like, hey, there's still this thousand foot  
8 buffer.

9 When staff was looking at it, it was  
10 like, we couldn't see that on the map, you know,  
11 because the pixels on the map were -- were so  
12 deteriorated that you had to zoom so far into that  
13 map. And so it's -- it's caused some confusion in  
14 there, and that's where, there again, you know, we  
15 need to fix our whole entire ordinance and come into  
16 compliance with it and have one ordinance instead of  
17 all these subsets and different phases of it.

18 And so this is -- as far as the answer  
19 to the question of the map, this is the one that I  
20 could find that hadn't been changed at the time when  
21 the discussions were about and they were doing the --  
22 the public presentations and going out and speaking to  
23 the neighborhoods and the communities, this is what  
24 the map that they had used at that time.

25 SIR COMMISSIONER JOHNSTON: Did they  
change an

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1 ordinance since? Since they gave the Love's the  
2 original permission, have they changed a zoning or a  
3 ordinance that keeps them from putting that there now?

4 SIR COMMISSIONER WILSON: Yeah. It was  
the  
5 2019 was proposed by Landmark. That's the other one  
6 sitting there.

7 SIR COMMISSIONER JOHNSTON: Oh, okay.

8 SIR COMMISSIONER WILSON: So, so what  
9 happened, and just briefly, so there was -- there was  
10 stuff submitted to Grand County, and the process at  
11 the time -- until the day that it was dissolved  
12 between San Juan and Grand County, the process was, I  
13 get a building application from Grand County. I  
14 filled it out. I did everything I was supposed to do  
15 through Grand County. I paid for my plan review  
16 through Grand County.

17 SIR COMMISSIONER JOHNSTON: You pay  
another  
18 fee.

19 SIR COMMISSIONER WILSON: Grand County  
would  
20 submit it to San Juan County for a signature. It  
21 would come back. After it's all approved by  
22 everybody, I would go to Grand County, write the  
23 remainder of the check for my permit.

24 SIR COMMISSIONER JOHNSTON:

25   overspeak.)

1 SIR COMMISSIONER WILSON: So the process  
at  
2 the time was all through Grand County. I did it for a  
3 long time.

4 SIR COMMISSIONER JOHNSTON: Right.

5 SIR COMMISSIONER WILSON: And so I think  
the  
6 process with them submitting something to Grand County  
7 was the way they were supposed to do it at the time.

8 It was a way that our administration  
9 here at San Juan County advised people to come in to  
10 go to Grand County. If you were in the Spanish Valley  
11 area, you go to Grand County. The permitting was done  
12 there. The permitting, plan reviews, and your --

13 SIR COMMISSIONER JOHNSTON: So, so are we  
14 trying to make up our mind whether this was  
15 grandfathered in or are we trying to make it -- make  
16 up our mind that the new ordinance, the ordinance  
17 change kicks this out?

18 MR. MAUGHAN: Let me see if I can help  
19 you, because I think we're talking about a lot of  
20 things that aren't even relevant. We've got to do  
21 what the district court has asked us to do. So the  
22 very first thing you've got to decide is which  
23 ordinance applies.

24 SIR COMMISSIONER WILSON: Uh-huh.



1 vested right.

2 SIR COMMISSIONER WILSON: Okay.

3 MR. MAUGHAN: So that's what we've got  
4 to decide, and we've got to figure out how do we  
5 decide that. Okay? I think the best way for you to  
6 do that is -- I don't know if you can pull -- put this  
7 up on screen, Mack, but it's a chronology. It's not  
8 what we think we should have done or what happened.  
9 It's what -- what --

10 SIR COMMISSIONER JOHNSTON: What did  
happen.

11 MR. MAUGHAN: What did happen.

12 SIR COMMISSIONER JOHNSTON: What did  
happen.

13 MR. MAUGHAN: So what ordinance  
14 applies. Is it going to be the 2011 highway  
15 commercial or the Spanish Valley development  
16 ordinances that come later, because that's the very  
17 first question you're going to have to ask.

18 SIR COMMISSIONER WILSON: Okay.

19 MR. MAUGHAN: So this chronology here  
20 goes through and tells you exactly what happened. I  
21 can read it or you can put it up on the screen. I  
22 think it helps to go start from 2017, the way this is  
23 written.

24 It says, the planning commission meets

25 San Juan Commission Meeting; February 28, 2024 (Excerpts) - February 19, 2024  
and discusses -- discusses the Spanish Valley area

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1 plan as well as the Spanish Valley zoning effort, and  
2 states that the planning commission will be discussing  
3 and planning the zoning in the area. So that's the  
4 first time --

5 SIR COMMISSIONER WILSON: He's on '17.

6 MR. MAUGHAN: 2017. Jump forward to  
7 March 22nd. Landmark Design puts an ordinance  
8 workshop for Spanish Valley.

9 ADMINISTRATOR MCDONALD: Mitch, which one?  
Sorry to

10 interrupt you, Mitch. Which chronology are you  
11 looking at?

12 MADAM COMMISSIONER RIGG: It's reverse  
13 order.

14 SIR COMMISSIONER NIELSON: Reverse order.

15 MR. MAUGHAN: Sorry.

16 ADMINISTRATOR MCDONALD: Okay. Got it.

17 MR. MAUGHAN: All right. So March  
18 2018, Landmark puts on an ordinance workshop. Okay.

19 May 17th. Landmark Design presents  
20 the planning commission with proposed Spanish Valley  
21 ordinances.

22 Okay. February 7, 2019. The planning  
23 commission meets with Landmark Design to discuss  
24 changes to the proposed Spanish Valley ordinances.  
25 Draft December 17, 2018 version. The planning

1 commission votes to recommend approval of a revised  
2 version. Note, the highway commercial district  
3 chapter does not contain the truck stop language.

4 March 14th. The planning commission  
5 reviews the revisions to the Spanish Valley ordinances  
6 it made in its February 7th meeting and again votes to  
7 recommend approval.

8 March 19th. The county commission  
9 hears a presentation on the proposed Spanish Valley  
10 ordinances from Landmark Design. The proposed  
11 ordinances are not approved, and the planning  
12 commission is instructed to go through the process  
13 again.

14 So up to this point, we're just still,  
15 nothing -- nothing's been approved. We're still just  
16 discussing.

17 April 3rd. The planning commission  
18 hears a presentation on the Spanish Valley ordinances  
19 from Landmark Design and holds a public hearing.

20 April 16, 2019. During its work  
21 session, the county commission discusses a moratorium.  
22 So that's the very first day that a moratorium is  
23 discussed.

24 May 3rd. Love's sketch plan, project  
25 proposal, and application are received by email. So



1 May 3, 2019, that's when Love's gets their application  
2 in.

3 May 6th, a few days later, they get it  
4 in by mail.

5 May 7th. The county commission  
6 considers a moratorium resolution on applications for  
7 commercial projects in Spanish Valley, but tables it.  
8 So that's the first that they actually consider a  
9 moratorium.

10 May 10th. The planning and zoning  
11 director's approval letter to Love's. That's the  
12 infamous May 9th -- or May 10th letter from Walter  
13 Bird saying that this is in a commercial area and  
14 therefore Love's has nothing more to worry about.

15 May 21st. The county commission  
16 enacts a temporary land use regulation barring  
17 applications for commercial projects in the thousand  
18 foot corridor along US Highway 191.

19 September 13th. Landmark Design  
20 provides revised draft ordinances in light of the  
21 moratorium and further public comment. The truck stop  
22 language first appears in the HC district, highway  
23 commercial district chapter.

24 October 30th. Planning commission  
25 holds a public hearing on the revised draft. It votes

1 to make various revisions.

2 November 14th. The planning  
3 commission considers the revised version,  
4 incorporating its requested changes, additional  
5 changes were made, blah, blah, blah.

6 November 19th. The county commission  
7 considers the November 19th version of the SVDO, which  
8 incorporates the planning commission's revisions, but  
9 the good old county commission ultimately decides  
10 instead to adopt the draft version from Landmark  
11 Design.

12 So based on those, that's the history  
13 that's been documented. So your first job is to  
14 decide which ordinance applies, which ordinance you  
15 think applies.

16 MADAM COMMISSIONER AUSTIN: Can we -- can  
17 I  
18 ask a question about the timeline?

19 MR. MAUGHAN: No. No. Heavens no.

20 SIR COMMISSIONER WILSON: Not you.

21 MADAM COMMISSIONER AUSTIN: Just to  
22 clarify  
23 something on that timeline. Can we look at that  
24 again? Is you talked about the truck stop language  
appearing.

MR. MAUGHAN: Uh-huh.



1 instance that you noted that it wasn't -- it didn't  
2 appear originally, back in -- what was it -- one of  
3 the '17s, 2017?

4 MR. MAUGHAN: I think, yeah, February  
5 7th.

6 MADAM COMMISSIONER AUSTIN: Can you  
7 scroll  
8 down, ADMINISTRATOR MCDONALD?

9 SIR COMMISSIONER WILSON: That was one of  
10 the  
11 ones me and Trent took it off.

12 MADAM COMMISSIONER AUSTIN: Down low,  
13 right  
14 there.

15 MR. MAUGHAN: February 7th.

16 MADAM COMMISSIONER AUSTIN: February 7th.  
17 So

18 in that conversation, you're talking about the  
19 planning commission's version of Spanish Valley  
20 ordinance, right, and then when you go back up to the  
21 top, September 13th there, the truck stop language  
22 first appears in the highway commercial.

23 So now are we switching and now we're  
24 saying truck stop language showed up for the first  
25 time in the Spanish Valley development ordinance one  
26 there, or are we saying that that truck stop language  
27 showed up in the planning commission version of --

24

MR. MAUGHAN: I -- I think it first

25

showed up in the Spanish Valley development

1 ordinances.

2 MADAM COMMISSIONER AUSTIN: So that's  
3 referring to that one?

4 MR. MAUGHAN: Uh-huh.

5 MADAM COMMISSIONER AUSTIN: Okay. When  
6 does

7 it show up in the one that the planning commission is  
8 working on?

9 MR. MAUGHAN: I'm not sure what you're  
10 asking.

11 SIR COMMISSIONER WILSON: (Inaudible.)

12 MADAM COMMISSIONER AUSTIN: Because I  
13 don't

14 see that one noted on here.

15 MR. MAUGHAN: What exactly are  
16 you asking?

17 MADAM COMMISSIONER AUSTIN: Wasn't it  
18 added

19 to your revised version that you all were working on?

20 SIR COMMISSIONER WILSON: We removed it.  
21 We

22 removed it twice.

23 CHAIRMAN SCHAFER: Yeah.

MADAM COMMISSIONER AUSTIN: Okay.

SIR COMMISSIONER WILSON: And then --

MADAM COMMISSIONER AUSTIN: So the  
language

-- what was -- what did the language actually say?

24

SIR COMMISSIONER WILSON: Exactly what'

25

still in the ordinance now.

1 MADAM COMMISSIONER AUSTIN: The current  
one?

2 SIR COMMISSIONER WILSON: Yeah.

3 MADAM COMMISSIONER AUSTIN: What about  
back

4 on May -- February 7th? Did that -- when it says the  
5 highway commercial district chapter does not contain  
6 truck stop language, what -- I guess my question is,  
7 what is the truck stop language? Is it saying it's  
8 permitted, it's not permitted?

9 MR. MAUGHAN: No. I think it says that  
10 truck stops are not allowed south of --

11 CHAIRMAN SCHAFFER: North of the  
12 (indecipherable; overspeak).

13 MADAM COMMISSIONER AUSTIN: That's in the  
14 Spanish Valley development ordinance, but what about  
15 the one that the planning commission was promoting?

16 CHAIRMAN SCHAFFER: We took that  
17 language out.

18 SIR COMMISSIONER WILSON: It's all the  
same  
19 thing. You're talking about the same thing.

20 MADAM COMMISSIONER AUSTIN: We are?

21 MR. MAUGHAN: Yeah, yeah.

22 SIR COMMISSIONER WILSON: It was the  
Spanish

23 Valley ordinance.



24

MADAM COMMISSIONER AUSTIN: Okay. So  
this --

25

SIR COMMISSIONER JOHNSTON: So my main  
question

1 is, to make it real simple, did the 1,000 foot  
2 commercial from the middle of the highway, at the time  
3 Love's applied and was given what they were given, did  
4 that allow a truck stop at that time or was that ever  
5 even taken into consideration?

6 SIR COMMISSIONER NIELSON:  
(Indecipherable;  
7 overspeak.)

8 ADMINISTRATOR MCDONALD: The judge is  
saying it did not.

9 MR. MAUGHAN: That's a question that  
10 we'll have to decide once we decide which ordinance.

11 SIR COMMISSIONER JOHNSTON: All right.

12 SIR COMMISSIONER WILSON: But you got to  
13 define truck stop too. I mean, if you look up the  
14 definition of truck stop and the definition of service  
15 station, automobile service station, it's no  
16 difference.

17 I mean, because the ordinance in place  
18 in 2011 and the ordinance in 2019, both are good with  
19 automobile service stations. Definition, you compare  
20 them online, Webster's dictionary, however you want to  
21 look at it, they're the same definition.

22 So 2019 says that it is allowed.  
23 Under the same definition, it's not allowed. So to  
24 me, I mean, they're the same definition.



1 let's decide --

2 SIR COMMISSIONER NIELSON: I got a  
3 different  
4 question, real quick. Just a different part of it.

5 So just my question is on the judge's  
6 decree basically sending it back to the planning and  
7 zoning commission --

8 MR. MAUGHAN: Uh-huh.

9 SIR COMMISSIONER NIELSON: -- to find  
10 which  
11 zone is applied, why you feel like it -- that zone is  
12 applied, but then part of staff's notes and comments  
13 -- like, I'll go to -- I've got it here -- number  
14 three. The application was complete and the CD  
15 (inaudible).

16 Are we also -- is the judge also  
17 asking us to define and say that we felt like at that  
18 time the application was complete, and do we as a  
19 planning and zoning commission have to live by and say  
20 that, that that application back there was a complete  
21 application and they are able to use that completed  
22 application to build today?

23 MR. MAUGHAN: Yes. That's where we're  
24 getting.

SIR COMMISSIONER WILSON: Right.

ADMINISTRATOR MCDONALD: That's the next  
part.



1 ADMINISTRATOR MCDONALD:

2 That's the next part.

3 MR. MAUGHAN: -- the next part.

4 this. ADMINISTRATOR MCDONALD: So there's  
5 multiple steps to

SIR COMMISSIONER NIELSON: Right. Yeah.  
I

6 just -- me reading the judge's --

7 MR. MAUGHAN: Right.

8 SIR COMMISSIONER NIELSON: -- order and  
9 decree, I don't necessarily see that he wants both of  
10 those things. That's my -- my question, I guess.

11 MR. MAUGHAN: Well, let's go to it.  
12 All right. Here's his ruling. And I'll be kind of  
13 short.

14 SIR COMMISSIONER NIELSON: Where are you  
at,  
15 so we can look along?

16 MR. MAUGHAN: Well, I don't know if --  
17 it's probably in the packet.

18 ADMINISTRATOR MCDONALD: I'm trying to get  
there.

19 MR. MAUGHAN: I don't know where it is  
20 in the packet. It would be the -- what I'm reading  
21 from is entitled --

22 SIR COMMISSIONER NIELSON: Like ruling

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23 conclusion of law?

24 ADMINISTRATOR MCDONALD: Right here?

25 MR. MAUGHAN: -- order on petitions --

1 petitioner's motion for summary judgment and  
2 respondent's cross-for motion summary judgment.  
3 Exhibit 2.

4 ADMINISTRATOR MCDONALD: Is that it? Is  
that what you're  
5 looking at? Same thing?

6 MR. MAUGHAN: Yeah, I think so.

7 SIR COMMISSIONER NIELSON: Yeah. Yeah.  
Okay.

8 MR. MAUGHAN: So let's just skip down  
9 to the second paragraph. The zoning administrator is  
10 authorized by the board of county commissioners to  
11 enforce the zoning ordinance, but shall not issue any  
12 permit unless the plans of the proposed erection,  
13 construction, blah, blah, blah, and use fully conforms  
14 to all zoning regulations then in effect.

15 And if there is a question about  
16 whether development plans are consistent with the  
17 general objectives of this ordinance, the planning  
18 commission shall make a determination.

19 So all that's saying is we've got to  
20 make sure that the application and development plans  
21 are consistent with the zoning ordinance.

22 The coalition argues that the zoning  
23 administrator's approval was illegal because a truck  
24 stop is not an explicit permitted use under the zoning





1 or a variance before it could be approved, both of  
2 which will require planning commission authorization.

3 The county and intervenor both argue  
4 that it is a permitted use as an automobile service  
5 station and could be approved by the zoning  
6 administrator as it was.

7 Basically, they're getting to --

8 SIR COMMISSIONER JOHNSTON: Okay.

9 MR. MAUGHAN: -- that the letter -- the  
10 approval from Walter Bird.

11 Among the permitted uses in the zoning  
12 ordinance highway commercial are restaurants, a  
13 drive-in cafe, an automobile service station,  
14 automobile accessories. Also permitted, and I think  
15 this is important, other uses approved by the planning  
16 commission as being in harmony with the intent of the  
17 neighborhood commercial zone and similar in nature to  
18 the above listed uses.

19 So back to your question before, yeah,  
20 we've got to decide. Once we decide what ordinance,  
21 if we get that far, is are those uses permitted uses  
22 in the -- in the ordinance.

23 Okay. Let's skip down to the third  
24 paragraph. The zoning administrator has little  
25 authority to interpret and no authority to expand the

1 coverage of the zoning ordinance. In fact, he may  
2 only issue a permit if the plans fully conform to all  
3 zoning regulations then in effect. Any ambiguity in  
4 the ordinance or application beyond its explicit terms  
5 require planning commission approval.

6 And Love's application here required  
7 interpretation that was beyond the zoning  
8 administrator's limited authority. So he's saying  
9 that Walter went above and beyond his authority by  
10 approving it. It needed the planning commission's  
11 consideration and approval.

12 For example -- so this is part of what  
13 he's asking you to do. For example, are mixed uses  
14 still permitted uses under the ordinance? Does an  
15 automobile service station include fueling stations  
16 for commercial heavy trucks?

17 The proposed Love's travel stop is  
18 neither explicitly a restaurant nor an automobile  
19 service station, yet it might be both things and more.  
20 In other words, it is a mixed use, and mixed uses are  
21 not explicitly permitted under the zoning ordinance.

22 Instead, the planning commission, not  
23 this court, must first determine from substantial  
24 evidence whether this project is an automobile service  
25 station, a restaurant, or both -- and again, here I

1 think it's important -- and if so, whether two or more  
2 permitted uses can be combined and still be in harmony  
3 with the highway commercial zone.

4 And because the planning commission  
5 must decide those questions and determine whether the  
6 use also requires a variance or conditional use  
7 permit, the zoning administrator's approval exceeded  
8 his limit and was illegal.

9 That's basically the court's telling  
10 you what to do.

11 SIR COMMISSIONER JOHNSTON: Okay. Now I  
12 understand. I hope. I think.

13 MR. MAUGHAN: Yeah. So...

14 MADAM COMMISSIONER RIGG: Mitch, where  
does

15 it say there that we have to decide 2011 or 2019, or  
16 is that something that just would be helpful?

17 MR. MAUGHAN: Well, because you -- what  
18 you're trying to do is decide whether Love's proposal  
19 meets the ordinance. Well, what ordinance? See, the  
20 coalition is arguing that the ordinance should be the  
21 Spanish Valley development ordinance because it has  
22 that explicit truck stop language in there and it  
23 would be prohibited. Okay?

24 CHAIRMAN SCHAFER: And also mapping.

25 MADAM COMMISSIONER RIGG: Okay.

1 MR. MAUGHAN: The Love's is arguing  
2 that, no, they put their application in back in 2019.  
3 We went through the chronology there.

4 SIR COMMISSIONER WILSON: Yeah.

5 MR. MAUGHAN: And prior to the  
6 moratorium being in place and prior to anything being  
7 approved here by the planning commission, despite all  
8 of your great work and revision after revision, you  
9 know, it didn't happen. Love's got their -- their  
10 application in, what, May 3rd, May 6th. So that's for  
11 you to decide.

12 MADAM COMMISSIONER AUSTIN: So we --

13 MR. MAUGHAN: So before you can decide  
14 whether it's a permitted use, you've got to decide,  
15 okay, what ordinance do we want this to be under.

16 MADAM COMMISSIONER AUSTIN: And that what  
17 determines that is whether or not we see the  
18 application as being complete or not. Is that  
19 correct?

20 MR. MAUGHAN: Yeah.

21 MADAM COMMISSIONER AUSTIN: So I feel  
like we

22 need to walk down that road, is the application  
23 complete or not. That determines.

24 MR. MAUGHAN: Yeah, because even if you  
25 -- even if you decide that it's the 2011 ordinance,

1 but the application is not complete, then that's a  
2 problem. I mean, it's not a problem, but...

3 SIR COMMISSIONER WILSON: I just don't  
see it

4 that way.

5 SIR COMMISSIONER JOHNSTON: So the other  
6 request question is, is like Lloyd said, a gas station  
7 and a truck stop with restaurants, cafe, convenience  
8 store, everything Love's has, is there any language  
9 anywhere that separates them two?

10 I mean, I know that when -- when we  
11 adopted what that -- the Spanish Valley ordinances in  
12 '19 or whatever it was, it says no truck stops south  
13 of that Ken's Lake cut off. Right?

14 SIR COMMISSIONER WILSON: North.

15 SIR COMMISSIONER JOHNSTON: North of it.  
16 Right. But, but as Lloyd mentioned earlier, what  
17 constitutes the difference between a truck stop and is  
18 the way it's zoned after 2019, does that allow gas  
19 stations --

20 SIR COMMISSIONER WILSON: Uh-huh.

21 SIR COMMISSIONER JOHNSTON: -- automobile  
--

22 SIR COMMISSIONER WILSON: One hundred  
23 percent.

24 SIR COMMISSIONER JOHNSTON: -- everything

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25 that's in the Love's, except calling it a truck stop.

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1 SIR COMMISSIONER NIELSON: Well, all  
those  
2 businesses, in my opinion, are multi-use. I mean,  
3 they're like a service station may be, you know, fuel,  
4 tires, oil, or, like, a convenience store. I mean,  
5 you know, just, there's a million different --

6 SIR COMMISSIONER JOHNSTON: Right.

7 SIR COMMISSIONER NIELSON: -- words we  
can  
8 use. And there's ones that are listed there, but  
9 they're all a multiuse business.

10 SIR COMMISSIONER JOHNSTON: Right. And  
11 that's --

12 SIR COMMISSIONER NIELSON: Restaurant.

13 SIR COMMISSIONER JOHNSTON: -- what I'm  
-

14 SIR COMMISSIONER NIELSON: -- drive-up.  
You

15 know, I mean.

16 MR. MAUGHAN: Mack, can you put up the  
17 actual 2011 ordinance? Is it chapter 12? So we can  
18 look at the exact language of what it says there?  
19 Because again, you've got to -- I'm sorry?

20 ADMINISTRATOR BUSHNELL: (Inaudible.)

21 MR. MAUGHAN: Sorry?

22 ADMINISTRATOR BUSHNELL: It's page 44,  
23 Mack.



24

MR. MAUGHAN: Because that's what the

25

ordinance says: permitted uses.

1 ADMINISTRATOR BUSHNELL: I just want to  
2 remind everyone that this is where we need to decide  
3 which ordinance first.

4 MR. MAUGHAN: Yeah.

5 SIR COMMISSIONER WILSON: In my opinion,  
with  
6 the way that things were permitted --

7 SIR COMMISSIONER NIELSON: Even the way  
it's  
8 written there, if you go up --

9 SIR COMMISSIONER WILSON: -- and  
applications  
10 --

11 SIR COMMISSIONER NIELSON: It even says  
in the  
12 community commercial it lists --

13 SIR COMMISSIONER WILSON: Also it was  
their  
14 understanding that they had everything that they were  
15 supposed to have then.

16 SIR COMMISSIONER NIELSON: -- commercial  
17 parking lots.

18 SIR COMMISSIONER WILSON: I mean, I would  
19 argue that to death. I'd come to the county and I'd  
20 say, you know, what do you need from me? Okay. Go to  
21 Grand County. I go to Grand County. I do everything  
22 that I was asked by Grand County. Go back to San Juan  
23 County. There's an approval letter.

24 I have done everything that was asked  
25 me asked of me by the county that I'm trying to do

1 something in. My application is complete to the best  
2 of my ability, with the county I'm working with. So  
3 my application's done.

4 Because if I was in that position, I  
5 would fight it tooth and nail. I asked you guys what  
6 you need from me. I did everything that was asked of  
7 me, and now you're going to tell me my application's  
8 not complete?

9 MR. MAUGHAN: Certainly.

10 SIR COMMISSIONER WILSON: I mean, that's  
--

11 that's the way I look at it.

12 MR. MAUGHAN: Yeah, yeah. I mean,  
13 that's --

14 MADAM COMMISSIONER AUSTIN: That might be  
one

15 thing for your average developer, but for someone as  
16 sophisticated as Love's, I would --

17 SIR COMMISSIONER WILSON: No. It's  
different

18 from every county to every state. I mean, every  
19 county, every state has different requirements of it,  
20 you know.

21 MADAM COMMISSIONER AUSTIN: Well, so did  
we

22 -- did our county properly accepted -- was that a  
23 complete application, or not? And I think that's one

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24 of the criteria determining under the 2011 ordinance  
25 whether or not it's, you know.

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1 SIR COMMISSIONER WILSON: The P and Z  
2 administrator at the time.

3 MR. MAUGHAN: Well, it's extremely  
4 difficult.

5 And once again, we really need to just go linearly --

6 SIR COMMISSIONER JOHNSTON: Right.

7 MR. MAUGHAN: -- and decide what  
8 ordinance we need --

9 SIR COMMISSIONER JOHNSTON: Piece at a  
10 time.

11 SIR COMMISSIONER NIELSON: So you want  
12 multiple motions?

13 MR. MAUGHAN: Well, we've got -- we've  
14 got to document all this.

15 SIR COMMISSIONER NIELSON: No.

16 MR. MAUGHAN: We've got decide what  
17 ordinance and how we come up with that, you know, put  
18 something on the record as to why we think one  
19 ordinance applies and the other one doesn't. So...

20 SIR COMMISSIONER WILSON: So that's --

21 MR. MAUGHAN: Let's probably focus --  
22 yean, let's probably focus on that. Otherwise we're  
23 going to be here until tomorrow morning.

24 MADAM COMMISSIONER RIGG: Okay. I'll  
make

a motion.

SIR COMMISSIONER WILSON: Well, well --  
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MADAM COMMISSIONER RIGG: You want to  
make

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1 a motion: Can I make a motion?

2 SIR COMMISSIONER WILSON: -- discuss one  
and

3 then move on.

4 ADMINISTRATOR MCDONALD: Take it in  
pieces.

5 SIR COMMISSIONER WILSON: That motion.  
The

6 motion starts with did they fall under the 2011 or the  
7 '19. Was the application complete?

8 So the discussion now is to decide  
9 which ordinance they're in, is was the application  
10 complete, was it in before the moratorium went into  
11 place, or the zoning changed.

12 SIR COMMISSIONER JOHNSTON: Right.

13 MADAM COMMISSIONER AUSTIN: Okay. Right.  
So

14 can we look at the language that -- that argues that  
15 it wasn't complete? Can we review that as a  
16 commission to see if we agree?

17 MR. MAUGHAN: I don't know what

18 --

19 SIR COMMISSIONER NIELSON: Well, before  
she

20 makes a motion, that she ought to have a discussion  
21 about in support of her motion. You know, just, like,  
22 to put it on the record, this is her motion.

23 MADAM COMMISSIONER AUSTIN: Okay.  
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24

SIR COMMISSIONER NIELSON: Without  
listing a

25

motion that's a million pages, maybe she could, this

1 is my comments in support of this motion finding that  
2 this zone applies and it is complete or these are my  
3 findings --

4 MADAM COMMISSIONER AUSTIN: Okay.

5 SIR COMMISSIONER NIELSON: -- that it is  
6 incomplete. At least that's what I -- that's kind of  
7 how I prepared mine, is, like, these are my -- these  
8 are the things I would like on record in support of  
9 either my motion or somebody else's motion, and then  
10 without listing all the arguments and reasons back  
11 behind in the motion.

12 Does that make sense?

13 SIR COMMISSIONER WILSON: Uh-huh.

14 MADAM COMMISSIONER RIGG: Okay. So, so I  
15 would like to move that the Love's application was  
16 complete, they did at the time what they thought they  
17 were supposed to do, and that the 2011 ordinance  
18 applies.

19 That's because it happened before the  
20 moratorium, it happened before the 2019 ordinance was  
21 approved. So I say 2011 and complete.

22 SIR COMMISSIONER JOHNSTON: I'll second  
it.

23 SIR COMMISSIONER WILSON: I sure can't  
argue

24 with that.

CHAIRMAN SCHAFFER: I have a motion and

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1 second.

2 MR. MAUGHAN: Just so... Yeah, so  
3 let's get a little -- some findings with that. I  
4 think --

5 CHAIRMAN SCHAFFER: Where did the \$550 go?

6 MR. MAUGHAN: I don't know. But we  
7 need -- we need to go through the list.

8 You find that the \$550 was paid.  
9 Right?

10 MADAM COMMISSIONER RIGG: Yes.

11 MR. MAUGHAN: Help me out here. What  
12 else?

13 MADAM COMMISSIONER AUSTIN: So can we  
14 look at  
15 that language from...

16 MR. MAUGHAN: The sketch plan complied  
17 with the requirements, that the planning commissioner,  
18 the zoning administrator took back at that time?

19 MADAM COMMISSIONER AUSTIN: Is the sketch  
20 plan complete?

21 MR. MAUGHAN: Sorry?

22 MADAM COMMISSIONER AUSTIN: Is the sketch  
23 plan complete?

24 MR. MAUGHAN: Well, I think that's the  
25 motion. So...

ADMINISTRATOR MCDONALD: So here's the



1 MR. MAUGHAN: I'm not saying -- I'm  
2 just saying --

3 MADAM COMMISSIONER AUSTIN:  
4 (Indecipherable;  
overspeak.)

5 MR. MAUGHAN: -- if that's the motion,  
6 let's put some findings behind it.

7 SIR COMMISSIONER NIELSON: Language.  
Yeah.

8 Okay. So...

9 MR. MAUGHAN: So Mary's says that the  
10 motion would be that the application was complete. I  
11 assume that means that you find the sketch plan was  
12 adequate?

13 MADAM COMMISSIONER RIGG: Yes.

14 SIR COMMISSIONER NIELSON: I think we all  
15 agree that the Love's did their best due diligence --

16 SIR COMMISSIONER JOHNSTON: Their due  
17 diligence.

18 SIR COMMISSIONER NIELSON: -- with the  
19 information given to them by Walter --

20 MR. MAUGHAN: Are you getting this?

21 SIR COMMISSIONER NIELSON: -- and whoever  
else

22 provided them, that they had a completed application

23 --

24 SIR COMMISSIONER WILSON: At that time,

25

SIR COMMISSIONER NIELSON: -- at the  
time.

1 MR. MAUGHAN: Okay. Does anybody have  
2 a problem with that, the chronology of facts that we  
3 read -- because I think that would be helpful for the  
4 district court -- that supports your motion that the  
5 Love's had the application in prior to anything.

6 SIR COMMISSIONER NIELSON: If it's  
accurate, I  
7 think we do support the chronology. Do we not?

8 MR. MAUGHAN: Anything the planning  
9 commission did and prior to the moratorium being in  
10 place.

11 MADAM COMMISSIONER RIGG: (Indecipherable)  
12 it was prior.

13 MR. MAUGHAN: Okay.

14 SIR COMMISSIONER WILSON: But the only  
reason  
15 the moratorium went in place was because of this. It  
16 was like, hey, I want to do this. No. I mean, just  
17 like that. So it was --

18 MR. MAUGHAN: Do you have  
19 anything else to add?

20 MADAM COMMISSIONER RIGG: No, no, no. I  
21 get it.

22 MR. MAUGHAN: Okay. Anything else?

23 MR. NEILSON: So you've all  
24 found that the application was complete, and you found



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25 that it was submitted prior to the 2019 ordinance

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1 taking effect?

2 SIR COMMISSIONER WILSON: Before the  
3 moratorium.

4 MR. NEILSON: Therefore, the  
5 2011 ordinance applies. That's what you're finding?

6 MR. MAUGHAN: That's in the motion.

7 SIR COMMISSIONER NIELSON: That's exactly  
8 what  
9 we're finding.

10 MR. NEILSON: I'm not trying  
11 to put words in your mouth.

12 MR. MAUGHAN: Melissa said  
13 that already.

14 MR. NEILSON: That is in the  
15 motion.

16 MR. MAUGHAN: Okay. I think -- I think  
17 -- I think that's good.

18 CHAIRMAN SCHAFFER: Add that  
19 chronology in there, and...

20 CHAIRMAN SCHAFFER: I have a motion and a  
21 second to send back to the court. Do we want to  
22 include Mack's language?

23 ADMINISTRATOR MCDONALD: On the staff  
24 report?

25 (All overspeak.)

ADMINISTRATOR MCDONALD: You're good with



1 the motion. That's fine. You've actually added extra  
2 to it, which will be stronger.

3 CHAIRMAN SCHAFFER: That we believe Love's  
did  
4 everything in their due diligence that was asked of  
5 them. Their application was complete. We're going  
6 off of 2011 zoning ordinances and prior to the  
7 moratorium. And include the chronology in the  
8 findings back to the court.

9 All those in favor say aye.

10 COLLECTIVE VOICES: Aye.

11 CHAIRMAN SCHAFFER: Any  
opposed?

12 Any abstentions?

13 Motion carries.

14 MADAM COMMISSIONER RIGG: So I'd  
Okay.

15 like to make another motion.

16 CHAIRMAN SCHAFFER: To  
adjourn?

17 MADAM COMMISSIONER RIGG: I do not think  
it

18 was a permitted use. I do not think it was a  
19 permitted use.

20 SIR COMMISSIONER NIELSON: At that time?

21 MADAM COMMISSIONER RIGG: I do not think  
it

22 was a permitted use because an automobile service

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23 station is not a truck stop. I agree with what the  
24 ombudsman wrote about how a truck stop is a beast of  
25 its own, and that was not what was envisioned. So, so

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1 I do not think it was a permitted use.

2 CHAIRMAN SCHAFFER: Okay. Well, I see  
multiple

3 uses that could be combined that I would say it would  
4 fall under. So...

5 SIR COMMISSIONER NIELSON: I guess in the  
6 minutes, I'll just add a comment for the minutes, so  
7 whoever reads the minutes, if he reads them.

8 As I read it, like I said a minute  
9 ago, I feel like the uses listed there in the  
10 ordinance are -- most of them are all multiple use  
11 ordinances. And then I even go the page before, you  
12 know, community commercial and I would think -- I know  
13 I -- I'm not an attorney --

14 CHAIRMAN SCHAFFER: Garages.

15 SIR COMMISSIONER NIELSON: -- but I  
apply,  
16 like, a simple reading of the ordinances, because I  
17 feel like we're all citizens and we all should be able  
18 to read the ordinance. We shouldn't have to all hire  
19 an attorney just to make the simplest decisions.

20 But it reads, garage, storage of  
21 automobiles, commercial parking lots.

22 SIR COMMISSIONER WILSON: Yeah.

23 SIR COMMISSIONER NIELSON: Restaurant,  
24 drive-in cafe.

I actually went to a Love's today. I

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1 went to the restaurant. I didn't go to the drive-up,  
2 I didn't buy gas. I got a crappy RB sandwich and I  
3 came home to this --

4 MR. MAUGHAN: Green River.

5 SIR COMMISSIONER NIELSON: Yes, gas is  
cheaper  
6 there.

7 And so like I said, like a service  
8 station, those are two different things, you know.  
9 Convenience store, whatever. I mean, it doesn't say  
10 truck stop, but truck stop at Maverick in Blanding,  
11 they start -- you know, I mean, it's not a truck stop.  
12 It doesn't have its own --

13 SIR COMMISSIONER WILSON: No, it's just  
14 Maverick.

15 SIR COMMISSIONER NIELSON: You know.

16 SIR COMMISSIONER WALKER: But it does say at  
17 the bottom, similar in nature to the above.

18 SIR COMMISSIONER NIELSON: And I guess  
19 that was my -- my other comment I had in there.

20 SIR COMMISSIONER WILSON: Yeah. I agree.

21 SIR COMMISSIONER NIELSON: My simple  
22 interpretation is those things are in harmony with one  
23 another. I did read the ombudsman. Oh, my gosh.

24 That, and maybe it's a problem, but I -- but I kind of  
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25 disagree. I know that those opinions carry weight,

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1 but after -- when as I read it, I -- my simple  
2 interpretation, I didn't agree.

3 And so I guess those are -- those are  
4 my comments. Those are just kind of my findings in  
5 just simply reading the ordinance. And if I had  
6 applied for something, I would hope somebody would be  
7 able to look at a simple definition and be able to  
8 apply those -- that ordinance to me, just like we are  
9 to Love's.

10 That's all I have.

11 MADAM COMMISSIONER RIGG: Did I hear a  
12 second?

13 SIR COMMISSIONER WILSON: Yeah.

14 CHAIRMAN SCHAFER: That was a good  
15 motion.

16 Oh, no. I was talking to Cody.

17 Okay. I got a motion that -- well,  
18 you can just go on the record to say.

19 MADAM COMMISSIONER RIGG: I'm going  
20 to go

21 on record to say that I do not think it was a  
22 permitted use.

23 CHAIRMAN SCHAFER: Okay.

24 MADAM COMMISSIONER: And I think what  
25 the ombudsman said was right on target.

CHAIRMAN SCHAFER: All right. Building  
permit



1 SIR COMMISSIONER: Are we going to  
2 make a motion that it is in?

3 ADMINISTRATOR MCDONALD: We're continuing  
4 forward with  
5 the discussion.

6 ADMINISTRATOR BUSHNELL: Yeah, you're  
7 not done yet.

8 (Indecipherable; overspeak.)

9 MR. NEILSON: Before you move  
10 on. So...

11 ADMINISTRATOR MCDONALD: So this one here,  
12 I mean, we've  
13 listed the options here for that. So you've  
14 determined that it is the 2011 zoning. And now you've  
15 got the proposed use is permitted because it fits one  
16 or more of the permitted uses listed in that zone, and  
17 you're saying no.

18 Or, the proposed use is permitted  
19 because it is in harmony with the intent of the  
20 neighborhood commercial zone and similar in nature to  
21 listed in that control district highway zone.

22 MR. MAUGHAN: And I think those two can  
23 be combined.

24 ADMINISTRATOR MCDONALD: They could?  
That's what you're  
arguing, Commissioner Nielson.

And then, or, the proposed use either



1 district highway, or is in harmony with the intent of  
2 the neighborhood commercial zone, similar in nature to  
3 those listed uses but requires a variance to be  
4 granted by the planning commission and is referred to  
5 staff to recommend variance terms.

6 Or, you get into that proposed use  
7 does not fit one or more of the uses listed within the  
8 control district highway zone and is not in harmony  
9 with the intent of the neighborhood commercial zone  
10 and similar in nature to those listed in control  
11 district highway commercial zone uses and is therefore  
12 another use that must be approved as a conditional use  
13 and as referred to staff to determine the project's  
14 reasonable anticipated detrimental effects and  
15 recommended reasonable conditions to mitigate those  
16 detrimental effects, if possible.

17 So that was what the judge is asking  
18 you to determine, whether it's permitted or not. If  
19 it's in harmony with the zone, then is it allowed, and  
20 you permit it as being an allowed use within this  
21 zone, or it's not permitted all together, or...

22 So we do have to have a decision on  
23 that. That's what the judge is asking for.

24 SIR COMMISSIONER NIELSON: Can I make a  
25 motion?

1 CHAIRMAN SCHAFFER: Yep.

2 SIR COMMISSIONER NIELSON: So I'd like to  
make

3 a motion stating that the Love's application was  
4 complete, as we've already stated tonight, and that  
5 the CDH zone applies, and that the purpose and use and  
6 permit fits one or more of the permitted uses listed  
7 for the CEH zone. And it is approved.

8 And those -- those are a restaurant, a  
9 drive-in cafe, automobile service station --

10 UNIDENTIFIED SPEAKER: We lost you.

11 SIR COMMISSIONER NIELSON: -- commercial  
12 parking lot, and the purpose and use is permitted  
13 because it is in harmony.

14 These are multiuse businesses in a  
15 commercial zone and is similar in nature --

16 UNIDENTIFIED SPEAKER: I have no  
17 audio.

18 (Indecipherable; overspeak.)

19 CHAIRMAN SCHAFFER: That was the warm-up.  
Now

20 you have to give us --

21 SIR COMMISSIONER NIELSON: I have to  
start

22 that again?

23 UNIDENTIFIED SPEAKER: It'll be better  
24 this time.

MR. NEILSON: If possible.

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1 SIR COMMISSIONER NIELSON: Well, did it  
pick  
2 it up on the mic?

3 UNIDENTIFIED SPEAKER: Can somebody  
4 text Holly or Colby and let them know that we lost  
5 audio?

6 ADMINISTRATOR MCDONALD: Can you hear us  
now? Okay.  
7 Hold on. How's that? Can you hear us? Can you hear?

8 UNIDENTIFIED SPEAKER: Yeah.

9 ADMINISTRATOR MCDONALD: Okay. Sorry  
about that.

10 SIR COMMISSIONER NIELSON: So is it on  
the  
11 recording or do you want me to start over, Jens? For  
12 \$550 an hour, I'll do it.

13 ADMINISTRATOR BUSHNELL: Just in case.

14 SIR COMMISSIONER NIELSON: Okay. Here we  
go.

15 I'll try to do it the same. I don't know if I will or  
16 not.

17 I make a motion stating that the  
18 Love's application was complete and that the CDH zone  
19 applies. This motion was made tonight by the planning  
20 and zoning commission, and applies to the commercial  
21 -- the CDH zone, and all proposed uses is permitted  
22 because it fits one or more of the permitted uses.  
23 And those uses are a restaurant, drive-in cafe,

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24 commercial parking lot, and automobile service  
25 station.

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1 And I believe that these are in  
2 harmony with each other, being multiple use commercial  
3 businesses and in a similar nature from one another.

4 CHAIRMAN SCHAFER: There's a motion.

5 SIR COMMISSIONER WILSON: Second.

6 CHAIRMAN SCHAFER: And a second. Stating  
that

7 the proposed use.

8 MR. MAUGHAN: Let me just add one other  
9 thing. So you're saying that the ordinance does allow  
10 for mixed uses because they -- they are --

11 CHAIRMAN SCHAFER: In harmony.

12 SIR COMMISSIONER NIELSON: -- in harmony  
with

13 one another. And as they're stated, even the ones  
14 that are stated, are multiple use in --

15 MR. MAUGHAN: Okay.

16 SIR COMMISSIONER NIELSON: -- in their  
design

17 and function.

18 MR. MAUGHAN: Okay.

19 CHAIRMAN SCHAFER: Go back to where you  
were.

20 The planning. Yeah.

21 So a motion and a second that the  
22 proposed use is permitted because it's in harmony with  
23 the intended neighborhood commercial zone and similar

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24 in nature to the listed CDH uses. And Cody already  
25 mentioned what they were.

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1 So all those in favor say aye.

2 COLLECTIVE VOICES: Aye.

3 MADAM COMMISSIONER AUSTIN: Did we get a  
4 second?

5 MADAM COMMISSIONER AUSTIN: Who  
6 seconded? Do we get  
7 discussion?

8 SIR COMMISSIONER WILSON: I did.

9 CHAIRMAN SCHAFFER: Discussion.

10 MADAM COMMISSIONER AUSTIN: Okay. All  
right.

11 Every other county that I've looked at, Cedar City,  
12 Washington County, they have proper definitions for  
13 truck stops in their -- or travel centers in all of  
14 their ordinances for this very reason, that an  
15 automobile service station is not the same thing and  
16 it is a mixed use.

17 This -- we need to kind of, I think,  
18 catch up with the times, because if we're trying to  
19 make our existing ordinance or that 2011 one look like  
20 something it's not, meaning trying to pull a giant  
21 travel center out of an automobile service station, we  
22 are going to continue down this road of poor planning  
23 over and over again. And we have a plan in place.

24 So I guess I'm saying, if you look at  
25 our current ordinances, our current plan that is in

1 motion, we have better language for this. We have  
2 definitions for this stuff now.

3 CHAIRMAN SCHAFFER: Right.

4 MADAM COMMISSIONER AUSTIN: Why -- why go  
5 backwards when we could have the travel center defined  
6 in the right location going forward? It is not the  
7 same thing as an -- so I agree with the ombudsman  
8 again.

9 Now, what if it was a grocery store or  
10 smaller gas station? Under the 2011 ordinance, those  
11 things would work in that location, plain and simple.  
12 But we're trying to push something -- we're trying to  
13 interpret this language inappropriately based on our  
14 -- what we know is our plan, existing plan.

15 So again, I'm just going to keep  
16 saying, let's use our -- let's think how we're going  
17 to interpret this in light of the plan we have in  
18 place and what we want our valley to look like instead  
19 of trying to squeeze a truck stop out of this  
20 language.

21 And so, Cody, I just would --

22 SIR COMMISSIONER NIELSON: I agree with  
you.

23 MADAM COMMISSIONER AUSTIN: -- amend it.

24 SIR COMMISSIONER NIELSON: I agree with  
you a

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25 hundred percent. I hope going forward we get our new

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1 ordinances passed and we have better definitions. We  
2 also have things that are not permitted along with  
3 things that are permitted, and hopefully some of the  
4 confusion goes away, but...

5 But I do feel like -- I read so much  
6 and it was little bit like I'm driving home today and  
7 I'm listening to -- to oral arguments of the supreme  
8 court and -- sorry, Jans, but I -- but a  
9 bastardization of the law is you listen to the one  
10 side, and I'm a hundred percent. Like, yeah, that  
11 can't be done. Like, the state's right. And then you  
12 listen to the other attorney, and you're like, yeah,  
13 well, you can't affect a federal election, you know.

14 And I read all this material and it's  
15 the same thing. I read this, oh, yeah, that sounds  
16 pretty good, and I read this, and that sounds pretty  
17 good. But I thought, and I kind of added in my  
18 comments, and this is truly how I feel, that we all  
19 represent our government and our laws and our  
20 ordinances in different ways.

21 You know, either you are a jury, you  
22 know, of your peers, you are elected to represent the  
23 stay or state office or a commission or planning and  
24 zoning commission. And so I simply -- I just read it  
25 with my couple year of poorly grades in college



1 education and I look at it and I simply say, are they  
2 the same thing?

3 Do they -- do they -- are they the  
4 same things with the -- you know, the -- how do I word  
5 that -- with the same definition, but different  
6 beginning phrases, you know.

7 MADAM COMMISSIONER AUSTIN: Impacts.

8 SIR COMMISSIONER NIELSON: Automobile  
service  
9 station. And I feel like they simply are. Like I  
10 said, a restaurant, a drive-in cafe, a commercial  
11 parking lot. These are permitted uses.

12 So I just felt like, and I would argue  
13 with you, that, that the layman definition is that  
14 they are in harmony. I would hope that we wouldn't  
15 use I would call it petty wording to deny people's  
16 rights on their property.

17 MADAM COMMISSIONER AUSTIN: Well, then at  
the  
18 very least, can I make another motion, a  
19 countermotion, to do all of that, but go to the or and  
20 go down the road of approving it as a conditional use.  
21 That way we at least --

22 MR. NEILSON: You have to vote on the  
first

23 motion.

24 CHAIRMAN SCHAFER: (Inaudible.)

MADAM COMMISSIONER AUSTIN: But then I  
still

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1 have an opportunity to counter? Okay. Alternate.

2 CHAIRMAN SCHAFER: Okay.

3 MADAM COMMISSIONER AUSTIN: Sorry.  
4 There's a

5 lot going on.

6 CHAIRMAN SCHAFER: Yeah. All right.

7 SIR COMMISSIONER NIELSON:

8 Seven-hundred-something-odd pages.

9 MADAM COMMISSIONER AUSTIN: I tried to  
10 get

11 you all --

12 SIR COMMISSIONER NIELSON: I was at a  
13 conference and I had to stay up until midnight. I  
14 drove home today. I'm so freaking tired, but --

15 MADAM COMMISSIONER AUSTIN: It's 10:00.

16 SIR COMMISSIONER NIELSON: -- I did my  
17 best.

18 CHAIRMAN SCHAFER: Okay. I stated the  
19 motion

20 and the second already. So all those in favor say  
21 aye.

22 COLLECTIVE VOICES: Aye.

23 CHAIRMAN SCHAFER: Aye. Any opposed?

MADAM COMMISSIONER RIGG & MADAM  
COMMISSIONER AUSTIN: Aye.

CHAIRMAN SCHAFER: Okay. We have an  
abstention. Motion carries.

MADAM COMMISSIONER AUSTIN: Okay. So I  
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24 an alternative motion that, okay, it's approved under  
25 the -- or we have to consider it under the 2011

1 ordinances, that it's -- wait. How do I get to the  
2 or? And that the use is --

3 SIR COMMISSIONER WILSON: (Inaudible.)

4 CHAIRMAN SCHAFER: One harmony.

5 MADAM COMMISSIONER AUSTIN: Yeah.  
Where is

6 it?

7 CHAIRMAN SCHAFER 3D.

8 MADAM COMMISSIONER AUSTIN: But the proposed  
9 use does not fit one or more. Can I go from there to  
10 there, along these lines? That one or more of the  
11 uses listed for the CDH and is not harmony with the  
12 intent of the neighborhood commercial zone and similar  
13 in nature to the listed CDH uses and is therefore  
14 another use that must be approved as a conditional use  
15 and is referred...

16 Now I disagree with this, unless  
17 you're just saying staff is going to recommend some  
18 things, but I wouldn't want to just refer this off to  
19 the staff without -- it would have to come back to us.

20 And infer to staff to determine the  
21 project's reasonably anticipated detrimental facts and  
22 recommend reasonable conditions to mitigate those  
23 detrimental effects if possible.

24 And the reasons are because a truck  
25 stop, the impacts of a travel enter is going to be way

1 bigger than what I perceive to be as a -- or  
2 interpreted as an automobile service station or  
3 restaurant as stand-alones, and that the impacts to  
4 the, again, I mean, health, safety, welfare of our  
5 community is going to be impacted dramatically, and  
6 there's things that by having it as a conditional use  
7 would allow us to mitigate more than what Love's might  
8 be proposing. One of the big ones is going to be  
9 noise.

10 And because of the nature of this  
11 giant development, the county, I think, should hire --  
12 consider hiring a consultant that does -- deals with  
13 these kind of things. So if we're going to have a  
14 truck stop there, let's do it in a way that fits that  
15 location and mitigates as much as possible.

16 That if we don't put it as a  
17 conditional use, there's some things that we may not  
18 get, like any kind of noise mitigation, or... I mean,  
19 the lighting is proposed, but the buffer. You know,  
20 we need to make sure that this, if it's going to  
21 happen, is the right size, right number, the right  
22 protections for our community.

23 So that's what I implore you to look  
24 at considering that avenue instead.

25 MADAM COMMISSIONER AUSTIN: Well, I mean,  
I

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1 would just want to talk about conditions, and we're  
2 not there.

3 MADAM COMMISSIONER RIGG: Well, I don't  
4 -

5 can we -- I mean, since the commission already said it  
6 was a permitted use, I don't know that we can  
7 backtrack --

8 SIR COMMISSIONER WILSON: Correct.

9 CHAIRMAN SCHAFER: Right.

10 MADAM COMMISSIONER RIGG: -- and say  
11 that.

12 SIR COMMISSIONER JOHNSTON: Yeah, that's  
13 what

14 my -- my answer was going to be. How do we backtrack  
15 and say it was a permitted use, but let's go forward  
16 and do some more things.

17 MADAM COMMISSIONER RIGG: I wonder --

18 SIR COMMISSIONER WILSON: Because the  
19 second

20 motion will supersede the first one? Okay.

21 MADAM COMMISSIONER RIGG: So what about  
22 making a motion saying it's a permitted use? I mean,  
23 is it possible to say it's a permitted use, and we  
24 make a motion that we want these things done as well?  
25 Like, you know, work on --

26 UNIDENTIFIED SPEAKER: (Inaudible.)

27 SIR COMMISSIONER WILSON: Yeah. It's  
28 either

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24 permis -- permissible or conditional.

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25 ADMINISTRATOR BUSHNELL: If it's



1 permitted, it's permitted.

2 MADAM COMMISSIONER AUSTIN: Then at least  
3 for

4 the record, I want to make a motion that -- an  
5 alternative motion that it is incomplete. Or no,  
6 wait. That it was complete, and...

7 MR. MAUGHAN: I think you can make an  
8 amended motion.

9 MADAM COMMISSIONER AUSTIN: Yeah, how do  
10 I  
11 get to the conditional use one?

12 MR. MAUGHAN: You can make a -- make a  
13 amended motion -- make a motion to amend the previous  
14 motion that was approved, but it's up to the planning  
15 commission whether to (inaudible).

16 SIR COMMISSIONER WILSON: But I thought  
17 that  
18 had to be before the vote? I thought an amended  
19 motion had to be before the vote.

20 ADMINISTRATOR MCDONALD: You can  
21 reconsider.

22 MR. MAUGHAN: (Inaudible) prior motion,  
23 which I think you can do. You don't have to agree  
with it.

MADAM COMMISSIONER AUSTIN: Okay. So it  
looks like I can do -- like, based on what you got,  
the staff has provided us here -- maybe I shouldn't

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24 even -- maybe that's what's confusing me is not  
25 looking at what staff provided.

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1                   Is that, so it's a -- so how about  
2                   it's -- we consider it under the -- can't go that  
3                   direction either.

4                   SIR COMMISSIONER NIELSON: Like a  
                    restaurant,  
5                   but you want to put conditions on the size.

6                   MADAM COMMISSIONER AUSTIN: I guess my  
7                   question is, staff, why is there this option for it  
8                   needing --

9                   SIR COMMISSIONER WILSON: To be a  
                    conditional  
10                  use?

11                  MADAM COMMISSIONER AUSTIN: -- a  
                    conditional  
12                  use?

13                  MR. MAUGHAN: If you don't find it is a  
14                  permitted use, then perhaps you could find it as a  
15                  conditional use. But the -- you've already voted that  
16                  it was a permitted use.

17                  MADAM COMMISSIONER AUSTIN: But that  
                    wasn't  
18                  even an option on here on my -- my recommendations.  
19                  So then I guess that's what my motion would be.  
20                  Because the original is, like, you can either -- it's  
21                  either incomplete or it's complete.

22                  ADMINISTRATOR MCDONALD: And these are  
                    just recommended.

23                  You can always make up your own motion.

24 MR. MAUGHAN: (Inaudible) have the body

25 reconsider the prior motion.

1 MADAM COMMISSIONER AUSTIN: Okay. That's  
2 what I'm asking.

3 ADMINISTRATOR MCDONALD: Or amend. You  
4 can --

5 MADAM COMMISSIONER AUSTIN: Reconsider.

6 ADMINISTRATOR MCDONALD: -- amend it as  
7 well.

8 MADAM COMMISSIONER AUSTIN: That it is  
9 not a

10 permitted use, right, and that we should consider it  
11 under as a conditional use, for the reasons I  
12 explained earlier.

13 MADAM COMMISSIONER RIGG: I'll second  
14 that  
15 motion.

16 CHAIRMAN SCHAFER: Okay. Got a motion  
17 and a

18 second to reconsider the previous vote and that it's  
19 not permitted, but should be a conditional use.

20 All those in favor say aye.

MADAM COMMISSIONER RIGG: Aye.

MADAM COMMISSIONER AUSTIN: Aye.

CHAIRMAN SCHAFER: All those opposed.

SIR COMMISSIONER NIELSON, SIR COMMISSIONER  
JOHNSTON, CHAIRMAN SCHAFER, SIR  
COMMISSIONER WILSON, SIR COMMISSIONER  
WALKER: Aye.

CHAIRMAN SCHAFER: Motion is denied.  
Failed.

21

(End of excerpt.)

22

(END OF TRANSCRIPTION)

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I, CHERYL J. HAMMER, the undersigned  
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WITNESS MY HAND this 4th day of March 2024.



CHERYL J. HAMMER, RPR  
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[& - 9th]

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[hearing - impacts]

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**[thank - traffic]**

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## STAFF REPORT

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**MEETING DATE:** March 14, 2024

**ITEM TITLE, PRESENTER:** Review of Current Planning Commission By Laws, Kristen Bushnell

**RECOMMENDATION:** Administrative Discussion & Vote

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### SUMMARY

At a previous Planning Commission meeting it was requested that we review our current Planning Commission Bylaws (Ordinance #2020-03A). This is a requirement of the bylaws themselves.

Planning Commission terms are for four-year terms. The La Sal and Blanding Planning Commission terms expired this year, both are eligible for renewal. We received another Letter of Interest for the La Sal position. Our advertisements are open-ended allowing letters of interest to be received until the Commission Appoints and closes the vacancy. There were no other letters of interest for the Blanding position, and it was discussed that position expiring would continue into another term. For the La Sal spot, where we have two interested members from the La Sal area, we will need to follow the bylaws for selection/renewal for one of the members to serve on the Planning Commission.

**SAN JUAN COUNTY  
ORDINANCE #2020 -03A**

**AN ORDINANCE AMENDING ORDINANCE #2020-03 AMENDING THE RULES,  
PROCEDURES, AND BYLAWS FOR THE SAN JUAN COUNTY PLANNING  
COMMISSION**

**WHEREAS**, the San Juan County Planning Commission is authorized by the Utah Code Annotated 17-27a-301 and 17-27a-302 and by San Juan County Zoning Ordinance (2011), Chapter 2.1. The Planning Commission exercises authority and assumes responsibilities delegated to it under these authorities; and

**WHEREAS**, the San Juan County Planning Commission, hereinafter referred to as “the Commission,” shall be governed by State statutes and County ordinances and policies including the following:

- a. State statues applying generally to public boards, members, and officials;
- b. State statutes governing the activities of County Planning Commissions;
- c. San Juan County Ordinances and Resolutions;
- d. San Juan County Land Use Code; and
- e. The bylaws of San Juan County Planning Commission as set forth herein. They are advisory guidelines only. Consequently, should the Commission waive, suspend, or otherwise deviate from these bylaws during the course of a meeting, such deviation shall not be grounds for invalidating a hearing held during such meeting or any decisions made at such meeting.

**NOW, THEREFORE BE IT RESOLVED** that San Juan County does hereby establish the following rules, procedures and bylaws for the San Juan County Planning Commission as follows:

**ARTICLE I  
General Provisions**

- I.1. Familiarity with State Statutes, County Ordinance and Resolutions, and Rules Affecting the Commission. Upon taking office, all members of the Commission shall familiarize themselves with applicable statutes and rules, ordinances, and resolutions, and while in office, shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Commission affairs.

**ARTICLE II  
Officers and Election**

- II.1. Officers. The Officers of the Commission shall be a Chairperson and Vice-chairperson.
- II.2. Election. The Chairperson and Vice-chairperson shall be elected at the first meeting of the year after the Board of County Commissioners appoints vacant seats. They shall serve for a term of one (1) year or until their successors are elected. Their term shall start the



meeting they are elected. If the office of the Chairperson or Vice-Chairperson becomes vacant, the Commission shall elect a successor from its membership who shall serve the unexpired term of the predecessor. Nominations shall be by oral motion. At the close of nominations, the Commission shall vote by voice vote upon the names nominated for the office. If requested by the Chair, written ballots may be used for voting purposes.

II.3. Chair. The Chairperson has the following duties:

- a. The Chairperson presides at all meetings of the Planning Commission maintaining order and decorum and ensures that the procedures prescribed in the San Juan County Land Use Code, Utah State Code, and policies stated herein are followed.
- b. The Chairperson may call special meetings at any time and in accordance with applicable state and County codes.
- c. The Chairperson may appoint up to three Commission members to serve on a committee as needed.

II.4. Vice-chair. The Vice-chair performs the duties of the Chairperson in the absence of the Chairperson, or duties as delegated by the Chairperson. In the event of temporary absence of the Chairperson and Vice-chairperson, the remaining members present shall elect an acting Chairperson for that meeting.

### ARTICLE III

#### Members, Term of Office, Vacancies, Candidate Interest, Interviews, and Voting

III.1. Members. To guarantee balanced input from across the County in areas where the County has jurisdiction over land use decisions, and the impacts of those decisions on adjacent population areas, the Commission shall consist of seven (7) members who shall be appointed by the Board of County Commissioners from the following areas of the County: One (1) member from Blanding area; one (1) member from Monticello area; one (1) member from Bluff area; one (1) member from La Sal area; one (1) member from Spanish Valley area; one (1) member from a special service district within the County and one (1) member at-large. In addition to the seven (7) members, the Board of County Commissioners may appoint, one (1) non-voting, ex-officio staff member to serve as liaison between the Board of County Commissioners and the Commission and provide administrative support to the Commission. Board of County Commission members may not serve as regular members of the Commission.

III.2. Term of Office. The term of office for Commission members shall be staggered so that the terms of at least one (1) member and no more than three (3) members expire each year. As the term of each regular member expires, the vacancy thus created shall be filled by a majority vote of the Board of County Commissioners for a term of four (4) years, so as to maintain the succession of staggered terms of service.

- a. Terms of all Commissioners begin on January 1st and expire on December 31st of the 4th year following the year of appointment. If the Board of County Commissioners has not appointed a new member(s) to the Commission at the expiration of term, the current Commission member(s) will remain on the Planning Commission until replaced by appointment of the Board of County Commissioners.
  - b. Current Commissioners whose term has expired can submit their name for consideration to renew for an additional four (4) year term by notifying the Commission Chair and County Administrator.
- III.3. Vacancies. County staff shall notify the current Commission of those members whose terms will expire at the end of the calendar year. In cases where a vacancy is created during the middle of a board member's term (mid-term vacancy), County staff shall notify the Commission as soon as practically possible. County staff shall post a notice of Board vacancies, including mid-term vacancies, in a local newspaper of record.
- III.4. Candidate Interest. In early November of each year, the County Administrator shall cause notice of appointment(s) to be published in a newspaper of general circulation in San Juan County. The Planning and Zoning Department shall be responsible for the costs of such advertisement. Such notice shall state the nature and term of the appointment(s), the qualification for such appointment, request written statements of interest and qualifications, and establish a deadline for submittal of such statements, which time shall not be earlier than fifteen (15) days from the date of publication.
- III.5. Candidate Qualifications. Required Conditions: Commission candidates shall be a resident and registered voter of San Juan County. Preferred Qualifications: experience or knowledge in land-use, knowledge of County and local issues, a good listener, ability to communicate, and analytical reasoning. Trainings through the Utah State Property Ombudsman or other State approved trainings are encouraged and will be considered when determining qualifications. Preferred qualifications may be waived dependent upon a lack of preferred qualifications with those candidates applying for vacancies, and the need for balanced input as outlined in III.1 may necessitate.
- III.6. Candidate Interviews. Upon availability, a member of the County Board of Commissioners, a Planning Commission member who is not also a candidate, County Zoning Staff, County Attorney, and County Administrator may interview qualified candidates and provide a recommendation to the Board of County Commissioners. At the start of each interview, candidates will be given three to five minutes to briefly introduce themselves and to provide relevant information as to background and experience. During the interview process the committee are encouraged to ask questions which verify a candidate's land use knowledge, experience, eligibility, and availability to meet the requirements of service. The committee shall ask the same questions of each candidate. After responding to those questions, Interviewers may ask the applicant additional clarifying questions if necessary based on the responses the applicant has given.

III.7. Voting. The committee shall vote upon the names of candidates in alphabetical order. Each committee member shall be entitled to one vote for each vacancy. Committee members shall vote by voice or a raise of hands. If requested by the Chair, written ballots may be used for voting purposes.

- a. Staff will tally the number of votes cast for each candidate and read this information back to the committee. The committee, by motion will forward this recommendation, including any findings, to the Board of County Commissioners for consideration.

III.8. Recommendations to the Board of County Commissioners. Planning staff or the County Administrator as directed by the Chairperson, shall present the committee's recommendation, including any findings, to the Board of County Commissioners.

When presented with a recommendation(s) for election to the Commission, the County Commissioners may:

- a. accept or reject the recommendation(s) as presented in total or part
- b. instruct the County Administrator to continue the process for an additional 30 days to solicit additional candidates before making a decision.

#### ARTICLE IV Meetings and Organization

- IV.1. Open Meetings and Notices. All regular meetings, special meetings, workshops, and field trips of the Commission are open to the public and will be noticed in accordance with the requirements of the Utah Open and Public Meetings Act.
- IV.2. Regular Meetings. Regular Commission meetings shall be held the second Thursday of each month unless there are mitigating circumstances, such as a lack of a quorum, lack of items to be discussed, holidays or other circumstances.
- IV.3. Annual Training. Commission members are required to attend or view by other means an annual Utah Open Meetings Training, as provided by San Juan County or an online equivalent training. Commissioners are encouraged to attend the Citizen Planner Workshop, as conducted by the Utah League of Cities and Towns or other entity.
- IV.4. Special Meetings, Workshops, and Field Trips. Special meetings, workshops, and field trips for any purpose may be held at the call of the Chairperson or the Board of County Commissioners.
- IV.5. Agendas. Agendas shall be set by staff under the direction of the Chairperson. Agendas for regular meetings shall be provided by staff to all members at least three (3) days prior to the meeting.

- IV.6. Proposed Agenda Items and Meeting Materials. The Planning and Zoning Department must have proposed agenda items and meeting materials by 12:00 pm the Friday before the Planning Commission meeting date unless extenuating circumstances exist.
- IV.8. Minutes. The recording of minutes of all Commission meetings shall be the responsibility of Planning Department staff. In the event staff is absent from any meeting, the Planning Department may send a designee.
- IV.9. Voting. Commission members shall make a good faith effort to become knowledgeable on matters before the Commission. A quorum of the Commission shall consist of four (4) members and the affirmative vote of at least four (4) members in attendance shall be necessary to pass any motion.
- IV.10. Motion. All decisions of the Commission shall be made in a public meeting by motion, made and seconded, and by voice vote. Any Commissioner may make or second a motion. If there is any ambiguity on any vote or if the nature of the application or petition warrants, the Chairperson may conduct a roll call vote. Motions should be supported by reason and include findings. The person making the motion is encouraged to state the reasons and finding(s) supporting the motion at the time the motion is made. Any conditions for approval must be stated in the motion. The motion may refer to the staff report for details of the conditions for approval if the person making the motion desires to do so.
- IV.11. Conduct During Public Meetings. During all meetings and hearings, persons providing testimony shall proceed without interruption except by members of the Commission at the discretion of the Chairperson. All comments, arguments, and pleadings shall be addressed to the Chairperson and there shall be no debate or argument between individuals in the audience. There shall be no debate or argument between individuals. The Chairperson shall maintain order and decorum, and, to that end may order removal of disorderly or disruptive persons. Any member of the Commission, counsel to the Commission, or the Commission staff, upon recognition by the Chairperson, may direct any questions to the applicant, witness, or any person speaking from the audience for the purpose of eliciting relevant facts. The Chairperson or Commission members may call for relevant facts from staff and make appropriate comments relevant to the matter.
- IV.12. Time Control. The Chairperson may control the time for debate on any issue. Care should be taken to insure fairness in the hearing process. Those speaking in support and opposed should have substantially equal time. The Chairperson may stop debate once he or she believes the issue has been adequately and fairly heard.
- IV.13. Citizen, Applicant, and Other Participation by Real-Time Telecommunication. Participation by Citizens, Applicants, and Others may be allowed by real-time telecommunication at the discretion of the Chairperson.
- IV.14. Quorum: Means the minimum number of persons required to act as a body. A quorum requires four (4) Commission members who must be present in person at the meeting.

However, absent Commissioners may participate fully by phone or other real time means and engage in debate, asking questions, making motions, voting on motions, and all other functions of the Commission.

- IV.15. Commissioner Participation by Real-Time Telecommunication. Commissioner participation by real time telecommunication shall allow them to participate in discussion and may vote on any matter.

## ARTICLE V Ethical Considerations

The following ethical principles shall guide the actions of the Commission and its members.

- V.1. Serve the Public Interest. The primary obligation of the Commission and each member is to serve the public interest.
- V.2. Support Citizen Participation in Planning. The Commission shall ensure a forum for meaningful citizen participation and expression in the planning process, and assist in the clarification of community goals, objectives and policies.
- V.3. Conflict of Interest. Planning Commission members shall adhere to state law regarding conflicts of interest. A member with a conflict of interest shall be required to disclose such conflict prior to consideration of the matter by the Planning Commission. A member with a conflict of interest may not attempt to influence other members or appointed staff outside the meeting. A member with a conflict of interest shall be required to recuse herself or himself from participating in, commenting on, or voting on the matter in which such conflict exists.
- V.4. Ex Parte Communication / Ensure Full Disclosure at Public Meetings. Each case shall be decided on the basis of the evidence placed in the record in a public meeting. Ex parte information on any application received by a Commissioner, whether by mail, telephone, or other communication should be avoided. When such communication does occur it must be made part of the public record by the Commission member. The purpose of disclosing ex parte communication is to get all information on the record so it can then be addressed, confirmed or refuted, by evidence presented by the parties during a meeting.
- V.5. Maintain Public Impartiality. Commission members may seek information from other Commission members, the counsel to the Commission, staff serving the Commission, or the staff of other departments or agencies advising the Commission. Each member of the Commission has an ethical duty to avoid making public statements for or against the merits of any application before the Commission hearing is concluded and a decision or recommendation has been rendered.
- V.6. Faithful Attendance and Performance. Should circumstances arise where a Planning Commission member is unable to attend a scheduled meeting, the member shall be responsible for notifying the Chair or Building and Zoning Department staff as soon as

possible. Planning Commission members shall not miss more than three consecutive meetings. A Planning Commission member may not miss more than 25% of the meetings in a year. If circumstances prevent faithful attendance and performance of Planning Commission member duties, the member will be removed from the Planning Commission or the member should knowingly resign from the Planning Commission. Attendance through remote means may only be approved the Planning Commission Chair, and a commission member must attend more than 50% of the meetings in person absent extenuating circumstances.

- V.7. Open Meetings Act. Commission members shall be trained annually and abide by the Open Meetings Act as described in U.C.A Title 52, Chapter 4, Open and Public Meetings Act.

## ARTICLE VI Resignations and Removal of Membership

- VI.1. Resignations. Any member of the Commission must submit a signed letter of resignation specifying the effective date on which the member's service will cease. The letter of resignation shall be submitted to the County Administrator.
- VI.2. Acceptance of Resignation. The Board of County Commissioners shall accept resignation upon receipt thereof.
- VI.3. Removal from Commission Planning. The Commission may request the resignation of a member for reasons of attendance and/or ethical considerations. The Board of County Commissioners may remove a Commission member for cause prior to the expiration of the appointed term.

## ARTICLE VII Per Diem and Travel Expenses

- VII.1. Per Diem and Travel Expenses. Commission members are to receive a per diem and reimbursement for travel expenses for meetings actually attended at a rate established by the Board of County Commissioners.

## ARTICLE VIII Adoption, Review, and Amendment of Bylaws


- VIII.1. Annual Review and Amendment. The bylaws will be reviewed by the Commission at the beginning of each calendar year. Amendments will be recommended to the Board of Commissioners for approval.
- VIII.2. Waiving or Suspending Rules. A rule of procedure may be suspended or waived at any meeting by unanimous vote of the Commission members present unless such a rule is set by state law or county ordinance.

APPROVED, AMMENDED AND PASSED by the Board of San Juan County Commissioners on the 15<sup>th</sup> day of March, 2022.

Voting Aye: Grayeyes, Adams  
Voting Nay: Maryboy

ATTEST:

BOARD OF SAN JUAN COUNTY  
COMMISSIONERS

  
\_\_\_\_\_  
Lyman Duncan

  
\_\_\_\_\_  
Willie Grayeyes, Chair



## STAFF REPORT

**MEETING DATE:** March 14, 2024

**ITEM TITLE, PRESENTER:** Consideration and Approval of a Conditional Use Application for a HipCamp to be Located near Looking Glass Rock for Where the Wild Things Camp, Steven Alba

**RECOMMENDATION:** Make a motion approving the Conditional Use using the Findings and Conditions after finding substantial evidence described in the Conditional Use Permit Document created by Staff

Make a motion denying the Conditional Use based on findings of fact described Make a motion denying the Conditional Use Permit due to the following reasons: (Statement of Findings for Substantial Evidence)

### SUMMARY

The County has received a Conditional Use Application from Steven Alba for a HipCamp to be located on the property owned and endorsed by J.Lowry Redd of La Sal Livestock Ltd near Looking Glass Rock, Parcel Number 29S23E213000. The primitive camping resort includes sixteen (16) campsites, four (4) parking areas, and two (2) bathrooms. Existing roads will be used and each campsite will be cleared of surrounding brush and provided a fire ring, creating little to no impact to the surrounding environment. Guests will be informed prior to arrival of importance of protecting and preserving the surrounding crypto soil, and other natural features including wildlife, trees, vegetation, habitat areas, and cultural resources.

This property is located within the Agriculture (A-1) zone with access from Highway 191 and Looking Glass Road. Under the Agriculture Use District, Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwellings or dwelling complexes and commercial services uses which are owned by or managed by the recreational facility to which it is accessory are permitted as a Conditional Use.

By definition, a Conditional Use is: A land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

In authorizing any conditional use, the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such to establish:



- (1) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- (2) That the proposed use will comply with intent, spirit, regulations, and conditions specified in this Ordinance for such use and the zoning district where the use is to be located, as well as make the use harmonious with the neighboring uses in the zoning district.
- (3) The Planning Commission shall itemize, describe, or justify the conditions imposed on the use.

**Possible Conditions to Consider:**

- *Must protect any existing well water sources from contamination by campers or hikers within the area.*
- *Must comply with the Utah Division of Drinking Water requirements for any water storage tanks on the site.*
- *Must comply with all building code and permit requirements including a fire suppression plan for campsites.*
- *Must provide campers with safety guidelines for dangers present in surrounding areas to include falling, hiking, climbing, off-roading, location of first-aid, heat stroke, dangers of severe weather conditions and flooding.*
- *Must comply with San Juan County Health Department requirements.*
- *Must comply with San Juan County business license requirements.*



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**Re: License letter**

2 messages

**Steven Alba** <salbamx506@gmail.com>

Tue, Feb 6, 2024 at 9:59 AM

To: "lkemner@sanjuancounty.org" &lt;lkemner@sanjuancounty.org&gt;

On Mon, Feb 5, 2024 at 9:27 AM yviemarie@aol.com &lt;yviemarie@aol.com&gt; wrote:

ATTACHMENT A

The Proposed use of the property would be to provide primitive camping as a Hipcamp host, keeping in accordance with the requirements and conditions necessary for the protection of adjacent properties and public welfare. Existing roads will be used and each campsite will be cleared of surrounding brush and provided a fire ring, creating little to no impact to the surrounding environment.

Further efforts to minimize environmental impact include informing guests prior to their arrival of the importance of protecting and preserving the surrounding crypto soil, as well as all other natural features including wildlife, trees, vegetation, habitat areas, cultural resources, and wildlife.

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**Steven Alba** <salbamx506@gmail.com>

Tue, Feb 6, 2024 at 10:01 AM

To: lkemner@sanjuancounty.org

[Quoted text hidden]

### SAN JUAN COUNTY CONDITIONAL USE PERMIT APPLICATION

Type of Application (check all that apply):

- New Construction
- Land Use Change
- Addition
- Appeal

Subject Property Location or Address: New looking glass rock

Parcel Identification Number: 29523E213000

Parcel Area: \_\_\_\_\_ Current Use: \_\_\_\_\_

Floor Area: \_\_\_\_\_ Zoning Classification: \_\_\_\_\_

Applicant Name: Steven Alba

Mailing Address: 1520 murphy ln. Trlr. #7

City, State, ZIP: moab UT. 84532

Daytime Phone #: 435-459-2414 Fax#: \_\_\_\_\_

Email Address: salbamx506@gmail.com

Business Name (If applicable): Where the Wild Things Camp

Property Owner's Name (If different): La Sal Livestock Ltd. by J. Lowry Redd

Property Owner's Mailing Address: P.O. Box 368

City, State, ZIP: La Sal, UT. 84530

Daytime Phone #: (435) 459-4466 Fax#: \_\_\_\_\_

Describe your request in detail (use additional page(s) if necessary): providing primitive camping, SEE Attachment

Authorized Signature: [Signature] Date: 2/24

**Property Owner's Affidavit**

I (we) J. Lowry Redd owner of La Sol Livestock Ltd. being first duly sworn, depose and that I (we) am (are) the current owner(s) of the property involved in this application; that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.

J. Lowry Redd  
Owner's Signature

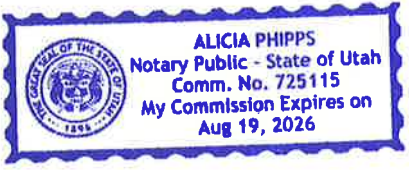
\_\_\_\_\_  
Owner's Signature (co-owner if any)

State of Utah )  
                  Grand :  
County of ~~San Juan~~ )

Subscribed and sworn to before me this 15 day of December, 2023.

Alicia Phipps  
Notary Public

Residing in Moab, Utah  
My Commission expires: 08/19/2026





Item 4.  
X = Campsites  
= roads  
Parking  
Bathrooms

- - - = property line



100 m



## STAFF REPORT

**MEETING DATE:** March 14, 2024

**ITEM TITLE, PRESENTER:** Consideration and Approval of a Temporary Conditional Use Application for a RV Trailer extension during home build to be Located at 304 Bobbie Lane in La Sal, Victor Najera

**RECOMMENDATION:** Make a motion approving the Conditional Use using the Findings and Conditions after finding substantial evidence described in the Conditional Use Permit Document created by Staff

Make a motion denying the Conditional Use based on findings of fact described Make a motion denying the Conditional Use Permit due to the following reasons: (Statement of Findings for Substantial Evidence)

### SUMMARY

The County has received a Temporary Conditional Use Application from Victor Najera Jr to be located on his property at 304 Bobbie Lane in La Sal. The RV trailer will be temporarily used as a living quarter while building house. Hook ups to electric, water and septic are anticipated within two months of starting construction. They will be dumping responsibly off site until utilities are installed. Once the home is constructed the RV trailer temporary set up will be disassembled.

This property is located within the Rural Residential Zone (RR-1) from Highway 46. Under the Rural Residential Use District, temporary buildings for uses incidental to construction work, including living quarters for a guard or night watchman – such buildings must be removed upon completion or abandonment of the construction work are permitted as a Conditional Use.

By definition, a Temporary Permit may be issued for any use listed as conditional use for that zone for no longer than six (6) months and may be extended for an equivalent period with a maximum of three (3) extensions. Construction on the house is anticipated to take 18-24 months, using all three time extensions.

In authorizing any temporary conditional use, the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such to establish:

- (1) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- (2) That the proposed use will comply with intent, spirit, regulations, and conditions specified in this Ordinance for such use and the zoning district where the use is to be located, as well as make the use harmonious with the neighboring uses in the zoning district.
- (3) The Planning Commission shall itemize, describe, or justify the conditions imposed on the use.

**Possible Conditions to Consider:**

- *Must protect any existing well water sources from contamination.*
- *Must comply with the Utah Division of Drinking Water requirements for any water storage tanks on the site.*
- *Must comply with all building code and permit requirements.*
- *Must comply with San Juan County Health Department requirements.*
- *Must comply with San Juan County business license requirements.*



# Planning and Zoning Permit Application

Date: 03/06/2024

## Applicant / Agent

Applicant Name: victor najera jr  
 Address: 304 bobbie ln  
 City, State, Zip: la sal, utah, 84530  
 Phone: 435-260-7746  
 Email: najera2163@gmail.com

Agent Name:  
 Address:  
 City, State, Zip:  
 Phone:  
 Email:

## Project

Permit Type: Conditional Use Permit  
 Site Address:  
 City, State, Zip: ,

Current Zone: R-1  
 # of Lots: 1  
 Other Parcels: none

Description:

I do hereby certify that the information contained herein is true and correct.

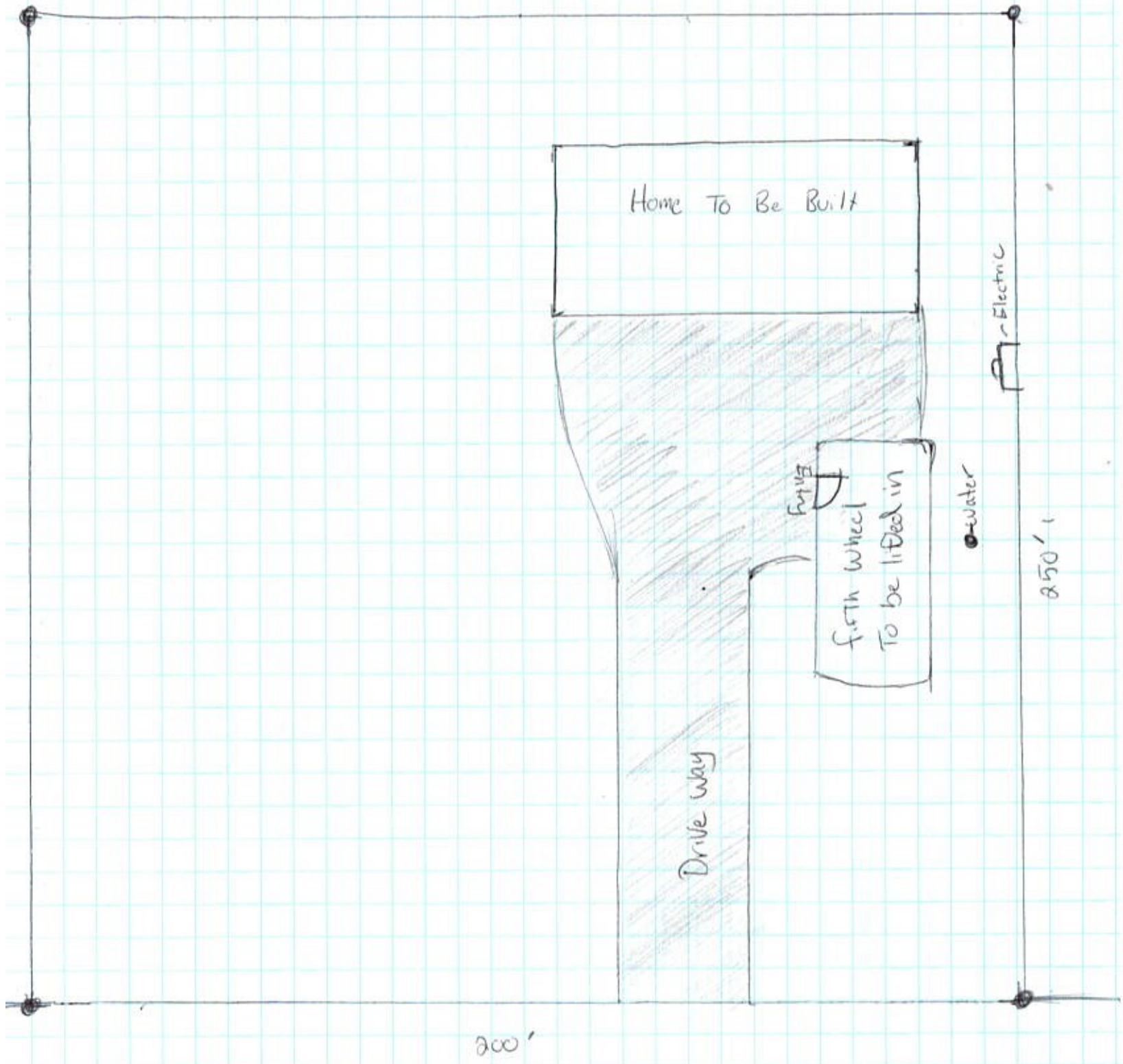
victor Najera jr

Name

03/06/2024

Date







## STAFF REPORT

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**MEETING DATE:** March 14, 2024

**ITEM TITLE, PRESENTER:** Review of Tomco Subdivision, Ben Tomco

**RECOMMENDATION:** Consideration and Recommendation

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### SUMMARY

This proposed subdivision is located about 2 miles southeast of Recapture Reservoir with access from Highway 191 to Mustang Road. The proposal is approximately 140 acres split into six (6) lots of varying size and maintaining two (2) existing residences.

### HISTORY/PAST ACTION

The preliminary plat was reviewed by administrative staff at the March 11, 2024 Plat Review Meeting. It was noted that Lot 1 & Lot 5 needed to show existing structures without further comments.

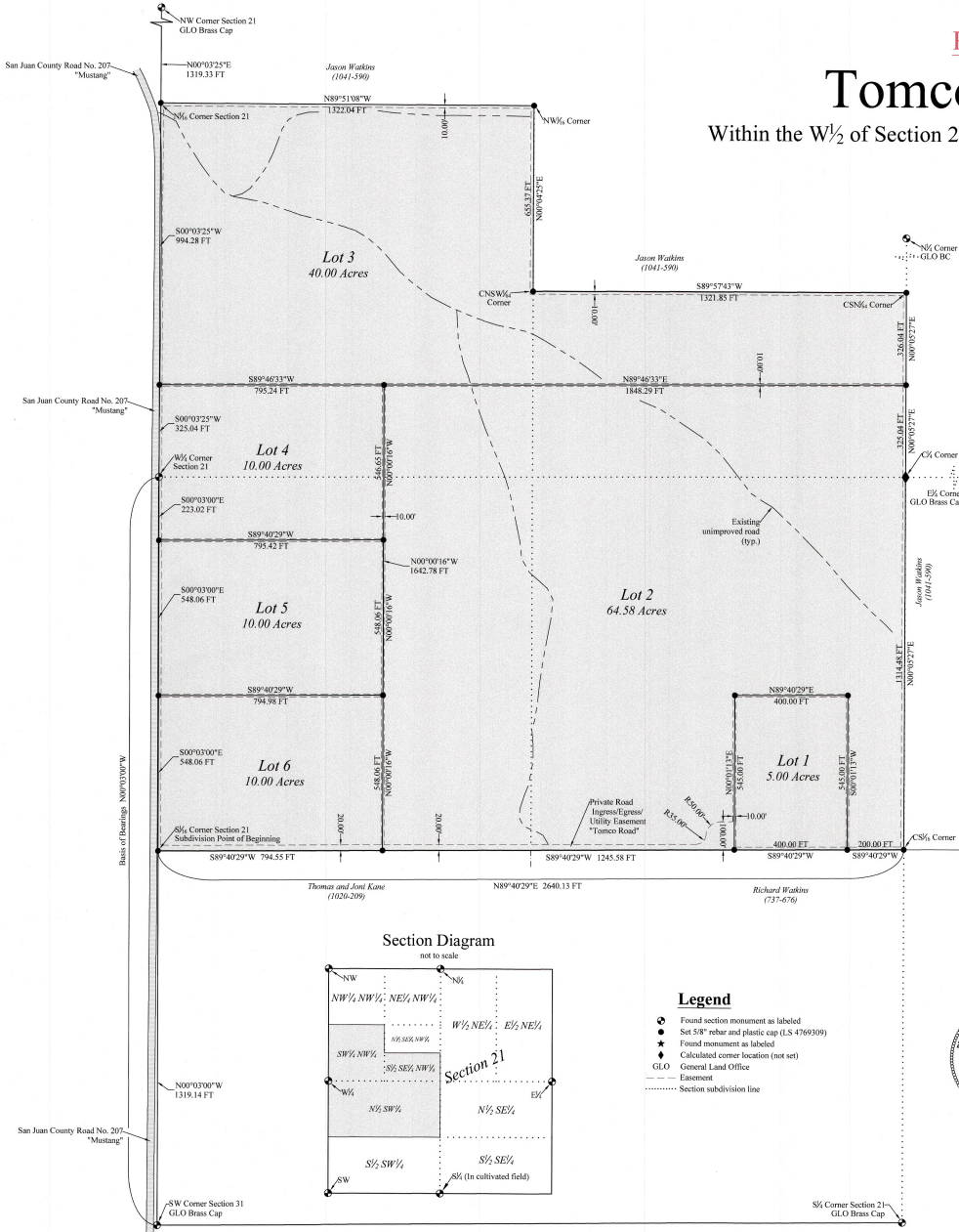
We also need to add the language to the Plat regarding Overnight-Rentals not being a permitted use in our A-1 zoning language to the Plat prior to final.

Preliminary Plat

# Tomco Subdivision

Within the W $\frac{1}{2}$  of Section 21, Township 36 South, Range 23 East, SLB&M

139.58 Acres±



**Narrative**

The purpose of this survey was to create the Tomco Subdivision as shown herein from the tract of land described in a warranty deed and recorded in book 1086 page 533. The basis of bearings for this survey is N00°03'00"W between the southwest corner and W $\frac{1}{2}$  corner of Section 21, Township 36 South, Range 23 East, SLB&M. This is in accordance with the bearing for the same line per the GLO survey.

**Subdivision Boundary Description**

A tract of land within the W $\frac{1}{2}$  of Section 21, Township 36 South, Range 23 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows: Beginning at the SW $\frac{1}{4}$  corner of said Section 21 located N00°03'00"W 1319.14 feet from the southwest corner of said Section 21; thence N89°40'29"E 2640.13 feet to the CS $\frac{1}{4}$  corner, thence N00°03'00"E 1965.57 feet to the CSN $\frac{1}{4}$  corner, thence S89°57'43"W 1321.85 feet to the CNS $\frac{1}{4}$  corner, thence N00°03'00"E 655.37 feet to the NW $\frac{1}{4}$  corner, thence N89°51'08"W 1322.04 feet to the N $\frac{1}{2}$  corner, thence S00°03'25"W 1319.32 feet to the W $\frac{1}{2}$  corner, thence S00°03'00"E 1319.14 feet to the point of beginning, containing 139.58 feet more or less.

**Notes**

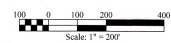
- This property is zoned A-1 "Agricultural Use"
- Tomco Road is intended to be a private ingress/egress and utility easement.
- All lots shall comply with the requirements as set forth by the State of Utah for onsite wastewater systems.
- There is no official flood zone designation for any area within this proposed subdivision.
- There shall be a 10 ft wide utility easement along lot lines as shown herein. These shall not be used for ingress and egress except to install and maintain utilities.
- Wells and septic systems shall be installed in conformance with the rules and regulations of the Utah Division of Environmental Health whether they serve individual lots or multiple lots. All lots shall comply with R317.4 administrative rules for onsite wastewater systems. All lots must demonstrate acceptable soils within each lot boundary.
- Application to the Utah State Engineer shall be made by lot owners for wells and water appropriation.
- This subdivision consists primarily of grasses, sage brush, pinon and juniper trees.
- If there are restrictive covenants which pertain to this subdivision, San Juan County has no responsibility for enforcing said covenants.
- Total acreage within this subdivision is 139.58 acres more or less. This includes all roadway areas and easements.

**Surveyor's Certificate**



I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described herein and in accordance with section 17-23-1.7. I hereby certify all prepared descriptions and measurements are correct. Monuments will be set as noted herein. I also certify that this record of survey has been prepared under my direction at the office of Ben Tomco.

Brad D. Bunker Utah P.L.S. #4769309  
1/11/24 Date



<p><b>Preliminary Plat</b> <b>Tomco Subdivision</b> Within the W<math>\frac{1}{2}</math> of Section 21, Township 36 South, Range 23 East, SLB&amp;M</p>		<p><b>Item 6.</b></p>
<p>County Recorder State of Utah, County of San Juan, Recorded at the request of _____ Filed: _____ Date: _____ Time: _____ Book: _____ Page: _____ Fee: _____</p>		<p>Owner Benjamin David Tomco By: _____ Date: _____ Notary Public Residing in _____ County _____</p>
<p><b>Owners Dedication</b> Know all men by these presents that we (I), the undersigned owner(s) of the above described tract of land, hereafter to be known as the Tomco Subdivision, cause the lots and streets shown hereon to be created. In witness whereof I have hereunto set my hand this _____ Day of _____, 20____.</p>		<p><b>Acknowledgement</b> State of Utah, County of San Juan, on the _____ Day of _____, 20____, personally appeared before me _____, a Notary Public, and _____, the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she) executed the same freely and voluntarily for the purposes stated herein. My commission expires _____, 20____.</p>
<p><b>County Surveyor</b> Approval in accordance with information and records on file in this office. Date _____ Attest _____ Chairman _____ County Surveyor _____</p>		<p><b>Health Department</b> Approved this _____ Day of _____, 20____. Health Official _____</p>
<p><b>San Juan County Planning Commission</b> Approved by the San Juan County Planning Commission this _____ Day of _____, 20____.</p>		<p><b>Approval as to Form</b> Approved this _____ Day of _____, 20____. Attorney _____</p>
<p><b>San Juan County Commission</b> The subdivision herein was presented to the San Juan County Commission this _____ day of _____, 20____, and was accepted and approved _____ Date: 1/11/24 Drawn By: Brad Bunker Scale: 1" = 200' Drawing Name: Survey Reference Number: BE 1348</p>		<p><b>Bunker Engineering, LLC</b> 965 South Creek Road, Monticello, UT 84535 (435) 459-9192 1/11/24 Scale: 1" = 200' Sheet: 1 of 1</p>

# Permit Report

02/07/2024 - 03/05/2024

Permit #	Permit Date	Residential or Commercial	Building Address	Building CityStateZip	Applicant Name	Description
24011	3/5/2024		580 Pack Creek Rd	Moab Utah 84532	Groundworks DBA Foundation Repair of Western CO	Foundation Repair. Stabilize foundation with Push piers. We are not lifting the home.
24010	2/27/2024	Commercial	Hwy 46 Lasal Landfill	Lasal UT 84530	Ben Tomco	meter
24009	2/20/2024	Residential	2017 N Radio hill	Blanding UT 84511	Garold Burke	Single family home
24008	2/15/2024	Residential	Po Box 96,	La Sal, Utah, 84530	Stephen Schultz	Photovoltaic / Solar System installation on well house roof
24007	2/14/2024	Mixed Use	6198 Us Hwy 191	Monticello UT 84535	Jerry Murdock	Nightly rental
24006	2/12/2024	Residential	275 N 600 E Rear	Bluff UT 84512	Brandt Hart	Electric Meter upgrade. Swap meter for 200 amp
24005	2/7/2024	Commercial	Lat: 37.009936° / Long: - 110.206356°	Monument Valley, UT 84536	Commnet Four Corners, LLC	Existing Tower - Commnet proposes to remove and replace/add tower mounted and ground equipment.

Total Records: 7

3/5/2024