

**BOARD OF ADA COUNTY COMMISSIONERS
MINUTES OF THE PUBLIC HEARING
WEDNESDAY, JUNE 5, 2013
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Diana Sanders, Brent Danielson and Megan Basham, Development Services; and Ax Yewer and Justin Cafferty, Prosecuting Attorney's Office. Minutes Recorder: Judy Morris.

I. IN THE MATTER OF CALL TO ORDER:

Commissioner David L. Case called the meeting to order at 6:00 p.m.

II. IN THE MATTER OF ROLL CALL:

Commissioners David L. Case, Jim Tibbs and Rick Yzaguirre were present.

III. IN THE MATTER OF CHANGES TO THE AGENDA:

There were no changes to the agenda.

IV. IN THE MATTER OF NEW BUSINESS:

1. 201300480-CU-MSP-V-AC: DENNIS WURTZ: A Conditional Use, Master Site Plan for a vehicle impound yard, an Accessory Use for a caretaker dwelling and a Variance for the reduction of the setback and fencing height for vehicle impound yards. The property contains approximately 1.43 acres and is located at 6241 West Gowen Road, Boise, ID; Section 30, T. 3N, R. 2E. The property is located within the Airport Industrial (M3) District.

D. Case opened the public hearing.

D. Sanders submitted Exhibit Nos. 15 and 16 into the record and presented the Staff report.

J. Tibbs inquired whether or not the lot would be paved. D. Sanders explained that Applicant would be taking in cars tagged by the Sheriff's office and part of the lot would be paved. J. Tibbs then asked if the tagged cars or their contents would be impounded for evidence. Applicant explained that the cars would be those tagged by ISP, the Sheriff's Office and other jurisdiction, none of which would be needed for evidence.

D. Case closed the public hearing.

ACTION: J. TIBBS MOVED TO APPROVE APPLICATION NO. 201300480-CU-MSP-V-AC: DENNIS WURTZ, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. R. YZAGUIRRE SECONDED. J. TIBBS, AYE, R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

2. 201300550-A: X-REF: 04-09-CU-MSP-MSP-M: TREE TOP RECYCLING, INC. / 4 HIM LLC: An appeal of the Planning and Zoning Commission's decision to revoke approval of Tree Top Recycling's Conditional Use Permit and Master Site Plan (Project #04-09-CU-MSP-MSP-M). The property contains 7.73 acres and is located at 3608 South Banner Street, which is northwest of the intersection of Contractors Street and Gowen Road, Boise, ID; Section 30, T. 3N, R. 2E

B. Danielson began to present the Staff report.

D. Case interrupted the Staff report to allow R. Yzaguirre an opportunity to make a disclaimer and to open the public hearing.

R. Yzaguirre disclosed that he made a site visit on March 11, 2013, to tour the area with M. Leatherman, Development Services Director, and Code Enforcement Representatives of the Sheriff's Department.

D. Case noted he had not opened the public hearing and then did so.

B. Danielson continued presenting the Staff report. He showed the Board photographs of the amount of dust generated from the site as well as evidence of Applicant's non-compliance of their Conditional Use Permit.

Attorney Mike Spink was present on behalf of Applicant and stated his name and address for the record. He advised the Board his firm was hired after the Planning and Zoning Commission (P&Z) revoked approval of Appellant's Conditional Use Permit (CUP). He presented testimony stating that, based upon his review of the transcript from the P&Z Hearing, he did not believe the P&Z was intending or expecting to put Appellant out of business. He stated that the initial violations were properly noticed in a letter and the Appellant had time to respond and correct the violations identified in the correspondence. He said a subsequent letter was not given with proper notice to allow Appellant to make the corrections prior to the hearing. He explained that Appellant hoped to develop a solution at this hearing to protect his interests as well as the neighbors, and to confirm there is compliance with the CUP. He requested the Board rescind the decision of the P&Z and impose a 120 trial period in which the CUP would be temporarily reinstated to allow Applicant to take corrective actions. M. Spink submitted a proposed site plan, a map showing the site and surrounding properties and a document with four photographs of the site as inspected in 2006, 2008, 2010 and 2012. B. Danielson entered the documents into the record and assigned them Exhibit Nos. 31, 32, 33 and 34, respectively. M. Spink reiterated that the alleged violations have been addressed. He suggested additional conditions be included in the CUP to address the concerns raised by the neighbors. He said if the Board granted the 120 days to clean-up the site, Appellant would be willing to create a site plan to address the specific issues. He explained Exhibit No. 34 provided the Board five additional conditions for consideration to give some protection to the neighbors. He advised the Board that following the P&Z Hearing, there was confusion as to whether any activity at all could occur on the site. The impression was no activity could occur, with the possible exception of cleaning up the site. He stated that when Appellant began cleaning up the site, a complaint was made, so they stopped all activity to avoid a violation. He said if given the opportunity, Appellant will clean up the site and not conduct any other activity until it can be inspected and approved by Staff. He advised the Board that there had been no violations or complaints relating to the operations from 2004 to 2012. He said the complaints that arose last fall should be addressed, but it has not been an ongoing problem. He stated, in response to the parking and dust issues, that all grinder use and cement has been discontinued and removed. He addressed issues raised by Staff and advised that corrections have been made. He indicated that the County has failed to inspect the site to see if actions have been taken as allowed by Ordinance.

Dave Gibson stated his name and address for the record. He presented testimony in support of the appeal. He said he believes the conditions imposed are aimed to harm the recyclers and force individuals to take their product to the dump.

Darwin Shippy stated his name and address for the record. He presented testimony in support of the appeal. He said the closure of Tree Top would affect his and other businesses negatively. He believes the revocation of Appellant's CUP would lead to other recycling businesses being forced to shut down.

Terry Downs, brother of Appellant, stated his name and address for the record. He presented testimony in support of the appeal. He stated the closure would hurt the economy by the loss of jobs and revenue. He urged the Board to consider a middle road to allow Applicant to continue to operate, yet address the concerns of the surrounding neighbors.

Martin Koch stated his name and address for the record and presented testimony supporting the appeal. He said he is on the Caldwell Industrial Airport Commission. He advised that he is Appellant's insurance agent, and Appellant has also been more than cooperative. He said the decision of the P&Z at peak season in April has caused Appellant damage, as he has had to lay off employees and turn down work. He urged the Board to consider the impact of the Cease and Desist Order and overturn the P&Z's decision.

Greg Williams stated his name and address for the record. He presented testimony supporting the appeal. He stated he purchased his mulch from Appellant and the closure of Tree Top has harmed his business. He stated he sympathized with the neighbors, but the majority of complaints were from residents who moved into the area long after the recycling business was in place. He said Appellant operates and acts with integrity. He said the wood that is ground on Appellant's property is hauled away. He advised the Board that, to his knowledge, Appellant corrects any issue raised as quickly as possible. He stated the closure of Tree Top affected many other businesses as well.

Greg Whipple stated his name and address for the record. He presented testimony opposing the appeal. He said the picture shown by M. Spink (Exhibit 33) was of the pool cover on his property. He explained that he made several complaints over the past several years to Appellant regarding the dust. He said that when he made complaints, Applicant watered the area, which only slightly reduced the dust. He detailed the dates he contacted Appellant regarding the dust and smell. He advised that he invited Appellant to his house and showed him the level of dust on his properties. He requested Appellant assist in finding a solution to blocking the dust. G. Whipple did not receive a response to his request. He said Appellant had plenty of notice of the dust problems. He stated that since the operation has been closed, the air is better. J. Tibbs inquired how long G. Whipple has lived in the area. He responded five years. He said when he purchased his property, the operation was small and he believes it has outgrown its area.

Gayla Whipple stated her name and address for the record. She advised the Board that she and Greg Whipple are the closest neighbors to Tree Top. She said since the closure, the air has improved dramatically. She reiterated Greg Whipple's testimony. She showed additional pictures of the dust on her pool cover. She said that she had the dirt tested and tests showed there is a higher level of lead in the dust that blows into their yard from Tree Top. She said Appellant doesn't seem to be concerned with addressing the complaints of the neighbors and believes that the operation is harming their quality of life. G. Whipple submitted the dust testing into the record.

Lenise Heath stated her name and address for the record. She explained that she has lived in her residence for over 35 years. She said the original site was shut down many years ago, then reopened. She reiterated previous testimony that the dust and odor has gotten worse over the years as the site has grown and is harming the neighbors' quality of life and the use and enjoyment of their properties.

B. Danielson stated that the documents submitted by Gayla Whipple were entered into the record as Exhibit Nos. 35, Analytical Lab Report, Exhibit No. 36, Photograph of a fence on the property separating their property and Tree Top, and Exhibit No. 37, a written copy of G. Whipple's testimony.

Linda Fraise stated her name and address for the record and presented testimony opposing the appeal. She said the neighbors expressed their concerns with the dust generated from Appellant's property. She said surrounding neighbors have been afflicted with respiratory illness which may or may not be coincidental to the operation. She advised the Board that she suffers from a lung disease. She said the operation of the business should not take precedence over their health. She stated that if Tree Top is allowed to reopen, she would be forced to move from her residence of 12 years.

Vonita Reavis stated her name and address for the record. She presented testimony written by a neighbor, Jared Kenning, opposing the appeal. She reiterated previous testimony of the dust, odor and air quality of the area. She stated that J. Kenning filed a complaint on March 16, 2006, regarding the dust and odor caused by the operations of Tree Top.

Gary Fraise stated his name and address for the record. He requested the Board allow him to use the time for himself, Gary Monroe, Mark Dyrud and Grant Yee in opposition of the appeal. D. Case authorized G. Fraise to use nine minutes to respond. He submitted a workplace safety bulletin for wood workers. B. Danielson entered the bulletin into the record as Exhibit No. 38. G. Fraise discussed the health hazards related to continued exposure to wood dust and other chemicals generated from operations conducted by Tree Top. He said he has made numerous complaints

to Appellant over the past seven years. He stated that Tree Top is required to log all complaints, the reason for the complaint and the corrective actions taken. He said he would like to see that log provided to the Board, if it exists. He advised that there were approximately nine fires during the summer of 2012, one of which caused several neighbors to evacuate their properties. He reiterated the previous testimony regarding odor and dust issues. He said Applicant has been, and remains in, violation of the conditions of their permit.

Russ Barsby stated his name and address for the record. He presented testimony stating his problem with Appellant is the odor. He reiterated that Appellant is not meeting the terms of the Conditional Use Permit. He said watering down the dust lowers the movement of the dust, but he is concerned that the wells are being contaminated. He said he has lived in his house for 55 years. He stated that he believes the operation has outgrown their current location. He explained that he no longer feels safe with Tree Top operating at its current location and believes safety tests should be required.

Pamela Kenning stated her name and address for the record. She read two letters into the record on behalf of neighbors unable to attend the hearing. The letters reiterated the poor air quality and health risks caused by the operation of Tree Top.

Jennifer Kenning stated her name and address for the record. She read a letter into the record on behalf of a neighbor, Beth Redington, unable to attend the hearing. B. Redington's letter discussed her health issues and stated she believed they were a direct result of living within the vicinity of Tree Top.

Preston Creer stated his name and address for the record. He presented testimony opposing the appeal and expressed his concerns with Appellant's operation of Tree Top. He stated he does not believe there has been any oversight of their operation. He reiterated the previous testimony concerning the air quality and health concerns. He said he believes Tree Top should be closed down and cleaned up with environmental oversight. J. Tibbs inquired if P. Creer wanted the company closed. He confirmed he did. He also stated he believed the entire area should be tested and analyzed.

Lee Eyerman stated his name and address for the record and stated he would also be testifying on behalf of Susan Barsby. He reiterated the testimony and concerns of the neighbors. He stated that under the original CUP no chemicals were to be processed on the property. He explained that the way the products are handled and processed on the property cause chemical reactions. He believes there is no oversight of the operation and dangerous contaminants are not being addressed. He said he is not opposed to the company reapplying for a new CUP, so long as there is proper environmental and engineering oversight to ensure dust, odor and chemicals seeping into the soil are addressed. He argued that if Appellant had taken the necessary corrective actions in February as stated, then they would have showed that at the April P&Z hearing. He said in August of 2012, a fire started which caused him and others to be evacuated from their homes. He said Applicant did not take corrective actions to rectify the potential fire hazard as several other fires broke out after that. J. Tibbs inquired how long he lived in the area. He responded that he lived in his residence of 11 years. He said at that time, Tree Top was a very small operation.

Becca Whipple stated she agreed with the testimony presented by the others in opposition of the appeal.

Dan Foye stated his name and address for the record and reiterated the testimony and concerns presented by the others in opposition of the appeal. He said the air quality has improved substantially since the business has been closed.

Justine Love stated her name and address for the record. She concurred with the previous testimony of others in opposition of the appeal. She said she purchased her house after Tree Top was in business. She said since Tree Top closed, air quality has improved.

Jeff Ricklin stated his name and address for the record. He presented testimony in favor of the appeal. He stated recycling helps keep materials out of the landfill. He

said he takes his products to Tree Top for recycling and uses the products on his property.

Cindy Minton stated her name and address for the record. She said she was speaking, in part, on behalf of Boise Valley Habitat for Humanity. She said they worked closely with Tree Top. She presented testimony in support of Tree Top and stated that she believes they provide a needed service. She said she believes Appellant should be given the opportunity to rectify their current situation.

Evan Huntsman stated his name and address for the record and provided testimony in support of the appeal. He said he purchased his home in 2006. At that time he had his well water tested and there were no chemicals found in the water. He explained that he does not have issues with dust or odor. He said he has a garden and spends time outdoors. He believes Tree Top provides a valuable service to the community.

Docman stated his name and address for the record and presented testimony in favor of the appeal and said he doesn't have any issues with the operation.

Stan Sturtz stated he had nothing further to add, but was opposed to the appeal.

Darren Echevarria stated his name and address for the record. He presented testimony in favor of the appeal. He advised the Board that he was employed by Tree Top. He explained Ada County's landfill does the same wood recycling as Tree Top. He said he has worked at Tree Top for six years, and none of the workers seem to have any of the breathing issues raised by the neighbors. He said he believed the fires that occurred in the area were a result of the bad fire season in 2012, not negligence.

Appellant, Devin Downs, and Appellant's Attorney, M. Spink, re-approached the podium and stated their names and addresses for the record. M. Spink suggested the Board make a decision based on the County's records which indicate that Applicant was compliant in previous years. He said he believed that the testimony of L. Eyerman made their argument that corrective actions were taken prior to the April 11 P&Z hearing. He said the corrections were identified in a letter submitted to the P&Z by Tree Top's prior counsel, but was not considered. He requested a decision be made under the 2004 CUP and existing order and County records, imposing additional conditions, if necessary, to address the concerns raised.

J. Tibbs inquired if all of the violations identified in the Staff report had been corrected and documented, but the P&Z did not see that information. M. Spink affirmed that all violations were corrected and a letter was delivered to the P&Z on the day of the hearing and therefore was not entered or read into the record. D. Case questioned how the issues raised relating to the dust, potential water contamination, etc. would be controlled going forward. D. Downs said they ran the wood recycling facility at the landfill for 19 years. He said they requested their contract with the landfill be terminated because their operation had grown so much. They built a dust compression system for loading trucks which knocks dust down with water. He said Code Enforcement representatives stated it worked as it was meant to and no dust appeared to be flowing up the hill. He explained they put a layer of chips on the ground which absorbs the water, preventing it from seeping into the ground.

J. Tibbs asked if Appellant consulted with engineers when developing a solution to address the dust issue. Appellant said he did not work with a professional. He said DEQ looked at the operation and reported Appellant was not composting and they did not see any dust in the air.

R. Yzaguirre inquired if Appellant believed he has outgrown the area. He said when he cancelled his contract with the landfill it was due to them having more material than they could get rid of. R. Yzaguirre inquired about the fires. Appellant explained that they had a problem combining woods, but have since rectified the situation.

J. Tibbs inquired what steps Appellant took to address the complaints raised by the neighbors. Appellant explained that he is required by DEQ to keep a log of activities. He stated that the operation ground wood chips for a total of 12 hours from January through March. The log also tracks complaints. He said there was a week in March

that Code Enforcement was visiting his location daily as a result of complaints. He was advised that he wasn't in violation of any code. J. Tibbs asked if Appellant had a meeting with the neighbors to discuss and address their concerns. He said he offered solutions to G. Whipple's concerns, but none were acceptable to G. Whipple.

D. Case closed the public hearing and requested A. Yewer address the testimony presented and the additional documentation submitted. A. Yewer suggested the record be left open to allow Appellant, his attorney and the neighbors to review and respond to the new exhibits submitted. The Board proposed leaving the record open for one week to allow written comments to be submitted for consideration.

ACTION: R. YZAGUIRRE MOVED TO TABLE APPLICATION NO. 201300550-A: X-REF: 04-09-CU-MSP-MSP-M: TREE TOP RECYCLING, INC. / 4 HIM LLC, TO JUNE 19, 2013, AT 6:00 P.M.; LEAVE THE RECORD OPEN FOR ONE WEEK TO RECEIVE WRITTEN TESTIMONY TO ALLOW STAFF AND BOARD AN OPPORTUNITY TO CONSIDER THE RESPONSES AND BE PREPARED TO ACT ON THE 19TH. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

3. **201300109-A: X-REF: 201300109-CU-MSP: KELLY BUCKLEY:** An appeal of the Planning and Zoning Commission's decision to approve Project #201300109-CU-MSP regarding the expansion of a gravel pit located at the northwest corner of Nova Lane and Lamont Road. The property is 59.65 acres in size and is located at 3980 West Lamont Road, Meridian, ID; Section 22, T. 3N, R. 1W

D. Case disclosed that he had a general discussion with Kent Goldthorpe in May regarding the project, but stated he did not have a conflict. He explained the process for presenting testimony and opened the public hearing.

M. Basham entered Exhibit No. 22, a letter in opposition from Kent and Marina Goldthorpe, No. 23, a letter from Todd Lakey, and No. 24, a letter from M. Basham addressed to the Board including the 1995 and 1996 landscape plans, into the record and presented the Staff report.

Appellant, Kelly Buckley, introduced Bill Cosdon of Wright Construction and said he would make the presentation on his behalf. B. Cosdon stated his name and address for the record and presented testimony supporting the appeal. He showed the Board the existing gravel pit and the surrounding property and asphalt pit. He provided a history of the gravel pit. The first expansion occurred in 1978, the second in 1995 and the third in 1996. He stated that when the pit expanded in 1995, the neighbors were told if they did not object to the expansion, the owners would work with them to address their concerns. He said the current operators did not work with the neighbors, and he believes they are out of compliance with several conditions of their permit. He stated the pit lacked dust control. He suggested the Board overturn the P&Z's decision and deny the expansion of the pit. He suggested if the Board upholds the P&Z decision, that additional conditions be placed on the project. His suggestions included: an additional set-back of 150 feet from Nova Lane; increase the berm height to 8 feet or higher; build a non-combustible fence to be placed along the perimeter of the expansion site; plant appealing landscaping with regular maintenance and an irrigation system; landscape the buffer between Nova Lane and the berm; mitigate dust; and keep heavy truck traffic off Lamont Road.

K. Buckley re-approached the podium and stated his name and address for the record. He presented testimony opposing the project and reiterated the testimony of B. Cosdon requesting additional conditions be imposed if the Board upholds the P&Z decision and grants the extension.

Wenden Waite stated his name and address for the record. He stated he lived directly across from the gravel pit. He said when they purchased their house, the gravel pit was small. He believed the pit would close in a couple years and be turned into a park. He presented testimony against the expansion. He stated that he believes the application is regressive rather than progressive. He explained he believed there was inadequate attention paid to the public testimony at the P&Z hearing and that the

Applicant still fails to address the concerns raised by the neighbors. He said the pit has been in existence over 50 years and has outlived its purposes.

Paula Vanhoozer stated her name and address for the record. She provided testimony in support of the expansion. She said she was the trustee of the trust that owned the property into which the pit was expanding. She said she would like to give the remainder of her time to Todd Lakey.

Jeff Vanhoozer and Roy Johnson stated they wanted to give Todd Lackey their allotted time.

Al Thomsen stated his name and address for the record. He said the Russian Olive trees look like weeds and he would like another type of tree planted.

T. Lakey, attorney for Wright Construction, stated his name and address for the record. He stated Applicant is a responsible and a compliant owner. He showed an aerial of the other sand and gravel operations in the area. He showed various photographs of the pit in question and the surrounding property to show the character of the area. He showed the 1978, 1995 and 1996 operation expansions. He explained that when the pit was originally developed, it did not have the same setbacks or requirements that currently exist. He stated that they were requesting a temporary permit for a five year time period. He said there would not be crushing on the site. He advised there would not be any ingress/egress truck traffic on Nova Lane. The processing will continue to occur on the original site and the trucks will use the ingress/egress on Black Cat Road. Hours of operation are 8:00 a.m. to 6:00 p.m. or dark, whichever occurs first, Monday through Saturday. He advised Applicant is proposing a 125 foot buffer from the top of the slope to the center of Nova Lane. They intend to construct a six foot berm at the edge of the slope. The landscaping will be on the downside of the berm, including the Russian Olives, with the addition of one third Evergreen Trees approved by the P&Z. He stated the set back is four to five times the requirements of the County Code from the edge of the slope to the center of Nova Lane. He said Applicant is compliant with D.E.Q. requirements. He said the neighbors' concerns relate to the original operation located off of Black Cat, not the proposed expansion area.

J. Tibbs inquired if Applicant would be opposed to the additional conditions suggested by B. Cosdon. T. Lakey stated Applicant would be agreeable to increasing the height of the berm. He said their current setback of approximately 125 feet from the edge of the slope to the center of Nova Lane is adequate. He stated there is not a need for a fence. He said Applicant wouldn't oppose language requiring the upkeep of the landscaping. He said it would be inconsistent to prevent truck traffic on Lamont Road from his operation.

R. Yzaguirre inquired what Applicant envisioned the life of the pit to be and what would happen at that time. He responded the ten acres being requested now would be done in five years or less. He said he was unable to give a timeline on the closure of the overall pit. The original site is grandfathered and does not require a closure date. He said the proposed land is leased from P. Vanhoozer, and the decision ultimately lies with the property owner.

D. Case asked M. Basham to explain the expansion. She stated the expansion was for 10 acres, the entire site is 59.65 acres. He asked her to clarify the existing setback. She explained the distance from the berm to the property line was 70 feet. She said Staff measures setbacks from the property line, not the center line.

D. Case requested Ryan Head of ACHD address the proposed alignment of Overland to Airport Road. R. Head stated the final alignment goes directly through the existing gravel pit. He said ACHD's position is that the alignment would occur when future development required it. He then stated his name and address for the record.

Kent Goldthorpe stated his name and address for the record and reiterated testimony opposing the expansion. He said gravel and asphalt are being brought into the pit, as there are no longer resources available on site.

K. Buckley re-approached the podium and restated his name and address for the record. He reiterated his previous testimony and stated that any additional truck traffic on Lamont Road would create a safety issue.

D. Case closed the public hearing.

ACTION: J. TIBBS MOVED TO DENY APPLICATION NO. 201300109-A: X-REF: 201300109-CU-MSP: KELLY BUCKLEY AND UPHOLD THE PLANNING AND ZONING COMMISSION'S DECISION FOR APPROVAL OF PROJECT NO. 201300109-CU-MSP BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT; INCLUDE ADDITIONAL CONDITIONS OF APPROVAL TO INCREASE THE BERM HEIGHT TO A MINIMUM OF EIGHT FEET OR HIGHER; REQUIRE LANDSCAPING WITH MAINTENANCE AND IRRIGATION; IF THE LANDSCAPING DIES, WRIGHT CONSTRUCTION WILL BE RESPONSIBLE FOR THE REPLACEMENT. R. YZAGUIRRE SECONDED FOR DISCUSSION.

DISCUSSION: R. YZAGUIRRE STATED HE AGREED WITH THE MOTION. HE INQUIRED IF STAFF COULD REQUEST A LANDSCAPING PLAN. M. BASHAM EXPLAINED THAT APPLICANT WAS REQUIRED TO SUBMIT A REVISED LANDSCAPING PLAN SHOWING THE RUSSIAN OLIVES WITH ONE THIRD EVERGREEN TREES. SHE SAID THE BOARD COULD REQUIRE APPLICANT TO SUBMIT AN ENTIRELY NEW PLAN WITH DIFFERENT VARIETIES. R. YZAGUIRRE SAID HE WOULD LIKE TO SEE A NEW LANDSCAPING PLAN THAT PROVIDED MORE OF A BUFFER FOR THE NEIGHBORS AND MEET THE STANDARD LANDSCAPING CODE. D. CASE ADDED THAT HE WOULD LIKE THE MOTION TO BE MORE PRECISE REGARDING THE BERM HEIGHT TO AVOID AN ISSUE IN THE FUTURE. HE SUGGESTED AN AMENDMENT TO THE MOTION SETTING THE HEIGHT AT EIGHT FEET.

ACTION: J. TIBBS ACCEPTED D. CASE'S PROPOSED AMENDMENT TO THE MOTION REQUIRING THE BERM HEIGHT BE SET AT EIGHT FEET. R. YZAGUIRRE SECONDED.

DISCUSSION: R. YZAGUIRRE INQUIRED IF STAFF WAS CLEAR ON THE BOARD'S DIRECTION. M. BASHAM INQUIRED IF THE BOARD DESIRED APPLICANT TO MEET THE STANDARD COUNTY LANDSCAPE REQUIREMENT CODES. SHE STATED SHE BELIEVED THAT WOULD BE CLEARER. D. CASE REQUESTED M. BASHAM RE-STATE THE BOARD'S DIRECTION TO CONFIRM STAFF'S UNDERSTANDING. M. BASHAM STATED THAT THE BOARD DESIRED TO DENY THE APPEAL AND UPHOLD THE P&Z'S APPROVAL WITH THE REQUIREMENT OF AN EIGHT FOOT BERM; LANDSCAPING WITH MAINTENANCE AND IRRIGATION, REQUIRING APPLICANT TO REPLACE ANY DEAD LANDSCAPING; AND REQUIRE APPLICANT TO SUBMIT A NEW LANDSCAPE PLAN IN ACCORDANCE WITH THE COUNTY'S CODE. D. CASE STATED THAT A TIMELINE TO REPLACE THE DEAD LANDSCAPING BE INCLUDED IN THE CONDITIONS.

ACTION: J. TIBBS, AYE, R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

4. **201300316-ZOA: ADA COUNTY:** A zoning ordinance text amendment to amend the Ada County Code to allow for a third time extension.

D. Case opened the public hearing.

M. Basham submitted two late exhibits in favor of the application into the record and presented the Staff report.

Barry Sample stated his name and address for the record. He presented testimony in support of the third time extension. He explained that he was in attendance in the event that anyone presented testimony objecting to the extension.

ACTION: R. YZAGUIRRE MOVED TO APPROVE APPLICATION NO. 201300316-ZOA: ADA COUNTY, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT AND THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

V. **IN THE MATTER OF ADJOURNMENT:**

There being no further business to come before the Board on this date, the meeting was adjourned at 10:02 p.m.

David L. Case, Chairman

ATTEST:

Christopher D. Rich, Ada County Clerk