

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

6/16/2022

9:00 AM

Hybrid Online/Zoom Online Video Meeting

Board Members: *Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, and Ken Thornton.*

NOTICE: PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY ZONING BOARD OF ADJUSTMENTS AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENTS.

STAFF ATTENDEES: Kevin Angland, Carey Ann Haight, Phoebe Marcinek, Alisha Osborne, Kienna Owen-Quinata, Gary Poore, Charity Yonker.

PUBLIC ATTENDEES: Carole Angland, Thomas Angland, Shawn Brass (Online), Helen Coleman, Brett Davey, David Fauth (Online), Edward Friesen, Galaxy S10 (Online), Rae Grulkowski, Deborah Jenkins (Online), Sharon Klundt, Cathy Lockard, Kate McMahon (Online), Tom Mital (Online), Charlotte Mehmke, Joe Murphy, Eric Ray, Samsung (Online), David Saslav (Online), Ryan Seaman (Online), Dixon Scott, M. Sears (Online), Carolyn Sluys, Melissa Smith (Online), Elle St. Claire, Terra (Online), The Electric (Online), Ron Vehinen, Lalonnie Ward (Online), Jim Wingarter (Online), Joe Wipf, Christopher Young (Online).

1. CALL TO ORDER: John Harding called the meeting to order at 09:00 AM [00:00:57].

2. ROLL CALL:

BOARD MEMBERS PRESENT: Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, Ken Thornton.

BOARD MEMBERS ABSENT: None.

John Harding: Says we have two new Planning folks here.

Charity Yonker: Says we have Kienna Owen-Quinata, who is out new Planner, and we have Gary who has been with us a while now and is our Code Compliance Officer so the Board does not see much of him.

John Harding: Says welcome.

3. APPROVAL OF THE MINUTES :

A. Draft Meeting Minutes May 21, 2022. [00:02:02]

1. Board Discussion & Decision

John Harding: Asks if there is a motion to approve.

Kathryn Hanning: Motions to approve.

Ken Thornton: Seconds the motion.

John Harding: Asks if there is discussion.

Dexter Busby: Says he has a comment. There is an incorrect work on line five; the word is 'silicosis'.

Charity Yonker: Says we have a chat that says there is no audio on Zoom. If the Board would not mind, let me [troubleshoot]. She asks whether Tom Mital can hear us. Yes, we have audio. If everybody can mute that is on the Zoom meeting until their opportunity to provide comment that would be great, that way we prevent any feedback. Mr. Chair, I think we have got it taken care of.

John Harding: Says we have a motion and a second and amended Minutes. He calls for a vote.

All in Favor, motion carries 5 – 0.

4. OLD BUSINESS: None.

5. NEW BUSINESS:

A. Special Use Permit Application #008-2022, Submitted by Tower Rock, LLC to Allow a Second Dwelling [00:04:17].

1. Kevin Angland presents the Staff Report.

Motions Presented for the Board's Consideration:

A: Move that Special Use Permit #008-2022 to allow the construction of a second dwelling unit on Parcel #3711400, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied);

Or

A. B: Move the Board to adopt the Staff Report in its entirety and **approve** Special Use Permit #008-2022 to allow the construction of a second dwelling unit on Parcel #3711400 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
2. Applicant obtains addressing from the GIS Department for E911 purposes.
3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
4. Applicant obtains an approved Floodplain Permit from the Cascade County Planning Department prior to issuance of any zoning permits.

2. Board Discussion [00:25:34]

John Harding: Asks if there are questions for Staff. He inquires as to why the Applicant is requesting a separate address.

Kevin Angland: Explains that all the prior second dwellings have also had that condition imposed.

John Harding: Says he paid no attention to that, it just struck him that time.

Ken Thornton: Says it is [inaudible].

John Harding: Says yes, he did not remember if the previous one had that listed or not. He invites the Applicant to make any comments.

Elle St. Claire of 81 Seibold Lane, Cascade: Says she had the same question about the additional address and that was the first she had heard of it as well. She asks whether it is a requirement.

Kevin Angland: Says it is required by the GIS and Addressing Coordinator.

Elle St. Claire: Asks what GIS means.

Kevin Angland: Says Geographic Information Systems.

Elle St. Claire: Asks if we just pick a number.

Kevin Angland: Says the GIS and Addressing Coordinator will assign the number.

Elle St. Claire: Says okay, and asks since the neighbors are seventy-nine (79) and she is eighty-one (81), if that would make it eighty (80).

Kevin Angland: Says he does not know the answer to that, but the address comes from a fixed point, distance-wise, so we would need to speak to Tom Mital, the GIS Coordinator.

Elle St. Claire: Asks if that is another permit for which she must apply.

Kevin Angland: Says it is not.

Elle St. Claire: Asks if it is free.

Kevin Angland: Says it is twenty-five (25) dollars.

Elle St. Claire: Says twenty-five (25) dollars, okay. That was my only comment. Unless anybody has questions.

John Harding: Says thank you.

3. Public Hearing opens at 09:27 AM, [00:27:27].

Public Proponents: None.

Public Opponents: None.

General Public Comments Regarding Special Use Permit Application # 008-2022: None.

Public Hearing closes at 09:28 AM.

4. Board Discussion & Action: [00:28:17]

Dexter Busby: Says he has a simple question on B, Condition three (3) where it says Applicant obtains a subsurface wastewater treatment system. He asks why the condition is there if the Applicant is not going to have a subsurface treatment system.

Kevin Angland: Says that is just the name of the Septic Permit, so even though it is an Eco-John, and it is not sub-surface it still falls under that application permit.

Dexter Busby: Asks why they have to have a permit if they are going to use an Eco-John.

Charity Yonker: Says it is required by City-County Health Department - Environmental Health Division.

Dexter Busby: Says he finds it interesting that the Board is going to permit something that is not going to be there.

John Harding: Says he thinks it is there to make sure that whatever is going to be placed is actually being placed. So that someone is not just digging a hole in the ground.

Elle St. Claire: Says *[inaudible]*.

John Harding: Says yes, thank you.

Kathryn Hanning: Moves to adopt the Staff Report.

Dexter Busby: Seconds the motion.

John Harding: Says there is a motion and a second and asks if there is further discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 5 – 0.

B. Special Use Permit Application #009- 2022, Submitted by Friesen Nutrition, Inc to Construct a Value-Added Agricultural Processing Facility-Blending Facility [00:30:27]

1. Charity Yonker presents the Staff Report.

Motions Presented for the Board 's Consideration :

A. Move that Special Use Permit #009-2022 to allow the proposed blending facility to manufacturing Vitamin, Trace Mineral Premix Supplement, a value-added agricultural processing facility, on Parcel #5348300, be **denied** due to not meeting one or more of the conclusions required per CCZR § 10.6. [ZBOA member proposing denial must make findings on the record delineating the legal reason that the application be denied];

Or

B. Move the Board to adopt the Staff Report in its entirety and **approve** Special Use Permit #009-2022 to allow the proposed blending facility to manufacturing Vitamin, Trace Mineral Premix Supplement, a value-added agricultural processing facility, on Parcel #5348300 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
2. Applicant obtains addressing from the GIS Department for E911 purposes.
3. Applicant obtains necessary approvals for water, wastewater, and stormwater facilities serving the facility from the City-County Health Department.
4. No structures greater than five hundred (500) feet in height.

2. Board Discussion [01:26:35]

John Harding: Asks if there are any questions for Staff.

Dexter Busby: Says he has one for Ms. Yonker. He asks if what is listed in number three (3) is included in number one (1).

Charity Yonker: Says it is.

Dexter Busby: Asks if it is a duplicate.

Charity Yonker: Says we do not need to duplicate it, though we have in the past when we know specifically what is required, just to make it clear, and we as a department work very closely with the Health Department, so if it is in there, it is very clear that the Applicant will need to go have a conversation with the City-County Health Department.

John Harding: Asks if the Applicant would like to make comments at this time.

Joe Murphy of 1324 13th Ave SW, Great Falls: Says thank you to the county staff for their assistance. He states that he has been working with this developer and this property for several years and have supported the project with engineering services. Friesen Nutrition, Inc is represented here today by Mr. Edward Friesen, who is *[inaudible]* by Mr. Dixon Scott, seated behind me, unfortunately Mr. Friesen is unable to attend in person due to a scheduling conflict though he is available on the Zoom call. Mr. Friesen is prepared to answer any questions the Board might have on the previous facility business related operations, and water or sewer.

John Harding: Says thank you.

3. Public Hearing opens at 10:29 AM, [01:29:00]

Public Proponents:

Brett Doney of 405 3rd St NW, Great Falls: Says he supports the Staff proposal and states for the record he is a member of the American Institute of Certified Planners, a Master of Corporate real Estate and economic development professional. We have relationships with Friesen Nutrition and Big Sky Cheese. We are trying to improve economic opportunity in food, agricultural and hopefully bioprocessing. He explains the four-way economic benefits the business will bring, and explains his reasoning for his views on the property rights and needs regarding the business.

Dan Hustis of 2901 4th Ave N, Great Falls: Says he has lived here all his life, and he has a farm and has been involved in food production for over sixty (60) years, which requires an investment and hard work. Friesen is in food production in Great Falls and has been here for over fifteen (15) years. He says that many people do not understand that food comes from farms and not a grocery store. He urges support for Friesen Nutrition.

Public Opponents:

Charlotte Mehmke of 8244 U.S. Highway 89, Great Falls: Says it is going in the middle of two hundred (200) acres, *[inaudible]* but if it is placed here, that is not the middle. She indicates where the boundaries and house are located and conducts a sidebar conversation with a member of the public.

Phoebe Marcinek: Says it is on the screen near them.

Charity Yonker: Says she will share it so everybody online can see as well.

Charlotte Mehmke: Says her house is where the red dots are, and the fence line goes right there *[points to the location on the screen]*, and it looks like there is a mistake as it looks like this one goes to Friesen.

UNK: Says I think this is Friesen right here. I think it is going right about here.

Charlotte Mehmke: Asks if that is the middle.

UNK: Says no, and says that is the middle of that tract.

Charlotte Mehmke: Asks what tract he means.

UNK: Says it is this one *[indicates the tract in question]*. He explains the approach and where the middle is located.

Charity Yonker: Asks what her name is for the Record.

Charlotte Mehmke: Says it is Charlotte Mehmke.

Charity Yonker: Says thank you.

Charlotte Mehmke: Asks Mr. Scott a question about water usage.

Dixon Scott: Says the water usage will not be any more than an average household.

Charlotte Mehmke: Asks *[inaudible]* if that I more than he imagined that would be.

Dixon Scott: Says for the process it averages one household for the feed processing. Very little water gets used. It consists of bathrooms and handwashing.

John Harding: Asks that Mrs. Mehmke direct her comments to the Board.

Charlotte Mehmke: Says there will be twenty-two (22) employees there and facilities for those. She asks what kind of vehicles the customers will have. She says she assumes it would be two (2) a day.

John Harding: Says he assumes that would be a yes.

Charlotte Mehmke: Asks if they are not speaking for the Board.

John Harding: Says the report was pretty clear.

Charlotte Mehmke: Asks what kind of vehicles.

John Harding: Says he could not guess, perhaps cars and trucks.

Charlotte Mehmke: Asks if they would be big or small.

John Harding: Explains that there was a pretty extensive portion of the report that covered those questions.

Charlotte Mehmke: Asks if there will be semis.

John Harding: Says he does not know, and that MDT probably does not identify that in their reports.

Charlotte Mehmke: Says so we cannot know what kind.

John Harding: Says it is an Agricultural production facility and would surely involve some heavy truck traffic, similar to semis on any regular road.

Charlotte Mehmke: Asks how many people would be there twenty-four (24) hours a day.

John Harding: Says he is not sure about that.

Charlotte Mehmke: Asks what kind of production will there be from the plant.

John Harding: Says excuse me.

Charlotte Mehmke: Asks what kind of waste production there would be, they will bring in grain and the grain they do not use will be dumped there.

John Harding: Says he does not pretend to be an expert in that.

Charlotte Mehmke: Says and no one can tell me that. She asks whether Mr. Friesen can tell her if he is online to answer questions.

John Harding: Says she can make her comments and then the Board can address Mr. Friesen.

Charlotte Mehmke: Asks if she can do that.

John Harding: Says the Board will ask Mr. Friesen at some point.

Charlotte Mehmke: Says she wonders about the smell of the grain sitting there, and asks the Board to ask Mr. Friesen that, too.

John Harding: Says okay.

Charlotte Mehmke: Asks if there has been an independent study for the amount of water they will be needing.

John Harding: Says that is something that Department of Environmental Quality (DEQ) would be addressing during the permitting process.

Charlotte Mehmke: Says so there will be a third, objective person looking at it.

John Harding: Says somebody looks at it.

Charlotte Mehmke: Asks if it will be reclassified for any kind of development or just this. She asks if he could come in with the slaughterhouse and put it there.

John Harding: Says this Special Use Permit is not for a slaughterhouse, just this facility.

Charlotte Mehmke: Says when he talked about tourism, what kind of tourism would this bring, I am not clear on that.

Dexter Busby: Says the Application said no.

Charlotte Mehmke: Said it talked about tourism.

Kathryn Hanning: That is one of the questions about bringing development in, and I think the comment was "none". And I believe the Staff said no.

Various Board Members: *[Inaudible chatter]*.

Charlotte Mehmke: Asks about the twenty-two (22) full time people and the wages.

John Harding: Says those are questions that are not relevant to this Board.

Charlotte Mehmke: Asks if that is something we could ask them.

John Harding: Reiterates that it is not relevant.

Charlotte Mehmke: Says it talks about how they are bringing more people to the community and so the wages are important. If they are part time people, they are going to need food stamps and stuff.

John Harding: Says he does not believe they would need food stamps.

Charlotte Mehmke: Asks if we can ask him if there is going to be full time with a good wage.

Charity Yonker: Says, "Mr. Chair, if I may".

John Harding: Says yes.

Charity Yonker: Says he has provided this information in the application material, and he is estimating twenty-two (22) full-time employees.

John Harding: Reiterates what Ms. Yonker has said.

Charlotte Mehmke: Says [*inaudible*] at least talk to about this.

John Harding: Says renewable energy is a wonderful idea though it is not a requirement. It is a really good idea and a lot of folks are using it.

Charlotte Mehmke: Asks what kind of noise there will be.

John Harding: Says he does not believe there is a lot of noise.

Charlotte Mehmke: Asks if that is something they can find out.

John Harding: Says her questions are difficult because she is asking questions common to any type of development activity, so everything she has asked is something that is going to happen with any type of development. Everything asked about is going to happen to some extent. He says he is not sure where she is going with the questioning.

Charlotte Mehmke: Says she just is just curious, as she is a neighbor and she wants to know these things.

John Harding: Says he thought the report was really accurate and very informative of all of those issues. They talked about there being a little bit of smell, waste would be taken care of on-site, smells mitigated because it is a reasonable distance from all neighbors. Their intention here is not to be a bad neighbor. The rules of the state of Montana, as far as water and waste, they have to follow all of those rules.

Charlotte Mehmke: Says she is sure they know how much noise comes off the machines that make the product.

John Harding: Says no and calls for other opponents.

Charity Yonker: Asks if the Board wants the online comments.

Kathryn Hanning: Says we are trying to unmute them.

Charity Yonker: Greets Kate McMahon on Zoom and asks if she would like to provide her comment.

Kathleen McMahon of 151 Wedgewood Dr, Whitefish: Says she is a professional land use consultant and have been hired by Montanans for Responsible Land Use to prepare public comments on their behalf. She lists her degrees in Urban and Regional Planning and her qualifications and experience. She says she is not submitting comments necessarily to oppose. She provides a list of conditions that the group she represents would like to see listed in the Special Use Permit regarding water impact. She indicates the reply from the applicant on the application regarding the wells as being exempt and explains why she believes it is likely that the combined water usage from all three (3) wells will exceed the minimum threshold and require a permit. She

mentions that the prior Special Use Permit applications conditioned the monitoring of the water usage and required the information be submitted to the Planning Department for public review. She says that the condition was upheld in court and it should be applied to the current Special Use Permit. She says that Department of Natural Resources and Conservation (DNRC) do not monitor exempt wells, and the Montana Code Annotated (MCA) prohibits them from monitoring. The only way the adjacent land owners would know is through the metering, hence the request to impose that condition.

Ms. McMahan states the parcel is landlocked and requests an easement condition be imposed to guarantee access. She explains the reasoning behind the request and addresses the utilities aspect of the project and that they are not shown on the site plan and therefore, none of the cumulative impacts are known. She requests the applicant be required to submit an amended site plan to show the utilities. She requests the fourth condition be set requiring fire support and emergency services and explains the updates to the multi-hazard mitigation plan that took place in 2017, and why the location is within the wildland urban interface area. She lists the recent wildfires nearby and explains why the conditions for compliance to the regulations must be considered. She explains what is considered and what is not for the international fire codes when permits are issued, and why evacuation routes are a necessary consideration by the Board. She says she is available for questions.

John Harding: Says thank you and asks for other opponents. Hearing none, he asks for public comments.

General Public Comments :

Eric Ray of 3401 15th Ave. S, Great Falls: Says he speaks for the [inaudible] of Great Falls. He asks that the guidelines for the building and land use are followed and then all their concerns would be addressed.

John Harding: Asks for other comments from the public.

Charity Yonker: Says we have one in chat, from Melissa Smith, who asked by what timeframe the clean energy would be incorporated into the design. That is all we have in chat, and no other hands have been raised.

John Harding: Says there was an earlier comment about that, and renewable energy is not required, but is encouraged. He calls for last public comment. Hearing none, he closes the public hearing.

Public Hearing closes at [11:01 AM].

4. Board Discussion & Action: [02:01:44]

Ken Thornton: Says he has a concern about the idea that we are creating an industrial park out here being done a piece at a time. This is a spot development, and industrial park. We are creating it as it as individual farmer processing on their land, which is what the idea of it was designed for, such as co-ops and similar. He says his concern is that they are setting the precedent for more development at the industrial park we are creating. He says he wants to know how we look at the wells that Ms. McMahan suggested.

John Harding: Says he thinks the previous project has a well monitor and asks Ms. Yonker if this is correct.

Charity Yonker: Says both prior Special Use Permits for Big Sky Cheese and the distillery have well monitoring conditions. She reads the conditions for the Board.

Kathryn Hanning: Says so it is part of both previous projects and this one.

Ken Thornton: Says we could ask Ms. McMahon to expand on incorporating all the wells together.

Dexter Busby: Says he thinks that under the rules, multiple wells are treated as one and fall under the exempt total volume category, so unless it is metered, no one will know.

Kathryn Hanning: Asks if the properties are considered one or multiple parcels, and whether the wells are legally attached to individual parcels or one property.

Carey Ann Haight: Says she is reluctant to provide any kind of response, as it is Department of Environmental Quality (DEQ) territory.

Dexter Busby: Says DNRC.

Carey Ann Haight: Says DNRC, thank you. We are here to talk about the land use for this development.

John Harding: Says that is kind of how he views it, as well. You put your faith in the folks who run the agencies in our state, one supposes they may or may not follow up every time. He says it does not seem right to put additional restriction or conditions on a standalone Special Use Permit application. The exact same requirements would need apply county-wide. The regulations are in place at the local level to take care of those types of things that people are in violation of. This will increase the take base.

Charity Yonker: Says Kate McMahon has raised her hand and asks whether the Board would like to hear from her.

John Harding: Says he has read the reports and thinks the Staff Report was very complete, it was a really nice job and seemed like everything was addressed. The staff has considered this process, which has been at least a five-year process. This has been addressed very well. I was not a fan of the way the recommendation left this Board three (3) years ago and ended up in a court battle. With this, I am inclined to entertain the Staff's recommendation at this point.

Ken Thornton: Reiterates that they are doing this as if it is a farmer putting a processing facility on their land, I think that is why the zoning requirements were put together, instead of a corporation coming in and doing so on adjacent farms. They are creating an industrial complex. The Board is treating it as something else. He states he has concerns that there will be a lot of stuff *[inaudible]*, which is a concern because we are not looking at it as an industrial complex, which is what it is. There are concerns and water is a big one.

John Harding: Says there are water rights and the same rights to build a well as anyone, those rules do not change. There is no chance this is a wolf in sheep's clothing. He says he knows what is going on here, the Staff Report was kay, this is a long process and it is well thought out project and would be in favor of the project.

Dexter Busby: Says he has one comment on what she said, concerning easement rights for roads. He believes it is a valid comment, as these are separate parcels and should have easement rights on their own properties.

John Harding: Says that seems to be a legal issue, ad if someone is putting that kind of investment into a property, and they could lose access because someone got divorced, shame on them.

Dexter Busby: Says that is why he does not think it would come to the Zoning Board of Adjustment.

Kathryn Hanning: Says that is a good comment.

John Harding: Says he understands it, and it is more of a legal issue.

Ken Thornton: Says his concern is that if it was a complex or residential area it would have an ingress and egress, and they do not and so are not meeting the fire requirements. They will have all these people working out there and there is only one road out. That is a consideration not addressed by doing the Special Use Permit this way, and it would be if this were an industrial location. We are

bypassing a lot of the planning. We are placing an industrial complex without planning as if it were one.

John Harding: Asks if there is other discussion. Hearing none, he says we have the recommendation in front of us.

David Deffinbaugh: Moves to adopt the Staff Report.

John Harding: Seconds the motion. He asks if there is further discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 5– 0.

[Inaudible chatter]

Recess [11:14 AM] [02:16:26]

- C. **Appeal #2022-001, Submitted by Great Northern Naturals to Appeal a Denial of a Location/Conformance Permit to Allow a Marijuana Business in the Mixed-Used 20 District and a Cease and Desist Order** [02:19:44]

1. **Charity Yonker presents the Staff Report.**

Motions Presented for the Board 's Consideration:

A: I move the Zoning Board of Adjustment **grant** the appeal finding that the Zoning Administrator erred in denying Location/Conformance Permit Application #026-2022 and issuing the order to cease and desist within 30 days of receipt of the letter dated March 28, 2022. *(The specific findings supporting the Appellant's appeal will need to be determined by the ZBOA and put on the record).*

Or

B: I move the Zoning Board of Adjustment **deny** the Appellant's appeal finding that the Zoning Administrator correctly denied Location/Conformance Permit Application #026-2022 and appropriately ordered the marijuana cultivation operation cease and desist within 30 days unless an approved Compliance Plan was entered into within seven (7) days of receipt of the letter dated March 28, 2022.

2. **Board Discussion** [02:53:02]

John Harding: Asks if the Appellant wishes to speak.

Sharon Klundt of 161 Sun Prairie Road: Says the attorney that represents us had to leave, and he said he would send an email. She asks if the email has been received. *[Inaudible]*.

Charity Yonker: Asks if she may speak.

John Harding: Says yes.

Charity Yonker: Says the only correspondence she has had with Mr. Brass's attorney is the initial appeal and the supplemental argument that we received at the Department as well. That is all that we have received.

Sharon Klundt: Says the attorney has contacted her around eleven o'clock and said he needed to pull out of the meeting, and he would send an email.

John Harding: Says it sounds like we have not received that.

Charity Yonker: Says she is checking her email right now and have received no correspondence from him.

John Harding: Asks if she has other comments.

Sharon Klundt: Affirms. She says that several years ago they had gone to the Planning Department and spoke with a man who told her they did not have to file anything reference a Location Conformance Permit because they were not deviating from an approved use. That is the information we went on early in the marijuana business, providing to approximately six (6) or seven (7) people. We were cultivating for a few people and did not have much going on. There were a few plants, and about 2008 we were expanding business and about that time we were informed of the change.

John Harding: Says we will get that email here in the next few minutes.

Sharon Klundt: Says that is all she has to say.

John Harding: Says alright, thank you. At this time we will open the public hearing and we will take comments from proponents.

3. Public Hearing opens at [11:53 AM], [02:57:03].

Public Proponents:

Shawn Brass of PO Box 151, Vaughn: Says he began growing plants in 2010, and went to the Planning Board before the property was purchased and asked if marijuana growing was allowed there. They said yes. In 2015, we asked about permits required to grow marijuana at this location and were told there is nothing needed. This is why you guys need to get recorded, because of this deception. There are laws in place to grandfather these things in within the county regulations and state regulations. I should be allowed to continue to grow an agricultural product, and that it what it is. Thanks for your time.

John Harding: Says thank you. He calls for additional proponents. Hearing none, he calls for comments by opponents.

Public Opponents: None.

General Public Comments Regarding Appeal #2022-001: None.

Public Hearing closes at 11:58 AM.

4. Board Discussion & Action: [02:58:52]

John Harding: Says this one is different. I did make a few notes here. The reports are accurate going back more than a decade, and there is no evidence that the people are operating this business here were ever in compliance.

Ken Thornton: Says there was never compliance.

John Harding: Clarifies that somebody said that it was okay, but there was never anything put in place. There is no evidence of that ever happening. Even if there was a conversation, it was an unfortunate conversation and they were led to believe that was all they needed. It appears there was never a permit. That is unfortunate. The other unfortunate issue is the rezoning process it sometimes affects people. Property could be operating under certain conditions and that potentially could change because the rules change. Notices get sent out, public hearings are held, and people do not participate. All of a sudden you thought you could build a pig farm and a dump and all of a sudden you cannot do that anymore. It happens and there is a public notice process. It is unfortunate that people do not participate in something that affects the use of their land. At this point I do not see anything that tells us we can do anything different than what has been done. It is unfortunate.

Dexter Busby: Says the only thing he can add to that is I would like to see what the attorney has to say, if it is something different.

John Harding: Says he felt that he read a pretty good attorney's report right here, it was accurate. I do not know who wrote that, but it was well put together.

Dexter Busby: Says he is sure it was one of these folks.

John Harding: Agrees. He says he cannot imagine there can be any argument unless someone is physically in your face holding a permit. It may be interesting what they say, but it may not have any bearing on what is going on here today. Unless they have a permit and it sounds like that is not the case.

Kathryn Hanning: Says she agrees, and that you cannot grandfather it in when there was nothing in writing. That is unfortunate, and I wish his attorney was able to comment.

Charity Yonker: Says he [Christopher Young] was on Zoom earlier.

Kathryn Hanning: Says she has so much paperwork she cannot find what she is looking for.

Shawn Brass: Says the attorney said he sent the email to the general email.

Charity Yonker: Says she does not have current access to that email, only to her email.

Carey Ann Haight: Says that is a confusing.

Charity Yonker: Says he [Christopher Young] has been directly corresponding with me previously.

John Harding: Says there is an opportunity for an appeal, also.

Dexter Busby: Says the appeal is directly to the Commission.

John Harding: Says there is an opportunity.

Dexter Busby: Says he does not think it leaves us with any more than two options; either deny the appeal or continue it.

Kathryn Hanning: Moves to deny the appeal.

John Harding: Asks if there is a second.

David Deffinbaugh: Seconds the motion.

John Harding: Says there is a motion and a second and asks for any further discussion.

All in Favor, motion carries 5– 0.

6. BOARD MATTERS [03:05:01]

John Harding: Says for Board Matters we have MACo training, and hopefully you can all attend. Tomorrow should be [inaudible]. MACo is putting on a training and I think we could all benefit from at least the morning portion of that.

Dexter Busby: Says it is at 10:00 tomorrow.

Charity Yonker: Says she is setting up a Zoom link as well.

John Harding: Asks where the meeting will be held.

Charity Yonker: Says at the Planning Department, on the second floor.

John Harding: Says okay.

7. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [03:05:49]

None.

8. Adjournment at 12:06 PM [03:06:09]

John Harding: Asks for a motion.

Kathryn Hanning: Motions to adjourn.

Dexter Busby: Seconds the motion.

DRAFT