

To: Boise County Planning and Zoning Department

Fm: Tim Fritzley and CMH, LLC

Date: 10/06/2022

Subj: Response to "Affected" Appeal of CUP Permit

No one from the Affected who signed the Appeal attended the follow-on P&Z hearing where many of the issues raised in the Appeal were discussed and answered. It would have been beneficial if they would have attended before filing this appeal.

**Irrigation Easement:** The current irrigation system no longer works and has not worked for many, many years. It is our understanding that one of the Affected who is not part of the irrigation rights or easement engaged the primary water rights holder in a debate resulting in the primary rights holder turning off the water to the system. In addition, many of the "Affected" chose not to join a water district trying to be formed by Mr. Ted Dumont to re-establish the irrigation system there by continuing to have the irrigation system not working. We as the CUP applicant are well aware of the water system user rights and will work with the primary water rights owner to re-establish a working system that supplies all who have documented rights within the system. No damage to the current distribution system has been done as erroneously claimed by the Affected. One riser on Applicant's property was trimmed and correctly capped so that no potential future water flow was affected. This riser did not supply any of the Affected's property and was a supply riser only to the Applicant's property.

**Engineering Report:** The Affected are misinformed in regard to the reports in question. The Forsgren report asked questions to be answered by the Applicant and the Idaho DEQ Exhibit just stated the DEQ rules and regulations to be followed by any generic development, not specific to the Applicant. The P&Z Dept has required that the Forsgren questions be answered and in doing so the Applicant will illustrate compliance with the DEQ rules and regulations. The Applicant has effectively mitigated potential ground water pollution with a three-tier capture and treatment system which exceeds what is required for any possible minor hydrocarbon leaks from the small pieces of equipment.

**Performance Bond:** There are no county criteria or regulations for a performance bond for this project.

**Operations Not Clearly Defined:** The applicant is a contractor that has been in the Garden Valley area since 2005 specializing in remodeling and as such work on site is already well known and documented as: admin/accounting workers; and minor craft work similar to the current Loftis cabinet shop already in the local area.

**Finding of Fact Item C11 a:** the mini-homes are comparable to RVs and are movable with no fixed foundations. Based on prior Affected testimony at the first P&Z hearing in regard to RVs not being aesthetically desired the mini-homes were added to address this concern of the Affected. If the Affected had attended the follow-on P&Z hearing they would have heard the discussion.

**Finding of Fact Item C13:** Business employees can be on premise at any time, day or night. The hours of operation are when the offices open for customers. The Affected have no control or input over owners and employees time on premise. No residential homes are directly in the line of travel as the entrance

driveway to the CMH facilities is over 300 feet from the closest residence and this residence is set back from the road with no direct line of sight. All other residences in the area are separated by multiple properties and structures and will not see or hear any traffic.



**Findings of Fact Item C15:** CMH has been operating in the Garden Valley area since 2005. Work performed is well known and will not change. All minor craft work performed within the shops is of a similar nature and scale as the Loftis cabinet shop next door. There is no major manufacturing conducted by CMH within the proposed Site shops or area, as CMH does not do any manufacturing.

**Findings of Fact Item 24, 25, and 26:** Ackermom-Estvold is a well-established civil engineering firm with decades of experience in water flow analysis as well as pollutant control from decades of work in the North and South Dakota oil and gas fields. Antonio Conti is a senior civil engineer with decades of experience in both the US and Europe with a specialty in site planning, water flow analysis, and pollutant control. Mr. Conti is well versed in IDEQ and EPA regulations and requirements and the Best Management Practices required by both organizations; having extensive experience in Boise County performing on a large project in the Garden Valley area on the Middle Fork River involving Idaho DEQ, EPA, Army Corp of Engineers, US Fish and Wildlife, Idaho Water Resources, and Idaho Fish and Game.

Mr. Conti is working with Mr. Yearsley from Forsgren Associates on addressing the questions in the submitted report which are minor and easily addressed.

The Affected claims in their Appeal in regard to Findings of Fact Items 24, 25, and 26 are incorrect and are not supported by either the Forsgren report nor in the IDEQ Exhibit #8.

Finally, there are no hazardous materials that will be able to pollute the ground water. The only potential "leaks" are standard hydrocarbons which will be captured, vaporized, and clarified by the crushed gravel base for the roads and parking within the project area. This is supported by decades of university research and usage in high traffic areas such as the Houston Astrodome parking and road areas. Please see the provided University study and vendor spec sheet.

CMH has three small pieces of equipment that are common all along the Middle Fork Road residences: mini-skidster; small forklift (Gradal) and a small digger. The potential hydrocarbon leakage from this equipment is minor with de minimis potential for groundwater pollution even without the three-tier capture system being put in place. With the three-tier capture system in place groundwater pollution is mitigated. The Applicant property water flows do not connect to any Waters of the USA as defined by the EPA and US Army Corp of Engineers.

**Findings of Fact Item C27:** No berm is being constructed in the irrigation easement.

**Findings of Fact Item C28:** The landscaping plan by a certified landscape architect for light and noise mitigation is a requirement of the CUP permit. The Applicant will submit the stamped plan to P&Z prior to constructing the berm and applying for the occupancy permit. There are absolutely no requirements for an engineered light or sound mitigation system. The Applicant offered to be dark sky compliant out of good will, but it is noted that there are multiple high lumen halogen outdoor lights in the area that will cancel out the Applicant's dark sky compliance. All lights that are dark sky compliant are marked as such with installation guidelines included with the appliance at time of purchase.

**Findings of Fact Item C29:** The Affected are now trying to dictate the landscaping of a prior approved residential building and parcel. The berm in question is part of the residential landscaping and was shown as it abuts the proposed retention pond on the CUP site. We are unclear as to what the Affected are trying to say in regard to the 2 acres vs the 1.38 acres. This statement is confusing.

**Findings of Fact Item C30:** Applicant planned from the start to install dark sky compliant lighting out of goodwill. There are no county or state regulations for dark sky. As previously noted, there are already high lumen halogen lights in the area that will completely cancel out the Applicants dark sky lighting. There are no county or state ordinances covering dark sky mandates. The Affecteds' request is without merit.

**Findings of FACT Item C32:** It is clear the Affected do not understand IDEQ and EPA rules and regulations; as well as the recommended Best Management Practices for runoff and pollution control by these agencies. The potential hydrocarbon discharge by the Applicant is so low as to be meaningless for potential ground water pollution. However, the Applicant has implemented three recommended Best Management Practices. 1) crushed gravel base for parking and washing equipment. Many University research papers as well as historical usage show that this removes close to 99% of all hydrocarbons under much heavier hydrocarbon loading; over 100X what the potential hydrocarbon loading will be produced by the Applicant. 2) The runoff from this gravel base then flows through grass vegetation

specifically chosen for clarification capabilities and 3) finally into a retention basin, again lined with grass vegetation. This three-tier system effectively mitigates the very low potential of pollution from hydrocarbons from washing the small pieces of equipment owned and operated by the Applicant. This is compared to the county's road and bridges maintenance and heavy equipment sites located on rivers with absolutely no water pollution controls at all.

**Conclusions of Law 7:** The conditional use is compatible with the area and is low density. Please see the attached appendix clearly showing many of the Affected operating unlicensed business from their properties as well as the local properties that are built out with multiple shops/sheds and RV parks.