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

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

(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

1 --oOo--

2
3 (BEGINNING OF TRANSCRIPTION)

4 (Beginning of excerpt.)

5 MADAM COMMISSIONER AUSTIN: Chair, I've
never

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

8 CHAIRMAN SCHAFER: Okay.

9 MADAM COMMISSIONER AUSTIN: I'd like to
make

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

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

23 SIR COMMISSIONER: What is procedure
24 there?

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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.

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 SCHAFER: 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 SCHAFER: Uh-huh.

17 MADAM COMMISSIONER AUSTIN: -- but there
are

18 new commissioners that probably haven't.

19 CHAIRMAN SCHAFER: That brought back a
lot of

20 pain.

21 MADAM COMMISSIONER AUSTIN: That what?

22 CHAIRMAN SCHAFER: That brought back a
lot of

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

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,

San Juan Commission Meeting; February 28, 2024 (Excerpts) - February 19, 2024
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
skipped
7 over probably one of the important line items.

8 ADMINISTRATOR MCDONALD: Yeah.

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

15 SIR COMMISSIONER WILSON: I have a
question.

16 CHAIRMAN SCHAFER: Sure.

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

22 CHAIRMAN SCHAFER: No.

23 SIR COMMISSIONER WILSON: No? Okay.

24

CHAIRMAN SCHAFFER: 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?

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 text 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

San Juan Commission Meeting; February 28, 2024 (Excerpts) - February 19, 2024
25 Jenny Whitensy. I have lived on Sunny Acres Lane for

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 SCHAFFER: 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 SCHAFER: Thank you.

20 SIR COMMISSIONER WILSON: Thank you.

21 CHAIRMAN SCHAFER: 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

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.

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 SCHAFFER: 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 SCHAFFER: Thank you.

13 MS. McNEILL: Thank you.

14 CHAIRMAN SCHAFFER: 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,

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 SCHAFER: Thanks, Matt.

20 MR. STEWARD: Thank you.

21 CHAIRMAN SCHAFER: 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

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 SCHAFFER: 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 SCHAFFER: 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

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25 basically, what this item consists of is consideration

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

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

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

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 calls
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?

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

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?

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
would
3 be --

4 ADMINISTRATOR MCDONALD: That's where I
found --

5 MADAM COMMISSIONER AUSTIN: There
should be a
6 map of the old zone.

7 SIR COMMISSIONER WILSON: It looked
just like
8 that.

9 ADMINISTRATOR MCDONALD: Which is here.
This is the one.
10 This is the existing zoning that was used in the
11 presentation.

12 MADAM COMMISSIONER AUSTIN:
(Indecipherable;
13 overspeak.) Don't have a giant county wide?

14 SIR COMMISSIONER JOHNSTON: No. We've
been
15 waiting for that for about 10 years.

16 ADMINISTRATOR MCDONALD: So we do -- we do
have on our
17 website.

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

20 ADMINISTRATOR MCDONALD: We have --

21 MADAM COMMISSIONER AUSTIN: Okay.

22 ADMINISTRATOR MCDONALD: -- on our website
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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

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.

MR. MAUGHAN: Whether Love's has a

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

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25 and discusses -- discusses the Spanish Valley area

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's

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.

CHAIRMAN SCHAFFER: Well, let's --

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.

25 SIR COMMISSIONER WILSON: Right.

26 ADMINISTRATOR MCDONALD: That's the next
27 part.

MR. MAUGHAN: Yeah. That will be --

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

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.

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.

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 --

MADAM COMMISSIONER RIGG: You want to
make

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
24 argue
with that.

CHAIRMAN SCHAFFER: I have a motion and a

1 second.

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

5 CHAIRMAN SCHAFER: 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
look at

14 that language from...

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

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

20 MR. MAUGHAN: Sorry?

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

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

25 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

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 SCHAFER: Add that
19 chronology in there, and...

20 CHAIRMAN SCHAFER: 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
4 did

5 everything in their due diligence that was asked of
6 them. Their application was complete. We're going
7 off of 2011 zoning ordinances and prior to the
8 moratorium. And include the chronology in the
9 findings back to the court.

10 All those in favor say aye.

11 COLLECTIVE VOICES: Aye.

12 CHAIRMAN SCHAFFER: Any
13 opposed?

14 Any abstentions?

15 Motion carries.

16 MADAM COMMISSIONER RIGG: So I'd
17 Okay.

18 like to make another motion.

19 CHAIRMAN SCHAFFER: To
20 adjourn?

21 MADAM COMMISSIONER RIGG: I do not think
22 it

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

SIR COMMISSIONER NIELSON: At that time?

MADAM COMMISSIONER RIGG: I do not think
it

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

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

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

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,

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.

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.

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.

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
11 right.

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

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

25 So I guess I'm saying, if you look at
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

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

1 have an opportunity to counter? Okay. Alternate.

2 CHAIRMAN SCHAFFER: Okay.

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

5 lot going on.

6 CHAIRMAN SCHAFFER: 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 SCHAFFER: 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 SCHAFFER: Aye. Any opposed?

MADAM COMMISSIONER RIGG & MADAM
COMMISSIONER AUSTIN: Aye.

CHAIRMAN SCHAFFER: 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

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.

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.

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 --

4 MADAM COMMISSIONER AUSTIN: Reconsider.

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

6 MADAM COMMISSIONER AUSTIN: That it is
7 not a

7 permitted use, right, and that we should consider it
8 under as a conditional use, for the reasons I
9 explained earlier.

10 MADAM COMMISSIONER RIGG: I'll second
11 that
12 motion.

12 CHAIRMAN SCHAFER: Okay. Got a motion
13 and a

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

15 All those in favor say aye.

16 MADAM COMMISSIONER RIGG: Aye.

17 MADAM COMMISSIONER AUSTIN: Aye.

18 CHAIRMAN SCHAFER: All those opposed.

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

20 CHAIRMAN SCHAFER: Motion is denied.
Failed.

21

(End of excerpt.)

22

(END OF TRANSCRIPTION)

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TRANSCRIPTION CERTIFICATE

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



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

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