



PLANNING COMMISSION MEETING

117 South Main Street, Monticello, Utah 84535. Commission Chambers

August 14, 2025 at 6:00 PM

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

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

PRESENT:

Chairman Trent Schafer
Vice-Chairman Lloyd Wilson
Commissioner Cody Nielson
Commissioner TC Garcia
Commissioner Shea Walker
Commissioner Melissa Rigg
Commissioner Ann Austin
County Administrator Mack McDonald
Deputy Attorney Jens Neilson
Board of County Commissioner Silvia Stubbs
Board of County Commissioner Lori Maughan

Pledge of Allegiance

The Planning Commission conducted the Pledge of Allegiance.

Approval of Minutes

- 1. Approval of Planning Commission Meeting Minutes from May 8, 2025**

Time Stamp 0:06:18 (audio)

Commissioner Rigg raised concerns about the previous meeting's minutes, noting that they did not capture the conflict that led to Commission Schaefer's departure or their own subsequent role in running the meeting. They suggested that the minutes should reflect the change in meeting leadership and acknowledge potential bylaw violations, which they are willing to help draft.

Commissioner Rigg stated that a key decision regarding the "Loves" application being a proper application was made with a 4-0 vote after Commissioner Chair Schaefer left, indicating the meeting was legitimate despite concerns about a quorum. County Attorney Jens Nielson clarified that bylaws are internal guidelines and if the group agrees, past actions can be considered compliant, or they can choose to redo votes to strictly adhere to bylaws.

Commissioner Wilson read from the bylaws, stating that if both the chairperson and vice-chairperson are absent, remaining members present "shall elect an acting chairperson". Commissioner Wilson believes that any decisions made after Commission Chair Schaefer's departure, including the "two to two fails on a vote that didn't happen," are void and should be struck from the minutes and publicly corrected.

There was a debate on whether to void the minutes after Commission Chair Trent Schaefer's departure, with Commissioner Wilson advocating for strict adherence to bylaws, arguing that the meeting could not proceed without a properly elected chairperson. Other Commissioners expressed concern that voiding past actions could open up all previous meetings to dispute, suggesting a commitment to follow bylaws strictly moving forward rather than voiding past decisions. Commissioner Walker indicated that we are in a lot of hot water for not following rules with our Ordinance, we really should follow the bylaws. Commissioner Nielson indicated that we did say yes to having Commissioner Rigg Chair the meeting, but we really should follow the bylaws. Commissioner Austin expressed concerns about that direction questioning other times that we may not have followed the bylaws. Commissioner Garcia supported redoing any official votes from last month due to potential quorum issues but did not necessarily support voiding all minutes after Commissioner Schaefer left.

Motion made by Commissioner Wilson to remove any minutes past 01:32:00 anything after that should be deleted.

Discussion continued regarding the minutes, including removing parts after specific time stamps or after Commission Chair Schafer's departure. Commissioner Nielson recommended tabling the minutes for corrections.

Commission Chair Schafer called for a second to the motion. Motion failed due to lack of a second.

Motion made by Commissioner Rigg to table the minutes from July 10th, 2025. Commissioner Rigg moved that the Commission table the minutes until the next meeting and to allow County Administrator McDonald and Deputy County Attorney Nielson to address the identified deficits.

Motion was Seconded by Commissioner Nielson.

Voting Yea: Chairman Trent Schafer, Commissioner Cody Nielson, Commissioner TC Garcia, Commissioner Shea Walker, Commissioner Melissa Rigg, Commissioner Ann Austin.

Voting Nay: Vice-Chairman Lloyd Wilson

Motion carries.

PUBLIC COMMENT

Time Stamp 0:28:13 (audio)

Commission Chair Schafer provided the public comment guidelines, limiting speakers to three minutes and requiring sign-up prior to the meeting. They emphasized that the public comment period is for expressing comments, suggestions, and concerns, and not for debate or immediate responses, also stating that disparaging comments or disrespectful acts would not be tolerated.

0:30:38 - Ordinance Definitions and Enforcement

- **Zola Hunt** raised concerns about the proposed Ordinance, questioning regulations on household pets and suggesting additions to the definition of agricultural industries. Private roads and fencing concerns still remain. We have not been able to see our changes or suggestions. This leaves us feeling neglected.

0:32:51 – Planning Commission Appreciation

- **Wesley Hunt, Blanding Utah** Proud of Planning Commission members for what they deal with. Expressed appreciation for Planning Commission members as he

finds it challenging but shows how important each member is and the long-term effects. It is important that we appreciate one another.

0:34:44 - Historical Context and Purpose

- **Marjorie Hans, La Sal** provided detailed historical context for the separation of powers doctrine, tracing its origins from Aristotle and Polybius through Montesquieu and its influence on the US Constitution. Separation of powers is a political doctrine that divides the function of government into two distinct branches to prevent the concentration of unchecked power and to provide checks and balances among them.
- **Dave Goodman** emphasized its “enduring purpose... to secure liberty by preventing the accumulation of power into the hands of one or few and ensuring accountability.” He further stated, “The entire process of legislating is to be done by the commission or local body of legislators for land use led by the chair, not as it is done now with the administrative with the administrator leading out on legislation which is a massive violation of separation of powers because the administrator already controls the executive branch. We request that the planning and zoning administrator relinquish leadership of the PNZ legislative process and attend these meetings as a member of staff only.”

0:40:06 – Rural Representation

- **Greg Culrath** expressed concern about the lack of rural resident representation in ordinance surveys and the changes to County Planning and Zoning, emphasizing the importance of ensuring the right path is taken when making significant changes.

0:42:32 – Public Comment Process

- **Carol Martin, Elk Meadows** “the public comment section is provided for the public to vent their frustrations or offer solutions to problems. If this is true, then I would suggest that it is missing a major component, that of acknowledgement... some kind of feedback or consoling or empathy or acknowledgement is required.” She added that the current method “feels almost degrading. I care about what happens in this community. I want to be involved without a us vs them feeling. Help us by correcting this by being more interactive during public comments”.

0:44:28 – Public Comment Process

- **Lynn Martin** – Expressed concern about how inspections are done. Concerned inspections and enforcement will become aggressive in San Juan County. Lynn Martin highlighted extensive enforcement language (Pages 28-

33) in the proposed LUDMO, raising fears of "aggressive" enforcement and invasion of "private property." he cited the case of Connor Simmons, a glamping facility owner, who was sued by the county instead of being allowed to rezone.

0:47:44 – Love’s Truck Stop

- **Mark Shapiro** attended the first public meeting in 2019 for Love’s where it was stated that a Love’s Truck Stop corporate policy should not be located within 500 feet from residents. Why is a 500 feet buffer zone needed and what are the effects. You have heard about the negative effects by residents. In a cited an opinion from the Utah Property Rights Ombudsman stating, "A local government may designate uses as conditional but must also adopt compliance standards for the uses... a truck stop is a distinct land use with significantly different impacts than those associated with the component parts. It is therefore inappropriate to conclude that a truck stop may be implied because other allowed uses are somewhat similar. Even if the proposed facility consists of a combination of otherwise allowed uses, if the truck stop is substantially different, it cannot be allowed without an Ordinance amendment." During this entire course, the Ombudsman’s opinion has been ignored. This is a dog of a project and the truck stop is not a gas station.

0:50:52 – Public Input for the Ordinance Process

- **Shannon Brooks** proposed a structured public input process: "Step one, which we've been doing, submit the public changes, ideas. Step two, those changes or ideas are discussed, or determinations are made on them by the PNZ in a timely fashion...these will be taken back to the public. At that point, the public is allowed to provide feedback and then it comes back to the Commission. Step four, the commission makes determinations and acknowledged the feedback and makes determinations. At least the public is heard, provided input that is considered, or not approved. To be ignored is a problem. Some cases may require another look at the Ordinance by the public. Last meeting I provided four potential changes, emailed them to the Commission which is step one. Step two is a response from the Commission by email or a public meeting. This hasn’t happened. Step three would be the committee reviewing and taking those ideas and comments to the public. Step four would be to inform you of what the public is thinking. He also pointed out that the public comments invalidate claims that the County Attorney and Planning and Zoning office from those showing concern about the Ordinance are more than just a few extremists. 500 people signed a petition, over 250 took our survey and over 19 people in this meeting. He would like a retraction about the mischaracterization.

0:53:52 – Love’s Truck Stop

- **Marleen Huckabee, Spanish Valley** – No one came to her property to see where she lives in relation to Love’s Truck Stop. She sent an invitation to all Commission Members and only two have been out there. Marleen suggested Commissioners go and look at the property. Marleen argued that a truck stop is not in harmony with existing and approved residential and small business communities. This will create a forever problem, not for me, but for my family. Marlene Huckabe, whose property is adjacent to the proposed site, questioned, “would you like to have a truck stop next to your house, any of you? I am going to fight tooth and nail until I can’t.” She encouraged the Commission to vote no.
- **Lack of Mitigation and Dialogue: Holly Sloan**, representing Northern San Juan County noted that despite presenting “credible evidence”, regarding the harmful effects over the last 6 years, the community has not heard “any real discussion on sort of the harmony, the safety, the health issues”. She also mentioned they have made the case that there are real safety and health concerns regarding the Truck Stop. “We need to hear by they aren’t real concerns. Why is a truck stop in harmony with the residents and small businesses”. Commissioners have told us our hands are tied. We would like a deeper discussion. I am part of the coalition that has repeatedly appealed the decisions, this is not our first choice. We asked the County to set down for mitigation talks, which Loves has “no incentive to talk to us” because “they know they have the majority of the Commission on their side”. We are left to the idea we have to go to court to stop this, slow it, or force conversations. I hope we can have real mitigation conversations.
- **Colby Smith** pointed out a discrepancy: the original application (May 2019) was for a “53 bay truck stop,” but a “new one... dated May 29th of 2020 it's got 75 trucks truck bays.” He noted, “that's a over 40% increase in the number of truck bays, that feels like a material change to me.” 2020 is when the new one was in effect which doesn’t allow truck stops in this location. Please clarify so that what is originally submitted and what you approved as being complete, “why is there a new proposal?” if it was complete.
- **Ned Placid** requested that Loves provide the “studies and analyses he referenced in the July 2025 meeting” that supposedly show "no concern" regarding community impacts, noting these studies had not been made public. His property is directly east of the location. Would like studies from Loves reveled to residences. We don’t believe that the number of tractors staying there each night throughout the entire year can be in harmony. There is an increase in light, noise, air quality, traffic, garbage and chemical containment, and law enforcement will all add to the impact to residents. “Impacts will exceed all of the current impacts from all of the businesses that currently exist there as well as residences”. It is unclear how this is in harmony. “I would like the concerns of the citizens directly

impacted be considered. We would like any approval to be conditional to reduce the impacts to the community by ensuring some mitigations are taken to address the concerns of the community”. Mr. Placid provided a list of ways to mitigate their concerns through email. He also requested Love’s to provide their studies and analysis referenced in July. He looks forward to seeing this analysis and study. Love’s itself differentiates between a car stop and a truck stop.

- **Susan Carter** – Gave Committee members her discussion points. Concerned that Love’s is also a campground with overnight accommodation. This includes showers and toilets, and places for people to sleep. This is not limited to truck drivers but to all the public parking and stay. Since it was decided to use the 2011 Ordinance, would like the Commission to use the definitions from the 2011 Ordinance. Gas stations do not allow people to sleep in them, do not provide toilets and showers on a private basis as people pay for gas. Mitigation is your only course. Litigation is your only way to develop guidelines between community and other Commissions have done, there are a lot of resources to reference. No one feels like they are being heard. “Why isn’t safety of community important to you, why are those not harmonious issues that need to be addressed”.
- **Bradley Angel, Sunny Acres** expressed significant community opposition to a proposed truck stop, citing concerns about increased light, noise, traffic, and air pollution, which they believe will negatively impact the harmony and character of the residential area. Expressed grave concerns about air pollution, citing a Utah Department of Environmental Quality document on idling trucks and their link to "increased incidence of asthma, allergies, lung and heart disease, and cancer." He shared his personal health struggles with asthma and recent cancer surgery, stating, "the thought of living near a massive freeway style truck stop in my neighborhood... that emits 24/7 cancer-causing chemicals is unacceptable." I would have to consider selling the place that I love. I respectfully plead with you to follow common sense and say “no” to Loves.

01:12:06 - Preserving Rural Character

- **Joe Musurneci, Elk Meadows:** Several residents, particularly from Elk Meadows, expressed concerns that the proposed 2025 Ordinance would shift San Juan County away from its "rural character." Joe Muschi stated, "I have my doubts of whether the county is being directed in the path to sustain this rural character that has drawn me and my friends over the past 10 years to move here and buy property and to prosper here." Agriculture Protection Areas (APAs): Joe Muschi inquired about the lack of an Ordinance for APAs, noting that it has been unaddressed since 2018 despite encouragement from UDAF.

01:14:00 – Supporting New Business in Ordinance

- **Daniel Wright** advocated for an LUDMO that "laser focus[es] on affordability and facilitating new business," suggesting starting small, adding things as we go and as they are needed. These changes in zoning should allow for single-wide manufactured homes and ADUs. This will increase affordable housing and multi-generational housing. Supports State's trends. This will balance affordability without a loss of integrity.

01:15:51 – Public Comment Process

- **Christopher McBain, Elk Meadows** criticized the public comment period as "either insincere or do not allow the people to really communicate coming across more as a PSA than a true round experience." He emphasized that "true empathy and interest would go a long way." Doesn't like no meaningful follow up or secondary questions asked. Wants follow-up with public.

01:18:28 – Love's Truck Stop

- **Carrie Kelly**– Showed support to several of the other commentators. There is legal precedence in Utah showing that a gas station is not a truck stop and not a restaurant. The community has provided well-documented and well-referenced studies that include safety, air quality, trash, and water resources. Love's alluded to studies that refute these. Would like studies, if there are some, shared with the public. Agrees that the community has been clear they want to address concerns with Commission members, these should be mitigated and would like them addressed.

LEGISLATIVE ITEMS

2. Review and Discussion of Planning Commission Bylaws

Time Stamp 01:20:23 (audio)

The discussion turned to amending the bylaws, specifically concerning references to the San Juan County Zoning Ordinance in the "whereas". It was suggested to change "San Juan County Zoning Ordinance" to "subsequent approved ordinances" to avoid constant bylaw updates whenever new ordinances are approved. The commission also discussed updating the language to cover all land use codes, including the Spanish Valley supplemental code. Commission Rigg provided several recommended changes throughout the bylaws including structural and language changes to be incorporated in the bylaw revisions.

Commissioner Austin asked if this was in an ordinance and if it would require an amendment to the ordinance? County Administrator McDonald advised that it is an amendment to the ordinance which would be Amendment B.

Discussion ensued regarding the representation of different areas of the county and making sure the bylaws and by removing the 2011 reference at the top of the bylaws, it would then include all land-use ordinances including Spanish Valley. If you refer to Codes Governing Land Use, that should catch-all. It ensures that the procedure is prescribed in the codes governing land use.

The discussion then turned to one member from a special service district within the county. Commissioner Austin questioned why a special service district position is required? What's the motivation for why you'd want someone? County Administrator McDonald indicated that it is good just to have that perspective on this board. At the time we incorporated this in the bylaws, it was specifically for that, so that they were represented in all of our land use decisions that you're considering, the water availability in these smaller communities that may be ran just by special service districts themselves.

Commissioner Rigg asked if there's another area in the county that needs to be represented, to get a member from another area might be a better use of that? Commissioner Austin indicated that Instead of a special service district, we could get rid of having a requirement of a special service district or maybe a second at-large position. Commissioner Nielson recommended removing Bluff, where they are all incorporated and replace it with "Mexican Hat or Eastland," or to introduce "at-large" positions for north and south unincorporated areas. The discussion continued with possibilities that included only membership from unincorporated areas, owners of property in the unincorporated areas, membership from based on voting districts,

Commission Chair Schafer advised that why don't we change Bluff to Mexican Cat and questioned what can we do with Special Service District? Make two members at large? Commissioner Walker indicated that a Special Service District person will come with extra training on how the state works and extra training that will be useful in our ordinances.

Commissioner Austin pointed out the terms until replacement of membership. County Administrator McDonald addressed the bylaws regarding commission member terms, noting that current members will remain on the planning commission until replaced if no new appointment is made. This led to a discussion about whether this policy hinders opening up opportunities for more people to serve and the importance of members being willing to continue serving until a replacement is found

Commissioner Austin questioned if all motions had to have stated findings of facts. A discussion ensued regarding when motions needed findings of facts, if needed, and clarifying that language.

The discussion moved to public comments, removal of individuals, and upon recognition by the chairperson may direct questions to the applicant, witness or any person speaking from the audience. There is a way for us, via the Chair, to ask questions of the public who is providing public comments. Deputy County Attorney Nielson pointed out that you can't have a public hearing without the notice of a public hearing though, so your questions could all of a sudden create a public hearing that wasn't noticed. He advised that Commissioners want to be careful of that. Commissioner Austin pointed out that we can request, from the Chair, to ask a relevant fact question, not a public comment in accordance with the bylaws.

With Conflicts of Interest, the Commission agreed to keep the language as it is written in the bylaws that if there is a conflict, the member shall recuse themselves from the vote.

Commissioner Austin felt that the bylaws are unclear about members making public statements outside of and prior to the meeting. Commissioner Rigg explained and provided an example of making statements prior to the meeting regarding how a member is going to vote. She provided the example with the tall tower proposals.

Commissioner Austin also suggested a follow-up section be added to the agenda. This would allow for feedback from staff regarding any Commission questions. Commissioners Garcia and Nielson both like this idea, a process needs to be created, a possible table or legislative questions be asked and added to the agenda.

County Administrator McDonald proposed adding a regular agenda section for following up on public and commission questions, particularly legal ones, to ensure issues are tracked and resolved. Deputy County Attorney Nielson suggested a process for adding items to the agenda involves submitting them by Wednesday or Thursday of the prior week, with the expectation that answers are either in progress or already available. Commissioner Rigg acknowledged that this process shifts the responsibility to the planning commissioners rather than staff to make those suggestions.

3. Consideration and Approval of a Sign Permit for CED, 11910 S. Hwy 191, Michelle Eccles, Buds

Time Stamp 02:08:47 (audio)

County Administrator McDonald referenced in the staff report.

Commissioner Austin highlighted the fact that the staff report referenced the requirements of the 2011 Ordinance and not the Spanish Valley Ordinance.

County Administrator McDonald suggested tabling the item.

Motion was made by Commissioner Nielson to table the item until September.

Commissioner Walker seconded the Motion.

Voting Yea: All in favor. Motion carries.

4. **Reconsideration after partial reversal and remand from ALJ Creswell of the Love's Travel Stop proposed along HWY 191 within Spanish Valley on 13.06 acres as a permitted mixed use under Controlled District Highway Commercial (CDh) Zone.**

Time Stamp 02:12:45 (audio)

Deputy County Attorney Nielson began to address the Commission. Commissioner Rigg asked if what Colby Smith said is true, that the original Love's was 53 bays, right? This new concept, I counted, and he's right, it is 75 bays, that is a significant change from what was originally proposed. I don't know if we should be talking about that right now. If what was originally approved was 53 bays, and it's been remanded to us, why are we now looking at something with 75 bays?

Deputy County Attorney Nielson indicated that the original approval is the only thing that's approved of at this point. That has been in the litigation process, and if the new schematic is going to become official, then it'll have to be approved through the normal course. Tonight, you're not voting on that. Tonight, you have a very specific questions from the court, or from Lynn Creswell, and we're going to cover all three questions because we determined that, in our last meeting.

There are three questions that the Administrative Law Judge has asked of you. Judge Creswell has asked that you make findings on the following three items. One is, is Loves the proper applicant? And the question there has to do with, you know, the ordinances for the landowner to be the applicant or a designee. Number two is, is the travel center, the Loves Travel Center, is it a permitted use within the ordinance? And then number three is, if you don't find it's a permitted use, alternatively, is the use in harmony with the intent of the neighborhood commercial zone and similar in nature to the listed permitted uses in the highway commercial zone. So, those are the three items. A lot of the questions and concerns which are good and valid have been talked about here in other meetings. A lot of those will be addressed, I think, during the litigation, and also at some point, you have to have permitting and there's quite a process here. So, a lot of those things will be addressed. It's just that tonight your job is quite focused on these questions.

Is Loves the correct applicant or a proper applicant? Do you want any discussion on that or anything from me on that, or do you feel like you know what you want to do?

Commissioner Wilson indicated that he agrees with this for the simple fact that your due diligence when you're buying a piece of property to make an investment, you are the applicant even though you don't own the property because you're looking at your options before you do, before you buy it. That is done in all cases for development. Deputy

County Attorney Nielson indicated that your purchase agreement generally has that requirement that you work together with the landowner and you are the designated, if you want to call it that, to run it through the process.

Deputy County Attorney Nielson asked do you want to do these individually or go through all three ?

Commissioner Rigg pointed out that looking at the packet, even the packet calls it a 53 base truck station. You know, I don't think we can vote on something that has changed midstream. Deputy County Attorney Nielson indicated that he understood and pointed out that Commissioner Rigg is confusing the issues that are before you. Commissioner Rigg stated that, No, I get that. I get what the issues are, because part of it is it's not in harmony, right? Or is it in harmony? And I've already stated my opinion about that. But... Deputy County Attorney Nielson stated that So, sorry, when you get to that point you have to vote on what's been approved, not what something new is. Commissioner Rigg asked so we're voting on 53 bays? Deputy County Attorney Nielson pointed out that you vote on whatever schematic was approved initially, not a new thing that hasn't come to be approved. So, that's what you'll be considering. Commission Austin asked in this packet, what schematic do we have? Commissioner Rigg pointed out that in this packet, we have, in the language, we have 53 bays, but the drawing that they included had 75. Commissioner Austin mentioned okay, there's a problem. Deputy County Attorney Nielson acknowledge Okay. Well, all right. Let's just, let me just, as far as the presentation here goes, do you want to go through each point? In other words, the application, the permitted use, whether it's permitted use, and then whether it's in harmony, do you want to go through all those and then vote on all, or do you want to go through one at a time? Commission Chair Schafer indicated one at a time.

Deputy County Attorney Nielson continued stating that one thing about this whole exercise is so that the Commission here can have a detailed findings, detailed findings, on why you're voting the way you're voting. And this staff report that Smith prepared was designed to give you the language, but you don't have to stick to that language, you can come up with your own. So on the question then of the, is Loves a proper applicant? Do you need anything more from me on that before you motion and vote and deliberate?

Commissioner Austin asked what was the date of the purchase agreement? Deputy County Attorney Nielson stated that he did not know. I don't think it's relevant to the question you're asking. Commissioner Rigg mentioned it was a while ago. I remember the last meeting. It wasn't recent. It wasn't just after this opinion came out. Deputy County Attorney Nielson indicated that the purchase agreement is the first thing in this

overall process, so it would have predated probably everything. That's just my speculation.

Commissioner Nielson stated that in my mind, number one is the only one we should vote on. We've already decided the other one. He just wanted it more defined. The decision was already voted on, and now we have it back here, going through it again. But the first question is the only question I feel like we haven't answered. His finding that he wanted, you know, a more complex or defined reason why it was in harmony, or, I mean. Deputy County Attorney Nielson mentioned that it's a privilege being a Judge, you get to ask additional questions. Commissioner Nielson pointed out that but he's asking, he's asking all of us who aren't attorneys to make a long, drawn-out motion describing every little detail why we think that, and we, the last motion did, I feel like. I don't even want to vote on two and three because I feel like they've already been answered. I think one is the only question that's really relevant. If the Judge doesn't like what we did before, then, I don't know, he can pound sand for all I care. But one is a legitimate question that we haven't answered before.

Commissioner Wilson made a Motion that, yes, the applicant, or that should have been, Loves or the people purchasing it, because that's how all cases go with development. You are the applicant when you are trying to figure out if this is the right property to purchase. If it is going to meet, does the ordinance meet the requirements of what you want to do with that land, you're not going to purchase it and then say, oh, well, this doesn't work for what I'm doing. So, yes, the applicant was the right one on this one. Commissioner Nielson asked, Commissioner Wilson, do you, the language that's there in the staff report for number one, those reasons, those findings, do you go to that? If those words are words you, if you agree with those, then I recommend you use those so that we're trying to be as specific as we can. Deputy County Attorney Nielson is hoping the judge likes his wording there and it doesn't come back..

Commissioner Wilson rephrased his Motion which is to recommend the staff's recommendation One with Subsection A, B, C and D within the staff report.

Commissioner Rigg seconded the Motion

Commission Chair repeated the Motion that Loves is the land-use applicant and in addition to that, A, B, C, and D

Voting Yea: All in favor. Motion carries.

Time Stamp 02:24:01 (audio)

Deputy County Attorney Nielson continued with item number two. I think this one is the, in my opinion, is the most difficult. The public comment has been heavy on this point

and, you know, there are good arguments for and against whether or not it's a permitted use. And one way of looking at it is to say if the components of the travel stop individually can be constructed within the highway zone, then why not one combined? That's maybe in a nutshell one side of it. The other side of it is to be a little bit more strict with the statute and just say, look, if the legislative body, which is the County Commissioners and this body, if you wanted a travel station, you would have approved one and stated it specifically. If you wanted the ordinance amended to allow it, you would amend it and allow it. You know, those are two, you know, logical ways of looking at this. In the staff report, you have kind of laid out some ways of looking at it. It talks about the restaurant or the driving cafe, the automobile service station or convenience store. Kind of lays out how you could see those as being the components of the Love's Travel Center and if they can be constructed individually, side by side, then why not together as one? You know, I think anyone that resides, you know, next to this type of a project is justified in feeling impacted for sure. and there's no question that any new development is going to change the status quo. The legal department really looks at this as a competing interest of landowners and, you know, landowner's rights and also in connection with, you know, what an ordinance allows. If our ordinance said Love's Travel Stations are allowed in this zone, then, you know, you wouldn't have much to really debate, right? But you're paid the big bucks because you have these, because these questions are never quite that easy.

Deputy County Attorney Nielson referenced what Mr. Shapiro pointed out about, and it's been mentioned before, the Ombudsman's case. And, you know, the Ombudsman's office writes these opinions and they're very good and I think that they're well-reasoned and researched and all that kind of thing. Two things: point one is the Ombudsman's office is not the same as a District Court Judge or Appellate Court Judge. It's advisory and it's helpful. But you all have a lot of discretion, and you can, there's nothing wrong with you saying we agree with the Ombudsman's decision. There's nothing wrong with you saying, it's a close call. We just see it the other way, so we're going the other way. Second, it should be noted that the Ordinance associated with that decision was very different from our Ordinance. That Ordinance did not have permitted uses, so you couldn't under that Ordinance say, well, you have conditional uses. That's a significant difference and that may be one reason the decision up there doesn't mean you couldn't adopt its logic. I'm just saying it's not exactly the same as your Ordinance, where your Ordinance does have permitted uses, that combined, appear to create a trial standard and they're not just all conditional. I just wanted to point out that there is some difference in those, in the two decisions, but you know, the Ombudsman's decision does have good reasoning. I mean, I wouldn't say that I have any concern with the reasoning of the Ombudsman's decision.

Commissioner Austin asked, “are you saying that the Ombudsman's Ordinance that they're referencing?” Deputy County Attorney Nielson mentioned it was an ordinance in Wellsville that's just a different, it's different than our Ordinance. Commissioner Austin asked what was the difference exactly? Deputy County Attorney Nielson indicated that in our Ordinance, there are permitted uses in the commercial highway zone. And in that Ordinance, they were all conditional uses, not permitted. So it's kind of one step from an automatic, hey, if it's permitted, I get to do it. If it's conditional, maybe I get to do it. This board has a lot more discretion if it's conditional. Commissioner Rigg asked if their truck stop was conditional? Deputy County Attorney Nielson mentioned that their truck stop was conditional, the issue there was you had conditional uses that were the components of a travel center, and the group there said, well, we would like to say that if we could, we could approve the components of it, let's just approve the thing itself. But it was a conditional use, they had the approval under a conditional use standard, whereas this statute has permitted uses, not conditional. Commissioner Austin mentioned that she didn't know what's the difference, how that really matters. Deputy County Attorney Nielson advised that if there's a permitted use, you, the applicant, are entitled to approval because it's a permitted use. It's not conditional. If it's conditional, then the applicant's not necessarily entitled to it. Commissioner Austin pointed out that isn't the argument that you can't combine those? To be one, even if it's just permitted? Deputy County Attorney Nielson advised that best way, I think, to look at it is to say that where you have permitted uses, the applicant's position is stronger if the use they're asking for is allowed, if it's permitted. If the use is conditional, then the applicant's position is not as strong. So I guess the point I'm trying to make is the applicant's position in the Ombudsman's case was not as strong because they weren't coming in saying, hey, I want, I'm applying for this Love's Travel Center, it's a permitted use. I'm taking the position it's a permitted use. And if this group says, yeah, it's a permitted use, it's just a combination of these things, then that's a different discussion then. It's not even a permitted use, it's a conditional use. So it may not even be something we want to have.

Commissioner Austin mentioned that she thinks the overarching point of that argument is whether or not you should look at different uses as something you can combine and mix and match. Deputy County Attorney Nielson agreed, under two different standards. Under that standard up there, under a conditional use analysis. Under this standard, under a permitted use analysis. Commissioner Austin agreed, which is really not that different, I don't think. I mean, we're still asking that same question, should we be allowing permitted use? Deputy County Attorney Nielson mentioned I'm not saying that it's like, you know, here and here. I'm just telling you there is a difference, it was brought up, so I thought I would mention it.

Commissioner Wilson gave an example, so, say, say you take the Moab Business Park. You've got one that, one on that roadside. It has 10 units in it. Each one of those is a different permitted use. It's all in one room. How do you decide the difference between that building and the Loves Travel Center? If it has multiple uses that are all permissible, how could you say that this building you can do it in, that this one you can't? You see what I'm saying? That's it. Under the 2011 Ordinance. Exactly, that we've agreed on, that is where this fell. That's what this is going through, is the 2011 Ordinance and they were permissible uses. If you take it from one building that's less than, you know, a thousand yards away, that can have all these permitted uses in it, but you go to the next building that's coming in, you can't have the same permitted uses. Commissioner Austin pointed out that the type of uses is what's different and so I wasn't around for the Moab Business Park application, but I imagine they listed the kinds of uses, and they aren't things like a gasoline filling station. Commissioner Wilson agreed, but we've already agreed that these are permissible use. The argument is, can all these be in, as combined. So I mean, we've agreed this came before us before, and it was, did all the uses that are going to be within this one building, are they a permissible use of the 2011 Ordinance? Yes, they are. Now the question is, is can they be combined? If you have them combined in the Moab Business Park building right here, but you can't do it in this one? Commissioner Austin agreed, because the use of this type is so different. You've got different impacts. Commissioner Wilson pointed out that anybody in Moab Business Park could have a restaurant at any time in any one of those units, because it's permissible in the 2011 Ordinance. Commissioner Austin mentioned that I'm still going to say, or argue, that the impacts of those uses in the business park do not require conditions or mitigating factors. Commissioner Wilson asked "who's to say?" Commissioner Austin indicated that she thinks we could go down the list of self-safety, health, welfare. Commissioner Wilson answered yeah, and the business parks on this smaller footprint with more businesses than this one is. Commissioner Austin questioned do any of them put out pollutants? Do any of them create excessive noise? Do any of them? Commissioner Wilson indicated "who's to say?" Do you know what businesses are being ran in there? Commissioner Austin mentioned I know a handful of them. Commissioner Wilson indicated that you don't know all. Commissioner Austin mentioned but those are low impact. Commissioner Wilson asked that you know for a fact? Commissioner Austin answered that as far as my measuring tool, I would say that a climbing gym is pretty low impact. A quilt shop is low impact. There's a gun shop there. I mean, it's not a shooting range. They sell guns. I mean, they don't require a lot of traffic. They're not putting out toxins, like for me, they are not the same comparison. Commissioner Austin mentioned to the Deputy County Attorney that I feel like something's missing from the staff report here when it comes to the number two Loves proposed uses permitted in the Controlled District Highway Commercial Zone based on the following findings. There's not one that says, you know, the flow chart. Where's the other option? Love's proposed use is not permitted in the

Controlled District Highway Commercial Zone based upon the following findings. Where's that language that you're providing us if we wanted to go in that direction?

Deputy County Attorney Nielson answered, I guess if you go in that direction, then it's almost like there's all you have to say is really it's not permitted. I mean, if it's not a permitted use, it's not a permitted use. I get what you're saying. Why didn't I write just the same on the other side? Good point. Probably should have. Commissioner Austin pointed out that because otherwise it looks and feels like our options are limited to this. Deputy County Attorney Nielson advised that they are not limited at all. This is the staff's recommendation. That's what we're providing to you is the recommendation. If you find differently, then we just, we would adopt findings. I mean, I don't, we'll just work through it, right? Commissioner Rigg pointed out that there is an alternative. The 2011 Ordinance says if it's not listed as a permitted use, it is a conditional use and it says all other uses than those listed. I know we had a vote back however long ago that was and there was a group that thought that you could combine all those permitted uses. The alternative is, and it's quite clear in the ordinance, that if it's not listed, it's all other uses than those listed as a conditional use. Deputy County Attorney Nielson advised you could go that route if that's what this group wants to do.

Commissioner Austin pointed out that the other language in the staff report I have a question about is going down to B. Alternatively the Loves use is in harmony with the intent. That sounds like instead of saying that the proposed use fits within the following combined uses, we could say that it's in harmony with the intent. Deputy County Attorney Nielson advised that there's two prongs that you could approve this or disapprove it. One prong is the permitted use, and the other prong is the in harmony with. Commissioner Austin mentioned that alternatively, there's not language that says Loves use is not in harmony with the intent of the neighborhood or community. Deputy County Attorney Nielson mentioned that's because that wasn't our recommendation. The simple way we looked at this was, if you have a highway commercial zone, any permitted use within that zone would be in harmony, because that's what the zone is. How could you not allow a permitted use to be in harmony with the zone that it is permitted in? That's kind of the whole point.

Commissioner Wilson added that here's the other point of that. A lot of the conversation tonight was building a residence. The residences that are in that zone were put in there illegally. They were never a permissible use in a commercial zone. They were put in after, what was it, 1978, 79, when the 1,000 foot commercial zone was put in place, they were not a permissible use. The residences that are near the Love's Truck Stop or Travel Station, careful how you say that, were not a permissible use in the first place. You can't come in and say, hey, I built illegally in a certain zone, and now I don't want something

else that is a permissible use next to me. The harmony thing is it is in harmony with the way it was set forth from day one when it became a commercial zone. Because other people moved in illegally into that Zone does not make it not in harmony. Then you go back to the whole truck pollution and all that. Less than a quarter mile away, we have LeGrand Johnson that runs 60 to 80 semis every single day, in and out, with the scales. It is in harmony with what is near it, in every aspect of what they are doing there. It is in harmony in the commercial zone, in harmony with the other trucks that are down the road. I see no way to get around that. Deputy County Attorney Nielson brought up the point that, I don't know about the legality of the initial homes, what the zoning was and approvals and stuff. It was a little different world back then. I don't know what kind of approvals were going on. I wouldn't suggest that any of the current homes there, we are not calling you illegal. I'm just saying that's not my opinion. I think what Commissioner Wilson is basically saying is you have this zone that's commercial, but yet there is residential housing there. Commissioner Wilson pointed out that it was their choice.

Commissioner Rigg asked if it was a controlled district, right? Commissioner Wilson indicated it was Controlled District Highway Commercial for the 1,000 feet. Everything else was agricultural. Deputy County Attorney Nielson stated that in my opinion I don't know how relevant it is to your question. If you, so are you, are you moving off of the permitted use question to the in-harmony? That's kind of what we did the last time and it's okay. I'm just trying to keep you focused. Do you want to talk about the permitted use and vote one way or another, or do you want to go to the in-harmony and talk about that?

Commissioner Austin mentioned that I think in order to decide between the two, we need to flesh it out. I'm just asking clarifying questions. The harmony question, I think we've interpreted it different ways. You make it sound like it's implicit. If, you know, if it wasn't permitted, it wouldn't be in harmony. We wouldn't put a use that's permitted if we didn't think it'd be in harmony with that zone. There's a little bit of conflicting language around this because it specifically says as the purpose, and you've got it here, provide inappropriate locations, a district for agriculture, industrial, commercial, and residential uses may exist in harmony based on plan development for mutual benefit and flexible location of uses. So to me, I read that as this development has to be in harmony with the surrounding uses. Commissioner Wilson pointed out that only if it was planned, a planned development. It was never planned that way. Read that again.

Commissioner Austin read it again stating that the purpose of the control district is to provide inappropriate locations, a district for agriculture, industrial, commercial, and residential uses may exist in harmony based on plan development for mutual benefit and flexible location of uses. Am I not understanding that correctly that it needs to be in

harmony with surrounding uses? Deputy County Attorney Nielson advised that's the question is how are you interpreting it? That is your task tonight to interpret that.

Commissioner Wilson mentioned that the three sides of it are all commercial. Commissioner Austin argued that maybe it's being taxed as commercial because there's revenue being generated but the use is very residential. The short-term rentals that were built right behind there and yet my argument, I'll just repeat it again, that there are people sleeping in those units. Commissioner Wilson pointed out that they are considered commercial. Commissioner Austin pointed out that there are people sleeping in the business park. It's a residential use.

Deputy County Attorney Nielson added that to help the discussion a little bit, let me ask you a question. If, let's just say a new gas station, a convenience store with pumps and you know, if that were to be proposed there, would it, would it be in harmony? Not, not a travel center. A Maverick. Commissioner Austin mentioned that I think it would be much more in harmony than a. Deputy County Attorney Nielson asked why is that more in harmony than the travel center? Is it just the size and the overall impact or is it the types of uses, because you were talking about the uses. I think in a maverick you'd have more or less the same uses just maybe not as the same volume. Commissioner Austin pointed out that it's not a travel center with how many bays? 75 potential bays. Deputy County Attorney Nielson asked so volume? That's what I'm, that's what I'm trying to help you flesh out here. It comes down to volume to a degree. Is that what you're saying or? Commissioner Austin agreed volume and the use is. Deputy County Attorney Nielson pointed out that what if two maverick stores decide to come in side by side? Would the second one you would say, no, this is too much Maverick store. Commissioner Austin mentioned that I would think that would be most people would say, yeah, we don't need two gas stations side by side. Deputy County Attorney Nielson asked but as a permitted use in the ordinance, would you have a legal basis to say, you know, why would you be able to say, see what I'm saying? If it's permitted use and Maverick decides, hey, we want, we want to build side by side, we just like it that way. Commissioner Austin mentioned that is why we are not operating anymore under the 2011 Ordinance. Deputy County Attorney Nielson pointed out that we're trying not to. It becomes this difficult question, you know, where's the line? Commissioner Austin reminded them that because this body chose to look at this truck stop under 2011, I feel like that is not relevant. Deputy County Attorney Nielson advised that it was required because of the timing of the application. Legally, you have to look at it under that ordinance because it was. Commissioner Austin argued but the proposal to have two gas stations next to each other is not what we're talking about. We're talking about a travel center. Deputy County Attorney Nielson mentioned that my goal is just to try to get in perspective.

Commissioner Wilson mentioned that it's deciphering your decision. Is it the volume or the use? And more or less you came down to is the volume that wasn't the use because a Maverick would be the same thing other than the showers. It'd be identical. What bothered you was the volume, not the use. Commissioner Austin asked how about the volume of the use? That type of volume of that particular use? Deputy County Attorney Nielson mentioned that if you feel that that makes it non-harmonious, then that's your finding. You know, if you're saying there's a line somewhere that becomes non-harmonious at some point, then wherever that is for you, that's your finding. And that's the discussion.

Commissioner Austin pointed out that it sure seems like we could find on both counts that it's not permitted and it's not in harmony. But is this a just pick one? Deputy County Attorney Nielson advised that I think it'd be good to answer both because then if there's a question as it goes back into the legal process, answering both would be good because if the court sees a problem with one answer or the other, it might be able to fall back on one or the other. Commissioner Rigg asked can I just point out something else? I agree with Commissioner Austin about the harmony when you read that, that they're all supposed to coexist. And Commissioner Austin, the 2011 Zoning Ordinance actually talks about all those things as well. So this ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of San Juan County, including among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing access to adequate light and air, and then it goes on and talks about land development. But you know, what we've heard so much about, and we all know that neighborhood, is that, you know, this will create fumes, it will create noise, it will create congestion, and it's not, it's 75, it's 75 truck bays and 78 car bays. So that's a, that's in their new one. So what is that? That's 153 parking spaces. Commissioner Walker asked where do we, I guess when you go down those lines, where do we draw our line? We talked about fire and health safety, like, well the health department regulates this safety, the emissions, that kind of stuff. Why would that fall under me? And us as a board, I guess.

Deputy County Attorney Nielson mentioned that's one of the reasons I mentioned in the beginning that, you know, it's for Love's to go through this process and do the development. Think of all the different steps it has to go through in the permitting stage and the approval stage with different departments and, you know, so forth. I'm not an expert on everything they have to show and so, you know, but these things are, you all can't be the EPA or the, you know. It's fine for you to consider whatever you feel you want to consider. If you wanted reports, it would be okay to ask those to get them and look through them and, you know, that's not a problem. But, you know, the scope of your task here is a little more narrow, but also, at some point you kind of have to say we

approve things based on the ordinance, what's approved, what's not approved, and other experts have to do their jobs down the road. You're just not involved in all of those steps. Commissioner Rigg points out that we do that when we approve a lot of things and we make it conditional. We throw those things in there, right? That it meets the fire codes and it meets with the conditions we put on it. Commissioner Wilson pointed out that they already have the conditions on this because they're a commercial business. They've got to meet the fire codes, they have to meet the health department, they have to, so we're not making a recommendation or a conditional use. We are answering three questions at this point. The task tonight is to simplify this. We're just answering one question, just, you know, one way or the other.

Commissioner Austin asked what perspective are you answering these questions? Commissioner Wilson replied as in which one? Commissioner Austin explained as in whether or not this is, its impacts with health, safety, and welfare of the community. Commissioner Wilson indicated that the way I look at it is the corner lot right there belongs to U-Haul. Next lot in has a house and a camper in front of it. They're running a commercial business with containers across the street from it. You have Zuniches, you have a storage facility owned by a member of the community. We're looking at two to three residents on that north end there. Everything else surrounding it is commercial projects and businesses. Everything else surrounding that. Is it harming 100%? Is it affecting anybody as in congestion? I mean, you could get any more congested than the next turn. They won't do anything about that camp park. I can promise you a project this size, UDOT is going to make them put in bigger turning lanes, so I'm guessing the congestion is not going to be there. I've actually seen the plans on it. They have an entrance; they have an exit. Commissioner Walker pointed out that this didn't come up when we were, it kind of came up, but like the congestion thing, I understand the struggle with it, but we also just approved U-Haul to go in where the business park is. The business park from one end, all the way to the nightly rentals, that were just put in on the other end, all accessed through the same more than congested area. This is going to not be as congested, so as far as that goes, that's the least of my concerns in this one. And while I appreciate the arguments of the health concerns and that kind of stuff, and I understand that I'm not an expert, so I don't fully understand the data, but I understand that it's there. The health department employee is a professional here, so if I was to vote against it simply based on health concerns or something like that, well, the health concerns for me, from my point of view, it's all speculation versus handing it over to people who regulate this and have the data and actually have laws and stuff that govern them. For me, I'm speculating that they're not going to be helpful, so I'm not going to vote for them. I don't think that's right. That's not fair. Commissioner Austin argued but you are also speculating that they do have that regulated without seeing their reports. Commissioner Walker indicated no, I'm trusting that the process down the line, the health

department will take care of that for me. I'm not speculating that it's healthy. I'm not speculating about that stuff. I'm trusting that the process will weed out all those concerns and make it as appropriate as anybody can.

Commissioner Wilson pointed out that on the exhaust things, Commission Chair Schafer, you can correct me on those. I mean, the majority of the trucks and semis running down the road nowadays all fall under the emission laws because otherwise they can't even cross the California border, and they can't truck. So they're all running the EPAF or exhaust fluids and things like that to reburn and to get rid of the emissions coming from diesel. I mean, that's clearer than the gas engine nowadays. There's more requirements on a diesel engine than there is on a gas engine anymore. Most of your commercial vehicles like that have inspections where your gas vehicles that you drive every day do not require an inspection anymore, or the diesel. Any commercial vehicle has to have the inspections yearly on the emissions. So, I mean, that's just the way I look at it.

Commissioner Austin added here's another perspective that I think is really important that we look at this from, and that is, what is our role as planning commissioners? We need to remember that we are not representing the developer, we are representing the residents of the county. And I think we all agree there is far more pushback on this development than there has been push for. I don't know when the last time we got an email of anybody saying, go Love's, say yes to Love's. Deputy County Attorney Nielson mentioned that I just want to correct, I think that statements not accurate. You know, the applicant is a landowner and has all the same rights as the other landowners involved. Your job is to represent everybody. Commissioner Austin commented Including the property developer, sure, but I can't look at one developer impacting the entire valley and not see that there is an imbalance of where. Deputy County Attorney Nielson explained I just wanted to say that you're working for everybody. Commissioner Austin pointed out that this is fine, I will acknowledge that we also have to represent the landowner who is Loves.

Commissioner Wilson brought up that at the same time, how about the other 200 people that we talk to every day, that are all for it? Commissioner Austin advised that they need to come to the table and put in public comment. Commissioner Wilson remarked why? There's a committee out there that will take all their everything they have to say and bring it back to us and speak for them. Commissioner Austin asked what do you mean? Commissioner Wilson mentioned that's the other committee that's going on in this County and that's for the people that don't want to show up. They can get all their response to this committee. The committee can come in and give their information. I don't agree with that. As a representative of a lot of people in Spanish Valley, I talk to these people. That's who I'm representing. And you are representing the group of people that you talk to.

Commissioner Austin mentioned that you need to share that ex-parte communication with us so we can see this push back or push forward. You know what I'm saying? Commissioner Wilson mentioned you are going to make your decision on behalf of who you represent. Commissioner Austin mentioned that I am making my decision based on every public comment that we've gotten, all of us, mutually have received. If you're receiving comments that are against this truck stop. Commissioner Nielson mentioned we're not here to judge public comment. We're here to interpret the land rights and uses. I mean as much as I love the neighbor and her comments and she hates it, that's not what I'm listening to. That's not what we're supposed to be listening to. We're supposed to look and say, is it an automobile service station? That's the question. Do they have that right? Commissioner Austin answered yes. They are asking for something very reasonable, which prove to us that this is going to be safe. Show us the data, show, have less.

Deputy County Attorney Nielson pointed out that tonight the question is more focused. I mean, if it's a permitted use, that's what we're asking you to decide. If it's not, then it's not, you know. And then if it's one way or another, then you've got them in harmony with the surrounding area. And that's all you're doing tonight. Commissioner Austin pointed out that a lot of this other stuff, I think, is important to remember. Deputy County Attorney Nielson mentioned that if you want to tie it to all these issues to your analysis of is it a permitted use or not, is it in harmony, I guess that's fine. I'm trying to keep us from getting too far out in the weeds.

Commissioner Austin mentioned that I think this is very relevant because we have the option to choose to say this is not a permitted use and it needs mitigation. And that would be the ultimate compromise to the public who has pushed back so much on this. I just want to finish why my reasoning is like this. Because this is not going to be the last controversial development that's proposed in San Juan County. We need to show that we are listening to the residents. But if we choose to ignore, when the next one comes up, we're going to have even, I mean, I just feel like the distrust is already at such a weak point. By considering the option that it is not a permitted use and go down the road where it is a conditional use allows us, allows the County to demonstrate its role as listening to and being responsive to the people. And in a, based on something that's very reasonable that they're asking is, we are, we have concerns. We need to address their concerns. And we have not done that. By saying black and white, the ordinance says this or that, it's not addressing their concerns. I'm proposing as a diplomatic move, as Planning Commissioners, we look at an option to choose to go the not permitted and that it is a, now I would formally make that motion. Deputy County Attorney Nielson injected that I just want you to know that as far as the legal department goes, even though the report may not appear to do so, we considered everybody's rights and views and I don't, I really, I honestly did. I really did. I'm not just saying that. Commissioner Austin said Okay,

Commission Chair Schafer indicated that we have a Motion. Commissioner Rigg seconded it. Commissioner Austin indicated that I just want to make sure I Motion with my findings properly.

Commissioner Austing Motions that the Loves application is not a permitted use in the 2011 San Juan County Ordinance based upon the following finding: That a travel stop is a distinct land use with significantly different impacts. Anybody want to add to my motion? Commissioner Rigg indicated that she will. And it is, and it is not in harmony with the surrounding area. Commissioner Austin added that it is not in harmony with the surrounding area because of the surrounding uses being residential, being mixed use. Mixed use with a large number of residential uses.

Commissioner Rigg seconded the Motion.

Commission Chair Schafer mentioned he has a motion and a second that Loves is not a permitted use in the Controlled District Highway Commercial Zone in the 2011 Ordinance. That it's not in harmony because of the surrounding existing mixed residential use. Okay, any further discussion?

Commissioner Garcia mentioned that he does. I've got a request I guess to Commissioner Austin and Rigg. Do you guys think that we would be better served separating those two motions back out? So just have one distinct motion on number two, whether it is a permitted use or not, or conditional use, and then a separate motion on step three, whether it's in harmony. Commissioner Rigg asked what's your thinking Commissioner Garcia about why to separate? Commissioner Garcia added, honestly, Commissioner Rigg, because I like one of them, and I don't like the other one, to be to be quite frank. I think the Deputy County Attorney has presented them as two separate issues. We took the first one on its own merits. I think it's fair that we take the second one on its merits and the third individually on its own, to be honest about it. However, it's your Motion. Yeah, I just want to throw that out there for my comment. Commissioner Austin indicated that she doesn't think that would hurt to make them separate.

Commissioner Austin withdraws the Motion and makes a new Motion. That Love's application is not a permitted use in the Commercial District Highway Zone under the 2011 San Juan County Ordinance. Based upon the following finding that the travel stop is a distinct land use and it is significantly different.

Commissioner Rigg seconded the Motion.

Commission Chair Schafer asked if there was any further discussion? Hearing none, all those in favor say yea.

Voting Yea: Commissioner Rigg, Commissioner Austin, Commissioner Garcia

Voting Nay: Commissioner Nielson, Commissioner Wilson, Commissioner Walker and Commission Chair Schafer

The Motion is denied failing 3-4.

Time Stamp 03:06:42 (audio)

A Motion is made by Commissioner Wilson. I Motion that the proposed use is a permitted use including all within 1 as for what the staff report says. Deputy County Attorney Nielson clarifies that it includes item 2. A. through A.i., A.ii. a through d.

Commissioner Walker seconded the Motion.

Commission Chair repeats the Motion that Love's has a permitted use in the Commercial District Highway zone based on the following findings and that's recommended in the staff report. Any further discussion? All those in favor say yea.

Voting Yea: Commissioner Nielson, Commissioner Wilson, Commissioner Walker and Commission Chair Schafer

Voting Nay: Commissioner Rigg, Commissioner Austin, Commissioner Garcia
Motion carries.

Time Stamp 03:08:04 (audio)

Commission Chair Schafer asks now is B, that's not 3, is it? Deputy County Attorney Nielson advised that we did 2.A. B is the second prong of 2. What you just approved as far as the staff report was 2.A and then including subsection i. a and b, subsection ii. a through d. The next section B is about the harmony with the neighborhood. I think it's good to answer this, like I said, just in case for whatever reason someone doesn't like the answer in number 1 but they do like your findings on 2 or the second part.

A Motion is made by Commissioner Austin. I'm going to reiterate my motion from earlier that the Love's Travel Stop is not in harmony or similar in nature to the listed permitted uses in the Commercial District Highway Zone because of the existing residential use surrounding the travel stop and that that concerns around the health, safety, and welfare of the community have not been addressed by this board or this County.

Commissioner Rigg seconded the Motion.

Commission Chair Schafer mentioned that I'm not going to try to follow all that was said for the motion but I'm going to just say that Love's is not in harmony with the intent of the neighborhood. Any other discussion?

Commissioner Garcia mentioned that he has a quick question on this and maybe now's not the right time to bring it up, but we did hear last month from the Love's representative that he did have some studies and data that was completed by them and it was brought up again today in public comment about those studies and data. I guess my question is on process. Have you guys seen that? Will we have an opportunity as a Planning Commission to see it or is that not for us to see or where does that come into play, if at all? Commission Chair Schafer mentioned he thought we need to see it. Deputy County Attorney Nielson mentioned that it is okay for you to ask for it. I have not seen it. We would just need to ask Love's to provide it. If the group feels like they don't have enough information to answer this part then you could make that finding and request this information. It's up to you.

Commission Chair Schafer asked if there was any further discussion? All those in favor of the motion that Love's is not in harmony say yea.

Voting Yea: Commissioner Rigg and Commissioner Austin

Voting Nay: Commissioner Garcia, Commissioner Nielson, Commissioner Wilson, Commissioner Walker and Commission Chair Schafer

The Motion is denied failing 2-5

Time Stamp 03:12:14 (audio)

A Motion is made by Commissioner Wilson. I make a motion that the Love's use is in harmony with the neighboring CDh Zone and the Zones within including all of B.ii.

Commissioner Walker seconded the Motion.

Commission Chair Schafer mentioned that he has a Motion and a Second that Love's use is in harmony with the intent of the neighborhood CDh zone and similar in nature to the list of permitted uses in the Controlled District Highway Commercial Zone. Any further discussion?

Commissioner Garcia asked if this would this be a good place to add on to Commissioner Wilson's motion here that we request that documentation from Love's to back up our assertion that it is harmonious with the Controlled District Highway Commercial ? Commissioner Wilson stated that he would not add it to my motion. Commissioner Austin mentioned that we lost that opportunity because we chose not to require

conditions like that in my opinion and other conditions that would have been reasonable to have. Commissioner Wilson reminded everyone that this is just a step where we're at right now. We were asked three questions, we answered these questions and before the process goes any further you'll get documentation.

Commission Chair Schafer asked all those in favor that Love's is in harmony with the intent. All those in favor say yae.

Voting Yea: Commissioner Garcia, Commissioner Nielson, Commissioner Wilson, Commissioner Walker and Commission Chair Schafer

Voting Nay: Commissioner Rigg and Commissioner Austin

Motion carries.

Commissioner Walker asked Commission Chair Schafer if he can I make a comment here? Commission Chair allows for the comment. Commissioner Walker continues I feel like we're all stuck in between a real rock and a hard place on this. There are two things that people bring public comment to us on and that's our new ordinance. They bring public comments because they feel like we're taking their freedoms and their rights away from their lands; then there's Love's and I feel that's the opposite. So as a board member, it's really hard for me to distinguish between the two as far as which one's right, because I can't fight Love's and then agree with everybody else; that their freedoms can't be touched. We can't infringe on their freedoms with this new ordinance but tell Love's that they can't do what they want to do. I guess that's more for the public, in hopes that you guys understand kind of where we are, and at least where I am, and where we sit as a board. It's really stuck. I feel if I were to vote one way on one, and one way on the other, I personally would feel a little hypocritical on this situation.

ADMINISTRATIVE ITEMS

5. Review and Discussion of updates to the Land Use Timeline and proposed changes to the Use Table. Kristen Bushnell, Planning Administrator.

Time Stamp 03:16:02 (audio)

Commission Chair Schafer recommended that this item be tabled.

Motion was made to table this item by Commissioner Rigg.

Commissioner Walker seconded the Motion.

Commission Chair Schafer asked all those in favor say yae.

Voting Yea: All in favor. Motion carries.

BUILDING PERMIT(S) REVIEW

6. August Building Permits

Time Stamp 03:20:56 (audio)

Corey Coleman had brought in report.

ADJOURNMENT

Motion to adjourn was made by Commissioner Rigg.

Seconded by Commissioner Wilson.

Voting Yea: All in favor. Motion carries.

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