



BOUNDARY COUNTY PLANNING AND ZONING

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STAFF REPORT

BOUNDARY COUNTY BOARD OF COUNTY COMMISSIONERS APPEAL HEARING

FILE #24-0076, MAVERICK, LLC

MODIFICATION OF CONDITIONAL USE PERMIT #05-07 - MANUFACTURING BUSINESS EXCEEDING 8,000 SQUARE FEET

All new information since the July 25, 2024, Hearing is in **RED** in this report

Prepared By:	Tess Vogel, Associate Contract Planner Ruen-Yeager & Associates, Inc.	
Project Description:	The appellants are requesting the review and denial of file #24-0076, pursuant to Boundary County land use ordinance, Section 13, Mediation and Appeals.	
Project Location:	168 Pot Hole Road	
Parcel Number:	RP61N01E291201A	
Legal Description:	Tax 29 in SEC 29 T61N R1E	
Zoning District:	Agriculture/Forestry	
Appellants:	Don Jordan & Kathleen Konek; Kelly Martin, Jeffery Steinborn & Jim Dewberry	
Applicants/Landowners:	Maverick, LLC	
Date Complete Application Received:	Jordan/Konek Appeal Martin/Steinborn/Dewberry Appeal Maverick, LLC (original application)	08/05/2024 08/20/2024 04/09/2024
Hearing Date:	P&Z Commission Original Scheduled Hearing: P&Z Commission Rescheduled Hearing: P&Z Continuation Hearing: BOCC Appeal Hearing:	05/23/2024 06/27/2024 07/25/2024 10/09/2024
Legal Notice Provided:	Newspaper (original hearing): Newspaper (rescheduled hearing): Newspaper (appeal): Site Posting (original hearing): Site Posting (appeal): Mailed (original hearing): Mailed (rescheduled hearing): Mailed (appeal):	05/02/2024 06/06/2024 09/16/2024 06/17/2024 10/01/2024 05/01/2024 06/05/2024 09/18/2024
Appeal Hearing Request	Don Jordan and Kathleen Konek submitted an appeal request on August 05, 2024. On August 14, 2024, the Board of County Commissioners accepted the Jordan/Konek appeal and called for a de novo public hearing. Kelly Martin, Jeffery Steinborn, and Jim Dewberry submitted their combined appeal request on August 20, 2024 which was to be included.	
Staff Report Attachments:	Appeal legal notice, original application/site plan, agency & public comments, appeal applications and attachments, BOCC appeal request determination letter dated Augst 14, 2024, June 27, 2024, and July 25, 2024 P&Z Commission minutes, P&Z Commission decision letter dated August 20, 2024	

ORIGINAL PROJECT SUMMARY

Maverick, LLC is requesting a modification of conditional use permit file #05-07 for a manufacturing business, Panhandle Door & Drawer, exceeding 8,000 square feet on a 17.2-acre parcel in the Agriculture/Forestry zone. An increase in the number of employees is being requested. The parcel is located at 168 Pot Hole Road and is identified as Assessor's Parcel RP61N01E291201A in Section 29, Township 61 North, Range 1 East, B.M. The site is currently served by the Cabinet Mountains Water District, individual septic system, and the Paradise Valley Fire District.

APPEAL SUMMARY

The Boundary County Board of County Commissioners will hear two appeals regarding the July 25, 2024, Planning and Zoning Commission approval of File #24-0076. The approval was granted for a modification to conditional use permit File #05-07 for a manufacturing business, Panhandle Door & Drawer, exceeding 8,000 square feet on a 17.2-acre parcel in the Agriculture/Forestry zone. The application included a request to increase the number of employees, trips per day, and hours of operation. The subject parcel is located at 168 Pot Hole Road and is identified as Assessor's Parcel RP61N01E291201A in Section 29, Township 61 North, Range 1 East, B.M. The appeals were filed by Don Jordan, Kathy Konek, Kelly Martin, Jeffery Steinborn, and Jim Dewberry, who advised that the decision of the Planning & Zoning Commission was arbitrary and capricious and caused undue adverse impacts to neighboring property owners.

The appeal process is set forth at Section 13 of Boundary County land use code. Section 13.2.5 establishes that the hearing is to be conducted using quasi-judicial procedures, meaning the hearing will be conducted like a court proceeding and will follow the due process procedures adopted by Boundary County Board of Commissioners. The hearing will be "de novo" with the applicant, appellants, and public allowed to submit new testimony in accord with the rules of public hearings adopted by the county.

HISTORY

- On March 11, 2024, a complaint regarding the increase in employees was submitted to the Boundary County Planning & Zoning Department.
- On March 11-12, 2024, Planning Staff conducted permitting research for the property and found one, conditional use permit, CUP #05-07 on file that noted the number of vehicle trips per day from employees would be 6-8 and hours of operation being 6:00am-2:30pm, Monday-Friday with no customer visits. Zoning Violation ZV0002-24 was opened.
- On March 13, 2024, a notice of possible violation letter was sent first class mail to the landowner.
- On March 18, 2024, Planning Staff spoke with the landowner regarding the notice letter and the conditional use permit modification process and standards.
- On March 25, 2024, a second complaint regarding the on-site operations was submitted to the Planning & Zoning Department, which was also provided to Panhandle Health District and the Idaho Department of Environmental Quality. Planning Staff contacted the landowner requesting an update on the conditional use permit modification application.
- On March 28, 2024, the landowner officially submitted their conditional use permit to the Planning & Zoning Department.
- On April 01, 2024, a third complaint regarding on-site operations was submitted to the Planning & Zoning Department.
- On April 09, 2024-May 02, 2024, the application was sent to agencies and landowners within 300' of the subject site and published regarding the May 23, 2024, Planning & Zoning Commission hearing.
- On May 07, 2024, the landowner requested to have the hearing moved to a later date due to a scheduling conflict that would not allow him to attend the May 23, 2024, hearing.
- On May 09, 2024, notice of a hearing rescheduling was sent to the affected agencies and landowners.
- On May 23, 2024, the Boundary County Planning & Zoning Commission unanimously voted to move the file's hearing to June 27, 2024.

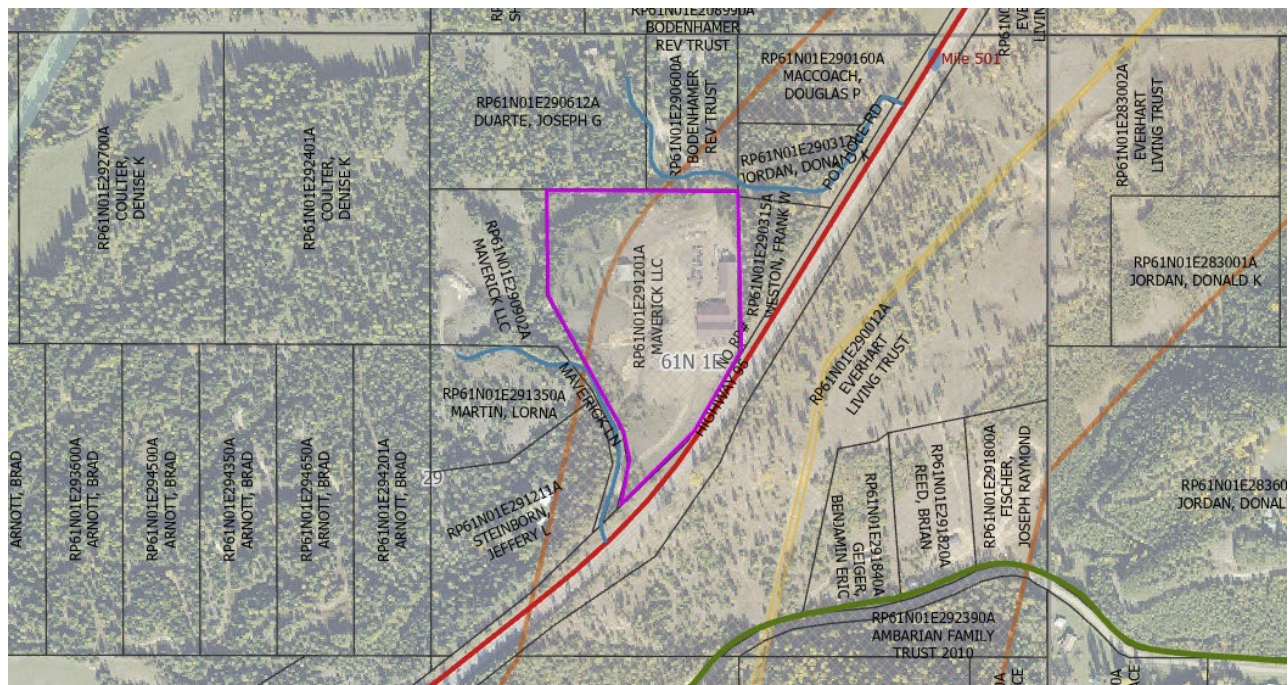
- On June 27, 2024, the Boundary County Planning & Zoning Commission voted to continue the file to the July 25, 2024, hearing to allow for more information to be provided on proposed fencing and specific locations of the fencing on the site plan, average vehicle trips, widening of Pot Hole Road, and access information from ITD.
- On July 25, 2024, the Boundary County Planning & Zoning Commission voted unanimously to approve the file with conditions.
- On August 05, 2024, Don Jordan & Kathleen Konek submitted their appeal request and on August 20, 2024, Kelly Martin, Jim Dewberry, and Jeffrey Steinborn submitted their appeal request.
- On August 14, 2024, the Board of County Commissioners accepted the appeal request from Don Jordan & Kathleen Konek while noting that the second group of appellants may also submit an appeal and the applicable fee to be included in the appeal hearing.

PERMITS

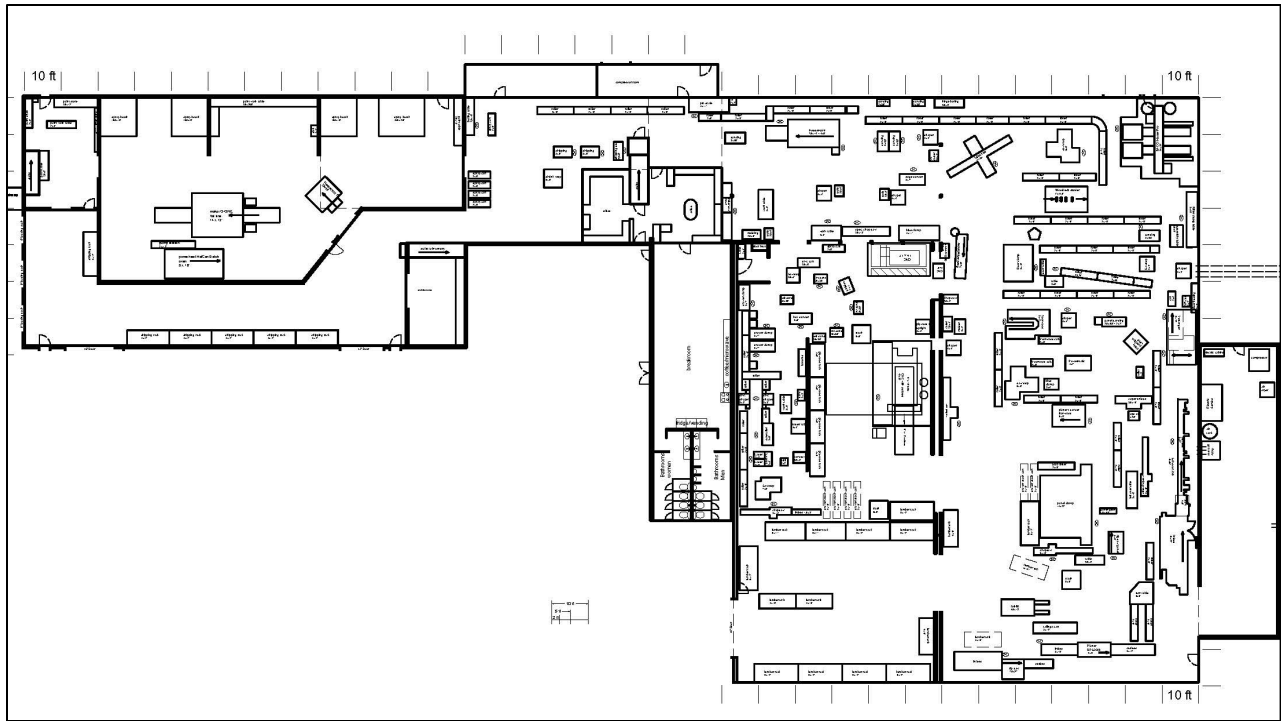
- Conditional use permit, CUP #05-07 was approved by the Boundary County Board of Commissioners on October 04, 2005, allowing 6-8 vehicle trips per day (employees) and Hours of operation being 6:00am-2:30pm, Monday-Friday. The primary building was expanded at the time of this conditional use permit, which was noted as not effecting the nature of the business nor altering the status of the 2005 conditional use permit.
- This conditional use permit, file #24-0076, requests modification of the original conditional use permit, CUP #05-07, as follows:
 - Increase the number of employees from 6-8 to 85; and
 - Increase the hours of operation from 6:00am-2:30pm, Monday-Friday to 6:00am-10:00pm, Monday-Friday.

AUTHORITY

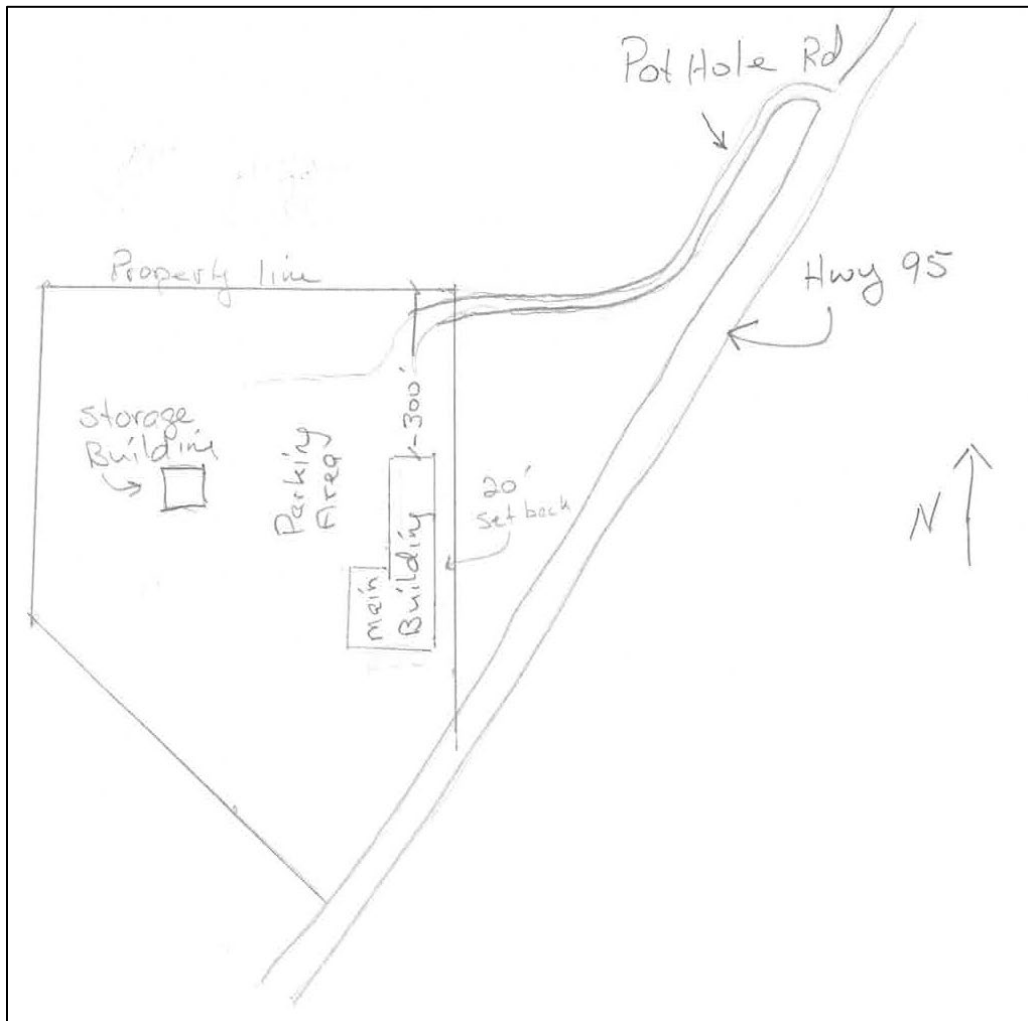
- Idaho Code §67-6512, Special Use Permits, Conditions, and Procedures
- Boundary County Land Use Ordinance, Section 2, Definitions
- Boundary County Land Use Ordinance, Section 7, Conditional Use Permits
- Boundary County Land Use Ordinance, Section 10, Standards for Specific Uses
- Boundary County Land Use Ordinance, Section 15.9., Agriculture/Forestry Zone
- Boundary County Land Use Ordinance, Section 13.2., Appeals



AERIAL OF SITE



FLOOR PLAN – PRIMARY BUILDING



SITE PLAN



Fence Site Plan

PROJECT SETTING	
Access	Pot Hole Road (public) from State Highway 95 (public)
Current use	Commercial/Industrial
Services, utilities	Septic, Cabinet Mountains Water District, Paradise Valley Fire District
Hazardous Areas	Special Flood Hazard Area Zone X, Panel 1602070730B, no floodplain/floodway
Zoning overlays or special areas	None
Site Zoning & Comp Plan designation	Ag/Forestry
Surrounding Zoning & Comp Plan designations	Ag/Forestry; Rural Residential
Surrounding uses	Residential; Timber; TC Energy Pipeline; State Highway 95;

AGENCY/STAFF COMMENTS

The following agencies were routed for comments on April 18, 2024, May 23, 2024, September 16 & 18, 2024: Boundary County Addressing (R&B), Ambulance, Assessor, Commissioners, Library, Road & Bridge, Boundary School #101, Cabinet Mountains Water District, Idaho Department of Environmental Quality, Idaho Transportation Department, Panhandle Health District, Paradise Valley Fire District, TC Energy (gas pipeline).

ORIGINAL AGENCY COMMENTS -

Boundary Co. Addressing: *No issues concerning addressing.*

Boundary Co. Assessor: *Application notes 25-foot side setback however the sketch shows 20 feet from the main building. The main building floor plan, along with the size and scale of the other structures on site are unclear.*

Planning Staff Note: The primary building was first constructed in 2000 prior to the 2005 conditional use permit for Panhandle Kitchen & Door (#05-07). In 2000, the property was zoned Ag/Forestry, but the required setbacks were 25 feet to the front yard (northern property line along Pot Hole Road), 10 feet for the side yard, and 25 feet for the rear yard instead of the now required 25 feet to all property lines and public roads. The 20-foot setback referred to is to the side property line, which was only required to be 10 feet setback in 2000 when the building was constructed per Boundary County Land Use Ordinance #99-06 (Instrument #192414).

Boundary Co. R&B: *Under ITD jurisdiction.*

Idaho Dept. of Environmental Quality: *DEQ recommends to the County that the following air quality topics be included in the CUP for Panhandle Door, Inc. Including these points in the CUP gives the County authority to regulate any related compliance issues without the intervention of DEQ. The County can still defer to DEQ for regulatory intervention at their discretion.*

Air Quality –

- *Fugitive Dust – All reasonable precautions shall be taken to prevent particulate matter (dust) from becoming airborne, as required in IDAPA 58.01.01.651.*
- *Open Burning – Open burning of trade waste is not an allowable form of open burning as defined by IDAPA 58.01.01.600. Trade waste includes any waste generated in the manufacturing process.*
- *Air Quality Permits – Panhandle Door, Inc. has an active air quality permit with DEQ. CUP language should include a requirement to follow all DEQ permitting requirements, including following their current permit and updating as needed.*

Panhandle Health District: *The commercial facility at 168 Pot Hole Road (RP61N01E291201A) does NOT currently have a valid permitted sewage disposal system. A new application (PHD #24-11-07596) has been made for a Commercial Facility with 85 employees with an expected wastewater flow rate of 2,125 gallons per day. A site evaluation has been completed and a suitable site has been evaluated. PHD is requiring a system proposal be submitted and approved before a permit is issued.*

Planning Staff Note: *A violation letter from PHD was provided as well regarding an unpermitted septic system. A copy of the letter is included with the staff report packet.*

TC Energy: *Plans approved by TC Energy. No issues.*

NEW AGENCY COMMENTS –

Boundary Co. Addressing, dated 09/16/2024: *As the Addressing Coordinator, there are no issues.*

Boundary Co. Assessor, dated 09/27/2024: *It is unclear which approach/easement is being used for each use. Neither the CUP nor the survey recorded for line adjustment #23-0026 show existing structure locations or setbacks. The line adjustment survey appears to show the Maverick Lane easement but not the one on Pot Hole Road. Is there a sketch which shows the location of all existing structures along with a differentiation of industrial and residential use? There appears to be only one E911 address assigned to this parcel – does a residential address also need to be assigned?*

Planning Staff Note: *The submitted site plan for #24-0076 shows the access as Pot Hole Road coming from Highway 95. In a document submitted by appellant Kelly Martin, a preliminary record of survey shows the setback distances from the existing main building to the eastern property line showing the structure is 19.85 feet at the closest point to the property line. A concrete pad is 3.55 feet from the same property line. The referenced parcel line adjustment, file #23-0026, showed the adjustment of three (3) parcels and ITD noted in their comments a parcel is using Pot Hole Road for access. Any addressing decisions are to be made by the Boundary County Addressing Coordinator.*

Boundary County R&B, dated 09/30/2024: *Only other information is that Road & Bridge has received calls/complaints about people cutting through and using the private road Maverick Lane for access and egress to the applicant's parcel. All other access is under ITD jurisdiction.*

Idaho Transportation Dept., dated 09/26/2024: *While Maverick Lane at the south end of the subject property is permitted for multi-family residential access, Pot Hole Road does not hold any type of permit for access to US 95 and the parcel does not have a legal right to access US 95 commercially. Until such time as the property owner applies for and receives a permit for commercial access, the Idaho Transportation Department does not favor the proposed modification to conditional use permit File #05-07.*

Due to tight turning radius required for ingress and egress to Pot Hole Road from US 95, this location is not safe to provide access for commercial truck traffic to US 95. I have discussed this with Mr. Mast and while the financial responsibility for necessary improvements to US 95 belongs fully with the property owner, ITD will do what it can to assist in arriving at a reasonable but most importantly safe solution at a new location.

PUBLIC COMMENTS

Landowners within 300' of the subject property were notified of the proposal on June 05, 2024, and September 18, 2024, and notice was provided in the Bonners Ferry Herald on June 06, 2024, and September 19, 2024. Three written public comments were submitted to the record up to the **completion of the original staff report**. Those public comments are summarized below with the full comments included in the staff report packet. **A summary of the public testimony from the June 27, 2024, and July 25, 2024, Planning & Zoning Commission hearings is included in this staff report. New public comments received up to the completion of this staff report are summarized. Any public comments submitted to the record after the completion of this staff report will be included in the hearing presentation.**

ORIGINAL PUBLIC COMMENTS -

Kathy Konek (opposed): Ms. Konek voiced concerns over the now commercial access use on the private easement off Pot Hole Road and the impact of non-residential uses, fire risks, traffic congestion, septic and well permitting and operation, noise from operations, negative interactions between landowners in the vicinity and employees, a sign being erected on the road easement, and not wanting a forested residential area to be turned into an industrial area.

Don Jordan (opposed): Mr. Jordan states he originally voiced his approval of the original conditional use permit in 2005 but now voices his concerns over the expansion of the business operations. Concerns include an increase in traffic, excessive noise, impact on Pot Hole Road, using a residential easement for commercial traffic, highway congestion at Pot Hole Road access, and water issues.

B.C. Brinley (opposed): The renter at 51 Pot Hole Road voiced their concerns over the potential for loss of jobs if the conditional use permit is denied but also noted their concerns over the proposal and feels the originally permit, #05-07, is permitted only. Concerns raised included zoning is attempting to be changed to allow a factory in a residential area, complaints against the property have been submitted, impacts on Pot Hole Road, another request for employee increases will most likely be necessary as the business grows, the business has outgrown the site, access issues, and traffic hazards from the highway at the approach for Pot Hole Road.

PUBLIC TESTIMONY FROM PLANNING & ZONING COMMISSION HEARINGS –

June 27, 2024: Jen Krezman, Nick Potts, Lester Martin, David Byler, and Kyle Brismond spoke in favor of the proposal. They spoke about the employment provided and its quality, the tax revenue generated, and Boundary County's need for jobs. Mike Glaizer, David Dewberry, Emma Dominguez, Don Jordan, Kelli Martin, and Kathy Konek spoke in opposition. Their concerns were for possible detrimental impacts to health and safety as well as concerns the applicant wouldn't comply with the permit.

July 25, 2024: Don Jordan, Brian Brinley, David Dewberry, Jeff Steinborn, Kelli Martin, and Emma Dominguez spoke in opposition to the proposal. Their concerns were regarding a blind spot on Maverick Lane, claims of misrepresented details in a conversation with the applicant, topographical challenges to widening Pot Hole Road, impacts on neighboring properties, and the Applicant's buildings being too high for a fence to mitigate neighbors' views. Mr. Steinborn submitted Exhibit A, a photo of the berm on Maverick Lane, Ms. Martin submitted Exhibit B, a photo of side dumpster trucks using Pot Hole Road, and Ms. Dominguez submitted Exhibit C, a photo of a truck blocking a driveway entrance.

NEW PUBLIC COMMENTS –

Debra Dreger: *As a resident that lives in the valley below, I am concerned on what they are dumping on the ground will affect my water supply.*

Brian Brinley: Mr. Brinley submitted a public comment that included his concerns regarding traffic increases and late hour traffic trips to and from the business, road impact and safety concerns from large truck traffic, liability of Pot Hole Road being used, violation of the original conditional use permit, and safety concerns regarding comments from the Paradise Valley Fire Chief.

STANDARDS ANALYSIS & EVIDENCE OF APPLICABLE CODES & COMPREHENSIVE PLAN

Idaho Code §67-6512, Special Use Permits, Conditions, & Procedures:

A special use permit/conditional use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, to provide services for the proposed use and when it is not in conflict with the plan.

Staff: The Boundary County code allows for conditional use permits in **Section 7** of the County land use ordinance, which states, “where a specific or general use is allowed for consideration as a conditional use with a zone district, a conditional use permit shall be approved and issued prior to the onset of development or establishment of that use. A conditional use application will encompass all development proposed on a single parcel or lot, and upon issuance, the application, as modified by standards, terms or conditions imposed by the conditional use permit, will become the controlling plan for that parcel or lot, and will not be changed or expanded without application for a new development permit.”

A CUP is required for a manufacturing business exceeding 8,000 square feet in the Ag/Forestry zone (**15.6.6.** and **15.9.5.2.**).

Boundary County Land Use Ordinance, 9B18LOV2, Sections 7.7.1 – 7.7.9:

(1) Whether the application, site plan and additional documentation provided by the applicant sufficiently demonstrate the full scope of the use proposed.

Staff: The CUP application sufficiently demonstrates the scope of the proposal with the CUP showing a complete site plan and floor plans that are to be used in all future placement permit applications. **At the request of the Boundary County Planning & Zoning Commission at the June 27, 2024, public hearing, additional information on proposed fencing and specific locations of the fencing on the site plan, average vehicle trips, widening of Pot Hole Road, and access information from the Idaho Transportation Department was provided by the applicant.**

(2) Whether the proposed use conforms to all applicable standards established by this ordinance.

Staff: The existing use of the site for Panhandle Door, Inc. is for the manufacturing of cabinet doors and drawers was originally permitted through conditional use permit #05-07 which established the following restrictions;

1. Use to be conducted in a 5,200 square foot building;
2. Use to be located on a 5-acre portion of a 20-acre parcel identified as RP61N01E290900A;
3. Hours of operation restricted to 6:00am-2:30pm;
4. An average of 6-8 vehicles per day; and
5. Product delivery via private vehicle and trailer.

The applicants are now requesting a modification of file #05-07 to increase the number of permitted employees to 85 people, an increase in vehicle trips per day to 80, and to increase the hours of operation to Monday-Friday from 6:00am to 10:00pm. The applicants are also requesting to include the sign that has since been erected.

The original building was permitted to be 5,200 square feet in size and size 2005 the building has been increased to approximately 31,000 square feet, however, when the increase specifically occurred is not documented in Boundary County records. A commercial placement permit would have been required for the expansion in size of the existing building and is still a requirement of the County code (**Section 6.5.**). All setback requirements for the zoning district requirements at the time of the original conditional use permit, #05-07, have been met per the original and new site plans.

A conditional use permit for the expansion of the use of file #05-07 has been applied for (#24-0076) but no commercial placement permits for the sign, nor the building expansion have been submitted.

The noted sign has been removed from its location at the entrance of Pot Hole Road.

(3) Whether there is sufficient land area to accommodate the use proposed, and whether development is so timed and arranged so as to minimize adverse effects on surrounding properties and uses.

Applicant: *Since we purchased the company, we have upgraded the buildings, added an employee breakroom, enlarged the parking area and upgraded the private road that accesses the property. The access to the property is via Pot Hole Road, which is a private drive. Panhandle Door has been providing all of the road maintenance and snow removal.*

Staff: The site is 17.2 acres after going through a parcel line adjustment (issued April 12, 2023) in the Ag/Forestry zone, which has a 10-acre minimum density and required setbacks of 25 feet to all public roads and property lines. A 25-foot setback has been adhered to by the primary structure except for along the eastern property line, where the building was permitted to be no closer than 20 feet per the Boundary County Land Use Ordinance #99-06 (Instrument #192414) when the permitted side property line setback was 10 feet. The commercial/industrial uses on site also have specific standards relating to hazardous materials, dust, noise, lighting, parking, and signs (**10.1., 10.2. and 10.3.**) that are required to be adhered to including the following:

Access: *Access is via Pot Hole Road, a private easement that originates off Highway 95 with no permitted access from Highway 95. Currently, per the Idaho Transportation Department (ITD), Pot Hole Road is not a commercially permitted access for the site and neither is Maverick Lane. ITD states a commercial approach needs to be applied for.*

Section 10.1. Standards for commercial, Light Industrial and Industrial Uses

10.1.1. Hazardous Materials: *Any commercial or industrial activity involving the use or storage of hazardous materials, including but not limited to flammable, explosive, corrosive, poisonous or radioactive materials will provide for the safe storage and handling of these materials in compliance with current state and federal regulations so as not to threaten public safety. Such materials will be stored or kept for disposal in areas secure from public trespass.*

Any hazardous materials have to comply with **Section 10.1.1.** but the application does not specifically address this item. Proposed condition 11 addresses this requirement.

10.1.2. Dust: *Excessive dust from commercial or industrial activities, parking areas and access ways will be controlled by landscaping, paving, application of dust suppression materials or by installation of filters, as appropriate.*

Per the application, dust collectors are used and an additional collector is proposed to abate most dust and noise pollution. Proposed condition 11 addresses this requirement.

10.1.3. Noise: *Regularly occurring noise from commercial or industrial activities will be muffled, contained or otherwise controlled to reduce volume at the nearest property line similar to the sound of a residential lawnmower.*

Per the application, an additional dust collector, reduced nighttime working hours and shift swings are proposed to reducing noise on site. The applicant states that the current noise level is less than a residential lawn mower. Proposed condition 11 addresses this requirement.

10.1.4. Lighting: All permanently installed exterior lighting will be designed and placed so as not to produce glare onto adjoining properties or roadways.

Per the application, there are two (2), exterior security lights on site. These lights must adhere to **Section 10.1.4.** Proposed condition 11 addresses this requirement.

Section 10.2. Off-Street Parking

10.2.4. Commercial and Industrial Uses

10.2.4.3. & 10.2.4.4. *Warehouse, manufacturing and other industrial businesses will provide at minimum one (1) parking space per 1,000 square feet of interior floor space.*

The primary building is listed as 31,000 square feet so a minimum of 31 parking spaces would be required, however, the total number of employees, 85 people, is greater. A minimum of 85 parking spaces are required to accommodate the highest number of employees on site at any one time, including shift changes. The property includes 17.2 acres of land which provides ample parking areas to meet the minimum requirement.

Section 10.3. Signs

10.3.3.3. One (1) freestanding on-premise sign not to exceed 300 square feet of surface area or 18 feet in height above ground surface will be allowed in any zone district as depicted in an approved development permit application for a conditional use permit. Such signs may be two sided and illuminated front and back, and may be moving, flashing or blinking provided they do not produce glare to traffic or onto adjacent properties.

Original Comment: Per the application, a banner sign is proposed. An existing freestanding sign is located at the approach location of Pot Hole Road and Highway 95 but is not shown on the site plan. The plans for the freestanding sign and location on the site plan are required along with information regarding the proposed banner sign for the commercial placement permits required.

Updated Comment: Per the applicant and visual confirmation from Planning Staff, the freestanding sign at the intersection of Highway 95 and Pot Hole Road has been removed.

(4) How the impacts of the use proposed compare with the impacts of existing uses within the zone.

Applicant: Other than the sound of the exterior dust collector running and the traffic using the private road, I don't believe that we have created an impact that is any different than the surrounding zone.

Staff: The proposed use is commercial and industrial while the surrounding uses are residential.

- **Site:** 17.2-acre parcel; Ag/Forestry zone; Commercial and industrial uses.
- **North:** Range of 3.96-acre to 20-acre+ sized parcels; Ag/Forestry zone; Residential and forestry uses along with vacant land.
- **South:** Range of 5-acre to 40-acre+ parcels; Ag/Forestry and Rural Residential zones; State Highway 95, residential and forestry uses along with vacant land.
- **East:** Range of 2.8-acre to 40-acre+ parcels; Ag/Forestry and Rural Residential zones; State Highway 95, residential and forestry uses along with vacant land.
- **West:** Range of 7-acre to 20-acre+ sized parcels; Ag/Forestry zone; Residential and forestry uses along with vacant land.

(5) Whether concerns raised by other departments, agencies or by the providers of public services, including but not limited to road & bridge, water, electricity, fire protection, sewer or septic, can be adequately addressed.

Applicant: Since we are currently operating under a conditional use permit, I believe we have already addressed the concerns listed in narrative question #3.

- a. Water is supplied by Cabinet Mountains Water District.
- b. Sewer is handled with a septic system; we are currently working with Panhandle Health District to upgrade our septic to handle the increase in employees.
- c. Northern Lights, Inc. has upgraded our electrical service.
- d. The local fire district has toured our facilities and made recommendations on fire safety.
- e. Idaho DEQ has inspected and approved our air quality standards.

Staff: Of the routed agencies who responded for comment, only the Boundary County Assessor and Panhandle Health District voiced concerns. The Assessor noted a concern with setbacks not being met, which Planning Staff addressed, and Panhandle Health District provided a copy of the violation letter for the property regarding an unpermitted septic system. Updated agency comments from Boundary County Addressing, Assessor, and Road & Bridge along with the Idaho Transportation Department were submitted to the record regarding addressing, setbacks, and access for the site. See NEW AGENCY COMMENTS for agency responses in full. No other agencies provided an updated comment at the time of this staff report.

(6) The potential benefit to the community offered by the use proposed.

Applicant: Panhandle Door is one of the largest employers in Boundary County. We are proud of the fact that we support local families by providing jobs and being involved in our community. Since 2018 our growth as a company has created more than 40 new jobs.

Staff: The existing use and proposed modification provides employment opportunities and services for local community members.

(7) Whether specific concerns aired through the public hearing process have validity and whether those concerns can be adequately addressed.

Applicant: *The only concerns over the last 6 years that we are aware of have been regarding people driving too fast on Pot Hole Road, some trash that has blown over to the neighbor's property and noise from running the dust collector at night. We have done the following to remedy those concerns:*

- a. We posted signage on Pot Hole Road to remind people to slow down and we also make a point to talk about this issue and our concern to respect the neighbors at our weekly employee meetings.*
- b. We do whatever we can to mitigate trash anywhere on our premises. We have trash dumpsters on site for all the trash from daily operations. I believe any trash that may blow onto the neighbor's property probably came from our parking lot. If it continues to be a problem, we could install fencing along the property line to contain it.*
- c. We are working to reduce the amount of nighttime noise by installing an additional dust collector and by reducing the hours our swing shift works. The county code (10.1.3.) specifies that the noise level is to be muffled and to be similar to the sound produced by a residential lawn mower at our property line. While I believe our noise level is less than that allowed by code, we are trying to do what we can to be a good neighbor.*

Staff (original): Pending public hearing testimony.

Staff (updated): At the June 27, 2024, and July 25, 2024, Planning & Zoning Commission hearings the Commission heard comments and concerns from the public. See the PUBLIC COMMENTS section above and the attached minutes from those meetings.

(8) Whether the use proposed would constitute a public nuisance, impose undue adverse impact to established surrounding land uses or infringe on the property rights of surrounding property owners, and whether terms or conditions could be imposed adequate to mitigate those effects.

Applicant: *I do not believe we are creating any adverse conditions on the surrounding land uses. The fact that we are and have been operating at this location since 2005 is proof of this.*

Staff (original): The proposed use is located off Pot Hole Road, a private road off Highway 95. The development meets the zoning setback requirements and grandfathered setbacks from original file #05-07. No routed agencies voiced concerns other than the Boundary County Assessor (clarification provided by Planning Staff) and Panhandle Health District who are working with the landowner to abate the septic system violation on site. Three public comments were submitted to the record at the time of the completion of this staff report voicing concerns regarding noise, traffic, impact on Pot Hole Road, dust, and overall operations of the business.

Staff (updated): Currently the site is accessed by Pot Hole Road (private) with the ability to use Maverick Lane (private) for emergency access, however, ITD provided their comments stating that Pot Hole Road has not been commercially permitted and the site does not have "a legal right to access US 95 commercially." ITD also states that "due to the tight turning radius required for ingress and egress to Pot Hole Road from US 95, this location is not safe to provide access for commercial truck traffic to US 95." The Boundary County Assessor provided an updated comment noting the location and setbacks of the other structures on site. No other routed Agencies provided updated comments.

(9) Whether the use proposed would unfairly burden Boundary County taxpayers with costs not offset by the potential benefits of the proposed use.

Applicant: *We have not placed an unfair burden on local taxpayers or the community. On the contrary I believe we are an asset to this community. Both through job creation and as a way to bring additional revenue to our community.*

Staff: The proposed use, as described, does not show a potential to pose an unfair burden on Boundary County taxpayers.

Boundary County Land Use Ordinance, 9B18LOV2, Section 7.8.:

In considering approval of an application to establish a conditional use, the planning and zoning commission may consider the imposition of terms and conditions as a means of eliminating or mitigating potential adverse effects or to provide for public safety which include, but are not limited to:

7.8.1. Control the sequence and timing of development.

7.8.2. Establish or limit hours or days of operation.

- 7.8.3. Establish limits on the timing and/or duration of potentially disruptive activities.
- 7.8.4. Require the installation of public services or utilities as recommended by providers necessary to accommodate the use proposed.
- 7.8.5. Establish specific locations and/or standards for structures, parking areas, access lanes, etc., to reduce adverse impact on traffic or traffic patterns.
- 7.8.6. Establish standards for landscaping, fencing, lighting or other measures so as to maintain the aesthetics or character of the area in which the use is proposed or to contain noise, dust, light or other potential nuisances from encroaching onto adjoining properties.
- 7.8.7. Require specific security measures, such as fencing, secure storage areas, fire prevention measures, etc., that are appropriate to the use and necessary for public safety.
- 7.8.8. Require proof of compliance with other county regulations.

Staff: Draft conditions of approval are listed in the staff report.

Boundary County Land Use Ordinance, 9B18LOV2, Section 13.2.6.:

Decision: Upon conclusion of an appeal hearing, the Board shall, within thirty (30) days, render a written decision, providing a reasoned analysis of the facts and findings used to reach the decision. The Board may, but is not limited to:

- 13.2.6.1. UPHOLD THE APPEAL, OVERTURNING THE INITIAL DECISION THAT PROMPTED THE ACTION
- 13.2.6.2. DENY THE APPEAL, UPHOLDING THE INITIAL DECISION
- 13.6.2.3. MODIFY THE DECISION SO AS TO MITIGATE THE GRIEVANCE

DECISION BY THE BOARD OF COUNTY COMMISSIONERS – CONDITIONAL USE PERMIT

Motion to Uphold Appeal	I move to uphold the appeal request and overturn the approval of the conditional use permit for the modification of CUP #05-07 for a manufacturing business exceeding 8,000 square feet, File #24-0076, finding that the conditional use permit proposal IS NOT in accord with the standards of Idaho Code and Section 7 of the Boundary County Zoning & Subdivision Ordinance, based upon the findings and conclusions as written [<i>or amended – list amendments</i>]. [<i>state which findings/conclusions do not meet the standards</i>]. This action does not result in a taking of private property.
Motion to Table	I move to table or continue the hearing to [<i>insert date, time and place not to exceed thirty (30) days</i>] to allow further consideration of the proposed application [<i>state specifically what is to be reviewed</i>] or to allow review and approval of written findings and decision.
Motion to Deny Appeal	I move to deny the appeal request and uphold the approval of the conditional use permit for the modification of CUP #05-07 for a manufacturing business exceeding 8,000 square feet, File #24-0076, finding that the conditional use permit proposal IS in accord with the standards of Idaho Code and Section 7 of the Boundary County Zoning & Subdivision Ordinance, based upon the findings, conclusions and conditions as written. This action does not result in a taking of private property.
Motion to Modify	I move to modify the approval of the conditional use permit for the modification of CUP #05-07 for a manufacturing business exceeding 8,000 square feet, File #24-0076, finding that the conditional use permit proposal IS in accord with the standards of Idaho Code and Section 7 of the Boundary County Zoning & Subdivision Ordinance, based upon the findings, conclusions and conditions as amended to mitigate the grievances [<i>list grievances and amendments</i>]. This action does not result in a taking of private property.

DRAFT FINDINGS & CONCLUSIONS FOR DISCUSSION/ADOPTION

1. The applicant is requesting a conditional use permit for a modification of conditional use permit file #05-07 for a manufacturing business, Panhandle Door & Drawer, exceeding 8,000 square feet.
2. The proposed modifications from conditional use permit #05-07, that currently exist, include:
 - a. Expansion of the existing primary building in size.
 - b. A sign at the approach of Pot Hole Road and Highway 95 and a banner sign on site to be shown on the site plan.
 - c. Increasing the hours of operation from 6:00am-2:30pm Monday-Friday to 6:00am-10:00pm Monday-Friday.
 - d. Increase number of employees from 6-8 to 85 people.

- e. Increase vehicle trips per day from 6-8 to 80 trips.
3. The primary building's setbacks conform with current Ag/Forestry zone requirements and the 10-foot setback for the side yard, permitted at the time of file #05-07 per Boundary County Land Use Ordinance #99-06 (Instrument #192414).
4. The subject parcel has a comprehensive plan land use and zoning designation of Ag/Forestry.
5. High-Occupancy and Land-Intensive uses require a conditional use permit in the Ag/Forestry zone (**15.9.5.2.**).
6. Manufacturing, warehousing and distribution buildings greater than 8,000 square feet is considered to be a Land-Intensive Use (**15.6.6.**).
7. Commercial uses are defined as, *"A use, activity, structure or group of structures on a single parcel or lot intended primarily to provide a location to attract clients or customers for the conduct of wholesale or retail trade or the provision of services. This definition incorporates the manufacture and/or storage of products or goods which is subordinate to the offering of services or goods"* (**2.8.**).
8. Industrial uses are defined as, *"A use, structure or group of structures on a single parcel or lot intended primarily for the manufacture, assembly, production, warehousing and/or storage of a product or component, or the production, refinement, processing and/or packaging of a natural resource or raw material"* (**2.29.**).
9. Primary structure is defined as, *"An addressable structure establishing and defining the highest use of a lot or parcel, such as agricultural, residential, commercial or industrial. There can be more than one primary structure on a parcel or lot, and each may be supported by accessory structures, though each must be established by issuance of the appropriate county permit"* (**2.63.3.**).
10. An active zoning violation, file ZV0002-24, was opened due to the unpermitted expansion of the use under conditional use permit #05-07. The approval of this conditional use permit, file #24-0076, and the issuance of the required commercial placement permits for the sign(s) and building expansion, would abate and close out violation ZV0002-24.
11. The expected number of employees is 85, per the application.
12. No customers are proposed to visit the site, according to the application.
13. Hours of operation are proposed to be increased from 6:00am-2:30pm Monday-Friday to 6:00am-10:00pm Monday-Friday.
14. 80 vehicle trips per day are anticipated.
15. There are two (2) exterior security lights.
16. The site is served by the Cabinet Mountains Water District, septic system, and the Paradise Valley Fire District.
17. The site is accessed off Pot Hole Road, a private easement that encroaches from Highway 95.
18. The site is not within any area of city impact, Airport Overlay Area, mapped wetlands, or special flood hazard areas.
19. **The Boundary County Planning & Zoning Commission held a public hearing on June 27, 2024, and continued the file to the July 25, 2024, public hearing to allow for additional information on proposed fencing and specific locations of the fencing on the site plan, average vehicle trips, widening of Pot Hole Road, and access information from the Idaho Transportation Department.**
20. **The Boundary County Planning & Zoning Commission voted unanimously to approve the file at the July 25, 2024, public hearing.**
21. **Two appeal requests from Jim Dewberry, Jeff Steinborn, & Kelly Martin and Don Jordan & Kathleen Konek were received on August 05, 2024, and August 16, 2024.**
22. **A notice of appeal request determination from the Boundary County Board of Commissioners was provided to the appellants and original applicant on August 14, 2024, accepting the appeal request.**
23. **The appeal public hearing, to be held de novo, was scheduled for October 09, 2024, with the Boundary County Board of Commissioners.**

DRAFT CONDITIONS OF APPROVAL FOR DISCUSSION/ADOPTION

1. The conditional use permit will run with the land to which it is attached, and continue in effect for the life of the use established (**Section 7.3.**).

2. The approved conditional use permit will be deemed to lapse if work to establish the use has not begun within two (2) years of the date of approval, or when a use established by the conditional use permit is discontinued for a period of two (2) consecutive years. The owner of a property subject to a conditional use permit may request termination of the conditional use permit at any time by notifying the administrator in writing (**Section 7.4.**).
3. Prior to the issuance of this conditional use permit, the applicants shall reimburse Boundary County for first class mailings and advertisements required for public notification.
4. Any change in the use or increase in the use and/or impact shall require approval of a modification of the conditional use permit.
5. The use shall provide and maintain a minimum of 85 parking spaces, to provide sufficient area to accommodate the highest number of employees on shift at any one time, to include shift change.
6. The following modifications of conditional use permit #05-07 shall apply:
 - a. Expansion of the existing primary building to the current square footage of 31,000 square feet.
 - b. A sign, that meets the standards of **Section 10.3.**, at the approach of Pot Hole Road and Highway 95.
 - c. Hours of operation from increased from 6:00am-2:30pm Monday-Friday to 6:00am-10:00pm Monday-Friday.
 - d. Number of employees increased from 6-8 to 85 people.
 - e. Vehicle trips per day increased from 6-8 to 80 trips.
7. All other conditions of conditional use permit #05-07, other than those modified in conditions #6a-e, shall still apply to the use on site.
8. Any signs, beyond those approved through conditional use permit #24-0076, are prohibited per **Section 10.3.**
9. A commercial placement permit shall be required for the sign at the intersection of Pot Hole Road and Highway 95.
10. A commercial placement permit shall be required for the expansion of the primary building on site.
11. All standards of 10.1., 10.2. and 10.3. shall be adhered to for the life of the uses.
 - a. 10.1. Standards for Commercial, Light Industrial and Industrial Uses
 - b. 10.2. Off-Street Parking
 - c. 10.3. Signs
12. The following conditions regarding air quality shall be met for the life of the use:
 - a. Boundary County shall defer to the Idaho Department of Environmental Quality for regulatory intervention.
 - b. Fugitive Dust – All reasonable precautions shall be taken to prevent particulate matter (dust) from becoming airborne, as required in IDAPA 58.01.01.651.
 - c. Open Burning – Open burning of trade waste is not an allowable form of open burning as defined by IDAPA 58.01.01.600. Trade waste includes any waste generated in the manufacturing process.
 - d. Air Quality Permits – Panhandle Door, Inc. has an active air quality permit with DEQ. The landowner, applicant, or agents of the landowner or applicant shall follow all DEQ permitting requirements, including following their current permit and updating the permit as needed.
13. **No placement permit or this conditional use permit shall be issued prior to approval from the Idaho Transportation Department regarding the subject site obtaining legal access to Highway 95.**