



### A REQUEST FOR A CONDITIONAL USE PERMIT

**BY:** Aaron Powers (Corner Fox LLC)

**FOR:** Construction/General Contractor Use

**WHERE:** Corner of Hwy 33 & 5000 S

Planning & Zoning Commission

**PREPARED FOR:** Public Hearing of August 16, 2016

**APPLICANT & LANDOWNER:** Aaron Powers (Corner Fox LLC)

**APPLICABLE COUNTY & STATE CODES:** Conditional Use Permit pursuant to Title 8, Chapter 6, of the Teton County Zoning Ordinance, (amended 9/9/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030). Idaho State Statutes 67-6512.

**REQUEST:** Corner Fox LLC, represented by Aaron Powers, is requesting a Conditional Use Permit for a “Construction/General Contractor” use on two properties (approximately 15 acres) owned by Corner Fox LLC. The property is located north of Victor at 376 W. 5000 S, at the corner of Highway 33. The applicant is requesting to use this property for his business, Powers Excavating Inc., which includes the following uses: topsoil screening, parking trucks and equipment, landscape rock and other gravel products, and using the shop to perform repairs and maintenance on equipment, as well as a small office space. This parcel is zoned A-2.5.

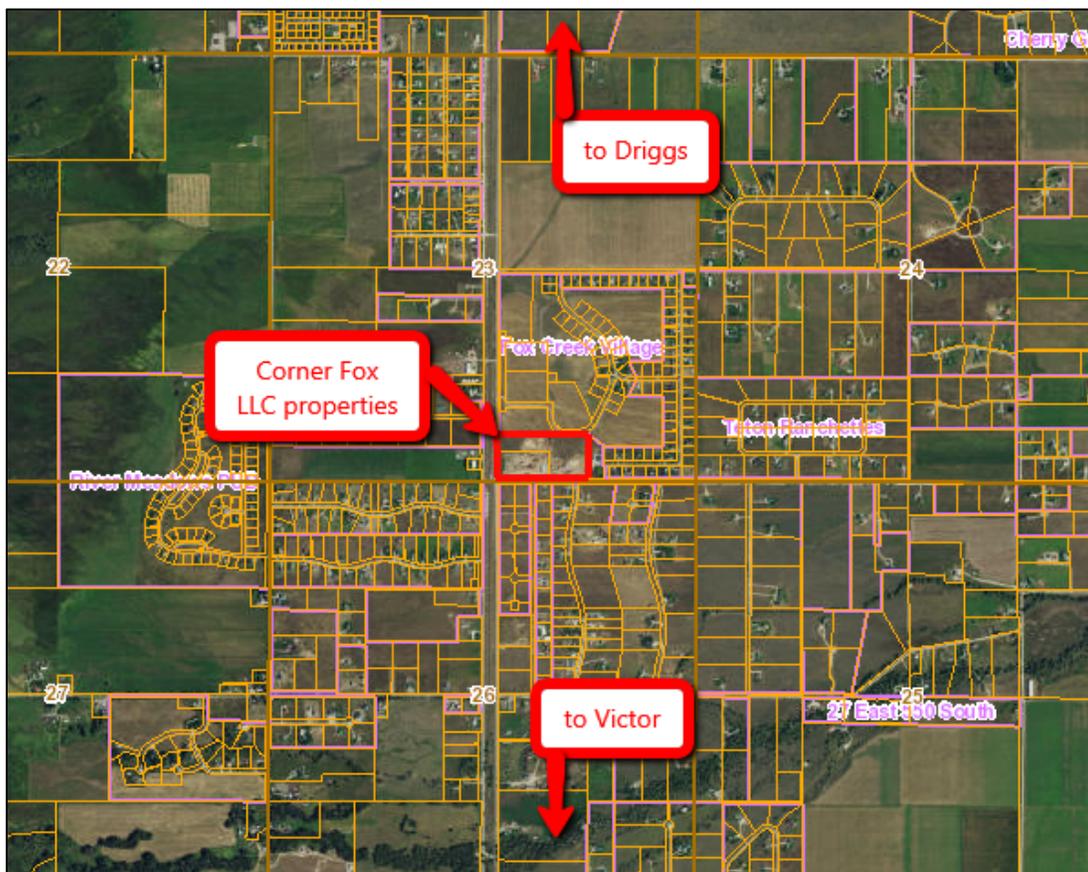
**LEGAL DESCRIPTION:** RP04N45E238400; TAX #1105 SEC 23 T4N R45E & RP04N45E238000; TAX #1106 SEC 23 T4N R45E

**LOCATION:** 376 W 5000 S (Victor)

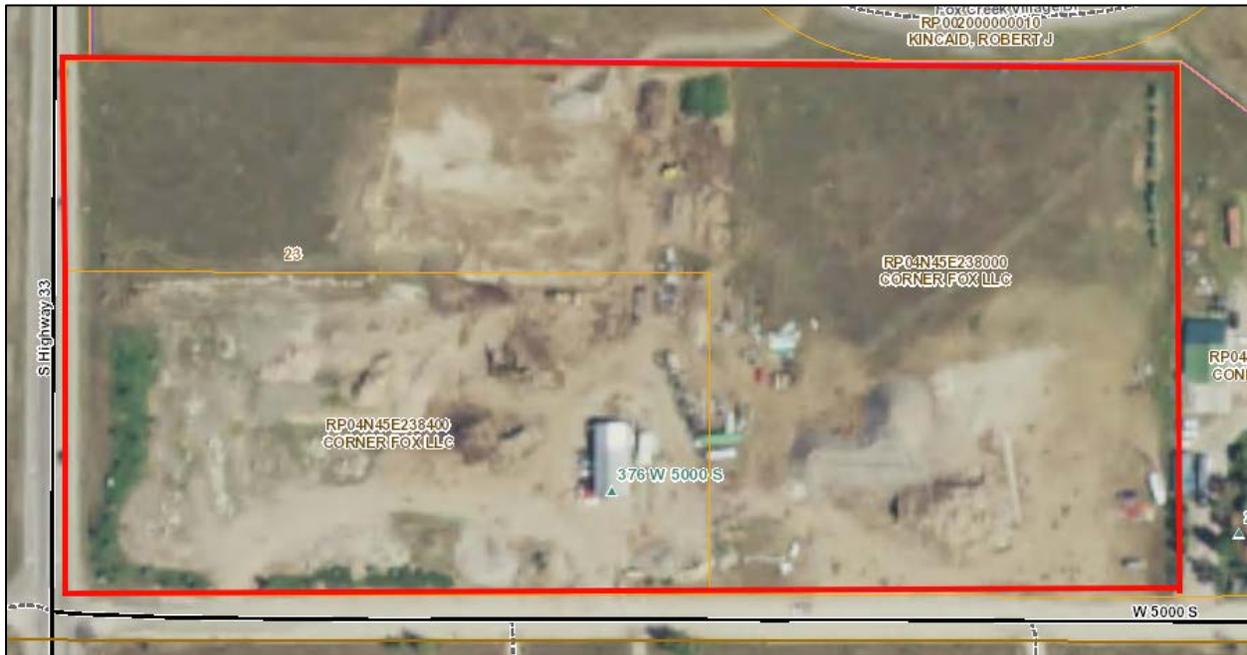
**ZONING DISTRICT:** A-2.5; located in the Scenic Corridor

**PROPERTY SIZE:** 5 ac. & 9.25 ac. (14.25 acres total)

**VICINITY MAP:**



## AERIAL IMAGE OF PROPERTY



### PROJECT BACKGROUND

Aaron Powers, representing Corner Fox LLC, submitted an application for a Conditional Use Permit on July 5, 2016 (Attachments 1-6). A Development Review Committee (DRC) Meeting was held on July 12, 2016 with Teton County Planning, Public Works, Prosecuting Attorney, Fire District, and Eastern Idaho Public Health to discuss the application materials. The applicant was invited to this meeting but did not attend.

This application is for two adjacent properties, both owned by Corner Fox LLC. Both properties are zoned A-2.5 and partially located in the Scenic Corridor. Both properties are currently being used by the owner for the proposed use without permit approval. One of the properties (the 5-acre piece) does have a grandfathered use to store limestone and equipment. However, this use and the location of the use have changed and expanded. Teton County has received several complaints about this property in the last two years, and the applicant was notified several times that he was out of compliance. One option to come into compliance was to obtain a Conditional Use Permit for the properties, which is the cause for this application. Any development that occurs in the Scenic Corridor will require a Scenic Corridor Design Review.

### PROJECT DESCRIPTION:

Aaron Powers is proposing to use two of his properties for a Construction/General Contractor use located at the corner of Highway 33 and 5000 South.

The Teton County Code, Title 8 defines Construction/General Contractor as:

**CONSTRUCTION/GENERAL CONTRACTOR:** A person who earns an income from any of the activities commonly referred to as construction and shall include clearing and grubbing, excavation, foundation work, framing, finish carpentry, hardwood flooring, sheetrock, painting, cabinets, plumbing, heating, wiring, roofing, siding, interior construction or remodeling, insulating, exterior construction repair, concrete, tile, log work, stone/brick work, landscaping, installing pools/hot tubs, demolition, road

building, paving, and utility installation, plus maintenance of the above. A contractor's residence may include an on-site storage area; however, a contractor's outdoor storage area shall not include inoperable vehicles, junk, or any equipment not related to the contractor's business. (amd 2013-09-09)

The applicant is requesting to use this property for his business, Powers Excavating Inc. (PEI) for the following uses:

- park their fleet of trucks and equipment on site when not in use
- haul topsoil to the property to be screened and resold wholesale
- hauling landscape rock and other gravel products
- utilize the existing shop for repairs and maintenance to service PEI and RAD Curbside vehicles
- hours of operation: Monday through Saturday 7am – 6pm
  - topsoil screening between 7:30am-5pm
  - company vehicles may return to the property outside of these hours

**DRC MEETING - KEY ISSUES:**

On July 12, 2016, we had a DRC meeting with Eastern Idaho Public Health (Mike Dronen), Teton County Fire District (Earle Giles), Teton County Public Works Director (Darryl Johnson), Teton County Prosecuting Attorney (Kathy Spitzer), and Teton County Planning Administrator (Kristin Rader). The applicant was invited but did not attend. From this meeting, the following key issues were identified (see Attachment # for more details).

- Roads
  - Visibility for drivers
  - Debris (mud & dirt) transferred to 5000 S and Hwy 33
  - Dust control on site
- Fire Protection
  - The Fire District must do an annual inspection on this property because it is a business.
  - The Fire District will also need to inspect the fuel storage and electrical to ensure compliance with the Fire Code.
  - No residential uses may be on site.
- Sewer/Septic
  - The proposed building on the site plan would need to obtain a new septic permit.
    - Mike Dronen has verified that the existing septic system is large enough to accommodate the existing facility and can continue to be used.
  - The use of the existing building for maintenance and mechanical work on equipment would require some form of disposal system. This cannot go into the existing septic system.
  - *I requested information from IDEQ about the rules they have for disposal systems for this type of potential waste. I spoke to Christy Swenson, and she said without knowing exactly what is taking place in the building to identify all of the potential wastes, she suggests that you contact an environmental consultant to properly establish what management systems may need to be put in place. She also stated that if there has been an impact to the soil or ground water, you are obligated to report that to IDEQ and are responsible for any remedial action required.*
- General Concerns

In general, following items were identified as possible concerns:

  - Safety of drivers on Highway 33 and 5000 S.

- This is a concern because of decreased visibility (dust, landscaping locations, height of stockpiles), increased truck traffic, and debris on the roads.
- A portion of this property is in the scenic corridor, so any development planned in the scenic corridor would have to get design review approval.
- The impact to neighbors (noise, dust, etc.)

### **OTHER AGENCY COMMENTS**

**IDEQ:** Christy Swenson recommended contacting Ben Jarvis about pollution prevention for this proposed use. He addresses pollution prevention with IDEQ. He commented the following:

Based on the applicant's intended use, I would limit my comments to voluntary pollution prevention measures concerning vehicle maintenance. To be clear, these are voluntary suggestions only, and may not be feasible for the type of maintenance needs incurred by their operation.

- Store and operate equipment so as to achieve manufacturer recommended maintenance intervals.
- Follow manufacturers recommended maintenance schedule to ensure proper vehicle function. Properly running equipment can reduce vehicle emissions.
- Limit idling of motor vehicle equipment when not in use.
- Identify hazardous materials utilized for maintenance purposes such as solvents or degreasers and evaluate Safety Data Sheet for human health and environmental hazards.
  - Compare active ingredients in these materials to chemicals added to EPA's Safer Choice List <https://www.epa.gov/saferchoice/safer-ingredients#useclassList> or contact DEQ's P2 program for information on potential safer replacement chemicals.
  - Consider replacing any products with active ingredients absent from the Safer Choice List with products utilizing only ingredients added to the Safer Choice List
- If utilizing aerosol products for brake cleaning, evaluate the potential for the use of non-chlorinated, low VOC products utilizing only active ingredients on EPA's safer choice list. Consider whether or not maintenance needs, procedures, and workplace safety would support the replacement of chlorinated solvent cleaners with less toxic, but flammable, acetone based cleaners.
- Recycle any spent aerosol cans for brake cleaning if possible.
- Recycle spent automotive fluids if possible.
- Identify and correct any automotive fluid leaks.
- In general identify opportunities for source reduction by reducing the need for inputs that generate waste.

These suggestions are focused on prevention. From a prevention standpoint, you can't eliminate the need to change motor oil, and in fact proper maintenance is the most important way to keep equipment functioning properly and to improve longevity, so really the best suggestion is that they see if it is possible to recycle it if they aren't already. When things like automotive fluids do become wastes however, that is when rules for storage and disposal so as to prevent release go into effect.

**US EPA:** I spoke to Cyndi Grafe about the possible impacts of this proposed use. She responded with: We were also pleased that the floor drains will be closed off as we've seen issues with floor drains and maintenance facilities. If the project >1 acre, then we do have a Construction General Permit pertaining to stormwater. Lastly, I'm not familiar with the

fuel storage and waste disposal requirements, but I think you're on the right track in contacting IDEQ about this. I'm not clear on the size of the facility, but I would think there would be requirement for SPCC.

I believe SPCC that Cyndi is referring to stands for the US EPA's Spill Prevention, Control, and Countermeasure rules.

**SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE:** Idaho Code, Title 67; Section 67-6512, and Title 8, Section 8-6-1 of the Teton County Zoning Ordinance. The public hearing for the Planning & Zoning Commission was duly noticed in the Teton Valley News. A notification was sent via mail to surrounding property owners within a 300-foot buffer area, including all property owners in subdivisions within the 300-foot buffer area. Political Subdivisions providing services in the area were also noticed, and a notice was also posted on the property providing information about the public hearing.

**COMMENTS FROM NOTIFIED PROPERTY OWNERS & PUBLIC AT LARGE**

Staff has received several written comment letters from the public at the time of this report. See Attachment 10.

**SECTION 8-6-1-B-7 CRITERIA FOR APPROVAL OF A CONDITIONAL USE**

The following findings of fact shall be made if the Conditional Use is being recommended for approval. If the application is being recommended for denial, the Commission should likewise specify the reasons for denial based on the items listed below.

**1. Location is compatible to other uses in the general neighborhood.**

- This property is predominantly surrounded by residentially zoned properties and residential uses.
- Three properties to the north are allowed some industrial uses as part of the approval for Fox Creek Village PUD. However, the only uses permitted on these parcels are storage units, covered rental units, light industrial units, and warehouse. All of these uses require a Conditional Use Permit. See Fox Creek Village PUD Final Plat (Inst. #124033)
- A property to the west (Grand Teton Log Homes) is zoned C-3 to allow a lumber mill. However, this property does have a development agreement with Teton County recorded that states if this use ends, it will revert back to A/RR-2.5 zoning.
- Two lots to the south (Alpine Acres), and two lots to the west (Peakview Estates) were platted as "commercial" lots in 1993. However, these are platted subdivisions, not planned unit developments. There is no record that these lots went through a rezoning process that complied with Teton County Code or LLUPA, so these are not considered commercially zoned properties.
- The applicant's narrative references a trailer park to the south and a dump truck business to the east. These are not permitted uses in that neighborhood.
- The proposed use is dissimilar in use to the adjacent properties. Screening should be required in compliance with Title 8, Chapter 12 – screening is required for this use in the A-20 zone through the Permitted with Conditions process. In my opinion, the proposed use is dissimilar in character to the neighboring residential uses, so High Impact Screening should be required. The property to the north is one of the industrial lots of Fox Creek Village PUD; however, because specific uses are called out for that property, mentioned above, I feel it is still dissimilar in character for High Impact Screening versus usually dissimilar in character for Medium Impact Screening.

- Below are the screening definitions from Title 8, Chapter 12:
  - *High Impact Screening (H): A 100% opaque screen between land uses that are dissimilar in character. A high impact screen shall have both of the following installed:*
    - *A six-foot-high wall or fence;*
    - *Low impact screening shall be planted on the exterior side of the wall or fence.*
  - *Medium Impact Screening (M): A 70% semi-opaque screen between land uses that are usually dissimilar in character. Semi-opaque screening should partially block views from adjacent land uses. A medium impact screen shall be a minimum of either a landscape screen or a fence, meeting one of the following options:*

Screen A

Shade Trees	1/500sf
Ornamental Trees	1/750sf
Evergreen Trees	1/300sf
Shrubs	1/200sf

Screen B

Shade Trees	1/1000sf
Ornamental Trees	1/500sf
Evergreen Trees	1/300sf
Shrubs	1/200sf

Screen C

Shade Trees	1/750sf
Ornamental Trees	1/750sf
Evergreen Trees	1/250sf
Shrubs	1/200sf

- *Low Impact Screening (L): An open screen between relatively similar land uses. Open screening shall provide an attractive separation and must portray one of the following screening options:*

Screen A

Shade Trees	1/500sf
Ornamental Trees	1/750sf
Evergreen Trees	1/500sf
Shrubs	1/500sf

Screen B

Shade Trees	1/1000sf
Ornamental Trees	1/500sf
Evergreen Trees	1/500sf
Shrubs	1/500sf

Screen C

Shade Trees	1/750sf
Ornamental Trees	1/750sf
Evergreen Trees	1/750sf
Shrubs	1/200sf

**2. Use will not place undue burden on existing public services and facilities in the vicinity.**

- This use has the potential to impact County Road 5000 S. The applicant has stated he uses the Fox Creek Quarry (located in Teton County, WY) to obtain some materials, which can only be accessed from 5000 S. This would mean he would need to drive his trucks back and forth down 5000 S to get materials from the quarry to his site, in addition to transporting materials to work sites.
- After consulting with the Teton County, ID Public Works Director and Road & Bridge Supervisor, they feel 5000 S could handle this traffic as long as weight limits are followed. The Idaho Transportation Department has truck weight limits identified based on vehicle type (i.e. number of axels) and road type. This is what the Road & Bridge Supervisor would recommend.

**3. Site is large enough to accommodate the proposed use and other features of this ordinance.**

- Based on the proposed site plan (Attachment 5), the site appears large enough to accommodate the proposed activities associated with this use.
- Noise and dust are a concern for neighboring properties, and it is unclear how exactly the applicant will address these concerns. Without knowing this, it is unclear if the site is large enough to accommodate this. The applicant should provide a plan to address noise and dust abatement.
- Screening should be required, as mentioned above. Title 8, Chapter 12 requires that all required screening be located in a landscape easement, recorded with the Teton County Recorder's Office. If High Impact Screening is required, this would require a 6' tall fence and plants. The visibility for drivers on Highway 33 and 5000 S may not be blocked. It is unclear if the visibility would be affected with the proposed landscaping plan, not including a 6' tall fence. The applicant should provide a site plan analysis to determine where the screening should be located to prevent blocking visibility for drivers. After this is determined, there should be a better understanding of how much space is available on the site for the proposed use.

**4. Proposed use is in compliance with and supports the goals, policies and objectives of the Comprehensive Plan.**

This area is identified as Rural Neighborhood on the Framework Map. This area is identified as an area with some commercial and light industrial development. The desired future character and land uses identified for this area include open spaces, residential development, safe street and pathway connection. And amenity based neighborhoods. Additional commercial and industrial uses are not identified as a future character.

Many of the goals and policies identified in the Comprehensive Plan are not applicable to this application (i.e. improving educational facilities, adding recreational opportunities, etc.). In general, this application is in compliance with the following Goals, Policies, and Objectives of the Comprehensive Plan:

*Goal ED 1: Develop a coordinated and collaborative economic development strategy that encourages, promotes and supports locally-owned businesses and creates a hospitable and attractive environment for businesses and tourists*

*1.3 Encourage and support local commerce*

*Goal CEF 4: Adequately fund existing and future public services and facilities.*

*4.5 New development shall be approved only when adequate public facilities and services are available, or when necessary improvements will be made as part of the development project.*

This application is in conflict with or partially in conflict with the following Goals, Policies, and Objectives of the Comprehensive Plan:

*Goal ED 4: Accommodate additional population by supporting development that is economically responsible to the County and the community.*

*4.5 Limit commercial retail business to Driggs, Victor and Teton.*

The applicant is not requesting retail, so this is not a direct conflict, but the proposal is a commercial business.

*Goal T 1: Provide well-maintained transportation infrastructure including roads, paved pathways and sidewalks.*

*1.1 Improve the conditions and safety for vehicles, bicycles and pedestrians of existing transportation infrastructure, especially roads important for agriculture.*

It is still unclear how this use will be mitigated to reduce safety concerns (i.e. road visibility, debris on road, and dust). This could be addressed with conditions of approval requiring the applicant to mitigate these concerns.

*Goal CEF 1: Provide high-quality public and private services and facilities in a coordinated manner for the health, safety, and enjoyment of the community.*

*1.1 Encourage locating new facilities in existing population centers to maximize efficiency and convenience and minimize costs*

This use is not in one of the cities or in one of the Area of Impacts. However, it is part of an existing use with an existing facility.

*Goal NROR 1: Conserve our public lands, trail systems and natural resources (air, water, wildlife, fisheries, wetlands, dark skies, viewsheds, soundscape, soils, open space and native vegetation).*

This property is not located in any mapped wildlife habitat areas or other sensitive areas (floodplain, wetlands, steep slopes, etc.). There are concerns about the environmental impact this use may have in terms of waste removal, soil or water pollution, the scenic corridor view impact, and noise levels. These could be addressed by the applicant.

*Goal ARH 1: Preserve and enhance Teton Valley's small town feel, rural heritage and distinctive identity.*

*1.4 Maintain the County's rural heritage through the scenic corridors*

Throughout the comprehensive plan, rural heritage is identified as agricultural uses and the "small town feel". This proposed use does not provide either of those.

### **8-6-1-B-8: Additional Conditions**

Upon granting of conditional use permit, conditions may be attached including, but not limited to:

- Controlling the duration of development;
- Assuring that development is maintained properly;
- Designating the exact location and nature of development;
- Requiring the provision for on-site public facilities or services;
- Requiring more restrictive standards than those generally required in this title;
- Minimizing adverse impact on other development;
- Controlling the sequence and timing of development;
- Designating of the number of non-family employees in the home occupation or home business based on the type of business and the location.

### **POSSIBLE CONDITIONS OF APPROVAL**

1. Comply with all state and federal regulations and obtain any applicable permits.
2. High Impact Screening in accordance with Teton County Title 8, Chapter 12 will be required along property boundaries to screen the view of the use from roads and neighboring properties. This includes recording landscape easements where the screening is located.
3. Provide a landscaping plan, to be approved by Teton County, outlining the type of landscaping used for screening and a management plan to ensure plants survive.
4. Provide a site analysis, to be approved by Teton County, identifying appropriate locations for screening and activities associated with this use to prevent the visibility of drivers on Highway 33 and 5000 S being blocked.
5. Provide a dust abatement plan, to be approved by Teton County, to limit adverse impacts on neighboring properties.
6. Provide a noise abatement plan, to be approved by Teton County, to limit adverse impacts on neighboring properties.
  - a. *Could limit noise to a certain decibel level. Other uses (blacksmith, cabinet shop, vehicle body shop) limit noise to 60 decibel levels at the property lines.*
7. Provide clean outs at each access point to reduce debris being transferred to county roads and Highway 33.
8. Parking must be provided in accordance with Teton County Title 8.
9. No residential uses, permanent or temporary, will be allowed on this property while this Conditional Use Permit is in effect.
10. Any development in the Scenic Corridor must obtain Scenic Corridor Design Review approval.
11. The hours of operation will be limited to Monday – Saturday, #### am - #### pm.
  - a. *Hours of operation should be specified. Other uses (blacksmith, vehicle body shop) limit hours from 7am – 6pm and 7am-7pm*
12. Vehicles and equipment associated with this use must adhere to the weight limits identified by Idaho Transportation Department to reduce impacts to local roads.
13. If any of these conditions are violated, Teton County will notify the property owner, who will have 30 days to come into compliance.
14. If any of these conditions are violated more than two times, this approval will be voided and the use shall cease.

*Additional conditions may be applicable.*

### **POSSIBLE PLANNING & ZONING COMMISSION ACTIONS | Conditional Use Permit**

- A. Recommend approval of the CUP, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Recommend approval of the CUP with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. Recommend denial of the CUP application request and provide the reasons and justifications for the denial.
- D. Continue to a future PZC Public Hearing with reasons given as to the continuation or need for additional information.

## **POSSIBLE MOTIONS**

The following motions could provide a reasoned statement if a Commissioner wanted to recommend approval or denial of the application:

### **APPROVAL**

*Having concluded that the Criteria for Approval of a Conditional Use Permit found in Title 8-6-1 can be satisfied with the inclusion of the following conditions of approval:*

1. ...
- *and having found that the considerations for granting the Conditional Use Permit can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,*
- *and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,*
- *I move to RECOMMEND APPROVAL to the Teton County Board of County Commissioners for the Conditional Use Permit for Corner Fox LLC as described in the application materials submitted on July 5, 2016 and as supplemented with additional applicant information attached to this staff report.*

### **DENIAL**

*Having concluded that the Criteria for Approval of a Conditional Use Permit found in Title 8-6-1 have not been satisfied, I move to RECOMMEND DENIAL to the Teton County Board of County Commissioners for the Conditional Use Permit for Corner Fox LLC as described in the application materials submitted on July 5, 2016 and as supplemented with additional applicant information attached to this staff report. The following could be done to obtain approval:*

1. ...

Prepared by Kristin Rader on 8-8-2016

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### **ATTACHMENTS:**

- |   |  |
|---|--|
| 1. Application (3 pages)                | 6. Visual Mitigation Examples (1 page)       |
| 2. Warranty Deed (1 page)               | 7. DRC Notes (2 pages)                       |
| 3. Certificate of Organization (1 page) | 8. Adjacent Landowner Notification (2 pages) |
| 4. Narrative (2 pages)                  | 9. Code Violation Letter (2 pages)           |
| 5. Site Plan (1 page)                   | 10. Public Comment letters (20 pages)        |

**End of Staff Report**



**RECEIVED**

BY: K. Pader  
DATE: 7-5-2016

## CONDITIONAL USE PERMIT APPLICATION

### Teton County, Idaho

The planning staff is available to discuss this application and answer questions. Once a complete application is received, it will be reviewed by the planning administrator or his designee and then scheduled for a public hearing with the Planning and Zoning Commission, who will make a recommendation to the Board of County Commissioners. A second public hearing will be scheduled with the Board of County Commissioners who will make the final decision. It is recommended that the applicant review Title 8 of the Teton County Code and 67-6512 of the Idaho Code. Application materials may be viewed on the Teton County Idaho website at [www.tetoncountyidaho.gov](http://www.tetoncountyidaho.gov).

*To expedite the review of your application, please be sure to address each of the following items.*

#### SECTION I: PERSONAL AND PROPERTY RELATED DATA

Owner: Cornier Fox LLC

Applicant: Cornier Fox LLC E-mail: acrow@powersofexcavating.com

Phone: (208) 709.5377 Mailing Address: PO box 669

City: Victor State: ID Zip Code: 83455

Engineering Firm: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

Location and Zoning District: \_\_\_\_\_

Address: 376 W 5000 S Parcel Number: RP04N45E238400

Section: 23 Township: 4 North Range: 45EBM Total Acreage: 14.25

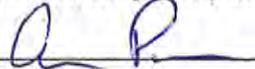
Zoning District: Ag 2.5 Requested Land Use: Construction/General Contractor

I, the undersigned, have reviewed the attached information and found it to be correct. I also understand that the items listed below are required for my application to be considered complete and for it to be scheduled on the agenda for the Board of County Commissioners public hearing.

• Applicant Signature: [Signature] Date: 5-12-2016

*Fees are non-refundable.*

I, the undersigned, am the owner of the referenced property and do hereby give my permission to Arson Powers to be my agent and represent me in the matters of this application. I have read the attached information regarding the application and property and find it to be correct.

• Owner Signature:  Date: 5-12-2016

### SECTION I: REQUIRED ITEMS

1. Latest Recorded Deed to the Property
2. Affidavit of Legal Interest
3. Application fee paid in full in accordance with current fee schedule
4. Twelve (12) copies of information and data (pictures, diagrams, etc.) necessary to assure the fullest presentation of the facts for evaluation of the request.
5. Twelve (12) copies of a site plan drawn to scale.
6. Narrative explaining the following:
  - Location is compatible to other uses in the general neighborhood.
  - Use will not place undue burden on existing public services and facilities in the vicinity.
  - Site is large enough to accommodate that proposed use and other features of this ordinance.
  - Proposed use is in compliance with and supports the goals, policies, and objectives of the Comprehensive Plan

### SECTION III: CRITERIA FOR RECOMMENDATIONS AND DECISIONS

1. Upon the granting of a conditional use permit, conditions may be attached to a conditional use permit including, but not limited to, those:
  - Minimizing adverse impact on other development;
  - Controlling the sequence and timing of development;
  - Controlling the duration of development;
  - Assuring that development is maintained properly;
  - Designating the exact location and nature of development;
  - Requiring the provision for on-site or off-site public facilities or services;
  - Requiring more restrictive standards than those generally required in this Title;
  - Designating the number of non-family employees in the home occupation and home business based on the type of business and the location;
  - Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.
2. Prior to granting a conditional use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed conditional use. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. A conditional use permit is not transferable from one (1) parcel of land to another.
3. Commercial Development Agreement for all land uses in the C-1, C-2, C-3, and M zoning designations are required to include the following, as applicable:
  - A site plan and/or survey prepared by a professional surveyor to include current and proposed plan;
  - A professionally prepared landscaping plan;
  - Financial guarantee for public improvements which may include but not be limited to: roads, phone, electric, water, sewer, fire protection, and lighting;
  - Professionally prepared final construction drawings.



RECEIVED

BY: K. Pader  
DATE: 7-5-2016

CONDITIONAL USE PERMIT APPLICATION

Teton County, Idaho

The planning staff is available to discuss this application and answer questions. Once a complete application is received, it will be reviewed by the planning administrator or his designee and then scheduled for a public hearing by the Planning and Zoning Commission, who will make a recommendation to the Board of County Commissioners. A public hearing will be scheduled with the Board of County Commissioners who will make the final decision. If recommended that the applicant review Title 8 of the Teton County Code and 67-6512 of the Idaho Code, the materials may be viewed on the Teton County Idaho website at www.tetoncountyidaho.gov.

To expedite the review of your application, please be sure to address each of the following items:

SECTION I: PERSONAL AND PROPERTY RELATED DATA

Owner: Corner Fox LLC

Applicant: Corner Fox LLC E-mail: aaron@cpw

Phone: (208) 709-5377 Mailing Address: PO box 669

City: Victor State: ID Zip Code: \_\_\_\_\_

Engineering Firm: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone: ( \_\_\_\_\_ ) \_\_\_\_\_

Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

Location and Zoning District: \_\_\_\_\_

Address: 376 W 5000 S Parcel Number: RPO4N45E288000

Section: 23 Township: 4 North Range: 45 EBM Total Acreage: 14.25

Zoning District: Ag 2.5 Requested Land Use: Construction/General Contractor

I, the undersigned, have reviewed the attached information and found it to be correct. I also understand that the items listed below are required for my application to be considered complete and for it to be scheduled on the agenda for the Board of County Commissioners public hearing.

Applicant Signature: [Signature] Date: 5-12-2016

Fees are non-refundable.

1216  
92-379/1241.7691  
38228489009

Date: 7-1-16

Pay to the Order of: Teton County Idaho \$ 1,260.<sup>00</sup> Dollars  Payable to Cash

Twelve hundred sixty and 00/100

CORNER FOX LLC  
AARON POWERS  
PO BOX 669  
VICTOR, ID 83455  
208-709-5377

Wells Fargo Bank, N.A.  
WELLS FARGO  
Idaho  
wellsfargo.com

AC

Instrument # 230914

TETON COUNTY, IDAHO  
12-24-2013 10:34:00 No. of Pages: 1  
Recorded for : STEWART, STACY  
MARY LOU HANSEN Fee: 10.00  
Ex-Officio Recorder Deputy  
Index to: DEED, WARRANTY

\*BEING RE-RECORDED TO CORRECT LEGAL DESCRIPTION

WARRANTY DEED

DEC24 13 10:34AM

FOR VALUE RECEIVED, Dawn I. Stone, the Grantor, do(es) hereby grant, bargain sell and convey unto Corner Fox LLC, an Idaho Limited Liability Company, the Grantee, whose current address is 1545 Shire Drive, Victor, Id. 83455 the following described premises, in Teton County, Idaho, TO WIT:

Tax#1105

Beginning 3 rods (49.5') North and 178.8 feet East of the S1/4 Corner of Section 23, Township 4 North, Range 45 EBM; and running thence East 660 feet; thence North 330 feet; thence West 660 feet; thence South 330 feet to the point of beginning.

Tax#1106

Beginning 178.8 feet East and 379.5 feet North of the S1/4 corner of Section 23, Township 4 North, Range 45 EBM; and running thence East 660 feet; thence South 330 feet; thence East 481.2 feet; thence North 544.5 feet (33 rods); thence West 1141 feet; thence South 214.5 feet to the point of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor do(es) hereby covenant to and with the said Grantee(s), that (s)he is the owner in fee simple of said premises; that they are free from all encumbrances EXCEPT: Subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes, assessments, including irrigation and utility easements (if any) for the current year, which are not due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: 12-20-13  
Dawn I. Stone  
Dawn I. Stone

State of Idaho )  
) S.S.  
County of Teton )

On this 20th day of December, in the year 2013, before me Stacy Stewart, personally appeared Dawn I. Stone, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument, and acknowledged that he(she)(they) executed the same.

STACY A. STEWART  
Notary Public  
State of Idaho

[Signature]  
Notary Public  
My Commission Expires on 7-17-15

Instrument # 232112  
TETON COUNTY, IDAHO  
4-18-2014 12:55:57 No. of Pages: 1  
Recorded for : STEWART, STACEY  
MARY LOU HANSEN Fee: 10.00  
Ex-Officio Recorder Deputy  
Index to: DEED CORRECTION



# CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

2013 NOV 14 AM 8:44

SECRETARY OF STATE  
STATE OF IDAHO

1. The name of the limited liability company is:

Corner Fox LLC

2. The complete street and mailing addresses of the initial designated office:

1545 Shire Drive, Victor, Idaho 83455

(Street Address)

P.O. Box 669, Victor, Idaho 83455

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

Julie Stomper

(Name)

189 N. Main Street, Suite 206, Driggs, Idaho 83422

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Address

Aaron Powers

P.O. Box 669, Victor, Idaho 83455

5. Mailing address for future correspondence (annual report notices):

P.O. Box 669, Victor, Idaho 83455

6. Future effective date of filing (optional): \_\_\_\_\_

Signature of a manager, member or authorized person.

Signature

Typed Name:

Aaron Powers

Signature \_\_\_\_\_

Typed Name: \_\_\_\_\_

Secretary of State use only

IDAHO SECRETARY OF STATE

11/14/2013 05:00

CK: 1001 CT: 202670 BH: 1398032

1 @ 100.00 = 100.00 ORGAN LLC # 2

W131140

## Corner Fox LLC CUP Application Narrative

Corner Fox LLC is a land holding company consisting of two parcels on the corner of Highway 33 and 5000 South. The partners of the LLC are Sam Stone, Robert and Aaron Powers. Corner Fox LLC currently has a seven year lease with Powers Excavating Inc. to operate its business on the 15 acre premise. The two parcels are zoned A2.5 with a non-conforming grandfather use on the 5 acre parcel. This parcel was used by Sugar Company since the early 1950's to stockpile limestone rock and to store and maintain their mining equipment. The company built the metal shop which is the shop Powers Excavating Inc. currently uses.

Corner Fox LLC is requesting a conditional use permit for both parcels to allow Powers Excavating Inc. the space to properly buffer itself from highway 33 and its neighbors while still having the necessary room for operations. Operations currently encompass parking its fleet of trucks and equipment on site when not in use. Hauling in topsoil to be screened and resold as well as landscape rock and other gravel products. Powers Excavating Inc. also utilizes the shop to preform repairs and maintenance on its fleet of equipment. Please note this request for a conditional use permit is not asking for a change in use of the property, but rather formalizing its historic and current use within the current zoning regulations as it applies to General Contractor under the A2.5 allowed zoning regulations.

Powers Excavating Inc. is a father/son business employing on average eight employees. The company's prime focus is performing all aspects of earthwork on new constructions homes in both Jackson and Teton Valley. The company was founded in 2008 by Bob and his son Aaron and has slowly grown to its current size. The owners feel that given current labor conditions and the owners emphasis on quality work that the company is at full maturity. Additional components of the business include selling topsoil and landscaping rocks. The topsoil is generated from our job sites and hauled back to our yard to be screened and resold at a whole sale basis. We do not propose selling any of our products in a retail capacity where a client would use there vehicle to transport the product. Landscape rock is either generated from the Fox Creek Quarry or from job sites and we stage it on this property to be resold and transported using our dump trucks. The company also utilizes the shop on site to service and maintain both PEI and RAD Curbsides fleet of vehicles and equipment. RAD is co-owned by Aaron Powers and Dave Hudasko. The majority of RAD repairs happen at the RAD garage but there is an occasional specialty repair that happens at the PEI shop. We are not proposing doing any automotive work outside of our companies.

Since acquiring the property four years ago, Corner Fox has made several improvements that we feel benefit both itself and our community. These include constructing landscape berms along highway 33 and 5000 S. Corner Fox has also employed Rocky Mountain Landscaping to plant trees, shrubs and native grasses and wildflowers on the berms and Enhanced Designsapes to install an automated irrigation system. Intermountain Aquatics is currently contracted to control noxious weeds. The accompanying exhibit shows the areas slated for future berm construction with a time line for completion of construction. The existing landscaping along highway 33 consists of spruce, aspen, cottonwood, and several deciduous shrubs and bushes. The plantings range on average of 8'-10' in height and the shrubs are in the 5 gallon size. We propose to mimic this planting style on future berms. All future berm will be on an automated irrigation system and ground cover will be of native grasses with wildflowers interspersed. Noxious weeds will be monitored and either pulled or

sprayed as needed. PEI has also completed an addition on the old shop building and has placed four 40' shipping containers on site to help contain and manage the clutter. PEI also placed a layer of washed rock chips on the driving surfaces around the shop and yard to keep the dust in check. Additionally no screening of topsoil will happen when wind is blowing above ten miles an hour as reported by the weather station at the Driggs airport. We have seen this to be a great solution,

The adjoining properties to Corner Fox are as follows:

- M1 zoning on the North side
- Fox Creek subdivision on the North East Corner
- Private residence to the East that operates a dump truck business
- Trailer Park and Commercial lot to the South
- Highway 33 to the West

The site plan that is attached shows us expanding operations to the east by approximately 100' and to the north by approximately 150'. Our goal in doing so is to move operations to the center of the 15 acres so as to better allow for buffering and visual screening to the highway and our neighbors. We have also identified the location for a future building to house more of our equipment inside while not in use. PEI currently has both an office in the existing automotive shop and at Aaron's personal residence off site. We would like the opportunity to build an office on the south west side of the existing shop so as to consolidate administrative duties into a single office of adequate size. This proposed addition would be approximately 18' wide by 36' long and would have a shed roof pitching to the west.

Hours of Operation for PEI are Monday through Saturday from 7am-6pm as it relates to operating equipment on the Corner Fox property. Screening of topsoil is proposed to be between the hours of 7:30am and 5:00pm Monday thru Friday. We sometimes have company pickup trucks and dump trucks returning to the yard outside of the above mentioned hours.

PEI is proud of its continued commitment of giving back to our community in several way. We have volunteered time, equipment, materials and money to organizations and events such as:

- The Great Snow Fest to build the Ski-Joring track
- Building the bike tracks in Victor, Driggs and the current one under construction in Fox Creek
- Happy Trails Horse Rescue and Adoption
- The community school garden programs
- Mountain Bike the Tetons.





VIEW ONE - EXISTING CONDITIONS



VIEW TWO- EXISTING CONDITIONS



VIEW THREE- EXISTING CONDITIONS



VIEW ONE - PROPOSED TREES & SHRUBS



VIEW TWO- COMPLETED BERM W/ TREES & SHRUBS



VIEW THREE - PROPOSED BERM W/ TREES & SHRUBS

POWERS EXCAVATION  
VISUAL MITIGATION EXAMPLES



Teton County Planning Department  
150 Courthouse Drive, Room 107 | Driggs, ID 83422  
Phone (208) 354-2593 | Fax: (208) 354-8410  
[www.tetoncountyidaho.gov](http://www.tetoncountyidaho.gov)

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FROM: Kristin Rader, Planning Administrator

TO: Aaron Powers

CC: Darryl Johnson, Teton County Public Works Director; Kathy Spitzer, Teton County Prosecuting Attorney; Earle Giles, Teton County Fire District; Mike Dronen, EIPH; Ben Burke, ITD; Christy Swenson, IDEQ

RE: Corner Fox LLC – DRC Meeting Notes

DATE: August 3, 2016

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Aaron, the purpose of this letter is to summarize the Development Review Committee meeting we had on Tuesday, July 12, 2016. During this meeting, waste disposal of potentially hazardous waste was discussed because the application references using one of your buildings as a work area for vehicles and equipment. I have been waiting to hear back from IDEQ prior to sending this letter, so I could verify those comments that addressed waste disposal. You did not attend this meeting, so please let me know if you have any questions about the following items.

#### Roads

- Please be aware of the Sight Triangle for the intersection of Hwy 33 and 5000 S. This may not be blocked.
- Cleanouts will need to be provided at each access point to restrict the amount of dirt and mud being transferred to 5000 S and Hwy 33.
  - This could be cobble.
- Dust needs to be controlled on the property.
  - This could be done by spraying mag. chloride.

#### Fire Protection

- The Fire District must do an annual inspection on this property because it is a business.
- The Fire District will also need to inspect the fuel storage and electrical to ensure compliance with the Fire Code.
- No residential uses may be on site.

#### Sewer/Septic

- The proposed building on the site plan would need to obtain a new septic permit.
  - Mike Dronen has verified that the existing septic system is large enough to accommodate the existing facility and can continue to be used.
- The use of the existing building for maintenance and mechanical work on equipment would require some form of disposal system. This cannot go into the existing septic system.
- *I requested information from IDEQ about the rules they have for disposal systems for this type of potential waste. I spoke to Christy Swenson, and she said without knowing exactly what is taking place in the building to identify all of the potential wastes, she suggests that you contact an environmental consultant to properly establish what management systems may need to be put in place. She also stated that if there has been an impact to*

*the soil or ground water, you are obligated to report that to IDEQ and are responsible for any remedial action required.*

### General Concerns

In general, following items were identified as possible concerns:

1. Safety of drivers on Highway 33 and 5000 S.
  - a. This is a concern because of decreased visibility (dust, landscaping locations, height of stockpiles), increased truck traffic, and debris on the roads.
2. A portion of this property is in the scenic corridor, so any development planned in the scenic corridor would have to get design review approval.
3. The impact to neighbors (noise, dust, etc.)

### Public Hearing Information:

You are scheduled for the Teton County Planning and Zoning Commission public on **Tuesday, August 16, 2016 at 5:00 PM**. This public hearing is at the Teton County Courthouse, 150 Courthouse Drive, Driggs, Idaho. A notice, agenda, and meeting packet will be sent to you no later than the week before the meeting.



July 22, 2016

**RE:** Notice of Public Hearing and Solicitation for Comments from property owners within 300 feet of a property that has an application for a conditional use permit.

Dear Property Owners:

This letter is to notify you that an application for a Conditional Use Permit (CUP) for a “Construction/General Contractor” use has been submitted to the Teton County Planning Department by a nearby landowner. A CUP is an allowed approval process in Idaho State Code and the Teton County Zoning Ordinance. CUPs are allowed for uses that require an additional level of review, special conditions placed upon them prior to approval, or specific limits placed upon them due to the nature and/or location of the proposed use.

The planning staff is soliciting comments from people in the vicinity of the applicant’s property so that we can be aware of neighborhood issues and then include your comments in the packet of information provided to the Teton County Planning & Zoning Commission for their consideration prior to the hearing.

Please provide comments related to this application and the CUP criteria of approval:

1. The location of the proposed CUP use is compatible to other uses in the general neighborhood;
2. The proposed CUP use will not place undue burden on existing public services and facilities in the vicinity;
3. The site is large enough to accommodate the proposed CUP use and other features as required by Teton County Code;
4. The proposed CUP use is in compliance with and supports the goals, policies, and objectives of the Comprehensive Plan.

**Applicant & Landowner:** Aaron Powers (Corner Fox LLC)

**Legal Description:** RP04N45E238400; TAX #1105 SEC 23 T4N R45E and RP04N45E238000; TAX #1106 SEC 23 T4N R45E

**Parcel Size:** 5 ac. & 9.25 ac. (14.25 acres total)

**Physical Address:** 9444 South Highway 31, Victor, ID 83455

**Zoning District:** A-2.5; located in the Scenic Corridor

**Description of the Request:** Corner Fox LLC, represented by Aaron Powers, is requesting a Conditional Use Permit for a “Construction/General Contractor” use on two properties (approximately 15 acres) owned by Corner Fox LLC. The property is located north of Victor at 376 W. 5000 S, at the corner of Highway 33. The applicant is requesting to use this property for his business, Powers Excavating Inc., which includes the following uses: topsoil screening, parking trucks and equipment, landscape rock and other gravel products, and using the shop to perform repairs and maintenance on equipment, as well as a small office space. This parcel is zoned A-2.5.

#### **PUBLIC HEARING & COMMENTS**

The Teton County Planning & Zoning Commission will hold a public hearing in the Commissioners’ Chamber located on the First Floor (lower level, southwest entrance) at 150 Courthouse Drive, Driggs, Idaho on **August 16, 2016** on this matter. This application is scheduled to be heard at **5:00 pm**.

Information on the above application is available for public viewing in the Teton County Planning Department at the Teton County Courthouse in Driggs, Idaho. The development application and various related documents are also posted, as they become available, at [www.tetoncountyidaho.gov](http://www.tetoncountyidaho.gov). To view these items, go to the Planning & Zoning Commission department page, then select the 8-16-2016 Meeting Docs item in the Additional Information Side Bar. **Written comments will be included in the packet of information provided to the Commission for consideration prior to the hearing if they are received in the Planning Department no later than 5:00pm on August 9, 2016. Comments received after this time will not be included at the public hearing.** Written comments may be e-mailed to [pz@co.teton.id.us](mailto:pz@co.teton.id.us), mailed to the address above, or faxed. You may also present your comments in person at the hearing.

**The public shall not contact members of the Planning & Zoning Commission or Board of County Commissioners concerning this application, as their decision must, by law, be confined to the record produced at the public hearing.**

If you have any further questions, please do not hesitate to contact Kristin Rader, Planning Administrator ([krader@co.teton.id.us](mailto:krader@co.teton.id.us) | 208-354-2593 ext. 200).





**Kathy Spitzer, Prosecuting Attorney**  
**Teton County Courthouse**  
230 N. Street, Suite 125 Driggs, ID 83422  
(208) 354-2990 phone  
(208) 354-2994  
[kspitzer@co.teton.id.us](mailto:kspitzer@co.teton.id.us)

January 7, 2015

PEI Construction  
Attn: Aaron Powers  
2365 N HWY 33  
Driggs, ID 83422

Re: Illegal Uses

Dear Mr. Powers,

We have received numerous complaints regarding your property located at the corner of 5000 S. and Highway 33. The purpose of this letter is to notify you that you are in violation of Teton County Land Use Code and request you remedy the violations immediately. Below is a list of violations that County has identified.

- 1) Expanded area of “Non-Conforming Use” onto neighboring property-  
8-7-1-C.- Nonconforming uses may expand, but only on the lot occupied by the land use on the effective date of the zoning ordinance in effect on March 11, 1996. It appears you have placed the storage of equipment and materials on the neighboring property (Property to the north and east), as the attached photos show.

Please cease using the neighboring property for storage (of material, equipment and other items) and processing, and return it to its natural state. If you would like to use the neighboring property moving forward, you must obtain a Conditional Use Permit for a Landscaping Contractor Business.

- 2) The original “Non-Conforming Use” of material storage has expanded to include processing and selling materials.
  - a. On August 9, 2010 you received a letter of determination from Teton County regarding a request to temporarily screen topsoil in order to level the site. The determination concluded that temporary screening for this limited purpose may be permissible with certain conditions. You were given two consecutive days in 2010 in which to screen topsoil and clean up the property. Your use of the property as it is operating today would be considered a Landscaping Contractor Business (8-4-2) and requires a Conditional Use Permit (8-4-1, Land Use Matrix). The processing of material does not qualify as a non-conforming use on your property.
  - b. Teton County Planning department received an inquiry from your business wanting a sign to highlight the prices of materials you were selling, so the public could see your prices. From this inquiry we assume that you are either selling

materials or have a desire to sell material to the general public. No onsite sales are permitted.

Please cease any material processing activities at this location. If you would like to obtain the right to process material you must apply for a Conditional Use Permit for a Landscaping Contractor Business. No onsite sales are permitted as an outright use or as a conditional use.

- 3) The two RV's located next to the shop cannot be used for habitation, long or short term. Any property containing two or more RV's is considered a campground (8-4-2) and requires a Conditional Use Permit approval. If only one RV is inhabited, there is a 6 month limit.

Please remove the RVs or obtain a Conditional Use Permit for a Campground.

- 4) You appear to be accessing 5000 S. in two locations on the eastern parcel (RP04N45E238000) (see attached pictures). Any access to a county road requires a permit.

Please work with Teton County Road and Bridge Department to obtain proper permits to access 5000 South. Until such permit is received you must refrain from using those accesses.

If you have any questions or concerns about the violations and the resolution options please feel free to contact me or the Teton County Planning Department.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kathy Spitzer', with a stylized flourish at the end.

Kathy Spitzer

**Kristin Rader**

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**From:** Itidaho [REDACTED]  
**Sent:** Sunday, July 31, 2016 3:38 PM  
**To:** PZ  
**Subject:** CUP for PEI

Comments to be considered in review of CUP for PRI:

We have lived in Fox Country Club Estates since April 2014 and have seen many changes in the PEI property that don't make sense.

1. At various times there are 1 or more RV campers parked there and are being lived in as we have seen lights on at very late hours.
2. Last summer a row of trees were put at end of property and maintained by MD Nursery as their trucks were parked near trees at watering times.
3. RAD garbage trucks are being serviced in PEI building as recently as 7/29. Occasional RAD trucks and other equip parked on PEI lot
4. On occasion a loud beeping can be heard very early and at times later in evenings during the week but also on the weekends. This could be the sound on their soil separator machine?? A very loud beeping. . The type of beeping like when a large truck backing up. . . .

This goes on for sometime at various times but most annoying early hours on weekends.

We did not realize that excavation would be happening on their properties when we moved here. We thought they brought soil here to sort, ect from other locations but they are digging on their property so then the question becomes -does that affect the area? Does it affect the water table of the area??

5. As piles of soil grow taller the area becomes less appealing of a place to call home. As we look out our back deck we see mounds of soil. . .and when it gets windy you can see dirt flying around.

We knew there were some things that we would have to tolerate when buying our home close to PEI but it seems like it becomes harder and harder to enjoy our home in this area.

Best Regards

Torsten Muesse/Liz Cowie

[REDACTED]  
Victor, ID 83455  
[REDACTED]

## Kristin Rader

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**From:** r. calvin cathcart <[REDACTED]>  
**Sent:** Thursday, August 04, 2016 11:51 AM  
**To:** PZ  
**Cc:** asvictor[REDACTED]; Bob & Lori Spoelhof; Steve Crow  
**Subject:** Corner Fox LLC application for CUP

Teton County Planning and Zoning Commission  
150 Courthouse Dr., Rm. 107  
Driggs, ID 83422                      Via email to pz@co.teton.id.us  
Re: CUP Application for Corner Fox LLC

Dear Commissioners;

These comments are in response to the Notice of Public Hearing and Solicitation for Comments dated July 22, 2016, directed to close property owners pertaining to the above application. We are property owners essentially one lot away from the subject property to the east. Our lot is Lot 47 in Fox Creek Country Club Estates.

We appreciate the opportunity to comment as we believe there are material issues to consider. It would have been helpful to the process if the Notice provided had described more specifically what activities the CUP would allow that the current zoning does not. Current observations of activity at the property would show that all the activities proposed pursuant to the CUP are currently being conducted at the property. As a threshold matter we do not believe that the CUP process should be used to reward non-compliant current activity.

We have owned our lot for approximately 15 years and have watched over that time what has come to be a gradual, but considerable, expansion of the activities at the subject property. We have wondered whether this expansion was allowable under the current zoning and this CUP application would seem to be an affirmation of our suspicions that these activities are not currently permitted. It would seem an important part of the process to consider directly why the current zoning does not permit these activities rather than starting in a vacuum. Hence, the importance of the first point above that the notice should describe what the CUP would allow that current zoning does not and why, for better or worse, a change is proposed and what of public value it would accomplish.

Our comments fall into two general categories. The first of these is compatibility with other uses in the neighborhood. Obviously, the nature of the general neighborhood is residential with only minor agricultural uses mixed in. There are no other uses on the east side of Highway 33 for several miles to the north and for approximately a mile to the south. There are few other non-residential uses on the west side of Highway 33 for several miles in either direction and those that exist are of very long standing such as Teton Log Homes and the welding business.

It would seem correct to consider whether the existing zoning and overall county planning support or discourage this sort of commercial/industrial activities in a generally residential area. The uses made of the subject property for almost all of the time we have lived in the area have been very low key. There was really very little activity at all for most of that time. It has only been in the last year or so that the activities expanded noticeably (perhaps with new ownership, we are not sure). The added activities have been storage and maintenance of quite a bit of heavy equipment as well as use of heavy equipment to process, store and load rock products on site. These activities involve a good bit of heavy truck traffic in and out of the subject property. These activities are noisy, dusty and generally unsightly in a residential neighborhood. Basically, ask yourself whether you want these activities across the street or next door to your home? Do these activities enhance or detract from the residential property values in the neighborhood? Without question you don't want them there and they detract from the residential property values and home ownership experience.

The second consideration is the impact on traffic safety and road maintenance. The road maintenance issue is primarily of concern for the new paving on 5000 South and at the intersection with Highway 33. This

new paving was a considerable expense for the county and is a valuable upgrade and serves a substantial residential population to the east of Highway 33. There is no question that heavy truck traffic is hard on roads, especially one which as I understand it was installed with just 2 inches of asphalt rather than the standard 4 inches. In other words 5000 South is especially susceptible to degradation from this heavy truck traffic and will result in a considerable expense to the County to avoid.

As everyone in Teton Valley is aware Highway 33 carries a substantial volume of traffic on what basically is a 2 lane highway. The Highway has numerous danger areas and intersections which have a high volume of turns are especially dangerous areas. While the turn lanes at the intersection of Highway 33 and 5000 South are helpful, these lanes are narrow and don't well accommodate heavy trucks with or without trailers. This is true not only for the left turn lanes, but also for the northbound right turn lane to go east on 5000 South. The inside of that corner is a perpetual maintenance problem because of its inadequate radius. The presence of increased heavy truck traffic at this intersection is clearly dangerous.

This generally increased danger is made worse by a recent habit of the PEI truck drivers using the northbound right turn lane to immediately "duck into" the westernmost entrance to the subject property after making the turn off the highway—i.e. sort of a slalom maneuver. This is very dangerous for any vehicle, especially heavy trucks. We have personally witnessed this maneuver numerous times recently. The intersection needs to be heavily policed at undoubtedly additional expense.

Bottom Line, as the proposed CUP would apparently accommodate these burdensome activities at the subject property we believe it should be denied and the current non-compliant activities should be curtailed. Thank you for considering these comments.

Robert and Myra Cathcart

## Kristin Rader

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**From:** Lynn Wilson [REDACTED]  
**Sent:** Friday, August 05, 2016 6:02 PM  
**To:** PZ  
**Cc:** 'robert spoelhof'  
**Subject:** FW: PEI, Rock Sorting Business

We also feel the same way that Bob and Lori Spoelhof feel about this issue.

We are located at 5025 Country Club and feel threatened by the application.

The PEI business on the corner is already an eye sore. It continues to spread and looks like a junk yard. It has slowly overtaken the beauty of the residential area that we live in. It is now starting to define the immediate area.

PEI should establish their proposed expanded commercial business somewhere else. Enough is enough.

Jim Fleming  
Lynn Wilson

## Kristin Rader

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**From:** robert spoelhof [REDACTED]  
**Sent:** Saturday, August 06, 2016 12:41 PM  
**To:** PZ  
**Subject:** Aaron Powers CUP application

Planning and Zoning of Teton County,

I live in Fox Creek Country Club Estates, just east of PEI property. I hope that you deny Power's the CUP for construction/general contractor use. The use is not compatible with the neighborhood and the scenic beauty of Teton Valley. Heavy duty mining equipment, huge earth hauling trucks, a parking lot for workers and assorted extraneous equipment degrade the looks of 5000S and cause me distress. I did not buy the property thinking that it would turn into an industrial site.

Lori Spoelhof  
5100 Country Club Dr.

**Kristin Rader**

---

**From:** robert spoelhof [REDACTED]  
**Sent:** Friday, August 05, 2016 5:16 PM  
**To:** PZ  
**Subject:** CUP Application for Corner Fox LLC

Teton County Planning and Zoning Commission

150 Courthouse Dr., Rm. 107

Driggs, ID 83422                      Via email to pz@co.teton.id.us

Re: CUP Application for Corner Fox LLC

Dear Commissioners:

These comments are in response to the Notice of Public Hearing and Solicitation for Comments dated July 22, 2016 as directed to nearby property owners pertaining to the above application. We are property owners situated four lots east of the subject property. Our home is located on Lot 42 in Fox Creek Country Club Estates. We are down-wind from the subject property and must pass that property each trip to and from our home.

I understand that the PEI property is zoned Residential/Agricultural and I have objected to the current use of the property at one of the County Commission's open-mic sessions. I now wish to restate my objection to the current use of the property which clearly does not fit any common understanding of Residential or Agricultural. The property is being used as a heavy-industry mining-product processing facility and storage yard. Multiple heavy haulage trucks are stored on the property each evening and the rock sorter machinery is in operation sometimes very early in the morning. Surplus equipment is stored east of the active yard. You will note the proximity of homes to the industrial activity in Photos 3-5.

When we bought our home in 2007, there was little use made of the PEI property, and, in fact there was almost no activity there as of June 1994 nor in August 2013 (Google Earth images). Since then the threat to our property value as a result of the PEI activity has most probably increased dramatically. I am certainly distraught by having to pass an industrial zone on the way to our house, and the value of our neighborhood has been diminished in my view of community aesthetics.

I ask that the application be denied as being invasive in the neighborhood setting, as being not in keeping with the scenic-corridor ideal, and as not being appropriate for the Agricultural/Residential zoning upon which neighborhood planning has been based.

Thank you for your consideration of my concerns.

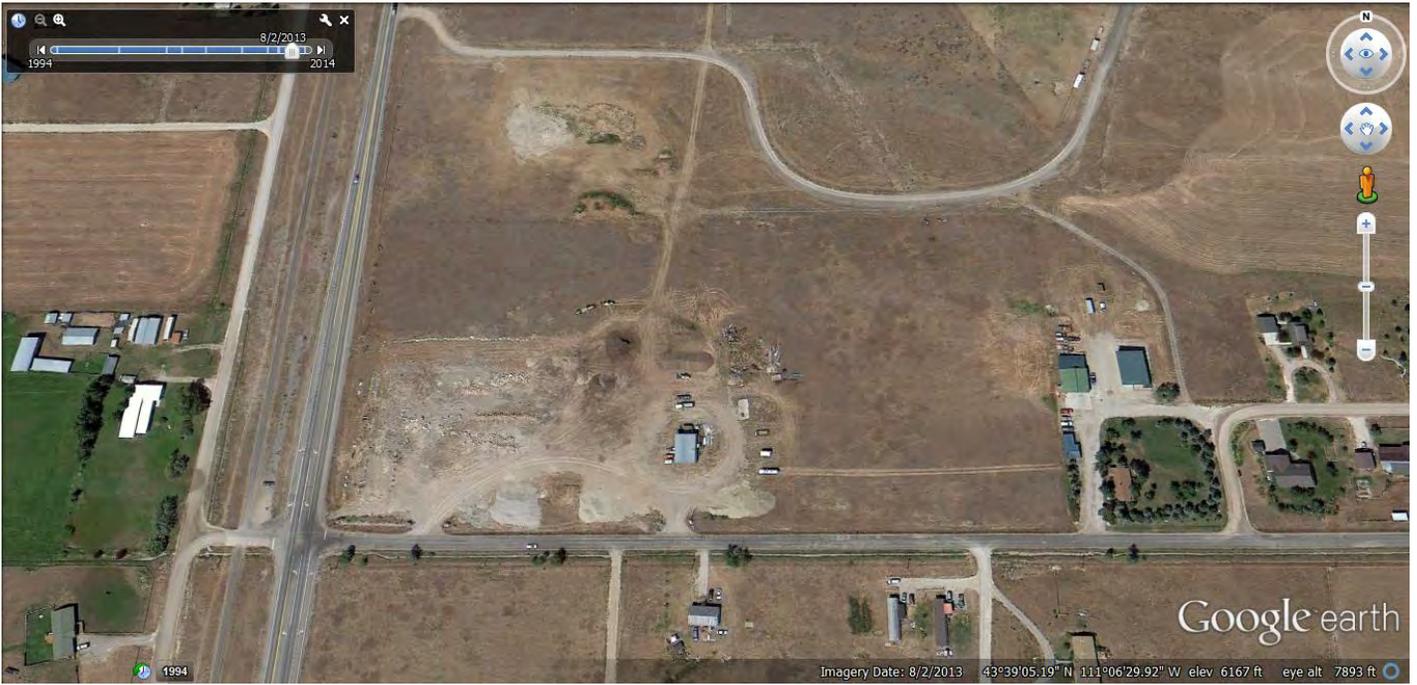
Sincerely,

Robert Spoelhof

5 Photo Attachments



06/26/1994



08/02/2013





08/05/2016

From: Jean Kitchen [REDACTED]

Sent: Monday, August 08, 2016 9:25 PM

To: PZ

Subject: Corner Fox LLC Aaron powers request for conditional use permit

Dear Planning and Zoning Commissioners

,

Unfortunately I will not be able to attend the hearing as I will be out of town so

I would like to provide the following written comments on the proposed conditional use permit before you for a construction/general contractor use permit on two properties owned by Corner Fox LLC.

Although I am not within 300 feet of the property, and technically not an abutter, I live off of 4500 S. on Sweet Home Dr. I pass by 5000 S. almost daily. I believe the request by Mr. Powers should be denied for the following reasons :

1. I believe the request is incompatible with current uses in the neighborhood. It is residential housing off of 5000 as well at 4500 with some agricultural usage. The area is zoned residential agricultural and should remain as such and not become an industrial use. Having a commercial industrial use , (which I believe is what rocks and gravel storage, and commercial truck parking is no matter how it is portrayed or disguised) as well as would destroy the scenic corridor. In fact I believe the property has been currently expanded within the last year or two, without a permit ( I.e. Non compliant), and should be curtailed.
2. I do not believe the request is compatible with the goals of the comprehensive plan.
3. The use that Mr. Powers is requesting I.e. Dumping landscape rocks and other gravel materials, as well as parking trucks and other related equipment, and having a repair shop for his ( and others) equipment is not appropriate in an agricultural residential zoned area.

Thank you for considering my comments.

Jean Kitchen

3830 Sweet Home Dr.

Teton County Planning & Zoning Commission  
150 Courthouse Dr., Rm. 107  
Driggs, ID 83422

[pz@co.teton.id.us](mailto:pz@co.teton.id.us)

RE: CUP Application, Corner Fox LLC

Dear P & Z Commissioners:

I am submitting this comment letter with regard to Corner Fox LLC's application for a CUP for Construction/General Contractor. However, before I specifically address that application, I would like to supply a little background information.

For the past few years I have been concerned about the expanding activities on the property at the corner of Highway 33 & 5000 S., a property my husband and I go past almost every day, since we use the connector road 5000 S to get to and from town.

In particular, I have been concerned that the activities on the property were out of compliance with the property's "grandfathered" non-conforming use status. I have discussed my concerns with prior County Planning Administrators. This past winter, I filed a formal complaint and asked to be kept informed about the county's investigation of my complaint. Not only was I concerned about the unsightliness of the property, but I was concerned that the County was not enforcing its code.

As a follow-up to my complaint, I received a copy of a letter that County Attorney Kathy Spitzer sent to Aaron Powers, which I have attached. It is dated Jan. 7, 2015, although that date should say 2016. As you will read, the County determined that the uses on portions of this property did not qualify under the non-conforming use designation and that there were also other violations on the property. Ms. Spitzer advised Mr. Powers to cease using neighboring property to the north and east of the original non-conforming lot and return those areas to their natural state. She also informed Mr. Powers that he would need to obtain a Conditional Use Permit for a Landscaping Contractor Business in order to process material on the property.

Since a CUP should be obtained before any of the requested activities have been started on the property, I ask that you imagine this property as an empty lot in an A/RR-2.5 zone, which is the current zoning at this location. This CUP application should be evaluated on its own merits, according to the county's established criteria for approval. The prior non-conforming use status for a portion of the property and the recent efforts to clean up the property should not be considerations for this CUP application.

I question whether Construction/General Contractor is the best description of the uses that are occurring on the property. The business activities seen on the property involve

sorting rocks and sifting/piling dirt. It appears to be a heavy industrial use, considering the number of trucks involved and the machinery being used.

Whatever term is used, any CUP needs to be evaluated according to the same 4 criteria, briefly:

- 1) Is the proposed use on the site compatible with other uses in the neighborhood?
- 2) Will the proposed use place an undue burden on existing public services and facilities in the vicinity?
- 3) Is the proposed site large enough to accommodate the proposed use?
- 4) Is the proposed use in compliance with the comprehensive plan?

Criterion #3 is not a concern, but the other three are.

### **Neighborhood Compatibility:**

Most of the area around and near this property is residential. Although it hasn't been developed yet, there is a 5.5 acre parcel abutting the subject property on the northeast which has been platted for 16 residential units in 4 multi-family buildings. The M-1 zone mentioned in the application abuts on the northwest portion of the property. According to Teton County Code 8-3-6.H, uses in an M-1 zone must not be obtrusive to the adjacent zoning districts. It seems reasonable to conclude that activities that are conditionally permitted in an A/RR zone should also not be obtrusive. Obtrusive means "noticeable or prominent in an unwelcome or intrusive way." The activities on the subject property are definitely noticeable and prominent to everyone who passes by this property--which is in the Scenic Corridor--and are unwelcome to many of the immediate neighbors.

### **Existing Public Facilities:**

The question here would be whether 5000 S can handle the heavy truck traffic, in terms of safety as well as road surface. (Ms. Spitzer's Jan. letter also indicates that those access points need permits.) Clearly, our County Engineer and Road and Bridge Department should be consulted.

### **Compliance with Comprehensive Plan:**

The 2012 Comprehensive Plan has this to say about the scenic corridor: "The area within the scenic corridor can be developed in accordance with the underlying zoning, but building, landscaping, and site design will need to meet high standards of visual quality in order to maintain the scenic character of the area and protect the viewshed from the scenic corridor."

The Framework Map that is part of the Comp Plan allows industrial uses (which is how I would categorize the activities currently occurring on the subject property) only in the areas of Driggs Centre (east of Driggs and far from the scenic corridor) and the airport area.

In conclusion, this proposal fails in terms of neighborhood compatibility, and more information is needed to determine if it would place an undue burden on existing public facilities. The proposal also fails in terms of compliance with the Teton County Comprehensive Plan, which does not allow industrial uses in this area.

Please keep in mind that this CUP is to be considered without regard to the current uses, which may or may not qualify as non-conforming uses based on historical records. That is a separate question, and not the one that this public hearing is addressing.

Decisions like this are always difficult, as I know from firsthand experience serving on the PZC and the BoCC, but the Comprehensive Plan must be followed in each and every decision. Please be careful to set a wise precedent that follows the community vision in the Comp Plan, which allows industrial uses in only a few very specific locations.

Thank you for your service on the PZC and thank you for carefully considering all public comments.

Sincerely,  
Alice Stevenson  
1101 E 5250 S  
Victor, ID 83455

Submitted electronically, August 9, 2016, including attached letter from Kathy Spitzer

Bethany S. Manning  
Dolf A. Ivener  
DBA: DBS LLC

[REDACTED]  
Sioux City, IA 51104  
[REDACTED]

Teton County Planning Department  
150 Courthouse Drive, Room 107  
Driggs, ID 83422

August 8, 2016

Dear Sirs,

My partner, Dolf Ivener and I own the property described as Lot 1, Teton View Estates, Div. II, Sec 26 T4N R45E, which is located directly across S. Highway 33 from Corner Fox, LLC, 9444 South Highway 33, Victor, ID.

We strongly object to the issuance of a Conditional Use Permit for this property. The property is surrounded by residential property and expanding the Excavating Business is detrimental to the houses which are located nearby.

It is our understanding that Corner Fox LLC has expanded the scope of business over the past several years and that it is presently not in compliance with and not supporting of the goals, policies and objectives of the Comprehensive Plan for this area.

We request that the Planning Department rejects this request and forces Corner Fox to limit its business to the letter and spirit of the laws governing the use of the 14.25 acres in question.

Thank you for your time and attention.

Sincerely,

Bethany S. Manning

From: Matt Strong [REDACTED]

Sent: Tuesday, August 09, 2016 12:06 AM

To: PZ

Subject: CUP Powers

1. Power's has been digging out pit run to resale at his jobs and refilling the holes with waste from jobs , some with asphalt
2. He has not obtained proper permits from state or the county to do so
3. Also has continued to screen with out proper permits from the county I have a video of
- 4 . Does the owner know powers is selling their minerals
5. All the other pits and screening areas that I am aware of are consolidated in certain area or have been there for very long time , others have tried to obtain permits for this in other areas and have been denied. Only the right to stockpile on their properties
6. There is no other cup in the area that is of similarities in that area .
7. Falls into the scenic corridor

These are some of my concerns sincerely Matthew Strong ,

land owner to the north and business owner thank you for your time









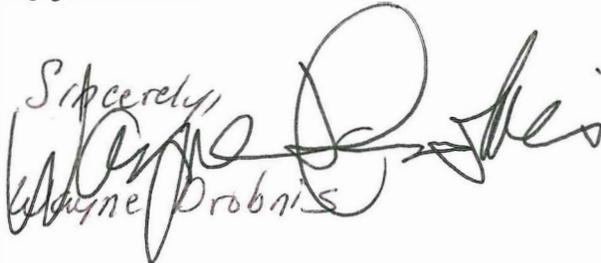
July 31, 2014

To whom it may concern:

I own Property at Teton View Estates.  
I object Vehemently against This type of  
business So close to my property. I feel  
it will decrease the property Value.

A business that would be useful to the  
community would be better suited.

A dirty, noisy, unpleasant business is not.  
Suitable.

Sincerely,  
  
Wayne Probnis

TETON COUNTY  
PLANNING & ZONING

AUG 08 2014

RECEIVED