



**TOWN OF WELLINGTON
PLANNING COMMISSION
June 5, 2023**

**MINUTES
REGULAR MEETING – 6:30 PM**

1. CALL SPECIAL MEETING TO ORDER – 6:30 p.m.

The Planning Commission for the Town of Wellington, Colorado, met on June 5, 2023, at the Wilson Leeper Center, 3800 Wilson Avenue, Wellington, Colorado at 6:30 p.m.

2. ROLL CALL

Commissioners Present:

Eric Sartor, Chairperson
Lisa Chollet
Tim Whitehouse
Bert McCaffrey
Stephen Carman
Lowrey Moyer
Linda Knaack

Absent:

Town Staff Present:

Cody Bird, Planning Director
Paul Whalen, Planner III
Patty Lundy, Planning Analyst

3. ADDITIONS TO OR DELECTIONS FROM THE AGENDA

None

4. PUBLIC FORUM

None

5. CONSIDERATION OF MINUTES

A. Meeting Minutes of May 1, 2023

Commissioner Chollet moved to approve the meeting minutes of May 1, 2023.
Commissioner Whitehouse seconded.

Yeas – Carman, Whitehouse, McCaffrey, Moyer, Chollet, Knaack, Sartor

Nays – None

Motion carried

6. NEW BUSINESS

A. Connell Resources Site Plan Review (Continued from May 1, 2023)

Chairman Sartor thanked everyone for coming. He explained that this will be a long meeting. There are several presentations. There will also be breaks throughout the meeting. Please keep the noise level down as the meeting is being recorded.

Chairman Sartor asked if there were any conflicts of interest or any ex parte communications.

Commissioner Moyer said she was out of town for the last meeting and asked people to come to the meeting.

Commissioner Carman stated he was on the Board of Adjustments as an alternate when the variance request for the same site was presented.

Cody Bird, Planning Director said that this was originally submitted for the March 6th Planning Commission Meeting and subsequently it was tabled to allow additional time for the applicant to be gather answers to questions. It was tabled to May 1, 2023. At the May 1st meeting, the applicant requested additional time to finish putting that information together. There were challenges with the consultant's schedule to present the final reports and so that agenda item was also tabled to tonight.

Bird showed slides of where the 35 acre property was located which is at the north side of town along the west side of the railroad. The property is zoned Industrial for heavy industrial uses. A hot mix asphalt plant is a permitted land use within the industrial zone category. The applicant has gone through the variance process and was granted 2 variances with 6 conditions of approval from the Board of Adjustments. They were granted a variance to reduce the 1,000 foot separation setback to 800 feet and a variance for 70 foot silo structure height (from 45 feet). The 6 conditions are:

- 1) The site plan must be reviewed and approved by the Planning Commission,
- 2) the height variance is the silo only,
- 3) a 15 foot earthen berm and landscaping is required on the west side,
- 4) there is to be no signage on the silo,
- 5) there is to be signage and operator policies to disallow engine braking ("Jake Brakes") and
- 6) must comply with all applicable County and State permits for operation of an Asphalt Plant.

There was also a recommendation that the Town-supplied potable water should not be used for plant process operations.

Bird went over the process for Site Plan review. The Planning Commission is the final review and decision-making authority. The Planning Commission goes over the Findings for Approval which is in the Land Use Code. The Planning Commission has 3 options. They can approve the site plan, approve the site plan with conditions, or they can deny the site plan application. Shown on the screen was the findings for approval.

Carolyn White is the Land Use Counsel for the applicant. She explained that the applicant is a family-owned business that has 265 full-time employees and some of them live in Wellington. They are looking to relocate from Timnath to the proposed site at 3548 East County Road 66. The site is zoned for heavy industrial and has been since at least 2000. This is a site plan approval process. The question is does the site plan as presented meet the criteria in the code that Bird summarized. The question is not about setbacks as the Board of Adjustments has already decided that. She briefly went over the conditions that the Board of Adjustments made and highlighted the compliance with all applicable County and State permits for operation of an asphalt plant. Asphalt plants are heavily regulated both at the State and local level, referring to details in the packet showing this as well as reports of tests that are done to comply. Again, the purpose of the hearing is about the Site Plan which is consistent with the Comprehensive Plan and the intent stated in the Land Use Code. She showed on a slide what the reduced setbacks look like as well as the height of the silos to give reference to what has already been approved.

John Warren, Connell Resources shared a 6-minute video recording of a drone flyover of the existing Connell Resources operations at the Timnath site. He showed that the silos are the only thing on the property that will be 70 feet high. Not any of the other buildings. He showed the plant operating and that there was no particulate matter in the emission. It was 99% steam. The asphalt plant process is simply mixing 2 raw materials. It is aggregate and asphalt cement. It shows the aggregate on a conveyor belt going into a drum. He explained that the Wellington site will look much like the one in Timnath. He said that they listened to all the questions and comments from the May and March meetings and worked hard to address them all. That is why there are 1,100 pages of information in the packet. The company contracted to have all the studies completed to help answer some of the questions as well. He is committed to being a good neighbor and has talked with property owners close by. He said his trucks will stay off the local streets unless they need to deliver to a customer site in town. The truck route will go north up County Road 7 to I-25. The noise studies that were done showed that they would be expected to be below 55 decibels. The noise is primarily from the generators that are running. He showed more slides of what the existing Timnath operation looks like with their landscaping and explained that the berms at the Wellington location will be higher. The landscaping will be about 18.38% of the property. He showed what the different symbols on trucks mean and that his trucks have none of the hazardous materials classifications on them. There was a study done for wildlife impacts and it showed that there was little wildlife presence on or near the project area. He went through a summary chart of the permits that are required and the fines associated with them. He addressed a letter that shows the company was fined, and explained that he was doing a self-performed test on the stack and there were mechanical issues so they shut everything down not knowing that if they stopped a test it is considered a failed test.

Jill Burrell with Ditesco presented information about the stormwater design for the project. For any development project it is required that stormwater detention and treatment are handled per the Town of Wellington development standards. So that means the property cannot have a discharge of stormwater that is greater than what is currently being operated on that site. They must match the historic flow. So, if they pave a road, that becomes an impervious area and they have to offset that by building a detention pond that can capture the additional volume of water that would have previously percolated into the ground. They do this with a detention pond. Shown on the screen was a cross section of the outlet

structure. This is where debris and solids will be kept from going out when the water is discharged into the North Poudre Irrigation Company ditch.

Warren continued his presentation and explained that he has not had any complaints about any odor, but that he has 3 employees trained to use a tool called a "Nasal Ranger" that is used for detecting odors. He continued to go through a few more slides about the voluntary air quality studies. He showed that the plant operations are expected to be below any of the EPA screening values.

Stephen Zemba, PhD with Sanborn Head provided an overview of his company and credentials. They have a small office in Denver, and do lots of different environmental types of studies, including environmental radiation or contaminants in the environment as the company focus. He reviewed the air impact study prepared by Antea Group. He reminded everyone that it was a voluntary study, that this level of review is not required for State or County permitting requirements. There were 3 key locations used in the study which were the nearest residence, Wellington Community Park, and Eyestone Elementary School. He showed a slide with the scope of pollutants on it. The left side shows Criteria Pollutants which shows Particulate Matter smaller than 2.5 and beyond 10 are small. They also looked at nitrogen, oxides, nitrogen dioxide. There's an ambient standard for sulfur dioxide and also carbon monoxide are all subject to national quality standards. They are emitted by hot mix asphalt plants, but are also emitted by any combustion process, including our cars and the other sources that Warren had mentioned earlier. The list is shown on the right side of the slide. He showed a slide with the wind results from the study that shows the wind from every direction. He showed on the screen Table 3: Summary of AerMod Calculated Emissions and NAAQS. This is one table from the report looking at predictions for criteria pollutants, and these are not the ones he focuses on, but says there is some importance here, because criteria pollutants look at both long-term effects and short-term effects in particular. If you look at the NO_x and SO₂, they both have one-hour standards, and if you were worried about health effects such as asthma, those would be short-term stimulus. They could cause an asthma attack as an example. The third column shows the largest impact that could go from this plant for an hour in that year they modeled. He wanted to talk about ozone because we're near a non-attainment area for ozone in this region. He said that if we had one air quality issue of concern, it should be ozone. Ozone is not actually emitted by sources. It is created in the atmosphere from photochemical reactions. But 2 of the pollutants that will be released in small levels by this plant will be nitrogen oxides and volatile organic compounds (VOCs). Ozone is a regional issue and it counts all emissions from all the cars and other sources mentioned earlier. Since the plant is meeting the air quality it won't matter if the plant is moved. He shows on the screen the air modeling contours. The results depict long-term annual impacts for toluene. The red rings are the highest concentrations which is .0050. So even the very peak level is still hundreds and thousands of times lower for toluene than the level that would lead to some long-term health effect. So based on the modeling, toluene is not going to be a problem. He also said that other toxins are not expected to be a significant risk. They look at the risk of cancer. We all have a high chance of getting cancer in our lifetime. Males have an average risk of 41 out of 100 and for females it is 39 out of 100. Most are genetic factors, not environmental sources. For an average man, the chance of getting cancer is 410,000 in a million. If we look at an environmental project like Connell's plant, the allowable risk would typically be 1 to 100 per one million extra risk of getting cancer. So, if he took a one in a million risk, and added it to 410,000 in a million, the total cancer risk from just other sources, and the emissions from

this plant would increase from 410,000 in a million to 410,001 in a million. You couldn't measure that difference or notice that difference. This is something called a "de minimis" risk. If you are at or below that, usually this is an acceptable risk, it's very small. It's not going to add to someone's cancer risk. Just putting that in words again. If you take that one in a million, you add it to the 410,000, you get 410,001 per 1 million. There is very little differentiation between those 2 risks, adding a one in a million risk. It is different for every chemical, but if you look at the third column, it is low for them all. He says that emissions from the hot-mix asphalt plant will not present significant risks to human health and the highest incremental modeled concentrations will be small compared to existing background levels already existing from other sources.

White came back up to conclude the slide presentation and discussed the Site Plan and the Site Plan criteria. She showed a slide with all the things they will be doing to mitigate any site impacts, including: the Board of Adjustments conditions; the controls from other permitting agencies; and the cognizant site planning that has gone into this plan. She went over all the criteria set forth in section 2.12.3 of the Town's land use code.

She talked a little bit about each of the criteria. The first one being the future land use map. It is consistent with the Comprehensive Plan and the intent stated in the Land Use Code, and there are a couple of different ways that you measure consistency with the Comprehensive Plan. You look at the use itself, the future land use map and in fact, this is actually the only real parcel within the town that could accommodate a use like this within the town of Wellington, and that's probably one of the reasons why you decided several times to keep it zoned industrial over the last several years because of the proximity to the railroad. The vision for the town, and the code expresses the specific criteria and standards by which that vision will be measured. So, when we are talking about the Comprehensive Plan, we are talking about goals. When we talk about the Land Use Code, we are talking about standards.

Disruptions from talking and comments from the audience was interfering with the meeting progress. Chairman Sartor called a 10-minute recess.

Meeting resumed.

White continued with her explanation of the site plan evaluation criteria. Another is to develop a supportive business environment that aids in creating a thriving local economy. This site plan meets this goal by providing commercial land uses that provide job opportunities and needed services. The next one has to do with the size and lot dimensions being consistent with the final plat – In this case, it just so happens that the Site Plan is being considered before the final plat, so the reverse will actually be true. The final plat will be measured against the Site Plan, so that criteria will not be applicable in this instance. No buildings or structures infringe on the easements, nor will they. We heard about the drainage and how it will be worked on to the site and those requirements will be met. The density and dimensions shown conform with Article 4 of the code or the requirements. All of Section 5 of the code which is about 50 criteria. It has to do with landscaping, screening, and buffering, parking – all making sure that the site meets the parking requirements, architecture and building design, transportation, and connectivity. This Site Plan provides for safe and efficient transportation in and around the site and connections to the roadways and properties outside the site, and the staff has found that all of these are met, and that this criterion is met overall.

Lea Schneider, Larimer County Environmental Health Planner came to talk about air quality. Their agency is one of the regulatory agencies involved in the air quality protection. She went over 6 criteria pollutants and the health impacts. She shows the table that the State Division of Air Pollution Control uses to evaluate permits for air pollution sources. The column on the left are the volatile or criteria pollutants. Carbon monoxide, sulfur dioxide and oxides of nitrogen are not technically a criteria pollutant, but they are an ingredient for one of our criteria pollutants, which is ozone. So, it is highly regulated because it can impact the ozone criteria pollutants. The proposed site is located within an attainment area for everything particulate matter, carbon monoxide, sulfur dioxide, oxides and nitrogen. The State permit thresholds are a little different than the EPA standards. She showed a slide of Connell Resource's permits based on 2021 permits. Connell's thresholds are below the Hazardous Air Pollutant requirements. The asphalt plant is not over 10 tons per individual or combined over 2,510 ton per year. Connell had an air dispersion modeling for criteria and noncriteria pollutants of Hazardous Air Pollutants/Air Toxics done to evaluate community risk and determine if the planned controls were adequate. The data for the modeling included the maximum pollutant emissions rates from Connell's current 2021 permit, control equipment and local meteorology. The air dispersion model for criteria pollutants and Hazardous Air Pollutants were determined to be below both the chronic and acute levels known to cause harmful health impacts under Federal and State screening values and health guidelines. She shows several slides with the results on them which showed low values for each pollutant. She showed a slide with a thermometer on it with different thresholds. She wanted to show that just because someone might be near a threshold, it does not mean to panic and that everyone will get cancer. Good is the range is below the health advisory levels. You should not experience health impacts in the range. Connell is at the top of this level. Caution is in this range, numbers above the health advisories do not always mean you will experience health impacts. The Hazard category is in this range there is greater concern for health impacts. Even at this level of exposure there are other factors that determine which groups are more vulnerable to health impacts, including genetics, pre-existing conditions, and overall health.

Commissioner Chollet asked what was the height of the building elevation included in the site plan. Bird said it was 17 feet. Warren said the maintenance shop is about 22 feet and the lean-to is 16 feet. Commissioner Chollet also wanted to know if the berm by the railroad tracks would be considered a natural buffer. Warren said it is about 22 feet higher than the site.

Commissioner Carman asked if the proposed administration building is also behind a berm. Warren replied there was a 10 foot berm around it that was requested. Bird explained that staff had asked for a landscape berm for visual interest and landscaping, but did not want to completely obscure the administration building.

Commissioner Carman asked if the berm was going to affect the stormwater drainage by the street. Burrell said that it still matches the current historic flow and that the stormwater on the southwest side will go into the pond.

Commissioner Moyer asked about the image on page 36 of the packet and asked can you confirm and explain why we are measuring setbacks for the 800 ft. and the 1,000 ft. and the illustration of the 2,640 ft. radius from the highest point of activity on the site, but we

measure marijuana stores setbacks from the property lines. Bird replied no, it is not from the property line that marijuana stores are measured is the answer to the question. What was looked at was the industrial land use and what is the operational element of an asphalt plant. The offices and the buildings are not the more intense use for which the greater setbacks are applied. That is the reason why staff specifically asked the applicant to locate the office and other structures on the west side of the site, to help mitigate and buffer from the most intense uses to offices, mechanical shops, landscaping, and screening to help transition that down to the adjacent land uses. But marijuana setbacks are measured from the nearest wall of the building to the other protected use in accordance with the marijuana ordinance.

Commissioner Chollet wanted to know if this site plans have been approved by the Town Engineers. Bird said that site plan will change and some things will move. Town Engineer comments required some additional information and they will keep reviewing so that the Town standards will be met. There is still coordination ongoing before final engineering plans will be accepted..

Commissioner Carman wanted to know if the maintenance shop will serve as screening more like a berm. Bird replied that it would be since there could not be an actual berm located there due to the pond.

Commissioner Chollet asked if the buildings would move. Bird said it was a possibility for the buildings to move, but that they would not move significantly.

Commissioner Chollet asked why the signs will be done differently as there have been signs as part of this process in the past. Bird replied that monument sign locations are reviewed by the Planning Commission, but since plans have not been approved yet, the applicant decided to wait before considering signs since signs are so expensive. The applicant has committed that there will not be any signage on the silos.

Commissioner Chollet asked about the photometric plan as there is a letter saying that all lighting is for the safety of the employees. Warren said that night operations are very limited. Last year they only worked a total of 6 nights, and the lighting stays the same.

Commissioner Chollet was concerned if there was a spill who is responsible. Warren said if they did it, they will clean it up.

Commissioner Chollet wanted to know if the earth berms were adequate. Warren replied that he will be putting in a 15-foot berm on the west side which was a condition of approval by the Board of Adjustments. The berm cannot go all the way around because of the pond.

Commissioner Chollet was interested to know if there could be a bicycle lane and protective bollards on County Road 66. Bird was unsure if that could be done and meet all applicable safety standards, but that staff would investigate it.

Commissioner Whitehouse asked about where the process water would be trucked from. Warren said they had 2 locations adjudicated that they could pull from.

Commissioner Whitehouse asked about the expected timeline for construction. Warren replied that his goal is to be under construction late 2023 and be operational by April 2025.

Commissioner Whitehouse asked if the County Health Department supports the results of the air dispersion study. Schneider said it is the same as the company's existing permit, and they will be adding some equipment improvements that will be cleaner than the existing operations.

Commissioner Chollet asked about the noise modeling. Warren said that the background noise was higher than in Timnath but is confident the berms will work.

Chairman Sartor explained that he had received a list of all the individuals that had signed up wanting to speak and would call names in the order they signed up. He said that if there were people wanting to speak that had not yet signed up, he would allow for others at the end to come up.

Public comment period opened.

Jarod Cordell – called, but chose not to speak.

Matt Goepel wanted to know if asphalt plants go in, do they increase the property values and if not, is that in line with the vision of the Planning Commission. Photometrics and truck pollution will be increased. He talked to John Warren about talking to Harvest Farm (Denver Rescue Mission, located on County Road 7) and Warren did not talk to them. It is a residential area though. Goepel asked if the Planning Commission purpose statement could be repeated.

Erin Lines says EPA does recognize that asphalt plants do have toxic chemicals. Yet all the information tonight says they are not harmful. She cited a study she found that property values do go down for homes close to asphalt plants. The setbacks are not enough.

Andrea Taillacq saw in the slides the site plan showed discharge to the North Poudre Irrigation lateral and wanted to know whether that water was actually being shepherded to the natural waterway or whether that would be diverted by North Poudre Irrigation. She asked if the water that was described as being trucked in from the adjudicated source was adjudicated for this site.

Richard Clark – called, but chose not to speak.

Matt Mullett is a business owner in Town. He believes this will be good for the Town. He thinks home values will go up because this will bring more businesses to town which will increase the value of the homes. He thinks that Connell has gone above and beyond by doing extra studies and talking and working with the people.

Donna Rodriguez has lived here for 23 years and there were many unpaved roads. She has worked for Connell Resources for 27 years. She had no health issues. There are many things that have toxins that are close by. Like diesel trains have a lot of the same chemicals. Buffalo Creek Subdivision is right next to a dairy. Connell had 1 non-compliance because of stopping a test. The emissions from their trucks have low emissions.

Reesa Conrey asked why there is heavy industrial by residential. Why was it 1000-foot setback and reduced to 840 feet. The setbacks changed in October of 2022, and no one knew. The communication should have been better. On some of the tests the winds reported did not seem right for Wellington. She asked if the noise reported was from just a single day. She said this is not a good location.

Lisa Clay is the owner of the property where Connell would like to be located. The property has been zoned industrial since before Buffalo Creek was created. The property was not listed for sale. Connell came to them interested in the property. Connell had looked at the zoning and found their business was an allowed permitted use for that location. This is not about the money – it is about the principle. Clay said her company has been in Wellington for over 40 years. They bought the land around them to build a buffer of industrial land from the expanding residential. She believes that Connell has presented a nice plan and that it would not be harmful. They have employees that live in Buffalo Creek and would not want to do anything that would cause harm to them. She asked, why, if someone had an issue with the industrial zoning, why would they buy a house in Buffalo Creek when this industrial property was already there?

Nancy McKay said she and others will be filing a lawsuit against the Board of Adjustments. The previous lady had said that the zoning has already been decided and the right for an asphalt plant has already been decided. She said that is not true. 15 foot berms don't matter. The letter from the owner of the property is unreal.

Commissioner Sartor explained that this is the Planning Commission considering the site plan and that they are not the Board of Adjustments.

McKay continued to make comments from the back of the room. Commissioner Sartor reminded McKay that her public comment time limit had ended.

Gerry Brown – called, but chose not to speak.

Melissa Whitehouse explained she was not there to discuss the site plan, or the environmental projections. She wanted to talk about the growth management area. On page 34 she couldn't figure out what it was that was disturbing her about the big star in the middle. It is in the middle of instead of the outer limits of the growth management area that has been current practice by Connell. For the last 20 plus years they have been on the outer limits of the growth management area for where they go. Connell is violating their own precedent. On page 38, it shows 95% of the trips will go to Owl Canyon Road which is outside the growth management area. Why change the precedent now.

Dawn Burch – called, but chose not to speak.

Kayla Burgett is a nurse who is concerned about the health implications of the asphalt plant. She read a CDC letter that mentioned that headache clusters are present close to asphalt plants. How can we consider the air quality report valid when it was done at one time of the year.

Tom Peterson is the director of the Colorado Asphalt Pavement Association. When comments have been raised with respect to toxins, cancer causing pollutants – it is quantified and defined in your permits. That's where it is stipulated and restricted and measured and monitored and required by the operator. If you go back years to what you see today, Connell's plan is state of the art and utilizes best management practices, including the "Big 4", and they have all 4 – counterflow drums, emission recovery system, natural gas fuel, bag house systems. Connell is committed to being a good neighbor. Asphalt is a heavily regulated industry. The permit is to ensure clean air and to protect public health. There are 65 asphalt plants in 42 counties around Colorado. Nearly every plant in Colorado is either near a school, a subdivision, a home or a stream and all of them ensure public health.

Jason Waldo showed on the map where he lives and stated he is the nearest resident to the proposed development. He did research and had meetings with John Warren. He was worried about the dust in the area and Warren said they would have water trucks. He was worried about "Jake Brakes," and Warren said he would put up signs on the county roads to restrict Jake Braking. They are doing landscaping to make the location better than it is. The hours of operation are Monday through Friday and some months they are closed. He supports this development proposal as a good neighbor.

Ben Trabing asked for an additional 4-5 minutes of speaking time. Chairman Sartor agreed that he could give 6 minutes. Trabing introduced himself as a meteorologist and an atmospheric scientist and is more qualified to talk about the air emissions studies. Page 11 of the packet seems to still question whether asphalt plants should trigger the Land Use Code for the production and curation of toxic chemicals. From the staff comments it says that all the ingredients that liquid asphalt as well as the aggregates that go into making hot asphalt are not considered dangerous and that is true, but you could also make the same statement for ingredients that go into a Molotov cocktail or an explosive device. That isn't necessarily a true statement, and it does not make the devices any less dangerous. If you look at the air dispersion modeling study, it shows that the site is not large enough to contain all the fumes produced by the plant. With the batch plant confined to the northeast corner of the property, their proposal cannot be accepted because it does not actually meet the Land Use Code, by keeping all the fumes and toxins remain on site. He believes that the model does not show the actual values since the plant will not be open year around and does not operate 24/7 like was used for the calculations. So, the values will be higher during the time they are emitting any pollution. Also the results are presented as yearly averages for the park, the school and the residential areas to the west. This does not adequately assess the risk for toxins. Also, the data that was used in the study was from 2006 and there is a better atmospheric data today. The only thing this emission study truly proves is that hazardous airborne pollution is produced. It is emitted and goes off-site to the property, and that is in violation of the Land Use Code. One of the conditions for the setback reduction to 800 feet is that this Planning Commission actually approves the Site Plan. But you need to reject the Site Plan because it is directly in contrast to the Land Use Code. It is too close to the residential areas given the toxicity and the emissions are not going to be confined to the site itself.

Jade Cowan – called, but chose not to speak.

Sarah Mickschl sees Wellington as a developing community that has become a very desirable place to live. However, an asphalt plant does not help our community to grow. Releasing toxins into the air does not help our community. It does not help the value of our homes. There is a better use for the land and I cannot believe the land is still zoned heavy industrial. She has spoken to a couple of people that live in town and have worked at asphalt plants in other States. They warned of the vastly negative impacts the plant would have on our community. She would like to see the land used for something else like recreation items or other businesses that would attract residents to the town. The aggregate is already coming from Carr. They should open the plant there.

Chad Mickschl said the Land Use Code section 101.1 states that the zoning regulations are designed to promote the health, safety, values and general welfare of the town residents. An asphalt plant does not meet that goal. Section 4.03.21 Industrial and Manufacturing, Heavy shall be at least 1,000 feet from any residential district. This part was not adhered to and a variance was granted. What decision making went into this? The section then says that the facilities producing toxic chemicals shall be located 2,640 feet from residential districts. The Connell plant curates toxic chemicals and adds them to produce asphalt. They also emit them into the air. No additional analysis is needed. It produces a toxic chemical. Also there has been a lack of transparency. He never received any mailings about zoning changes or notifications to attend a meeting. He believes that Wyatt Knutson on the Board of Adjustments had a conflict of interest since he works for CTL Thompson which was hired by Connell. Also Mr. Carman was on the Board of Adjustments and should he be allowed to vote on this now being on the Planning Commission.

Erin Ramler wants the application denied. Our Land Use Code does not distinguish between minor chemicals. It just says toxic chemicals. They should meet the setbacks in the Land Use Code. Would like to see this project sent back to the Board of Adjustments. She added since the Connell lawyer nicely mentioned adhering to the Town's vision for the Comprehensive Plan, the Town's 2022-2024 Strategic plan vision statement states that this town strive to make Wellington one of the best small towns in America, to live, work and raise a family. And no one wants to raise their family in a toxic town.

Brittany Cowan does not believe this is meeting the Land Use Code health, safety, values and general welfare and the chemicals will not be confined to the site. The Board of Adjustments did not grant approval because one of the conditions is the Planning Commission approval.

Ayla Leistikow page 250 of the packet it says it does produce toxins and it does not matter because the Land Use Code says there are locations in Larimer County and in Greeley. It should not be 800 feet from residential and the variance has not been approved. The Planning Commission has the power to apply any condition to the site plan and they should right the wrong and apply the correct setback. One question is the thresholds for the toxic air dispersion studies for those for healthy adults, elderly children, or infants.

Ben Leistikow said this board participated in the Town's Comprehensive Plan, and thought the community cohesion part was outstanding, and it states we take pride in our community by providing safe and attractive neighborhoods, oriented around parks, trails, amenities, and public spaces, and by offering for our community to shop, gather and celebrate. A key call out from that Comprehensive Plan was to promote air quality in and around Wellington to ensure air quality is maintained and we continue to grow. The air dispersion study seems to

be old and does not seem to be indicative of a good partner for air quality. Connell, at best is a push in the Comprehensive Plan, and at worst fails to meet the goals. The only way to truly help the town is for Connell to be required to get the right variances. The Planning Commission should add a condition requiring Connell to seek a variance for producing and curating toxic chemicals.

Rachel Hayes – called, but chose not to speak.

Debbie Condos says it does not matter how many permits they have, stuff happens and then what? Why didn't everyone get notified? There is about 75% to 80% of the residents that do not know what is going on. People do not know. She found out with a letter under her door mat from a neighbor.

Chairman Sartor asked if there was anyone else who would like to speak that did not get signed up to do so. No one responded so he closed the public comments.

Public comment period closed.

Chairman Sarot asked the Commissioners if they had any questions or comments.

Commissioner Moyer repeated what she shared at the March meeting. The role of the Planning Commission is to form recommendations based on the promotion of the community's health, safety and welfare in the future. Consider all research and information when forming a recommendation or making a decision, respect all views, and treat everyone equally. Give citizens a meaningful opportunity to participate. Focus on the bigger picture goal setting for the Commission in order to achieve long-term accomplishments. Commissioner Moyer also shared some of the findings that are in the packet that she is not sure we comply with at this time. The zoning and uses of properties nearby, public health, safety and welfare by the possible diminution in value of applicant's property as compared to the hardship imposed on the applicant if the request is denied, opposition or support of neighborhood residents, conformance of the requested change to the Town's Master or Comprehensive Plan. Commissioner Moyer also wanted to share her notes on section 4.03.21 about the toxic chemicals for her – Toxic chemicals come up multiple times on several pages. She said there are potential health risks and the risks for you are not mine to take.

Chairman Sartor asked Schneider to come back up and address any of the questions or comments she heard that she would like.

Schneider said that Connell was not required to do the air dispersion modelling because the limits coming from their plant do not require this type of modeling. She said that there are a lot of asphalt plants out there. Some use older technology and some use newer technology. She said that the chemicals that are being used could cause cancer. Higher winds for these tests would dilute the chemicals in the area so the static conditions were evaluated to illustrate worst case scenario is chemicals were pooling in the area due to lack of wind.

Commissioner Carman asked if Ms. Schneider if she works independently from Connell research group. Schneider said yes, she is an inspector on behalf of the State.

White made closing statements. She suggested bringing everything back to the reason we are here which is for Site Plan review. It states in the Land Use Code these zoning regulations are designed to promote health, safety, values, and general welfare of the town residents. It is the standard which all other standards in the code follow. All the comments tonight about the chemicals gets lost in the fact that the regulations themselves rely on the State system for issuing the permits for this use. The Larimer County Health Department chart which showed the EPA standards across the board all of the numbers in the air dispersion modeling study were way lower than the maximum safe recommended levels. Some of the chemicals in question are emitted by a gas station or a fast food restaurant that have already been allowed within the town and they are allowed to be less than 2,640 feet from residential. The point is that if you are going to apply the Land Use Code here, you need to apply uniformly to all potential sources of emissions, no matter how small. These proceedings can have anything introduced. Anyone can say anything they want. Anyone can introduce anything that they want to as evidence. There is no restriction on what comes in. Rather, you all get to weigh the credibility of all the evidence that is presented to you, and decide whether it weighs in favor of the finding that the criteria are met versus not finding that the criteria are met, and you get to decide how much weight to give credentialed experts who have provided data and reports, and have presented themselves to answer questions. The opposition is presenting the equivalent of Google research on the Internet. Some of the information presented that falls into the category of the latter is about irrelevant sites, because they are in China, or they might be bigger. They might be smaller. They might be totally different. We have presented actual data about this actual site in this location. Based on actual studies presented by experts. We thank you for that opportunity to present this information to you and for your consideration to this matter, and again ask for your approval of the Site plan.

Bird wanted to address some of the items he heard that had not already been addressed. There was a question about why the property is zoned Industrial and located next to residential. It has been this way for years and prior other code adoption, there was not a separation requirement. There was a question about not having an environmental or remediation plan and the Town does not require one. The question about why the entire town wasn't notified. The Town publishes in the Coloradoan, there are signs on the property, there were notices that went to properties that are within 500 feet of the proposed property, and the meeting is on our website. A public hearing is not required for Site Plan review.

Commissioner Moyer asked what options they had. Bird said they can approve, approve with conditions, or deny the application.

Chairman Sartor would like to hear the intent of the code about pollutants, vapors, and dust that several community members brought up. Bird said the intent would be to mitigate all that can be mitigated through site planning controls.

Commissioner McCaffrey was wondering what would happen if one of the Connell trucks gets hit by a train what happens. Warren said their products are not flammable or explosive, it is just hot. Commissioner Carman asked the same about the silos and tanks. Warren said it is the same.

Commissioner Whitehouse was interested in knowing if this could go back to the Board of Adjustments to redo the setbacks. Can there be clarification as if it can go back since the Board of Adjustments has already ruled. Bird said no, since the Board of Adjustments, has already ruled, that question does not get sent back. The legal process would be that question would be appealed in a court of law. Bird does not think the Planning Commission has the ability to say that the Board of Adjustments did things right or wrong – that is their purview and only their purview. If the decision by the Board of Adjustments wants to be looked at that is appealed to District Court, not the Planning Commission.

Commissioner Carman said that the Board of Adjustments knew there was a site plan going to the Planning Commission and it was hard to see which should have come first. Bird said the Board of Adjustments knew it had to go to the Planning Commission so it was included as a condition of approval.

Commissioner Whitehouse asked if the time frame to appeal the Board of Adjustments decision had ended. Bird said that was correct.

Commissioner Chollet wanted to know if there was a remediation plan if the owner picks up and leaves. Warren says they have reclamation plans with the State and since he has not introduced anything here yet, one option would be to have a bond on the property while he owns it.

There was discussion about water usage. Warren said that Town-treated water was going to be for the interior office and building facilities, not the operations.

Chairman Sartor asked if anyone had a motion.

Commissioner Whitehouse moved to approve the site plans for Connell Resources subject to conditions identified in the staff report including conditions on page 20 paragraph 15.

Motion seconded by Commissioner Knaack.

There was a discussion about having an amended motion to include water restrictions. The discussion ended and roll call took place.

Yeas – Carman, Whitehouse, McCaffrey, Chollet, Knaack, Sartor

Nays – Moyer

Motion carried

7. COMMUNICATIONS

None

8. ADJOURNMENT

Chairman Sartor adjourned the regular meeting at 11:19 PM.

Approved this 10th day of July, 2023

PATTY LUNDY

Recording Secretary