**CANYON COUNTY PLANNING & ZONING COMMISSION**

**MINUTES OF REGULAR MEETING HELD**

**Thursday, January 28, 2021**

**6:00 P.M.**

**1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING**

**Commissioners Present:** Robert Sturgill, Chairman

Patrick Williamson, Vice Chairman

Sandi Levi, Secretary

Rick Fried, Commissioner

John Carpenter, Commissioner

Scott Brock, Commissioner

Sheena Wellard, Commissioner

**Staff Members Present:** Patricia Nilsson, Director

Jennifer Almeida, Planner

Kellie George, Recording Secretary

**Chairman Robert Sturgill** called the meeting to order at 6:08 p.m.

Commission Secretary Levi read the testimony guidelines and proceededto the business item on the agenda.

**Action Items Case No. CU2020-0001**: **Peckham Rd. Trust** is requesting a modification of a conditional use permit (Case No. CU2004-92) to allow the existing feedlot (CAFO) to expand from the approved 6,000 head of beef cattle to 12,000 head. The operation will be expanded from nine (9) parcels to 13 parcels, R3698701, R36987, R36988, R36989, R36991, R3699101, R36967, R36968012, R36968012, R3697501, R36992, R3699201, & R36986. The facility is located at 27443 Peckham Rd., Wilder, ID in Section 21, T4N, R5W, BM, Canyon County, Idaho.

Chairman Sturgill asked if any of the Commissioners had a conflict of interest. None were stated. The chairman then asked if there were any declarations. Commissioner Wellard declared that Gary Johnston, who had been mentioned in the exhibits had been a prior client of her husband and may be a future client, but was not a client at this time. She has never met Mr. Johnston. She stated she can make a fair decision. No objections to her participation in the hearing were stated by the other Commission members.

Jennifer Almeida read the list of late exhibits. She proceeded to read Exhibits 121 and 122 into the record that were emails received after 5pm today. She proceeded to present her staff report with a PowerPoint presentation (Exhibit 123). Staff is recommending denial as the proposal does not meet two of the decision criteria in 07-07-05(4) and (5) and a draft decision can be found in Exhibit 1.

Commissioner Williamson asked about the definition of “downgradient”. Ms. Almeida responded that was her understanding reading the letter from the City of Wilder. He further asked to review Exhibits 15 and 16 regarding the canal that was piped and buried. Was that related to the BOR condition in a later exhibit? Is an easement still needed to be required? Ms. Almeida suggested the applicant can address that. Commissioner Williamson stated letters of opposition said the corrals were encroaching onto the existing easement. Ms. Almeida said the applicant should address that. He further asked if the annual reports would be sent to Idaho Department of Agriculture or DSD. Ms. Almeida said those report would be sent to the EPA. He further asked if cattle grazing on private property was restricted. Ms. Almeida said that cattle grazing are an allowed use in the Agricultural zone. He asked what number would be allowed. Ms. Almeida read the threshold for a large animal facility as stated in the Zoning Ordinance.

Commissioner Levi asked about the term about “historic landfill”. Ms. Almeida replied the term historic just meant the use had occurred in the past, not a formal designation. She reread the history of the use by the City of Wilder from 1950-1970. She asked what is the status of the violations listed in Exhibit 38? Commissioner Levi asked if landowners know the zoning of nearby properties. Ms. Almeida reviewed the various ways the public can access that information. Ms. Almeida said the entire property has not been used as a feedlot.

Commissioner Wellard asked what the process is the complaint is filed. Ms. Almeida and Director Nilsson described that complaints are forwarded to the respective agency. No violations have been identified by the County or the state Department of Agriculture. Commissioner Wellard also asked about the specific area of the expansion.

Commissioner Carpenter asked about the HECO Engineers letter stated the expansion will be contained within the existing footprint of the operation. Ms. Almeida said that there is expansion beyond the current permit and reviewed a map. If needed, a condition would be needed to provide a legal description of the CAFO permit area. He further asked when the existing development happened. Ms. Almeida replied that Exhibit 10 shows the subdivisions were approved in the mid 2000’s. Other residential development has occurred through land divisions

Commissioner Fried said there is lengthy list of violations in Ms. Abbott’s exhibits. He also asked if a CAFO ran with the land. Ms. Nilsson replied she will have to research the answer. A CAFO permit is reviewed using conditional use permit process but the standards are found in Article 8 of Canyon County while the Zoning Ordinance is Article 7.

Commissioner Williamson stated that Idaho is a right to farm state.

Late Exhibits were entered into the record.

Testimony in Favor:

John Hepton, 913 N. Robinson Blvd, Nampa, ID, testified as the applicant’s representative. He presented a PowerPoint (Exhibit 124). He addressed concerns related to the comprehensive plan, traffic and groundwater. He believes there is a discrepancy between them and the highway district.

Commissioner Williamson asked who receives the NPDES annual report. Mr. Hepton said the ID Department of Agriculture does an annual inspection and leaves a report with them. Commissioner Williamson asked about the canal easement across their property. Mr. Hepton stated that met with Matt Freelove with the Wilder Irrigation District who approved their plan. Commissioner Williamson asked about opposition comments regarding moving corrals prior to the approval expansion. Mr. Hepton replied that the CAFO dictates the total number of animals but not the details of building corrals as long as you stay within your footprint. Commissioner Williamson asked how often cattle wander off the property. Mr. Hepton stated it can happen occasionally but removing the access on Peckham Road will add a barrier to reduce those occurrences. There is an on-site manager and employees who will better maintain the fencing.

Commissioner Brock asked for a description of the life cycle of the animals on the property. Mr. Hepton replied that animals come to the feedlot and they either raise it to a around 850 pounds and sell it, or raise to 1300 pounds and send it to a local processor. Commissioner Brock asked if animals are sent to the Kuna facility. Mr. Hepton said no as Kuna takes cull cows but they anticipate sending cattle to a facility in Jerome. Commissioner Brock stated that Idaho is a significant player in cattle processing.

Jennifer Almeida stated that her PowerPoint is Exhibit 123 and Mr. Hepton’s presentation is Exhibit 124. The chair entered the exhibits into the record.

Commissioner Carpenter asked for a description of the sprinkling system. Mr. Hepton said their irrigation rights are being allowed by IDWR to be used for dust abatement and they will install large water guns, similar to pivots. Commissioner Carpenter said some opposition letters indicated dust in the winter. Mr. Hepton said sprinkling is typically used from June to September. Commissioner Carpenter asked about fly control. Mr. Hepton replied that you need to get rid of standing water, use of wasp as a natural killer of larvae, spray, and other management practices. Commissioner Carpenter asked what a mill is. He replied it is where they mix grain. Commissioner Carpenter how they will mitigate for increased nitrates. Mr. Hepton said Dr. Murgel can review that. Mr. Hepton said their wells on site do not have elevated nitrate levels.

Commissioner Fried asked if the increase to 12,000 offers you the economics to fund the upgrades and would like Mr. Hepton to describe the upgrades that will mitigate the concerns about the air and water concerns. Mr. Hepton replied that the grading has to be done correctly. The area needs to slope to a containment pond and they will do that. They will have the Department of Agriculture certify their ponds. As to air quality, the best practice is sprinkling of the pens and water trucks for the roads. Commissioner Fried asked if the improvements will be improved prior to cows. Mr. Hepton said they will do the improvements first and then put cattle in. They may do it phases. All improvements have to be approved by the Idaho Department of Agriculture. Commissioner Fried asked how they are absent of nitrates when there are high levels in surrounding wells. Mr. Hepton said Dr. Murgel will review that. Commissioner Fried stated that perhaps the clay layer is causing the nitrates to transfer to the surrounding area.

Chairman Sturgill asked how long Mr. Hepton has been involved in the site. He replied it has been about 2 years and has 25 years’ experience in feedlot operations.

Commissioner Carpenter asked if Mr. Hepton was one of the owners of the feedlot. He replied that he was.

Commissioner Williamson stated the mitigation measures seemed reasonable. He asked how odor will be mitigated. Mr. Hepton replied that you compost and not allowing manure to build up and retain water.

George Murgel, HECO Engineers, 975 W. Ashwood Court, Kuna, ID testified in support of the applicant as the applicant’s engineer. He has reviewed well logs on the site and in the immediate area. There is a clay layer on the site of various depth. It prevents nitrates for entering the on-site wells. It’s unclear where the recharge water is coming from into the wells with high nitrates levels. With 70 years of operation and low nitrate levels, it indicates the site can contain nitrates from getting into the groundwater. He discussed the historic landfill. Any proposed operations will not disturb the landfill. The composting operation will be a surface operation.

Commissioner Carpenter asked him to describe the clay layer. He replied it is generally 10s of feet from the surface to as much as 150 feet below the surface. The wells on site are over 250 feet deep. The wells with the high nitrates are deeper and some are in the 180-200’ range. Commissioner Carpenter asked if there is an impermeable layer put down when the site is graded. Murgel replied that the soils on site have a quantity of clay that will compact when graded and makes it somewhat impermeable and the runoff can go to the containment points and not migrate off site. Commissioner Carpenter asked if HECO prepared a grading and drainage plan. He replied he was unsure if they were doing that. They assisted with the planning of the site. Commissioner Carpenter asked if they would certify the work. Dr. Murgel said they could stamp the plans and could oversee the installer, but it would be the weak link in the overall process.

Commissioner Williamson asked if water quality results have been submitted. Dr. Murgel said he is aware there is documentation of regular tests that have been done and certified by laboratories. Commissioner Williamson asked how deep the landfill cover is. Dr. Murgel stated they are usually 6 feet at the top and may be less on the slope.

Planner Almeida referred to Exhibit 62 that includes a memo from HECO Engineers regarding nitrates.

Commissioner Brock asked what the depth of the runoff containment areas is and that grading will create an impermeable layer. Dr. Murgel replied that a layer would be created but did not know the exact depth of the runoff containment areas.

Commissioner Fried asked Dr. Murgel to describe the historic drainage patterns and if that contributed to high nitrate levels in the surrounding areas. Dr. Murgel said if you think of the site as a bowl, the runoff would drain to the center and be contained on site. Commissioner Fried asked if a study has determined that. Dr. Murgel said he is not aware of study but it is his conclusion based on looking at well logs. Commissioner Fried asked him to estimate how much groundwater seepage could exit the perimeter of the property if the proposed upgrades are made. Dr. Murgel said he would estimate it would be a very low percentage. He said the fence line would be the high point and a divide. Commissioner Fried asked if citizens should feel a degree of satisfaction that the proposal could improve the existing conditions in the area. Dr. Murgel said that with the improvements even with the increased number of heads that the runoff will be better controlled.

Commissioner Williamson looked at Exhibit 62 and then reviewed the map showing nitrate levels (Exhibit 16). He stated it would be helpful to see where the four on-site wells compare to the wells shown on Exhibit 16. Dr. Murgel stated he would have to pull out data on their wells and research that question; that the slope of the land, upper right on the map, to lower left of the map, all lead towards the river.

Commissioner Carpenter asked what the NP study showed for the direction of groundwater. Dr. Murgel said he had not seen the NP study. Regarding the Wilder well, Dr. Murgel said fertilizer use of farmland may be a source of nitrates. Commissioner Carpenter asked about abandoned wells on the site. Dr. Murgel said when a well is abandoned it is filled in and sealed so there is a minimal change to get surface percolation into them. Commissioner Carpenter asked if the appropriate permits were obtained. Dr. Murgel replied yes, and Commissioner Carpenter said that information would be helpful to be provided.

Cameron Mulroney, 21089 Rodeo Lane, Wilder, ID, testified in favor of the application. The efficiencies of CAFOs is now more advanced since this operation started. Recent operations have improved. The “moderate risk” identified doesn’t show proper mitigation. He is the EVP of the Idaho Cattle Association and has training in nutrient management. The operators are good members of the community. This is an economic driver of the county and community. The recent change shows responsible management by these operators. Region 10 of EPA doesn’t require discharge permits and there are no violations.

Commissioner Williamson asked if the prior operators have moved on. Mr. Mulroney replied that they have. He lives very close to this site.

Commissioner Carpenter asked if there is enough space for doubling the number of cattle. Mr. Mulroney said there is and that is reflected in the nutrient management plan.

Commissioner Williamson asked if NPDES reports are public information. Mr. Mulroney replied that they are between ISDA and the operator, whether it be private or public operations. The approved plans have to be on-site. They are not public records. The plans are now reviewed by DEQ instead of EPA Region 10.

Kyle Moos, 13882 State Highway 78, Melba, ID, testified in support of the application. He lives near Mr. Hepton’s operations in Owyhee County and has been an excellent neighbor for 22 years. There is not a better supporter of agriculture in Owyhee County and youth in Canyon County.

Taylor Funk, P.O. 160, Kuna Road, Kuna, ID, testified in support of the application. Mr. Hepton has the cleanest operation he has seen.

Kortney Masmeyer, 2423 12 Avenue East, Vale, OR, testified in favor of the application. She and her husband work for John Hepton and have been impressed with the layout of his facility, Her husband has been an Idaho inspector. Mr. Hepton takes good care of his employees.

Burke Neely, 23535 Canyon Lane, Caldwell, ID, testified in the support of the application. He does consulting work and while he is not a client, Mr. Hepton has an outstanding reputation. His operation provides a hub of the local agricultural economy. He reiterated that there is a better chance that nitrates result from fertilizer than animal waste. An up-to-date facility will perform better.

Trey Hart, 20449 Rodeo Lane, Wilder, ID, testified in support of the application. He works for Mr. Hepton in Nyssa and Wilson Creek and now works at the Wilder site. He is the current manager. Canyon County and Wilder are growing. They buy an extensive range of commodities and purchase from local hardware stores, concrete, metal, and other items from local businesses. He believes this facility can be state of the art.

Commissioner Williamson asked how many times cows have left the property. Mr. Hart replied it happened one time last year.

Nathan Jackson, 23094 Allendale Road, Wilder, ID, testified in support of the application. He owns Jackson Hop located across the street from this facility. He is happy that Mr. Hepton has created a market for their waste stream.

Commissioner Fried asked how long he has been farming at their current location. Mr. Jackson said they are going into their 14th year. Commissioner Fried asked him to share observations from the current operation compared to the last operation. He replied the tree barrier screen the current operation and it is very clean.

Levi Masmeyer, 2423 12 Avenue East, Vale, OR, testified in favor of the application. As an Idaho Ag investigator he inspected Mr. Hepton’s feedlots in SW Idaho. During the five years Mr. Hepton did things the right way. He went to work for Mr. Hepton.

Commissioner Fried asked what the head count is at the Vale site. He replied there is 7000 cattle but didn’t know the exact acreage but it was more than 100 acres. Commissioner Fried asked if the Wilder site could accommodate 12,000 head. Mr. Masmeyer replied yes, if overcrowded, it would not economically make sense as the cattle would not thrive.

Dale Barrett, 3540 Highway 95, Jordan Valley, OR, testified in support of the application. He has no dog in this fight. Mr. Hepton operates his feedlots similar to his. Feedlots are a sparkplug for the local economy as several businesses get a piece of the pie. The Wilder community should welcome them with open arms.

Darren Carraway, 3606 E. Columbia Road, Meridian, ID, testified in support of the application. He fed cattle at that operation since 1990 under various ownerships of the facility. He has done a lot of business with Mr. Hepton and has not seen a more professional outlet in his experience in the West. He hasn’t seen a better manager and treats his employees well.

Commissioner Williamson asked if there is a night and day difference between Mr. Hepton and the previous owners. Mr. Carroway replied yes. His management is first class and the neighbors should welcome this operation.

Commissioner Fried asked if Mr. Carroway works for the applicant now. Mr. Carroway replied he has never worked for him but he has done business with him. Commissioner Fried asked what the word on the street is about the current operation. Mr. Carroway said the facility will be state of the art and expects it will be clean and the cattle will be well cared for.

The Commission took a 5 minute break at 9:02pm.

Testimony in Neutral

Gordon Bates, Golden Gate Highway District, 500 East Golden Gate Avenue, Wilder, ID, provided neutral testimony on the application. The applicant has provide a draft TIS and his letters are exhibits. They want to do additional work on the road study once they have zoning approval.

Pradip Adhikari, ID Department of Agriculture, 12611 Avenue, Meridian, ID, provide neutral testimony on the application. He is present to answer questions on the CAFO siting team report.

Commissioner Williamson

Commissioner Carpenter asked if it was his opinion if the source of nitrates was the feedlot. He replied that would be determined by DEQ.

Kerry Pagenkopf, 1002 Lannahan Place, Caldwell, ID, provided neutral testimony on the application. He had entered a letter of opposition today and is very encouraged by what he has heard tonight from Mr. Hepton and other testimony. It has quelled his concerns about the feedlot. He is retired with an agricultural background. He and his wife are very well acquainted with the parameters of a feedlot. His concerns over nitrates have been dispelled. His well was tested at .8, which is substantially low. He is willing to see how it develops and give it the opportunity to see it proceed.

Commissioner Carpenter asked how far he is away from the feedlot. Mr. Pagenkopf said he is due west on River Ridge Road about a quarter mile away.

Testimony in Opposition

Cindy Foster, 28205 River Ridge Road, Wilder, ID, ceded her time to Brenda Abbott.

Mearl Foster, 28205 River Ridge Road, Wilder, ID, ceded his time to Brenda Abbott.

Brian Smith, 2760 W. Excursion Lane, Suite 400, Meridian, ID, testified in opposition to the application on behalf of the City of Wilder as the city engineer of J.U.B Engineering. The nitrate levels are the primary concern of the City of Wilder. The revised siting time report was reviewed. The City stands opposed to the request as this is located in a high nitrate priority area and is ranked #4. Nitrates come from a variety of sources including animal waste. In the latest siting team report is the primary soil type as a well-drained loam and that the clay layer is non-continuous. As far as surface runoff, it is rated as rapid. In summary this area is a high priority for the State of Idaho and the City of Wilder. A significant portion is located in the area of city impact. Even a moderate level of risk is too much of a risk to accept as groundwater is the lifeblood of the City and its residents.

Commissioner Fried asked if the high nitrate levels differ around areas around the town of Wilder. Mr. Smith replied that the levels vary. Commissioner Fried asked if the nitrate levels near the feedlot vary significantly from other wells around Wilder. Mr. Smith replied the city, being in a nitrate priority area, has a concern for any activity that adds nitrates to the groundwater.

Commissioner Carpenter asked for a description of the city well, such as how it was constructed and how old it is. Mr. Smith replied did not have the specifics on Well #3 off of Peckham Road. Commissioner Carpenter asked if it was drawing from the upper aquifer. Mr. Smith replied it was more than 300 feet deep and draws from the lower aquifer and has not seen a pattern that there is an issue with nitrate levels. It has tested very low. He confirmed the well is up-gradient of the feedlot.

Commissioner Brock asked if there is an estimate of elevation change between the city and the feedlot. Mr. Smith replied he did not have an estimate of the elevation change, but it is lower than the elevation of the city. Commissioner Brock stated he looked at the data on the ONX-Hunt app on his cell phone that uses USGS contour data.

Commissioner Williamson asked what is level of concern of using nitrogen fertilizer on farms as contributing to the nitrates levels in the Wilder area? Mr. Smith stated that CAFOs generate a lot of waste in a concentrated area on soils with high conductivity.

Tyler Lobdell, 3449 S. Norfolk Way, Boise, ID, testified in opposition to the application. He is an environmental and public health attorney. This facility does not have an NPDES permit. Idaho DEQ stated an NPDES permit would be required for the tiled pipe. His concern is the nitrate priority area and proximity to the Snake River. It is difficult to remediate nitrate levels. He said the Umatilla Basin has struggled with this issue for decades due to similar CAFO operations. Topography is not as important as hydrogeology. The applicant has admitted their plan is to move compost to surrounding fields which would add more nitrate pollution. He encouraged them to review the staff report that recommends this be denied and it is not consistent with the comprehensive plan.

Commissioner Carpenter asked what his interest is in testifying on this case. He is commenting on his own behalf as he and his family recreate in the Snake River.

Commissioner Williamson asked how he became aware of this application. Mr. Lobdell replied it came to his attention from colleagues and concerned citizens.

Commissioner Fried asked how much more of an impact this project would be if it were rebuilt than the surrounding agriculture operations. Mr. Lobdell replied that the Commission should take a precautionary approach and not introduce a potential new source.

Chairman Sturgill asked if he knew of mitigation measures and if he was opposed to feedlots in general. Mr. Lobdell stated he supports smaller scale operations.

10:07 Brenda Abbott, P.O. Box 752, Wilder, ID, testified in opposition to the application. She asked if the County has determined if Peckham Road Trust is authorized to do business in the State of Idaho and if the board reviewed everything she submitted. She asked for 20 minutes to testify. There was not a motion to provide additional time. She says they have violated federal and state laws and conditions of approval. No public revocation hearing has been set. She summarized her January letter to Bryan Taylor. She summarized studies of CAFOs and the potential for environmental damage and economic cost. Exhibit 105 she submitted detailed the abandoned wells in this area. The siting team report has changed three times. The siting team has limited expertise. She said homes in the area have been devalued by 50%. She said the historic landfill is toxic. Containment areas can breach.

10:20pm Commissioner Williamson moved to provide an additional 5 minutes. Commissioner Levi seconded the motion. Voice vote, motion passed.

Ms. Abbott stated the conditions have been violated. She encouraged the Commission to review the photos. She referred to federal code on laterals and the plan has corrals on top of the canal and this should be looked at carefully. There is a discrepancy on whether the clay layer is continuous. She believes that cattle on adjacent land is a violation of the CUP. She has provided a report on the Sunnyside feedlot that showed contamination went in all directions. The new owner has allowed an illegal lagoon on the property. An incident in Shoshone also showed contamination went in all directions.

Commissioner Williamson said she had an issue with the hay stack and asked what the specific concern was. Ms. Abbott replied that it was too close to the road and needed to be further set back from the road. He further asked about the history of housing developments in the area. She replied the 2004 administrative hearing transcript stated that the County officials determined there wasn’t feedlot activity for a year. She has submitted deeds that it should never have been sited at this location. She encouraged the Commission to read the rebuttal to the staff report. She said the feedlot had been much smaller in the past. Commissioner Williamson asked if she was adjacent to the feedlot. She replied she is kitty-corner to the site. He said there are agreement with Bureau of Reclamation on the tiling of the irrigation canal and how it was realigned. He hopes Mr. Hepton addresses this in his rebuttal. He was surprised at the statement that MRSA came from feedlots, and asked if she had specific data. She replied it was in the data she submitted. She doesn’t see 50-feet of space to service the canal that is required by federal regulations. She stated there is no access to Fish Road as it would have to trespass on her property.

Commissioner Carpenter asked how long she has lived in the area. She replied since 2003. He asked why the property would be devalued if there was an existing feedlot. She replied that the Commission can find those statistics in the reports she has submitted.

Commissioner Fried asked what her objective was. She stated she is pro-agriculture and pro rule of law. She said they are in violation of their conditions. She said there is another site of toxic waste.

Darin Taylor, 1434 New York Street, Middleton, ID, testified in opposition to the application. He stated that nitrates from area farms are nonpoint sources while CAFO nitrates are point source. He is disappointed that the owner and operator are unwilling to improve the facility for the 6,000 head. He said the portion of the site in the area of city impact would be annexed into the City and the uses on the eastern portion should be on the west. He provided comments on the draft traffic impact study. He noted the discrepancy in the testimony on the clay layer and amount of truck traffic. The expansion will change the essential character of the area.

Susan Cooper, 19987 Warren Lane, Wilder, ID, testified in opposition to the application. She lives about a half mile south of the feedlot. They have concerns about property values ad their well. They have a lot of sand on their property and is concerned what could leach into their well. She is concerned about views. Would the owner have any insurance for property owners if there was a breach and what protection would be there for their property value?

Commissioner Wellard asked how long they have live there. She replied they have been there for 4 years and considered it small Ag operation. They did not anticipate it would be doubled in size.

Commissioner Williamson asked if the updating of the site would alleviate her concerns. Ms. Cooper replied that as long as the plans are well-researched and there is control for damage to surrounding residential properties and it won’t negatively impact the City of Wilder.

Commissioner Fried asked if there is anything about the current operations that negatively impacts or affects her. She replied they get some flies but don’t really know that it’s there. If it went down the ridge it would be a concern. He asked if she knew the nitrate levels in her well. She replied her current well was 70 feet deep and when they bought the property no concerns were noted.

Commissioner Brock stated that there is not a 90% devaluation for proximity to feedlots. He described how issues would be disclosed when buying property. She replied that they would be hard pressed to buy another property if they had to sell their existing property.

Christy Tayler, 28360 Fox Lane, Wilder, ID, testified in opposition to the application. An issue is the method to control flies are wasps and they can become a nuisance and may affect pollination. Her biggest issue is the increase in the number of cattle on the same area. She thinks the impact area is outdated and the feedlot will affect city expansion. She has seen an increase in wasps over the past few years. She has concerns with the use of irrigation water to control dust as it may contain contaminants.

Commissioner Williamson asked what type of wasps she was observing as some are beneficial. She replied she is outside frequently in the summer and has noticed three different types of wasps and had several wasp nests on her property. Commissioner Williamson hopes that Mr. Hepton can describe this in his rebuttal.

Arden Davis, 28563 River Ridge Road, Wilder, ID, testified in opposition to the application. He is concerned with the number of flies they get. He has noticed a terrible odor about 3 times over the past 10 years. He is interested in using wasps for mitigating flies. He is not concerned about his property value dropping. His well is about 300 feet deep and it goes through two separate sand and clay layers.

Commissioner Williamson asked if he was opposed or neutral. He said his wife signed him up.

Art Rodriquez, 28058 Peckham Road, Wilder, ID, testified in opposition to the application. There is no benefit to the people in the County; only profit for the owners. The entire community will be at risk from the pollution, odor, flies, etc. This has been a nuisance since 1994. He said the sprinklers were never installed. When they call with complaints the code enforcement officer comes too late to verify the original complaint.

Commissioner Williamson asked how long Mr. Rodriquez had lived there. He replied eight years.

11:15pm computer restarted

Sandra Smallwood, 28077 Peckham Road, Wilder, ID, testified in opposition to the application. She owns the house at 28023 Peckham Road that has been in her family since 1948 or 1949. She is a lifelong resident of this area. Her brother changed irrigation pipes when Johnston owned the feedlot. There used to be a ditch bank through the feed lot. She remembers when there was no activity in the feedlot at all. She experiences dust, flies and odors. The dust in her grandmother’s house was green. She hasn’t seen the sprinklers work over the past two years.

Melissa Orozco, 27530 Peckham Road, Wilder, ID, testified in opposition to the application. She lives across the street from the feedlot. Her family has owned the house since it was built. She is disappointed by the discrepancy on how long Mr. Hepton has been an owner. There is bird poop everywhere. She used to be able to go outside but due to flies and dust they haven’t had an outside party since 1993. She had photos and videos of the dust. The traffic is already horrendous and come in all hours of day and night and use Jake brakes. She couldn’t decorate outside for Christmas due to the amount of bird poop. This expansion is not good for their health or family time.

Travis Allen, 16915 Agate Lane, Wilder, ID, testified in support of the application. He is a local large animal veterinarian. Eight years ago he visited the site and has done work there since then. The owners want to make progress and enhance agriculture in Idaho and support the community. The winter of 2017 was difficult.

Testimony in Rebuttal

John Hepton, 913 N. Robinson Blvd, Nampa, ID, provided rebuttal testimony. Peckham Road Trust has owned the property 2015 but it has been managed by Michaelson lease since 2018. Regarding the irrigation pipe, he read the 2/22 email from the irrigation district. It is a complete tile and not a perforated pipe. He said they use biological wasps. He appreciated everyone’s time.

Commissioner Williamson asked about the use of jake brakes and asked what the speed limit is on Peckham Road and is it flat. Mr. Hepton said he didn’t know the speed limit and said the road was relatively flat. He said they would put a sign up.

Commissioner Brock asked him to confirm how long he and his operation been hands on at this site. He replied it was around June 2019 and started work on the west side. Commissioner Brock asked about potential violations of the existing CUP about sprinklers. He replied they haven’t had to use the sprinklers but a water truck. The sprinklers they inherited were dilapidated. They can reach into the pens with the water truck. He confirmed they will bring in a big line and forwarded a video to DSD.

Commissioner Carpenter asked if he would fine with not allowing it to be transferred to another operation. He replied he would not want to guarantee that. Commissioner Carpenter stated there were upsides to improving this facility and that engineered plans reviewed by the County Engineer and construction certification could alleviate concerns. Mr. Hepton said he could support those conditions.

**11:51pm MOTION:** Commissioner Williamson moved to close public testimony on Case CU2020-0001, seconded by Commissioner Carpenter. Voice vote, motion carried.

Commissioner Williamson said there was a question on whether NPDES permits are public records or not. Check into whether Peckham Road Trust is permitted in the state of Idaho.

Check to see if CUP is transferrable. He wants to look at conditions.

Commissioner Fried – status of current operation in terms of if they are in compliance or violation of their current/old CUP – need a legal voice. Nilsson – Staff Report outlined the current CUP and encouraged review of the documentation provided. Commissioner Fried wants reassurance by DEQ, EPA, Dept of AG that the law is being followed. Nilsson – SR draws the conditions outs.

Commissioner Brock – remarked that the Staff Report versus the testimony of violations would need answered in terms of Code Enforcement records to make sure there are no current violations.

Commissioner Wellard – a complaint may not be a valid violation. People have a right to let their cows graze on their land. She is okay with checking with other agencies.

Commissioner Fried – heard her point; but wants some added level of reassurance and would want to know for sure.

Commissioner Williamson – agreed; he’d want to make sure bad neighbor relationships were not a witch hunt and all legalities were being followed.

Nilsson – Commissioner Levi’s phone has been lost; discussion on continuing to 2/4 after the 8pm tabling of the case scheduled for that time, for open discussion of the case.

Commissioner Williamson – also wants the history of nitrate levels of the well logs to do a comparison, however he’d not be available on 2/4. Nilsson indicated that continuing the case to 2/4 would allow to table the case then to a different date undetermined right now. Also, that public testimony would need to be reopened for comments on the new late exhibits entered this hearing.

Commissioner Williamson moved to continue Case to February 4, 2021 at 8pm. Seconded by Commissioner Carpenter. Voice vote, motion passed.

Director, Planner, Commission comments. Director Nilsson said comment would be provide on February 4, 2021.

Commissioner Williamson moved to adjourn. Commissioner Carpenter seconded the motion. Voice vote, motion carried. Meeting adjourned at 12:16am**.**

**Approved this 4th day of February, 2021**

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Robert Sturgill, Chairman

**ATTEST**

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Kellie George, Recording Secretary

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