



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, April 7, 2022  
6:30 P.M.

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman  
Patrick Williamson, Vice Chairman  
Brian Sheets, Commissioner  
Harold Nevill, Commissioner  
Miguel Villafana, Commissioner  
Robert Larison, Commissioner

Staff Members Present: Steve Fultz, Director of Development Services  
Dan Lister, Planning Official  
Elizabeth Allen, Planner  
Katie Phillips, Planner  
Bonnie Puleo, Recording Secretary

**Chairman Robert Sturgill**, called the meeting to order at 6:30 p.m.

**Commissioner Sheets**, read the testimony guidelines and proceeded to the first business item on the agenda.

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and conditions of approval for Case RZ2021-0041, David Benoit. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

**MOTION:** Commissioner Nevill moved to table case SD2021-0040, Red Cow Fold Subdivision to a date uncertain. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

- **Case No. CU2021-0019:** Idaho Materials and Construction, represented by Borton-Lahey Law, is requesting a Conditional Use Permit to allow a long-term mineral extraction use on Parcels R34723, R34725, R24743, and R34769 (approximately 229-acres) for a duration of 15 years. The property is located at 13247 Ballard Lane, Caldwell; also referenced as a portion of Section 11 and 12, T4N, R3W; Canyon County, Idaho.

**Planner Elizabeth Allen**, reviewed the Staff report for the record including late exhibits.

**Chairman Robert Sturgill**, entered the late exhibits into the record and affirmed the witnesses to testify.

**Testimony:**

**Todd Lahey – Applicant (Representative) – IN FAVOR – 12905 Venezia Ct. Nampa ID 83651**

Mr. Lahey, representing Idaho Materials & Construction, thanked the staff and mentioned the two site visits they made. He said this project will supply much needed sand & gravel which is particularly important for the new Highway 16 extension. This property has been in the family for generations: the Rule family lives on the property and plans on continuing to live on the property. The family's end goal is

low density homes with 4 large ponds on the property. Middleton city limits are moving closer to the property and they are faced with more dense, urban development coming their direction but would rather have low density homes around lakes. Mr. Lakey showed the site plan. Idaho Materials and Construction will not be operating on the entire site at once, they will be working in phases. The majority of the land will remain in agricultural operations as they move from phase to phase. There will be a minimum 200 ft. separation from the river. He discussed the process of extracting the gravel, the mitigation of noise and site impacts and how they will move to the next phase. He stated the crusher will be located approximately 1000 ft from nearby homes. They will be using Ballard Lane as the access point. They met with the Highway District to discuss other road options, however they all had their shortcomings and Ballard Lane was the most appropriate for this operation. They are currently doing a geotechnical analysis of Ballard Lane and its structure. If the analysis identifies additional improvement are needed to the road structure, they will work with the Highway District to ensure that happens. Mr. Lakey discussed the Comprehensive Plan and how the Highway 44 area is listed as a commercial corridor. He also discussed other Idaho Materials & Construction gravel pit locations and how they are familiar with working in the flood plain near the Boise River. He discussed the parcels surrounding this property and their zoning. He said they have their reclamation plan approved by the Department of Lands. The traffic impact study required a left turn lane but there were not enough requirements for a right turn lane. The level of service is improved with the left turn lane and they are meeting all the requirements of ITD and the Highway District. They have addressed the flood plain issues with Flood Control District 10 and have agreed to fill in the pond with clean fill material to remove any potential pit capture. Mr. Lakey addressed another gravel pit with legal action as noted in some letters of opposition. Monday through Saturday, 7 am – 6 pm are the proposed hours of operation; 24 hour a day operation would only happen as needed on a project-by-project basis. They agree with all the revised conditions of approval. They do not use any chemicals in their gravel pit extraction and will use native species not non-native, invasive plant species in their reclamation plan.

**Joni Rule – IN FAVOR – 13243 Ballard Lane Caldwell ID 83607**

Ms. Rule stated that the structure between Pit 1 and Pit 2 the Commissioners asked about is one of their homes; they own several homes on the property site as well as several homes on Ballard Lane. Ms. Rule pointed out their residence and identified the other structures on the property. She said that the 4 ponds/lakes they are proposing to put on the property are multi-use, private ponds. They want to preserve the property and don't want thousands of homes put on the property.

**Raymond Karsten – IN FAVOR – 13075 Ballard Lane Caldwell ID 83607**

Mr. Karsten lives down the road and wondered which way they were going to be coming in and out of the property with their trucks. He was concerned about safety. He was also concerned about his wells; if he has problems with his well, he asked who he would talk to. He stated that he is neutral on this project although he signed up as "in favor". He wasn't told about this: he only purchased his property a year ago and if he had known about this project, he wouldn't have purchased it. He also wanted to know what depth the pits were going to be as he was concerned about dust control.

**C. Ryan Russell – IN FAVOR – 924 Sugar St. Nampa ID 83687**

Mr. Russell represents Idaho Materials & Construction. With regards to the 24/7 operations question; they prefer to work during the day. The reality is that certain jobs require nighttime operations. He stated nighttime operations are minimal; there is as little action on the site as possible. There would be loaders to load trucks and they avoiding backing up. He said they have to abide by local noise ordinances. They try to be a responsible operator and are responsive to neighbors' concerns, addressing them when they come up. Typically, nightwork is limited to construction season which is Labor Day to Memorial Day. Mr. Russell discussed Ballard Road and dust control on the gravel part of the road; the restrictions on them

for dust control are more than the residents have experienced. They hope the dust will be better than it has ever been on the road. He said the pits will be as deep as the gravel is found; it varies, but typically it is 18 to 20 feet deep. They will go as deep as the gravel is and then by law, they stop at the clay layer. If they affect someone's well, they will address it with them. Mr. Russell discussed their dust mitigation efforts for the gravel removed and in piles on the site. The intention is to get in and out of the gravel pit as fast as they can. He also discussed the lighting on the site at night and the efforts to minimize light pollution. Mr. Russell felt that a cap on the number of days with 24-hour operations was reasonable.

**Tawna Barnes – IN FAVOR – 1109 W. Myrtle St. Boise ID 83702**

Ms. Barnes prepared the flood hazard assessment for the project. The intent of filling the pond is to prevent pit capture. She said if no gravel pit mining has happened, there is no risk for pit capture. The pond would need to be filled before the pits are at their full depth. She stated an alternative is to provide a buffer distance between the gravel pit and the pond, but once you get to a certain distance, the pond would have to be completely filled.

**Alan Mills – IN FAVOR – PO Box 206 Middleton ID 83644**

Mr. Mills stated his role in this project is questionable as he has to potentially wait 15 years to organize the land splits. It is his intent to use existing permits to strategically locate the new homes around the ponds. He stated there are national and local builders who would love to get this property which could result in 690 homes and R3 zoning. The tax benefit for the county would be substantially higher for estate homes as opposed to the smaller homes. Mr. Mills discussed another subdivision that is being platted nearby in the city: this could be considered contiguous development. He stated one of the two is going to happen and he would much prefer the larger home alternative.

**Ron Manning – IN FAVOR – 1109 W. Myrtle St. Boise ID 83616**

Mr. Manning is an expert on flood plain management, flood risk and FEMA permitting. He stated the levies are not certified: they are not levies, they are ditch banks. He is responsible for providing the no-rise certification for the project, ensuring that none of the new conditions of the property causes an increase in the base flood elevation according to the 100-year flood data. Mr. Manning explained the difference between the flood plain and the conveyance. During the 100 year flood, the ponds would get wet but would not convey any flow.

**John Hand – IN OPPOSITION – 12667 Highway 44 Middleton ID 83644**

Mr. Hand showed the Commissioners his property on the map. He stated he just bought his property in August. His master bedroom, his living room and kitchen and dining room all face the canal; the house is 40-50 feet from the canal. He said if they are going to stay 30 feet from the canal on their side, there is going to be mining 100 feet from his home. They had no idea this was going to happen; it wasn't disclosed when they purchased their house. They haven't been able to move in but have it leased. Their tenants also have no idea this is coming. He is concerned about the rock crushing noise from the pit. He showed his house in relation to Pit 1. He said the noise and dust is going to be a huge inconvenience for them. There will be no way that the noise won't impact them.

**Todd Lakey – Applicant (Representative) – REBUTTAL – 12905 Venezia Ct. Nampa ID 83651**

Mr. Lakey reiterated the land has been in the family for generations: the end goal is something that will be beautiful and compatible. In the medium term, it gives them an opportunity to address some of the public infrastructure needs throughout the valley. Mr. Lakey discussed the site plan; showed a berm that will be constructed on the site that would buffer the site from residences. He anticipates being out of the site by Mr. Hand's home sooner rather than later. He would not be opposed to a condition to consult with the applicable Irrigation District to ensure lateral support for the canal is maintained.

**MOTION:** Commissioner Nevill moved to close public testimony on Case CU2021-0019 seconded by Commissioner Williamson. Voice vote, motion carried.

**DELIBERATION:**

Chairman Sturgill summarized some of the changes to the conditions of approval: Changing condition #4 from Sunday to Saturday. He also reminded the Commission that the Board's decision is final.

Commissioner Nevill discussed renumbering the conditions of approval as they changed and adding new conditions: #18 subsurface weirs; #19 addressing the removing/filling of the pond and #20, consulting with the Irrigation District to insure no degradation of the canal. Commissioner Sheets indicated they could add the Irrigation District consultation item to condition #8 and provided verbiage. Commissioner Sheets stated his concern was agricultural land disappearing out of their inventory; he did not like that it was presented as either a gravel pit or 100,000 homes: "deal with this evil or deal with the more evil part". He said a gravel pit is the most intense use you could put in the agriculture area. He believes it will change the essential qualities of the surrounding areas, especially next to the river with prime wildlife habitat. Mitigation does not go far enough and he feels this is a mistake. Commissioner Sheets said Highway 44 is a train wreck; you can't get in or out of it during peak flow traffic and no one wants to address that issue. The people who come to them to discuss it have no power; all they hear is "we might do this with ITD" or "we have to wait for Highway District 4 to do this". He said he is tired of having to wait around for someone to do something. Everyone is making money on all these development projects but the County has to absorb all the costs. Commissioner Sheets defined public nuisance as something that interrupts the quiet enjoyment of your land or impedes the flow of goods or services; these huge development projects and mining operations are a public nuisance especially when things aren't being improved to go with them. He stated it is a breaking point in the County; these things keep coming and coming and no one wants to say anything about them. Is it time to get rich or is it time to make this place more livable? "Will the proposed use be injurious to other properties in the immediate vicinity and/or negatively change the essential character of the area?" He said the answer is 'yes'.

Commissioner Williamson, while agreeing that Commissioner Sheets made a lot of valid points, provided a devil's advocate counter and stated the gravel is a limited natural resource that could be used to upgrade roads and for septic tank drain fields. He also clarified with Commissioner Nevill that it seemed as if there was a way the pond could be filled with material that is being extracted. Commissioner Nevill agreed. Commissioner Williamson proposed new language on the filling of the pond for condition #19. There was additional discussion around the requirement of noticing and limits for the 24 hour operation and he instructed staff on including that as part of condition #5. Commissioner Nevill also commented that there is no more impactful use of ag land than mining however if they don't approve this, it will become high density subdivision and he felt this was the lesser of two evils.

**MOTION:** Commissioner Williamson moved to approve Case CU2021-0019 including amended Findings of Facts, Conclusions of Law and amended conditions of approval to include "injurious to surrounding area", include mitigations and cap the number of days of 24 hour-a-day operation at 90 in a calendar year. Motion seconded by Commissioner Nevill. Roll call vote: 4 in favor, 2 opposed, motion passed.

- **Case No. CU2021-0026:** The applicant, Andy Bishop representing Riverside Irrigation District is requesting a conditional use permit to allow an administrative building on parcel R39182. The property is zoned "A" (Agricultural). The property is located at 0 Boise River Rd., Parma, ID; also referenced as a portion of the NE¼ of Section 34, T5N, R5W, Canyon County, Idaho.

**Planner Katie Phillips,** reviewed the Staff report for the record.

**Chairman Robert Sturgill**, affirmed the witnesses to testify.

**Testimony:**

**Neil Allison – Applicant (Representative) – IN FAVOR – 1854 Syringa Rd Adrian OR 97901**

Mr. Allison is the President of the Riverside Irrigation District and as the applicant, will answer any questions the Commission has about the project. They want to build an administrative office for the Irrigation District, which has been around for over 100 years. They would like to have an office of their own. Mr. Allison clarified the office for the secretary who maintains the books and she works two and a half days a week. The ditch rider would not work out of that office; he mainly works out of his home. Development Services staff clarified that a change in the number of hours or staff on site would not affect the terms of the conditional use permit.

**MOTION:** Commissioner Sheets moved to close public testimony on Case CU2021-0026 seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets felt this was a well thought out and minimal impactful proposal and he is in agreement with it.

**MOTION:** Commissioner Sheets moved to approve Case CU2021-0026 including the Findings of Facts, Conclusions of Law and conditions of approval. Motion seconded by Commissioner Nevill. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. CR2022-0002:** Simplicity Homes, LLC, representing Nick and Hailey Bland, is requesting a conditional rezone of Parcels R29600 and R29600012, approximately three acres, from an “A” (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single Family Residential) zone. The request includes a development agreement limiting residential development to a primary dwelling on each parcel. The property is located at 9762 Deer Flat Road, Nampa; also referenced as a portion of the SW¼ of Section 16, T2N, R2W, Canyon County, Idaho.

**Commissioner Larison** recused himself from hearing this case as he knows the applicant’s father.

**Planning Official Dan Lister**, reviewed the Staff report for the record including a late exhibit.

**Chairman Robert Sturgill** entered the late exhibit into the record and affirmed the witnesses to testify.

**Testimony:**

**Hailey Bland – Applicant (Representative) -- IN FAVOR – 2269 W. Foxglove Dr Nampa ID 83686**

Ms. Bland and her husband are now the current owners of the parcel. If they had known this wasn’t the correct way to do this, they wouldn’t have done it this way. She said they obtained the building permit, split the land and then construction started. They started building after the split was done. They were halfway through building their house and then found out they didn’t obtain the proper building permit. The prior owner(s) did not split it correctly, so they went through the process they thought would correct the erroneous split. When they applied for the secondary split, a few options were laid out for them. The applicant did not know he had to live on the property although he owned the entire 3 acres. There were different addresses on the building permit; they weren’t trying to be deceptive about it. The lender did

his due diligence to make sure there was a building permit on the land before he would give them the loan.

**Carey Cook – IN FAVOR – 9398 Deer Flat Rd Nampa ID 83686**

Mr. Cook knew the prior owner. When that owner put it up for sale, Mr. Cook and his partner bought it. The plan was to fix up the current home and split the lot. When they went through the process to split it, they found out in 2001 or 2003 it hadn't been done correctly so they went back retroactively and corrected it with the County. They got the split and thought they were following the process the way they had been told. Mr. Cook stated obviously there is a mix up somewhere. After the split, they got the building permit. When Idaho Power came out to do some work, they noticed the address on the permit was wrong and called the County. That is the point when things were put on hold. He said they thought they were going down the process as it was laid before them; they thought they were doing it the right way. They never would have started building if they didn't have a building permit and now the house is half built. He is asking if they can help him out. In 2020 he bought the 3 acres and then sold it to the Dukes with the understanding there was going to be a split on the property. Mr. Cook stated he did not know that the building permit was conditional upon his being the primary resident of 9762 Deer Flat Rd.

**Diana Stanford – IN OPPOSITION – 10065 Deer Flat Rd Nampa ID 83686**

Ms. Stanford was there in opposition to the shenanigans that have been going on down at the property. The land the prior owner owned and the other 1.27 lot he bought from someone else were never merged; they were separate parcels of land. Then all of a sudden, a house is being built on it; no zoning, no notes. At that point, the original house was sold to someone and the new house being built was going to be sold to somebody else. Ms. Stanford said there are two illegal pieces of property that have been sold and not zoned, not properly separated or joined/merged. She lives down the road and has watched what has been going on. There have been rumors that they are going to build two more houses. The people paying the property taxes don't live anywhere near the property. Ms. Stanford is totally opposed to it. This has always been agricultural land. She has lived there for over 20 years; she is surrounded by 189 acres of agricultural land and that's what it's there for. She knows the development that is going on and sees it when she drives down the road but she doesn't want to depend on China for her food source. That is the reason she chose to live in Idaho.

**Grace Blaylock – IN OPPOSITION – 9065 Lynwood Rd Nampa ID 83686**

Ms. Blaylock has lived in her house over 30 years; they bought the house for retirement. There were very few houses there when they first moved there. Now the water is getting lower and lower. They used to support two houses on one well and there is also a dairy out there. The water supported all that but it can barely support (only) their house now. You can hardly get out on the highway now and there are lots of accidents. She knows this because when there is an accident, the traffic is diverted right in front of their house. She and her husband are in their 70's and they would like to live out the rest of their lives in their house without a bunch of houses and still have water. She saw the building and wondered why the house was being built so far back; she can deal with one house but she believes there are going to be more than one house. Ms. Blaylock thinks they aren't going to keep the house; they are going to flip it.

**Von Duke – IN OPPOSITION – 9762 Deer Flat Rd Nampa ID 83686**

Mr. Duke lives in the house on the original lot and wondered why there was a sign posted on his land. He knew it was Ag land when he bought the house; that's what he wanted. They knew there was a house going in. When he walked the property with another gentleman, they said within 5 years another house was going to be built. They spent their life's savings to buy their place, which they love. It has a barn on the property and they are trying to fix it up. He has three dogs and wants chickens. He wasn't happy that they put the road in for the house was right next to their property line. His dogs will bark all the time. He

knows he can't do much about Mr. Cook building a home for his daughter but he doesn't like it. Mr. Duke is happy with what he has. He bought it as Ag and wants it to stay that way. He feels bad they got this far but at the same time, he knew when Idaho Power was there they would find the issue. When he saw the building permit had his parcel on it, he saw everything. He moved into his house in October 2021. Mr. Duke discussed the water rights on the property; the farmer who owns the 76 acres of agricultural land put in an access road over the canal. He buried the ditch but put in an access point for him to tie in if he ever wanted to but he would have to coordinate with the farmer to do use the irrigation. There is no existing pressurized irrigation on either parcel now.

**Valerie Duke – IN OPPOSITION – 9762 Deer Flat Rd Nampa ID 83686**

Mrs. Duke stated the farmer was going to be taking care of the irrigation when they were splitting the property. The property was for sale over 100 days because the property wasn't completely split yet so they couldn't close. She has many documents that give multiple dates that the property was going to be split and how big the parcel is. She is all for the Bland family having a home; Mrs. Duke just want a home in the country. They put their whole life's savings into the property and worked to get the price down so they could afford it but they feel as though they have been lied to by Mr. Cook. She doesn't have any problem with the Blands living next to them but she doesn't want the area to be residential. She wonders why they weren't informed: why did they just get a letter in the mail like every other homeowner? They are the partial owners of an illegal split.

**Hailey Bland – Applicant (Representative) -- REBUTTAL – 2269 W. Foxglove Dr Nampa ID 83686**

Ms. Bland wanted to be very clear; they only want one house on the property, no more. She also apologized to anyone else involved; this has been a huge mess. The first split was done years ago before her dad purchased the property. She said they cleaned up the past split. They were told there was an option for a secondary building permit, which she feels shouldn't have been given to them as an option as her parents won't ever be living there. It feels like a giant misunderstanding to her.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CR2022-0002 seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Villafana stated this is a tough decision because the house is already half built. He feels the condition to reduce it to a single residence on each parcel would satisfy the conditions but it will negatively affect the Dukes as they can't build a secondary residence on their property. Commissioner Williamson clarified with staff that if this Conditional Rezone is rejected, it means the 1.274 acres will still exist but it will not have a building permit. They will have to either remove the dwelling or work something out with the Dukes. Commissioner Sheets stated that everything that could go wrong, did go wrong. He is concerned about the spot zoning arguments but he believes the conditions, along with the development agreement adequately contain the external issues that would arise. He would not like to hear this case again. Absent an approval, they are talking about a lot of money, process and heartache involved with the project. He suggests approval. Commissioner Nevill was not in favor of approval: he doesn't feel like they should ratify the errors that have been made in the past. He feels they should deny it and allow the secondary dwelling. If they can't resolve the secondary dwelling issue, it becomes a legal issue. He can't go along with putting a conditional rezone in farm land.

**MOTION:** Commissioner Williamson moved to recommend approval of Case CR2022-0002 including the Findings of Facts, Conclusions of Law and conditions of approval. Motion seconded by Commissioner Sheets. Roll call vote: 3 in favor, 2 opposed, motion passed.

- **Case No. RZ2021-0030/SD2021-0018:** Darren Goldberg/LGD Ventures, LLC, is requesting a conditional rezone of parcel R30117 from an "A" (Agricultural) Zone to a "CR-R-R" (Conditional Rezone/Rural Residential) Zone. Included with the conditional rezone is a development agreement. The request also includes a preliminary plat (with irrigation and drainage plan) for Lewis Heights Subdivision. The subdivision consists of 34 buildable lots and 6 common lots. The 78.5-acre property (Parcel No. R30117) is located on the south side of Lewis Lane, approximately 1300 ft. east of the intersection of Sky Ranch Road and Lewis Ln., Nampa, Idaho. The property is located in a portion of the NE¼ of Section 13, T2N, R3W, B.M., Canyon County, Idaho.

**Planning Official Dan Lister**, reviewed the Staff report for the record including late exhibits.

**Chairman Robert Sturgill** entered the late exhibits into the record and affirmed the witnesses to testify.

**Testimony:**

**Alec Egurrola – Applicant (Representative) – IN FAVOR – 332 N. Broadmore Way Nampa ID 83687**

Mr. Egurrola with T-O Engineers is representing the owner and developer of Lewis Heights. He highlighted all the platted subdivisions in the area around the proposed subdivision, which range in size from 2 to 4 acres. He showed the site plan. They are proposing 34 buildable lots in two phases. Average residential lot size is 2.05 acres. He described the topography; there are nice views of the Owyhees and Lake Lowell. Mr. Egurrola stated they have two access points. The Nampa Highway District prefers they align their approaches with existing intersections to limit the number of branches that come off the road. He said in the neighborhood meeting, there were concerns about sight distance, the spacing and speed of traffic on the roads so they did a sight distance study verifying where the approaches are located are safe. Each lot will have individual well and septic system. They will verify lot sizes and go through the subdivision engineering process with Southwest District Health at the time of platting. Pressurized irrigation will be provided by an irrigation well on site. Stormwater will be retained on site with storm water retention ponds. There will be a landscaping corridor between the road and the development. They are designed to a 100-year flood event; anything more than that will go into the Mora canal. Mr. Egurrola discussed selling a small section of land to an adjacent landowner because it is on the other side of the canal. The land does have groundwater rights. He said the applicant is based out of Hailey, Idaho. They intend on providing a fire fighting plan and are happy to provide one as part of the conditions of approval. They did not receive comment from the Fire District until about a month ago. Mr. Egurrola showed on the map where the school bus stop would be unless the Nampa School District prefers it to be inside the subdivision. Mr. Egurrola deferred the questions on the sight distance on the hill and the individual wells vs. a community well to the engineer. He also stated they don't have a plan for fencing around the canal but feels it is necessary and should be conditioned for safety reasons.

**Zane Craddock – IN FAVOR – 332 N. Broadmore Way Nampa ID 83687**

Mr. Craddock is the engineer and stood for questions. He stated the firefighting water plan is for fire sprinklers or a large PI (irrigation) well which would be used to fight fires. It would work like a municipal system which would have fire hydrants on the PI line. When the irrigation well is shut off in the non-irrigation season, the hydrants would remain live the whole year. He asked that it be added as a condition for approval. Mr. Craddock stated the Fire Department provided comments very late in the process but to meet their request to spread the access points to the subdivision, he showed how they would swap a lot and a road. He also talked about the hill blocking view. He stated they checked the sight distance and they believe they were far enough away to have the distance they need when a car crests the hill. He interpreted the sign about the hill blocking the view as a warning to be cautious. He deferred a question regarding a community well vs. individual wells to the water expert. Mr. Craddock explained how

stormwater would flow off lots 17 through 20 to the retention pond and how the grading would direct the water to the pond. He said the Irrigation District stated they wanted them to keep any building at least 100 feet outside their easement. He doesn't believe they have any water surface rights but if they do, he said they would release them.

**Terry Scanlan – IN NEUTRAL – 300 E Mallard #350 Boise ID 83706**

Mr. Scanlan is a principle engineer with HDR engineering. He has been a consulting engineer and hydro geologist since 1986. He was there to answer any questions on the water study and explain why it wouldn't have a detrimental impact on the water resources in the area. The property is currently irrigated 100% from groundwater; the proposed development will reduce the number of irrigated acres from 77 to 50 to 60: a reduction which should more than offset the additional water use from the homes. He stated the offset is almost 5 to 1 reduction. The domestic use is non-consumptive and will go into the drain field and back into the groundwater system. The decision to use individual wells instead of a community well was made before he became involved in the project. While he is a fan of community water systems, 33 homes is the number considered to be on the cusp of using a community well but either way, the same amount of water would be used. The property does not have surface water rights.

**Kurt Brock – IN OPPOSITION – 10097 Kingdom Lane Nampa ID 83686**

Mr. Brock lives at the end of Kingdom Lane by one of the entrances. While he stated that he feels the entrance on the road with the hill might be a little dangerous, he was here because of the water. His mother has lived on the corner since 1974 and the Lakeview subdivision has always had some kind of problem with their wells. With all the houses that have come over the years, there is going to be a tremendous draw on the water out there. He is also concerned about traffic as well as the lighting issue; this subdivision is going to take away from any nighttime stars and the standard of country living. It's getting congested out there and he is opposed to it. He stated maybe if they would reduce the number of houses but 33 homes will all pull water. He stated just down the road a well went dry. He said without water, you have nothing. His well is 165 feet deep. His mother had her water shut off a couple of weeks ago for a few days with no notice.

**Beverly Cavazos – IN OPPOSITION – 10140 Vista del Lago Nampa ID 83686**

Ms. Cavazos' biggest concern is the water. They have a group of people in the area whose wells have gone dry. She went to a meeting with IDWR and learned about the different levels of the aquifer. There are times if the draw is too big on the aquifer, the wells will go dry. It will take 2 to 4 days to replenish it and you can't use any water during that time. She stated IDWR said there was no monitoring of wells in their area; they don't know how many wells are on each aquifer and they don't know where all the aquifers are. They are really concerned about another 33 homes with another 33 wells when they have already been without water. She asked why are we even discussing putting in more homes when we are having water problems and we're in a severe drought year? What happens when people buy those homes and they are not informed by the builder that there is an issue with water and their wells go dry? Her house was built in 2018-19 and no one told her about the water; she would not have bought the piece of land if she had known about the water issues. It will be hard to sell her home so eventually, if more building is allowed, all the wells will go dry and they will lose everything they have put into their home. She said there is no city water that far up the road.

**Jeannie Amen – IN OPPOSITION – 9125 Sky Ranch Rd Nampa ID 83686**

Ms. Amen lives about a mile southwest of the project. Most of the (project) applications are moving off the fact "it's already done before so why not this one" and the character of their land has changed because of that attitude over the last 20 years. It has been a slow boil for agriculture; one field goes away then another. They have lost contracts because of it. She stated this is a drought year; local farmers are taking

(their water) 3.75 acre feet down to 1.2 acre feet and shutting it off on August 1<sup>st</sup> instead of October 15<sup>th</sup>. This is something we all need to pay attention to. She said everyone else is recognizing it. She discussed RAFN (Reasonably Anticipated Future Needs) from the Water Law Handbook; it compels IDWR to speak openly with a lot of information but IDWR can't provide the information. She looked at the well maps to see the total number of wells and the map is missing wells. She asked why do we have a profound lack of information to make these decisions? She doesn't want a rezone, she wants Ag. She stated this is active farm ground and it appears to be currently growing winter wheat. It's not something that can't be used; just because she can't spray it doesn't mean it can't be farmed. One of her big concerns is lighting. This area only has two access points to go back to Caldwell or Nampa; neither of them have traffic lights but they do have little crosses with names.

**MOTION:** Commissioner Nevill motioned to grant 2 more minutes of testimony to Jeannie Amen seconded by Commissioner Sheets. Voice vote, motion carried.

Ms. Amen stated they have insufficient evidence for the Commission to give an approval. She was looking for information from IDWR that they are failing to give them. They have provided abundant evidence of problems in the area. There seems to be an island effect; there is water all around them but all the wells providing the data are outside this impact area. She suggested that the owners of the property might be obligated to acquire surface water rights for the project rather than stealing pristine ground water. She said it makes no sense in the dire (water) place we are in to be adding houses. She would like to put a freeze on this. If it has to be approved, she suggested 10 acre lots to start with and then monitor it.

**Dee Sarton-Bower – IN OPPOSITION – 12620 Lewis Lane Nampa ID 83686**

Ms. Sarton-Bower lives down the across the street and down the hill from the proposed development. She asked if it was time to get rich or keep this place livable. Water is one of the most basic and fundamental needs of any livable space. She said when her children lost all their water for a few days recently and had to come to their house to use water because she is not on the community well, it makes you ask how do you manage no water? It definitely changes the quality of life. She asked what was more credible: the real life, real time experiences of her neighbors whose wells are going dry or theories and probabilities that are mentioned by experts. She respects Mr. Scanlan and is sure he is bringing his best information but she doesn't understand how that information begins to equate to what people are actually experiencing and they are all coming to them and begging the Commissioners to believe them. She said this is a problem and IDWR has not been helpful. She understands they want facts but they are hard to get except their real life, real time experiences. They have everything in their homes and plan to live there for a long time because they love it, but that part of Canyon County has water problems that are historical and current. She stated her children's community well had to recently replace the pump because of sand but she did not know how deep the community well was. Commissioner Nevill, who lives in the same subdivision as her children knew that well was 405 feet deep and when they dropped a camera down, the camera hit sand at 270 feet; the pump is sitting at 167 feet. Sand has infilled the well.

**Terry Scanlan – REBUTTAL – 300 E Mallard #350 Boise ID 83706**

Mr. Scanlan disputed that there was no data: he stated there is data. IDWR has been monitoring wells out there for 40 years. One of the monitoring wells in within a half a mile of the subdivision. They do know what water levels are doing and they are stable year over year but they fluctuate a lot out there. There are between 5000 and 10,000 acres irrigated out which drives a lot of water use. Agriculture uses a lot of irrigation and they have seen up to 150 feet of seasonal fluctuation out by Dry Lake. People will drill wells 100 feet below the water table and everything is good in the spring but at the end of the summer with Ag irrigation going on, the water levels fall, they start to suck air and they start to have problems. It isn't an aquifer problem, it's a well problem, generally speaking. It is a regional aquifer with a layered system or water bearing zones. He described the make up of the aquifers and how IDWR monitors certain

wells. He also described how someone would monitor their own well and water depth. IDWR is concerned when they see water levels decline year over year. Mr. Scanlan stated some areas are seeing water level declines but said that south of Lake Lowell they don't have that problem because the aquifer recharges every year. There are seasonal fluctuations because the water is used hard in the summer. He said to keep out of trouble, homeowners should drill the extra 100 feet. He doesn't feel development drives the water problems, it is irrigation and agriculture. Changes in crop patterns can also affect the amount of irrigation used.

**MOTION:** Commissioner Sheets moved to close public testimony on Case No(s) RZ2021-0030 & SD2021-0018, seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill said that if this was fulfilling a specific need, like low cost, high density housing, he might be able to go along with this but these are high end homes and because there is a lot of that in the valley, this isn't a need. He also feels that it is a half-completed application because they didn't think about fire fighting water which has to be one of the main concerns.

Commissioner Villafana stated he couldn't get behind the project. Even though there are houses surrounding it and you could make the argument that it isn't going to change the character of the area, there is still a lot of farm ground between Rim and the highway. You are adding 33 homes and 66 cars on the road towards Nampa/Caldwell. There is still a dairy to the west and along with the farmers, potato growers and the crop dusters, it's a big agricultural area. He can't get behind taking that many acres out of production; it's still productive ground and class 3 soils. With discussion about food shortages and commodity (hay/wheat) prices going up rapidly, he sees a lot of loss of farm ground. We can't keep losing farm ground and have a productive community. Commissioner Williamson stated boots on the ground information and experience should be taken into consideration, even if it is not scientific. He said if you get enough of the same thing happening in the area, it feels it should be investigated. He is worried about the availability of water. He said the hydrologist states it's all good, but there is overwhelming neighborhood evidence, anecdotal or not, that says it should be questioned. He is not convinced that they can provide adequate water resources.

**MOTION:** Commissioner Sheets moved to deny Case RZ2021-0030 including the Findings of Facts, Conclusions of Law and conditions of approval, changing Finding #5 to state there will not be adequate water resources and bring the revised FCO's back for at the next meeting for approval. Motion seconded by Commissioner Nevill. Roll call vote: 6 in favor 0 opposed, motion passed.

Commissioner Williamson, before moving to deny Case SD2021-0018 also commented that the lack of fire suppression plan, the fact that there was no fencing plan for the canal and the questions on traffic all were problematic for the project.

**MOTION:** Commissioner Williamson moved to deny Case SD2021-0018 including the Findings of Facts, Conclusions of Law and conditions of approval. Motion seconded by Commissioner Nevill. Commissioner Sheets stated the plat was incomplete when it came to drainage, switching access points and canal concerns, which is why he will be voting in support of this motion. Roll call vote: 6 in favor 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 3/3/2022, seconded by Commissioner Williamson. Voice Vote; motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planning Official Dan Lister reminded the Commission that April 28, 2022 is the joint workshop with the

Board of County Commissioners. The hearing for the 2004 Ordinance was tabled to May 3, 2022. The 2004 element is gone (as of now). Development Services Department has had a few personnel changes and Dan described those changes to the Commission.

**ADJOURNMENT:**

**MOTION:** Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote; motion carried. Hearing adjourned at 11:54 pm.

An audio recording is on file in the Development Services Departments' office.

Approved this 5th day of May, 2022



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary