



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, May 19, 2022
6:30 P.M.

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

Commissioners Present : Patrick Williamson, Acting Chairman
Brian Sheets, Commissioner
Ron Amarel, Commissioner
Miguel Villafana, Commissioner
Robert Larison, Commissioner

Staff Members Present: Steve Fultz, Director
Dan Lister, Planning Official
Elizabeth Allen, Planner
Jenna Petroll, Planner
Bonnie Puleo, Recording Secretary

Acting Chairman Williamson 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 Sheets moved to approve & sign the revised Findings of Facts, Conclusions of Law and conditions of approval for RZ2021-0055 Western Consulting / Cory & Cristine Codr. Motion seconded by Commissioner Amarel. Voice vote; motion carried.

- **Case no. CR2021-0006 & SD2021-0032: Dembi Estates / Leavit & Associates Engineers Inc.** - Leavitt & Associates Engineers, INC. is requesting a Conditional Rezone with a Development Agreement of one (1) parcel, no. R2957011, from an "A" (Agricultural) zone to an "R-1" (Single Family Residential) zone. The request includes a Preliminary Plat (including Irrigation, Drainage, & Grading) for Dembi Estates Subdivision. The proposed plat contains 15 residential lots. The subject property approximately 23.3-acres, is located at 8027 Lake Shore Drive, Nampa, ID in a portion of the SE ¼ of Section 15, T2N, R2W, BM, Canyon County, Idaho.

Planner Elizabeth Allen reviewed Staff report for the record, including a late exhibit.

Acting Chairman Williamson entered the late exhibit into the record and affirmed the witnesses to testify.

TESTIMONY:

Dan Lardie - Applicant (Representative) in favor – 1324 1st St. South, Nampa, ID 83651

Mr. Lardie stated they have a slight difference of opinion on whether the project aligns with the area. They are requesting to rezone 23 acres and are asking for 16 lots. Mr. Lardie stated they are of the opinion that the farmland is already fragmented to due large barriers. He does agree that it is in the Comprehensive Plan as agricultural land but is already fragmented because of power lines and neighboring residences. Within ½ mile there are 40 residences, most of them to the north. He said the

bigger obstacle to farming is the canal itself. They believe there are additional parcels that interrupt the farmland as well as Lakeshore Drive to the north. The owner believes development is coming and wants to maintain the rural feel so he asked for the R1 zone. The owner believes it will still provide that country feel. The 39-acre parcel to the north, in the City impact area, was just approved for the same zoning. It is not incompatible, once the other area is taken into account. The City may not want the zoning for higher density but they just allowed the property north of them to be zoned at R1. Mr. Lardie said the only thing that separates those two parcels is Lakeshore Drive. They just did a nitrate study and it came back and said they could support the 16 lots as long as they use nitrate-reducing processes. He said access will be from Lakeshore Drive: this will be about 160 daily average trips which is far less than the development to the north of them. He reiterated that they believe the area is already fragmented and believes this proposed development will continue to give it a country feel. His client farms hay and alfalfa for his own use but that barely covers his own taxes. He would like the Commission to re-consider the denial. He stated that there is a large canal that does separate the property and getting equipment to it is more complex. He answered additional questions about surface water rights vs. irrigation. There is a well already on site; they are using that and the surface water rights to provide local pressurized irrigation for the subdivision and have water rights to do so. The property to the north has a pre-annexation agreement along with some additional conditions about using the City of Nampa water service, fire hydrants and septic systems.

Greg Harness - in opposition – 9469 S. Powerline Rd Nampa ID 83686

Mr. Harness began by pointing out where he lives on the map of the area. This new development would be on all sides of him. He opposes the project partly because of the Comprehensive Plan: keeping this part of the County agricultural is the right thing to do. He said taking it out of agriculture goes against the Comprehensive Plan. The current owner has farmed the property for approximately 20 years with hay, chickens and beef cattle. He is also concerned with nitrates and arsenic in the well water and the traffic. They already have 30 houses going in across Lakeshore to the north, they will have that traffic added to these 160 trips. There are no sidewalks; this area is not walkable. It's on the way to Lake Lowell so people are already using it for recreation. He said they have wildlife out there; it's a rural area and should remain rural. He continues to oppose any changes from its current agriculture status. He stated he currently has nitrate and arsenic problems with his well.

Dan Lardie - Applicant in favor – REBUTTAL - 1324 1st St. South, Nampa, ID 83651

Mr. Lardie said the nitrate pathogen level 1 study was performed and it said they could support this with nitrate-reducing procedures. He said with regards to traffic, it is an arterial roadway. It is supportive of that particular traffic. He stated it was premature to do any test holes for septic or wells.

MOTION: Commissioner Sheets moved to close public testimony on Case CR2021-0006 & SD2021-0032, seconded by Commissioner Amarel. Voice vote; motion carried.

DELIBERATION:

Commissioner Sheets asked about the development to the north, which was recommended for approval by the Planning & Zoning Commission in 2021 with additional conditions on annexation and city water. Based on the testimony and staff report, he hasn't found anything that would indicate they should go against staff's recommendation. He said there has to be a limit; they have to draw the line somewhere. It goes against the Comprehensive Plan. He stated he won't be able to vote in favor of this application. Commissioner Villafana said Lakeshore Drive and the Nampa area of city impact is the boundary. Land to the south does not meet the Comprehensive Plan map. Commissioner Villafana is not a fan of moving further south when there is a lot of other farmland to the northeast and northwest that hasn't been filled in, in the designated future residential areas. He does not feel we should continue to move south.

MOTION: Commissioner Sheets moved to recommend denial of Case CR2021-0006 & SD2021-0032, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Amarel. Roll call vote with 5 in favor and 0 opposed; motion passed.

- **Case No. CU2022-0010: Blaine & Kailynn Nabors:** The applicant, Blaine & Kailynn Nabors, are requesting a conditional use permit to allow a dog kennel use within an “A” (Agricultural) Zoning District. The dog kennel will house a maximum of twelve (12) dogs for breeding and training purposes. The subject property is located at 0 Polk St, Caldwell (Parcel R34800010); also referenced as a portion of the NE ¼SW ¼ of Section 14, Township 4N, Range 3W; BM; Canyon County, Idaho.

Planner Jenna Petroll reviewed the Staff report for the record a including late exhibit.

Acting Chairman Williamson entered the late exhibit into the record and affirmed the witnesses to testify.

Testimony:

Blaine Nabors – Applicant – IN FAVOR – 2715 Polk St. Caldwell, ID 83605

Mr. Nabors wanted to add that they submitted the letter that stated 12 dogs; their dogs are ‘non-resident’ dogs so they are always being transferred back and forth to their other location in San Diego. This facility is for service dog training and breeding. The service dogs are for children with autism and adults with epilepsy and high blood pressure. They are a 501c3 non-profit, so they can help families that have problems affording a service dog. They breed Cocker Spaniels and Goldendoodles. They chose this location because it is quiet and private and they are on a private road. He discussed the number of trees they are planting along with high shrubs and other landscaping to prevent barking and buffer sound. He reviewed the proposed kennel layout and size. He stated that no one will come to that facility except for a trainer and kennel cleaners.

Kailynn Nabors – IN FAVOR – 2715 Polk St. Caldwell, ID 83605

Ms. Nabors stated she has been working with dogs since she was 7 years old. She has been showing, training and breeding Cocker Spaniels since she was a little girl. She was approached 10 years ago and asked if she would consider providing service dogs. As a result, she got into the Golden Retrievers and Goldendoodles. She found there weren’t advocates for the families who needed service dogs. It costs approximately \$40,000 for one service dog. They recently gave a service dog to an autistic girl and explained how the dog was used by the family. They also train hearing dogs for young adults who want to live on their own. It’s her passion. Ms. Nabors explained the dog training happens at other places including other dog trainers’ facilities, malls and airports. It is not necessarily done at their facility. They shouldn’t have any extra traffic at their facility. She described how barking training happens with e-collars and bark spray. She reviewed the setup of the kennel, including the training area in the middle of the building so it blocks sound. She stated a typical day would be one trainer on site and some cleaning staff. She likes to outsource training. She would love to service Idaho, but for now all the finishing training is out of San Diego. They get about 12 litters per year and her dogs are retired to families after 3 litters.

Chantelle Jordan – IN FAVOR – 6852 S. Birch Creek Ave. Meridian, ID 83642

Ms. Jordan works with the Nabors as their housekeeper and taking care of the children. She has seen how passionate the Nabors are about service dogs and helping people find their best friend, either as a pet or

as a service dog helping with medical needs. She knows there are concerns about the traffic on the road but she knows there are several households who lives past the Nabors house and feels it's unfair to blame the dust and traffic on one family. They love the dogs and want to find them good homes with people who really need help.

Brian Barrett – IN FAVOR – 5210 Cleveland Blvd. Caldwell, ID 83607

Mr. Barrett is the general contractor on the site. He is here for personal reasons. He has been working with the Nabors on the site for about a year. He hasn't noticed anything different in the past year that would be abnormal. Traffic isn't high. He doesn't see many people coming to the site. He said he sees one person, maybe two, the entire day. He thinks their work is commendable and important. He believes the facility has to be conditional for the animal and built to an extremely high level and there will be noise reduction both inside and outside the site. It is also directed: the front of the facility faces east away from the residences. He described the cliff or hill on the property covered with foliage that has been taken into consideration and will provide a sound buffer.

Dean M. Hills – IN FAVOR – 5210 Cleveland Blvd. Caldwell, ID 83607

Mr. Hills is a 21-year service member, now retired. He has deployed multiple times and has PTSD from combat. He commends the Nabors for these service dogs. Service dogs aren't just for children with needs and medical issues, they can also help service members with the transition from military life to civilian life. A service dog can help transition to a totally different world than the service member is used to. He stated he sees one or two vehicles per day. The parcel is quiet with lots of trees on either side and a big cliff which helps reduce the noise as well.

John M. Starr – IN FAVOR – 2805 Polk St. Caldwell, ID 83605

Mr. Starr is an agent and the property manager of the grazeland and farm ground that is on two sides of the subject property. He has worked in a very neighborly way with the Nabors to assure the private road is appropriate. This is a very quiet cul-de-sac. Folks who have moved there have become accustomed to quiet and to the farmland and open space. Change is something we can all count on and he expects other uses to show up. He said they are lucky it is a dog kennel and not a pig farm or some other really annoying use. They are separated by 30-40 feet from the people above the hill and there is a lot of vegetation on that cliff. Any amount of noise that occurs down there in the river basin is going to be a change. He doesn't feel this will change the quality of life there. There will be more neighbors in the future; there is a 100+ home subdivision coming in to the south. He feels the Nabors have a right to ask to do with their property what they want.

Gene Shaffer – IN NEUTRAL – 2416 Terrace Dr. Caldwell, ID 83605

Mr. Shaffer wanted to speak because he lives on the hill above the property in the City. Anyone opposed to this project is opposed because of the noise. That is a concern of the City. He commends the Nabors for what they are doing; helping people with this kind of a dog. He was the previous owner of the property they are on, grew up on that ground and has lived on every part of that hilltop. In spite of the fact there is a lot of growth on that hilltop, he said the sound still rises. His concern is mitigation of noise. He would like to be assured that there is a good effort to mitigate the noise, the number of animals that are there and the existing facility (use) would be terminated. He is asking the Commissioners to make sure all conditions are met and especially taking care of the sound. The last four or five years, with the kennel that's there now and its location, the sound has to travel up the hill through two groups of houses to his house. It's minimal noise, but it still upsets his dog. The sound is the only issue that he has. They don't have a lot of traffic but it is a private road and it goes across three to four people's property before it gets to their property. It is an impact to those people as well.

Stacey Carter – IN NEUTRAL – 744 W. Watersford Dr. Eagle, ID 83616

Ms. Carter does the accounting for the Nabors and the books for Cutting Blue Farm. She stated they are the most generous people she works with as far as what they give to the animals. They don't make any money on the service dogs; they do it out of the goodness of their heart to help other people. There is going to be quite a need. Ms. Carter said COVID has really affected teenagers and these dogs could really help the kids. The facility in San Diego is top notch. She is sure they will take care of this one. She sees a lot of movement of the dogs back and forth from San Diego but doesn't know how many dogs are at the facility now.

Leah Aslett – IN NEUTRAL – 10 N. Amaya Way Nampa, ID 83651

Ms. Aslett said she has known the Nabors for three or four years. She was their previous bookkeeper and was involved in a non-profit with them. The need for more people to be philanthropic in the area will grow as the Treasure Valley grows. She said she feels they have taken all responsible measures. They live on the property also and she is sure they don't want to hear a bunch of barking dogs. She has been out to the property multiple times and has seen no one or encountered any congestion. She feels it has been carefully thought out and planned. Ms. Aslett feels the Nabors have been very protective of the rural atmosphere of the area and said we need more people here like them in the Valley. She stated what they do is a community service and Blaine even coaches local football here. They are very embedded in the community.

Bobbi Bicandi – IN OPPOSITION – 2724 Polk St. Caldwell, ID 83605

Ms. Bicandi lives directly above the property and has lived on that road for 30 years. She stated there were 6 people on Polk Street who didn't receive the notice for the neighborhood meeting. She said the Nabors currently have a dog breeding facility and she can tell you how loud those dogs are: the noise from those dogs goes right to her house. Currently, they bark constantly: 11:00 at night and 11:00 in the morning. She wants to know if it is really for charity and all for good. She said it's a business. Traffic has increased 100% since they have moved in. She isn't against homes, she isn't against horses, she isn't against pigs. She is against barking dogs. Ms. Bicandi talked about the nature and maintenance of Polk St. She said the Nabors haven't asked for a kennel license yet. She stated she lives 1/8 of a mile from the subject property but will be further from the new kennel. She tried to file a noise complaint about the barking dogs but was told they had an application in so they wouldn't look at her noise complaint. She received a letter stating that.

Mitch Bicandi – IN OPPOSITION – 2724 Polk St. Caldwell, ID 83605

Mr. Bicandi has been there for 49 years. He says they should have received the notice for the neighborhood meeting. No one (entity) wants Polk Street. The City doesn't like Polk Street; the County doesn't like Polk Street. The reason it was ever maintained was because Denny Shippey, the Superintendent of Caldwell, lived on Polk Street. That is how the little bit of maintenance started. The road cuts through four properties. Originally, it was only two houses and then other houses filled in later. He stated where the kennel is going to be located, there has been standing water during flood events. There are a lot of things that can happen down there; they haven't happened for a while but they will happen.

Patti Burdick – IN OPPOSITION – 2809 Polk St. Caldwell, ID 83605

Ms. Burdick is concerned about the sound. She lives about ¼ of a mile to the west of the Nabors' property and she hears the dogs a lot too. They have shrubbery now and it probably helps a little but it doesn't cut it all down.

She tried to call and complain to the Sheriff about the dogs barking in the kennels but was told they have a permit and 'dogs bark'. She is also concerned about the road going in and out. They live clear off to the

end. There isn't a whole lot of traffic but every time a car goes by, the dogs bark. During the winter, there are duck and geese hunters that hunt on one of the properties and that traffic causes the dog to bark. When she takes a walk with her dog up and down the road, the dogs will bark. They looked 2 ½ years for a property in Idaho. She loves dogs but she doesn't like to listen to 10 – 15 dogs barking. Everyone has talked about Polk Street being dirt: the only work that is done on the road is the grading her husband does with his little tractor to fill the potholes. It gets quite a bit of traffic, especially with all the duck hunters. She stated she also thought there was going to be a wedding venue there too.

Walter Burdick – IN OPPOSITION – 2809 Polk St. Caldwell, ID 83605

Mr. Burdick stated he is hearing a lot about 'not much traffic'; he states there is a lot of traffic in and out all the time. He bought his place for the peace and quiet. He likes to open his windows at night and now, if he wants to open his windows at night, the dogs are barking so he has to shut his windows and turn the air conditioner on. He is the furthest away but the sound travels. He thinks there is a better place for a dog kennel. He said when you talk about that many puppies a year, this is a business. He might be more sympathetic if they were helping people here in Idaho; he has a little heartburn because they are shipping the dogs back to California.

Claudia Viola – IN OPPOSITION – 2610 Polk St. Caldwell, ID 83605

Ms. Viola moved here 20 years ago from Southern California; she looked 7 months for a quiet house in the country. She is concerned about all the traffic coming. Ever since the property has been sold, traffic has increased 90%. They are all close to each other. She is concerned about changes that are going to happen. Ms. Viola showed where her property was on the map.

Chris Middleton – IN OPPOSITION – 2405 Terrace Dr. Caldwell, ID 83605

Ms. Middleton lives above the Nabors. They currently have a kennel on the property. This has negatively impacted their family. They purchased their property in July 2020 and had they known the kennel was there, it would have impacted their purchase decision. Even with the hill and the mature trees and landscaping, it does not block the noise. She can see the kennel from her backyard. They have been disturbed by the barking and yelping from 6:00 am to 2:00 am. Her husband works 3rd shift and he can't sleep during the day because of the dogs barking. The noise prevents them from opening their windows; they also have to keep them shut because the barking annoys their own animals. It impacts their ability to enjoy their yard. There are also odors, carried by the wind, from the fecal matter and the cleanser that goes into her yard. She asked a series of questions about the new kennel and the number and gender of the dogs. She asked why they are operating without a kennel permit. This kennel being next to a residential area is detrimental to them.

Blaine Nabors – Applicant – REBUTTAL – 2715 Polk St. Caldwell, ID 83605

Mr. Nabors stated they moved back to Idaho in 2017/2018. He talked to the State of Idaho about the kennel license and as they were using an existing building, they were given a kennel license. He showed the map and notification list generated by the County GIS Department which they used for the neighborhood meeting. He stated, yes, they sell dogs. It costs to run a kennel: employees, insurance and maintenance. The last 3 to 4 years, they have operated at a loss. Dogs will bark every once in a while, especially when it's feeding time, but that is why they are building the new kennel. They live there too; they don't want to hear the dogs barking either. The neighbors who are complaining let their dog run down the Nabors' property which is causing the dogs to bark. Nabors talked about the road, which is 20' and showed a picture of it. There is a blind spot where it curves over to the concrete portion of the road. He said if you aren't paying attention, you could have a head on collision but he has never seen or experienced one.

MOTION: Commissioner Sheets motioned to grant 4 more minutes of testimony to Blaine Nabors, seconded by Commissioner Amarel. Voice vote; motion carried.

Mr. Nabors continued: the road is dusty. He wants to eliminate the dust and spoke to Mr. Starr about it. They came up with an earthbound stabilizer which is a green product to treat the roadway on an annual basis. He is in contact with Ashley Newberry at the City and they grade the road twice a year. If he calls her, she has always come out and taken care of any situation he has. He also had a drainage problem that can go under road on his property which he spent \$20,000 to fix. There will be traffic because people come up and down the roadway all day. Mr. Nabors talked about the existing building that will become storage. He talked about the placement of the new kennel to try to mitigate any noise. They are in a flood zone but they have an elevation certificate and have spoken to the County about how high the kennel should be. He spoke about the remodel of the home and holding weddings on the property. They decided there will be no AirBNB and no weddings at their property at this time. Mr. Nabors spoke about his license with the State of Idaho, a visit from the Sheriff and his cleaning process. He explained a little more about the rotation of his dogs between the two sites, how many dogs they have currently and the variety of dogs and their ages. When asked, he estimated that it would take about 180 days to construct the kennel. He explained about how their dogs' training cycle and bark collars work. He said Polk Street is a city-owned roadway which is county or highway district maintained so there is no road users' agreement and his efforts to get the neighbors to go in on solutions to fix the road dust. He discussed his male-to-female dog ratios, dog breeding and genetics. Planning Official Dan Lister clarified that the County doesn't have a licensing program for kennels; once they reach a certain number of dogs, it requires a Conditional Use Permit. Mr. Lister also explained the status and maintenance of Polk Street.

MOTION: Commissioner Amarel moved to close public testimony on Case CU2022-0010 seconded by Commissioner Sheets. Voice vote; motion carried.

DELIBERATION:

Commissioner Sheets expressed disappointment in the shut down of the investigation of complaints about barking simply because of faulty information and because an application was in play. If there were concerns, they should have been addressed especially because we are finding out there are a lot of dogs on the property. He said that is what we are trying to do now; fix the problem. He finds that 12 dogs are a perfectly reasonable amount. Commissioner Sheets read through all the requirements including fencing and sanitation. He said 'Attachment A' has a lot of things they must do: it is great that it is voluntary but noted it is worked into the conditions of the permit. He stated that is substantial compliance. Complaints that were made, had a rational basis and were ignored, which is a travesty. Commissioner Sheets proposes a condition #6, giving them 365 days to complete construction. He wants to reduce the externalities and for everyone to get along together.

Commissioner Williamson stated that he has seen a lot of kennel cases. This is the most soundproofing that he has ever seen on any case. He asked Commissioner Sheets if he wanted it to state that there was a maximum of 12 dogs; Commissioner Sheets responded affirmatively. Commissioner Sheets further stated that maybe if they are good neighbors, they can come back and request a modification to the conditional use permit to bump it up to 20.

Commissioner Amarel stated that the staff report says 12 dogs and now the Commission hears 20. What they are doing is credible and greatly appreciated by a lot of people. The applicant's passion is not in question but we have to listen to the people who are putting up with noise.

Commissioner Villafana asked what would happen if the land was annexed into the City of Caldwell and kennels are only allowed in commercial areas. Staff responded that it would be grandfathered in unless they expanded or changed it. Commissioner Larison asked if they are allowed to have the kennel right now with the structure they have. Staff responded that is why they are requesting the Conditional Use

Permit now. Commissioner Villafana said he thought this belongs in a more commercial area because of its proximity to homes.

1st MOTION: Commissioner Sheets moved to approve Case CU2022-0010 including condition of approval #6 that they have 365 days to complete construction and condition #7, the current kennel occupancy would cease with the Findings of Facts, Conclusions of Law and Conditions of Approval. No second, motion withdrawn.

2nd MOTION: Commissioner Amarel moved to deny Case CU2022-0010 amending item D; including that it would be injurious to neighboring properties and incompatible with the character of the area in the Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Villafana. Roll call vote: 2 in favor 3 opposed, motion failed.

3rd MOTION: Commissioner Sheets moved to approve Case CU2022-0010 including the condition #6 that they have 365 days to complete construction and condition #7, the abandonment of the current kennel within 30 days of completion with the Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Larison. Roll call vote: 3 in favor 2 opposed, motion passed.

Acting Chairman Williamson entered two additional late exhibits 9 and 10 into the record for CU2022-0010.

- **Case No. RZ2022-0006: Christopher & Kathryn Phoenix** - Christopher and Kathryn Phoenix, represented by Skinner Land Survey, is requesting a conditional rezone of Parcel R34484104 from an "A" (Agricultural) Zone to a "CR-R-1" (Conditional Rezone - Single Family Residential) Zone. The request includes a development agreement. The property is located at 23117 White Oak Drive, Caldwell within the Sleepy Hollow Subdivision; a portion of the SE¼ of Section 3, T4N, R3W, Canyon County, Idaho.

Planning Official Dan Lister reviewed the Staff report for the record.

Acting Chairman Williamson affirmed the witness to testify.

Testimony:

Kathryn Phoenix – Applicant – IN FAVOR – 23117 White Oak Dr. Caldwell, ID 83607

Ms. Phoenix said that both she and her husband have elderly parents who, in the next five years, are going to need a place to live and they would like to get a jump on building a home for them. She understands that she is able to build a second home on her property for them now but if neither of their parents want it, they can't sell it unless they do the split (rezone). Parcel one, which has a second home, would stay with that home for a net gain of one structure. They have seven kids so since many kids are moving home because they can't afford a home of their own, one of their children could live there. This would probably be for a family member; if not elderly parents, it could be for children.

MOTION: Commissioner Villafana moved to close public testimony on Case RZ2022-0006 seconded by Commissioner Amarel. Voice vote; motion carried.

DELIBERATION:

Commissioner Sheets stated he understood what the deal is here. The original intent is to split it off for a family member and if that doesn't work out, they can sell it off. He feels this would not change the character of the area: it's relatively compatible and the conditions of approval with the development agreement work for him.

MOTION: Commissioner Sheets moved to recommend approval of Case RZ2022-0006, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Amarel. Roll call vote with 5 in favor and 0 opposed; motion passed.

- **Case No. PH2016-56 & PH2016-71: Treasure Valley Renewables:** The Director of Development Services, (DSD) has found the conditions of approval for the conditional rezone have not been met for Case No. PH2016-56 & 71. The Planning & Zoning Commission will hold a hearing to make a recommendation to the Board of County Commissioners for either a time schedule for compliance or that the Board revert back to the zone from which the property was conditional rezoned. The subject property is located at 27349 Shelton Rd., Parma, ID in a portion of the SW 1/4 of Section 14, T5N, R5W, BM, Canyon County, Idaho.

Planning Official Dan Lister reviewed the Staff report for the record including late exhibits 9 and 10.

Acting Chairman Williamson entered the late exhibits into the record and affirmed the witnesses to testify.

Testimony:

Dave Jones – Applicant (Representative) – IN FAVOR – 3072 N. Sharon Ave. Meridian, ID 83646

Mr. Jones acknowledged that they did receive the letter and understand they are not in compliance with the development agreement. They have installed some fencing: there has been some development but no building or breaking ground. The COVID pandemic had a major impact on developing their project over the past two years. Because of the pandemic, many meetings had been cancelled or delayed due to lockdowns and because of key players such as funding sources, project personnel and County staff getting COVID or otherwise being unable to meet. Personal meetings are very important for a project like this. They have also had difficulties with financing; their funding sources are more difficult to work with due to the uncertainty surrounding the virus and financial market. All the parties are anxious to continue and complete this project. He wishes to respectfully request more time. Mr. Jones stated they need one more year for the same conditions. He also said they were waiting for a letter (of non-compliance) from the County Legal Department but then the County attorney got COVID, further delaying their response. They felt they would just wait for the Planning and Zoning Commission hearing to make the request (for more time) official. This is a large project with lots of moving parts and he feels they have made significant progress but they have not broken ground. The financing is in place and people are finally able to meet. He is unable to give any specific information or proof of financing because of the confidential nature of financing. Much of the time in 2017 and 2018 was spent on engineering, design and land purchase. They did apply for a permit for a fence and have put up some fencing on the parcel ("a couple of hundred feet"). There is still a house on the property that people are living in. They did not do a fence around the entire property. He clarified that they would need 12 months, not the 18 months that his organization's letter stated.

Diana Sitts – IN OPPOSITION – 27549 Shelton Rd. Parma, ID 83660

Ms. Sitts lives across from where the facility is planned. The City of Parma thought it (this hearing) was a formality because it has gone so bad for so long with this project. This was presented as a sorghum and methane plant with a compost area. They have since narrowed it down to only a methane biodigester. She stated that Treasure Valley Renewables is no longer a company. She said as a community, they have been watching this. The week of October 2nd, she contacted Commissioners to find out if they had the report. She was in contact with Commissioners Van Beek and White asking what was going to happen next. They first received an extension for the fence but didn't have a building permit. She said they went in to the Commissioners, during the last month they needed to have a permit, and changed the agreement to put 'enclosed fence' through the whole document so they could get an extension based on the fence. Planning and Zoning turned them down so the applicants appealed to the Board of County Commissioners.

MOTION: Commissioner Amarel motioned to grant 5 more minutes of testimony to Diana Sitts, seconded by Commissioner Larison. Voice vote; motion carried.

Ms. Sitts continued: The well driller who was on the P&Z Commission at the time said the community couldn't support the water for the project. Planning and Zoning Commission denied it, but the Board of County Commissioners approved it. They were given two years to get their building permits. She has a picture of the fence in her phone. The fence is not 200 feet long; there are only about six panels of fencing installed. There are also lots of weeds. The weeds weren't taken care of until about a month ago when they came out and burned the whole area along the fence. She said they left it unsupervised so the Fire Department had to come and put it out. She reiterated that Treasure Valley Renewables dispersed; they sold the land to someone in Oregon. She sent pictures of the fence and the weeds to the Board of County Commissioners. Right now, the land is being farmed. Her land used to be her dad's land and they have built a retirement home on it. This company wanted to be there because of the existing gas line bordering the property: there is no dairy close to it. The whole community would have been here if they would have realized they were trying to 'pull another one' but they were told it was done. She was told their property would drop 50% in value if the plant went in. She came because she didn't trust them. She asked that the Commission please deny this because 5 years has been long enough.

Dave Jones – Applicant (Representative) – REBUTTAL – 3072 N. Sharon Ave. Meridian, ID 83646

Mr. Jones stated they did go through every proper channel and it was approved and endorsed by the Board of County Commissioners. It takes time to develop a project of this magnitude. They will no longer be digesting manure; it will just be other organics. He said the new business model won't be doing that. He understands they haven't been in compliance but that is why he is here. The company that has taken it over is Boise Biogas, one of their business partners/owners. The main entrance will be off Highway 20/26. Mr. Jones described the access to the plant from the map: what exists now is a personal driveway to the old goat farm.

MOTION: Commissioner Sheets moved to close public testimony on Case PH2016-56 & PH2016-71 seconded by Commissioner Amarel. Voice vote; motion carried.

DELIBERATION:

Commissioner Sheets stated that based upon what happened with the notices and no response, and with no supporting documentation to bolster the oral testimony, he doesn't see any progress with the project in front of him. Based on County ordinances plus the correspondence which was dated the day of the hearing, he can't support it.

MOTION: Commissioner Sheets moved to recommend that the conditions of approval for the conditional rezone have not been met and that the property revert back to the original zoning for Case

PH2016-56 & PH2016-71, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Larison. Roll call vote with 5 in favor and 0 opposed; motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Sheets moved to approve the minutes from 4/21/2022, seconded by Commissioner Villafana. Voice vote; motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:


Planning Official Dan Lister provided the Commission with the updated Comprehensive Plan, removing some of the redundancy and jargon. The new format has the policies listed up front and subsequent sections tell the story about why the policy is there. He also pointed out that the new DSD Engineer was in attendance earlier who will be heading the Subdivision team. In the future, he will be addressing all engineering questions. He also introduced Jenna Petroll as the newest Planner.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Amarel. Voice vote; motion carried. Hearing adjourned at 11:20 pm.

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

Approved this 16th day of June, 2022



Patrick Williamson, Acting Chairman

ATTEST



Bonnie Puleo, Recording Secretary