



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

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

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

Staff Members Present: Dan Lister, Planning Official
Devin Krasowski, Engineer
Cassie Lamb, Planner
Juli McCoy, Planner
Stephanie Hailey, Engineering Coordinator
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 business item on the agenda.

OLD BUSINESS - ACTION ITEMS

- **Case No. SD2021-0012: Bella Toscana Subdivision** - – Sign revised FCO's.

MOTION: Commissioner Sheets moved to approve & sign the revised Findings of Facts, Conclusions of Law and conditions of approval for Case SD2021-0063, Bella Toscana Subdivision #3. Motion seconded by Commissioner Nevill. Commissioner Williamson abstained. Voice vote, motion carried.

NEW BUSINESS - ACTION ITEMS

- **Case No. SD2022-0012/Del Rosario Estates #3:** A request by Erick McLaughlin for approval of a Short Plat for Del Rosario Estates # 3. The development consists of 2 residential lots. The subject property, parcel no. R38214506 is located at 24433 Hartley Lane, Middleton, in a portion of the SW ¼ of Section 36, T5N, R3W, BM, Canyon County, Idaho.

Engineering Coordinator Stephanie Hailey reviewed the Staff report for the record including one late exhibit.

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

Testimony:

Erick McLaughlin – Applicant (Representative) – IN FAVOR – 24433 Hartley Lane, Middleton ID 83644

Mr. McLaughlin stated he was here to answer any questions or provide rebuttal to any objections. They don't plan on any further splits because of the way the property is set up; access would be too close to his house, but he doesn't know what the future might bring. He said at this point, they have no desire to split it. In answer to a question about a fire-fighting mechanism, he stated it was up to the individual. He is not really sure what the building codes are and it would be up to the developer. They have no plans for any central fire-fighting plan. In 2006, they made the road wide and put in the cul-de-sac at the Fire Department's request. He is okay with all the conditions of approval. He said 3.26 acres remain with a barn and a house on the land, both of which belong to Mr. McLaughlin. The annexation agreement from the City of Middleton was given to him with very short notice and he couldn't properly answer whether he wanted to annex in or not. He pointed out that it would mean that everyone on Hartley Lane would have to agree to annex in but he felt he didn't have enough time to make a proper decision.

MOTION: Commissioner Sheets moved to close public testimony on Case SD2022-0012, seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill said he is not going to be voting in favor of this application. It is pretty straightforward and an example of what we are doing wrong in Canyon County. Without looking at the entire subdivision concept, we are allowing piecemeal development. He said what happens is this: we don't have any firefighting water in this 8 or 9-lot subdivision. It may not be an issue, if they never have a fire. He is not in favor of a 'chunk at a time' development. Commissioner Amarel stated the applicant hasn't had time to review the annexation agreement and he agrees with Commissioner Nevill. Commissioner Williamson pointed out the applicant can review the annexation before the Board of County Commissioners hearing and decide whether to sign it or reject it.

MOTION: Commissioner Williamson moved to approve Case SD2022-0012 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 Sheets. Roll call vote; 4 in favor 3 opposed, motion passed.

- **Case No. CU2022-0006/Lovely Hollow Farms:** The applicant, Lovely Hollow Farms, is requesting a conditional use permit to allow a Special Events Facility use within an "A" (Agricultural) Zoning District. The special event facility use will include U-pick flower farm, pumpkin patch, food trucks, and craft vendors. The subject property is located at 18252 Chicken Dinner Rd Caldwell (Parcel R36627); also referenced as a portion of the NW ¼ of the SW ¼ of Section 36, Township 4N, Range 4W BM; Canyon County, Idaho.

Planner Cassie Lamb 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:

Nicole Van Lith – Applicant (Representative) – IN FAVOR – 18641 Chicken Dinner Rd., Caldwell ID 83607

Ms. Van Lith thanked the Commission for allowing her the opportunity to speak about Lovely Hollow Farms. Her goal was to share her vision for Lovely Hollow Farm and the asset it would be to the agri-tourism business in the area. Her family has lived in Idaho since 1957 and she was raised on a cattle farm in the area. Ag has been lost to many and many residents haven't been as luck as she was to grow up in

agriculture. She created the business in 2019, started her 'u-pick' flower and pumpkin farm and has been operating it successfully for three growing seasons. She learned a lot about soil management, pest management and how to get higher crop yields over those years. As the flower farm grew, community support grew along with the flower farm. Lovely Hollow Farm has become an Idaho family connection to agriculture. Her family has owned a home and 200 acres of grass pasture and alfalfa fields on Chicken Dinner Road for 20 years. Lovely Hollow Farms sits on 37 acres of that land and occupies about 8 acres of it. She described the land around her farm and what is grown on it. She listed the existing outbuildings and her personal home on the property. She said she would always be on site. Lovely Hollow Farms is also part of Destination Caldwell. She would like to host events that fall into the acceptable use of the conditional use permit. She listed the operating days and hours of the farm. In the fall, closing time is earlier as the sunset is earlier. During summer, she would have longer hours due to unpredictability of farming and because her flowers don't bloom on a schedule. She gave examples of events she would like to hold including hosting craft and local vendors which would occur only a handful of times throughout the season and would attract small groups of people. Ms. Van Lith would also like to host food trucks and alcohol/wine trailers; all would be licensed by the state. It would similar to the way wineries' licenses are set up. She said, per the letter from the Canyon Highway District #4, they did not expect the proposed use to generate enough traffic require a traffic impact study or negatively affect the nearby intersection or roadway corridors. She has incorporated a parking lot that will hold up to 200 cars and will abide by all Highway District requirements. She read the mission statement of the 2030 Comprehensive plan and said she believes her flower farm contributes to that mission. She agrees with all the conditions of approval. She said the changes in the plan after the neighborhood meeting were an increase in the acreage because of the highway district's parking requirements. She stated they shouldn't need overflow parking although she does have access to adjacent alfalfa fields if additional parking is needed. She said online maps don't take you down Boehner Road to get to her farm which she believes is the main concern. She reiterated that all the wine and beer trucks would be licensed through the State of Idaho and Beverage Control. She won't be pouring alcohol; only people licensed through the State of Idaho can serve alcohol. She does not believe that her flower farm will add to any traffic congestion in the area. They would not be open to the public until July and their season would be through October. The conditional use permit is only for July through October. She discussed working hard to make her neighbors happy.

Chairman Robert Sturgill entered the late exhibit 11 into the record.

Ashley Langdon – IN FAVOR – 5222 Craig Lane, Nampa ID 83686

Ms. Langdon works for the Caldwell Chamber of Commerce and said Ms. Van Lith is also a member. She said very few farms are members of the Chamber so it is extra important to the Chamber to support businesses like this. She followed Lovely Hollow Farms on social media two years ago and was impressed by one woman farming by herself. Ms. Van Lith was very intentional and shared everything she was doing; what worked and what didn't. It is a relaxing gathering place and the music is quiet, with only one acoustic speaker. Families come and have picnics on the property. She shared the improvements on the property with bathrooms, septic and electrical. She also discussed how Ms. Van Lith keeps people on her property and off others' properties.

Cameron Casey-Whitney – IN FAVOR – 18373 Chicken Dinner Rd., Caldwell ID 83607

Ms. Casey-Whitney and her husband own a farm in the area and is a native Idahoan. She lives about 500 feet from the entrance to Lovely Hollow Farm. She supports it as it currently stands: flower and pumpkin picking, live music, craft vendors, private photography sessions. She and her husband were customers of Ms. Van Lith's last flower farm. She believes that those in opposition to the farm probably haven't been to the farm or attended events as if they were, much of their concerns would be assuaged. Nicki and the staff could be found around the property helping customers and keeping it clean and well-appointed. The

main customers were families with small children and groups of women. Music and wine consumption were not excessive, mirroring any local winery event in size and tone. Traffic always moved in and out respectfully. While the project has changed since the inception, she knows that business changes through the planning process. She is grateful to see agriculture perpetuated through business. Nicki has used her venue to support local vendors and artists and has brought awareness to causes like domestic violence. Ms. Casey-Whitney stated the music can be heard on the farm but if you venture too far into the flowers, you can't hear it anymore.

Bill Walker – IN FAVOR – 15248 Chicken Dinner Rd., Caldwell ID 83607

Mr. Walker has been out on the farm all spring watching. He has also helped Nicki on some projects out there. He is impressed with how she has thought things through and the way she has put things out there. He is a farmer on Marsing Road and said there are very few young people who want to be in agriculture. He said they are all going someplace else to make their fortunes. He thinks it's important to encourage a young woman who wants to be involved in agriculture to continue to bring this out there. He said, she lives there and she wouldn't want it to be noisy outside her door. Besides, her father lives a quarter of a mile away and he wouldn't put up with that. The future of agritourism is where we are going to go; we can't keep making it on hay, grain, peas. The future of agritourism keeping young people coming back into something like this.

Wayne Hungate – IN FAVOR – 18694 Chicken Dinner Rd., Caldwell ID 83607

Mr. Hungate was there representing his family. They are involved in a custom haying business that borders Nicki's property. He wanted to address the opposition about the music. He owns a hay stacker and he helped her stack bales of hay as a buffer for sound. He has been a Farm Bureau agent in Homedale for 20 years and has submitted Lovely Hollow Farm's application to his underwriters. They accept the risk as a farm and are excited to get into the agri-tourism business. He echoes the prior testimony about young people in agriculture. In the last 28 years, he has seen older farmers retire and they are not replaced. They have watched that farm ground be turned into subdivisions. Watching this young lady keep the ground in agriculture is something he supports 100%. He studied holistic resource management with Simplot to find ways to keep ground in agriculture but make it profitable. He thinks Nicki has found a good one.

Candace Camin – IN FAVOR – 18377 Chicken Dinner Rd., Caldwell ID 83607

Ms. Camin said she has known Nicki for 20 years. She has watched her grow into a wonderful person who has a vision. She is a young person who wants to keep farming going. She is wholeheartedly encouraged by this project.

Jamie Wood – IN FAVOR – 18674 Houk Road, Caldwell ID 83607

Ms. Wood lives about three miles down the road, south of the Van Lith's. They have known Nicki her whole life; she went to school with Ms. Wood's children. She is here representing her whole family who lives down on the road on their family farm. They are all very supportive of this business: Nicki is an incredible entrepreneur, super hard working and is great with the public. She believes she will do all the things she has stated. They support this project because it is exactly the kind of business we should be supporting in Canyon County. We should be preserving this rich agricultural heritage that we have here. It's exciting to see a young person build a new business with a new twist, a new way to share agriculture. It will be a beautiful, family-oriented place where people can enjoy a nice morning or evening in farm country. It also shares that product directly with the community. Most farm products like the Woods' are contracted and go somewhere they don't see. People will see this process and the work involved and will learn how valuable it is. It will also share a piece of what makes farming so special; it is agri-tourism at its best. It is also a woman-owned business.

Danielle Van Lith – IN FAVOR – 18641 Chicken Dinner Rd., Caldwell ID 83607

Ms. Van Lith read a letter from past neighbors of Lovely Hollow Farm when it was located in Payette County. (Late Exhibit 7P) They live 400 feet from the last location. It was a great addition to their community. They never knew when there were events going on unless they saw people there. The letter stated there were no issues with the farm and it is very family friendly. The gatherings were peaceful and laidback: they never had any problems with people or excessive alcohol use. Events were well organized. Nicki always took great care of the farm and it was breathtaking to behold. Agriculture is the backbone of Idaho: this is also an extraordinary way to share Idaho agriculture with those who might not have access to agriculture on a daily basis. They don't understand why some in the community might not want Lovely Hollow Farms to open. They would be elated to have Lovely Hollow Farm and Nicki as their neighbor again. Nicole has always been considerate of her neighbors and our community needs to have more positive environments like this.

Lauren Van Lith – IN FAVOR – 18641 Chicken Dinner Rd., Caldwell ID 83607

Ms. Van Lith is speaking on behalf of her father, Joel Van Lith. While he appreciates the concerns about traffic, alcohol and noise, he can attest that all of those are limited occurrences. He raised his family across Chicken Dinner Road and wants to maintain the quality of life they have in Canyon County. He emphasized the positive atmosphere that Nicki has provided. He likes to see young families enjoying the flower farm in their little piece of Canyon County.

Rhonda Pickett – IN FAVOR – 18968 Lonkey Ln., Caldwell ID 83607

Ms. Pickett lives south of Ustick Road, between Lovely Hollow Farm and the Huston winery. She went around to all her neighbors on the block and had many people sign a petition on the positive impacts of the farm. There is a school and a church nearby; those locations have more of an impact on the local traffic. But nothing bad enough that would make them want to move. They don't see Lovely Hollow Farms having more of an impact than those ventures. As far as alcohol, she can go to her left and go wine tasting at a winery. She sees the Treasure Valley growing and there are other areas that have had more of an impact than they feel Lovely Hollow Farms will have. Lovely Hollow Farms will have more of a positive impact on their property value than a subdivision. They support the next generation work ethic: their three sons are working as employees to learn the family business. If the next generations don't learn to work, our society will really struggle with that. The Picketts and all the signatures they gathered are people in support of the farm.

Diana Trout – IN FAVOR – 18369 Chicken Dinner Rd., Caldwell ID 83607

Ms. Trout said she is the closest neighbor to the flower farm. She has known the Van Lith's since 2002 and has watched Nicki grow up. She sees her day in and day out taking care of the family land. Ms. Trout has lived on Chicken Dinner Road for 20 years and recognizes that change is coming to this valley. Instead of a housing development next door, she is very much in favor of having a flower farm that brings joy and happiness to so many.

Kelsie Stevens – IN FAVOR – 17815 Marsing Rd., Caldwell ID 83607

Ms. Stevens grew up on Chicken Dinner Road. She would love to see this continued to be farmed instead of being sold into housing. She brings her children to the farm and it is a very family friendly place. There isn't a lot of drinking or loud noise. It isn't a party atmosphere. She said Nicki is a people pleaser and she is going to take care of her neighbors.

Jacob Buskirk – IN OPPOSITION – 18754 Boehner Rd., Caldwell ID 83607

Mr. Buskirk said hearing everyone talking, from what he has seen, Nicki has done a fantastic job at what

she is doing there. It looks great; he just wishes it were a mile further down the road. He is speaking on behalf of other neighbors with concerns who aren't here tonight. He has lived in the agricultural community for nearly 20 years. They are raising a family there because it is quiet and has very little traffic. As an agricultural neighborhood, he wishes they could keep it that way. He said a flower farm will attract a lot of people and they are used to it being quiet. Most people who wrote letters of support don't live close enough for the noise and traffic to affect them. His three main issues were alcohol, traffic and noise. He was concerned about the alcohol being served; driving after drinking alcohol can be dangerous. If most of the people who come to the farm have children, why are they serving alcohol? He is concerned about people drinking and driving through their neighborhood especially when there are children, pedestrian and cyclists on the road. He brought up a white 'alcohol trailer' already on the property which is a permanent fixture on the property. He was also concerned about traffic. Currently it is mostly local traffic. He can ride his bike with his kids down the road and not see any cars coming. Neighbors walk, jog, ride horses and walk their dogs along the road because it is quiet.

MOTION: Commissioner Nevill moved to grant 3 more minutes of testimony to Jacob Buskirk, seconded by Commissioner Sheets. Voice vote, motion carried.

Mr. Buskirk continued: filling the 200 car parking lot only once will create 20 times more traffic than there is now. He said on her opening day in 2020, they had 1500 people show up. There will be more traffic, more days a week. More traffic at 50 miles per hour will create more accidents and more risk of hitting a pedestrian, cyclist or child. He said the noise level with hundreds of people will be loud, like a school at recess time. He understands tractor noise and that she has working operations but that is normal ag. Noise at night is a problem: he would like to be able to get his kids to bed on time. He is also concerned about the number of special events in addition to flower picking. If they had known at the neighborhood meeting what they know now, neighbors would have fought harder to oppose the farm. He said if they are granted this special events facility usage, he asks for limits to be put in place to guard neighborhood's quality of life and safety. He asked that food be available if alcohol is served. The number of days for special events with customers should be limited so neighbors can enjoy their private property without excess noise. A regular schedule would be helpful so they know which days are safer to be out on the road.

Nicole Van Lith – Applicant (Representative) – REBUTTAL – 18641 Chicken Dinner Rd., Caldwell ID 83607

Ms. Van Lith spoke about the white trailer; she purchased it from a friend as a novelty and is an old horse trailer and will be there for photo ops, although someone could serve coffee, food or alcohol out of it. She addressed the opening in 2020; she was one of the only businesses open that time (due to the pandemic) and it was a crazy time. Her music is a kid who comes and plays the acoustic guitar with a small speaker. Her opening days and times can be variable depending upon the quality and quantity of the flowers. If she provides advance notice for events, she would ask that everyone be courteous. She said her father will be deeding the property to her: she requested the conditional use permit be specific to both her and the property. When asked by a Commissioner, she felt that she could send out calendar links via email for neighbors to know when events were scheduled.

MOTION: Commissioner Sheets moved to close public testimony on Case CU2022-0006, seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Williamson recommended language for drafting a condition number 15: sending out notification for groups larger than a certain number or establishing a minimum threshold for those notices. Staff asked for clarification on the notification distance, notification for agricultural and seasonal activities which are already allowed and how the condition would be enforced. There was

discussion on adding the condition about neighbor notification and what form it should take. "Special Events that are subject to this must be posted electronically and available for viewing within 48 hours." Applicant will submit the information on how they are going to do the notification to the Development Services Department. There was discussion on condition #4: the conditional use permit be personal to the applicant and shall be limited to the parcel number. Commissioner Nevill stated that recent surveys of Canyon County residents show they prefer these types of agri-business operations over housing and subdivisions. He is happy that we have some diversity in these agri-businesses.

MOTION: Commissioner Nevill moved to approve Case CU2022-0006 including the Findings of Facts, Conclusions of Law and conditions of approval to include 15 conditions, modifying condition #4 and adding condition #15. Motion seconded by Commissioner Williamson. Roll call vote 7 in favor 0 opposed, motion passed.

- **Case No. CR2021-0014/Kenton Reed & Craig Kulchak:** The applicant, Kenton Reed, represented by Craig Kulchak of RCK Consultants, is requesting a Conditional Rezone of parcel R33188010B, approximately 3.98 acres, from an "A" (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single-Family Residential) zone. The subject property is located at 0 Lonkey Lane, Caldwell, ID; also referenced as a portion of the SE¼ of Section 04, T3N, R4W, Canyon County, Idaho.

Planner Juli McCoy reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Craig Kulchak – Applicant (Representative) – IN FAVOR – 4839 Mountain View Drive, Boise ID 83704

Mr. Kulchak was there representing the owners of the property. It is a little under 4 acres. They have also submitted a plat which has taken into consideration the existing agricultural irrigation issues on the front of the property. He described the land, ditches and irrigation easements. The Boise Project Board of Control requires preservation of those existing irrigation pieces and they have complied with that. Referencing exhibit 5J, the future land use map, Mr. Kulchak showed the existing residential development which is just across the street. Currently, the property is being dry farmed: Commissioner Villafana identified it as an alfalfa and grass mix but it appears it is not being irrigated this year. Mr. Kulchak said the owner is just trying to get building permits to build two homes. There is no intention to develop this past the two 2-acre parcels. He described the easements that are required on the parcel. He said the last thing he wants to see is agricultural ground disappear into development. If you look at this property, there are 4-5 homes around it but they are manufactured homes because they couldn't get a rezone. He said it would be perfect for a family with 4H projects. Regarding the nitrate issue: they want to be careful putting septic systems in so as not to put more nitrates into the soil. Those septic systems are more expensive but he has done that on other properties. There would be two wells on the property. They have access to irrigation; not only from the tile ditch to the west, but there is also a pump on the northeast corner of the property with a 10-inch water pipe that runs across the property. Because it is 4 acres, they are not damaging the agricultural farm work of the area. They are just asking for a conditional rezone, not a complete zoning change. The current owner has owned the property since 1991; he believes the current owner did the lot splits. Idaho Department of Water Resources has said they have a well water right available but they would have to apply for it. They would use surface water for irrigation. He clarified that it is a half-acre for well irrigation. They do not have a fire fighting plan. He said the Fire Department may require automatic fire sprinklers in the house. He believed there should be a development agreement and

he believes the owner would be more than happy to comply with any development agreement requirements.

Susan Anderson – IN NEUTRAL – 21393 Lonkey Lane, Caldwell ID 83607

Ms. Anderson lives in a mobile home down the dirt road on Lonkey Lane next to the applicant's property. There are four mobile homes and a barn on the street. She said there are very high nitrates in their water as well as arsenic and calcium, and she has to have her water tested constantly. Her big concern was what the rezone would do to her property and her property taxes. She said their road and the road behind the subject property are private roads and asked what kind of easement they are going to do or are they going to be driving down the private lane behind them. She discussed fire suppression and with all the proposed houses, she stated they can't afford to put a fire suppression system in her mobile home if it is required. Ms. Anderson said the water he uses comes down to his well and then is pumped back up. With the rezone, if they want to have animals on their property, are they going to be allowed to do that or are they going to be limited? She showed her home on the map and discussed the history of the property. Ms. Anderson said she found out after she moved in, everyone was using her well. She said adding more wells is a concern because if theirs ran dry, which it did once, what are more wells going to do (to the water supply). The water is so bad, she has to have special filters on her faucet.

Craig Kulchak – Applicant (Representative) – REBUTTAL - 4839 Mountain View Drive, Boise ID 83704

Mr. Kulchak clarified that they are not rezoning any other properties: just the one they have. The other properties would remain zoned agricultural. The private drive to the south of Lonkey won't be affected by this as it is not even on the plat. The only access to the property is in the center of the property. He has no plans on using the existing roadway. Mr. Kulchak said the water has nitrates and arsenic but also uranium. He suggested a reverse osmosis system to take care of those issues.

MOTION: Commissioner Sheets moved to close public testimony on Case CR2021-0014 seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill stated that this is kind of a mess and he won't be able to support trying to fix this mess. There was testimony about the problem of doing these illegal splits and allowing one well to service all these different people. He said we can't allow it get any worse. He is not in favor of this. Commissioner Williamson said he agrees that it is a mess. This application would have been more favorable if there was a development agreement. (A proposed draft development agreement was pulled up by Development Services staff.) If the applicant were to reapply, he would like a fire suppression plan and a way to mitigate the calcium and nitrates from the well.

MOTION: Commissioner Sheets moved to deny Case CR2021-0014 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 Nevill. Roll call vote 6 in favor 1 opposed, motion passed.

- **Case No. CR2021-0008/Treasure Valley LLC:** Treasure Valley, LLC (Mike Titera), represented by Matt Wilke are requesting a Conditional Rezone of approximately 55 acres from an "A" (Agricultural) zone to an "R-R" (Rural Residential) zone for a 15 lot subdivision. The subject property, R37792 is located on Harvey Road, north of the Sand Hollow Road intersection, Middleton, in the S ½ of the NE ¼ and the NW ¼ of the SW ¼ of Section 10, T5N, R3W, BM, Canyon County, Idaho.

Planner **Juli McCoy**, 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:

Matt Wilke – Applicant (Representative) – IN FAVOR – PO Box 7, Middleton ID 83644

Mr. Wilke discussed his letter of intent which he said there was some confusion about because they didn't provide proof that it was non-viable. He said it was non-viable because it didn't have surface water rights. He showed the conceptual site plan and showed which side of the property they are working on first. They kept the roads internal and after discussion with Canyon Highway District #4, they may move the entrance further towards the center of the property for sight distance. They have 55 acres and 15 lots with an average lot size of 3.67 acre lot size. There are 5 subdivisions within a half a mile and many have lot sizes smaller than theirs. He feels it's a great rezone and it hasn't been farmed so they aren't taking active farm ground out of production. Another reason the applicant wants to rezone it to residential, is because it has access to thousands of acres of Bureau of Land Management land which is a great benefit to the development. Mr. Wilke showed a map of the irrigation water rights provided by Black Canyon Irrigation District and said they cannot provide surface water irrigation for the land, so the residents will have to irrigate ½ acre from their wells. He talked about the class of soils on the property. He said it is pretty poor soils, class 3, but it can't be irrigated anyway. Class 3, 4 and 6 soils are on the property but without water rights, it becomes all Class 6 soils. This land is not in a flood area and not in a nitrate priority area. He showed where there was a test well near the site. From 2002 - 2020, they have tested that well and he showed how there has only been about a 3 foot variation in the test well depth. He showed other well depths and stated there is consistent groundwater levels in the area. He showed recent photos of the site and where the access to the property would be. He reiterated that this is dry ground that has never been farmed; the owner receives some money from a neighbor who uses it as dry grazing ground. Showing more photos of the site, Mr. Wilke identified a potential location for a road over the irrigation lateral. Mr. Wilke restated there is no history of the water rights associated with this parcel but it is within the Black Canyon Irrigation District area. When asked about the plans for the other 65 acres, he said there is nothing at this point. He felt that asking for a conditional rezone for this 55-acres first would be better with the larger lot sizes. He stated that the 65 acres would be turned into a development in the future and that would be the 'highest and best use' for the property. There is a 20-foot equestrian easement on the border of the property and he would have an agricultural disclosure on the plat. He has not thought about a community well and discussed the residents applying for additional water rights to irrigate their properties. He stated there is no firefighting water and there currently is no weed control on the property; he feels that any development on the land would be an improvement. This has just been dry grazing ground. When asked, he said a fire department tanker would fight any fires but there is nothing (for firefighting) on site. There was additional discussion about the original lot splits.

Terah Moore – IN OPPOSITION – 27529 Freezeout Road, Caldwell ID 83607

Ms. Moore has lived in the community of the planned rezone for over a decade. She requests that the property remain an agricultural zone. She is opposed to the burden on infrastructure: too many homes in a small area can cause issues. Prior to any rezoning, she requested the Commission ensure adequate impact studies done on traffic, the increase in traffic flow and safety on roadways; water and the increased draw on the water table and allotments for rural areas; utilities and the electric infrastructure; the need for an access point, road access and roadway maintenance; crime, community safety and emergency services and the increased school enrollment. Ms. Moore believes the lots should be set at a minimum of 12-20 acres.

Andrew Moore – IN OPPOSITION – 27529 Freezeout Road, Caldwell ID 83607

Mr. Moore is imagining a subdivision with horses that has no water. How are the pastures going to grow and how they going to be provided for when 80% is not irrigated. Mr. Moore described the area; in the surrounding 44,000 acres, he challenges the Commission to find another high density subdivision in that area. This is high density for that area. He said, thinking about what fits here, getting more specific, there are about 900 acres surrounding this property with only 8 homes on that land and we are going to stick 15 homes in a small 55 acre spot. This development does not fit. He said we live in this community; we like a community that is open and that is why he and most of his neighbors moved there. He implores them to keep it agricultural.

Konnie Michaelis – IN OPPOSITION – 28495 Harvey Road, Caldwell ID 83607

Ms. Michaelis lives adjacent to this property and has lived there for 42 years. She grazes her cattle on the subject property. She knew the original owner: it used to be Fred Anderson's homestead and they bought part of that original homestead. She has a lot of concerns but the main one is the water table. Her well is at 240 feet. 15 homes pumping water without any water rights will put stress on the water table. Because their well isn't really deep, they will be one of the first ones to go dry. It is not fair that they have to pay for Wilke and his partners to have their subdivision. It's a great place with farm ground all around. There are some really great farmers out there. It has a nice country feel to it: 15 homes are too many. She discussed how long they have used that land for their cattle, who were the owners and why it was sold.

Bonnie Goodell – IN OPPOSITION – 14899 Sand Hollow Road, Caldwell ID 83607

Ms. Goodell and her husband farm the property next to the subject property. She is not asking that the Commission keep any development from happening as she knows that is not possible. She appreciates that they are trying to use land that is not currently being farmed for development. She is asking that any development in this area be kept to development that is appropriate for an agricultural setting and that the zoning of this property remain agricultural. Currently, they can still safely move their farm equipment on the roads in this area but this is not the case 3 miles south where housing developments have increased. Approving this zoning and the subdivisions that would come will more than double the traffic in the area and on Harvey Road, causing problems for the local farmers and families that live in the area. Subdivisions here (already) are not what are found in the cities and further south; they are larger parcels that families have divided for their children. All of these subdivisions are small; fewer than 6 lots unlike what is being proposed. She feels that any development in this area should be limited to lot size with a minimum of 8 acre lots, preferably 10 acres or larger, consistent with what is in the area. She would like them to uphold the agricultural zoning of the property and limit any future development to larger lot sizes.

David Morgan – IN OPPOSITION – 27352 Freezeout Road, Caldwell ID 83607

Mr. Morgan lives fairly close to this property. He showed the old Bowden property on the map and there were three splits there. When he was looking to find land to build his dream home five years ago, he thought the 3 splits on the Bowden property were done with the understanding those would be the only splits in the area. He showed all the splits and homes that are built or being built in the area. He asked his neighbor two weeks ago why he built his home in the corner of the property instead of the center of the property and was told it was because he was thinking about building a subdivision in the future. Because of the relationships between some of the landowners, he suspects that was the plan in the beginning (to develop). He went out there because it was a rural setting and he was told it going stay agriculture. He said they (the subject property's owner) knew what they bought when they bought it and they could try to get water rights for the land if they wanted to. He is afraid this will set a precedence for zoning in the area.

Parry Walborn – IN OPPOSITION – 14460 Sand Hollow Road, Caldwell ID 83607

Mr. Walborn lives just south of the subject property. He moved out there a few years ago to get away from the subdivision explosion. Every time a subdivision goes in, the infrastructure is not set up to handle it. He is convinced that the impact of 15 homes on the neighbors would be tremendous. He didn't move out there to fight this. They have said the 4-5 homes have water levels that are pretty consistent but that's because it's based on water usage that hasn't changed much because there is no new demand. Mr. Walborn said this housing complex of 15 homes and the new water demand is going to impact all of them. There is nothing in the agreement that addresses how to help the neighborhood if something happens that they are not predicting. He said they are saying what has happened in the past is going to happen in the future and that's not going to happen. His other issue is safety; all of them in the area have children and animals that get out. The amount of traffic is going to increase and is going to be dramatically different than it is today. They are not used to that. He opposes this.

Jamie Michaelis – IN OPPOSITION – 28273 Harvey Road, Caldwell ID 83607

Ms. Michaelis is the daughter-in-law of the couple who graze their cows on the subject property. She wanted to clarify; there is enough rain water for about three months of cattle grazing on the property. They also keep their cattle on it in the winter so it used more often than not. She lives one property down from the proposed development and did not receive the neighborhood meeting notice or the notice for the Planning and Zoning hearing. Other neighbors also did not receive the notices and she believes this was deliberate by the applicant to ward off opposition. At the neighborhood meeting, the new owner said he wanted to build a house but his wife didn't want to move here so it was going to become a development instead. She is concerned about water table, septic and drainage field effects, traffic and school overcrowding. She did research from Idaho Transportation Department's website and found that the number of cars from those homes would cause 270 trips from this development alone. She won't be able to allow her kids to ride their bikes on the road to their grandparents next door because of the traffic. She is also concerned about emergency response time because they are too far out. She mentioned some crime on Harvey Road that was reported in the local area recently. She said higher density will increase those crime rates.

Doug Brunner – IN OPPOSITION – 27788 Harvey Road, Caldwell ID 83607

Mr. Brunner has lived in his house on 40 acres for 24 years. He reviewed the report on the County website and stated the report says the rezoning doesn't fit the area and staff recommended denial. It is not compatible with the Comprehensive Plan and is not more appropriate than the current use. He said development will adversely affect the area. He moved out there to get away from that (development) and to raise their children in quiet and private setting. In the last several years, homes have been popping up on larger lots, but he feels this subdivision should not be put there. Mr. Brunner said you have allowed subdivisions down through Middleton; they have traffic now in Middleton. Because of subdivisions, his taxes have doubled in the last 7 years. He moved out there for peace and quiet. He has enough hassle with people thinking they can use his irrigation on the back of his house as a hunting zone. Every time they bring a new house in the area, he has the same problem. Even if he can fine them for trespassing on his land, that doesn't fix his water lines. He said everyone here has said, "no". We don't want the subdivision in our backyards: opening the 55 acres is a gateway to the rest of the property and if you start here the entire area is open to development. Mr. Brunner said keep the development south.

Grace Walborn – IN OPPOSITION – 14460 Sand Hollow Road, Caldwell ID 83607

Ms. Walborn lives right next to the property and did not receive an invite to the neighborhood meeting either. They live by the access point to the property. She was born and raised in Caldwell. They left the suburbs to get away and have some peace and quiet. She said now the property on the other side is up for sale and they are probably eyeing it for development. She swore she would never move again and now

they (subdivisions) are surrounding them. She prays the Commissioners will deny this subdivision. She loves the rural setting and that sheep go down the road. That won't happen if there is this subdivision. Traffic out there was not bad but now it is getting worse. She implored them to deny this.

Matt Wilke – Applicant (Representative) – REBUTTAL – PO Box 7, Middleton ID 83644

Mr. Wilke pointed out that within a half mile of this property, there are 30 homes. Many do not use a surface water rights to irrigate their land. Using their half acre of water from a well would fit well within the area. There were no pastures intended on this project. There was discussion about condition of approval #3: they can't do pressurized irrigation because they have no surface water rights. He also clarified that it should say these are a minimum of 3 ½ acre average lot size. Mr. Wilke said there won't be 270 trips per day: the road department has said there isn't enough to warrant a traffic impact study. He said there will be a maximum of 150 trips per day. He said on Exhibit 1 page 2, he disputed the average lot sizes of the area. When you factor in that there are many homes in the area with smaller size lots, including 1-acre lots, this development would fit well within the area. He said what he has seen on the surrounding wells, the static water level is about 150 feet deep. They haven't heard any concerns and Idaho Department of Water Resources' water level map has shown the water level has actually come up in the last 20 years. They don't believe this is incompatible with the area. Agencies were asked for comment and the Middleton School District and Canyon Highway District #4 didn't recommend denial, they just like the lower density development plans. If they decide to develop the other side, it would be another 17 homes and that is still very low density. When asked, he said the fall back plan is to use the existing building permits (5) on the land.

MOTION: Commissioner Sheets moved to close public testimony on Case CR2021-0008 seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets stated based on the testimony he has heard tonight as well as the written comments and staff report, he hasn't found anything that would change his view of the analysis in the staff report. His second concern is 'piecemealing': one large project that has been broken down into smaller projects. He said that is exactly what this is. A larger project was anticipated and it was broken down into a small project. What happened was that things that may have been evaluated weren't, because it was a smaller project. It is obvious from testimony and the parcel design that this is going to be a larger project. He finds it very disheartening to hear that there is a plan for a larger project that will permanently alter this section of Canyon County but has been broken down into a smaller project in order to possibly avoid impact studies and those kinds of things that matter to this area. It's breaking things down to get them through the cracks. He would like to have the whole plan to evaluate what is going to happen. That way we can honestly evaluate what is going to happen because that's obviously the intent. It would be honest to present what's going to happen and address how they are going to mitigate the concerns, but instead we get these piecemeal projects.

Chairman Robert Sturgill paused to enter the applicant's presentation as a late exhibit into the record.

DELIBERATION CONTINUED:

Commissioner Villafana said just because it's not prime irrigated farm ground doesn't mean it is not agricultural: it's being used to graze and pasture cows. Commissioner Villafana gave an example of when he turned desert ground never farmed into usable farm ground with irrigation and compost and was able to grow potatoes. He said it won't take years to produce a crop. It's class 4 soils; he farms class 4

soil and produces sugar beets. He said you can farm it. He feels like they are picking on properties without water rights: they don't have a water right so let's just develop it. This development would completely change the character of the area and doesn't fit in. He also doesn't see the highest and best use being development. He doesn't see himself favoring approval of the subdivision. Commissioner Sheets agrees with the statement about being non-viable; it is viable, it's being used right now. This proposed development or any future ones claiming that it's non-viable, the evidence goes against that. Commissioner Williamson agreed with Commissioner Villafana; with pressurized irrigation and compost, you could grow orchards, wine and table grapes. Those crops want slope, they want Class 4 or 5 soils. His biggest issue is concerns about fire suppression and a community well. Individual wells encourage water spreading and a community well would check off a bunch of things that need to be taken care of. He also agreed with Commissioner Sheets: we need to see the whole development. Commissioner Nevill stated "the high and best use" is a speculator's aphorism: often, open space is the highest and best use.

MOTION: Commissioner Sheets moved to deny Case CR2021-0008 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 Williamson. Roll call vote 7 in favor 0 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Sheets moved to approve the minutes from 6/2/2022, seconded by Commissioner Amarel. Voice vote motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister stated that Development Services Department Director Steve Fultz is leaving the County to work for the City of Caldwell. The Comprehensive Plan hearings are scheduled for August 10th and 24th and the team is working on the logistics of the hearings. The final version of the plan will be published Monday and no further changes will be made until after the Planning and Zoning hearings. At the next Planning and Zoning hearing on July 21, 2022, the Soil Conservation District will be giving a presentation. Commissioner Sheets brought up a prior discussion about the Development Impact fee hearing and the possibility of appointing a sub-committee to provide the Commission's concerns on the limitations on the Capital Improvement Plan drafted as part of the Development Impact Fee Study. Chairman Sturgill discussed how they could accomplish that and what the end result would be.

MOTION: Commissioner Sheets moved to appointed himself to draft a letter to present back to the Planning and Zoning Commission regarding the interpretation of the Capital Improvement Plan contained in the Canyon Highway District 4 Development Impact Fee study, seconded by Commissioner Amarel. Voice vote, motion carried.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Amarel. Voice vote motion carried. Hearing adjourned at 11:15 pm.

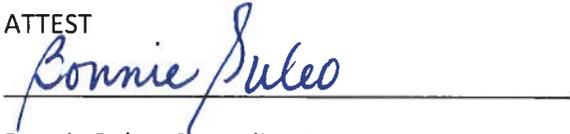
An audio recording is on file in the Development Services Departments' office.

Approved this 4th day of August, 2022

A handwritten signature in blue ink, appearing to read "Robert Sturgill", written over a horizontal line.

Robert Sturgill, Chairman

ATTEST

A handwritten signature in blue ink, appearing to read "Bonnie Puleo", written over a horizontal line.

Bonnie Puleo, Recording Secretary