



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, November 3, 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  
Ron Amarel, Commissioner  
Harold Nevill, Commissioner  
Miguel Villafana, Commissioner

Staff Members Present: Dan Lister, Planning Official  
Jenna Petroll, Planner  
Bonnie Puleo, Recording Secretary

**Chairman Robert Sturgill** called the meeting to order at 6:42 p.m. due to problems with the audio recording system in the Administration Hearing Room which were resolved.

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

- **Case No. SD2021-0040/Red Cow Fold Subdivision:** The applicant, Skinner Land Survey, is requesting approval of a Preliminary Plat and Final Plat for Red Cow Fold Subdivision. The development consists of one (1) lot in an "R-R" (Rural Residential) zone. The subject property (R30588) is approximately 2.47-acres and is located approximately 1,315-feet south of East Airport Road and approximately 1,342-feet east of North Robinson Boulevard, Nampa, ID, in a portion of the SW ¼ of Section 20, T3N, R1W, BM, Canyon County, Idaho.

**Planner 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:**

**TJ Wellard – Applicant (Representative) – IN FAVOR – 17842 Sand Hollow Road Caldwell ID 83607**

Mr. Wellard said he appreciates Dan Lister's work on this application: they have been through 3 or 4 planners through this two year endeavor. He said it has been tedious to get 1 building permit for the 1 lot. He wanted to address some of the things that were discussed with previous planners, the new conditions which just came up as the hearing was starting and some of the Commissioners' concerns. He does not know the details about the litigation. He said the owners can address those but there is a recorded easement to the property. Mr. Wellard said they will fulfill all the requirements for the County. It still remains a 2 acres even they have to trade a road lot. Question from Commissioner Nevill: if we take action on this either way, not knowing what the litigation is about and if the litigation does something, could we end up back here, hearing this again because the situation on the ground has changed? Mr. Wellard

replied unless the litigation takes away the legal access, which is highly unlikely, there is no question on access to the property. He said as far as the Commission approving the layout for the one lot subdivision, that shouldn't bring the case back in front of them. In response to Commissioner Nevill's question on water rights, Mr. Wellard said that the property has surface water rights for irrigation; the well is for domestic water. Chairman Sturgill asked, given the challenge with respect to the potential for a road lot, had they ever considered R1 zoning? Mr. Wellard said he doesn't believe they did because they were only trying to get the one building permit. He did the calculations and even if they did have to create a road lot, the lot will exceed the 2 acres. He assumes they are still using 'average lot size' and if you add both lots, they still come out as 2 acres. Chairman Sturgill asked that Mr. Wellard write out those calculations, present them during rebuttal and provide them as a late exhibit.

**Colleen Clark – IN FAVOR – 3589 S. Gekeler Lane Boise ID 83716**

Ms. Clark said she is a native Idahoan; their family is mostly farmers and medical providers. They want to move onto her parents' property to help with the farm as they age and also for help with their children. When this process started and the notice was sent out, there was a conflict between the Keisters who own the easement and the neighbors down the road. The Clarks and Ms. Clark's parents are not involved in the litigation. She said they started this process before that (conflict) began. One of the other things that came up at the last Commission hearing was the dust and the Commission determined that issue was a moot point because either way, the Clarks would be living on her parent's property. They want a designated plot but if not approved, they would be living on the property anyway and their vehicles would be coming down the lane no matter what. She wanted to discuss how the process was going. She felt there should be a determination for Idahoans that comes from the Commission: they meet those (requirements) and they can move forward. That happened at the last meeting. Then they came forward with the approvals and were contacted one business day before the hearing by the prior planner and told they were going to need get private road access. As a result, they were going to be taken off the docket. After that, they jumped through hoops and submitted their forms.

**MOTION:** Commissioner Nevill motioned to grant 3 more minutes of testimony to Colleen Clark, seconded by Commissioner Amarel. Voice vote, motion carried.

Ms. Clark continued:

They met those requirements, submitted them to the planner and was told they needed to submit it to the City of Nampa. The City of Nampa confirmed they had right of way to the easement. The City didn't want to name the private road until the neighbors had resolved their litigation but said they would recommend the County move forward. After tonight's hearing started, they were informed of additional last minute changes. She said they are told here are the rules, this is what you need to do, they meet those requirements and then they are asked to do it again and again. She knows many issues have played a role in all the changes, but this is hard for them as an Idaho family when they just want to do it the right way. When asked by Commissioner Nevill about the Conditions of Approval that staff submitted and whether she agreed with them, she stated she would need time to review and approve them. She believes some were conditions the prior planner initially had told them they needed but the City of Nampa said they didn't need and the prior planner then agreed. Now those conditions are coming up again. She requested a handout to look them over. Commissioner Nevill said there was a requirement for a road users' agreement; Ms. Clark said the City of Nampa told them they have the right of way for easement, they were going to wait until the neighbors' litigation was resolved and they didn't need to do that. She said the County staff agreed and the application was put back on the docket. Planning Official Dan Lister explained if the City of Nampa waives the private road requirements, it would default to county requirements which require less. He didn't see that evidence in the packet; he saw the addressing person saying they are holding off on the street naming. The City of Nampa's engineer only stated in an email

that it didn't need curb, gutter, sidewalks and streetlights. Both the City of Nampa and the County require a road users' maintenance agreement. Commissioner Williamson asked about potential commercial use. Ms. Clark said there will be no commercial use on the property, it is just residential. She said she will get all the documentation on what has been said in the past to the new planner.

**Connie Hill Bruin – IN FAVOR – 6627 Airport Road Nampa ID 83687**

Ms. Bruin said her daughter Colleen purchased the lot after the rezone. They have been working on it since November 2020. She felt there had been a lot of poor communication. She thought they were ready to go until the Keisters complained; then they were told 24 hour before the hearing that it has been tabled. She said there has been no communication from the planners. They found out, after doing a lot of work, that it all the paperwork and documents had to go to the City of Nampa. She said they have a well-documented right of way which has always been used for agriculture. The road has been there for 90 years. Ms. Bruin said they will do what is necessary; they have invested a lot and will continue to invest more. Their attorney said they (the County) can't keep adding something and that is what is getting frustrating. She explained what happened with the shed and why it has to be a separate parcel. She said it had to do with the State of Idaho and the fact that parcel belongs to the Kuna tax zone. It had to have a separate ID but it stayed with the property.

**MOTION:** Commissioner Williamson motioned to grant 3 more minutes of testimony to Connie Bruin, seconded by Commissioner Nevill. Voice vote, motion carried.

Ms. Bruin continued: She explained the fence was on a 30-foot easement on her daughter's property. Her daughter owns all the road that goes to Arabian Way in front of their house. She owns all that road, on both sides, all the way to the grass at the neighbor's house. They do have a road users' agreement which was drawn up by an attorney. She reiterated that they are not part of the litigation. She said the Keisters harassed the neighbors, who then offered the Kiesters some money to stop the harassment. She saw the counter offer and said it was tantamount to extortion. She said Carolyn Kiester, who should be addressing any concerns, has not said a word to them about this. Commissioner Williamson asked about Arabian Way; Ms. Bruin said the Kiesters have been adamant that no one can use that road, however they do use the Bruin's easement which is mainly used by pedestrians and bicycles. She said they are billed for both tax areas (Kuna and Nampa). She said an engineer drew the lines for the parcels because you can't sell half a shed. It was all drawn out by Planning and Zoning and added to their property. It only has its own number because it is in the Kuna tax district.

**Matthew Ineck – IN OPPOSITION – 55 S. Pit Lane Nampa ID 83687**

Mr. Ineck has cared for Mrs. Kiester's property for approximately 5 years. During that time, he has seen an increase in dust and dirt nuisance from the traffic along the easement Red Cow Fold is proposing to use on Ms. Kiester's property. He said they are not against the Red Cow Fold subdivision but want it to be done in a responsible manner and according to County rules and regulations. The roadway crossing Ms. Kiester's property currently serves 4 residences is not constructed to those standards. The road is also used as a residential and agricultural access by those living south of Ms. Kiester's property. It is also occasionally used by the Lexington Meadows subdivision; primarily by bicycles and pedestrians. The Red Cow Fold would be the fifth residence using the access point. It is a lot of traffic and is increasing the dust, especially during the drier summer months. Her home is only about 60 feet from the access road. She is directly affected by the dust nuisance which could have been addressed and controlled by the current users if the access road had been designed according to Canyon County private roadway standards. She suffers from the dust and dirt nuisance created by the increased traffic on that dirt access lane that passes through her property. It has happened because Canyon County never received a proper maintenance agreement from any users accessing that portion of the roadway. It has not been developed or maintained

with a 6 inch layer of gravel or proper drainage; it is simply a dirt road that gets graded from time to time. It does not have the proper base/sub-base to meet the public safety standards or provide protection to Ms. Kiester's health and property. He is unable to identify in the staff report where the County is requiring the applicant to bring the access road going through the Kiester's property up to the private roadway standard. The proposed maintenance agreement is not sufficient and is not addressed by all residents using the road.

**MOTION:** Commissioner Nevill motioned to grant 2 more minutes of testimony to Matthew Ineck, seconded by Commissioner Amarel. Voice vote, motion carried.

Mr. Ineck continued:

He reiterated that the proposed maintenance agreement is not sufficient and is not addressed by all residents using the road and not agreed on by Ms. Kiester. He thinks the Red Cow Fold should be required to bring the entire easement they are requesting to use up to Canyon County private road standards and any future residents accessing the road should have to agree to maintain those standards. The current users of the access lane agreed to maintain the road and signed the final plat acknowledging acceptance of those standards and they failed to meet those requirements. Since there was no maintenance agreement clearly outlining the responsibilities, the users chose not to build the road to a standard protecting Ms. Kiester from the dust and nuisance created by their use of the road. He asked before they approve the application, the current applicant should have to bring any access roads to their property into compliance with the private road standards along with signing a road user's maintenance agreement covering the entire length of the access. In response to Commissioner Sheets' question about what specific issues he has with the current road user's agreement, Mr. Ineck said the current road users' maintenance agreement doesn't cover a specific portion of the road and everyone using the road would benefit from upgrading this portion of the road. Mr. Ineck said he wanted the entire road brought up to Canyon County private road standards. Commissioner Williamson asked what Mr. Ineck thought would mitigate the dust. Mr. Ineck said maybe some crushed asphalt for the first 500 feet; it should at least be brought up to the minimum standard. There was a discussion about private road requirements and what proportional shares are of a road maintenance agreement.

**Mitch Kiester – IN OPPOSITION – 2941 East Springwood Drive Meridian ID 83642**

Mr. Kiester is Carolyn Kiester's son and a licensed environmental health specialist. He was there to voice concerns about past and potential future use on his mother's road. He explained, according to the EPA, vehicles driving on unpaved roads causes 5 times as much particulate matter as construction activities and wind erosion. He explained the hazards of dust and particulate matter, the definition of air pollution and the health effects of dust. Mr. Kiester said Canyon County clearly delineates the standards for roads. He said the standard of the road running through his mother's property is not being maintained. There is evidence that the current users know the minimum standards and are choosing to ignore it. He said he only asks that until a maintenance agreement is obtained and agreed upon by all users, the decision for this development be held off. Commissioner Sheets asked about the litigation. Mr. Kiester said the litigation is between the Schwisows and the Kiesters. He said attorneys are involved but it is not an active court case. Litigation has been threatened but is not ongoing. When asked if it affects the plan for Red Cow Fold Subdivision, Mr. Kiester replied yes, because it involves discussions about the roadway. He just wants the roadway brought to a proper standard so his mother doesn't have to incur the health effects of the dust. He said the Schwisows were supposed to provide a proper maintenance agreement but they only have a maintenance agreement for their own subdivision. Their plat said they were supposed to bring 6 inches of gravel and it never happened. He is asking for a proper maintenance agreement for everyone moving forward. He asked who is going to keep it up and if people move, who will be responsible? Commissioner Amarel asked if packed, graded rock would meet his standards? He responded it should be

gravel or asphalt. He asked again who is going to keep up the road. He is just asking for some respect for the roadway and as long as dust and nuisances are abated, that would meet their standard. Planning Official Dan Lister said the Schwisow's subdivision was approved in 2006 and he would have to look at see if that condition was on the plat.

**TJ Wellard – Applicant (Representative) – REBUTTAL – 17842 Sand Hollow Road Caldwell ID 83607**

Mr. Wellard said the opposition's testimony has been addressed through the conditions of approval. He reminded the Commissioners that this is a preliminary plat and the property has already been rezoned; it has this right to it. As long as the plat meets County ordinance for platting, the Commission can't deny it. He did the calculation for both 50 and 60 foot road lots and it still meets the Rural Residential zoning and the 2 acre minimum. He also has the record of survey that was done to adjust the property line that was not approved through the County and that has been submitted. Commissioner Nevill said to clarify, the road user's agreement covers the two properties but doesn't cover the Kiester's property. Mr. Wellard said he is not an attorney and can't interpret legal documents. He said the exhibit the two owners signed does not cover the additional easement but the survey shows the additional easement. Commissioner Nevill said he is trying to figure out if the entire length of the driveway is covered by the road user's agreement or if the road user's agreement would require modification. There is no legal description in the document that defines what that agreement is for but it shows a survey which shows the easement access. He believes it might have to be added to the conditions. Mr. Wellard said the County requires the road user's maintenance agreement but there is no enforceability to require the other land owners using it to agree to it also.

**MOTION:** Commissioner Sheets moved to close public testimony on Case SD2021-0040, seconded by Commissioner Williamson. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets said that he was glad it came out during public testimony that there is an issue with the road maintenance agreement. He sees the two parties that have signed it and he knows who is not party to the agreement. Commissioner Sheets said the County requires a road users' agreement and we have one. It meets the requirements. Based on the County's requirements and the conditions here, he will probably be voting in favor of this application. Commissioner Williamson asked if they were going to be given amended conditions of approval? Planning Official Dan Lister replied he was just correcting some small errors. Commissioner Nevill said he does not think the road users' maintenance agreement meets the intent. He thinks all parties should be party to the road maintenance agreement. Without a comprehensive road users' agreement, he doesn't think he can vote for this application. He said it seems like the Clarks/Bruins have been delayed through no fault of their own and that is unfortunate, but he doesn't think he can go along with it without a more comprehensive road users' agreement. Commissioner Williamson asked besides having a more comprehensive road users' agreement, he suggested prior to signing a final plat, the applicant could provide a more comprehensive road users' maintenance agreement? Commissioner Nevill was not sure how that condition would be worded: a "road users' agreement that includes all those who can access that road"? It would then require all the players to get involved. Planning Official Dan Lister explained Canyon County code. If the applicants want to be designated the responsible parties and sign and record it, then that's on them. He said one of the legal descriptions does include that 50 feet of roadway. It doesn't draw it out completely in Exhibit C but does show the distance of the easement. He said they could add to the conditions saying there needs to be more detail in that but it does meet the requirements of the road users' agreement. Exhibit B talks about the rights to use that right of way of 50 feet which describes that easement. Commissioner Nevill asked if those two parties sign the agreement, are they are responsible for all of it? Mr. Lister said that was correct. Planning Official Dan Lister reviewed the procedures associated with road users'

agreements and how they would eventually catch the other owners who didn't sign the initial agreement.

**MOTION:** Commissioner Sheets moved to approve Case SD2021-0040 including the Findings of Facts, Conclusions of Law and amended Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Amarel. Roll call vote: 5 in favor 1 opposed, motion passed.

- **Case No. CU2022-0033/Nampa Paving & Asphalt:** Nampa Paving & Asphalt Co., represented by Borton-Lahey Law, is requesting a Conditional Use Permit to allow a long-term mineral extraction use on Parcels R34061 and R34144 (approximately 136.9-acres total) to include sand and gravel extraction, staging, and crushing. The proposed mineral extraction will expand an existing approved operation (CU2018-0015) and will be tied to the conditions of that approval requiring operations to cease by January 3, 2039. The properties are located at 9016 Lincoln Road, Caldwell; also referenced as a portion of Section 16 and 21-4N-2W, BM; Canyon County, Idaho.

**Planner Jenna Petroll** 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 Lakey – Applicant (Representative) – IN FAVOR – 12905 Venezia Court Nampa ID 83651**

Mr. Lakey was appearing on behalf of Nampa Paving. He thanked staff for the recommendation of approval and said they agree with the analysis and the conditions of approval. Mr. Lakey said Nampa Paving is a longtime, multi-generational local business. In 2018, they applied for a conditional use permit on the adjacent property and thought that would keep the business going but after 4 years they are almost done. They need to extend that adjacent operation. They are not increasing or intensifying the use; they are just moving their operations to the adjacent property. They will be using the existing access and the scales on the current property. They propose to use same Conditions of Approval as the other conditional use permit. Mr. Lakey said the Comprehensive Plan and zoning ordinance support this application. This will allow Nampa Paving to continue to operate and provide employment. Nampa Paving provides jobs and critical resources for infrastructure and development in Canyon County. They are asking for a 15-year conditional use permit although the length of time is market dependent. Mr. Lakey said they are using the same conditions that they currently responsibly operate under. The area is mostly agricultural and gravel operations; there are few sporadic homes. He said agriculture and gravel are reasonably compatible; they have similar impacts and they have quality gravel here. Mr. Lakey showed the maps from the 2018 application and one from the current timeframe/view. He reviewed the maps showing the current operations and the uses on surrounding properties and he talked about the flood plain and working with Federal Emergency Management Agency. They plan on staying out of the floodway. Some of their property to the north is in the floodway and they are talking to FEMA to ask for their consideration of a map revision. He said they don't plan on going into the southern part of the property but if they did, that would require an amendment to the Conditional Use Permit and they would come before the Commission again. Mr. Lakey showed the site plan and access to the property under the current conditional use permit. He said the wide, paved road goes back into the property. Nampa Paving is a responsible operator and their access road goes above and beyond (requirements). The paved road goes back into the property and they also have paved approaches to the scales. Mr. Lakey said it is not viable farm ground from their perspective; a lot of it is pasture. They are not taking active farm ground out of production. He reviewed

the conditions of approval and said they reflect the adjacent operations and the operations in the general area. They are required to have a flood plain development permit from the county before they can proceed but current proposed operations are outside the floodway. The hours of operation will be 7 am to 7 pm, Monday through Saturday. There is an option for 24-hour operation as needed. Mr. Lakey said they do not have truck traffic that goes to the east; it turns to the west leaving the property. This is a good location and a responsible operator with a proven history and reputation in the area. Commissioner Nevill asked was the 4 years it took to get through the current conditional use permit, was that because of demand? Mr. Lakey replied, yes. We asked for a 20 year approval but because of the growth, infrastructure and construction needs in Canyon County it was used up that fast. They have an approved reclamation plan from the Department of Lands. Future plans for the site are for a residential amenity: lakes with nice homes. He pointed out a letter in their packet that said there haven't been any significant concerns over the past 4 years. Chairman Sturgill asked why the reclamation plan doesn't have information on the future residential plans? Mr. Lakey replied the Idaho Department of Lands is focused on the mining itself; what you are mining and bonding requirements. The applicant's reclamation plans involve sloping the sides, spreading out the overburden and planting the area around it.

**Randy Wood – IN FAVOR – 11505 Bass Lane Caldwell ID 83605**

Mr. Wood said Nampa Paving & Asphalt has been in business for 39 years. It is a family owned business and he employs about 100 people. It is important to have gravel to keep his employees working. He discussed the lack of opposition to the current gravel pit. He said he takes a lot of pride in trying to take care of people and tries to be a good neighbor. The farming in the southeast section is a feed lot with some row crops and row pasture grass. The north side is an area they refer to as "the jungle" which is river bottom stuff for grazing. In response to a question from Commissioner Williamson, he explained they have a year left on the old permit. The crusher will remain in the old hole until the new pit is created and then they will move it so he is not a nuisance to the neighbors. He said demand has been huge. He showed a map of the site and explained where the ponds and scales are and where they will start mining on the new property. Commission Sheets asked how long a time period did they run 24-hour operations? Mr. Wood said he doesn't believe they ever ran a 24-hour operation. Once they ran their operations on a Sunday to meet a deadline for a freeway contract so the employees could have Thanksgiving and the following Friday off. He reiterated he doesn't think they ever ran 24-hour operations. He said they don't like that kind of work: they would prefer working during the day.

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

Mr. Mills said he agrees with what has been said. These always have pros and cons. As a taxpayer, he always appreciates having materials in close proximity to the project. He spoke about the Idaho Transportation Department and how they are working on a 4 year project improving Midland and Highway 20/26. He said all projects are bid based on costs and where the material is and you can't haul gravel a long way at an efficient cost. Mr. Mills said this site is well located and has really good quality gravel which meets State standards. He said one thing that contributed to the acceleration of material use was Federal Emergency Management Agency (FEMA). A few years back they moved their maps so people began building up out of the flood plain. FEMA isn't pulling back and they have created this market. He said people build up to avoid having to purchase flood insurance. He has worked with Nampa Paving for 40 years; they are a quality organization. Commissioner Nevill asked if the future homes have to be built on pads? Mr. Mills said yes, if you don't want to pay flood insurance.

**Frank Stutzman – IN FAVOR – 21250 Midland Blvd Caldwell ID 83605**

Mr. Stutzman is surrounded on three sides by Nampa Paving's current operation. There is a lot of dust, noise and truck traffic. He said it sounds like he is opposed to it but far from it. Before he bought his place two years ago, he contacted Randy and talked to him about his plans. Mr. Stutzman said he has been

terrific to work with. Water trucks are run frequently to keep the dust down from operations. Operations end at 5:00 pm and they go home. It's quiet.

**Roger Rosdahl – IN NEUTRAL – 20485 Madison Road Caldwell ID 83605**

Mr. Rosdahl owns a 40-acre parcel on Lincoln Road surrounded on three sides by Nampa Paving. He said Randy is a great operator and a good person. He has not seen the irrigation plan for his 40 acres and both his irrigation heads come through Randy's properties. The head in the back is 3/8ths of a mile and will go through those ponds. Mr. Rosdahl wants it on the record that he is looking for answers. He is the farmer who runs Randy's farm with cattle, corn and hay. There are two checks at the Big Slough that he irrigates out of and he will need to maintain access. Randy has to come up with a plan to get him water. He said you couldn't have picked a better operator; he is great for that. He has always been fair and honest. Mr. Rosdahl said the farmland is somewhat marginal but is excellent cattle country. There have always been cattle on it and it can grow decent crops. He said as a farmer and rancher, there is a huge chokehold on us just to keep going. He is sure they are going to approve this application and that's fine. We need gravel, but where are you going to get your food? Cattle take space. Where are you going to get your farmers? The best farmers aren't able to keep up with costs. He said we have to protect the food supply. Commissioner Nevill pointed out Condition of Approval #4 which states he must preserve and maintain the irrigation rights which is the way the County is trying to protect his water rights. Mr. Rosdahl said Randy isn't going to steal his water, he just doesn't have a plan on how he is going to get it there yet. He just doesn't know where or how the water will be delivered. He believes he will come through, but there is no answer yet.

**Richard Porter – IN OPPOSITION – 21578 Lansing Lane Middleton ID 83644**

Mr. Porter didn't come to dispute this; he knows Mr. Mills and Mr. Lakey and they have spoken highly of Nampa Paving. He has 515 acres directly across the river from Nampa Paving. He has been offered tens of millions of dollars to build homes on his land and if there is a gravel pit with a rock crusher, he will lose a lot of value. His house is by other gravel pits. He has been listening the rock crushers and the beeping of the trucks for 23 years. They are a nuisance; he can't go out during the day and sit out on the patio. He doesn't think anything is going to change tonight but he was there first. Hopefully he will live many more years but a 16-year permit is the rest of his life. He put granite rock in the river so it doesn't wash out and so they could build homes. Nobody is going to buy that property across from a gravel pit. Mr. Porter said it's one man's gain and another man's loss. It's the narrow part of the river. He knows they are reputable but you can't stop the noise and dust. There has to be some consideration for people who have been living there for 20 years. He wanted to go on the record saying it's wrong. In response to Commissioner Williamson's question, he said there are no guarantees that it will stop sooner than the 20 years. He believes based on what the Chairman of the Fed said, interest rates will put the brakes on a lot of that stuff. He doesn't care what someone does on their own property but when it affects someone else's property, that's when he thinks someone needs to draw the line. Commissioner Nevill asked Mr. Porter to show his property on the map and the land he owns. Mr. Porter said he doesn't understand why we must dig up the river and ruin the habitat. Why don't we move away from the river; there is plenty of gravel elsewhere. The value of the land he owns on the river is already there but high end homes (after the gravel pit closes) wouldn't hurt it.

**Janet Lantz – IN OPPOSITION – 8770 Lincoln Road Caldwell ID 83605**

Ms. Lantz owns the property immediately to the east of Nampa Paving. Her land has been in her family since 1873. She hates to see all the beautiful river bottom ground being dug up for gravel pits. It was beautiful, pristine pasture and farm ground and it seems there should be some other place they could go to find the gravel. She knows Mr. Woods is a fine person and a good operator but she is worried about the value of the property.



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

Mr. Lakey said it is important to consider they are a quality operator. The people who live right next to Mr. Woods' operations have talked about he is a quality operator. He read from a letter in support, marked as exhibit 5A; he has never seen a letter like this for his gravel pit clients. Mr. Lakey said this will be a wet gravel pit: Mr. Woods doesn't operate a surface operation. There are very few residences in the area and there is significant barrier and buffer with the Boise River corridor. He showed that gravel pits and homes surround the area and they haven't affected the value of potential housing development in the area. It is a good location; gravel pits have existed there historically and it is compatible with the agricultural operations. It has consistently supplied employment to people in Canyon County and provided a resource for that's needed for infrastructure and development. Commissioner Williamson brought up Mr. Rosdahl's testimony and the questions around the irrigation plan. Mr. Lakey said Mr. Woods hasn't worked out the plan for irrigation yet but Randy will provide the water. It's Mr. Rosdahl's water. He showed on the map where and how the water might be delivered. He said they will make sure the water is delivered. In response to Commissioner Nevill's question about how close to the main floodway they will be mining, Mr. Lakey said in the past, they did follow the floodway line but stayed out of the floodway. They plan on staying out of the floodway for this phase too. He said if they change their plan, they would have to come back and re-apply to mine in the floodway.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CU2022-0033 seconded by Commissioner Sheets. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill said there are valid concerns raised by some of the testimony but in his mind, they have been answered by the conditions imposed and the safeguards to due process rights. If they change their plan, the Commission will have to hear it again. He is satisfied that all his concerns have been answered. Commissioner Sheets said the short term discussion is aggregate but the long term discussion is development which will be annexed into Middleton. In the short term, the plan is aggregate and he thinks the conditions temper the activities there but he wants everyone to understand the long term plan. Chairman Sturgill clarified that once approved, it will never be agriculture again. Commissioner Sheets agreed. Commissioner Amarel agreed that we need to support agriculture but they are in the rock business and they need to be where the rocks are. He is in favor of this application.

**MOTION:** Commissioner Nevill moved to approve Case CU2022-0033 including the Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Sheets. Roll call vote: 6 in favor 0 opposed, motion passed.

- **Case No. CU2022-0015/David & Jamie Wood - Riley Planning Services:** The applicant, Riley Planning Services, LLC representing David and Jamie Wood, is requesting a conditional use permit to allow a Special Event Facility use within an "A" (Agricultural) Zoning District. The use includes weddings, community events, vendor events, pumpkin patch, harvest related activities and other agricultural activities. The subject property is located at 18659 Houk Rd, Caldwell (Parcel R33499); also referenced as a portion of the SE ¼ NW ¼ of Section 24, Township 3N, Range 4W; BM; Canyon County, Idaho.

**Planner Jenna Petroll** 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:**

**Penelope Constantikes – Applicant (Representative) – IN FAVOR – PO Box 405 Boise ID 83701**

Ms. Constantikes wanted go through her information quickly to give the Woods as much time as possible to present their vision. She reminded the Commissioners that they have submitted an alternative Condition of Approval #9 for their consideration. The Woods are multi-generational Canyon County farm family. She said the application is for a conditional use permit; there is no land use change being proposed for the site. The Soil Conservation District was in error when they talked about a land use change; there is no zone change being proposed. Southwest District Health does not have any additional testing requirements. She said the Board of Control easement is incorporated into the site plan but the applicant will work closely with them if there are additional requirements. The letter of intent was written very early in the process, so the 350 guest count is the one they are basing their testimony and approval on. Ms. Constantikes said Canyon Highway District makes trip counts available online and they have less than 400 trips on Chicken Dinner Road and Malt. She said none of the roads are anywhere near their capacity for trip counts. They believe this use is compatible with the area and she provided some examples of other similar venues in the area. There are other venues available in the general area, but this venue is intended for people who want to be in an agricultural setting. It will take up a very small portion of the parcel and restated that no formal land use change is being proposed with their application. The service access for employees is close to the canal. She said they will work with the Highway District to make sure they have access for the guests at a location that meets the Highway District requirements. There is parking for 45 spaces next to the venue and their overflow parking is anticipated to be located at the southeast corner of the site. Ms. Constantikes said this supports Canyon County agritourism and it's being operated by an active farm family. They feel condition of approval #9 is unnecessarily restrictive in that it doesn't allow for a variety of events like bridal showers at night. Other than condition #9, they agree with the rest of the conditions of approval. They will have night sky protective lighting. Commissioner Williamson asked Planner Jenna Petroll about an alternative condition of approval #9. They discussed how to keep any visitors out of the canal. Ms. Constantikes' proposal was to install chain link fencing along the canal. Commissioner Sheets asked about the size of the event center, which Ms. Constantikes said will be 5500 square feet.

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

Ms. Wood thanked the planner and staff for all their work on this application; it has been a long process. She said Wood Farms has a long history of use and possession of the land. She said her husband and her son still farm some of the original ground that his great-grandfather farmed. They have been there for over 80 years and Wood Farms has adapted with the changes over time which has been done through hard physical work, sweat and sacrifice. For about 50 years they had a feed lot which created some additional income. In the 1980's, they were running about 1000-1600 head of cattle which was a lot of work. When the cattle market changed, they got out of the feed lot business and added some new seed crops and mint. The proposed venue is a new adaptation of their business into agritourism. Ms. Woods said anyone in agriculture will say you must continually adapt and look for new and creative ways to have an income source. She said it is getting more and more difficult to make a living, especially with a small family farm. They are excited about the opportunities this event center will bring. It will enable them to preserve the rest of their farm ground and have another income source. The farm has been a great gift to multiple generations and she couldn't have asked for a better location or way of life to raise her children.

**MOTION:** Commissioner Amarel motioned to grant 3 more minutes of testimony to Jamie Wood seconded by Commissioner Nevill. Voice vote, motion carried.

Ms. Woods continued: It will still be a working farm but now they will share a little piece of that lifestyle

with others. She addressed the changes they wanted in condition of approval #9; the hours and days of operation. It is an important piece to them because it will become the primary way to make an income for their family. She asked that condition of approval #9 be changed to 'Events shall begin no earlier than 8 am and shall end no later than 11 pm, Monday through Sunday and shall be by reservation only.' She did not foresee many events would be over 300 people: most weddings would be under 200. Their event center has the capacity to hold 350, but will also have smaller rooms for smaller groups and events. She listed all the other events they want to hold including some that are so small they could be held at a private residence. She said they don't anticipate having events every day but don't want to be limited. The business model that allows for various sizes of events will allow them to transition the family farm into an agritourism business. Commissioner Williamson asked if they planned on having events 12 months of the year as it wasn't stated in the conditions and she replied their hope is not to do too many events during Christmas and in January. She said they are okay with having amplified music off by 10 pm when using speakers outside. When Commissioner Williamson asked about kids near the canal and would she be willing to have a condition that states they must put up a barrier along the canal. Ms. Wood replied that is not a place people will be and it could get complicated with the Irrigation District. The venue will be a distance from the canal. She agreed with having the condition say, "Some sort of barrier". She was asked by Commissioner Williamson how a wedding venue is tied to agritourism? She said they plan on having a huge garden and doing a number of Farm to Table dinners. She wanted to be clear that they would be taking reservations and these would all be prearranged, pre-planned events. Commissioner Amarel asked to confirm what the square footage of the building was and said he thought it wasn't big enough for 350 people. Ms. Woods said the occupancy number came from the builder and was dictated by building code. Commissioner Villafana said that integrating agritourism and the garden into the event center would only take a few months of the year. How is this not just a building in the country for the other 8 months? Ms. Woods said they will have pictures and the history of the farm will be told in the event center. She said when you look at the view from the new event center to the east, there will be lots going on spring through the fall harvest in the fields next to them. Commissioner Sheets asked about additional conditions to restrict canal access; would she object to adding 'take reasonable measures to limit access to the canal'? Ms. Wood said she would not object to including that language. When asked by Commissioner Williamson about the site map and incorporating other adjacent parcels, she replied 'no', they wouldn't be including those other parcels. Commissioner Amarel asked if harvesting hay on the parcel next to the venue would be an issue, Ms. Wood said they will plan accordingly and those fields are far away.

**Hailey Laub – IN FAVOR – 18748 Houk Road Caldwell ID 83607**

Ms. Laub showed family photos from the site including the proposed building elevation and design. She said this will be a traditional farmhouse style that feels like it belongs on the land, designed to capture the view in all spaces and will have high end finishes and building materials. Within the event space, they plan on displaying art and informational pieces with the story and the history of the family and land. She said the goal is to evolve in order to preserve. This business is their next step. Using a picture of the building elevation, Ms. Laub explained the layout of the building, different room sizes and the one section that will have a second story. She also showed where the commercial kitchen will be. Catering will be done using this kitchen. Commissioner Nevill talked about Lake Lowell and providing information on the irrigation system in the area. In response to a question from Commissioner Nevill, Ms. Laub explained the change in placement of the building and how to protect the canal with fencing, stones and landscaping. Commissioner Williamson asked about farm equipment on the road, especially during planting and harvesting season. Ms. Laub said they plan on putting up road signage explaining what is happening during specific seasons and advising that there will be farm equipment in the area. They also own all the land around the venue and can plan accordingly.

**Mike Mussell – IN FAVOR – 9747 Riverside Road Caldwell ID 83607**

Mr. Mussell is their neighbor and owns 40 acres off Lewis Lane and Riverside. He is looking forward to this. He built a venue site for a lavender farm on the other side of the lake and it has been quite a success. Mr. Mussell spoke about other venues in the area and how well they work with the community with regards to making sure the equipment and events are controlled. He also discussed how to protect the canals from children. He owns an excavation company and they just put in the well. They have a fire protection plan with holding tanks.

**Theresa Bradford – IN FAVOR – 28876 Crossfire Trail Caldwell ID 83607**

Ms. Bradford said this will be a great addition to our county and will keep the agricultural feel of the county.

**Nikki Van Lith – IN FAVOR – 18252 Chicken Dinner Road Caldwell ID 83607**

Ms. Van Lith said the Wood family has farmed this land for decades and is proud to be Idahoans and preserving the land. She believes this venue will be under great care and responsibility by the family. They are living onsite and when you live onsite you take care of it in a way no one else would. People want to shop local and are very excited about being a part of this community. She believes this event facility would bring an even greater connection to the community.

**Shawna Hines – IN FAVOR – 23113 Blessinger Road Star ID 83669**

Ms. Hines is there in support of Wood Farms. She owns her own business doing hair and makeup for about 14 years. She has become aware that there is a need for more event centers in the area. She finds herself heading to McCall and Sun Valley to work weddings because of the lack of venues here. There are less venues in this area (Canyon County) and she feels there is a need for more venues that cater to weddings. She agrees there needs to be a change to condition of approval #9 because they need to be able to host events on more than just the weekends. 30% of her weddings in the past year have been on Wednesdays or Thursdays because there aren't enough venues in the area for weddings or of this size. Ms. Hines said a lot of wedding venues in the valley don't have space on site for her to provide her services so she is having to go to AirBnB's and then has to travel to the venue.

**David Stattner – IN FAVOR – 19823 Apricot Lane Caldwell ID 83607**

Mr. Stattner lives across the field on Sunny Slope and has lived in this area his entire adult life. He came to support the Woods. As a realtor, in the last 10 years, there has been a big influx of city people or from out of state who would enjoy getting out there and appreciating the countryside.

**MOTION:** Commissioner Sheets moved to close public testimony on Case CU2022-0033, seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill suggested changing condition #9 to include 'amplified exterior music off by 10 pm', and add verbiage to condition #16 to say "reasonable measures will be taken to limit access to the canal"; adopting the split of condition #18 to #18 and #19 (included in the staff report). There was discussion about the wording "by reservation only" and it was decided they were comfortable leaving that wording in. Commissioner Nevill also wanted to add verbiage to finding #4 that acknowledged the Soil Conservation's concerns about changing the land use but recognizing that this use is not that much of a change.

**MOTION:** Commissioner Nevill moved to approve Case CU2022-0033 including the Findings of Facts, Conclusions of Law and revised Conditions of Approval. Motion seconded by Commissioner Amarel. Roll call vote: 6 in favor 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 10/6/2022, seconded by Commissioner Sheets. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planning Official Dan Lister wanted to be sure Commissioner Nevill had the approval of his re-appointment to the Planning and Zoning Commission. He also asked that since there was a new finding on the last case, should it be brought back to the next hearing or would they be comfortable that staff could capture their intent and have the Chairman sign the FCO's. Chairman Sturgill said he wanted to be sure Chairman Nevill saw the new (added) finding to confirm it reflected what he wanted it to say. Planning Official Dan Lister also said he is writing an interpretation to help staff determine what cases can be heard by the Hearing Examiner and which cases should go to the full Planning and Zoning Commission. He listed the kinds of cases that would be heard by each body and there was discussion about what kind of criteria should be used to determine the path of each case. Chairman Sturgill requested the Planning Official send the criteria he had drawn up via email as they wanted to spend some time reviewing the proposal to make sure no applicant could 'game' the system. Mr. Lister also said that some applicants are bringing additional information to the Board of County Commissioners after the Planning and Zoning Commission hearing to try to reverse the decision made by the Planning and Zoning Board. Currently, this is causing extra hearings for the Board. Mr. Lister said they are going to start promoting the policy that if it is a material change from what the Planning and Zoning Commission has seen, it will be sent back to the Planning and Zoning Commission for another hearing. He said the proposal shouldn't change from the Planning and Zoning's review to the Board of County Commissioners' hearing. They are trying to close some of the loopholes. He said the whole idea is that they are supposed to provide a complete application and it appears the Board of County Commissioners will be supportive of that change.

**ADJOURNMENT:**

**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Sheets. Voice vote motion carried. Hearing adjourned at 11:26 pm.

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

Approved this 1st day of December, 2022



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary