



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, December 1, 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:        Sabrina Minshall, Director of Development Services  
   Dan Lister, Planning Official  
   Jenna Petroll, Planner  
   Bonnie Puleo, Recording Secretary

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

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

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case DA2022-0003/Tony Elordi. Motion seconded by Commissioner Williamson. **Chairman Sturgill abstained from the vote.** Voice vote, motion carried.

- **Case No. CU2022-0034/EW Real Estate:** The applicant, Borton-Lakey Law representing EW Real Estate, LLC, is requesting a conditional use permit to allow an Agritourism Oriented Special Events Facility use within an "A" (Agricultural) Zoning District. The use includes an outdoor amphitheater with seating capacity up to 5,000 guests for concerts, events such as weddings, cidery, u-pick orchards and other agritourism supported activities. The subject property is located just southeast of 13748 Sunny Slope Rd, Caldwell on Parcel R33563010; also referenced as a portion of the NW ¼ NW ¼ of Section 26, Township 3N, Range 4W; BM; Canyon County, Idaho.

**Declarations:** Commissioner Williamson said he lives and works within a mile of the location of the property: his family has been there since 1909. He said he asked Dar Symms if he was involved in the project but did not discuss the project with him. Commissioner Sheets asked Commissioner Williamson if he believes he can be an impartial hearing body for this application. Commissioner Williamson replied yes. Chairman Sturgill said for 18 years, he lived by the concert venue in California run by this company and attended approximately a dozen concerts at the venue. He doesn't know the management or ever met anyone in the organization. Commissioner Sheets asked if that would affect his ability to be an impartial body upon the application. Commissioner Sturgill said he didn't believe so.

Commissioner Nevill said he was on the Board of the Snake River Scenic Byway which borders this property. The Snake River Scenic Byway did not submit any comments about this project but he is familiar with the area. Commissioner Sheets asked Commissioner Nevill if he thought it would affect his ability to

be an impartial body on the application. He said no. Commissioner Villafana disclosed that he has rented farm ground from the Symms Fruit Ranch in the past. It has been a couple of years since he has rented land from the Symms, he has not discussed this case and did not believe that would prevent him from being impartial.

**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:**

**Bill LeClerc – Applicant (Representative) – IN FAVOR – 258 Union Ave. Los Gatos CA 95032**

Mr. LeClerc wanted to tell the Commission who they were, about their experience building a world class venue in the Santa Cruz Mountains which they purchased 25 years ago and why they felt they could do the same in Canyon County. The Mountain Winery was a distress sale. They had to work with the County to get a conditional use permit to allow them to continue to hold concerts and weddings as the prior owner did not obtain the conditional use permit. Mr. LeClerc said they wanted to repair the damage done to the community from the previous ownership group and address issues including traffic and noise. They successfully implemented strategies to handle the traffic with local law enforcement and their own team onsite and to eliminate parking in the neighborhoods surrounding the venue. He said they put in place rules about noise from the venue which was part of the conditional use permit. They held annual community meetings to tell the residents what was happening at the property and who was coming to play. Mr. LeClerc said that way the community could hear directly from them and their company takes great pride in that. 25 years ago, the venue was on the verge of bankruptcy and now it is recognized nationally as one of the top 10 outdoor concert venues, similar to Red Rocks or the Gorge but a fraction of the size. He said they are here to discuss doing something similar in Canyon County. He asked what if this becomes the gateway to the Sunny Slope wine region? They have spent the last 4 years looking across the country for another place to deliver this concept and they kept coming back to this area because it had the natural beauty and the kind of experience they want to deliver. He said the kind of experience they deliver doesn't currently exist here: a high end agritourism facility that will help support local agriculture businesses and bring people to the area who might not otherwise visit. He said they chose a site based on a few criteria and found a great partner with the Symms who helped them learn how the (orchard) business operates. The Symms also taught them how they could work the events and operations around their (Symm's) business and other businesses in the area and if there were impacts, how to minimize those impacts. He said this is non-productive farmland which the Symms could no longer farm productively and it has accessibility onto Highway 55. Mr. LeClerc showed the site plan. It has two access points onto Highway 55 and Lowell Road. It will allow them to connect to existing water and wastewater systems. It is designed to have all parking on site and there is also a design for overflow parking. He said they will not have overlapping events. The amphitheater is designed to point away from surrounding neighborhoods. They conducted a "worst case" noise tests at 102 dB (decibels) higher up the hill so trees wouldn't block the noise and they took measurements across different areas. With the amphitheater design, much of the sound will be captured in the design. In the test, they found existing levels of background noise in the area were already fairly significant, the amplified sound was not picked up in most cases and any sound would be able to be mitigated by the design of the amphitheater. Mr. LeClerc said local engagement is important to them and in the Mountain Winery, they take great pride what they have done for the community. They are recognized as being a community leader in that area for their business practices and they look to do the same thing here. Over the last two years, they worked with local staff to better understand the goals of the region and how they can do something to contribute to the growth of the region. He has had discussions with a number of wineries to discuss their concept,

understand their concerns and discover how they could bring a positive benefit for the area. They would like to host various events for local businesses and wineries. They met with the Idaho state wine commission and the Orchard House and they were in full support of this venue and believe it will be hugely beneficial. They have worked with the Chamber of Commerce and have discussed how to best integrate it with the community. They put a petition with very pointed language at the Sunnyslope Market to get a better sense if there is support from this in the community and received positive feedback from locals, not tourists.

Commissioner Nevill asked if the California facility impose a dB level condition. Mr. LeClerc responded that they monitor it on a regular basis at their shows and it is at 85 dB. Commissioner Nevill asked if they would be okay having a similar dB level as a condition of approval? Mr. LeClerc responded they would be okay with that. Commissioner Nevill asked if the proposed size of 5000 attendees was a hard requirement. Mr. LeClerc replied that they arrived at 5000 because when they look at the market, the critical number for artists people want to go to see is the 5000-seat range. They need a venue of that size to attract the talent. Commissioner Nevill asked where the u-pick orchard is on their plan. Mr. LeClerc showed the Commissioners where the orchard might be. He said they worked with the Symms on that because they are not farmers and don't want to introduce any pests. Commissioner Nevill asked if the parking lot was going to be permeable. Mr. LeClerc replied that the main drive to the parking lot will be paved to accommodate emergency vehicles and concert equipment vehicles but they would like the main parking surface to be permeable. Commissioner Nevill asked if the 11 pm ending time is a requirement for them as most of the other venues they have approved have an ending time of 10 pm. Mr. LeClerc replied yes, it's pretty critical for them and reviewed a proposed schedule for a concert, but added they are okay with having a hard cut off at 11 pm. Commissioner Nevill asked if they are planning on cooperative agreements for water and sewer. Mr. LeClerc replied 'yes'.

Commissioner Amarel asked how does the proposed project fit as agritourism and asked him to expand on that. Mr. LeClerc replied that they brought agriculture back to the Mountain Winery by re-planting all the grapes. Their goal (here) is to preserve the natural character and support the local wineries to showcase their wines and have wine festivals. They will not be farming the property. They will work with the Symms on the u-pick orchard and will include a cidery distribution facility and will be serving farm to fork food at the facility.

Commissioner Williamson asked if the cidery was going to be developed in conjunction with the amphitheater or later. Mr. LeClerc said their plan is to move on this all at once. The cidery will be open on a regular basis, not just when there are concerts. They plan on calling the venue "The Orchard".

Mr. LeClerc was asked about an indoor performance theater and he replied that an indoor venue would be a modification of the conditional use permit and done at a later date. They (the applicant) included it in the plan because they have been exploring the concept in other parts of the country. They have found there is a market for an indoor facility and if there is a market for it, they want to plan ahead for it here.

Commissioner Williamson asked where specifically the u-pick orchard would be and it was shown on the map. Commissioner Williamson also said he was surprised that there were no comments (in favor or opposition) from neighbors immediately to the south. Mr. LeClerc confirmed that they have not received any feedback from those neighbors and said all neighbors were notified about the neighborhood meeting.

Commissioner Williamson talked about the 'event gardens' and what they would be used for. Mr. LeClerc said they wouldn't be real gardens, just grass and trees and used for weddings and other events.

Commissioner Williamson asked if the sound test was the same level as a concert. Mr. LeClerc replied that the sound test was higher from the source, it was raw and there was no structure around to block the sound. They talked about having a sound design engineer to work on directing the sound and pointing speakers down so it is not projecting out over the valley. He said they will do what they can to contain and minimize the flow of the sound. Commissioner Williamson asked about traffic on Chicken Dinner Road and what would happen when the local orchards spray. Would they help pay for a turn lane on Chicken Dinner Rd? Mr. LeClerc said they will comply with all the mitigation measures that come out of the traffic

study but if it is too extensive, they don't have a project. Mr. LeClerc said that Idaho Transportation Department and Canyon County came up with the scope of the traffic study and they said Farmway was too far away from their property for them to have to be responsible for those road improvements. Chairman Sturgill reminded the Commissioners that the requirement for impartiality means that the Commission evaluates the proposal based on how it impacts the community as a whole, not each individual.

Commissioner Sheets asked about the noise study: what time was it conducted? Mr. LeClerc replied it was at 11:30 am. Commissioner Sheets pointed out that there is a difference in ambient noise at 11:30 am and 11:00 pm. He asked what months/days/hours of operation do they want. Mr. LeClerc said it is seasonal because it is outdoors; April through October. Commissioner Sheets: is that 7 days a week? Mr. LeClerc responded that they would like to have it be 7 days a week but it depends on the programming for the events; who is playing in Spokane and traveling to Bozeman, etc. He was asked if they would have hours 7:00 am to 11:00 pm. Mr. LeClerc stated the 7:00 am 'opening' time is for staff and artists traveling overnight. It would be very low traffic until the mid-day or late afternoon time and gates would open at 5:30 pm. Commissioner Sheets asked if they would be going dark in the winter from October to April. Mr. LeClerc replied they have ancillary buildings and would like to hold events at other times but they will have to see if there is an appetite to host other events there such as weddings.

Commissioner Nevill said he would bet there are no irrigation canals in California. Mr. LeClerc answered no, there were not. Commissioner Nevill pointed out that if they are operating from April to October, that is prime irrigation season. Mr. LeClerc said they will fence the entire site for security purposes. He was asked if the County could add a condition to fence the entire site and Mr. LeClerc replied they would prefer that. There was general discussion about the types of fencing they would want to use.

Commissioner Williamson asked about the July 3<sup>rd</sup> Marsing fireworks display which can cause a great deal of traffic and parking on Highway 55. Commissioner Williamson asked if they would agree to allow parking for that event on their site? Mr. LeClerc answered they wouldn't want to open up to allow parking onsite but would program around that day to ensure they weren't adding to the traffic.

Chairman Sturgill asked about the 45 minute response time for emergencies. Mr. LeClerc agreed that it was not great. He deferred discussion on their emergency services onsite to another person giving testimony. He said they do have fire suppression equipment and people onsite. They would also have some emergency services onsite. Chairman Sturgill asked if they would be willing to stipulate there is a 5000 attendee limit? Mr. LeClerc said yes, they would be willing to stipulate a maximum of 5000 attendees. Would you be willing to not have concerts until the agricultural portions are up and running? Mr. LeClerc responded yes. He was asked if he would be willing to limit the power to 10 kW of audible power? Mr. LeClerc deferred the question to the production team. He was also asked if he would be willing to monitor the sound to 85 dB outside the hours of concerts, like for sound tests? The answer was yes.

Commissioner Amarel asked about the 45 minute response time: would they be willing to share fire suppression capabilities? Mr. LeClerc responded that they would have to discuss if they could do that. They would take a look at it.

Commissioner Williamson said the venue would be willing to do a hard stop at 11:00 am, but attendees would still have to exit the venue. Mr. LeClerc explained how they control traffic on their site to slow the release of attendees through the neighborhoods. He said it takes longer but it doesn't cause a traffic jam. There was discussion on how the Marsing Fire Department is trying to build a new facility on the Canyon County side.

**Commissioner Williamson** recused himself from the discussion/decision on Case CU2022-0034 due to some of his questions being construed as a potential conflict of interest.

**Todd Lakey – IN FAVOR – 12905 Venezia Court Nampa ID 83651**

Mr. Lakey said this application is a cooperative effort with the Symms family. The Symms family is

synonymous with agriculture in the Sunny Slope area. Agritourism is an important element in the effective continuation of agriculture in the Sunny Slope area. Agritourism is about bringing people to the area to have that ag experience, showcase ag products and operations and provide additional revenue to farmers to support and maintain their operations. Agritourism means hundreds of jobs and millions of dollars to the area. This facility is located in the epicenter of agritourism for Idaho; it's an area that is recognized nationally. He said it will provide additional opportunities for more agritourism in the area. Staff did a good job analyzing the Comprehensive Plan and zoning ordinance. This meets the goals of economic development goals in promotion job opportunities and tourism. It is located on a major transportation corridor. The design celebrates and supports the agriculture heritage of Canyon County and meets the criteria that it will not negatively affect the character of the area or be injurious. The major transportation corridor provides access and some background noise. They completed the traffic impact study and will complete all the site requirements that are noted in it. They considered background traffic in their evaluation. They will complete the onsite and off-site improvements and are willing to pay their proportionate share of their improvements offsite as determined by the Highway District or Idaho Transportation Department. They will complete a lighting plan, a landscape plan and a parking and circulation plan as part of their conditions. All lighting will be directed downward. They have the existing water and wastewater system that will support fire suppression and it will be a public system. They have a couple hundred signatures that support the event center specifically. Mr. Lakey said this is a group with proven expertise to effectively operate the facility without undue impact and track record of being open and responsive to the community.

Commissioner Nevill asked if he agreed with all 25 of the conditions of approval. Mr. Lakey answered yes. Commissioner Nevill asked how he envisioned the cooperative agreements between the operator and the Symms. Are there going to be actual legal agreements in case the Symms sell the property? Mr. Lakey replied that there would have to be binding agreements to the easements and water systems in place. Commissioner Nevill asked what about adding a condition about the cooperative agreements access to sewer and water and access to the orchard? Mr. Lakey said they were okay with that condition. Commissioner Nevill asked how do we craft a condition that requires fencing? Mr. Lakey suggested including a fencing requirement in the landscaping plan.

**Dar Symms – IN FAVOR – 19333 Lowell Road Caldwell ID 83607**

Mr. Symms lives very close to the venue and he is not worried about the sound. He thinks it is going to be great for the businesses, including theirs. He has three water systems, including a drinking water system like a town would have and it is already connected to the property. It has a 40,000 gallon tank pressurized to about 60 pounds. They will put in a joint wastewater system below the road and engineered to specifications. They will build a pressurized irrigation system all the way up to and above the canal.

Commissioner Nevill asked if the irrigation water be for firefighting too. Mr. Symms answered they will work with the Fire District and there will be hydrants available. He said there will be a 500,000 gallon pond below the road and suggested they put hydrants there. The 40,000 gallon tank of potable water will be available too. Chairman Sturgill asked if the orchard will be put on your property and if there are trees there today. Mr. Symms said there are peach trees there now but peach trees aren't ideal for u-pick so they will be planting other trees too.

**James Mertz – IN FAVOR – 19786 Apricot Lane Caldwell ID 83607**

Mr. Mertz stated they looked at quite a few sites on their properties and they came up with this location. There are old, non-producing trees on the site and it is marginal ground for fruit trees. The location is right on the highway. Trees require lots of manual labor (people and cars) and spraying and they don't like to do that right off the highway because of traffic. He wanted to address the cooperation between the two companies; they don't want orchards to be a problem for the venue. Most of the time they do their spraying and work at 1:00 or 2:00 in the morning and are done by early afternoon so they don't see that

as a problem and they will have the schedule of events. They will continue to farm. They want to do that as Dar and Mr. Mertz are 4<sup>th</sup> generation farmers. They see this as an opportunity to continue to farm, have a u-pick orchard and sell at retail prices. They are excited about having this world class facility close to their operation. Commissioner Sheets asked if their other properties are adjacent to this site? Mr. Mertz replied they were. He was asked if they plan to continue to farm those and Mr. Mertz replied yes, they are trying to find other ways to create income that is not in farming. He said they want to continue farming. Commissioner Sheets asked if this parcel used to be (the Symm's) property and Mr. Mertz said yes, it was. Commissioner Sheets said he is seeing the pressure here and a pattern that is changing from ag to ag-tourism. Mr. Mertz said who has more agricultural ground than the Symms are running now? Mr. Mertz confirmed that they plan to continue to farm and said this property is less than 1% of the total properties (that the Symms own).

Chairman Sturgill said orchards take a while to bear fruit. He asked when would they be ready for that type of operation? Mr. Mertz answered there are trees in that area that we can use right now and they could be cut to make them u-pick trees. Other trees on order would be planted and would be ready in a couple of years.

**Liz Dodson – IN FAVOR – 258 Union Ave. Los Gatos CA 95032**

Ms. Dodson said as a native Idahoan, she felt it was important to come tonight and tell the Commissioners they aren't a group that is just flying in and flying out. They have some roots here. She read some letters from concerned citizens about the event center bringing drugs and rock and roll. She wanted to assure everyone that this is a family organization. They are going to be around for a long time and the investment in the community is important to them. They plan on committing to the community that they will be there to listen to any concerns.

**Bill Hirschman – IN FAVOR – 258 Union Ave. Los Gatos CA 95032**

Mr. Hirschman said he was going to touch on some points and then answer some questions that had come up. He said their team has done a great job. He said they (as a company) don't just fly in and fly out of these communities. They have built high end products in Silicon Valley for 45 years; that's what they do. He talked about the challenges with the Mountain Winery and his part in taking care of the issues. He said it's important to them how they deal with the community: he wanted to make sure they got that point across. In response to the 45 minute Fire Department response time; they always have private Medvac personnel onsite for every show. He said they could expand on that and take that up a notch; maybe they could have an ambulance or some fire staff on site. They aren't qualified to tackle large fires but simple things, like kitchen fires, the staff is trained to handle. They will build the facility to international fire codes and all systems will be designed by professionals. They normally have a tank for fire suppression to hold and store water.

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

Mr. Hirschman continued: Typically, they have tanks onsite sufficient to fight the initial fire and for any kind of follow up. The Mountain Winery has a 350,000 gallon water tank available to fight fires. He said they were not aware of local 4<sup>th</sup> of July events. They rarely have July 4<sup>th</sup> events and would not have to hold 4<sup>th</sup> of July events at the venue. When addressing the hard cut off time, he said they have a hard cut off in Saratoga and will literally pull the plug on the band at the time. They take their curfews very seriously and it's built into the artists' contracts. They monitor the sound at the source in the concert bowl on a one minute average. They can control it at the sound mixing. They know what 110 dB in the concert bowl means.

Commissioner Villafana brought up the letters of opposition and said many believe this business project is not agriculture in nature. He asked what will the percentage of entertainment revenue vs. agritourism revenue be? Mr. Hirschman said he doesn't have those numbers but they knew it would be an important factor. They felt it (agriculture) was a good thing not a bad thing and they are not trying to fit in some agriculture to meet a random requirement. They recognize that it is an important part of the business and are not trying to avoid that responsibility. It isn't the major part of the business but they recognized that it is an important part of the business.

Commissioner Nevill asked about the 5000 attendee number. He said the 5000 number is one of the biggest problems the opposition has. He asked if they could compromise on a lower number. Mr. Hirschman said if you have a 5000 seat venue, if you are lucky, 20-25% of the time they will sell out the venue. Most of the time, he said the venue will be at 65-70% occupancy, it's just the way the industry works. He said usually 10% of the attendees won't show up for various reasons. The reality is that it doesn't work that way; there is always a lesser number. They are trying to fit into a category (5000 seats) that currently doesn't exist. It allows them to bring a different level of artist here. He said when they are asked if there is a ton a flexibility in the number of seats, it gets tough.

**John Star – IN FAVOR – 755 W. Front St. #300 Boise ID 83702**

Mr. Star is with Colliers International and is a real estate advisor to the Symms family. He had discussed with the Symms how to get from here to the future. They discussed moving into residential development but they determined early on they didn't want to go that way. They wanted to generate cash flow from the assets they have. He said this is a beautiful piece of land in a beautiful setting with an agritourism opportunity. He said when they started St. Chappelle in 1978, they thought they were getting into the wine business but it turns out they were getting into a tourism business. The biggest aspect of it was for people to come out and pay retail prices to the farmer for the products they are growing. They didn't seek out these folks on the music venue, they came to them but it fits with the plan. The Symm Family farms 1500 acres in Sunny Slope that helps create the environment that is there and they want to continue farming. He said this is something less than 1% of the overall farmland that the Symms farm to create an opportunity to generate additional cash flow in other areas that is not dependent upon the wholesale sale of fruit. Mr. Star said this may seem like a slippery slope but it is a very small percentage of the land they farm.

Commissioner Nevill asked if Mr. Star was saying the Symms operation will also benefit from this. Are they part owners of the venue? Mr. Star said no, this will provide another opportunity for them to process fruit locally. They can take fruit that won't pay for the shipping costs to Washington to make into juice, and fruit products they can sell directly to the public. They can sell to people at the retail rate.

**Jolyn Thompson – IN FAVOR – 250 S. 8<sup>th</sup> Avenue West Marsing ID 83639**

Ms. Thompson lives in Owyhee County. She is the second generation of her family in Owyhee County and her perspective is as a resident of the closest town to this project. She said it will have a direct impact on their town with traffic and business. The Owyhee community is at poverty level. The majority of the Owyhee County residents go to Canyon County for work and Canyon County residents come to Owyhee County for recreation purposes. She is in favor of this because she believes the growth is not only coming, it is here. She would prefer to see commercial growth that would help support agri-business. This means that agricultural workers can keep their jobs and grow into different jobs and opportunities. She understands there are problems with growth but believes the agri-business growth is bigger than the problems could be. She works for the City of Marsing as City Clerk and Treasurer but is not speaking on behalf of the City. She read through the staff report and thinks there are Idaho Transportation Department plans for growth in process. She said Marsing Rural Fire District does have a facility up and running on Marsing Road on the Canyon County side of the river. She said Marsing encourages people to not park on Highway 55 for the Marsing annual fireworks display. Marsing Rural Fire District covers 96 square miles,

one of the largest in Idaho, and she has it on good authority that the response time is 10 minutes. She encourages staff to clarify that with the Marsing Fire Chief. The facility is not staffed full time but there are volunteers who live very close to the facility.

**Jerry Summers – IN NEUTRAL – 211 W. Spruce Street Caldwell ID 83605**

Mr. Summers is a transplant from other areas of the country. He has no agricultural background. He is the Executive Director of the Caldwell Chamber of Commerce but is speaking on his own behalf not on the behalf of the Chamber of Commerce. He lived in Sonoma, California and watched how the wineries and agri-tourism developed. Sonoma created commercial development in downtown Sonoma to support the wineries. He said this is a special events application which will help agri-tourism by bringing people into the area much like Destination Caldwell. Destination Caldwell was successful because they kept changing it up and having different events and this is what he said this specific applicant is proposing to do. He said this applicant has been good corporate citizens in his conversations with them. He reviewed the Sunny Slope Wine Trail Inc. information on the Secretary of State's website. They say they want to increase the public recognition of the Sunny Slope wine industry. They also want to encourage the operation and development of winery-related entertainment, dining and activities in the wine region. He believes this applicant/application would do that and is why he is in favor of this. Governments won't fund something until there is a demonstrated need and that is why Idaho Transportation Department hasn't developed Highway 55 more than it has, and won't until there is this growth. Mr. Summers said we are starting to show the need now and to penalize this applicant because it is not already there: if you were to take that position, you would put a moratorium on development until all the infrastructure was already there.

**Tamera Franz – IN OPPOSITION – 18466 Pear Lane Caldwell ID 83607**

Ms. Franz wanted to talk about the u-pick orchard and the cidery. She said all the wineries were open Friday through Wednesday from 11 am to 5 pm. Is the cidery and the wine tasting room going to be open similar hours because if not, it is not a tasting room, it is a concession for the concert venue. She said she looked through all the pictures in the staff report and it looks like there is no one around the site. She said she provided an exhibit that shows access C to the venue is a shared lane with twelve houses directly across the road from the proposed venue. It will heavily impact them, not to mention the other homes scattered in the area. It's going to change the face of what is out there. Twelve times a month or three times a week, people are going to be dealing with this until 11:00 pm. She said on weekends, there is lots of traffic because city people from Boise want to get away to the country. When these people are coming in and out of the venue, people will be stuck in their houses because people will not be able to get in or out of their properties. She feels those homeowners have not been considered. She said the noise study tells us where the noise isn't, not where it is.

**MOTION:** Commissioner Nevill motioned to grant 2 more minutes of testimony to Tamera Franz, seconded by Commissioner Villafana. Voice vote, motion carried.

She said they haven't heard about the decibel level at the houses around it, they have only heard where the noise doesn't go. She talked about the letter from the City of Saratoga. She said the Mountain Winery is essentially a large park in a very municipal, highly populated area. It is not apples to apples. She said it is not us. It's an exciting venue; it's beautiful but it's the wrong location. Ms. Franz said a lot of people have worked hard since 2017 to make the winery region what it is and she wants to see that stay. They don't need to be saved.

Commissioner Amarel asked her if she felt it was too much, too soon. Ms. Franz said if she wants to go to a concert, she will go into Nampa. This doesn't jive; it's not the same feeling and what they have worked really hard to make the winery region become. It has nothing to do with agriculture.

Commissioner Nevill asked staff to ensure her aerial view of Saratoga was included as exhibit 10. He

clarified that it was her contention that the Mountain Winery was surrounded by high-density residential/urban. Chairman Sturgill provided a copy of this exhibit to the applicant so they could review and address it.

**Amy Bitner – IN OPPOSITION – 1619 Idaho Avenue Caldwell ID 83605**

Ms. Bitner said she is part of Bitner Vineyards and she wanted to provide some feedback on providing music along with her tasting room which opened 15 years ago. They began having bands 7 – 10 years ago at their venue. The bands had their own sound systems. There would be 100 – 140 people at the venue enjoying the music. It would be very loud but it's not just the music, it is also the people who attend. Out of respect for her neighbors, she now only does events three times a year, they end at 4:00 pm and she only has 50-60 people. She said their other venue (Saratoga) is surrounded by trees but this one is surrounded by agriculture and houses. A majority of wineries closes at 5 or 6 pm. Very few of them do evening events. She said this proposal is 1600 cars coming in at 4 to 5 pm. She said when she does dinners for 50 or 60 people at her winery, inevitably there is someone who calls and tells her there is an accident on Highway 55 and it is going to take them 1.5 to 2 hours to get out there. Agritourism in their area is much smaller and friendlier to the neighbors in the community. It's a vastly different concept for the area. Concert tickets are expensive. Ms. Bitner said if you think people are going to come out and spend more money in the area, they might just be buying the concert ticket and not necessarily spending money at any other businesses. She discussed how long the Marsing Rural Fire District took to arrive at a fire in their area. She said this venue is just too massive.

**Judy Leathers – IN OPPOSITION – 20520 Grape Lane Caldwell ID 83607**

Ms. Leathers said she knows times are hard for a lot of the farmers right now and she would like to see the Symms succeed. She would like to see something like Eden's Gardens: people come from all over the world to see them. Highway 55 is too busy now; she can't imagine putting cars carrying 5000 people out there. She liked what they had to say about having an ambulance on site. But, she said, they need ambulances on Highway 55 (now) because there is just one accident after another there. She thinks it would be a good idea to look at bussing people out there. She is concerned about the noise. She said they have a lot of wind in the area and doesn't know what studies were done to see if the noise would be carried by the wind. She can hear a lot of music on the 4<sup>th</sup> of July and that's okay because that is just one day but to have it all the time, she wouldn't like that. She has some neighbors who are ill; she can't imagine them having to stay awake until midnight. If this project goes forward, what if they find out there was a big mistake and taxpayers have to fix the mistake (like Curtis Road in Boise)? She wondered if there were animal studies; can the animals stand the music? Plants too. There are no trees blocking the sound like in Saratoga. She said there is an employment problem in the area; are they bringing in their own employees to run this facility? She wonders why she was not invited to the neighborhood meeting: it would have been nice to have known about it.

**Mary Salaber – IN OPPOSITION – 14510 Frost Road Caldwell ID 83607**

Ms. Salaber said this is not the Silicon Valley. They moved here from California to get away from that kind of environment. She chose Sunny Slope because it was agricultural and quiet. You can hear owls and eagles on the river. This just doesn't belong there. Do the Symms want to stay in fruit or get out of it? We have to establish which one that is. Ms. Salaber said this is just such a quiet little beautiful place, this doesn't belong in the middle of it. She said Karcher Road already has bad traffic: you can barely get down it and people are already angry trying to get home. She said it would so refreshing to have someone in one of these hearings say 'what about the people who live there?' It would impact all of them who live in that little valley.

**Rob Salaber – IN OPPOSITION – 14510 Frost Road Caldwell ID 83607**

Mr. Salaber said it was a great presentation. There are some significant differences between the Mountain Winery and this proposed venue, mainly 2500 people. The second thing is that was an existing facility. If it wasn't an existing facility, they wouldn't have been asking for a conditional use permit, it would have been a commercial rezone. This application is not appropriate for a conditional use permit, it is for a commercial site and should be going through a rezone process. Mr. Salaber said he keeps hearing about agritourism: what does a rock and roll facility have to do with agritourism? Very little or nothing is the answer. He read from the 2030 Comprehensive Plan and the conditional use permit qualifications. He asked if anyone could say that this was compatible with other property uses in the vicinity. He said this is not compatible with other uses and is totally different. He said this is a commercial operation. This should not be in the middle of farm country.

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

Mr. Salaber continued: No one thought when they put together the list of conditional uses that could be put out there thought a special event center would be a 5000 seat stadium. It's small facilities for weddings. He said this doesn't fit the character of the community: it is a totally different operation. It is outside the character of the area. There will be 1300-1900 cars coming in and out of this facility and Idaho Transportation Department didn't even address that; they talked about outdoor signage. They didn't address the fact they will have level F intersections. He said the sound study was not done by certified audio-acoustic consultants.

**Rebecca Hartmann – IN OPPOSITION – 19827 Scotts Lane Caldwell ID 83607**

Ms. Hartmann said this property borders her land. She moved out there for the quiet and for some elbow room. There are actual people who live out there who treasure the views, the quiet and the agricultural atmosphere. Sunny Slope is a five lane road but quickly goes into 2 lanes into Marsing and Nampa. It is a two lane road and will be a massive mess. She is worried about having this operation year round. She can't comprehend what the noise will do to her house: the amphitheater would be facing her. She asked if there is going to be a wall, a fence? What will it do to her property value? She feels like the u-pick orchard is a token to agritourism amidst a commercial attempt. 5000 people seems exorbitant. She said it doesn't impact the city, but it will impact people. She said there are a lot of people out there who love the quiet lifestyle and love the wine country and small venues. This seems completely over the top. She didn't know if lights were going to be shining onto her house or what it will look like but it is a fearful prospect. At the request of Commissioner Nevill, she showed her house on the map.

**Craig Davis – IN OPPOSITION – 14251 Frost Road Caldwell ID 83607**

Mr. Davis said he appreciates the testimony that has come before his. A lot of the points he has have been covered. He talked about the Mountain Winery: he has been there. It is only a 2500 seat venue: not a 5000 seat venue. The Mountain Winery area's population is 1.8 million for a 2500 seat venue vs. a 5000 seat venue for 700,000 area population. The Mountain Winery held 34 events in 2021 but they want to hold 74 events for this area. Highway 9 in the Saratoga area is a little road to nowhere whereas Highway 55 is the main thoroughfare from California into Idaho which also serves farmers and the local population. It is already congested. 5:30 pm is the opening time which is the time for the heaviest traffic. This is going to make that ten times worse. He thinks the size and scope of the project doesn't fit. As the President of the Sunny Slope Wine Trail, he said they think this project is too big for the area. The Nampa Center is off a major interstate next to an Auto mall, not next to some farms and boutique wineries. In five years, they will have a \$164 million industry. He said we have a lot of traffic already coming out to the wineries. They don't need more support with a venue like this. If they had had conversations with them as an association

before all of this and were able to shape the direction: they are not against development. They want to shape what happens on the Trail.

Commissioner Villafana said why does the Idaho Wine Commission support this and the Sunny Slope Wine Trail does not. Mr. Davis replied that the Idaho Wine Commission represents all of Idaho and they (Sunny Slope) are becoming their own entity. He said they don't represent us. He wishes they could have had conversations with the Idaho Wine Commission before this application.

**Sarah Arjona – IN OPPOSITION – 10370 W. Landmark Ct. Boise ID 83704**

Ms. Arjona works for Salaber Associates Engineering as a planner. She was looking at the proposal and some of things she wanted to talk about have already been said. She said this is a conditional use permit for a 5000 seat event center that really is a concert venue. There are numerous small venues in the area and even those received letters from Idaho Transportation Department with concerns about the intersection and turn lanes. She used to work for the Idaho Transportation Department as a development services coordinator and she used to look at traffic impacts. She said the letter they received did not address the Level of Service F (intersections) and did not suggest any mitigations other than "we might need a signal". She discussed how long the traffic studies take before they can do improvements. If it is to go forward, they might pay for part of the mitigation but the residents will be stuck with the rest of the issues until it is fixed. She said she felt the noise study was a little light. There wasn't much on the time of day and they did the test during the day; what about at night? She read from the noise study; she said the study needs to consider more factors before it can alleviate the concerns of the people who live in the area. Putting conditions on something and saying, "we'll fix it" without knowing what mitigations are going to be needed isn't a safe way to go.

Chairman Sturgill asked a hypothetical question, given Ms. Arjona's transportation background: if the community wanted a facility like this, but the lack of road infrastructure still remained as it was today, how does the community resolve that chicken and the egg problem? Ms. Arjona said the developer would fund and build the infrastructure themselves (privately funded). Chairman Sturgill asked Ms. Arjona if she would then limit large projects to corridors that are already funded? Ms. Arjona replied, "Funded or having some way to mitigate the impacts that are manageable. Development has to be responsible."

**Megan Lee – IN OPPOSITION – 14602 Frost Road Caldwell ID 83607**

She lives 1.5 miles from this. There is nothing between her and the property. She can't believe that she won't hear everything, every concert. She moved out to the country to raise her children in a safe place and take the inconvenience to drive into town to attend things like concerts. She can't imagine when they built their home 14 years ago that something like this would come in and change the dream they had. Her children are older now but she used to wait to hear them come in for their curfew but she can't imagine asking them to come home through something like this. There are lots of jokes about drugs and alcohol but we have all been to concerts and we know people over drink and aren't responsible. Now 14 years later, it takes them twice the amount of time to get to the Winco area. She can't imagine getting home from working all day and having to fight all the people coming out of the venue.

**Danny Trevett – IN OPPOSITION – 19103 Symms Road Caldwell ID 83607**

Mr. Trevett wanted to bring up the safety response. If there is a catastrophic event, Marsing can't handle it. Canyon County Sheriff's won't have enough people there for it. He said there is no response for something like that. It would be chaos with people trying to leave the event. He called an ambulance for his mother and it took them 45 minutes to respond. Marsing couldn't respond; it was Canyon County who eventually came. They live less than a mile from the property and they were never notified: there was no outreach to the community out here. They didn't know about it until the sign popped up. He was also concerned about cars and parking: parking was built out to 2500 people. Where will the overflow go? What is the exit strategy for the traffic? He will have to listen to cars racing up and down Symms Road for

an hour or two after the end of the event. That isn't what he moved out there for. How is that going to impact truck traffic as there are a lot of Amazon trucks that travel down Highway 55. He asked, how will it impact deliveries and the vehicles already using this route?

**Jeff Hibbard – IN OPPOSITION – 20796 Lowell Road Caldwell ID 83607**

Mr. Hibbard lives a mile and a half west of the project. He has four areas of concerns. Property values are a concern of our neighbors. He asked what will happen to their property values? They moved there to step away from the hustle and bustle of the city for the peace and quiet. This will hurt their property values in favor of an out of state company that will profit from it. He is concerned about the noise: the speakers might be pointed down but from his property, he can hear the volunteer fire department's siren calling them in. When he lived by Ustick and Malt, he could hear the rodeo announcer which was 4 to 5 miles away. He visited Round Rock in Colorado and could hear that venue from mile or two away. His third concern is traffic and congestion. He talked about the Lizard Butte Easter sunrise service traffic which is only 200-250 cars and that snarls traffic and holds up all traffic coming from Marsing. This would be every weekend, not just once a year; how would they ever be able to get back out onto the highway? When they hold the Stampede Rodeo, you can be waiting an hour or an hour and a half to get out of that venue and this way, there is only two ways to get out. His last concern is the precedence that this will set. He said if we allow something like this to start, it will be hard to say 'no' to the next one.

**Geoff Mathews – IN OPPOSITION – 18945 Riesling Ave. Caldwell ID 83607**

Mr. Mathews lives a mile and a half up the hill from this and they were never notified. He lived in Massachusetts by an outdoor concert venue that was fed by an interstate. Traffic would back up for miles trying to get in. For the concerts at that facility, the town had paddy wagons to handle the drunks and fights at that facility. Canyon County will not be able to handle that. He asked, are they going to have lawn seating because that is what that facility (in Massachusetts) changed into. He asked what follows this? Hotels? Fast food restaurants? Commercial development? That is what this is; it is a commercial development. It is not a limited use facility and it does not fit here.

**Ann Ledford – IN OPPOSITION – 20347 True Road Caldwell ID 83607**

Ms. Ledford did not attend the neighborhood meeting as they did not receive the notice. She believes in capitalism and she understands wanting to profit and prosper from the property that you own. However, asking for a conditional use permit for a commercial event center in an A zone is a total change and not a representation of the current property's historical use. She respects Canyon County and when the County told them horses didn't qualify as an animal for the ag tax exemption, she didn't come in and ask them to change the code, they began raising cattle because that is what fit. How does this event center help the future of farming, ranching and agriculture? She doesn't see how commercial amusement and entertainment fits agritourism. She said the cidery and u-pick orchard seems very minimal and is it going to be a hard cidery or family oriented? Will it have farmer's market offering local produce, eggs or wine? What are the other activities? Will there be hayrides, petting zoo or farm festival because she knows the Symms have offered that through their orchards. They already have some venues that provide those kinds of events. She doesn't know why they need another one. The current landscape of Sunny Slope is peaceful. They are proposing a fence around the venue; what is that going to do to the landscape? She said some are concerned about property taxes. If this conditional use permit is offered in this ag zone, what are the future plans? Could they ask for a re-zone? Will it be raising their taxes? Ms. Ledford said traffic on Lowell Road can be a challenge because it is narrow. It is a good place to have an accident. Highway 55 has 5 lanes but then it quickly narrows down to 2 lanes and even now, it is hard to pull out especially with all the truck traffic coming through. She is asking the Commission to deny this conditional use permit and consider the health and safety of those who live out there. Don't bring the urban congestion to the country. She is all for growth, this just doesn't blend with them.

**Bill LeClerc – Applicant (Representative) – REBUTTAL – 258 Union Ave. Los Gatos CA 95032**

Mr. LeClerc first addressed Exhibit 10; he said that aerial photo does not show their property in Saratoga and is at least 5 miles away. He showed a photo on the screen of their facility and the land/area around the venue. Their property is on top of a mountain overlooking large parcels with single family homes on them. They are in the small town of Saratoga not in Silicon Valley. He addressed the question of how this facility ties into agritourism; by doing what they did with the Mountain Winery, and continuing to host concerts, that supported the ability to keep and preserve the historic nature of the property as well as keeping the other 500 acres as open space. By having an ag-tourism facility such as this in Sunny Slope with the u-pick orchard, the cidery and the farm to fork service during concerts, it gives them the ability to support ag tourism within the region. They don't make a lot of money on that but it allows them to support the other wineries, restaurants and farms in the area. They aren't building a 5000 seat stadium; they are building a 5000 seat amphitheater which is very different. Mr. LeClerc said this is strictly for concerts in the summer season. The concert attendance of 5000 allows them to lower the ticket prices and allow more people to attend and enjoy the events. They won't host more than 75 shows. They plan on creating 200 jobs: some would be permanent, full time. Mr. LeClerc said they made several attempts to contact members of the Sunny Slope Wine Trail group and held an event at the Symms property and all but one person rejected the invitation. When they held a call, all but two decided not to join. He also said they wanted to be sure they didn't impact the St. Chapelle summer concert series on Sundays. They were going to work to program their schedule the right way so there wouldn't be significant overlap and ultimately, the owner of St. Chapelle was in support of what they were doing. They take great pride in how they run their operations in California; to be questioned on the way they run their operations and how they tried to prepare some of the work for the hearing is quite offensive. He made it clear that they didn't do a study with a qualified sound engineer but they did a raw study with someone in the concert business who understands sound projections so they could come with some data instead of just "we think it sounds like this over here". When they begin working on the site, they will use a sound engineer to design the facility to minimize the impacts to the surrounding area.

**MOTION:** Commissioner Nevill moved to close public testimony on Case CU2022-0034 seconded by Commissioner Villafana. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill said there are certainly a lot of technical concerns of fire response, fencing and water can be addressed with appropriate conditions and cooperative agreements. What they can't address is the massive size of the proposal and how it could change the character of the Sunny Slope area. What it may come down to whether or not it is too drastic of a change to the area. When you talk about 5000 folks out there for concerts, that is 5 times the City of Marsing. He thinks it is too massive a change and he can't support it.

Commissioner Villafana said it would be an amazing venue. It's exciting to think of something cool like that being in Idaho. We do have one amphitheater currently; the Idaho Center. He compared what this would look like as compared to the Gorge. The Gorge is out of the way and in a big agricultural area; not a lot of people out there. If the landowners want to put in a cidery or u-pick farm, he is not opposed to any of that. He looks at the number of vehicles that would be leaving this place: it does become only one lane as soon as you go up the hill and head east to Nampa. How would you get on Karcher if there were constantly 2000 cars coming? He loves the idea, but he can't support it in that location. He believes it would completely change the character of the area.

Commissioner Sheets said he is looking at the standards of evaluation. He read through the conditional use permit allowed uses and whether it is an allowed use. He said gravitas of this request is the 5000

seat venue. He agrees with staff that there are ways it is consistent and inconsistent with the Comprehensive Plan. He believes it will be injurious to the area because the nature of the uses now in the Sunny Slope area, this would be like air dropping a disco ball in the middle of a field. He loves concerts but doesn't think big concerts in the middle of this area fits. He felt there should be an edit to the finding of facts that says water/sewer/storm water/drainage doesn't exist now but could exist as planned. He believes legal access points do exist and the Canyon highway district and Idaho Transportation Department can provide the entrance permits. Commissioner Sheets also believes there will be undue interference with the existing traffic patterns and the mitigation proposed is not adequate to address them. Creating conditions for an F level intersections without funding ability to make improvements in the immediate future is (a problem). Essential services are mediocre at best, based upon response times. He believes those emergency services don't exist for this level of event center. He said if there was a critical medical emergency, you would have to call Life Flight to get out there. Fire protection, increased fire hazards due to an increase in the number of battery-powered vehicles and car wrecks; the facilities are lacking for these. He is unable to support this at this time as proposed. Commissioner Amarel said, in a lot of ways, he likes the idea. But, even if they were to do something like this and from what he has heard, the people involved would support and manage it in an appropriate way, he questions the stage this sets for the future of the area.

**MOTION:** Commissioner Nevill moved to deny Case CU2022-0034 with staff being directed to modify findings 4, 7 and 8 including the Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Villafana. Roll call vote: 5 in favor 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 11/3/2022, seconded by Commissioner Amarel. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planning Official Dan Lister introduced two new Planners to the Commissioners. Director of Development Services Sabrina Minshall said she was hoping to provide an overview of the status of cases and some department process improvements during the next Planning and Zoning hearing. She asked that the Commissioners provide feedback on training topics or other outreach they would be interested in for the future. She said they have been moving through a lot of the cases that require additional applicant information and they are reaching out to the applicants to follow up on them. There are a lot of hearings being scheduled in the last few weeks for the Board of County Commissioners as the Board will be changing soon. She has already suggested to the returning and new incoming Commissioners, a joint meeting with all the Planning & Zoning Commissioners and the Board of County Commissioners to talk about how they are approaching land use cases. Commissioner Nevill brought up that there were some action items when they passed the Comprehensive Plan; committees to be formed, overlays to be figured out and ordinance writing that has to be completed. He said it would be nice to know where they stand on those items. Director Minshall agreed and said they were waiting for the new Commission to hear their priorities and any changes they might want to make. It would be a good joint meeting topic. Commissioner Amarel asked when they would be working within the 2030 Comprehensive Plan. Director Minshall said any applications submitted after the 2030 Comp Plan was passed on October 27, 2022 will be under the new Comprehensive Plan process. Commissioner Amarel confirmed that for those applications submitted prior to October 27, 2022, they can't take the new Comprehensive Plan into consideration.

**ADJOURNMENT:**

**MOTION:** Commissioner Sheets moved to adjourn, seconded by Commissioner Villafana. Voice vote motion carried. Hearing adjourned at 10:45 pm.

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

Approved this 5th day of January, 2023

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