



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, January 5, 2023
6:30 P.M.

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

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

Staff Members Present: Dan Lister, Planning Official
Samantha Hammond, Planner
Bonnie Puleo, Recording Secretary

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

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

- **Case No. CU2022-0004/Michael Rawden:** The applicant, Michael Rawdan, is requesting a conditional use permit to allow a contractor shop on parcel R22694. The property is zoned "A" (Agricultural). The property is located at 4541 Hemlock Way, Nampa, Idaho; also referenced as a portion of the NW¼ of Section 8, T3N, R1W, Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Commissioner Sheets was absent during this case/portion of the hearing.

Testimony:

****No one had signed up as applicant/in favor of project****

Kevin Werlinger – IN OPPOSITION – 4573 Hemlock Way Nampa ID 83687

Mr. Werlinger wanted to bring up some of his concerns. He is worried about the safety of his family due to the high traffic volume from employees and delivery trucks constantly speeding down the road. He is also concerned about his quality of life as he feels he can't enjoy his own yard without hearing back up alarms or the fear that his son may be hit by one of the cars while riding his bike in the cul-de-sac. There is a blind curve coming out of one side of their driveway. This business is supplying equipment to other HVAC businesses who also speed in and out of the property. They are bringing in other people from other businesses and not just their employees. Mr. Werlinger said they are starting at 7:00 am and he knows

this because he and his son were awakened by a loud car radio from one of the workers arriving. He has talked to them about it a couple of times and nothing has changed. They can't control the drivers of the delivery trucks and how they speed in and out. He said no one has lived at the property since they moved in. There is also a sheet metal employee who works onsite and they are doing manufacturing out of that property for other businesses as well. There are other businesses on the street but the owners all live there and respect the neighborhood by driving the speed limit and improving their properties. He said this property looks like a junk yard. Commissioner Nevill asked Mr. Werlinger how firefighting water is provided to the neighborhood. Mr. Werlinger replied as far as he knows there is none, other than the fire trucks that show up. There are no hydrants in the neighborhood. Commissioner Nevill asked if he knew what products are stored on the site and if they were flammable. Mr. Werlinger replied that they have HVAC machines that have freon in them on the property but he didn't know about flammables. Commissioner Amarel asked what size are the trucks that come in and out. Mr. Werlinger answered that they are 26-foot box trucks delivering sheet metal. Commissioner Amarel asked if there was room for the trucks to turn around and Mr. Werlinger said 'no' and one of the trucks damaged some reflectors on his property when turning around. He also said the garbage truck emptying the metal bin on the property completely blocks the street when it's dumping the bin and that's typical. He said there were 1 to 2 delivery trucks every day. Commissioner Nevill asked about the trash truck for the (scrap) metal bin. Mr. Werlinger said they must have two bins because one is for recycling metal waste. Throwing the scraps in the bin also makes a lot of noise. Commissioner Williamson asked Mr. Werlinger to show where his house was on the map and asked if there was any signage on the north entrance where people were supposed to enter and exit. Mr. Werlinger showed where his house was and said there were no signs, and he didn't want any signs outside his window. He said he had also heard they also wanted to expand and rent the property across the street. He is sure they aren't going to tell anybody they want to do that. He said he submitted a complaint to Code Enforcement along with someone else. He said there was a whole list of non-compliance issues but the prosecutor dropped it. They were issued a cease and desist order but that didn't stop them. Mr. Werlinger said maybe he doesn't understand the (Code Enforcement) process. His Code Enforcement complaint was issued in 2019 and was about the speeding, the noise and that they don't maintain the property. They never shovel their snow.

Trina Patterson – IN OPPOSITION – 4545 Hemlock Way Nampa ID 83687

Ms. Patterson is impacted the most by this business as she lives right next door to them. She believes she is the one who took the complaint to Canyon County in March 2019. She worked with Eric in Code Enforcement who reached out to the owner, warned them (multiple times) and filed the cease and desist order. Eric told her the cease and desist order was dismissed by the Prosecutor's office because their remedy was to file for this conditional use permit. The property has never been occupied: the person who owns the business does not own the house. She said they don't maintain the property. Property trucks are in and out of there and they don't use the northside entrance. It is not enclosed by a 6-foot privacy fence as shown by the photos which shows her backyard. There are overgrown weeds and overgrown trees. Ms. Patterson asked Kelly, the owner of the business and the drivers to slow down. They have delivery trucks blocking both the street and her driveway and they can't get out until the truck is finished unloading. They have the north entrance and don't use it. She has tried to work with them and they have not been cooperative at all. It is a safety issue with the big trucks coming in and out. She said there is a tent city in their driveway they use to store items contrary to what is stated in the application which says all materials will be stored in an enclosed contractor's shop. Commissioner Nevill said he doesn't see another entrance (besides the north entrance) and asked how they get material onto the property. Ms. Patterson said they come in through the cul-de-sac, using their driveway which is next to her driveway. She showed the cul-de-sac entrance on the aerial map. She talked about how overgrown the trees were which hides the entrance to the property in the cul-de-sac. She said they have to back out of their driveway very slowly to be sure none of the business employees are coming into the cul-de-sac to go into that

entrance. She also showed where the sheet metal employee works on the property and where delivery trucks pull up. Commissioner Villafana asked how many tents were there. Ms. Patterson said there was one big tent. She said they have taken PVC piping and created a large tent by covering it with tarps. Commissioner Villafana confirmed with Ms. Patterson that the property owner does not own the business. Commissioner Williamson asked Ms. Patterson if they had talked to the Highway District and asked them to come out and say something to the business owner about the trees. Ms. Patterson responded that she didn't know she could do that. Planning Official Dan Lister clarified that the Code Enforcement violation would be sent to the property owner, not the business owner as it is the property owner's violation.

Planner Samantha Hammond told Chairman Sturgill that the business owner and his agent were present at the hearing. They did not sign in to speak because they thought only the property owner was allowed to speak. They did not sign in but want to testify. Chairman Sturgill stated they would finish testimony in opposition and then give the business owner and agent time to testify.

David Diffenbach – IN OPPOSITION – 4553 Hemlock Way Nampa ID 83687

Mr. Diffenbach said that Hillcreek Subdivision consists of 80 homes. All the homes are occupied by families except for one; the one in question. Hemlock Way is the subdivision's road. There are a few small home businesses that operate in the subdivision but none as big as EZ Heating. They have three pickup trucks, three trailers, a commercial van and a commercial vehicle they use. The intended purpose of the residence is for living; for a family. He said this is a light industrial business and doesn't seem like it fits at all. Commissioner Williamson asked about another business which used to be located across the street. Mr. Diffenbach said it used to be a concrete business but they shut down last year. He thinks that property is the one EZ Heating wants to rent for expansion.

Ron Crumb – IN OPPOSITION – 4545 Hemlock Way Nampa ID 83687

Mr. Crumb began testifying and said he had pictures that he wanted to show. Chairman Sturgill suggested that he send the photos to Samantha and delay his testimony until she can display the photos on the monitors and he can speak about them.

Kraig Wartman – IN OPPOSITION – 4668 Hemlock Way Nampa ID 83687

Mr. Wartman said he has only lived in this subdivision for 2 years but it has been two years that they have been operating EZ Heating and Air. He said it looks like the application is to bring them into compliance; it was his opinion they are essentially asking for forgiveness because they got caught when they should have been asking for permission initially. They didn't always operate under the proposed conditions of approval, but since the neighborhood made complaints, they are playing nice. He said if approved, they will go back to doing whatever they want because they (the business owners) don't live in the area; it's only a job, leaving the residents to suffer the consequences. The initial neighborhood meeting was February 1st and at a crazy time and after the meeting, four of the residents were talking in the cul-de-sac and almost got run over by one of their truck and trailers. Mr. Wartman said deliveries are coming from big trucks as well as for pick up and drop off of the trash. He said the application says there are only 4 – 5 parked cars but that's only since October because they knew the application was coming. Employees speed down the road. He asked what kind of chemicals are they storing? They solder and weld on site and are using freon. He asked are there gas, solvents and soldering materials and is that appropriate for a residential subdivision? He said tonight the Commission has heard from residents and homeowners who value the serenity of the residential subdivision. He said the Commissioners are there to represent and protect the legal voting residents, not the applicant or business interests. Everyone has seen a huge increase in the tax values and he prays they defend the residents of the area/subdivision. He reminded the Commission that the applicant doesn't live there, nor does the business owner.

Commissioner Amaral asked Mr. Wartman if there were only four people at the neighborhood meeting.

Mr. Wartman said yes, the four people they have heard from tonight. The meeting was held at a difficult time and he felt it was a checkbox for the applicant. There was no information given; there was a sign in sheet and they said they were doing it just so they can operate the business.

Kevin Vink – IN OPPOSITION – 16526 Mahogany Drive Nampa ID 83687

Mr. Vink said he and his wife have lived in the neighborhood for over 47 years. He said this started as a small neighborhood and he is not going to deny that there were businesses that were operated by homeowners out of the neighborhood for years. Some of the businesses are gone now but the residents are still there, but the homeowners themselves were operating the businesses. He said those homeowners took a portion of their money every year and reinvested that back into their properties which improved the neighborhood. This business doesn't do that; they don't care what that place looks like. All they want to do is operate it as a business and that's not fair to them as property owners. Mr. Vink said the impact of their trucks has an adverse effect on the neighborhood. Their property doesn't look like a neighborhood lot anymore. It used to be all grass with picnic tables in the backyard but now it's just one large parking lot. He said they don't have any interest in what goes on in the neighborhood; they are just there to make money. That isn't fair to the homeowners.

Ron Crumb – IN OPPOSITION – 4545 Hemlock Way Nampa ID 83687

Mr. Crumb discussed the photos he has on his phone of the property (which he was unable to display). He said on numerous times he has shoveled snow from the business' driveway so it won't melt into his driveway. When they did have a major snowfall a few years ago, no one came out to shovel. He called Kelly to clear his driveway which he did with a Bobcat. He pushed all the snow against the Crumb's fence and bent it. Last night with the heavy wind, the tent city, with the tarp flapping in the wind, sounded like a 50 caliber machine gun going off. He said they have made it a little nicer but in years past, it was an eyesore. He has worked in a sheet metal machine shop and knows there is a press break and a bead roller there.

Chairman Robert Sturgill had the applicants sign in and swore them in to give testimony.

Kelly Martin – Applicant (Representative) – IN FAVOR – 9296 Chelan Ave. Garden City ID 83714

Mr. Martin requested staff pull up a map of the property and expanded the view. He said they were mostly correct on a lot of facts; they mostly come in on Hemlock in the morning, the employees come in through the narrow driveway through the cul-de-sac but it mainly used for employee access in the morning and at night to drop the trailers. All deliveries come in from the north; they poured a concrete pad in that area because they were having a difficult time pulling through. They do hear back up alarms because the trucks back up to their delivery door. The structure was not an improved structure when he first moved in and he did a lot of work to frame it and box it in. He was not sure where they were getting the 3-foot tall grass as he has receipts from companies doing the landscaping and picking up the recycling and debris every week. They have a family picnic for employees at the property two times a year and there is a big grass area on the property (which he showed on the map). Mr. Martin said no one lives in the house; it is an office and a meeting room. He doesn't live on the property and never intended to live on the property. He showed where the trash bin was and said it is picked up every Friday but if they are overloaded, they will come twice a week. He said employees used to unload the trailer into the garbage bin early in the morning but he changed that. It could happen every once in a while as he is not there every day but for the most part, it is happening between 8:00 am and no later than 4:00 or 5:00 pm. He has 13 – 14 company vehicles which are not stored on site. They are all 'drive home' vehicles. Most of his employees don't even come onsite; they are out in the field. He explained which employees come onto the property and what their schedules are. There is a total of 5 job trucks that will come in every day in the morning and leave at night. There might be a meeting once a quarter that he has everyone attend but they all park in the yard

and not on the street. Mr. Martin addressed the tent city; he said he doesn't like it either but they had to erect the tent to protect \$8-\$10,000 worth of sheet metal. There are worse (sights) than their one tent in the neighborhood. Nobody works in the tent; they may pull and rip a piece of sheet metal really quickly and then it goes into the shop where the work is done. He does bend sheet metal for other people and will deliver it to them but the majority of the sheet metal work he does are for his projects. The overgrown trees were there when he moved in to the location. He did get the call from the neighbor about the snow and cleaned it up by pushing it to the back of the property but he doesn't know how he could have damaged the neighbor's fence as there was a 2-foot dirt berm along that fence line at that time. He said it looks like a home with a shop and they do park in there but it is clean and it is not a neighborhood eyesore.

Commissioner Williamson asked how early employees arrive to pick up trailers. Mr. Martin replied he has workers that pull in there early but he doesn't like them to arrive earlier than 6:45 am. They get there and stand around and talk but don't go into the office until 7:00 am. He gets there at 7:00 am. Commissioner Williamson asked if he was aware that 8:00 am is the start time on the conditional use permit. Mr. Martin said he would prefer it changed to be 7:00 am. They don't really work until 7:30 am and the employees get on the road at 8:00 am. Commissioner Williamson said he counted 8 cars in the photos that were taken at about noon. Mr. Martin went through the cars shown in the photos and talked about the cars that could be moved off the site. He does not work out of this office full time and just goes there to pay bills. Commissioner Williamson asked about storing chemicals onsite. Mr. Martin said he has a couple of bottles of R410A refrigeration (chemical) that they keep and are used to restock the trailers in the morning; they are recycled on a daily or every other day basis. He said R410A is not a chemical that leaches in to the ground; it is a gas and they have an EPA license for it. He mentioned the neighbor who works from his home tearing apart HVAC units and the possible oils that could leach into the ground from his work. Mr. Martin has to reclaim all his refrigeration; they have to account for it, report it and he could be fined. He said his neighbor doesn't have an EPA license that he knows of, to do that work. Mr. Martin has a license for all the work he does. They walk in their recycled metal as the bin has a swinging door as they want to stack it. He said they have expensive silver sticks that they use to braise and the trailers have small bottles of oxygen and acetylene torches. They are not liquid chemicals that can fall onto the ground and they are not large tanks. If they don't secure it properly on the trucks or store it properly, they can be fined.

Commissioner Nevill asked about the fire fighting system in the neighborhood; it doesn't sound like the community has one. He asked, if there is a fire, what is their plan? Mr. Martin said they have fire extinguishers in all their vehicles and in every buildings. If there was a fire, they would do what everybody else would and call 911. They aren't causing any arcing and don't weld onsite. They don't do any braising on this property. They don't keep material onsite for long periods of time and he explained about why he had to buy extra material during a supply shortage and how he stored it. Commissioner Nevill said staff recommended 7 conditions of approval and asked if Mr. Martin had seen them. Mr. Martin said they don't work on the weekend and when asked about the 8 am start time, Mr. Martin replied that 7:00 to 7:30 am time period is about paperwork and he wants everyone to be out by 8:00 am. He asked if they could change that condition. They provide 24-hour service but not out of that location.

Commissioner Amarel clarified that Mr. Martin is the business operator and not the property owner. Commissioner Amarel asked when he was notified of the (code enforcement) violation in 2019. Mr. Martin said he put \$30,000 into the property to improve it because it wasn't in good position for any use. If anything, he has improved it. He found out about the non-compliance when they got the letter from Michael Rawden and then he started the conditional use permit process. Commissioner Amarel brought up the hours of operations and confirmed that there are no office hours after 5:00 pm.

Commissioner Williamson asked if he was aware of the cease and desist letter. Mr. Martin replied that when he received the letter, he contacted Michael (Rawden) and said there was a problem. He acknowledged that there were some employees who sped through the neighborhood and played loud

music early in the morning but he addressed that with them.

In response to Chairman Sturgill's question he said they began operations in 2018 - 2019 and at that time, it was his understanding that no additional permits were required to operate there. Mr. Martin said at that time, a concrete company had been running their business across the street for 40 years. He confirmed that they are looking at renting the land across the street and moving their recycling bin and storage shop there. That would be the staging area for him. He has not filed for a conditional use permit nor has he done any work on the property across the street.

Chris Carpenter – Applicant (Representative) – REBUTTAL – 10173 W. Virginia City St., Star ID 83669

Mr. Carpenter is the real estate agent from Michael Rawden. He said Mr. Rawden did not own the property in 2019 when the original cease and desist order came out. He purchased the property in June or July of 2020. Upon purchasing it and upon review of the CC&R's which Mr. Carpenter said haven't been enforced in years, he didn't see any issues with owning the property and allowing Mr. Martin to remain a tenant on the property. Mr. Rawden saw other businesses were being run in the neighborhood. When the complaint was issued, Mr. Rawden sent the information to his attorney who spoke to the County office and was told to apply for the conditional use permit. He applied for the conditional use permit in October 2020 and it has taken them this long to get here.

Chairman Sturgill asked Mr. Carpenter if the conditional use permit was denied, what will happen with the property? Mr. Carpenter said the property would probably be sold or rented to another tenant which probably wouldn't be a business.

Commissioner Amarel confirmed that the process to obtain the conditional use permit started in October 2020. Commissioner Williamson asked Mr. Carpenter about Condition #5, the non-transferability of the conditional use permit. Mr. Carpenter said they were aware of the terms of the conditional use permit and it seemed prudent to wait to see how this process went before moving to another step.

MOTION: Commissioner Nevill moved to close public testimony on Case Number CU2022-0004 seconded by Commissioner Amarel. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill said he disagrees with staff. He doesn't think this is an appropriate use for the area. This is an agricultural area but is certainly residential. He said they can split hairs and say that this type of use is allowed in an ag zone but this isn't agriculture anymore. He said he knows there are some efforts to look at what is zoned in the County because there are a lot of conditional use permits out there but if the county made it R-R to match or the city made it residential, light industrial is not appropriate for either one of those. In order to avoid a big problem in the future, the most appropriate thing to do is to deny.

Commissioner Amarel agreed this is not agricultural anymore and we have a business that is a misfit they are not in compliance with code or neighbors. He disagrees with staff as well.

Chairman Sturgill reminded the Commissioners that if they were going to rule against staff's recommendations, they were going to need to help direct staff to change their findings.

Commissioner Nevill stated for this case, he moved to deny the conditional use permit and suggested the following changes: while it is allowed in an ag zone, he argued that this is no longer an ag zone and would be not be compatible if the area was re-zoned in the future; it is injurious to the area; the legal access is questionable as they don't use the north entrance; there is interference with traffic with the loading and unloading of trucks. Planning Official Dan Lister said he thought item one, the zoning argument can't be made as it is currently zoned Agriculture.

Commissioner Williamson said that Commissioner Nevill made the argument when they are annexed in to the City of Nampa but they don't have any evidence when Nampa will annex that area into the city.

Commissioner Villafana asked if they deny the conditional use permit, how long does the business has to vacate the property. Planning Official Dan Lister said if the conditional use permit is denied they could appeal, but if the appeal is denied, violations would begin to be sent out again. Commissioner Villafana is sympathetic to the business owner and the employees and was concerned how this would impact their business with layoffs and the recession.

Commissioner Williamson asked Staff if the Commission could add a condition to give them some time to vacate the property. Planning Official Dan Lister said that was up to the Code Enforcement officer but also reminded the Commissioners state law states they have to give the applicant ways to obtain approval for the conditional use permit. Suggestions included demonstrating how it was more consistent with the area, demonstrating adequate access and how they would mitigate traffic impacts.

MOTION: Commissioner Nevill moved to deny Case CU2022-0004 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Amarel. Roll call vote: 3 in favor 2 opposed, motion passed.

Chairman Sturgill swore in Commissioner Sheets at 8:29 pm.

- **Case No. RZ2022-0011 & SD2022-0034/Sierra Vista Properties-Mint Farm Estates:** The applicant, Sierra Vista Properties, Inc., is requesting a zoning map amendment (rezone) of Parcel R37496 from an "A" (Agricultural) zone to a "R-R" (Rural Residential) zone. The request includes a Preliminary Plat, Irrigation, & Drainage Plan for Mint Farm Estates Subdivision, 39 residential lots. The subject property is located at 8718 Purple Sage, Rd., Caldwell; also referenced as a portion of the SW¼ of Section 27, T5N, R2W, BM, Canyon County, Idaho.

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

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

Testimony:

Ammon Andelin – Applicant (Representative) – IN FAVOR – 2195 Cherry Lane Emmett ID 83617

Mr. Andelin is representing the applicant. In 2021, they applied for an R-1 rezone. They tried to put together a careful, clean project. They met with all the districts and parties and it was consistent with the 2020 Comprehensive Plan and the future land use map. The Board of County Commissioners denied their rezone and plat and said they would approve it with R-R zoning as it was more compatible with the area. They have corrected their rezone and plat to R-R zoning and they are fine with all conditions of approval. Commissioner Nevill asked if Mr. Andelin had read through the conditions of approval and are they okay with them. Mr. Andelin said 'yes'. Commissioner Nevill said there seemed to be a pivot at one time and asked how productive was the farmland. Mr. Andelin said it is being farmed now and he believes it is productive. Commissioner Nevill asked how is this a more appropriate use than agriculture? Mr. Andelin said with people moving to Idaho, there is a shortage of homes. Rather than putting in high density housing in city limits, there is a great appeal to having large 2-acre lots. Mr. Andelin admitted that demand has decreased in 2022, although it is still there. He said the owners have decided to sell the ag land. Commissioner Nevill asked if other testimony says there are a lot of empty lots, that might counter his contention that there is a heavy demand for this type of lot. Mr. Andelin clarified what Commissioner Nevill was saying and said he could see his point. Commissioner Williamson said they have received a letter of opposition which cites the rural lifestyle and people on ditch banks and the loss of green spaces. He said there is no designated green space in this proposal; was green space or a trail loop considered?

Mr. Andelin said they are not trying to squeeze in as many homes as they can and proof of that is their prior application for R-1 zoning didn't have only 1-acre lots. Commissioner Williamson asked Mr. Andelin if he intended on putting in fencing along the ditch banks. Mr. Andelin said they are working with Black Canyon Irrigation District on their ditch and they will either pipe it or fence it. Commissioner Williamson said they will still need to provide an easement and Mr. Andelin agreed. Commissioner Amarel asked if Mr. Andelin knew when the center pivot was put on the property. Mr. Andelin said he did not. Commissioner Amarel asked if the current owner put the pivot on the property. Mr. Andelin said he did not know. Commissioner Villafana said recently local television station had a news story about the disappearance of farm ground in the Treasure Valley and how it is difficult for farmers to move their equipment, etc. He said when you look at the aerial view (photograph), there is a lot of farm ground in there and asked Mr. Andelin how a new residential subdivision with the people, children and cars, taking over this 90-acre piece of farm ground is going to be compatible the area. Mr. Andelin answered that growth is good and bad. Growth and change can be good. In terms of this area, the future land use is residential both for the 2020 Comprehensive Plan and the 2030 Comprehensive Plan. Both is deemed residential and growth is happening. Commissioner Sheets said one of the things they are trying to evaluate are the impacts and how to mitigate those. They got a letter from the school district that says some places are pretty overcrowded. He is pretty sure the last bond measure failed and there is another development already approved for R-1 zoning directly south which looks to be double the acreage of Mr. Andelin's proposal. There are also some impacts to the intersection of Lansing Lane and Purple Sage. Commissioner Sheets clarified if development impact fees would be charged for this development and asked Mr. Andeline how was going to mitigate the impacts to the school. Mr. Andelin said those are heavy topics and the Engineer can address the bus stop and adequate spacing there. Mr. Andelin said he lives in Emmett and it has a similar situation with the need for increased funding for their school district and a recent bond that didn't pass. He said growth can help that by bringing in more people who care about the schools. The opposite could be true also. He said development is happening and hopefully more funding will be approved in the future with bonds. Commissioner Williamson said this property has 90 acres of surface water irrigation rights. He said when 11 acres becomes a road, what will happen with those water rights? Mr. Andelin said he didn't know the answer and the engineer could answer that. Chairman Sturgill asked Mr. Andelin what his relationship to the project. Mr. Andelin said he is the son of the property owner and the owner asked him to be the planner on this project. He is not from an engineering company.

Derritt Kerner – IN FAVOR – 9175 W. Black Eagle Drive Boise ID 83705

Mr. Kerner is the civil engineer on the project and has been working on it since the beginning. He said the last project went in front of the Hearing Examiner. He worked with staff the first time on the conditional rezone and felt it was a good project. He reviewed the past project and said staff told them they wanted an R-R zone. The property was planned residential on the maps and the roads were going to be connected to the subdivision to the west and the east and then out to the road according to what the Highway District requested. After the denial, they started over again. Mr. Kerner said Black Canyon Irrigation restricts the water rights and will only give a certain amount and reserve the rest for other people. They will have a convenient spot for the bus stop which will be by the mailbox cluster.

MOTION: Commissioner Sheets motioned to grant 3 more minutes of testimony to Derritt Kerner, seconded by Commissioner Williamson. Voice vote, motion carried.

Mr. Kerner continued: He said they will be piping in pressurized irrigation with a pump station located in the southwest corner along with direct access to the road for one existing residence. They will provide one driveway/access to the road for rest of the subdivision. He showed the laterals on the map. They would like to relocate one large lateral on the property with Black Canyon Irrigation District's approval and the other straddles the property line. They would like to pipe both. However, the Irrigation District's policy is that although they want the lateral that straddles the property line piped, Mr. Kerner's project

will have to design and pay for 60% of the costs. When the land is developed on the other side, those funds will be used to help pay for the piping of the lateral. He thinks the pivot existed before this owner bought the property. Mr. Kerner said the property owner would sell the property to anyone for a certain price but the decision to develop would generate more revenue than someone using it for Ag would pay. It is steep terrain but the pivot flexes over the terrain. The area with over 15% slope has been blocked out from development.

Commissioner Williamson asked about irrigation rights versus the annual water allotment that can vary according to snowfall and rainfall. There was discussion about the Irrigation District changing the amount of their water rights. Mr. Kerner believes the Irrigation District would take the water rights back for the road acreage. Planning Official Dan Lister clarified that State Law requires them to determine water supply and at the time of platting, they have to show how they are using it or if they are giving it up. Because of the change in land use, the Irrigation District can change the amount of water rights they provide.

DECLARATION: Chairman Sturgill asked Commissioner Williamson if he had a relationship with the prior witness (Mr. Kerner). Commissioner Williamson said they were in high school together and they had not spoken for a long time. Commissioner Williamson said they have not spoken about the case and his personal relationship with Mr. Kerner would not influence his ability to make an unbiased decision in this case.

Jill Jenkins – IN OPPOSITION – 8251 Edna Lane Middleton ID 83644

Ms. Jenkins is a member of Western Land LLC with her son and owns a small ranch in the northeast corner next to this development. Their small ranch is irrigated with agricultural ground water rights and BCI has an easement through their property for the Willowcreek pump lateral which will be hard piped. They don't have surface water rights from the canal but she said it is necessary to keep the irrigation water running in an open ditch to recharge the ground water which they rely on. The irrigation of this agricultural property of 90 acres also contributes to the recharge of the ground water. She believes the sprinklers running on the individual lots would not be enough to recharge the system. Having groundwater rights allows them to start their irrigation season about a month sooner than the Black Canyon Irrigation ditch users can and she thinks residents may think they can use their household use wells for irrigation further depleting the ground water. She said the Canyon County Commissioners recently asked for a deeper community well in a development south of Lake Lowell because of concerns of groundwater resources and wells drying up. That is a similar story she is hearing regarding other developments around the valley and should be cause for great concern. She is also concerned about cross contamination from the sewer leach fields. She discussed minimum lot size versus average lot size. Ms. Jenkins discussed Middle Creek Elementary school overcrowding and their lack of classroom space. She said the Commissioners were previously notified about the school overcrowding issue. The traffic has also become impossible between Star and Middleton because of all the housing developments with no infrastructure improvements. The developer's family bought the property knowing it was zoned for agricultural use. The reason she and all her neighbors bought their properties was because they were zoned for agricultural use, not rural residential or residential. She said plan growth in areas that have little agricultural uses and are close to infrastructure and city services. Eventually, she said, we will have no more land that is able can sustain or support agricultural uses. Then we will all lose. She also expressed concerns that they have no sidewalks or places for children except the entire back of her property which is a canal easement.

Allen Colson – IN OPPOSITION – 8802 Purple Sage Road Middleton ID 83644

Mr. Colson lives in the southwest corner and is not right on the edge of the property. He has been there for 20 years and he stated the pivot was there before he was there. He said it is prime agricultural land and has been farmed every year since he has been there. They grow quite a harvest off of it all the time.

It was his understanding that in the last hearing, the County Commissioners asked for a minimum of 2 acre lots, not an average. During the community meeting, it was brought up if the applicant would increase the lots (size), we might be amenable to it, The applicant said they also could do high density and then what would you get? He felt like that was a threat. Ag land use is a big issue right now. Mr. Colson said you take out these 90 acres and that corn goes to dairies to feed livestock. He raises horses and his 30-foot horse trailer has come close to being hit on Purple Sage Road trying to get into his own driveway because of the traffic that is already there. They are talking about a nice school bus stop for their development; what about the bus stop for his 6 year old who is down the road (from the development)? They did have community meetings but he said they never asked if we were for or against the project. When they claimed there was no opposition, Mr. Colson said they were never asked if they were for or against the project; they just went to the meetings and gathered the information. With regards to the Black Canyon Irrigation District change, he tried to contact the Black Canyon Irrigation District and they would not confirm or deny that the change was resubmitted.

Debbie Millsaps – IN OPPOSITION – 8770 Purple Sage Road Middleton ID 83644

Ms. Millsaps lives on the property just west of the line and she wanted to discuss infrastructure. She is also an employee of the school district. She described the overcrowding in the schools and how classrooms have taken over all available space including the staff lounge and the library. The computer teacher and music teacher push carts around because they have lost their rooms to classrooms. She has a microwave in her office so employees can heat up their lunches there. They still don't have another school. She said the statement was if we bring more people in, maybe we will get a bond passed but even if a bond is passed, that is many years out. As the registrar for the school, she knows that many of the families who are coming into the area are from out of state: California, Oregon and Washington. The majority of these homes will be occupied by families with children entering our schools. She said at 134% over capacity now, we don't have the infrastructure to support what we need to provide to the families who are moving here. Ms. Millsaps said the pivot was there before 2001 when she moved into her home. She is also concerned about homes with wells going in by her home; a number of the wells in the area have been re-dug because of the water table.

Commissioner Nevill brought up that a recent school bond measure on the ballot which failed and asked will the school district try again? She believes they will but does not know when. She said local election turnout was very low last time.

Shannon Colson – IN OPPOSITION – 8802 Purple Sage Road Middleton ID 83644

Ms. Colson spoke about her daughter having to stand out at the bus stop when it is pitch dark and cars are racing by. She is glad the proposed development will have a safe bus stop; she wishes they did. She said there was discussion about a traffic intersection with a grade of "F"; she assumes that is the intersection of Purple Sage and Lansing Lane. There have been at least 3 fatal accidents at that intersection in the last two years. She said Mr. Andelin said there was a shortage of homes: that morning there were currently 216 homes for sale in Middleton so she didn't see how that was a shortage. She said Ms. Millsaps forgot to mention there is no more library at the elementary school: the library comes around the school on a cart. She didn't think that these would be affordable homes, as homes on 2 acres right now are selling for over a million dollars. There are already a number of empty lots waiting (for development) and are going to end up attending Mill Creek Elementary. She listed some developments in the area that were currently in the process of being developed.

Derritt Kerner – Applicant (Representative) – REBUTTAL – 9175 W. Black Eagle Drive Boise ID 83705

Mr. Kerner is the civil engineer on this project. He spoke about open pipe vs. open ditch for the canal. They are required to pipe ditches and he is guessing it is because of less liability and less loss of water. He acknowledged that charging the aquifer is a concern but they want it piped because they don't want to

lose that water. They are not in a nitrate priority area and as long as they can demonstrate wells can be 100 feet apart from neighbors' as well as your own, it is approvable. 2-acre lots are not a problem because there is plenty of room. There will be no sidewalks because people will want the rural feel with a 2-acre lot. He expects people to have enough room on their own with 2-acres and won't want a city park in the subdivision. Most of the lots are 2-acres; the smallest lot is 1.65 acres which is an existing residence. They are above the 2-acre average minimum lot size which is what the code says. Mr. Kerner said they are dedicating 50 feet of right of way to the Highway District. Mr. Kerner said development is the only way the Highway District can get free land dedications. It means the Highway District doesn't have to buy land and it will allow them to build roads wider in the future. He said the Highway District is not planning on building anything in the near future. Bonds need to be passed for schools and that is a bigger issue than one project. The Legislature needs to help out with bonds. He said rural lots are very desirable and are getting harder and harder to find. Cities only have the smaller lots and the only way you can get 1 or 2-acre lot is in the County setting. 2-acre lots are going to cost more than a 1-acre lot. Commissioner Williamson asked about the 40-foot pull out for the bus stop and putting it in a different location. Will there be a sidewalk or an enclosure? Mr. Kerner said right now it is just a large concrete pull out by the mailbox cluster and it works well where they have it. He thinks an enclosure is a good idea. Commissioner Nevill confirmed that the bus stop is going to be inside the subdivision and said most buses will not go inside a subdivision unless some very specific conditions are met. He said the bus is going to want to stop in a pull out on Purple Sage. Mr. Kerner said he will have to work with the school on that issue.

MOTION: Commissioner Nevill moved to close public testimony on Case RZ2022-0011 & SD2022-0034 seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill said he thinks they still have problems with this. He understands that the Board of County Commissioners said come back with a rezone and it might be considered but they aren't bound to that. Commissioner Nevill said with regards to Finding of Fact B: is this a more appropriate use? The folks in the area say no; agriculture is the more appropriate use. Finding of Facts C: is this compatible with the area? Testimony from those in the area say it is not compatible with their lifestyles. Finding of Facts H is a significant one: Essential Services. They received a letter from the Middleton School District saying Mill Creek is over capacity already. He believes this is an okay plan but this development is ahead of its time and other impacted entities aren't ready for this growth. He would say they have to wait. Commissioner Williamson asked Planning Official Dan Lister about Finding of Facts H: to get approval they would have to work with the school district to mitigate the issue; maybe push the school to for bond? How would they phrase that? Planning Official Dan Lister said they would put on the denial to work with that agency to see if they can find a solution or wait for the area to change. Commissioner Williamson said Condition C says other people's lifestyles are impacted but he believes they have to find a balance between what the property owners can do and what the neighbors want. He can see it on the map as a transition area.

Commissioner Nevill said bringing in more people isn't the solution. More expensive homes bring in people without kids in school and they don't pass bonds. Commissioner Williamson agreed with Commissioner Nevill's statements.

Commissioner Sheets brought up Finding of Fact G: traffic impacts to the area. He agrees that Canyon Highway District #4 doesn't require a traffic impact study because of the number of lots but stated that traffic impact fees won't go directly to the deficient intersection in the area. He felt that mitigation is questionable as to when and if it is going to happen. He feels that finding would not be met.

Commissioner Villafana stated he believes it will be inevitable that the surroundings will be residential at some point but the country roads are becoming increasingly dangerous, especially from March to

October when there is a lot of farming is going on. The roads weren't built to handle a lot of traffic. They are narrow. He does feel it is their responsibility to look at that and ask if the infrastructure is there yet and it's absolutely not. He doesn't feel it's right, being in favor of something like this, knowing the current conditions out there. The school is important but the infrastructure can't handle the additional traffic. Commissioner Sheets offered the following changes to gain approval: when the traffic facilities are adequate to handle these impacts and the school facilities are able to accept additional students and not be over capacity.

MOTION: Commissioner Williamson moved to deny Case RZ2022-0011, including modified Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Nevill. Roll call vote: 6 in favor 0 opposed, motion passed.

MOTION: Commissioner Nevill moved to deny Case SD2022-0034 including modified Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Williamson. Roll call vote: 6 in favor, 0 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 12/1/2022, seconded by Commissioner Amarel. Voice vote, motion carried.

ELECTION OF PLANNING AND ZONING COMMISSION OFFICERS:

MOTION: Commissioner Nevill nominated Robert Sturgill for Chairman. Chairman Sturgill accepted the nomination. Roll call vote: 6 in favor, 0 in opposition. Chairman Sturgill was voted Commission Chairman.

MOTION: Commissioner Williamson nominated himself for Vice Chairman.

MOTION: Commissioner Sheets nominated himself for Vice Chairman.

Roll call vote: 4 votes in favor of Commissioner Sheets, 2 votes in favor of Commissioner Williamson. Commissioner Sheets was voted Commission Vice Chairman.

MOTION: Commissioner Nevill nominated Commissioner Williamson for Secretary. Commissioner Williamson refused the nomination.

MOTION: Commissioner Nevill nominated Commissioner Villafana for Secretary. Commissioner Villafana accepted the nomination.

MOTION: Commissioner Williamson nominated Commissioner Amarel for Secretary. Commissioner Amarel refused the nomination.

MOTION: Commissioner Sheets nominated Commissioner Nevill for Secretary. Commissioner Nevill refused the nomination.

Roll call vote for Commissioner Villafana as Secretary: 6 in favor, 0 in opposition. Commissioner Villafana was voted Commission Secretary.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister thanked the Commissioners for training suggestions and said they would continue to accept any ideas if the Commissioners had them. There was discussion about the meeting held by the Idaho Department of Water Resources and training items that may come out of that

meeting. There is also a training being planned for the Commission by the Canyon Highway District #4.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 10:22 pm.

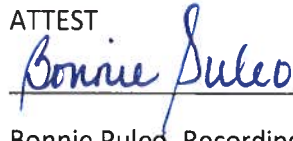
An audio recording is on file in the Development Services Departments' office.

Approved this 2nd day of February, 2023



Brian Sheets, Acting Chairman

ATTEST



Bonnie Puleo, Recording Secretary