



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, February 2, 2023  
6:30 P.M.

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present :        Brian Sheets, Acting Chairman  
   Patrick Williamson, 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  
   Michelle Barron, Planner  
   Debbie Root, Planner  
   Samantha Hammond, Planner  
   Devin Krasowski, Engineer  
   Bonnie Puleo, Recording Secretary

**Acting Chairman Brian Sheets** called the meeting to order at 6:32 p.m.

**Commissioner Villafana** 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 CU2022-0038/Manuel Gutierrez. Motion seconded by Commissioner Villafana. Voice vote, motion carried.

**Commissioner Villafana** read agenda item number 2A: **OR2022-0011/City of Middleton Area of City Influence**. The application was withdrawn by staff as the Map Amendment is not required.

- **Case No. OR2022-0007 & CR2022-0015/Richard Albisu:** The applicant, Stephanie Hopkins of KM Engineering LLP, representing Richard Albisu, is requesting a comprehensive plan map amendment (Case #OR2022-0007) of a 71.63-acre Parcel R37934011 to amend the future land use designation from “agricultural” to “residential”. The request also includes a conditional rezone with a development agreement (Case #CR2022-0015) to amend the County zoning map from an “A” Zone (Agricultural) to a “CR-R-1” Zone (Conditional Rezone - Single-Family Residential). The property is located at 0 Galloway Road, Northeast of the Galloway Rd and Old Hwy 30 intersection-; also referenced as a portion of Section 21, Township 5N, Range 3W; Canyon County, Idaho.

**Planner Jenna Petroll** reviewed the Staff report for the record including late exhibits.

**Acting Chairman Brian Sheets** entered the late exhibits into the record and affirmed the witnesses to testify.

**DECLARATIONS:**

Commissioner Williamson stated that he knew Mr. Ihli as he is a chemical representative. He has not spoken to him about this case.

Commissioner Villafana stated that he knew a lot of the people in attendance on a first name basis but he has not spoken to any of them about the case.

Commissioner Amarel said he needed to make the same declaration as Commissioner Villafana.

Commissioner Sheets asked all three Commissioners if they felt their personal relationships might influence their decisions on the case in front of them and they all replied, 'no'.

**Testimony:**

**Stephanie Hopkins – Applicant (Representative) – IN FAVOR – 5725 N. Discovery Way Boise ID 83713**

Ms. Hopkins said she has been working on this project for a couple of years. She is there representing both the property owners and the developer. They are asking for a Comprehensive Plan Amendment and a rezone to R1 zoning. She showed where the Black Canyon Irrigation District siphon was on the map and said it is in pretty bad disrepair. The proposed development would tile and repair it. Ms. Hopkins showed the property on a map and its close proximity to Purple Sage Elementary School and Purple Sage Golf Course. She said the Comprehensive Plan is a guiding document and each project is reviewed on a case-by-case basis. Ms. Hopkins said they think the proposed project of single family residential (lots) makes sense and the decision to request this change was because there are some challenges with the site and with the soil. There are several laterals which bisect and make the property hard to farm and this motivated the owners to request the changes. She talked about the neighborhood meeting last spring which was attended by quite a few residents expressing their concerns. She said she believes the traffic impact will be minimal. They will discuss the traffic and its impacts at the preliminary plat stage. There are several residential rezones nearby. Ms. Hopkins said the Canyon County Comprehensive Plan does not have this area as residential which is why they are there asking to incorporate into that land use. They are close to 15,000 – 21,000 acres of residential land use and they are asking to add an additional 71 acres into it that is not easy to farm. She said the Comprehensive Plan is a guiding document and does support private property rights. It will also encourage residential development where agricultural uses are non-viable. She showed the City of Middleton future land use map and the subject property was well within their area of city impact. She said it will be less dense than what the City of Middleton would develop in the future and would be a nice transition between agriculture and single family residential. She showed various maps and zoning nearby which included both more and less dense zoning. Ms. Hopkins showed the conceptual layout of the subdivision. She said they wouldn't have direct access to Old Highway 30 and they would complete the public road through the center of the subdivision to Galloway to the south. Each lot will have individual well and septic and they will do a Nitrate Priority study. She said this developer is used to developing in Canyon County and they would have advanced treatment systems to ensure they wouldn't be impacting the water in the area. They would incorporate a pond on site to be used for stormwater. She said they believe it is the best use of the land considering the challenges the owners have in farming it.

Commissioner Nevill asked if the beet trucks go by the school when they leave the beet dump. Ms. Hopkins did not know.

Commissioner Amarel said, in your opinion, there will be no traffic impact? Ms. Hopkins replied Not "any" impact but it will be minimal compared to a larger subdivision. Any impacts to the transportation network will be reviewed by Canyon Highway District 4 and they will have to install mitigations. There would be impacts and it would be a change. Amarel asked if she believed the maps she showed with the residential areas was accurate. Ms. Hopkins said her map did not show current residential sites but instead showed future residential sites which were based on the Comprehensive Plan. Commissioner Amarel clarified with staff what the map showed and what the boundaries (of the areas) currently were.

Commissioner Williamson asked if the intent is that northern boundary would have future access to Highway 30. Ms. Hopkins replied that there would be a road there in the future so they wouldn't have direct access to Highway 30. They discussed the common lot on the proposed plat which would be used as irrigation access. He clarified that this application is for an R-1 zoning.

Commissioner Villafana said she mentioned property rights which is important but it is also important for the neighbors. The property is surrounded by agricultural properties; he asked what would you do to keep recreational activities within the subdivision? Ms. Hopkins answered they would use CC&Rs to restrict the types of things that happen in subdivisions and that mechanism would work well. She said 1 acre lot size is pretty big so there usually enough land for the homeowners to do what they need to do there. She said it provides a nice transition to adjacent uses. The developer specializes in these types of projects and is familiar with coordinating with existing residences.

Acting Chairman Sheets asked when did the owners start working on this project? Ms. Hopkins replied around 2021. Commissioner asked why they are asking to rezone to R1 instead of RR (rural residential)? Ms. Hopkins said the developer has done both types of projects. She said the developer said a 1-acre lot is more desirable, manageable and marketable.

Commissioner Williamson said the owner mentioned 4H/FFA and he could see a 1 acre lot running out of room for a steer or two. He asked for the range of lot sizes. Ms. Hopkins said the lot sizes go up to 1.4 to 1.5 acres but most are 1 acre. They are going with the minimum requirements for the R1. Commissioner Williamson said it is almost straight across from the access point to the beet dump. Did she see the letter from Amalgamated Sugar that expressed safety concerns? Ms. Hopkins said she didn't see the letter. They located the entrance based on Canyon Highway District 4's access requirements.

Commissioner Nevill said she mentioned the developer: the Albisu's are not the developers? Ms. Hopkins said no, her client is the developer and he is partnering with owners.

Commissioner Amarel asked if it was possible to offset the entrance to the development. Ms. Hopkins said it probably was but that sometimes Canyon Highway District 4 likes to align driveways to make less vehicular conflict.

#### **Tyler Hess – IN FAVOR – 15031 Spyglass Lane Caldwell ID 83607**

Mr. Hess said he has been working on this project for a little over 18 months. He wanted to develop something that is great for the area and that is needed. He has three other developments in the area. The biggest concern is the canal that is piped. They met with Black Canyon Irrigation District and identified what their concerns were. The pipe was inspected and it is failing. He said they asked Black Canyon Irrigation how can we help you solve this. Black Canyon Irrigation said if they could take it out and replace it, it would help them so MR. Hess said part of their development plan is to take it out and replace it with a new culvert. Mr. Hess and his family grew up in Middleton; he takes pride in making good developments. He said this property is contiguous with the future Comprehensive Plan for land use and is in Middleton's future area of city impact. They like doing larger lots and they would be open to 2-acre properties. Their research shows that people like 1 acre; residents could have a shop and they could have two large animals.

**MOTION:** Commissioner Nevill moved to give 1 more minute of testimony to Tyler Hess, seconded by Commissioner Villafana. Voice vote, motion carried.

Mr. Hess continued: they walked the site with Canyon Highway District 4. They want a turn in/turn out into the development. He said they are close to the school which is good for future development. Canyon Highway District 4 and Idaho Transportation Department is looking at doing a future collector road out that way which would make it a unique area.

Commissioner Villafana wanted to get his thoughts about kids waiting for the school bus next to a beet dump with big trucks coming in and out. Mr. Hess said the school bus would come into the subdivision to

pick up children at a common area. They have learned in past developments to make common areas with ponds that will hold water. By creating the pond onsite, they are using half their water rights and would give their remaining water shares to other farmers. Commissioner Villafana said a representative from the Middleton School District told the Commission that school buses don't go into developments and must stay on the road.

Commissioner Nevill said he mentioned that Canyon Highway District 4 wants a turn in and turn out: will there be some deeding of land for that? Mr. Hess said yes, depending on what the Highway District wants and requires. They could shift the entry to the left: it just has to be 300 feet from the (existing) entry for another home. Commissioner Nevill asked about the siphon and Mr. Hess said it goes under the road and showed where the siphon in question was on a map.

Commissioner Williamson asked what their recourse was if the case was denied? Mr. Hess said they would re-visit the project to address the Commission's concerns. Commissioner Williamson asked what was currently available for sale for similar size lots? Mr. Hess said he was the only developer that has 1-acre lots and all the lots were already reserved. He said they are in high demand. When Commissioner Williamson asked about local school capacity, Mr. Hess said the owner/applicant would have more information on the capacity of the local schools.

**Nicole Albisu – IN FAVOR – 0 Galloway Road Caldwell ID 83607**

Ms. Albisu said one of the reasons they are in partnership with Mr. Hess is because the Albisu's are third generation farmers and they care about the environment and farm ground. They wanted to do it right, honor their fellow agriculturalists and have some control over the decision-making. She said approving this project will allow Canyon County to have more of a land use balance. She feels existing large agricultural uses and rural residential can co-exist successfully and this location will be a perfect buffer. She said she hopes the overall character will allow owners engage in agrarian practices and 4H/FFA. Ms. Albisu said rezoning this farmland will help with the availability of homes and help the housing market by making housing more affordable. She said it will help also strengthen the labor pool. She has served as a superintendent for 11 years and discussed Oregon land use policies which she said has irrevocably stifled the economy and growth in Ontario. This property is ideal for a re-zone.

**MOTION:** Commissioner Nevill moved to give 1 more minute of testimony to Nicole Albisu, seconded by Commissioner Williamson. Voice vote, motion carried.

Ms. Albisu continued: She said the property is across the street from an elementary school and 2 miles from the Interstate. She feels they met many of the requirements for this. The Right to Farm Act will protect the agriculturalists and the local schools are have sufficient space. They will help the Black Canyon Irrigation District with rebuilding some infrastructure. She is sorry this upsets the neighbors but extra traffic and 'not in my backyard' are not strong enough reasons (to deny this). She believes property rights are the foundation of liberty.

Commissioner Nevill said they have received a letter from the Middleton School District which says they need 2 more classrooms for the number of students they are projecting (in the future). He asked if she was saying those classrooms exist. Ms. Albisu said the School District was basing that on an estimate 70 lots which is more than they are proposing and that overestimated the total number of students. She quoted the capacity of some of the local schools. She said Purple Sage is under its maximum enrollment. Commissioner Nevill asked if it's her testimony that the schools won't re-balance? Ms. Albisu said she couldn't answer that.

Commissioner Villafana said Ms. Albisu mentioned this would help affordable housing. How much would these houses cost? Ms. Albisu said she didn't know but with such limited housing options it can't help but improve it because there (will be) more options.

Commissioner Williamson said you need a lot of space for feed for a large animal did she think there will

be enough space to store feed for a large animal? Ms. Albisu said she did or they could have sheep or goats.

Acting Chairman Sheets asked how Ontario and its marijuana laws were relevant to this case? Ms. Albisu stated when you restrict housing options, you restrict business and that is not good for the economy. She felt the biggest issue was workforce; you can't hire people if they can't find a place to live.

**Richard Albisu – IN FAVOR – 0 Galloway Road Caldwell ID 83607**

Mr. Albisu bought the Galloway property in the fall of 2019 in hopes of adding it to their current farming operations. He discussed the amount of topsoil, trying to improve the farm ground, soil temperature and the type of soil on the property. He said the surface irrigation irrigates from three different directions, the water was hard to control and there was erosion and nitrate runoff. He added three pivots but the shape of the field and the price of the project per acre was not cost effective. He said there is also a leak in the Black Canyon siphon that is too costly for the Irrigation District to repair. As a farmer, he disagrees with the Soil Conservation District's take on the soil: he said you can't just look on a map to know a soil's quality. He said Class 3 soils have severe limitations which reduce the choice of plants and Class 4 soils have very severe limitations.

Commissioner Nevill asked Mr. Albisu how they have worked the soil. Mr. Albisu said he brought his crop advisor in who told him it was a rough situation. He decided he would lease it for the first year and see how the ground worked out. After that first year, he decided he wasn't going to try to farm it. They didn't think it would be economical for them to farm it. Commissioner Nevill asked when the trucks leave the beet dump, which direction do they go? Mr. Albisu said they turn onto Galloway and head west to Highway 30.

Commissioner Williamson said in Mr. Albisu's letter, he had said 4 feet of soil was removed; did he have proof of that? Mr. Albisu directed Commissioner Williamson to a photo with a tape measure.

Commissioner Amarel asked if the removal of soil was before or after they bought it? Mr. Albisu said it was done before they bought the land.

Acting Chairman Sheets asked if he had a chance to check the property before he bought it? Mr. Albisu said he walked the property but it is hard to check the soil depth. Commissioner Sheets asked if Mr. Albisu's main purpose in purchasing the property was for farming and not development. Mr. Albisu said yes. He said he had put it up for sale in 2021 for 45 days and they didn't get any offers besides developers. They priced it at the going rate for farm ground in Canyon County.

**Katie Van Vliet – IN OPPOSITION – 1101 W. River Street Suite 110 Boise ID 83702**

Ms. Van Vliet is an attorney whose firm represents the Vandenburg and Sons Dairy. They are asking for a denial consistent with staff's recommendation. The dairy is less than two miles from the proposed site and has been in operation nearly 42 years. The dairy owns 217 acres that sits adjacent to and shares a property line with this site plus another 154 acres less than a half mile away. She assures the Commissioners that the 217 acres that shares a property line with the subject property is very fertile and grows a great crop. As she has told the Commission before, the Vandenburg's experience with other developments have not been positive. Many neighbors complain about normal Ag practices including dust when fields are being worked and the smell of manure being applied on the land in accordance with ISDA nutrient management plans. They have also experienced trespassing on their land, neighbors taking water they aren't entitled to and developers improperly piping or altering drainage ditches or canals. Subdivisions and agriculture are not compatible, rather they are a direct threat to the success of Ag in this County and the Right to Farm Act is too narrow and not protective enough for these agricultural operations and the local food supply. She quoted the application which stated the request is consistent with the current Canyon County Comprehensive Plan and is adjacent to existing infrastructure services and residential uses in the vicinity. She said if it was true that it was consistent with the Comprehensive

Plan, the applicant wouldn't be here asking for a Comprehensive Plan amendment and if it was adjacent to services and infrastructure, they would connect to city services and not drop 54 new wells and septic systems. Ms. Van Vliet spoke about LUPA and Idaho state statute 67-6502 and said approving this application would be contrary to that law. She pointed out that CC&R's can be amended by the lot owners at any time, do not have to be approved by the County and would not protect the surrounding farmland. She addressed private property rights; it used to be a free for all. Because it was discovered that they were losing things like fields and factories, important things to the economy, it was decided that they needed to address those issues through land use planning.

Commissioner Nevill asked if CC&Rs are worthless. Ms. Van Vliet said they aren't always worthless but these, as proposed, are worthless because they don't have to prove they will protect surrounding Ag uses and the landowners can vote within themselves to change or eliminate those provisions. She confirmed that the County can't enforce those CC&Rs. Ms. Van Vliet said the hearing is considered 'due process' when addressing private property rights. She said these property owners' rights don't supersede everyone else's.

Commissioner Amarel asked if the project land borders the dairy. Ms. Van Vliet said it borders farm ground the dairy owns and showed the land on the map.

Commissioner Nevill asked if the dairy uses that land bordering the subject property to apply waste. Ms. Van Vliet said they call it nutrients but yes, they do.

Commissioner Williamson asked if they knew why there was a 4 foot difference in the soil height? Ms. Van Vliet answered 'no'. He also asked what kind of crop they grew on the (subject property) land, she said no.

**Sharron Braun – IN OPPOSITION – 26101 Farmway Road Caldwell ID 83607**

Ms. Braun lives straight across old Highway 30 from this property. She has farmed there and now rents the ground out. Her farmer spreads nutrients on their ground. She has witnessed numerous wrecks at Old Highway 30 and Galloway Road intersection. She sees the beets come in at harvest time to the beet dump. She witnesses a lot of those semis come up Old Highway 30 and cross the center line to make it up the hill to get to the beet dump. They run 24/7, loading trucks during their operating times. Trucks used to be 8 minutes apart. The sound doesn't bother her as she is used to it but she doesn't know if the residents of the subdivision are going to like it. She spoke to the Highway District and Idaho Transportation Department and if they have to expand that intersection, state taxes will have to pay for it. She said there is quite an incline to come down Galloway Road to the highway.

**Marnie Vandenberg – IN OPPOSITION – 13451 Goodson Road Caldwell ID 83607**

Ms. Vandenberg said she helps with the farming. The last couple of years, they have had corn silage on the fields which means there are a lot of trucks and noise. There is slow moving traffic and no place to walk. She said people who are late picking up or getting their kids to school don't understand that their big equipment can only move so quickly. They get cut off and get flipped off. There is another dairy directly to the north and there will be a lot of 'nutrients' close this subdivision. Everyone makes a big deal about the "Right to Farm" but the dairies really don't have any protections. There are homes sporadically out there but those are old homes created by splits a long time ago and they are still farming around those homes. She said if you let a kid have a horse on 1-acre, where are they going to ride that horse? They are going to go over to the beet dump or ride on the dairy's fields and it's a burden on them. They want people to be able to ride but with liabilities, you can't do that anymore.

Commissioner Williamson asked about the farming on the subject property and Ms. Vandenberg said it has always had a crop on it. They have no problems farming their ground.

**Leonard Andrew – IN OPPOSITION – 25529 Old Highway 30 Caldwell ID 83607**

Mr. Andrew agrees with staff's recommendation. He said the property in question is usable ground. His

father drew a G.I. homestead on the property in 1954 and farmed it for 65 years. In the last three years, there have been many traffic accidents on Galloway and Old Highway 30, including two fatalities. There have been more accidents (recently) than in the past 50 years. In 2010, he served on a committee trying to develop an 'Ag harmony' zone. They were able to convince the Commissioners that there is no such thing as 'Ag harmony'. Either you're going to develop the ground or not; eventually the small zones will meet the large zones. He said 'Ag harmony' is not a viable theory. Mr. Andrew wanted to mention that the posting (of notices for the project) was poor. It might have been by the letter of the law but not in the spirit. The sign was only posted on Galloway Road and should have been posted on all abutting roads. The surface irrigation has been on the property but the pressurized irrigation water source was not mentioned in the plan (surface or 'other').

Commissioner Amarel asked Mr. Andrew about the road conditions during the beet campaign. Mr. Andrew said there is increased truck traffic from September through January. They aren't the most experienced truck drivers. He said that corner is a bad corner. It used to be if there was a car a quarter of a mile away, you would wait for it. He said you can't anymore; if you don't pull out, you'll be waiting all day. He has seen people pass him on a double yellow line, single yellow lines. It's scary out there.

Commissioner Nevill asked Mr. Andrew what kind of crops he raised on that land. Mr. Andrew listed his crops including sugar beets, dried beets, barley corn and seed corn. He said it wasn't the best piece of ground but it is not bad. He listed his crop yields for the land. Mr. Andrew said in the late 60's, his father leveled the ground on the north portion. In those days, they moved the dirt and didn't stockpile the topsoil and bring it back. There are some problems but they have grown decent crops out there. His father gravity irrigated the whole parcel and later, Mr. Andrew changed the north forty to wheel-line irrigation.

**Teresa Nelson – IN OPPOSITION – 26075 Freezeout Road Caldwell ID 83607**

Ms. Nelson lives on the corner of Freezeout Road and Galloway Road; east of this property. She has lived in her home for quite some time. This land has always been farmland. The Vandenburg dairy does put "nutrients" on the field, sometimes in large piles, fresh out of the cows. She thinks this development of 59 houses will have at least 60 kids and there is no place to wait for a school bus. The beet trucks come in and out; there is no place to cross the street to get to the school; you will have to take a bus. She wouldn't let her child stand on that street and wait for a bus. Turn lanes will only exacerbate the situation; cars will be slowing down to go in there when there are already slow farm vehicles. She sees farm vehicles being passed in intersections, people who don't stop and people get run into. She has also seen tipped over trucks and a Prius in her alfalfa field. She said they are not going to be able to have a cow on an acre; it will have a house on it and a driveway, a shop; there is no land left. She asked how are you going to store 2 tons of alfalfa on that lot? That is 50 bales. Are you going to ride your horse down the road with the beet trucks? She said half of the harvest trucks don't have brakes. They are spreading manure on the fields and that brings insects and bugs and they haven't even talked about the crop dusters/sprayers.

**Shannon Forrester – IN OPPOSITION – 7888 Redmon Road Caldwell ID 83607**

Ms. Forrester is here in opposition to the project. She has been an Idaho educator for over 30 years. She has been teaching at Purple Sage Elementary, right next to the proposed development, for 20 years. They are at 85% capacity with an allowance of 85 more students. With the current developments in process, they will be at full capacity or over before this development is finished. The other two elementary schools in their district are over capacity at 123% and 134%. The number one factor that impacts quality education is overcrowded classrooms. They have tried to pass bonds for new elementary over the past 5 years and they have failed. That tells her that that community does not support funding new schools. She has been told by patrons that they do not support growth in our community. She said there are no sidewalks or safe walking paths to the school. They will have to be bused which will cause more traffic issues. Galloway is a major traffic route for the high schools students. She sees students speeding down that road constantly. There is a problem with speeding on that road.

**MOTION:** Commissioner Nevill moved to give 1 more minute of testimony to Shannon Forrester, seconded by Commissioner Villafana. Voice vote, motion carried.

Ms. Forrester continued: The high school is currently at 91% capacity and the middle school is at 85% capacity. She said with the new developments in process, they will be over capacity in no time at all. It doesn't matter that they are open enrollment; the current development is their problem.

Commissioner Williamson asked if she was there representing the school district and she replied that she was there at an individual, a teacher and a member of the community.

Commissioner Nevill asked if re-balancing the schools was on the table. Ms. Forrester said the former Superintendent was not a fan of that because it would cause problems with the busing. As of right now, she was not aware of any discussions about re-balancing the schools. Ms. Forrester said none of the buses pull into the subdivisions that she is aware of.

Commissioner Villafana asked if she was getting any kids from Notus going to the Middleton School District. Ms. Forrester said they are not taking out of district students at this time.

Acting Chairman Sheets asked if she knew why bonds weren't passing. Ms. Forrester said their community wouldn't support a bond because they don't want growth. She said she explains how it impacts the children and their education but they say no. She said they have portable classrooms and they have classrooms in the teacher's lounge. They have some separate Title I classrooms for Special Ed but they are using all the classrooms.

**Larry Smith – IN OPPOSITION – 26552 Old Highway 30 Caldwell ID 83607**

Mr. Smith owns the property located at the northwest corner of the subdivision. He showed his property on the map. He has been there for close to 30 years. He has always had a couple of horses on his two and a half acres but he has no water rights. He and his neighbor split the property in the 1990's and they use their well water to irrigate the grass. Every August, there have been times when he thought the pump was not working right because the water table gets so low. The water also gets very acidic. He said 53 new wells across the street from him is ludicrous. His well is at about 140 feet now but it goes down every August/September. He doesn't know if he will have water if that project goes through especially in the latter part of the summer. This is a big concern for him. Last year, the subject property grew beans on the front side and it was a pretty good crop. He is also concerned about motorcycles coming down the hill going about 80 miles per hour. Anyone coming out of the fire exit is going to get nailed. He had a petition against this project with 51 signatures which he provided to staff.

Commissioner Nevill asked about his petition; how he got the signatures and if the applicant/representative had seen the petition. Mr. Smith explained how he obtained the signatures and said the applicant had not seen the petition.

**Don Caldwell – IN OPPOSITION – 26295 Old Highway 30 Caldwell ID 83607**

Mr. Caldwell lives directly across the street from this property and has lived there since 1984. He thinks this (project) is all wrong. This will push more traffic down Highway 30 and 44 by the Shell station. There have been a lot of severe accidents down there. They are being fooled by Idaho Transportation Department and Canyon Highway District 4 saying they are going to do stuff for that intersection. He talked to them ten years ago and they said were going to improve the intersection but then moved the funds to Karcher Road improvements. Nothing has happened now for a few years. After the subdivision is put in they say "ITD dropped the ball"; how many people have to get killed?

**Lyle Zufelt – IN OPPOSITION – 9965 Grand Targhee Trail Middleton ID 83644**

Mr. Zufelt said the address "0 Galloway Road" doesn't exist and it is a shame that no one asked if the owner/developer would be living in the area after the development is put in. Property rights are important



but without water, they are pretty worthless. For the past several years, they have talked about the drought this area is in. A holding pond will not mitigate the effect of 54 wells. The neighbors' property rights need to be considered. The owners aren't going to live here after the development is put in; the neighbors are the ones you should be concerned about. Idaho statute says the local governing board shall consider the effect the proposal will have on the source, quality and quantity of the water. That needs to be a priority because water is a concern. There was no report from the Department of Water Resources. In a prior hearing with regards to development in Canyon County, an Idaho Department of Water Resources representative said wells are going dry because we are building houses too close together. Rural residential should be a place to start and they should see how the neighborhood reacts to that. She said water rights don't guarantee water.

Commissioner Williamson asked whether a community well would be better. Mr. Zufelt said it was the same difference; it has the same impact on the aquifer. No one knows the capacity of the aquifer; we do know we are in a drought and wells are going dry. If his well goes dry, what property rights does he have? He said we don't monitor ground water levels. We don't talk about the drought very much in February, but we talk a lot about it in June, July and August. Water is life.

**Sid Freeman – IN OPPOSITION – 27406 Farmway Road Caldwell ID 83607**

Mr. Freeman asked about public noticing requirements and the entering of exhibits into the record. Mr. Freeman is a farmer who has farmed all around this place. He currently grows onions. Mr. Freeman wanted to discuss the Food Safety Modernization Act and its restrictions on garbage blowing into his fields, people trespassing and all the things that could cause him to lose contracts. Federal law says they can't have garbage, other peoples' run off and trespassers on his fields. He said this land is not prime farmland but it is viable. Mr. Freeman farmed a place to the north for 50 years. It is viable for farmers but Mr. Albus didn't buy the property to farm it; he bought it to develop it. He bought it at farm prices to develop it. He should have bought development land at development prices. Mr. Freeman said they are there because of greed and greed is going to put them under a lot of duress. This is not good for anyone's business within a mile radius. He said they all farm for a living and this is a food safety issue. Mr. Freeman said Highway 30 is a dangerous road. There have been two traffic fatalities at Galloway Rd and Highway 30 in the last 5 years.

**MOTION:** Commissioner Villafana moved to give 1 more minute of testimony to Sid Freeman, seconded by Commissioner Williamson. Voice vote, motion carried.

Mr. Freeman continued: The applicant does not have the right to put a development there but they do have a right to due process. In the neighborhood meeting, the applicant said they have the right to do this but Mr. Freeman said they do not. It adversely affects everyone else's property rights. He said the CC&Rs only apply to the land inside the subdivision and not the land outside the subdivision so that is a bogus point. He asked if they have a permit from the Bureau of Land Management to put the road on the easement of that pipeline. He hasn't seen anything that says they are going to take care of that.

Commissioner Villafana asked what it is like to deliver sugar beets to that beet dump. Mr. Freeman said it is very dangerous. Trying to be more efficient they are going to bigger and bigger trucks which are harder to maneuver. Someone makes a bad decision in front of you and you have a truck with 30 tons of beets, it can make a little problem larger in a hurry.

Commissioner Nevill asked about crop dusting. Mr. Freeman said they are still aerial applications in the area as well as ground application also. He has to have 100-foot or more distance depending on what he is putting on his fields. The implications are that it will be a huge burden on him and all his neighbors. It is not good for business.

Commissioner Amarel asked Mr. Freeman to describe the road around the beet dump. Mr. Freeman said the intersection isn't really suitable for what they are currently using it for, much less adding 54 more

homes to the area.

**Acting Chairman Sheets** entered exhibit 10 into the record.

**Natalie Levi – IN OPPOSITION – 26622 Farmway Road Caldwell ID 83607**

Ms. Levi said we the people, as farmers, are definitely in opposition. One of their arguments is that Middleton is aiming to expand so why don't we just expand already. There needs to be respect to holding boundaries. She said they want to hold these boundaries. They aren't sitting back doing nothing; they are farming land. Farming is hard. They said they weren't doing Rural Residential because 'what are people going to do with 2 acres?' She said farmers are on hundreds of acres and in the summer, they are begging for water. Just because there is a golf course doesn't mean that farmers have to surrender their occupations, their family heritage and transfer to another location and shed their lifestyles. In the last few years, she said we have been under attack internally; every city has been under attack with growth. The farmers are begging for water to make food to keep animals alive. They have developers come in like a parasite asking to expand 'a little here'. Ms. Levi said the moment we say this is okay, they point to a subdivision a quarter of a mile away and use that to justify adding another. The next thing you know, there's no water, no food, no animals. She asked them to oppose this. She became a farmer 5 years ago with the help from a lot of people and it is hard work. It's a lifestyle and what the people are asking for is for their lifestyle (to continue).

**Lance Pitcher – IN OPPOSITION – 15519 Blue Sky Avenue Caldwell ID 83607**

Mr. Pitcher is with Amalgamated Sugar and referenced a letter sent by the Ag operations manager earlier. Amalgamated Sugar owns the property immediately south of the subject property and uses as a sugar beet receiving/transfer station. During the harvest months of September and October, there is significant truck traffic and their operation is 12 hours a day with 200 loads a day. Mr. Pitcher said during the months of November thru February they manage contract haulers who load and deliver sugar beets to the factory in Nampa. Those re-load operations run 24/7. He said during the peak harvest in October, there are 450 loads per day at the receiving station. The biggest problem for Amalgamated Sugar is public safety. The site entrance for the proposed subdivision off Galloway Road creates a concentration of passenger cars and trucks turning in opposition directions. If the application is successful, Amalgamated Sugar requests a traffic impact study be required and done during September – October to quantify the traffic counts and needed improvements to the roadway for public safety.

**Dennis Evans – IN OPPOSITION – 15178 Galloway Road Caldwell ID 83607**

Mr. Evans' property borders the proposed subdivision to the east. He is concerned about the ground water with that many houses going in. He asked if it is a drought as they say, how is their aquifer be replenished if it goes dry? This site has been productive farmland for 65 years and he has been actively farming his place for 40 years. His dad has been farming ground just east of Mr. Evans' since 1956 and he doesn't understand why they think it would be better utilized for houses. Before he retired in 2017, he tried to buy farm ground and it was hard to find. He believes they need to keep agriculture ground productive to ensure the livelihood of those who want to farm in the future. He said if we continue to allow encroachment by subdivisions, those who farm will lose control over their right to do business. Complaints about dust, hours of operations, smells, dirt on the road and aerial spraying soon turn into fines and then laws. Agriculture, not houses are the backbone of our community. Allowing too much residential development will cause stifling restrictions on what a farmer can and cannot do. He is not convinced that planning houses on this property is good stewardship. Agriculture is and will continue to be what matters. He also said the sounds of the sugar beet trucks are loud at times and he can't imagine people not being annoyed by that.

**Mary Beumeler – IN OPPOSITION – 13379 Galloway Road Caldwell ID 83607**

Ms. Beumeler is an Idaho native. Her family has farmed for 4-5 generations. She said this proposed development doesn't fit the area. It is a high production farming region and it is not just the beet trucks but the dairies which are a huge economic contributor to the state. The dairies' big trucks are in addition to the beet trucks; every day, all day long and sometimes at night. They will all be adversely affected by this development. They stated that they wanted to provide more homes for people to afford to live here: the median home in the valley is \$500,000 and that's on a little lot. These homes on 2 acres will cost \$700,000 to \$1 million or more. She said this won't provide affordable housing for teachers and janitors. It may bring in revenue for the year they are building but that's it; then we are replacing producers with consumers and we need to protect our producers. She said the issue is not just ground water. She said we are blessed with Black Canyon Irrigation water which is the finest and most plentiful irrigation water in the Valley. It is a rare and precious resource and we can't toss it aside for houses. Once they start this fragmentation of farmland, it will continue. She said we have this Comprehensive Plan for a reason.

**John Ihli – IN OPPOSITION – 15612 Sand Hollow Road Caldwell ID 83607**

Mr. Ihli said he was born and raised on a farm two miles north of the subject property. There are many reasons to deny the amendment to the land use designation and rezone including traffic safety, infrastructure inadequacies but he is going to focus on agriculture. The burden of proof is on the applicant to show the property is better suited as houses rather than farm ground. He said they have heard the argument that this is not prime or viable farm ground and should be rezoned to residential. For the last 35 years, he has worked in the agri-business industry in Idaho. He has observed how technologically advanced this ag industry is; farmland that was challenging 30 years ago has numerous new tools that can be used today. Not only can it be more productive, it can be productive in a more efficient manner. Mr. Ihli said 30 years ago, most onions in this valley used to be furrow irrigated and now almost all are drip irrigated. This has enabled better water efficiency and better pest and fertilizer management. It also maximizes land use. He said we don't know the extent or capability of the farmland in the Valley because of the technology. The production opportunities are vast but if it is turned into houses, we will never know.

**Stephanie Hopkins – Applicant (Representative) – REBUTTAL – 5725 N. Discovery Way Boise ID 83713**

Ms. Hopkins said the applicant and the property owner believe this site is better used as a residential subdivision because it is not easily farmable for the type of farming they would like to pursue. It is not optimal agricultural ground. The property owner wants to grow alfalfa and that is not possible on this ground in its current condition. She said there is probably not a perfect use to make it harmonious with agriculture but they are making every effort to make it harmonious with adjacent development. That would be done through putting conditions on it and could be achieved through CC&Rs or a development agreement enforced by the County. They will coordinate with Middleton School District to make sure they are locating a school bus stop in a safe place for the kids. They will also be coordinating with Black Canyon Irrigation District and Canyon Highway District 4 on all the traffic and irrigation concerns that brought up. Ms. Hopkins said any of the new wells would be studied heavily and they will coordinate with Southwest District Health and Black Canyon Irrigation to make sure there is capacity. They would be willing to reach out to Idaho Department of Water Resources to see if they could provide information based on existing wells to check their depths and see how their development may or may not impact them. She said overall, this use could be compatible with adjacent uses.

Commissioner Williamson asked whether they have considered doing a community well. Ms. Hopkins said it would be an option and they haven't looked into the engineering on the project yet. The applicant would be amendable to that. She said they would be using pressurized irrigation, using the water rights available to the property and mentioned the pond which she said would help re-charge the groundwater.

Commissioner Amarel asked about the easement needed on the property. Ms. Hopkins said they have

coordinated with Bureau of Reclamation in the past with their facilities. She believes they located the road there so they could relocate the siphon and improve the facility.

**MOTION:** Commissioner Williamson moved to close public testimony on Case OR2022-0007 & CR2022-0015, seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill stated he was not in favor of either the comprehensive plan amendment or the rezone. He feels this is not compatible with the area, and he feels it is going to have a significant negative impact on the schools, farms and dairies and the water. He is concerned about externalities; there are costs to some actions not borne by the parties of the action. Instead, it is borne by the community. If wells go dry or if schools have to be built, that cost is borne by the community by an action taken they were not a part of. He doesn't believe Middleton's mistakes need to be Canyon County's mistakes. They don't need to look at what is being proposed as an extension of the Middleton city limits and say it is a done deal. It is not a done deal at all and looking at the character of the area, it would be a mistake to say we need to extend residences out there. Commissioner Nevill said we have heard a contradiction tonight about who is going to live there. If they are going to be half a million dollar homes, there won't be kids there; it will be retirees from California. The contradiction is that they (retirees) don't vote for the school bonds. All in all, he feels it is way too soon for a subdivision and hopefully it will remain active farmland.

Commissioner Amarel said he agrees with Commissioner Nevill but he wanted to bring up water and public safety. He knows the road conditions during the sugar beet campaign and putting a turn right at that beet dump will be a public safety issue. Given the road conditions and all the other things, he is going to have to go along with the recommendation of staff.

**MOTION:** Commissioner Williamson moved to deny Case OR2022-0007 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 5 in favor 0 opposed, motion passed.

**MOTION:** Commissioner Williamson moved to deny Case CR2022-0015 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Nevill. Roll call vote: 5 in favor 0 opposed, motion passed.

- **Case No. CR2022-0005/Tanner Verhoeks – Haven Creek Subdivision:** The applicant, Tanner Verhoeks of Haven Idaho, is requesting a Conditional Rezone of parcels R28963, R2891010, R2891011 and, R28961, approximately 43.95 acres, from "A" (Agriculture) to CR-R-1 (Conditional Rezone – R-1 Residential) zone. The request includes a development agreement to limit residential development to 26 lots with an average size of 1.69 acres. The subject property is located at 9814 Robinson, Nampa; also referenced as a portion of the NW¼ of Section 17, T2N, R1W, Canyon County, Idaho.

**Planner Michelle Barron** reviewed the Staff report for the record including late exhibits.

**Acting Chairman Brian Sheets** entered the late exhibits into the record and affirmed the witnesses to testify.

**Testimony:**

**Tanner Verhoeks – Applicant (Representative) – IN FAVOR – 25530 Gooseberry Lane Caldwell ID 83607**

Mr. Verhoeks thanked staff and talked about a prior project that was brought in front of the Commission. He stated his commitment to the neighbors and said he followed through on his commitments on the prior project. He has the same commitment with this project. He said he is a resident of the area and shares some of the same concerns about growth including traffic, groundwater, septic and schools. He understands that development has to happen in certain areas and the land is in Nampa's area of city impact. The project property is surrounded by subdivided residential land. If locals don't do the thoughtful, purpose-driven, rural developments someone else will come in and do something very different. He said they believe this development is part of the solution. They held a neighborhood meeting and held a voluntary, second neighborhood meeting. They listened to the community, agencies and County staff. He talked about some of the specific concerns of the neighbors to the property. In the end, he said some will support the project and some will not; not everyone will be happy. He asked that they judge the project not based on what others have done but what he has done and is proposing that night. He is asking for approval of the rezone the 44 acres and some feedback on which subdivision layout/direction would be preferred.

Commissioner Nevill asked if he agrees with the five conditions of approval? Mr. Verhoeks said he would like some discussion about those conditions, specifically the number of lots in the subdivision and the community water system. Commissioner Nevill asked how would he protect the canals from people? Mr. Verhoeks said Nampa Meridian Irrigation District has easements in place to protect the canals and said they have discussed options about fencing. Commissioner Nevill said some of the runoff drains to another neighbor's property and would he negotiate an agreement with the neighbor? Mr. Verhoeks explained the drainage and said he was discussing options with the neighbor and they would figure that out on the preliminary plat. Commissioner Nevill said lots that are already developed are much larger and asked how many administrative splits are available for the property. Staff did not know the answer.

Commissioner Williamson asked if he had discussed the proposal with the Fire Department. Mr. Verhoeks said yes, he has discussed solutions on water supply requirements and house sprinklers with the Kuna Fire District. Commissioner Williamson said there were some comments about the Kuna School District capacity issues. Mr. Verhoeks said he just got the information today and they are going to sit down with them to find solutions. Commissioner Williamson asked if he has he thought about the bus stop. Mr. Verhoeks said it will be in their discussions.

**Becky Yzaguirre – IN FAVOR – 332 N. Broadmore Way Nampa ID 83687**

Ms. Yzaguirre said they are requesting a conditional rezone and development agreement for a 43-acre property which is currently zoned agricultural. They are proposing an R-1, low density residential with 26 or 29 lots with a minimum lot size of 1-acre and an average lot size of 1.41 acres. To help it blend with the surrounding area, they would have no curbs, gutters, sidewalks and street lights or landscaping. She said the original proposal was 26 lots with individual wells and septic systems but the County asked them to consider a community well instead of individual wells. After consultation with agencies, she said they decided that the 29 lot option with the community well and individual septic was preferred by the County. At the request of County staff, they are asking for only the rezone at this time, instead of the conditional rezone with the plat. They are asking for a 29 lot maximum, instead of the 26 lot (design). It complies with the County's current Comprehensive Plan and the City of Nampa's Area of City Impact designation of low density residential. They feel this is a good compromise with what the County wants and the City of Nampa has envisioned for the future.

**MOTION:** Commissioner Nevill moved to give 1 more minute of testimony to Becky Aguirre, seconded by

Commissioner Williamson. Voice vote, motion carried.

Ms. Yzaguirre continued: The zoning designation is appropriate for the area as the adjacent properties are zoned residential. Many subdivisions around the subject property were approved with a conditional use permit because the process was different at the time. They would like the 'Right to Farm' verbiage on the face of the plat and the plat notes as well as the 'Right to Farm' acknowledgement in the closing documents. They ask that R-1 zoning be restricted to no more than 29 lots and that the condition be added to the staff report.

Commissioner Williamson asked about a small portion of the property and Ms. Yzaguirre said that small piece of land was owned by the ditch company.

**Acting Chairman Sheets** stated it was 11:00 pm and took an informal poll on whether they should continue with the hearing or table the agenda item. It was decided to continue with the hearing despite the late hour.

**Acting Chairman Sheets** entered late exhibit into the record with Commissioners Nevill and Amarel voting against entering late exhibit 14M into the record because the opposition had not had time to review it.

**Isaac Josifek – IN FAVOR – 104 Fern Court Parma ID 83660**

Mr. Josifek is the engineer on the project. He spoke about the drainage on the northeast part of the property. There is an existing drainage ditch that runs along the east boundary of the property and crosses underneath the Bridenbach canal out to Lewis Lane. The plan is to improve the siphon if needed and pipe drainage across Lewis Lane or use grading to keep it onsite. An alternative would be to have an agreement with the neighbor so they (the neighbor) could use the drainage.

Commissioner Nevill said most subdivisions say specifically that drainage must be retained onsite; are they unable to retain all drainage onsite? Mr. Josifek said all drainage can be maintained onsite or conveyed through pipes.

Commissioner Williamson asked if was an irrigation drain maintained by the irrigation company or a private drain from tailwater. Mr. Josifek said it is a private drain and not part of the irrigation system. He said it has waste irrigation water during irrigation season and in the in the winter months, it collects runoff.

**Colby Lampman – IN FAVOR – 10361 Sumpter St. Nampa ID 83687**

Mr. Lampman is a real estate broker. He cares about the community and the city. He serves on an impact fee advisory committee for the City of Caldwell so he deals with a lot of discussions on growth. He was not involved in the purchase of this property. He doesn't endorse developers often but he is here as a supporter of Haven Idaho and of the development in Middleton. His perspective is that seeing people moving here and the need for housing because of the shortage, he believes there has to be mindful development. He endorses Haven Idaho because they are mindful of their developments. They want to be sure neighbors are happy and not just maximizing the number of lots and profit. They do public parks in their communities; they are great developers. He doesn't endorse many developers as many are greedy.

**Terry Scanlan – IN NEUTRAL – 412 E Parkcenter Blvd. #100 Boise ID 83706**

Mr. Scanlan is an engineer with HDR Engineering and is an engineer/geologist. He has reviewed two previous groundwater studies. The aquifer is strong and water levels are stable. Productive wells can be obtained.

Commissioner Nevill asked about the community well versus individual wells. Mr. Scanlan said the impact on the aquifer is about the same. Commissioner Nevill asked if it could it be a different aquifer. Mr. Scanlan said it could be deeper. He said they do have to have a water right and these get worked out in the Department of Water Resources. The disadvantage is that you have 29 homeowners running a water

company.

**Sue Marostica – IN OPPOSITION – 4596 Dye Lane Kuna ID 83634**

Ms. Marostica's property backs up to the subject property. She farms 16 acres. Many of the neighbors bought these large plots to live in the country. Their biggest concern is water. She said their well went dry even though the reports say the aquifer is stable and that it hasn't dropped in 20 years. When their well went dry, they couldn't get anyone out so all they could do is drop to the end of their casing. Now they have to have a lot of filtration because of the sand. They have had 2 neighbors who had to drop their wells another 150 feet because their wells also went dry. She said now they get by until the end of the drought years when their pumps are sucking air again. The neighbors directly behind them had a well go dry last May and they had to re-drill. She said there are severe water issues in the area and there is caliche. She was also concerned about the property behind this one that doesn't have road access. She believes that property will also want to subdivide if this rezone goes through. She is also concerned about fire. Commissioner Nevill asked if she had any conversations with the well driller about the aquifer re-charging. She said her original well casing was originally set at 85 feet and it went dry in 1995. They couldn't get anyone out to drill them but someone could pull the pump and drop it farther. They pumped sand for about 6 weeks; both neighbors then went dry and had to go down another 150 feet. They don't water their pasture with the well water. She believes her neighbors paid between \$50,000 and \$63,000 to re-drill their wells.

**Larry Peterson – IN OPPOSITION – 6411 E. Lewis Lane Nampa ID 83686**

Mr. Peterson said the major concerns of the residents in the area are incompatibility of the development and the increase in traffic congestion on Robinson Road. They have detailed those concerns in letters they submitted. His greatest concern is that he and his neighbor will be left holding the bag if the development is permitted. Drilling new wells is expensive. He read a statement off Haven Idaho's LinkedIn profile which indicated they only do projects that they can create financial excess which they use to improve the lives of neighbors or the local community. Based on the neighborhood meetings Haven Idaho held, he said they have made it abundantly clear that they will not be using their financial excess to improve the lives of neighbors. He said they have stated repeatedly that they have no responsibility nor liability if the neighbors' wells go dry as a result of the impact on groundwater. They don't care if this is incompatible with current land use and don't care if it creates more congestion. These impacts will not improve neighbors or the local community. He said the principals of Haven Idaho won't be living there nor will any of those testifying in favor of the project. He is not against capitalism but he is against it when it has great expense to those who remain the area. He asks that the zoning change be denied. They have made it clear to Haven Idaho that if they develop the 43 acre parcel, ask for 5-acre parcels and leave the zoning as it currently stands, they would not take exception to that.

**Cynthia Atnip – IN OPPOSITION – 9886 Robinson Road Nampa ID 83686**

Ms. Atnip is concerned about water also. The road is busy with milk and feed trucks and that it is hazardous. She said there are going to be many students and that will impact the school district. She has seen vehicles run through the stop sign many times. Twice in the last two years, cars have ended up in her field and 29 houses are going to have an impact on the traffic. She said it's already horrible and that stop sign gets a lot of traffic. She has had a fire at her house and it took Kuna Fire Department an hour to get out to her house. She also had a tree fire and because Kuna Fire wasn't available, Boise Fire Department came and put that fire out. She asked about the rights of her animals; people have been known to throw waste over her fence. People aren't mindful when they come from the city. The land next to her (subject property) is very arable. It has always had a crop on it until the last 4 years when she said he used it for his horses. They have grown grapes, beets and corn.

**Kimberley Smith – IN OPPOSITION – 6715 E. Lewis Lane Nampa ID 83686**

Ms. Smith lives in the ‘runoff house’. She is worried about the large draw down in the water table in dry years. She called the Department of Water Resources; she showed on a map where there is a 17-foot drop and where the wells are very shallow. Their property is on its 2<sup>nd</sup> well: the initial well was at 65-feet and it went dry. Their neighbors live in older homes and have very shallow wells that were drilled a long time ago. She is worried about their wells in drought years because there is a large drawdown in the aquifer during that time. The Department of Water Resources said there is very little data for the area because the closest monitoring wells are 2-3 miles away from them. When she offered to become a monitoring station, they told her that other agencies do that and they couldn’t help. She is also concerned about the septic because there is a large drop off to the north and west. She is concerned about contamination that could be caused by a septic failure or a large congestion of homes.

**MOTION:** Commissioner Nevill moved to give 2 more minutes of testimony to Kimberley Smith, seconded by Commissioner Villafana. Voice vote, motion carried.

Ms. Smith continued: She is worried about the drought years when they turn the irrigation off: what if they use their wells to irrigate their lawns. There is an access road that runs behind their property. Boise – Meridian owns the land and they do not use it. They run a sheep farm and have lots of chickens, roosters and turkeys. It can be pretty smelly and they make lots of noise. She doesn’t think the Right to Farm Act clause is going to provide protection for them after the rooster wakes the new homeowners up night after night. She is very concerned about the canal; they have wire fences along it but she is worried if all these people have access to that greenway, there is going to be a problem.

**Brad Smith – IN OPPOSITION – 6715 E. Lewis Lane Nampa ID 83686**

Mr. Smith spoke about the walkways along the canal and is concerned about strangers walking behind their house. Last fall he caught some people out there with pellet guns wandering around on his property looking for things to shoot. He said they are concerned about neighbors walking along back there with an attractive nuisance like a canal. They have also lost several sheep and other animals because of dogs. Even though the canal is on his property, they have no rights to it. His irrigation comes from the southeast corner and there is 1000’ of pipe that runs down, under the field and into his yard. While they have talked about burying the pipe, that could be a problem because when the irrigation starts up, he has to clean it out which is a problem if they bury it. He also needs to have access to that southeast corner so he can turn his irrigation on. He doesn’t have rights to the drainage ditch but he does use it. His neighbor across Lewis Lane just spent \$10,000 to put in small catch pond and a pump system in so he could irrigate his property from it. He talked about flooding on the property. They would like to add more livestock in the form of cows and pigs to their property. He just doesn’t think this (development) is in harmony with the area.

Commissioner Williamson asked how he was accessing the portion of his property across the canal. Mr. Smith said he built a small bridge.

Commissioner Nevill asked how he accesses his water and where the weir was located. He confirmed that they were a part of the Boise-Kuna Irrigation District. He asked if the condition maintaining the historical drains, laterals and ditches made him more comfortable about the protection of his water rights. Mr. Smith said he was still concerned.

Commissioner Williamson asked how often does the drainage ditch run? Mr. Smith said he only saw it during the irrigation season and it can become pretty swampy.

**Jim Danes – IN OPPOSITION – 9731 Robinson Road Nampa ID 83686**

Mr. Danes owns the property right across Robinson Road from the proposed property and would like to add his testimony to Mr. Smith’s about the ditch. He said once you bury it, the entire distance is your



responsibility even if someone else breaks it. He has had that happen to him. He believes the principals don't have their interests at heart. He said the prior witness who said they (Haven Idaho) told us they don't care and it wasn't their problem, he said was there and they said that. He said they don't have our interests at heart; they have their pocketbook at heart. He is worried about the water levels and septic systems. He is worried about Reed's Dairy down the road; a 3 generation family dairy. They have been there longer than he has lived there, which is 35 years. The dairy milks over 800 – 1200 cows a day. They own 10 acres on the east side of their property which is where they put all their manure. He said there is a statute says you can't put a subdivision within a mile of a dairy or a dairy within a mile of a subdivision. This is the third time someone has proposed to put multiple homes out there and each time it is shut down before it has gotten to this point. He showed where the dairy is and said it is 7/10 to 8/10 of a mile to the dairy as the crow flies.

Commissioner Nevill said the staff said the dairy was within .8 of a mile of the subdivision. He asked for staff to show a map showing the property and the dairy.

**Ray Moore – IN OPPOSITION – 7016 East Lewis Lane Nampa ID 83686**

Mr. Moore said they spread manure on the property across Dye Lane. He has farmed the property for several years for the previous owner. The water that supplies the subject property supplies 5 or 6 other properties with water. He is afraid if the subdivision is off for a week while everyone else is irrigating, how are they going to handle that? He is afraid they will use their well water to irrigate their properties. He is concerned that they are not the only people using that irrigation water; there are 5 or 6 other people off that head gate which is a major concern for him. There is one pipeline; an 8-inch pipe and he said you can't add any more capacity to it. He has seen 2 cfs/900 gallons per minute running in the drainage ditch multiple times. There is no way they can maintain the water on site; it's too much water.

Commissioner Villafana asked Mr. Moore how productive the farm ground is (on the subject property). Mr. Moore said it is normal soil for this area; it's not the best soil in the world but the people farming there have grown sweet corn, sugar beets, grain on it. Mr. Moore said he would like 5 acre lots.

**Dewight Higel – IN OPPOSITION – 9832 S. Locknane Court Nampa ID 83686**

Mr. Higel said his concern is water: it's all about the water. Houses are worthless without water. He doesn't know how many people there can write a \$50,000 check for a new well. He feels they are going to develop, get their money and run. He said they don't care. It's going to set a precedence. The traffic, water, sewer, community well; that (community well) is a concept he doesn't understand. He said if you put one big straw or a bunch of little ones, what's the difference?

**Brandon Richards – IN OPPOSITION – 9529 Robinson Road Nampa ID 83686**

Mr. Richards is kitty corner from the southern side of this proposed development. He asked whether Nampa Fire Department was considered in all the studies they have done. He said when they pay their taxes, it goes to both Nampa and Kuna. When they call 911, they get Kuna FD and the Canyon County paramedics. The International Association of Fire Fighters sets the standards for response times and they are supposed to average 5 ½ minutes. Right now, their property is a 10 minute drive and that doesn't include dispatch times, time for them to put on their gear and get out the door. Their response times are pretty delayed. With Robinson Road being so windy, there are quite a few accidents. He has seen one right outside his driveway and his neighbor's driveway. The speed limit is 50 mph and with school buses stopping on the road and it being poorly lit; he sees a lot of accidents happening. If his mother in law's well goes dry, he knows she doesn't have the funds to drill a new well.

**Justin Ruthenback – Applicant (Representative) – REBUTTAL – 521 N. 10<sup>th</sup> Ave. North Caldwell ID 83605**

Mr. Ruthenback said they have heard the feedback tonight and it is the same that they heard at the neighborhood meeting. They have said 'yes' they can fix and take care of a lot of problems and are happy

to do it and work through the details. Mr. Ruthenback said, regarding the groundwater, the staff report has detailed information about the local hydrology based on the Department of Water Resources monitoring wells. It is information from best experts they could find on the local water situation. The science and data show the ground water level is stable and the recharge rate is healthy. Some of the wells have static water levels at 47 feet; others have static water level at 80 feet. They already have a well on the site and would be happy to monitor it as well as other neighbors' wells. Their application would be 26 lots with individual wells or 29 lots with a community well. There are multiple options on the issue of fire. Mr. Ruthenback said Kuna Fire has told them what they would like; they will engineer a year round pond and are willing to discuss sprinklers. He said they will work with them and are adaptable. This land is 1 ½ miles from Nampa's city limits and is in Nampa's area of impact. Nampa is growing in this direction and both Nampa and the County have it designated as low density residential. Nampa wants 60 – 90 lots instead of the 29 they are proposing. He said they are fine with the fencing. They are well within the limits with their septic systems from their NP study. They are willing to go up to 65% systems to alleviate that. Commissioner Williamson asked Mr. Ruthenback about being willing to do a local monitoring well and said doesn't Idaho Department of Water Resources usually prefer to use the larger irrigation wells or community wells to monitor because it's easier than an individual well. Mr. Ruthenback said yes, but there is a willingness to work on that together and the thought is, the more data they have, the better. Commissioner Nevill asked about the impact of putting the firefighting pond on a lot and wouldn't that take away a lot? Mr. Ruthenback said no, the combination irrigation/fire suppression pond has been put in the existing design. There was additional discussion about the design and engineering of the fire suppression pond and its location. Commissioner Nevill asked if there was any appetite for 5-acre parcels. Mr. Ruthenback said the 26 lots is where the cost of roads and other requirements pencils out. Commissioner Nevill asked about the weir located at the southeast corner that a resident needs access to; is he going to replace that or will it stay and allow access via an easement? Mr. Ruthenback said he is willing to move it up to the north for the one neighbor who needs access. Commissioner Nevill asked staff what the requirements were for the location of the dairy and subdivision. Planning Official Dan Lister said it was his understanding that their code says that dairies have to look at the distance from housing, not the other way around.

**MOTION:** Commissioner Williamson moved to close public testimony on Case CR2022-0005 seconded by Commissioner Amarel. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Villafana was concerned with compatibility. The lot sizes close by and to the south are big Ag; big Agricultural properties and multiple dairies. It is not compatible to him. It is in agricultural production and is a good piece of ground. Traffic is a concern as some people have mentioned there have been accidents and he has noticed some additional crosses recently appear on Robinson Road. There are more accidents happening due to the traffic. Water is a continuing concern and people have mentioned multiple wells drying up. If City of Nampa is getting close and they are suggesting smaller lot sizes, maybe it makes sense to wait for the city to get to this area. He can't support it as it has been presented. Commissioner Nevill said he agrees with everything Commissioner Villafana has said. He said he is not interested in trying to craft a whole slew of conditions to try to make it so they can approve it. He understands the tradeoff between 26 lots and 29 but there are so many other issues, he doesn't want to make it try to work because he just doesn't feel like it is compatible. Commissioner Williamson wanted to point out Exhibit 14F which is a letter from the Kuna School District talking about overcrowding in their schools with developments in Ada County. Any children in this subdivision will be going there.

**MOTION:** Commissioner Williamson moved to deny Case CR2022-0005 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: 5 in favor 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 1/5/2023, seconded by Commissioner Amarel. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Director Sabrina Minshall said they are still finalizing when and how to have the joint meeting with the Board of County Commissioner. They will talk at the next meeting whether to cancel the regularly scheduled Planning and Zoning meeting. The next scheduled hearing (2/16) they will bring back the revised FCO's for the prior case and focusing on some training topics (like a workshop). The next meeting with any public hearing items will be 3/16.

**ADJOURNMENT:**

**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Amarel. Voice vote motion carried. Hearing adjourned at 12:35 am.

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

Approved this 16th day of March, 2023

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Brian Sheets, Acting Chairman

ATTEST

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Bonnie Puleo, Recording Secretary