



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, August 17, 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  
   Harold Nevill, Commissioner  
   Miguel Villafana, Commissioner  
   Geoff Mathews, Commissioner  
   Matt Dorsey, Commissioner

Staff Members Present:        Dan Lister, Planning Official  
   Sage Huggins, Planner  
   Bonnie Puleo, Hearing Specialist

**Acting Chairman Brian Sheets** called the meeting to order at 6:30 p.m.

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

- **Case No. SD2018-0013/DTH Subdivision:** A request has been submitted by Patricia Dodson for approval of a Preliminary Plat for DTH Subdivision. The development consists of 7 residential lots and 1 public road. The subject property, Parcel No. R30461 is located on the east side of Robinson Rd., approximately 693 ft. north of the intersection of Orchard Ave. and Robinson Rd., Nampa, Idaho, in a portion of the SW ¼ of Section 17, T3N, R1W, BM.

**THIS ITEM CONTINUED FROM 7/20/2023 HEARING**

**Planning Official Dan Lister** reviewed the Staff report updates for the record.

**Acting Chairman Brian Sheets** affirmed the witnesses to testify.

**Testimony:**

**TOM HOOD – Applicant (Representative) – IN FAVOR – 6405 83<sup>rd</sup> Avenue SE Snohomish, WA 98290**

Mr. Hood wanted address the issue with the City of Nampa again. He stated that an example of this would be when the annexation of County property occurs, the County is out of the picture and the city takes over. While all city codes will then apply, they require property owners to upgrade to city standards (immediately). He said what triggers the upgrades is an action by a property owner, like a land use action and then City codes then apply. If you never propose any land use action then city urban codes don't apply. Mr. Hood stated that the city does not want a letter circulating that states the improvements are absolutely waived.

Commissioner Williamson provided an example of a property doing an upgrade to their property and asked whether that owner would have to do the frontage for the entire subdivision or just for their property. Mr. Hood said in his experience, it is only for that property owner's frontage.

Commissioner Nevill said he is worried about the future homeowners; what protects them? Is there a note on the plat that says they could be subject to fees if it is annexed into the city? Mr. Hood said there is no note but there is also no code that allows a city to impose those things without there being a land use action being applied for. Commissioner Nevill said in the future, when the subdivision exists without improvements and has been annexed in, will they be told by the city that if they want to do this, they will have to pay to put in the improvements? Mr. Hood said yes, like any other lot in the city. Commissioner Nevill said this sounds like it comes down to one of two choices: either the Commissioners waive the improvements or they impose the condition that the developer must make the improvements. He asked if that dooms the development? Mr. Hood said it makes the development economically unviable because it is a low density development with high density improvements required. The expense is very high compared to the lot yield. His preference is for them to waive the improvements but even if they do, it doesn't change the City of Nampa's ability to require them in the future.

**DERRITT KERNER – IN FAVOR – 9175 W. Black Eagle Road Boise, ID 83709**

Mr. Kerner is the design engineer on the project and is here to answer any questions on the project. Commissioner Williamson addressed a concern about irrigation drainage to the north. Mr. Kerner brought up an exhibit he prepared to address that issue. He explained his map which showed the direction and path the irrigation comes to the property. They are proposing to catch it through an improved structure, remove it from the right of way per the requirement from the Highway District, and direct it to a pressurized irrigation system through the property and where it will be discharged.

Commissioner Nevill asked if the property owners to the north were only eligible for tailwater? Mr. Kerner said he didn't think so, he believes the water has simply been unreliable in the past. If they are paying for their water rights over the years, they are still available, it has just been unreliable. Mr. Kerner said they want to convey the gravity irrigation to their neighbors to the north, which is different from storm water which will be stored on site. He believes when Stamm Lane comes through, the Highway District will put a pipe in.

Commissioner Dorsey said he is assuming the ditch that is running in the right of way is feeding the neighborhood the north. Mr. Kerner confirmed that it flows into the neighborhood to the north. Commissioner Dorsey asked when water drops into the swale, if you have neighbors who are higher up, how will they get their water? Are they completely taking out the existing irrigation system or are they leaving it in for the additional irrigators down below? Commissioner Dorsey asked if they a part of that system or was it dead-ending at their pump? Mr. Kerner said it does not dead end and they continue to convey that water to where it should go. It is not a dead end.

Acting Chairman Sheets asked if the new irrigation plan was on the plat as it is now. Mr. Kerner said yes, he was just highlighting it so it was easier to see. Acting Chairman Sheets said with his explanation, they understand his intent but to the extend it was clear on the plat was a different question. When you talk about turning in an irrigation plan, it creates a legal obligation under Idaho irrigation code. Those intentions are relatively important. He will be curious to hear what people downstream have to say about this.

**PHILIP HANSON – IN NEUTRAL – 1118 North 62<sup>nd</sup> Place Nampa, ID 83687**

Mr. Hanson said where the irrigation discharges right now is at a low point and his property is higher. The irrigation is gravity fed so the irrigation water runs through at a sideways angle and ends up at his property. When they develop the area, it will interfere with the gravity feeding to his property. It does go to the west of 62<sup>nd</sup> but it isn't on his property, it's his neighbors. If he wanted to pump it out of that area, he would have to run power through his neighbor's property. If he wants to receive irrigation water, the only way he will receive irrigation water is to be connected to their pressurized irrigation system. If you follow the contouring of the land, it just falls down to the bottom where it is now. It will never carry into his property. He doesn't know what the solution would be; go under Stamm Lane and into his property?

He is out there on a daily basis with an acre of land, watering it off his well. He has had irrigation in the past and it did run for several years. If it designed and built the way it is now, he will be denied his irrigation. He thinks the only solution is to bring their pressurized irrigation system into his property. He isn't opposed to the development because it has been neglected for years but he doesn't want to be denied his irrigation. He wanted to be sure everyone knew that the contouring of the land makes it so the water falls away from his property.

Commissioner Villafana said regarding the inconsistent nature of the water he has been getting in the past, has he spoken to the Nampa Meridian Irrigation District? Are they aware that the water doesn't make it his way? Mr. Hanson said when he bought his property, he had flood irrigation. There were existing head gates when there were cows on the adjoining property. Eventually the cows went away and no activity and he thinks the water went right on by. There is water at the low point right now, but can't make it up to his property, short of cutting through the project property's ten acres. When they develop the property, it will all slope away. Commissioner Villafana felt it was worth having a conversation with the Irrigation District because if that is the way his legal deliver of water is, he still needs to have his water delivered. They would be involved in agreeing to whatever underground piping they (the developer) puts in.

Commissioner Nevill asked Mr. Hanson if the condition proposed that the development can't interfere with existing irrigation ditch, canal and flow patterns. If the project is approved with that condition, he suggested Mr. Hanson have a conversation with the developer and the engineer because they can't cut him off from his water, per Idaho code. Mr. Hanson said ideally, he would like to be hooked up to the development's pressurized system. Commissioner Nevill said while they can't get that detailed, they can say they can't interfere with the delivery of water to him or anyone else downstream and he would be surprised if they weren't willing to work it out with him. They will get in trouble if they cut him off from the irrigation. The Irrigation District could take legal action. He suggested that working with them now is his remedy to figure out how they will get the water to him.

Commissioner Dorsey asked if he had any communication with the developer on getting water and if his ground was the highest ground on the topography or are there other neighbors higher. Mr. Hanson said he was highest on the topography to the east of the canal; there are people to the west but they would have the ability to pump it because it is right there.

Planning Official Dan Lister added on behalf of staff that State law requires as part of the platting process, they have to convey water; they can't stop water use for another neighbor. It does get reviewed prior to final plat in order to get approved. Staff will be proposing two additional conditions. One is based on if the Planning & Zoning Commission decides to go with a deferral; Condition #8 would state that before the Board signs the final plat that the plat be signed by the City Engineer as stated in the Area of City of Impact agreement. Additionally, note 17 on the plat needs to state that development on slopes over 15% shall be prohibited. This would be Condition #9 if the Planning & Zoning Commission agrees to it.

**DERRITT KERNER – Applicant (Representative) – REBUTTAL – 9175 W. Black Eagle Road Boise, ID 83709**

They are just fine with the conditions proposed by DSD staff. In talking with Mr. Hanson, they will be working on getting him water. This parcel has been vacant for at least 10 years and no one has been trying to water anything or send water through it. There's a valley with two high points on this land. They are going to convey water higher and around the cul-de-sac and down and serve Mr. Hanson, so he is the highest point. They will still want excess water to flow down to the area of development. We don't want water to flow to people who have not traditionally received it in the area downstream. It's a water-users association; non-jurisdictional. The head gate at the main canal to the Southwest, Nampa Irrigation district turns it on and it's up to everyone privately to divide the water and share. It's an old system that can be adjusted to assist Mr. Hanson and the other residents in the area.

Commissioner Dorsey expressed his concern about the outdated system of having only one head gate instead of each property having their own individual head gate. Updating to city standards is challenging,

but it has been a known issue for many more years than ten years. The ditch has existed since the original development many years ago.

Commissioner Williamson asked staff about a potential condition for Mr. Kerner regarding getting irrigation to Mr. Hanson or just stick with the existing historical condition. Mr. Dan Lister suggested a condition would not be necessary, as the plat and irrigation plan presented meets the minimum standard of State code and that there’s enough information that shows it’s delivering water as it historically has. State law protects the owners.

**MOTION:** Commissioner Nevill moved to close public testimony on Case SD2018-0013, seconded by Commissioner Williamson. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Williamson agrees with Commissioner Dorsey about how frustrating the current set-up with the irrigation system. There is potential for a developer to take all the water and leave others without any as the system exists now, whether intentional or not.

Commissioner Nevill has no problems with the development as presented and with the proposed conditions. We have to trust our other agencies to monitor the situation more closely.

Commissioner Dorsey states that the irrigation district will not monitor the situation closely because the community water district is actually in charge of monitoring the water distribution. He agrees that the water needs to be delivered from the high point as shown during the rebuttal presentation. He suggested a condition to require that historical irrigation lateral to the high point of the property and to show the gravity line on a new plat to show how water is to be delivered. His suggested wording would include ditch flow patterns and easements to the high point.

Commissioner Nevill reminded the others that is often why conditions are more general like this situation, it needs to say “all” historic needs to be maintained, rather than specific areas of the property. Dan Lister offered to craft language for Condition number 2 and bring it back for consideration by the end of the night. There will be edits to Conditions 8 and 9 as well.

Commissioner Williamson asked for clarification on the proposed vote to approve and whether that included the deferral language or did not include the deferral language. It would include the deferral and the edits to the conditions discussed during deliberation.

**MOTION:** Commissioner Nevill moved to approve Case SD2018-0013, including the Findings of Facts, Conclusions of Law and modified Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Mathews. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. CU2022-0044/Snake River Karters:** Snake River Karters Limited, represented by Dale Smitchger, is requesting to extend the existing racetrack on parcel R37628010 onto parcel R37629013A. The property is zoned “A” (Agricultural). The property is located at 0 Can Ada Rd, Star, Idaho; also referenced as a portion of the SE¼ of Section 36, T5N, R2W, Canyon County, Idaho.

**Planner Sage Huggins** reviewed the Staff report for the record including late exhibits.

**Acting Chairman Brian Sheets** initiated discussion and voice vote regarding the acceptance of late exhibits for this case. A letter from the City of Star arrived after the comment period had ended and Commissioner Sheets confirmed that they had been noticed at the same time as all the other public agencies. Commissioner Williamson expressed that they had already started the process of no late exhibits and that agencies should not have an exception that the general public do not. Commissioner Nevill said he would



have voted to postpone the hearing if they had not heard from the City of Star and that the late exhibit gave them the answers they needed to consider. Commissioner Sheets said he would not have postponed the hearing if the late exhibit is rejected. Commissioner Villafana expressed that he can see when a late exhibit from an agency might need to be accepted in cases of office delays, but generally agreed that the policy on late exhibits should be upheld. Voice vote carried and the late exhibits were not entered into the record. Acting Chairman Sheets affirmed the witnesses to testify.

**Testimony:**

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

Based on Staff’s presentation, Mr. Lakey affirms that all conditions remain, including Condition 15 as it currently reads. This is an historical track and has been part of the Treasure Valley racing history since the 1960’s. It is a lawful, non-conforming use and the applicant is now requesting an extension of the track. There are no adverse impacts from the track extension; rather it enhances the racing experience. The Foster family has owned this property for many years and had leased it out until more recently, when they donated the property to the Karters due to it being a positive influence in the area. The extension was built in 2005. The Karter family did not realize that they needed approval for the extension and have been working on obtaining that approval since 2005. They have since been able to acquire the land where the extension lies from the developer (Skyline Homes) and work out conditions of use, including a 15-foot berm on the boundary with the nearby residential development. This in a non-profit organization that holds 7-8 events annually, lasting from 1-4 days. There are not conditions currently in place to operate, but the Karter’s are willing to accept conditions, including operating hours from 9 am – 8 pm (or dusk). The facility is well maintained and a good neighbor. The facility follows the current code and Comprehensive Plan and they are seeking approval.

Commissioner Villafana asked about a fire mitigation plan. The track has a safety plan in place. Todd Lakey stated there is a fire station within a couple of miles to the South. There has never been a problem with this.

Commissioner Nevill asked how the applicant would prefer Condition 15 read or should a new Condition be crafted. The applicant would state that all the existing use and facilities are approved to include electricity, buildings, structures, the track, the expansion, the sound system. Not exclusively the expansion, as staff seemed to be focused on setting the conditions for. Additionally, the idea of motorhomes coming to the events was asked about and the applicant stated that it is part of the traditional use of the facility, as people travel from some distance to attend the events.

Commissioner Williamson asked for clarification of the months of operation and the applicant clarified that events are generally held during “good weather” conditions, but would want to confer with his clients on this point. Commissioner Dorsey asked if the application would be withdrawn if some of the conditions were enforced for the entire facility. Mr. Lakey indicated that it was possible; the applicant would wait for the P& Z decision and re-evaluate the extension, but they want to protect the historic use. Commissioner Sheets confirmed that the applicant feels that all of the conditions stated can be complied with.

**Roger Griffith – IN FAVOR – 4986 N. Maidstone Way Boise ID 83713**

He has raced at the track since 1972 and now has grandchildren racing there. The track is kept in top-notch shape. He wants the track to keep going and provide a wonderful family environment for years to come.

**Dale Smitchger – IN FAVOR – 6455 S. San Luis Way Boise ID 83709**

He has been part of the track club since 2010 and on the Board of Directors since 2011. He is very pleased to act as the project manager for this CUP process. There is great comradery and fun in the club. Having

the extension enhances the sport and they want to continue racing in the extension area. There is a lot of passion, heritage, and history behind this track. There are very few other outlets like this for racing. Commissioner Williamson asked about the months of operation: Mr. Smitchger confirmed that it is generally April-October. They have had a rare occasion in February for practice sessions, but not events. They can stick with the April-October and are comfortable having that stated in the conditions. They are already complying with the stated conditions of operating months, hours, mandated muffler to mitigate noise, etc. Additional question about their safety plan: Mr. Smitchger stated they have safety workers out on the track in the corners in case of collision, all having fire extinguishers. Each pit is required to have fire extinguishers. When asked if they would be willing to submit a written safety plan statement and submit to DSD as part of the record, they answered in the affirmative. They take safety seriously. Commissioner Nevill asked about Condition 16: Would they be comfortable with language being added to state 9 am – 8 pm or dusk (the earlier of these) and they stated yes; it's already in their rulebook.

**Tim Ross – IN FAVOR – 2195 N. Laughridge Avenue Meridian ID 83646**

Reading a letter from Nancy & Jeff VanWinkle sent to DSD Planner Sage Huggins in support of this project. They expressed support for the track for the others in the community who utilize it. They have lived about 1 mile away from the site for 14 years and have never felt or seen any negative affects on traffic or noise. With this long-standing community partner, they hope many more families can enjoy the track as their friends and neighbors have over the years.

**Jeff Shawver – IN FAVOR – 798 Monarch Street Eagle ID 83616**

He is the President of the racing club currently; has been associated with the club for 18 years and his son and daughter have raced at this track. He sought to answer more thoroughly some of the questions that have come up. As far as motorhomes/campers, there are an average of 3 at events. They do not have onsite dumping for RV waste or trash. Everything that comes in, goes out. Fire protection measures are that everything within the track is mowed weekly and there are fire breaks for the skydiving area. Each station has a fire extinguisher. The rule book covers the use of the extinguishers. No fire-proof suits are required; only abrasion resistant. There has never been a fire at the track in the 18 years he has been involved. As far as the size of the carts increasing, the National Carting Alliance insures only 125cc/2 stroke or 250cc/4stroke engines. There is also a weight limit – so there will not be any larger carts allowed.

**Doug Pederson – IN FAVOR – 1194 N. Legislative Way Meridian ID 83642**

His family has been involved with the Snake River Karters for almost 20 years. Two sons have raced. His wife has been a scorekeeper and registrar and he has been a mechanic and tuner. One son continues to compete in carting competitions. They both learned comradery, fair play and friendly competition at this track. The area of the track involved in the extension being considered under this CUP is at the southern most point of the property – thus the furthest it can be from the neighbors to the north and will result in little or no increased noise heard by them. Snake River Karters conforms to the rules enforced by the International Cart Federation for mufflers and spark arresters. They are required in every race. The track pre-dates any residential neighbors in the area and property values are not adversely affected by the track being in the area.

**Joe Ransom – IN FAVOR – 1336 N. Aster Place Boise ID 83704**

He has been part of the club since 1989. His father has been around since the inception of the track. His son is also involved in the club. The area of Star and Middleton have grown tremendously and they are looking to grow and improve along with the neighborhood. He has only seen two times when emergency services were onsite in 30+ years. The club has its own security and safety team as well. They don't want to see anything bad happen. One of their racers participated in the Indy 500 this year. He grew up at Snake River Karters. Commissioner Williamson asked if the club has a fair number of members from Canyon

County, as most of those testifying are from Ada County. Yes, they do. The facility was started in Canyon County years ago to get out and away from the city before the population exploded.

**Ray Ransom – IN FAVOR – 4210 N. Jones Boise ID 83704**

This club has been around since the 1960's and was built to be available to families for a good, clean activity. Drug use among the drivers is almost nothing. He's proud of that.

**Andrew Sarkany – IN OPPOSITION – 24777 N. Can Ada Road Star ID 83669**

Canyon County received a response letter from the City of Star when asked about this CUP case and Mr. Sarkany received the same letter. The city of Star is opposed to the track expansion because it does not fit with their future plan. Mr. Sarkany then stated that most of the neighbors have no idea how the noise levels will change with the expansion approval. When the expansion was used briefly in 2005 before it was discovered to have been done without approval, the noise was terrible and Snake River Karters admitted to using a cart engine that was larger than stated in the rule book. He can hear the carts inside his house with the doors and windows closed even now, without the expansion being used fully. He would like a noise study to be completed and a demonstration performed for the P&Z Commissioners before approval is even considered.

Commissioner Villafana asked Mr. Sarkany how long has he been a resident of the area around the track. He stated over 20 years, but when they bought the home they were not told there was a nearby track and could not see it. They only noticed it when the racing season began in April and the noise was apparent. The noise was 50% louder when they briefly used the expansion. He called to complain and passed on his complaints to the county, and that is how the use of the expansion was stopped. An additional question was presented as to what Snake River Karters could do further to make him feel better about living in the area near the track. He responded with a) perform a noise study and b) have a maximum number of carts allowed.

Commissioner Dorsey asked: What are you looking for from a noise study since it is a race track and tracks are noisy by their very nature? He would like there to be a restriction on the number of carts that can use the track and have no increase in noise if the CUP is approved; to make it a condition of approval that mitigation would be required if the study showed use of the expansion would increase the noise level.

Commissioner Nevill asked Mr. Sarkany to point out where his house is in relation to the track on the map. He is the next house to the north. He admitted that the hill buffers the noise somewhat.

Commissioner Williamson asked if Mr. Sarkany had similar issues with the nearby airfield. He indicated no; it is not nearly as loud. The mufflers on the carts are made of 6" pipe that often turn up at a 90-degree angle, thus increasing the noise level. An additional question was what hypothetical conditions would Mr. Sarkany like to see. He replied that for any given heat, there can be only a maximum number of carts and no simultaneous races.

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

This track has been at this location for nearly 60 years and you drive right by it on Can Ada Road. It existed before Mr. Sarkany bought his home. The track complies with the rules and requirements for those associations that they participate with. They have not used any larger carts or large engines than allowed. They have never received any complaints from their neighbors. The Fosters are the best folks to express the long-term and current opinion of this facility. They feel so positive about this operation that they donated the ground to them rather than sell it to someone else. Snake River Karters have done a noise study in the past and in Mr. Sarkany's cul-de-sac, it was measured at 60 decibels, which isn't obtrusive. In 2006, they did have higher participant races that they don't host now. There are usually 120 carts in one weekend. They have a maximum of 25 carts per race, with an average of 15 carts. Those who participate

now and have knowledge of how the track operates have given clear testimony; not speculation. The Comprehensive Plan of Canyon County is what applies in this matter; not the city of Star. They've coexisted peacefully with Ag and with their neighbors for 60 years. This is a unique recreational use that needs to be protected and preserved. There was a lot of talk about the impacts this has had on individual lives and the area and the Treasure Valley. There's no negative impact to the public agencies. We've addressed all those questions. It's a neat, well-maintained facility. We would ask the Commissioners to keep Condition #15 as it is written; this is important to Snake River Karters. They do not want to put this historic facility at risk. You have the discretion, as mentioned by staff, to keep that condition in there and we ask that you do that. We ask for your approval and welcome questions you might have. Commissioner Williamson asked for clarification on the idea brought up in the rebuttal letter that in the 2000's, Snake River Karters did run a bigger cart with a bigger engine but Mr. Lakey has stated that they did not. Mr. Lakey confirmed that it was an older engine in the past and the engines have improved, but are the same size. They did temporarily run an engine that included alcohol and could have no muffler attached, but those are not used now. They are not allowed. Commissioner Nevill asked Mr. Lakey about the letter from the city of Star that was introduced during testimony, though not part of the staff's presentation. He feels it's fair to ask – what's the long-term plan if Star opposes this facility? Mr. Lakey responded that Snake River Karters plan to continue to operate while acknowledging the facility is within the impact area for the city of Star. It is quite a way off and around a bluff before you reach the city limits. He reiterated that what applies is Canyon County's Comprehensive Plan, not the city of Star. This Comprehensive Plan supports this application. Commissioner Villafana recommended to Mr. Lakey that as he represents other applicants in the future, he points out the idea of growth and existing conditions needing to be balanced. Commissioner Williamson asked about Condition #14. He's concerned about the language of the last sentence which states that Snake River Karters must submit the contract with the company that services the portable restrooms to DSD and suggested dropping the sentence, as long as there was no objection by staff or the applicant. Mr. Lakey said it would be preferable to state that portable restrooms would be provided according to the number of people anticipated to attend events. All agreed with this change. Staff did re-state their recommendation to alter Condition # 15. Mr. Lister stated that this is supported by the code which states: "For non-conforming use, the purpose of this article for this chapter is to allow any non-conforming property use, or structure that was lawfully existing prior to the effective date of this chapter to continue until they are removed, but not to encourage their continuation. It is further the intent of the article that non-conforming uses shall not expand or extend the non-conforming aspects of the property use, or structure unless approved subject to the regulations of this chapter, which is the zoning ordinance." Based on this code, it says the use can continue as long as it remains lawful and does not expand or extend. It has to meet today's standards. Not just parts of it, but all of it. Because we don't want to encourage this continuation, this is the opportune time to expand and extend as a Condition Use permit. This will make it conform to code instead of being non-conforming, as long as they meet the conditions, which they are agreeing to. That is why staff is recommending Condition #15 be edited. The fear if the non-conforming status language is retained in this case will set a precedent for others who are hoping to keep a non-conforming status. We don't want applicants to come to the Planning & Zoning Commission to change code. That would be concerning. Commissioner Nevill asked Mr. Lister to specify how to edit Condition #15. His preference is to put a period after the 2<sup>nd</sup> sentence and drop the rest of it. This would affect the whole use of the track, not just the extension.

**MOTION:** Commissioner Nevill moved to close public testimony on Case CU2022-0044, seconded by Commissioner Villafana. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Nevill is in favor of this CUP as long as some of the conditions get ironed out and modified. Discussion about Condition 14, 15 and 16, with a proposed Condition 17 was had.

Commissioner Dorsey inserted that the nature and purpose of the racetrack is going to produce noise.



We don't want to get too picky on how the track is run or place too many limits. Commissioner Williamson suggested a new condition about a safety plan being provided to DSD prior to operating the extension. Commissioner Villafana proposed the idea of the races being posted to notify the neighbors of the events. Commissioner Nevill added this has been done in the past, but is not enforceable. Commissioner Sheets finalized the deliberations by stating that he is in favor of this CUP – facilities like this one are coming under attack. These places have a history and tradition that needs to be protected. He wants to say that the prior use of the expansion is grandfathered in, but cannot. Code does not allow this action. By approving this CUP, there is a positive in bringing this non-conforming facility into compliance and as long as the conditions are followed, operations can continue. Finalized deliberations with the specific wording of Condition 14 to end after the first sentence; Condition 15 to end after the second sentence and Condition 16 to include the terms "hours of operation shall be 9 am to the earlier of 8 pm or dusk seven days a week during operating season from March through October.

**MOTION:** Commissioner Nevill moved to approve Case CU2022-0044 including the Findings of Facts, Conclusions of Law and amended Conditions of Approval. Motion seconded by Commissioner Mathews. Roll call vote: 6 in favor, 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Nevill moved to approve the minutes from 7/20/2023, seconded by Commissioner Villafana. Voice vote, motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Dan Lister announced that on September 21, 2023, there will be no cases heard. Instead, there will be a training and discussion session. Some of the topics will be: Code Enforcement Supervisor will present on the importance of enforceable conditions, a discussion on roads, third party agency conditions, the land use matrix and conditional rezones vs. straight rezones. Commissioner Dorsey said he would like to have further information specific to private roads and easements.

**ADJOURNMENT:**

**MOTION:** Commissioner Dorsey moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 10:06 pm.

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

Approved this 5th day of October, 2023



Brian Sheets, Acting Chairman

ATTEST



Pam Dilbeck, Sr. Administrative Specialist