



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, November 16, 2023
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman
 Brian Sheets, Commissioner
 Harold Nevill, Commissioner
 Miguel Villafana, Commissioner
 Matt Dorsey, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services
 Zach Wesley, Deputy Prosecuting Attorney
 Debbie Root, Principal Planner
 Emily Kiester, Associate Planner
 Amber Lewter, Hearing Specialist
 Jennifer Almeida, Office Manager

Chairman Sturgill 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.

Item 1A:

Case No. CR2022-0005 / Tanner Verhoeks / Haven Creek– Approve revised FCO’s.

MOTION: Commissioner Nevill moved, seconded by Commissioner Sheets to approve the revised Findings of Fact, Conclusions of Law, & Order for Case No. CR2022-0005 / Tanner Verhoeks/Haven Creek. Voice vote, motion carried.

Item 1B:

Case No. CR2023-0006 & SD2023-0009 / Maestrejuan / Flying Arrow Subdivision– Approve revised FCO’s.

MOTION: Commissioner Nevill moved, seconded by Commissioner Sheets to approve the revised Findings of Fact, Conclusions of Law, & Order for Case No. CR2023-0006 & SD2023-0009 /Maestrejuan / Flying Arrow Subdivision. Voice vote, motion carried.

Item 1C:

Case No. CU2022-0036- AK Feeders – The applicant, AK Feeders, represented by Matt Wilke, is requesting a conditional use permit for a Confined Animal Feeding Operation for 3700 beef cattle. The facility is currently located and will be expanded on approximately 80 acres of parcel R37348010 located at 21696 State Line Road, Wilder, ID. The subject property is zoned “A” (Agricultural).

Commissioner Villafana disclosed that he just learned that the Ms. Valene, representing the applicant was known to him from years back when he worked with her father in Twin Falls. He has not spoken with her in a long time and he has not discussed the case. No objections from the Commissioners were voiced.

Planner Debbie Root noted for the record she had received four (4) late exhibits for the P&Z Commissions consideration [Exhibit 67, 68, 69, and 70]. Planner Debbie Root reviewed the staff report for the record.

Commissioner Nevill asked if the proposed facility was moved southwest of the Allen Drain and is the topography as such that everything will drain away from the Allen Drain. Planner Root stated the grading plan reflects that to the waste management facilities. The operator will be required to meet ISDA requirements. The topography is relatively flat but it lends itself to a general gradual slope to the Snake River. Commissioner Nevill referred to Exhibit 60 that discussed the neighborhood meeting and potential changes.

Zach Wesley, stated there is a requirement in County Zoning Ordinance that a neighborhood meeting be held for a conditional use permit prior to acceptance of an application for review by staff. The application was reviewed by staff when the application was submitted. There does not appear to be any significantly major alterations to the project. If the project was changed substantially staff would likely require a second meeting, however, this project is still in the same location, same parcel, and the nature has not changed.

Commissioner Villafana asked if the applicant weighed in on the proposed condition no. 13. Planner Root stated the applicant had the opportunity to comment to staff but did not express any concern.

Chairman Sturgill asked if the operation was for grazing what could the number be. Planner Root stated from a grazing operation standpoint and not meeting the definition of a CAFO, it's not devoid of foliage. Chairman Sturgill asked how many of the residences are adjacent to the 80 acres that is being considered for the CAFO. Planner Root stated none of the five (5) residences are adjacent. The closest residence is the Cardoza residence at approximately 580 ft.

Commissioner Dorsey asked about site setbacks, specifically the 50 ft. requirement. He asked if this was the minimum requirement. Planner Root noted the CAFO criteria have setbacks to be met. The pens located on the property and site plan don't currently met setbacks.

Chairman Sturgill inquired about the Idaho Statute in regard to testimony. DSD Director Minshall addressed Chairman Sturgill's question. She noted that there is a section of Idaho State Code, 67-6529 related to agricultural land and CAFOS. She proceeded to read portions of the statute. She noted that Canyon County's code is silent on the issue. Staff's recommendation was to not limit testimony.

Planner Root clarified a couple of items. She indicated that the original proposed plan was to locate north of the Allen Drain along Stateline Rd., but has since been removed. The number of cattle have also been reduced. It was a reduction to the impact of surrounding properties.

Commissioner Dorsey asked about the 580 ft. from the property line of the 80-acre parcel to the Cardoza property but what is the distance from the corrals/pens. Planner Root said it was approximately 700 plus feet to the first waste facility and the pens are north of that.

MOTION: Commissioner Sheets moved to accept late exhibits 67, 68, 69 and 70, seconded by Commissioner Nevill, voice vote, motion carried.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

MATT WILKE (Representative) – IN FAVOR – P.O. BOX 7, MIDDLETON, ID 83644

Mr. Wilke stated that he had two (2) late exhibits that he just received this evening. One was a letter from Obendorf Farms in favor and the other is a letter from Andy Bishop in favor.

The proposed site is approximately 79.6 acres and will have a 3700-cow capacity with an average weight of 700 lbs. The site location is located in a predominately agricultural area and if approved, would benefit the local agricultural community by providing jobs. The CAFO would create a local market for feed and supplies. CAFOS are a vital part of the sustainability of local farm producers that produce hay and corn. The manure produced is also an excellent fertilizer and is a valuable resource for field operations. The manure produced on site will be utilized on neighboring fields. Research has shown that dry manure typically releases its nitrogen over a five year or longer period once applied to the soil. The slow release is much safer than chemical fertilizers and typically does not leach into aquifers. Manure is the fertilizer of choice for sandy soils. Groundwater and surface water pollution is a low risk for manure applications. There are three (3) stormwater retention ponds and stormwater run-off and wastewater will be retained on site. The design and construction of lagoons will be in compliance and will have a clay liner built to engineering specifications. Prior to the lagoons being implemented they will be tested and approved by ISDA as required. Best management practices for a dry scrape facility will be used and will comply with laws and rules set forth by governing agencies. The lights on site will be downward facing. Mr. Wilke discussed the soil types on the property. Prime farmland would not be taken out of production by the CAFO. The subject property is outside of a nitrate priority area. IDWR has approved a stock water permit for 3700 head of cattle. Mr. Wilke discussed the well log for the well that was dug on site. The well is capable of producing 45 gallons per minute. The nutrient management plan was approved by ISDA on March 2023. The project has been reviewed by the highway district and did not require a traffic impact study. Average daily trips is anticipated to increase by 11 daily trips, which is less than the threshold that would trigger a TIS. The "high risk" score does not have anything to do with the plan it is just because of how the site sits. Mr. Wilke discussed ISDA and risk scores, it is important to note that the risk score does not consider management and mitigation. The site will be regularly inspected by Dept. of Agriculture.

Mr. Wilke's 10 minutes of testimony ended. He requested an additional five (5) minutes.

MOTION: Commissioner Dorsey moved to grant Mr. Wilke an additional five (5) minutes of testimony time, seconded by Commissioner Nevill, voice vote, motion carried with three in favor, and two opposed.

Mr. Wilke discussed a letter from ISDA which discussed mitigation by implementation of best management practices listed in the siting report. The applicant will control odors by pen management, drainage, and removal of manure. Pen density will control moisture. Water trucks can be used if needed to control dust. Habitat management will help control flies (dry scrape). The site has been historically used since 1907 for cattle. Mr. Wilke stated 156 letters of support have been received for the CAFO. All criteria for approval have been met. The applicant has reviewed the conditions and agreed with them.

Commissioner Nevill asked about drainage and whether the intent was that manure would never enter the drainage ponds. Mr. Wilke replied that the drainage ponds were only for storm water runoff. There will be no stormwater runoff that would leave the site. Commissioner Nevill asked if the remaining land

would remain in pasture. Mr. Wilke stated that it would. Commissioner Nevill asked about the history of the site and at what point some of the neighbors moved in and if any predate the use. Mr. Wilke stated that the Cardoza's purchased their home in 2019 and the Case family has been in the area for quite some time. Commissioner Nevill asked what would happen to the pens that don't meet the 50 ft. setback. Mr. Wilke replied that they would be adjusted to meet the setback and it is also a condition of approval.

Commissioner Sheets asked if Mr. Wilke had opportunity to read the letters that were submitted for the request. Mr. Wilke stated that he had. Discussion ensued regarding snow geese and how they can be impactful to ag zones at times. The proposed use would not impact the migration of waterfowl. Mr. Wilke discussed the concerns of neighbors and can provide information regarding property values. Commissioner Sheets asked about the outreach Mr. Wilke or his team had with the area property owners. Mr. Wilke replied that the only contact he had was at the neighborhood meeting. He was unsure about the rest of his team.

Commissioner Villafana stated a lot of the concerns expressed by neighboring property owners are centered around smell manure, etc. He asked where the compost lines would be located? Mr. Wilke stated they would be stored onsite in pens. Each pen would have a mound and will be hauled directly from the site to an offsite location for export. Commissioner Villafana asked that if the ponds ever failed would it be plumbed to pivots. Mr. Wilke stated, no, that is not currently planned and the Engineer can speak to it.

Commissioner Sheets asked if there would be new additional heavy equipment on site, what was anticipated and what are the mitigation methods. Mr. Wilke stated there may be beeping during feed yard operation, however, it is not a huge feed yard. There will be equipment associated with the agriculture, such as combines, hay swathers, etc.

Chairman Sturgill asked if there was a motion to accept the late exhibits that Matt Wilke wanted to submit.

MOTION: Commissioner Dorsey moved to accept the late exhibits. Motion fails for lack of a second.

VALENE CAULHORN – IN FAVOR – 213 CANYON CREST Ste. 100, TWIN FALLS, ID 83301

Ms. Caulhorn is a licensed professional engineer in the State of Idaho working for Ag professionals and has been working on the feedlot design. There are Best Management Practice in place, specifically lining the ponds. There are three ponds on site and are designed to meet IDAPA requirements (Rules Governing Beef Cattle Operations). There are berms located along the Allen Drain as backup. There is a nutrient management plan on site being implemented and the NMP was written for the expansion. The waste management addresses odor, dust, and pest management. They have met with the highway district and Oregon Department of Transportation. The hours of operation are anticipated to be from 6 a.m. to 5 p.m. however, as with any agricultural operation there may be earlier or later hours. Currently there are five employees, with the expansion they anticipate increasing that number to nine. This number does not include truck drivers or seasonal employees. These numbers were included in the traffic count.

Commissioner Nevill inquired about mounding vs. dry scraping. Ms. Caulhorn explained that the pens would be scraped and piled in the middle during the winter months and first thing in spring they will be cleaned and plowed into fields, this also happens in the fall. It will be hauled 2-3 times a year. It is not anticipated that compost would be bagged and sold. However, if there are any 3rd parties that would like to take manure they are free to do that under the Idaho Right to Farm.

Commissioner Nevill asked about 100-year flood events and the design of the drainage ponds. Ms. Caulhorn noted that was not required by the State Department of Agriculture. However, it was her guess with winter storms they would be able to hold the 100 year, especially with the berm. Commissioner Nevill asked about the berm to protect the Allen Drain and whether or not it is upslope. Ms. Caulhorn discussed the slope of the property in various location. Commissioner Nevill stated that the Snake River is the lowest point and if there was a catastrophic event; has there been any consideration about berming so that it cannot go across the road. Ms. Caulhorn said it would be have to be a 1000- or 2000-year storm event to get to the Snake River.

TODD LAKEY – IN FAVOR– 12905 Venezia Ct., Nampa, ID 83651

Mr. Lakey noted that the opposition submitted documents from the Peckham Rd. feedlot case, those are irrelevant. Each case is unique and different. Mr. Lakey stated that he also represents the Peckham feedlot owners. The court recently ruled in their favor and the counties favor on November 2nd and denied the petition for judicial review from the opponents. Mr. Lakey noted that the property and area are zoned agricultural. Mr. Lakey read the definition of agricultural land from the comprehensive plan. Mr. Lakey stated that dairies and feedlots are located in the agricultural zones, it's where they should be located and expanded. There are similar intensive agricultural uses in the area. This is the optimal location for this generational feedlot to be expanded. The use conforms with the comprehensive plan and future land use map. Mr. Lakey discussed the comprehensive plan policies that align with the use. Mr. Lakey noted the numerous letters of support. The use won't be injurious to other property in the immediate vicinity and won't change the essential character of the area, the character of the area is agriculture. The applicant has made many concessions in regard to design; pulled the feedlot back from the drain, reduced numbers of cattle 6,000 to 3,700, setbacks, design, mitigation, etc. Mr. Lakey stated that the siting team high risk score is solely based on the site and does not consider the design, implementation of mitigation plan and management practices.

Commissioner Villafana asked about the positive economic impact this feedlot would have to the Wilder area or Canyon County in general. Mr. Lakey stated that an economic study was not done. However, when you consider the use, it's not just the 3rd parties taking manure that are benefited, it's the purchasing of equipment, supporting the hop growers, which supports their employees also, the impact is broad.

CHYLECE EDGAR – IN FAVOR– 31301 RED TOP ROAD, WILDER, ID 83676

Ms. Edgar read a statement of support from Obendorf Farms. Ms. Edgar also read a neutral statement provided by Andy Bishop. Andy Bishops' statement discussed the history of the property. The history was owned their grandparents and parents and has always been a cow /calf operation [mid 1950's] Their grandparents built the silage pit and put the feed mill in in the late 1950s.

DEBBIE CARDOZA – IN OPPOSITION– 31252 PECKHAM RD, WILDER, ID 83676

Ms. Cardoza noted her property shares a common boundary with AK feeders to the west. Ms. Cardoza stated that Exhibit 61b is mis-identified, the document is the amended memorandum decision and order granting petitioner's petition for judicial review which was in the index of the staff report. Ms. Cardoza read the "purpose" for conditional use permits from the Canyon County Zoning Ordinance. The proposed use will destroy their property. AK Feeders operation is already violating their constitutional right to use & enjoyment of property. Ms. Cardoza stated that the dust and odors already have a negative impact, and allowing additional cattle will make matters worse. Ms. Cardoza noted the siting team report rating of "high risk." The ground is sand and gravel, and will impact wells. The first encountered groundwater is shallow at 0-25 feet. Ms. Cardoza stated her well is only 6.5 ft deep and approximately 100 ft. from the site's fence line. Ms. Cardoza stated her well would be destroyed in days and requested denial. Further concern was noted about the area's water and property values. Ms. Cardoza stated that the P&Z does

not have the right or authority to do this under the constitution [Exhibit 61B]. Ms. Cardoza stated that the record is incomplete as documents were not put in the record as requested in Exhibit 61.

Ms. Cardoza's 3 minutes of testimony ended. She requested another 1.5 minutes.

MOTION: Commissioner Sheets moved to grant Ms. Cardoza an additional 1.5 minutes of testimony time, seconded by Commissioner Villafana voice vote, motion carried.

Ms. Cardoza continued her testimony in regard to documentation not put into the record in regard to Sunnyside Dairy in Weiser that contaminated wells. Ms. Cardoza discussed the siting team report which states there are no clay layers to stop contamination. The average nitrate within a five-mile radius of the site is 5.3 mg/L. She noted that 25% of test wells already have high nitrates and this does not consider all private wells in the area. Ms. Cardoza disputed staff's statement that the property was not located within a nitrate priority area. She stated that DEQ's entire map wasn't used. Ms. Cardoza stated that based on their constitution and supreme court president outlined on pg. 15 of 61B, the application must be denied. The record is incomplete and if the hearing is continued she asked that record and testimony be kept open.

Ms. Cardoza did not wish to stand for questions.

CHRISTINA MARSTON – IN OPPOSITION– 31396 RED TOP RD. WILDER, ID 83676

Ms. Marston lives north of the subject property. Her property has been in the Marston family for over 100 years. She has owned the property in 2005. She has grown up on a farm that operated a cow/calf operation and row crops. They are a pro agriculture family, but a are for smart agriculture. Ms. Marston noted that the applicant flooded the Commission with 156 petitioners in support. Most of the petitioners don't live near the operation. 14 homeowners that live near the site sent letters in opposition. Ms. Marston felt that the report rebutted their concerns. Red Top Rd. and Peckham Rd. are dangerous roads. She discussed accidents that have taken place in the area, including one she was personally involved in when she was ran off the roadway. She stated that the highway district commissioners are not un-biased. Mr. Levitt tried to put in a multi thousand head pig operation and Andy Bishop once owned the land that AK feeders is located on . The proposed site has been deemed high risk, is next to the Snake River, is in a nitrate priority area, high water table, blow sand, with multiple drainages running through it. How can the neighbors not be worried about their wells? Ms. Marston stated that AK Feeders will violate their constitutional rights to the use and enjoyment of their properties and negatively impact their property values. Ms. Marston stated that based on Idaho Secretary filings Mr. Dapeneddie is not an Idaho or Canyon County resident in addition the parcel of land in this application is owned by a foreign entity. Ms. Marten believes if you were to allow this application the profits would go to California and the feed lot will destroy the homes and properties of lifetime Idahoans. Ms. Marten asks to protect their constitutional rights and see the CAFO will cause damage, hazard and nuisance to this community and to protect the Canyon County residence and not residence of other states.

Ms. Marston did not wish to stand for questions.

Chairman Sturgill advised by not standing for questions it can be difficult to tie testimony to criteria for the Commissioners decision process. Ms. Marston explained they were told not to stand for questions because the Commissioners would try to discredit them.

DEREK MARSTON– IN OPPOSITION– 31396 RED TOP RD. WILDER, ID 83676

Mr. Marston lives north of the subject property and his family has lived there for over 100 years. The

changes AK Feeders have already begun have impeded his right of use and enjoyment to his property, in the last year with the major construction it has changed how AK Feeders operate. The changes have increased the smell and increased the cows bawling. Mr. Marston doesn't believe AK Feeders has a right to farm there because his family was there first. Mr. Marston stated that AK Feeders will violate their constitutional rights to the use and enjoyment of their properties and negatively impact their property values and destroy their wells. Mr. Marston addressed the DEQ map, he showed it to a few Environmental Engineers at Power Engineers where Mr. Marston works and they indicated there is probably not enough well sites tested close enough to this area and they should request additional testing. He is concerned if the head of cattle was counted correctly because of the acreages that has been converted to growing Hops as well is concerned about the 25-year storm.

Mr. Marston stood for questions.

Commissioner Nevill asked how deep Mr. Marston's well is. Mr. Marston advised it is 90 foot deep. Commissioner Nevill asked where his pump sits in the well. Mr. Marston stated he pumps 50 feet of the casing but they went 90 feet to get to it. Commissioner Nevill addressed the noise testimony stating they could run 2,000 cattle or so without change so he is wondering if he is running less than a thousand right now in the feedlot but they could double that by agreeing to go to pasture grazing, would that increase or decrease the noise for Mr. Marston. Mr. Marston stated the noise is the bawling, when they were grazing before there wasn't as much bawling and now if how they are doing it there is more noise, he believes an increased headcount will make it worse.

Commissioner Sheets asked if there is a concern about vehicle noise or if there has been an increase. Mr. Marston stated with the shape of his land he hears all the noise from his road so any increase is bad.

RALEIGH HAWE – IN OPPOSITION– 31453 PECKAM RD. WILDER, ID 83676

Mr. Hawe and his wife have lived on the property south from AK Feeders for 29 years. Mr. Hawe stated the google map showing proof of a feedlot in 1994 is not adequate evidence of a feedlot being there. Mr. Hawe and his wife bought their property in 1994 and at that time the property AK Feeders is on was a cattle and bull operation, they had a sale once a year, there was no feedlot. AK Feeders will violate their constitutional right to the use and enjoyment of their property and destroy their properties values. Mr. Hawe stated the feedlot is high risk. This area has a high-water table and the toxic nitrates from the cattle will contaminate their wells and the Snake River and destroy their properties. Mr. Hawe stated The Supreme Court said substantial rights were harmed when property values are impacted or when there is an interference with use or enjoyment of property.

Mr. Hawe did not wish to stand for questions.

TIM ALDERSON – IN OPPOSITION– 22440 STATELINE RD. PARMA, ID 83662

Mr. Alderson began with quoting County Zoning regulations state 07-07-01 states that the purpose of a conditional use permit is for "every use that requires the granting of a conditional use permit is declared to have characteristics which require view and appraisal by the Commission to determine or not the use would cause any damage, hazard nuisance or other detriment to person or property within the vicinity." Mr. Alderson states that is what AK Feeders is doing to them. One cow produces about 8 gallons of urine a day times and about 65 lbs. of feces a day times that by the 3700 head of cows. By the Idaho Supreme Court, AK Feeders is wanting to violate their constitutional rights and destroy the property values of the neighbors and local citizens.

Mr. Alderson's 3 minutes of testimony ended. Mr. Alderson requested an additional 5 minutes.

MOTION: Commissioner Sheets moved to grant Mr. Alderson an additional 3 minutes of testimony time, seconded by Commissioner Nevill voice vote, motion carried.

Mr. Alderson continued testimony stating ground water is high in the area meaning all the toxic water with urine and feces waste will flow into their aquifer causing all their wells to be contaminated. The toxic nitrates are the common chemical that destroys wells, the average toxic nitrate level in their ground water within a 5-mile radius is 5.3 milligrams, at 10 milligrams the ground water is poison. Mr. Alderson stated based on Idaho Secretary's base findings the owner of AK Feeders is not a resident of Canyon County or Idaho. Mr. Alderson moved to Idaho in 1976 and at that time the Snake River was as clear as the Boise River is now but today the Snake River is terrible with moss beds everywhere you aren't able to run a jet boat and the river is incredibly polluted. Mr. Alderson stated according to Buck Ryan from the Snake River Water Keepers the primary pollution to the Snake River from Idaho Falls to Brownlee Reservoir is CAFO's. Also, when speaking to Emily Montog with Department of Environmental Quality and Mitch Renero with Best Management Practice, these agencies monitor CAFO's along the Snake River for pollution violations and they told him there is a huge lawsuit right now going on against the CAFO in Grandview Idaho all three agencies are aware of AK Feeders CAFO proposal and indicate they would be monitoring the progress of this proposed feedlot.

Mr. Alderson did not wish to stand for questions.

VICTORIA CASE – IN OPPOSITION– 30769 RED TOP RD. WILDER, ID 83676

Mrs. Case began with her family history. The Case family has lived on the Red Top Rd property since the late 1800's, there is currently 5 generations on their property with her in-laws living there since 1950, her husband for the last 53 years, and she herself has lived there for the last 30 years. Mrs. Case and her family have angus cattle so they are not there to argue against the applicant having his current operation because there is history in this area of people raising cattle and farming but on a smaller scale then the proposed multiple thousand head feedlot. In south of Nampa there is large Feedlots and Dairy's but there is also thousands of empty acres and houses with no wells on them. Mrs. Case stated the area doesn't look like what it used to, there is more houses more traffic and less peace, she would rather look at the tops of head of cow than rooftops. The impact of the proposed feedlot will be damaging on multiple fronts, the road infrastructure is already terrible, Mr. Wilke said there would be no traffic impact, her and her husband have fixed their fence four times and now have a concrete barricade and with a 24-hour 7 day a week operation, they need to be somewhere there isn't homes nearby. Mrs. Case stated there will be devastating further effects on the wells and the 3 drains in that vicinity, one of which has been said dumps into the Snake River, there is many other suitable locations for an operation of this magnitude and it isn't fair to the families that was there before the applicant.

Mrs. Case stood for questions.

Commissioner Nevill asked how deep Mrs. Case's well is and where the pump is trying to gain understanding on several testimony regarding their wells. Mrs. Case stated she believes it is 35 feet where the pump is and the casing goes further down. Commissioner Nevill asked if they have enough water. Mrs. Case confirmed they do. Commissioner Nevill asked if Mrs. Case has any 3rd party assessments of the loss of property value because of the siting of a CAFO. Mrs. Case advised she does not have that information. Commissioner Nevill stated there was concern about the increase of the number of cattle so asked if Mrs. Case is ok with a certain number of cattle and if the increase in the number is a concern, if it is what concerns does that number bring. Mrs. Case advised the number is a concern and it brings noise and traffic, traffic being her number one concern. Commissioner Nevill asked if flies or dust were a concern. Mrs. Case confirmed it all is a concern for her at the increased level of cow.

Commissioner Dorsey asked if Mrs. Case could quantify the traffic such as number of loads of cattle from current to the expansion. Mrs. Case stated Mr. Wilke answered that question at 10 extra trucks a day but she doesn't see how that could be true. But it would be probably 3 times more than it is now.

Chairman Sturgill stated during testimony Mrs. Case spoke about cattle operations South of Nampa with thousands of empty acres with no wells. Mrs. Case stated she meant to say no houses. Chairman Sturgill asked for clarification on what causes that effect. Mrs. Case stated in her area the community is already populated and it seems like someone is trying to come in and fit this operation into this small spot when there is so many other places that it could be. Chairman Sturgill confirmed with Mrs. Case that she believes this operation would be better located in that area.

DEE DEE ALDERSON– IN OPPOSITION– 22440 STATELINE RD. PARMA, ID 83660

Ms. Alderson stated her property is about a half mile from AK Feeders proposed CAFO, she moved into her home about 4 years ago. Ms. Alderson stated there is already changes being made, the cattle are in the new pens where before they would graze and now you hear them bawling all the time and the smell has increased. Ms. Alderson pointed out right after the neighborhood meeting they immediately started building a CAFO. She is not opposed to AK Feeders having their cows there she is opposed to allow them to have more cows and all in a tight area. It will lower her property values and being a realtor for many years she knows nobody wants to live next to a feed lot because they smell. Feedlots belong in the middle of nowhere.

Ms. Alderson stood for questions.

Commissioner Nevill stated he is trying to get a better quantification of the loss of property value. Commissioner Nevill asked with Ms. Alderson being a realtor in the past perhaps she can give better explanation. Ms. Alderson stated when you take a client out to look at a property, they have their list of wants. So, when you look at a list of properties, any realtor can pull this up, they put the wants then for example a house that is 1400 sq. feet and has 2 acres on it with a garage and take a look at the price that is next to a feedlot and one that isn't. The price difference will show. Commissioner Nevill asked if Ms. Alderson can give a guess if you lose half the value or what the quantification is. Ms. Alderson stated if she were to guess you are losing at least a third of your property value.

Commissioner Sheets asked if there is an appreciable difference in property value loss in an operation that is a thousand head compared to a three thousand head operation. Ms. Alderson stated there was because when you drive up to a place where there are cows grazing compared driving up to a place where cows are pooping on cement, you are going to keep on driving for the smell and the looks.

SUSAN ISAAK– IN OPPOSITION– 31492 RED TOP RD. WILDER, ID 83676

Ms. Isaak advised her and her family live across the street from AK Feeders. Ms. Isaak addressed that exhibit 61 is incomplete because it does not include all records for the CU2020-0001 case and the lawsuit that followed as requested. The reason for the request was because they planned on using some of those documents for this hearing for various reasons so they believe the information is cherry picked and inaccurate. Ms. Isaak believes the inaccurate information in the FCO's are, how the CAFO's are regulated by the STA, AK Feeders being consistent with the 2020 comprehensive plan, the word mitigated, line regulation ponds being regulated by the ISDA, that you are led to believe the location is not in a high nitrate area.

Ms. Isaak's 3 minutes of testimony ended. Ms. Isaak requested an additional 2 minutes.

MOTION: Commissioner Sheets moved to grant Ms. Isaak an additional 2 minutes of testimony time, seconded by Commissioner Nevill voice vote, motion carried.

Ms. Isaak continued her testimony. Ms. Isaak believes it is untrue that it will not affect or damage the area and now has evidence proving it will. There constitutional rights have been denied because the complete testimony was denied by not putting the documentation that was requested into the official file. AK Feeders is already violating their constitutional right to the use and enjoyment of their property and destroy their properties values.

Ms. Isaak did not wish to stand for questions.

MATT WILKE- REBUTTAL – P.O. BOX 7, MIDDLETON, ID 83644

Mr. Wilke addressed that they have listened to the neighbors they conceded from going to 6,000 to 3,700 cows because of the neighborhood meeting, AK Feeders is proposing massive setbacks, professions have spoken on this project that know about the aquafer and the data, knowing how to line the ponds to prevent any intrusions into the aquafer such as nitrates. There is no proof this is a toxic feed yard. AK Feeders will benefit a lot of people. Mr. Wilke stated he is a licensed broker in the State of Idaho and can give prices of property value pretty well especially in Ag areas Mr. Wilke provided examples and prices from past years. There isn't a significant change to anything in the area such as the traffic, property value, and cows.

Commissioner Dorsey asked what the added value of AK Feeders property would be if the feedlot would get approved or the decrease if not approved. Mr. Wilke stated the value increase would definitely go up if it was approved and if not approved it would hinder operations and would not be good for the County.

Commissioner Nevill stated from previous testimony they mentioned elevated nitrate level would destroy the neighbor's wells. Commissioner Nevill asked if elevated nitrate level in a well would destroy the value or are there ways to mitigate the elevated nitrate level to allow you to maintain the property. Mr. Wilke stated nitrates are not a big deal in well water in the Valley and typically you can do a reverse osmosis system. He doesn't see nitrates to be a big deal.

Deputy Prosecuting Attorney Zach Wesley had a few issues of evidence that needed to be cleared up for the record. The first was that there were several participants in the hearing that had transcribed copies of their testimony they read from and provided them to staff presumably to enter into the record. If we could have a motion on those as to whether they are going to be entered into the record exhibits or not would be helpful.

Chairman Sturgill stated he believes all the participants that provided a written testimony was reading from the testimony so that might cover it but asked if there was a motion. No motion followed.

Deputy Prosecuting Attorney Zach Wesley addressed the second issue of evidence was raised a couple of times, when the planner and the notices go out asking for comments those comments that are received are marked with exhibits and automatically set up for the record in advance, a couple of those letters included requests to add documents from other county files or from court files into the record, he thinks in particular there was two requests to enter the complete file from CU2020-0001 which is the Peckham Road Trust case and then to enter in the complete legal file from CB142110123, both of those files are going to be over 2500 pages, potentially larger. Deputy Prosecuting Attorney Zach Wesley thought it was an important question to be addressed to the Commissioners if they want to include those into their

record.

Commissioner Sheets asked if those documents are accessible to the public. Deputy Prosecuting Attorney Zach Wesley stated they could be accessible through the County doing a public record request also the ones through the court could be accessible through the request of the court. Commissioner Sheets confirmed what they received was a request for staff to include these documents into record by a comment that was submitted. Commissioner Sheets stated he understands that the people that are asking for the burden of truth should be able to provide those documents not necessarily give the burden to the county. Deputy Prosecuting Attorney Zach Wesley stated that is correct, with these hearings that is the typical procedure. Commissioner Sheets asked as an example if he wanted to request for the entire Encyclopedia of Britannica be added to the report, they wouldn't do that. Deputy Prosecuting Attorney Zach Wesley stated that is correct but he could add a copy of the Encyclopedia of Britannica to his comments to be submitted into the record. Commissioner Sheets stated he is not inclined to support supplementing this record with an entire case file with a prior hearing as well as an entire case hearing from a civil court proceeding.

Chairman Sturgill weighed in because he was the only Commissioner present that participated in the Peckham case and that was thousands of pages into evidence and he believes it was three hearings with Planning and Zoning before it was concluded and frankly without knowing what in the case they need to reference, in his opinion it is an unfair burden to Planning and Zoning to review thousands of pages from a prior case without knowing specifically what they are to reference and understand. Chairman Sturgill will entertain a motion but he isn't sure what it would benefit.

Commissioner Nevill asked if the fact that the county was not going to honor the request get conveyed to the requester.

Director of Development Services Sabrina Minshall advised when staff receives a public comment through part of that process it is not a direction to staff but the comment is put into the record. Commissioner Nevill advised he remembers seeing in the exhibit 61 the request so they got that and they are aware of the fact that someone asked. Commissioner Nevill stated that they got the request but it wasn't necessary to honor the request because they asked for something that staff doesn't normally do. Director of Development Services Sabrina Minshall clarified the exhibit in reference is a comment on the case file, Staff does not go in and respond to everything in each individual record so yes there is no necessity to staff to respond to any part of comments because comments are part of the record that the Commissioners review. Director of Development Services Sabrina Minshall advised if the Commissioners wanted to request additional information to be added they could continue the case and do so.

Planner Debbie Root stated at the time exhibit 61 was submitted to Staff, they also got submitted four court documents and could have through the public request could have requested those same documents and provided them similarly to the court documents they provided to Staff.

MOTION: Commissioner Nevill moved to close public testimony on Case CU2022-0036, seconded by Commissioner Sheets, voice vote, motion carried.

DELIBERATION:

Chairman Sturgill began with asking if anyone has any findings they would like to modify based on evidence they heard.

Commissioner Sheets stated with going through the findings he believes they reflect what was in the record and he thinks they match what he heard. His recommendation for the Commission going forward is see if there are conditions they need to insert, modify or work with to adequately condition this conditional use permit. He agrees with the findings.

Commissioner Dorsey agrees with the findings and conditions, that the findings and conditions were very well thought out and backed by state agencies that regulate these types of operations.

Commissioner Nevill stated there is one condition that he would like them to review, condition 11. Commissioner Nevill stated he believes evidence established that the Allen drain is fairly safe because of berms and the capacities of the ponds, it doesn't say anything about the Snake River, he would feel more comfortable if condition 11 said they can't discharge to the Allen drain or the Snake River to keep everything on the property, he thinks it could be mitigated by a berm. Chairman Sturgill confirmed that Commissioner Nevill is requesting adding the words that the storm water from the feedlot cannot be discharged to the Allen drain or Snake River.

Commissioner Villafana stated he looked through the findings and thinks they are thorough and agrees with them and is in favor with the condition Commissioner Nevill pointed out.

Commissioner Sheets discussed the evidentiary burden, there was a lot of evidence that provided to them that they had the opportunity to review, they had the opportunity to review to hear testimony, ask questions and that is the real reason for the questions, it is getting to the truth of the matter, it is similar to a cross examination, to figure out what is going on, how they can best help, when they have the opportunity to ask questions it helps them understand the evidence and enter into the record to deliberate upon. The statements about constitutional rights being violated and as well property values being decreased, Commissioner Sheets stated knowing how to present evidence of how property values decrease he didn't see that, it was difficult for him to take statements that didn't have evidence that demonstrated the decrease in property values.

Chairman Sturgill stated he is disappointed because there were a few people that had strong views and potential evidence to support either modification of findings or additional conditions of mitigation and unfortunately without getting to ask questions to investigate further it makes it difficult for them.

Commissioner Nevill addressed the lack of evidence with interference of property rights, property rights go both ways, the applicant that owns the land have property rights and the neighbors that live around have property rights. What articles 5 and 14 of the constitution require is no person may be deprived of life, liberty or property without due process, this is what the hearing is all about and they need answers to their questions.

Commissioner Dorsey stated for condition 11 it goes without saying they are not going to discharge into the river.

Commissioner Villafana gave a suggestion to review the farm laws.

MOTION: Commissioner Sheets moved to approve Case CU2022-0036, and adopt the Findings of Fact and Conclusions of law prepared by staff, with an amendment to condition 11: the applicant shall not discharge CAFO process water or storm water from the feedlot and or settling the lagoon to the Allen drain or Snake River. 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 10/5/2023, seconded by Commissioner Sheets Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Director of Development Services Sabrina Minshall reminded that they will take additional comments or discussions into the FCO's, legal will review them and bring them back on the second hearing in December. Director of Development Services Sabrina Minshall confirmed with the Commissioners there will be no hearing December 7, 2023. Director of Development Services Sabrina Minshall announced the new Associate Planner Emily Kiester. Associate Planner Emily Kiester introduced herself and gave her professional background. Director of Development Services Sabrina Minshall advised the case load is not slowing down and they are currently only using Planning and Zoning with no Hearing Examiner at the moment. Commissioner Nevill stated it would be helpful to get feedback for the future if cases get appealed or how they can prevent them to get appealed. Director of Development Services Sabrina Minshall advised that discussion will be ongoing and they will work through it.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 10:51 pm.

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

Approved this 21st day of December, 2023



Brian Sheets, Vice Chairman

ATTEST



Amber Lewter – Hearing Specialist