



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, July 18, 2024  
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman  
Miguel Villafana, Commissioner  
Patrick Williamson, Commissioner  
Harold Nevill, Commissioner  
Geoff Mathews, Commissioner  
Brian Sheets, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services  
Jay Gibbons, Assistant Director of Development Services  
Carl Anderson, Planning Supervisor  
Michelle Barron, Principal Planner  
Dan Lister, Principal Planner  
Emily Kiester, Associate Planner  
Arbay Mberwa, Associate Planner  
Doug Exton, Associate Planner  
Amber Lewter, Hearing Specialist

**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. CU2023-0004 / AgEquity**– Approve revised FCO’s.

Chairman Sturgill explained that deliberation at the first hearing didn’t occur on specific mitigation criteria so the FCO’s that are presented are what was discussed at the first hearing. Chairman Sturgill provided options available to move forward.

Conversation ensued between the Commissioners and Michelle Barron in regard to the FCO’s.

**MOTION:** Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Mathews. Voice vote, motion carried.

**Item 1B:**

**Case No. SD2022-0056 / Alpine View Estates**– Approve FCO’s.

**MOTION:** Commissioner Nevill moved to approve & sign the Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Mathews. Voice vote, motion carried. Commissioner Sheets abstained due to not being present.

**Item 1C:**

**Case No. SD2022-0053 / Basin View Subdivision #2– Approve FCO’s.**

**MOTION:** Commissioner Nevill moved to approve & sign the Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Mathews. Voice vote, motion carried. Commissioner Sheets abstained due to not being present.

**Item 2A:**

**CU2023-0026 / Rage Development – Wallace:** The applicant, Rage Development, requests a conditional use permit for an unmanned wireless telecommunications facility within a 50’ x 50’ lease area on Parcel R32916. The facility includes a 195-foot (199-foot with lighting rod) self-supported lattice tower. The subject property, 1.6 acres, is located at 16261 Karcher Road, Caldwell, also referenced as a portion of the NE¼ of Section 17, T3N, R3W, B-M, Canyon County, Idaho.

**Staff proposed to be tabled to a date uncertain.**

Commissioner Williamson clarified the applicant and property owner is working with a couple agencies.

**MOTION:** Commissioner Williamson moved to postpone Case CU2023-0026 to a date uncertain. Motion seconded by Commissioner Villafana. Voice vote, motion carried.

**Item 2B:**

**CU2023-0023 / Rage Development – Mann:** The applicant, Rage Development, requests a conditional use permit for an unmanned wireless telecommunications facility within a 50’ x 50’ lease area on Parcel R32034. The facility includes a 99-foot monopole (104-foot with lighting rod). The subject property, 1.96 acres, is located at 2201 Lone Star Road, Nampa, also referenced as a portion of the NW¼ of Section 29, T3N, R2W, B-M, Canyon County, Idaho.

**Planner Dan Lister** reviewed the Staff report for the record.

Commissioner Nevill asked if the code enforcement would interfere with the timeline of condition 9. Planner Dan Lister stated the cleaning up of the site will not take 3 years, code enforcement went on site and found that it is already 50-60 % done. Commissioner Nevill asked how the parcel is irrigated. Planner Dan Lister stated it is through Nampa Meridian Irrigation District.

Commissioner Sheets asked if the proposed facility is 104 feet high. Planner Dan Lister advised yes with the lightning rod. Commissioner Sheets asked for clarification that we have a zoning height limit but defer to the FAA for anything higher. Planner Dan Lister advised that is correct.

Commissioner Williamson asked for clarification on condition 3. Planner Dan Lister advised it is with commencement of use so they could pull a building permit. Conversation ensued in regards to rewording condition 3. Commissioner Williamson asked who will maintain the weeds. Planner Dan Lister deferred to the applicant.

Chairman Sturgill asked if the recommendation for City of Nampa to annex was thought upon. Planner Dan Lister stated that was the initial recommendation and has since progressed to having a different resolution.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Carly Nations (Representative) – IN FAVOR – 1352 Wallingford North, Seattle, WA 98133**

Ms. Nations advised the facility is proposed to be 99 feet tall. The intent of the project is to improve voice and data services in the community, it is estimated to help over 6,000 residents get better quality coverage. Ms. Nations stated the need for high quality service is growing as the community grows and as of now about 76% of America's households are wireless only. The facility will also benefit first responders and customers to reliably use their phones during emergencies. Ms. Nations stated there is a certain area the facility needs to be in to provide the service needed once they have the area they look at other factors to determine the location. They look at local zoning regulations, existing infrastructure, natural barriers, and a landlord that is willing to allow a facility on their land. There were 11 properties and only this one responded that they would like having the facility on the property. Ms. Nations believes they are consistent with the criteria and meet some of the goals of the comprehensive plan. They want to service the community while minimizing the impact of the surrounding area. Ms. Nations provided the ways the facility is compatible with the area.

Commissioner Nevill asked if Ms. Nations is in agreeance with all the conditions in the staff report. Ms. Nations advised that she is. Commissioner Nevill asked how far the proposed facility is to the Edward Lateral ditch to the south. Ms. Nations stated it was reviewed by the irrigation district and there were no concerns. Planner Dan Lister advised the facility is outside of the easement. Commissioner Nevill asked about the opposition letter requesting the facility to look like a tree. Ms. Nations stated in the area there isn't a lot of pine trees around so it would bring more attention to the facility but offered to paint it a darker color or use non-reflective material.

Commissioner Williamson asked how they plan to control the weeds onsite. Ms. Nations stated with it being a condition they are responsible for keeping the area weed free and if that means someone comes out more often than that will happen.

Commissioner Sheets asked about the condition requiring downward facing lights. Ms. Nations advised there will be no lights on the facility.

**Maria Hamblin – IN OPPOSITION – 15 S Sapling Way, Nampa, ID 83651**

Ms. Hamblin stated she is impacted by the build and has concerns. One concern is the property isn't being managed, there was a fire on the property a fence was damaged and it hasn't been fixed. Ms. Hamblin believes the company is unethical. There are also concerns in regard to the impact on property values in the area.

Commissioner Williamson asked about the code enforcement saying they have cleaned up the property 50%-60%. Ms. Hamblin stated that it looks like they just moved things around and didn't actually clean.

Commissioner Nevill asked about condition 3. Ms. Hamblin stated her concern is they will clean it to get rid of the code enforcement and then the land will get trashed again.

**Robin Hamblin – IN OPPOSITION – 15 S Sapling Way, Nampa, ID 83651**

Mr. Hamblin stated having a tower in a residential area when normally they are in business areas is an eyesore. Mr. Hamblin believes the number of towers is excessive and he personally has never lost a call in the area. He is concerned with property values going down and believes there is a better place to build the facility.

Commissioner Mathews asked if in the future Mr. Hamblin believes he will be able to sell his house. Mr. Hamblin stated he knows it will be an issue because there would be 100-foot pole in his backyard. Commissioner Mathews asked if they stay in compliance the trash and clutter will be gone so it will be better to look at. Mr. Hamblin stated the trash is mostly along the fence.

Commissioner Williamson asked if a mono pine would be better. Mr. Hamblin stated he would be indifferent at that point.

**Carly Nations (Representative) – REBUTTAL – 13542 Wallingford North, Seattle, WA 98133**

Ms. Nations stated she is comfortable with condition 3 requiring the abatement to be complete before the CUP goes into effect. They would make sure the road meets the fire department requirements. Ms. Nations stated they contacted 11 property owners within the area of need.

Commissioner Williamson asked for the companies that didn't respond, how many times did they reach out and how long did they wait. Ms. Nations stated they sent out initial notices and if they had phone numbers they called the numbers. They do their best effort to send certified mail to get a receipt of delivery.

Planner Dan Lister stated condition 1 requires that the property stay in compliance.

Commissioner Villafana asked Planner Dan Lister about posting sign regulations for the number of signs. Planner Dan Lister advised that it is typically one however if it is in odd shaped parcel with multiple frontages or a large parcel then they will do more.

**MOTION:** Commissioner Sheets moved to close public testimony on Case CU2023-0023, seconded by Commissioner Nevill, voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets believes it will be minimum impact to the area and clean up the property so is in favor.

Commissioner Mathews agrees with Commissioner Sheets.

**MOTION:** Commissioner Nevill moved to approve Case CU2023-0023 with a modification to condition 3. Seconded by Commissioner Williamson.

**Discussion on the Motion:**

Commissioner Nevill believes this project is a net improvement.

Roll call vote: 6 in favor, 0 opposed, motion passed.

**Item 2C:**

**CU2023-0018 / Smith**– Scott and Denise Smith of Sol Invictus Winery request a conditional use permit to allow a special events facility on Parcel R33774015. The 9.98-acre property is located at 3690 Schmidt Lane, Star; also referenced as a portion of the NE¼ of Section 1, T4N, R2W, BM, Canyon County, Idaho.

Commissioner Williamson disclosed the Smiths are in the same industry as him but they have not conducted any business together and doesn't believe there is any bias.

Chairman Sturgill disclosed he has attended the Winery about a half a dozen times but not within the calendar year of 2024.

**Planner Emily Kiester** reviewed the Staff report for the record.

Commissioner Williamson asked if there is a road maintenance agreement on Schmitt Lane. Planner Emily Kiester stated the applicant may have a copy of one. Commissioner Williamson asked if there was discussion on having more boundaries. Planner Emily Kiester stated the boundary that is recommended is due to a residence being on the west, the other properties are Ag operated. Commissioner Williamson asked if the Administrative Decision will still apply. Planner Emily Kiester confirmed it would. Commissioner Williamson asked if they could sell their wine at the special events. Planner Dan Lister stated the applicants would have to get appropriate licensing. Commissioner Williamson asked if there are any conditions for the Agricultural activities on the property. Planner Emily Kiester stated there are no conditions related to that.

Commissioner Nevill stated in the history there was an application that was denied and asked who denied it. Planner Dan Lister advised it was a temporary special events facility while they applied for a permanent special events facility. The temporary special event use is through a Director's Decision. It was denied due to concerns from the neighbors that couldn't get mitigated in time. Commissioner Nevill asked if the Conditional Use Permits for the winery and special events could get cleaned up and not be separated because it creates confusion. Planner Dan Lister advised it is the process to have a tasting room accessory to the winery and is a different land use than a special events facility. Commissioner Nevill asked if the camping is tents or RV's. Planner Emily Kiester stated the applicant can answer that. Commissioner Nevill asked if a temporary RV is allowed. Planner Emily Kiester advised that it is allowed as an accessory to a special events facility. Commissioner Nevill asked if a temporary RV can be in a residential zone. Planner Emily Kiester stated it would not be allowed.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Scott Smith (Applicant) – IN FAVOR – 6390 Schmidt Ln, Star, ID 83669**

Mr. Smith stated the wine regulations and zoning has been a bit confusing. In 2018 they bought the property and started planning the vineyard, at the time they thought what they were doing everything they needed. Once COVID happened there was a migration of people, they went back to the County to ensure they were still in compliance. That is why they are now trying to get the Special Event Facility Conditional Use Permit. Mr. Smith explained the Director's Decision for the temporary special events facility was withdrawn and not denied. Mr. Smith stated he is in agreeance with the conditions of approval except two. He would like to limit the special events facility to 12 events per year. The events would be things such as grape stomps, backyard BBQ's, paint and sip and valentine dinners. Mr. Smith would like to move the production into a building, he is proposing a 30x80 building that would be 7 days a week devoted to the Ag production. Ms. Smith stated the fire department has been on the site and they are able to ingress and digress without a problem. Mr. Smith explained the hours of operation are needed to have employees in the building so he is requesting longer hours for set up and tear down. Mr. Smith stated there might need to be discussed on the boundary for the west side of the property. He believes it needs to be on the east side. He suggested shrubbery next to where the musician will be. Mr. Smith explained the camping would be Harvest Host camping and would be RV's. Mr. Smith asked for the conditional use permit to say Scott and or Denise Smith incase something were to happen to one of them the other could still run operations. He also asked for a onetime transfer so they could have the ability to transfer the CUP

to their son. Mr. Smith stated he is open to mitigate any issues that arises.

Chairman Sturgill asked Staff if there was a typo and the boundary should be on the east side. Planner Emily Kiester confirmed there was a typo and the boundary is the east side not the west side.

Commissioner Williamson asked about High Desert Event Facility. Mr. Smith stated it is about a thousand yards to their northwest and they have an indoor/outdoor horse arena, outdoor area for shooting and other things, they host larger scale events that can hold into the thousands. Commissioner Williamson asked if they have a road users' agreement. Mr. Smith stated his wife has done a lot of research trying to find a road users' agreement on file and nobody has been able to find one. The road is under control of another property, it was built for the houses further down to have access to their property. There is documentation that there was an easement given by the previous owner of the property so they interpret it as they gave the neighbors an easement so they could construct the road for their access. Commissioner Williamson asked for clarification on a gate. Mr. Smith stated it was a question to him asking if the neighbors wanted to put a gate up on the road to minimize traffic if Mr. Smith would share the expense. Mr. Smith stated as good neighbors he would share the expense but that is contingent on if that is what the neighbors want. Commissioner Williamson asked if they would be able to get permission from the neighbors if they wanted to put up a bigger sign. Mr. Smith stated he cannot speak for his neighbors, he isn't proposing putting a sign on his neighbors' property just at the entrance of theirs to make it look more professional and obvious. Commissioner Williamson asked about the winery ordinance. Planner Dan Lister stated they were working on a winery ordinance in 2021 but since has been put aside for other pressing matters.

Commissioner Mathews asked if he was aware he is running a commercial operation on a private road. Mr. Smith stated that is an interpretation on how you view the road. He went through the title company and spoke to legal council and they are interpreting it that they have access through the right of the property.

Commissioner Sheets asked who owns lot 7. Mr. Smith stated it is owned by the neighbor with legal representation. Commissioner Sheets confirmed lot 7 is unoccupied but has a residence to the lot to the west.

Commissioner Villafana asked if the music events got suspended once the formal complaint was made or if he continued the events. Mr. Smith stated with the exception of once all the parking has been contained within their property boundaries. In 2023 they recognized that specific event was no longer appropriate for the location so they partnered with the City of Star and moved it downtown. They moved the location before the notice they received from the County. They have not held any events since finding out they were out of compliance.

Commissioner Nevill confirmed Mr. Smith wants 12 large events per year. Discussion ensued between Commissioner Nevill, Planner Emily Kiester and Mr. Smith in regards to the conditions he mentioned during testimony that needed or requesting change. Commissioner Nevill asked if the septic's have been straightened out with Southwest District Health. Mr. Smith stated he has had conversations with them and it is contingent on if the CUP gets approved. Commissioner Nevill asked if the RV camp sites are dry. Mr. Smith confirmed that they are dry camping spots. Commissioner Nevill asked if Mr. Smith's property has an easement to use Schmitt Lane. Mr. Smith stated he doesn't believe they do because the last owner gave the easement for the neighbors to get to their property. Commissioner Nevill asked Staff if the code violation is cleared. Planner Emily Kiester advised if the CUP gets approved then the violation would be cleared.

Chairman Sturgill asked about overflow parking. Mr. Smith stated the goal is once they meet the max then they turn people away. Chairman Sturgill asked the maximum number of parking spaces available. Mr. Smith stated it is north of 90 spaces available.

Commissioner Williamson asked when the last time the property lines were surveyed. Mr. Smith stated he isn't sure.

Planner Dan Lister clarified the RV camping would require its own conditional use permit, they could do tents or yurts with the special events facility CUP. Planner Dan Lister confirmed there is a road users' maintenance agreement from 1998 for Schmitt Lane.

**Denise Smith – IN FAVOR – 6390 Schmidt Ln, Star, ID 83669**

Ms. Smith stated the address on the paperwork is incorrect, the address listed is her home address and would like the special events address to be at the winery. Ms. Smith stated they do not want to be open every day. She wants to run small scale events and wants to help the community of Star.

Chairman Sturgill asked if they were to pull back some of the events if that would be a non-starter. Ms. Smith stated it wouldn't be a non-starter.

**Luke Erlebach – IN FAVOR – 6745 Willis Rd, Star, ID 83669**

Mr. Erlebach stated he owns about 30 acres north of the property which is in-between an existing event center and the proposed event center. He is in support because of the impact, there is already noise in the area, events, etc. His concern is making sure the conditions are met.

**Julie Trudeau – IN FAVOR – 713 N Eagle Rd, Eagle, ID 83616**

Ms. Trudeau stated the Smith family is quiet and patriotic. She enjoys going to the winery because of the view and seclusion. Ms. Trudeau stated she can hear the other event facility throughout the night. She recommends a ranch arch with their logo at the entrance. The music can be mitigated to limit the size, the genre, music instruments, volume decibels for the entertainers and the direction of the speakers or singers be faced away from the neighbors.

**Catherine Weber – IN FAVOR – 12221 W Lank Tree Rd, Star, ID 83669**

Ms. Weber stated she is the owner and operator of the Silver Hawk Aviation Academy at the airport. She lives about 2 miles from the proposed facility. She believes having a special event facility will let the applicants be competitive with the other wineries in the area. The City of Star doesn't have any place like the proposed facility and believes it will be good revenue. Ms. Weber is in support of supporting local businesses and is in support of this application.

**Michael Keyes – IN FAVOR – 338 S Long Bane Way, Star, ID 83669**

Mr. Keyes stated the Smith's are both veterans and have been community supporters for the City of Star and the County. Mr. Keyes is on the board of two non-profit organizations in the area and the Smith's support them both. The area in question is in the City of Star's impact area and is quickly becoming residential. The essential character of the area is changing because of the growth. Mr. Keyes believes this is a smart land use because it will serve the citizens well.

Commissioner Nevill stated special events are not allowed in residential areas and asked if it will be an island in a residential area. Mr. Keyes stated if the application gets approved it will be before the development and they will have a chance to decide if they want to live next to the special events facility

or not. Mr. Keyes believes having a special events facility in a neighborhood environment is ideal. Mr. Keyes stated the City of Star approves of the application and believes the County should as well.

**Lana Servatius – IN FAVOR – 1334 E Fairway Dr, Eagle, ID 83616**

Ms. Servatius stated the clientele at the winery is a more peaceful group of people and rowdy behavior would not be tolerated by the Smith's. The Smith's care about others, values the community and neighbors and expects the same from others.

**Nicole Huntington – IN FAVOR – 10336 W Shumard, Star, ID 83669**

Ms. Huntington stated the Smith's aren't like other businesses. The last five years they have put on a Christmas Bazaar and donated to the food bank. They always want to help and contribute to the community.

**Laura Scott – IN FAVOR – 23945 Camadrie Ln, Star, ID 83669**

Ms. Scott stated the camping she has seen at wineries are senior citizens who don't want to pay a lot to park and can park in a parking lot at the winery and buy a bottle of wine. They don't hook up and they don't stay long. Ms. Scott stated the events that the Smith's put on helps the community. Ms. Scott stated she hears the other facility and knows that even the large events at the proposed facility will not be like the other in the area.

**Olivia O'Brien – IN FAVOR – 2134 Ragnar Ct, Middleton, ID 83644**

Ms. O'Brien stated she has worked at the winery for a year and a half and is a club member as well. She has never encountered an unruly guest or was allowed to drive home after having too much to drink, they do a fantastic job of making sure guests have a safe way home. If the application gets approved then this will give more opportunity to foster connections and have meaningful experiences.

Chairman Sturgill asked how the current level of amplified music is and how it effects the residents. Ms. O'Brien stated the music concludes by 6pm, it's never loud with only 1-2 performers. Nothing you can hear much outside of the property.

Commissioner Williamson asked what kind of genre is typically playing. Ms. O'Brien stated typically the music is alternative rock, classic rock, country and mellow music. More like coffee shop music.

**Julie Cassatt-Olsen – IN FAVOR – 12405 W Hidden Point Dr, Star, ID 83669**

Ms. Cassatt-Olsen stated when selling her house one of the selling points was that they were so close to the winery they could walk. She doesn't believe having residential nearby is a bad thing and most people will view it as a free concert, although she cannot hear the music from her place. The winery is a good aesthetic to the area.

**John Tensen – IN FAVOR – 538 S Selwood Lane, Star, ID 83669**

Mr. Tensen stated he is one of the original wine club members and has witnessed the hard work they have put into the property and the effort they make to ensure customers do not drink to much. Mr. Tensen stated the Smith's have the musicians point towards their residence so the sound absorbs into the house. If you do not sit in the first few front rows you cannot hear what the musicians are singing. Mr. Tensen believes growth is good if done correctly and responsibly, he has read the staff report and believes that it mitigates the impact to the neighbors.

**Steve Bruneel – IN FAVOR – 4952 Ground John Lane, Eagle, ID 83611**

Mr. Bruneel stated as a farmer he has seen a lot of changes and seeing farm ground shrink. He believes



saving Ag even if it is a small spot such as the winery. He has gone to the winery a few times and didn't have to raise his voice to be heard over the music.

Commissioner Nevill asked for confirmation that Mr. Bruneel believes a winery preserves the agriculture way of life. Mr. Bruneel confirmed that to be true and believes projects like this is how we preserve agriculture in the valley.

**Tammi Murri – IN FAVOR – 6039 W Striker Ct, Eagle, ID 83616**

Ms. Murri stated she has seen agriculture diminish and believes the Smith's are trying to keep agriculture alive. Small business owners are getting shut down because of the large chains and Ms. Murri would like the small businesses supported.

**Michael Scott – IN FAVOR – 23945 Camadrie, Star, ID 83669**

Ms. Scott stated he believes that the winery has been an asset to the community while still having roots to the agriculture way of life. Mr. Scott believes the issue is the High Desert Center who is loud and not the winery and believes any issues can be mitigated for this application.

**Michelle Davelaar – IN FAVOR – 11694 W Water Birch, Star, ID 83669**

Ms. Davelaar stated is in support of growth while keeping the Idahoan culture. Ms. Daelaar believes you find that at small business such as the one proposed. She has witnessed them working on mitigations when complaints occur. She has witnessed them directing traffic, changing directions of the sound and putting things on the walls to absorb the noise.

**Tami Chrono – IN FAVOR – 9808 Cattleman Ranch Court, Star, ID 83669**

Ms. Chrono stated she agrees with everyone's testimony so far. She believes supporting the special events facility in this area with the inevitable growth is important otherwise it would be a vast residential area.

**Emma G. Vardeman – IN FAVOR – 1004 W Royal Blvd, Boise, ID 83607**

Ms. Vardeman stated she has been an employee at the winery since 2021 and she has seen nothing but great customers who are looking for the since of community.

**Brad Hild – IN OPPOSITION – 6155 Windmill Rim Drive, Star, ID 83669**

Mr. Hild stated he isn't opposed to what they are wanting to do, he is opposed to hearing it because he lives half a mile away and he can hear their music. The music is mellow he just doesn't want to hear it when he sits outside on his back porch. Mr. Hild thinks the barriers are great he just doesn't know if that will mitigate the noise. He wants them to succeed because he is a veteran and they are veterans but he doesn't want to hear the music. Mr. Hild stated if there can be a condition that states when they sell the conditional use permit goes away then he would like that. If there was barriers or music inside he would appreciate that.

Commissioner Williamson asked if Mr. Hild read the staff report. Mr. Hild stated he did. Commissioner Williamson advised that condition 22 makes it so if a new owner occurs they have to go through the process again for a conditional use permit. Commissioner Williamson asked his thoughts on a one-time transfer to their son. Mr. Hild stated if he would be ok with that.

Commissioner Nevill asked how close Mr. Hild is to the other event center. Mr. Hild stated that the other event center is horrible and he is about a mile away.

**Carl Anderson – IN OPPOSITION – 505 S 7<sup>th</sup>, Caldwell, ID 83605**

Mr. Anderson stated he is representing two of the neighbors directly to the east. They are affected by the dust and noise currently. Mr. Anderson stated it is a conflict of the area and will only get worst with more residents.

Commissioner Nevill asked if the dust and noise concerns can be separated from the winery and event center. Mr. Anderson stated both.

Commissioner Williamson asked if the dust mitigation proposed by the applicant mitigates the concerns. Mr. Anderson asked why it hasn't been done already. Commissioner Williamson asked if they have spoken to the applicant about their concerns. Mr. Anderson stated they go to the winery. Mr. Anderson stated noise travels at night.

**Steve Jones – IN OPPOSITION – 6743 Schmidt Ln, Star, ID 83669**

Mr. Jones stated the Smith's are great people but the issue is the expansion from a vineyard to a winery and now a special events facility. His problem is the excess traffic on the road. He is fine with the winery as it is now and with the music they play. Mr. Jones stated the noise is from the other special event facility that goes to all hours. The winery tries to be cooperative and respectful. He doesn't believe there is an active road users' maintenance agreement.

Chairman Sturgill asked what the appropriate measures are to handle dust mitigation. Mr. Jones stated it depends on the traffic but 3-4 times in the applicants' case should work. Chairman Sturgill asked if it eliminates the dust or mitigates it. Mr. Jones stated initially it mitigates about 90% and then goes down.

Commissioner Nevill asked about the road users maintenance agreement. Mr. Jones stated there has been four that he has found and the last one he found was from 1998 and believes dissolved in 1999.

Commissioner Williamson asked if he would be in favor of a gate as a condition. Mr. Jones stated the problem wasn't there before the winery was there but he doesn't have a problem with the winery he has a problem with the special events facility.

**Julie Fischer – IN OPPOSITION – 4 Ogden, Nampa, ID**

Ms. Fischer stated she is representing the Choutchourous and will be discussing the private road issue. Ms. Fischer stated the entire southern portion of the subject property where Schmitt Lane runs on her client's property, it was paved by her clients and only access certain lots. She has conducted research and has found the Smith's do not have a right to use the road. The subject property has never been a part of Schmitt Lane and the previous owner of the subject property did not provide an easement because the road is on her clients' property and they are the only ones that can grant access. Ms. Fischer stated the site plan is flawed because there is no ingress or egress to the property parking. The only ones that can put a gate up on the road is her clients and if they chose to do a gate they would put it at the beginning so nobody has access. Ms. Fischer stated with more research they discovered the Smith's have access to their property runs along side of the east side of their property so fencing wouldn't work.

Ms. Fischer's time ran out. She requested an additional 5 minutes

**MOTION:** Commissioner Nevill moved to give Ms. Fischer an additional 3 minutes of testimony time, seconded by Commissioner Mathews, voice vote, motion carried.

Ms. Fischer continued her testimony by summarizing without the access none of the proposed plan works. They would need to redesign the entire plan. Ms. Fischer stated the road users' maintenance agreement suggests all the parties can use the road and doesn't believe that is accurate but even if that is true it is for residential use therefor the Smith's cannot use the road for commercial use.

Chairman Sturgill asked Ms. Fischer if her client has ever attempted to restrict access to the existing facility and if not why not. Ms. Fischer stated that they haven't because the situation is confusing on trying to figure out who is able to use the road but the clients are prepared to block the access. Chairman Sturgill asked if the clients have a proposed resolution such as restricting the activity, stopping the existing activities, or to move forward with the CUP and the applicant pays for road maintenance. Ms. Fischer stated the clients do not want a commercial use on the road.

Commissioner Mathews asked if the clients would consider entering into a road users maintenance agreement with the Smith's. Ms. Fischer stated it is her understanding that they might be willing to grant residential use.

Commissioner Sheets asked how long the access in dispute has been in use. Ms. Fischer stated she isn't sure. Commissioner Sheets asked if there is an easement reserve for a transfer of the property. Ms. Fischer stated they have two easements to Foothill Road and both are on the east side of their property. Commissioner Sheets asked if there are any prescriptive theories that could support what she says. Ms. Fischer stated no. Commissioner Sheets asked if the clients have contact with the applicants. Ms. Fischer stated she isn't aware of any.

Chairman Sturgill asked for clarification on the two access points on the east side. Ms. Fischer clarified that they are two easements that are recorded where they can gain access. Chairman Sturgill asked the geographical locations of the easements. Ms. Fischer stated they are working on getting maps made but appear to be straight.

Commissioner Sheets asked if the other easements will still go through the client's property. Ms. Fischer provided the locations using the map. Commissioner Sheets asked if the applicants used the other easement if her clients would have an issue. Ms. Fischer stated they wouldn't have a choice and that her clients have other issues such as noise.

Commissioner Nevill asked if the investigation found any survey pins. Ms. Fischer stated they did not. Commissioner Nevill asked if the clients have an issue with the agricultural use. Ms. Fischer stated that it is a permitted use so no. Commissioner Nevill asked because the winery has an agricultural use if they have an issue with that. Ms. Fischer stated the clients moved there knowing it was an agricultural zone.

Commissioner Williamson asked if there is a recorded easement to access the subject property. Ms. Fischer stated she has found two easements that could provide access to the subject property. Commissioner Williamson asked if the access was redirected to the recorded easement if the clients would have any other issues. Ms. Fischer stated the road only eliminates one issue the others are the lack of regard to the rules, the guard rails that were set into place, they have been on notice and there has been misrepresentations regarding the use. As well as it is noisy and people are parking in the road and getting shuttled in a golf cart.

Commissioner Mathews asked if the easement they have to their property if it is specific for residential use only. Ms. Fischer stated she believes there is no restrictions on it.

**Scott Smith (Applicant) – REBUTTAL – 6390 Schmidt Ln, Star, ID 83669**

Mr. Smith stated he cares about the neighbors and how they feel. Mr. Smith stated if the CUP gets approved they will put in a building on the east end of the property and that would help mitigate noise. They would take care of the road with dust mitigation and have thought of paving it. Mr. Smith stated the noise has been cutting off at 6pm and will continue to be respectful if the CUP is approved. With the camping if that is an issue they will remove that. Mr. Smith addressed the biggest issue is the access to the property and it has been a struggle to get the information. He has spoke to the title company and it is clear that they have access to Foothill Road, he just needs to get everything defined because he is not sure if what has been said is correct. Mr. Smith is open to suggestions for mitigation to be a good neighbor and is willing to cut back days of operations.

Chairman Sturgill asked what Mr. Smith’s interpretation is of the area, if it is going to be residential. Mr. Smith stated some of the residential decisions have already been made. This is an opportunity to not be a sea of houses and to have some open spaces with agriculture to have a mixed-use space. Chairman Sturgill asked if the City of Star is directly adjacent to the property. Mr. Smith stated there is a row of houses between him and the City of Star.

Commissioner Williamson clarified that his past events ended at 6 pm. Mr. Smith stated that is correct and a few times he had a special event like hosting a wedding that the music cut off at 9 pm and everyone was out by 10 pm to respect quiet time.

Director of Development Services Sabrina Minshall provided the options available to the Commissioners to continue the case. Director of Development Services Sabrina Minshall expressed wanting to provide the Commissioners with a clear definition of a winery, the tasting room as an accessory vs an event center and how they are classified, why there are conditions tied to a CUP about ownership and transferability, and clarification about the RV camping with the Harvest Host program in compliance with code. The burden of proof will be on the applicant to provide in regards to the access and easement of the roads. Director of Development Services Sabrina Minshall advised that can be a condition or ask the applicant to bring it back and continue the case to a date certain.

Conversation ensued with the Commissioners, Assistant Director of Development Services Jay Gibbons and Director of Development Services Sabrina Minshall about continuing the case to a date certain and what information they would want provided.

**MOTION:** Commissioner Sheets moved to close public testimony on Case CU2023-0018, seconded by Commissioner Villafana, voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets believes that they need more information on the access of the property and would like it to be continued in a month’s time.

Commissioner Mathews agrees with Commissioner Sheets.

Commissioner Williamson would like more clarification on the RV camping and the winery definition.

Commissioner Nevill would like a noise mitigation plan with decibel levels.

Commissioner Sheets stated if they need sound experts then the case will need to be continued to at least 6 months away.

**MOTION:** Commissioner Williamson moved to continue Case CU2023-0018 to September 5, 2024, requesting information on legal access or easement to the property and for Staff to provide the winery definition and clarification for the criteria for the Harvest Host. With a deadline for turning in the information being August 26, 2024. Seconded by Commissioner Sheets.

**Discussion on the Motion:**

Commissioner Nevill would like noise mitigation to be in the motion for information needed.

Roll call vote: 5 in favor, 1 opposed, motion passed.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Planning Supervisor Carl Anderson reviewed the upcoming schedule.

**ADJOURNMENT:**

**MOTION:** Commissioner Villafana moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 11:45 PM.

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

Approved this 5<sup>th</sup> day of September, 2024



Robert Sturgill, Chairman

ATTEST



Amber Lewter – Hearing Specialist