



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, November 21, 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  
Brian Sheets, Commissioner  
Miguel Villafana, Commissioner  
Harold Nevill, Commissioner  
Geoffrey Mathews, Commissioner  
Matt Dorsey, Commissioner

Staff Members Present: Jay Gibbons, Interim Director of Development Services  
Aaron Williams, Constituent Services Director  
Carl Anderson, Planning Supervisor  
Dan Lister, Principal Planner  
Amber Lewter, Associate Planner

**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. CU2023-0025 – Surber – Approve revised FCO’s**

**MOTION:** Commissioner Nevill moved to approve the revised FCO’s for case no. CU2023-0025, seconded by Commissioner Sheets voice vote, motion carried.

**Item 1B:**

**APA Ordinance:** The Board of County Commissioners of Canyon County, Idaho, will consider adopting an Ordinance of Canyon County, Idaho Chapter 7, Article 9, of the Canyon County Code of Ordinances, Canyon County Agriculture Protection Act.:

The purpose of this ordinance is to comply with an Idaho state law passed during the 2024 legislative session- Title 67- Chapter 97, Agricultural Protection Act.

Idaho Code § 67-97 requires counties to establish a voluntary process through which agricultural producers may make application to commit lands actively devoted to agriculture production to remain in agricultural use for a minimum of twenty years. As required by state law, an APA designation aims to protect productive farmland, rangeland, and forest land; encourage best farming practices; support the local agricultural economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code.

If approved by the Board of Canyon County Commissioners, the effective date of the proposed ordinance will be January 1, 2025.

On November 7, 2024, the Planning and Zoning Commission continued the hearing to November 21, 2024.

**Interim Director, Jay Gibbons** stated for the record that public testimony was kept open. Interim Director Gibbons provided a summary of what was discussed at the November 7, 2024 hearing for the Commission and audience. Interim Director Gibbons also read into the record comments received from Nampa Meridian Irrigation District (Exhibit 4d), Highway District 4 (Exhibit 4e), Snake River Canyon Scenic Byway (Exhibit 4g), City of Nampa P&Z Department (Exhibit 4h). Exhibit 4i is a bullet point list of comments received at the APA open House on November 19, 2024.

Commissioner Nevill asked when the County would re-negotiate AOCI. Interim Director stated the County needs to rereview and renegotiate by January 1, 2026.

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

**Testimony:**

**Shane Alder- IN FAVOR – 89 Can Ada Rd., Melba, ID**

Mr. Alder stated prime farmland is being lost. This is a good step to help preserve what we have left. Mr. Alder's family has been in Melba for three generations, growing seed crops. He is in support of the APA Ordinance.

Commissioner Villafana asked if it would be problematic to have the APAs close to city limits. Mr. Alder was in favor having them near city limits. They currently have a farm that is adjacent to city limits.

**Keri Smith- IN NEUTRAL – 17741 Linden Ln, Caldwell, ID**

Ms. Smith noted for the record she spoke previously on the 7<sup>th</sup> of November. Ms. Smith's concern that in the criteria, that a designation for this does not exist yet in the Comprehensive Plan. Ms. Smith asserts that this should not require a complete separate hearing process. Other counties have not gone through this process yet. If a use is not listed in the zoning matrix, it is prohibited. CCZO 07-06-01 4 A, states that the Comp Plan shall be considered and other evidence gathered through the public hearing process. Ms. Smith completed a comprehensive plan analysis of which she discussed on the record. She stated she supports agriculture.

Commissioner Sheets asked if the purpose of items running concurrently was to reduce fees or time. Ms. Smith stated, both. Ms. Smith stated that right now it is about 1.5 years to get through process in Canyon County.

Commissioner Nevill asked for clarification on Ms. Smith's testimony as to what she wanted changed. Ms. Smith replied, Section 10, "unless otherwise approved by the Board of County Commissioners" she wants the first words "unless otherwise approved" stricken. The matrix already outlines uses. Ms. Smith felt that the intensive overlay should be addressed, but the APA is different, as it is voluntary. Commissioner Nevill asked if the 20-year requirement is in the law as well as the minimum 5 acres. Ms. Smith agreed but added that it does not state that you have to be outside of an impact area.

**Clay Erskin – IN NEUTRAL – 20021 Hoskins Rd. Caldwell, ID**

Mr. Erskin is here this evening on behalf of Canyon Soil and Conservation District. Mr. Erskin stated that agriculture closer to cities should be part of the food system. Mr. Erskin clarified some of the items in the exhibit submitted by their agency for the record. The APA is a 20-year timeframe, and smaller scale renewable energy could be located. Paying for a Comprehensive Plan Map amendment is a hardship.

**Gayle Delehat– IN NEUTRAL – 9761 Whitecap Ct. Wilder, ID**

Ms. Delehat agreed with the letter read into the record and agreed with previous testimony. Ms. Delehat did attend the open house. She supports agriculture and the intent of the law. Ms. Delehat was disappointed to hear that the APA Commission wasn't appointed to write the Ordinance.

**Chris Gross – IN NEUTRAL – 24337 Lower Pleasant Ridge Rd, Wilder ID**

Ms. Gross agreed with Mr. Erskin's testimony. Ms. Gross agreed that the ½ mile be struck from the current law.

Commissioner Dorsey stated that the law is voluntary and there are no benefits of doing so. He asked Ms. Gross if there were any benefits that would encourage the voluntary participation in the APA. Ms. Gross stated fee structure and the overlay option would be better. Making it easier and clarifying what productive agricultural land truly means. Technology changes over time. Incentives in some form may help.

**Connie Lou Aebischer – IN NEUTRAL – 3809 Chardes Ave., Caldwell, ID**

She is in favor of the APA, but not in favor of the additions by DSD and the BOCC. Ms. Aebischer has listened to the DSD General Business meetings and the discussions in regard to the APA. Allowing farmers in the impact areas or close to them should have the opportunity to be included in the APA. Ms. Aebischer asked the Commission to think about the criteria that would be required to be in the APA. She agreed with previous testimony.

**Patrick Williamson – IN NEUTRAL – 19550 Eat A Bite Ln, Caldwell, ID**

Mr. Williamson agreed with previous testimony. Mr. Williamson suggested that in Section 4, adding a letter H to recommend/encourage people to have succession plans. The law is to encourage generational farming. High fees would make him pause applying for an APA.

Mr. Williamson's three (3) minutes of testimony expired.

**MOTION:** Commissioner Nevill moved, seconded by Sheets to give Mr. Williamson two (2) minutes of additional testimony. Voice vote, motion carried.

Mr. Williamson stated his understanding of the law is that the APA Board and Board of County Commissioners have 60 days to decide. Mr. Williamson stated that if he wanted to build a shop he couldn't, based on his reading of Section 10. Housing is an issue, and being able to locate farm housing on his property. He agreed with previous testimony.

Commissioner Dorsey asked if the green language was more of a disincentive? Mr. Williamson said yes.

**MOTION:** Commissioner Sheets moved to close public testimony on the proposed APA Ordinance, seconded by Commissioner Nevill. Voice vote, motion carried.

**Deliberation:**

Commissioner Sheets referenced Title 67 Chapter 97, which lays the framework and provides the wording and intent. Comparing the Title with the Ordinance, there is room to scale back. Section 3, definitions, the applicant as defined in the statute is that the applicant owns five acres not that they are contiguous. Section 4, creation and designation of an APA, strike the contiguous acres. Letter C, should state appraised as agricultural land and eligible for an agricultural exemption. Commissioner Sheets proposed to strike D. Commissioner Sheets stated that he did not feel a history of ownership should be required under E. Section 5, strike contiguous acreage. He proposed to strike proximities that are listed as part of the criteria. Strike compatibility with surrounding land uses. A fee should not be discouraging to applicants. The fee should cover the review, but the review should be expedited. Section 10, strike “unless otherwise approved.”

Commissioner Villafana agreed with Commissioner Sheets, with a couple suggestions. In Section 9 the fees should be in line with a lot line adjustment or in line with an expedited review. No siting of residential, commercial, or industrial shall be located unless specifically used for agriculture.

Commissioner Nevill suggested removing any language suggesting area of city impact, soil type requirements or contiguous land, remove language in regard to land ownership, remove the comprehensive plan change requirements, remove the BOCC ability to require land use improvements to promote compatibility with surrounding land uses. Allow an automatic renewal of the APA without a 20-year requirement. Allow an appropriately sized renewable energy generation on APA land. Remove the requirement for a history of ownership, remove the wording “unless otherwise approved.” He is opposed to the cities’ comments.

Commissioner Matthews asked about the single ownership. He is proposing to strike that it be a requirement, unless this was listed in the statute. Commissioner Matthews agreed with the previous comments from the Commission.

Commissioner Dorsey agreed with previous comments. Commissioner Dorsey added that the APA is voluntary and he did not want to link it to Ag overlays. An APA Commission should be able to look at a property and make a good decision.

Interim Director Gibbons summarized the comments received from the Commission during their deliberation.

Commissioner Sheets pointed out that when the Commission is talking about “criteria” in Section 5, that they would only be talking about the criteria in “A and a portion of L,” Everything else is inconsistent with the enabling act. The criteria can be developed by the APA Commission.

**MOTION:** Commissioner Sheets moved to recommend approve the APA Ordinance with the previously discussed amendments . Seconded by Commissioner Dorsey.

**Discussion on the Motion:**

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

**Item 1C:**

**Case No. CR2022-0022 – Vermaas:** The applicant, KM Engineering representing owner Bonnie Vance Vermaas, is requesting a conditional rezone of Parcels R37517 & R37519 from an “A” (Agricultural) zone to an “R-1” (Single Family Residential, one-acre average minimum lot size) zone subject to a development agreement restricting development to 13 residential lots. The subject property is located at 9713 Galloway Road, Middleton; also referenced as a portion of the NW ¼ of Section 28, T5N, R2W, Canyon County, Idaho.

On August 15, 2024 and October 17, 2024, the Planning and Zoning Commission tabled the hearing to allow the application to be amended to request an “R-R” (Rural Residential, two-acre average minimum lot size) zone.

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

**MOTION:** Commissioner Sheets moved to open public testimony on Case No. CR2022-0022, seconded by Commissioner Dorsey. Voice vote, motion carried.

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

**Testimony:**

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

Ms. Hopkins stated that three months ago, the request was a conditional rezone to R-1. After discussion with staff about the preference to rezone to R-R. They agree with staff’s recommendations with the exception (DA condition no. 2A) which requires a 2.5-acre minimum lot size. A two-acre lot size would be the most straightforward and best use of the property. When the application was submitted the future land use designated this property as residential. The property owner wanted to pursue a subdivision that was consistent with the future land use. A plat was also submitted with the rezone request but has not yet been re-designed for the RR designation. The request complies with the comprehensive plan, surrounding zoning, and lot sizes. The request maintains the rural character of the area. There are no irrigation rights available to the property.

Commissioner Nevill asked what kind of thought had been given to the CCR’s to ensure that property owners within the development are aware that only ½ acre can be irrigated from a domestic well. Ms. Hopkins stated this has not been discussed with the client and deferred this question to be addressed in their testimony.

Commissioner Sheets clarified the number of lots at a two (2) acre lot size. Ms. Hopkins stated that they are dedicating public right of way through the subdivision and the lot count would be approximately nine lots.

**Tracy Vance– IN FAVOR (Applicant)– 26956 Romeo Dr., Meridian, ID 83642**

Mr. Vance provided history of the property. The development of the property is for his mother’s retirement. His mother will live in the development and will be building a new home. He understood that a domestic well can only irrigate ½ acre. At the time of application (R-1) they felt a smaller lot would be more feasible as there are no water rights and domestic wells would be used for irrigating lawns. The CCRs can include stipulations for irrigating no more than ½ acre. With a two-acre lot, the remainder of the lot could not be irrigated.

**Joe Pachner– IN FAVOR– 5725 N. Discovery Pl., Boise, ID 83713**

Mr. Pachner is the engineer that will be in charge of the project. He stood for questions.

Chairman Sturgill asked Mr. Pachner about other residential developments that he had worked on that were two acres or larger but only half of the lot was irrigated. Chairman Sturgill asked how that typically looks structurally. Mr. Pachner agreed there needs to be strong wording in CCR's and homeowners often forget only ½ acre can be irrigated with a well. The CCRs should reference statute, not only area, but volume.

**Ted Todd – IN OPPOSITION- 9564 Golden Willow, Middleton, ID 83644**

Mr. Todd was concerned with the addition of eight new wells in the area and stated there are already problems with the water table. He is concerned about the lack of infrastructure to support the development. The Fire Department is understaffed and can't keep up with the growth. Paramedics are frequently out of coverage in Middleton. Students ride busses three to a seat and when they are full they are riding on the floor. Mr. Todd understood people have a right to develop, but the infrastructure needs to be in place to support it. He stated that Highway 44 is the new Eagle Road and it is about a 10-minute wait to get out onto it.

Commissioner Nevill asked for more specifics in regard to water shortages. Mr. Todd stated that it was not a pump issue but there was not enough water getting to where it needs to be and the table was dropping. Mr. Todd also stated there are also 3,000 homes approved ready to build homes in the area.

**Richard Trudeau- IN OPPOSITION – 9816 Grand Teton Trail – Middleton, ID 83644**

Mr. Trudeau stated he owns 5.8 acres across from the proposed development. He lived in Eagle for 42 years and moved to Middleton to beat the crowd. He would like the Commission to follow staff's recommendation for minimum lot size. Mr. Trudeau stated his well is down 14 feet since he drilled in 2003. According to IDWR, the aquifer north of Foothill Road has dropped a ½ a foot a year. The fewer lots the better off the area will be.

**Stephanie Hopkins- REBUTTAL– 5725 N. Discovery Pl., Boise, ID 83713**

Ms. Hopkins stated that having a smaller lot size would diminish the area of each lot that would not be irrigated. She referenced the letter from Middleton School District, and the applicant is amenable to conditions in the development agreement such as bus stops or CCR requirements to assist the schools with their concerns.

**Joe Pachner – REBUTTAL- 5725 N. Discovery Pl., Boise, ID 83713**

Mr. Pachner stated that some of the issues he has seen in the area is in regard to community irrigation pump stations or rotations. They have looked at IDWR information and what the area can handle. The biggest issue is in regard to recharge with farm ground going away. He was not aware of wells that were shut down from the aquifer being too low.

Commissioner Dorsey asked Mr. Pachner a follow up on his testimony; in regard to homes that are already in place that are not abiding by the ½ acre irrigation right out of domestic wells. Mr. Pachner stated that there are subdivisions that are irrigating out of a domestic well that have more than ½ acre of manicured lawn. Commissioner Dorsey clarified that this project has no irrigation rights. Mr. Pachner stated that the biggest demand for the wells would be irrigation. In regard to the ½ acre requirement, it can be written in the CCR's, but it is hard to police. Commissioner Dorsey stated with the new lots utilizing their well ½ acre of water for irrigation on land that is currently dry ground, it would be almost a new water right or use.

Prior to closing public testimony, Chairman Sturgill asked if Staff had anything to add.

Planner Lister stated that staff recommends the 2.5-acre lot size. The applicant did agree to prohibit secondary residences which could reduce the potential impact on schools. Planner Lister stated there were a lot of questions in regard to irrigation. The Commission can add conditions pertinent to the irrigation plan. This project does require platting, and there will be an opportunity to apply conditions at that point as well.

Commissioner Nevill asked about additions to CCR's and enforcement. Planner Lister noted that the county does not monitor/enforce CCR's.

Commissioner Sheets asked Planner Lister if IDWR would enforce the ½ acre irrigation with a domestic well. Planner Lister replied, yes.

Chairman Sturgill asked if Planner Lister had information as to how many lots have been approved in a 5-mile radius. Planner Lister noted what was provided in the staff report was from 2020 to current year. Planner Lister discussed some of the projects that he was aware of based on the information in the staff report. Chairman Sturgill asked if a fire district response time was provided. Planner Lister stated that no comment letters were received. The fire station is located approximately five (5) miles away, and staff estimated the response time to be nine (9) minutes.

**MOTION:** Commissioner Nevill moved to close public testimony on Case CR2022-0022, seconded by Commissioner Villafana. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Mathews stated that his recollection when the Middleton School District Superintendent was here that there were approximately 3,000 lots in the development phase. His concern is the incrementally small developments cumulatively add up to something significant. He is opposed to the development and the impact on schools.

Commissioner Nevill is not in favor of the development. He referenced the letter from Middleton School District and it was unambiguous about the over capacity of the elementary school in the area.

Chairman Sturgill invited any discussion in support of the application, there were no comments by the Commission. Chairman Sturgill noted that revised FCOs would need to be crafted and opened that for discussion.

Commissioner Nevill stated the Commission has a version of the staff report in which staff recommended denial (Exhibit 8). Planner Lister stated that recommendation was based off of the R-1 zoning.

In regard to criteria 8, Commissioner Nevill noted that the request will impact essential services. He referenced Exhibit 4 a from Middleton School District which states, that Heights Elementary is at 134% of capacity with three (3) portable units, Mill Creek at 123% of capacity with four (4) portable units.

Commissioner Dorsey suggested adding language that although this will impact less, it will still impact the school. This would speak to the incremental impact.

Commissioner Sheets stated the language could state that the Commission is concerned about incremental allowances of smaller subdivisions that have cumulative impact on the school district.

Planning Supervisor Carl Anderson notes there is a second portion on Criteria 8 that should be addressed in the finding.

Commissioner Nevill stated there are no mitigation measures. Any additional housing units that could bring students into the Middleton School District will impact them. Chairman Sturgill suggested language be in an affirmative to the effect of “when the school district has built capacity.”

Planning Supervisor Carl Anderson added in regard to criteria 8, it should be considered whether or not are there sufficient conditions that could be added to mitigate the impact.

Commissioner Villafana referenced criteria 2, which states the average lot size within 600 ft. is 3.5 acres. This criteria states in part...is the conditional rezone more appropriate? Commissioner Villafana stated that the proposed lot size is smaller than the surrounding area.

**MOTION:** Commissioner Nevill moved to recommend denial of CR2022-0022 to the Board of County Commissioners, and modify the Findings of Fact, Conclusions of Law & Order to revise findings for criteria 2, 3, and 8. In regard to criteria 2, the requested land use is not more appropriate; referencing the average lot size. In regard to criteria 3, the request is not compatible with surrounding land uses; referencing average lot size. In regard to criteria 8, the schools will be impacted due to capacity (exhibit 4a) including the specific percentages for each elementary. Seconded by Commissioner Matthews.

**Discussion on Motion:**

Commissioner Sheets did not agree with changing the answer to criteria 3. This would not change his thoughts on the project. He was in support of the change to criteria 2.

Roll call vote: 5 in favor and 1 opposed. Motion passed.

**Item 2A:**

**Case No. CR2022-0007 – Payne:** The applicant, Greg Payne, is requesting a Conditional Rezone of approximately 21.84 acres from an “A” (Agricultural) and “C-1” (Neighborhood Commercial) zone to a “CR-C-2” (Conditional Rezone - Service Commercial) zone. The request includes a development agreement limiting uses within the zone. The subject vacant property, Parcel R34456, is located adjacent to 13768 HWY 44, Caldwell; also referenced a portion of the SW¼ of Section 02, T4N, R3W, BM, Canyon County, Idaho.

On October 2, 2024, the applicant requested the following amendment to the application: (1) North most 7+/- acres of the subject parcel be zoned “CR-C-2” and restricted to mini storage/RV storage uses and quasi-public uses; (2) Middle 7+/- acres of the subject parcel to be zoned to “CR-C-2” with limited uses; and (3) Southern 7+/- acres currently zone “C-1” will not be changed. The Board of County Commissioners found the request to be a substantial change and remanded the request back to the Planning and Zoning Commission per Chapter 1, Article 17 of the Canyon County Code of Ordinances.

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

Commissioner Nevill asked if there will be anything that would designate between the two zones. Planner Lister stated there would be legal descriptions and Exhibits/maps in the Development Agreement and the Ordinance. Commissioner Nevill asked about enforcement and uses in each zone. Planner Lister stated



that would be enforceability in each zone and the allowed uses.

Chairman Sturgill asked staff to define what a Special Events Facility is. Planner Lister read the definition that was listed in the staff report derived from County Code. Chairman Sturgill asked if a concert facility would fall under a special events facility. Planner Lister replied, yes.

Commissioner Matthews asked if there would be a limit on the number of people. Planner Lister stated in the C-1 zone the use would just be allowed. The current zone of "Ag" would require a conditional use permit.

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

**Testimony:**

**Alan Mills– IN FAVOR (Representative)– P.O. Box 206, Middleton, ID 83644**

Mr. Mills stated that the applicant wishes to create a home for commercial businesses which would be a benefit to the County. Mr. Mills provided verbally listed nearby like type uses in the area. He stated that the Hwy 44 has been long identified as a commercial corridor. Mr. Mills referenced a letter from Dave Lincoln from Western Alliance, businesses can't be attracted while they wait for zoning. The residential to the north is at a higher elevation from this property. Mr. Mills stated that that he understands the traffic concerns and they are aware there will be improvements needed at Canyon and Hwy 44. Mr. Mills discussed the water issue. He stated this area happens to be in the study from IDWR, and this aquifer has stayed increased or stayed stable since 1969. Middleton has great quality and quantity of water. Irrigation water is available to the site.

Commissioner Nevill asked if Mr. Mills agrees with the conditions that staff has recommended in the Development Agreement. He suggested adding "Agriculture" to one of the allowed uses as it was unknown when the property would convert to a commercial use. Planner Lister stated that the Ag would be grandfathered as agriculture is not an allowed use in the C1 and C2 zones.

Commissioner Sheets asked if there was still a good market for RV/mini storage as there are already two in the area. Mr. Mills stated, yes, there is a market. Many subdivisions are now adding provisions in their CCR's that don't allow you to park RV's near your homes.

Commissioner Villafana asked Mr. Mills what would make Highway 44 safer. Mr. Mills stated it is on ITD's plan to expand to five lanes (similar to 20/26).

Commissioner Dorsey asked about the landscaping conditions. Mr. Mills was concerned about the north boundary landscaping as there is a canal and trees.

Commissioner Matthews asked about the proposed uses. Specifically, businesses that may have equipment with backup beepers. With homes being located close by this may be a concern. Commissioner Matthews was concerned about a special events facility and noise level. Mr. Mills stated the primary concern he heard from the neighbors was traffic.

**Carl Anderson– IN FAVOR - 505 S. 7<sup>th</sup> Ave. Caldwell, ID 83605**

Mr. Anderson concentrated on the development agreement and conditions. Mr. Anderson clarified the quasi-public use. The 25 uses are not water intensive and are not power intensive. The proposed uses are more service in nature. The site will have pressurized irrigation available to it.

Commissioner Sheets asked where the trees were located on the property. Mr. Anderson stated the trees are on the Middleton Mill property.

**Steve Miller - IN FAVOR – 17829 Polara Way, Nampa, ID 83687**

Mr. Miller stated he is a realtor in the valley. He has a client that is interested in doing something on this property (agency under state statute) to locate on. The property is a challenging piece of land to farm due to location along a busy state highway.

**Matt Cantwell - IN FAVOR – 1823 Cleveland Blvd., Caldwell, ID 83605**

Mr. Cantwell read a letter into the record from Mr. Payne (applicant).

**Matt Berquist - IN NEUTRAL – 13846 Raymond Dr., Caldwell, ID 83687**

Mr. Berquist lives directly north of the Payne property. He stated the trees end where his property starts and he would appreciate landscaping. He did not want a retail store next to his residence.

Commissioner Nevill asked Mr. Berquist to point out his property on the displayed map.

Chairman Sturgill stated that initially the request was for a rezone with no uses specified. It is now a conditional rezone with potential uses specified. Mr. Berquist has reviewed the staff report online. His main concerns are businesses with a lot of noise or traffic.

**Alan Mills- REBUTTAL (Representative)– P.O. Box 206, Middleton, ID 83644**

Mr. Mills stated that he checked with a friend who has RV storage and during the winter he averages 1 – 2 trips a day and in the summer 5-8 trips a day, which is low volume. If the Commission feels there is a use to eliminate they would take it under consideration.

Chairman Sturgill voiced concerns regarding a special events facility. He would like this use to be a conditional use permit, not just allowed. The applicant would be agreeable.

**MOTION:** Commissioner Sheets moved to close public testimony on Case CR2022-0007, seconded by Commissioner Matthews. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets stated that he would like to continue in this area but understands that Highway 44 prevents productive agriculture there. He likes the idea of Highway 44 being a commercial corridor and this is an appropriate use in the area. Any traffic generated by the use will be addressed at the time of development. He supports the removal of a special event facility from the development agreement.

**MOTION:** Commissioner Sheets moved to recommend approval of Case No. CR2022-0007 to the Board of County Commissioners, with the amendment to the development agreement removing “special events facilities.” Seconded by Commissioner Matthews.

**Discussion on Motion:**

None.

Roll call vote: 6 in favor and 0 opposed. Motion passed.

**Item 2B:**

**Case No. SD2022-0047 – Falcon Rim Subdivision:** The applicant, Tradition Capital Partners represented by KM Engineering, LLP, requests approval of a preliminary plat for Falcon Rim Subdivision, 26 residential lots with one (1) common lot on Parcel R37527011. The parcel is zoned “CR-R-1” (Conditional Rezone -Single Family Residential). The subject property, 37.4 acres, is located at 25683 Duff Lane, Middleton, also referenced as a portion of the NE¼ of Section 29, T5N, R2W, BM, Canyon County, Idaho.

Planner Dan Lister reviewed the Staff Report for the record.

Chairman Sturgill affirmed the witnesses to testify.

**Testimony:**

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

Ms. Hopkins stated that the property was previously rezoned to R-1 with a Development Agreement. The subdivision contains 26 residential lots. The property is adjacent to Thoroughbred Estates and R-1 zoned property. The average lot size is 1.2 acres. Slopes greater than 15 percent will not be disturbed. Individual wells & septic systems are proposed. The property is within a nitrate priority area and each lot will have an advanced treatment septic system. The preliminary plat depicts public roads, but the developer is considering private roads.

Commissioner Nevill asked about some of the stipulations that go along with a private road such as a road user’s agreement, and suggested keeping the roads public.

**Joe Pachner- IN FAVOR- 5725 N. Discovery Way, Boise, ID 83713**

Mr. Pachner stated that the roads are designed for public roads. Community water systems also now have to deliver fire flow. To do this, the biggest well has to be off line to be able to provide fire flow. Storage is also sometimes required if flow can’t be met. Trying to develop a new community system for 26 lots is unfeasible. Advanced treatment systems are approximately 30 % better for the environment. They have had a third party prepare a nutrient pathogen study for the project with advanced treatment systems. Advanced treatment systems do cost more to install and maintain.

**Tyler Hess- IN FAVOR- 23536 Canyon Ln., Caldwell, ID 83607**

Mr. Hess stated the property was rezoned in 2021. Since that time, they have been working to get to a hearing to get approved. He discussed Willowtree Estates that did have a shared septic system and the problems that arose when the system got damaged. He would like to keep individual wells and septic for the project. They are okay keeping the roads public, but do have interest in a private gated community.

Commissioner Nevill discussed the nitrate priority area and the requirement for well testing. Community systems are required to be tested. Private Roads require a maintenance agreement that is only as strong as the association and roads aren’t maintained. Public Roads are preferred. Commissioner Nevill asked what the fire fighting plan was. Mr. Hess replied that the with individual wells, fire flow would only have to accommodate the sprinkler systems.

**Ryan Romano – IN OPPOSITION- 23474 Ember Rd., Middleton, ID 83644**

Mr. Romano discussed the argument made in comments pertaining to community well and septic. One of the arguments made was that there was not enough space. He disagrees, space can be provided. The property is on a slope and he is concerned with individual septic and wells. His well is high on nitrate and

he is concerned about adding additional wells. Fire suppression is a concern. He asked how water will be contained on site. Providing a community system seems more responsible in this area regardless of the cost.

**Stephanie Hopkins- REBUTTAL- (Representative)- 5725 N. Discovery Way, Boise, ID 83713**

Ms. Hopkins stated that water containment will be on site. Roadways will have swales and a system for containing wastewater. Ms. Hopkins stated advanced treatment septic systems are more efficient and referred to Mr. Pachner's and Mr. Hess' testimony.

Commissioner Dorsey asked about stormwater and requested more information regarding containment. Ms. Hopkins stated there are storm drain facilities placed in various areas on the plat.

**Joe Pachner- REBUTTAL- 5725 N. Discovery Way, Boise, ID 83713**

Mr. Pachner provided additional information regarding storm drain facilities. Highway District 4 and DEQ requirements are met for these facilities. He stated the green areas on the plat are the locations of the collection areas. They are sized based on the soils. Topography is also considered in the sizing/engineering.

Planner Lister stated the preliminary plat depicts a public road, if there are any changes to the type of road that could happen as part of the final design and final plat. However, a private road must be a numbered lot and be 60 ft. The public road depicted is only 56 ft. per public road standards.

**MOTION:** Commissioner Sheets moved to close public testimony on Case SD2022-0047, seconded by Commissioner Nevill. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets stated the design isn't an issue. He is fine with individual systems (well and septic). He supports public roads within the development and suggested adding that as a condition.

Commissioner Nevill agreed with the addition of a condition requiring public roads. He is not okay with fire sprinklers because builders ignore it even if it is a note on the plat. If a fire occurs they have no way to hold the fire off until the fire department arrives. He would like a separate fire system that could be relied upon.

Commissioner Matthews stated he lives in a small subdivision (14 homes) and they have discussed the public v s private systems. They all have individual systems. He understands the fire suppression concerns noted by Commissioner Nevill but those community systems are expensive.

Commissioner Dorsey is okay with individual septic systems and wells for this project, but as a pathway forward community wells should be considered due to development being pushed out into the county because it is cheaper.

**MOTION:** Commissioner Sheets moved to recommend approval of Case No. SD2022-0047 to the Board of County Commissioners, and adopt the Findings of Fact and Conclusions of Law as written, with the addition of a condition no. 16, requiring roads to be public and including condition 4c, "Final irrigation shall relocate pressure irrigation lines to not be located on slopes in excess of 15%" Seconded by Commissioner Matthews.

**Discussion on Motion:**

Commissioner Dorsey asked about the addition at the end of Commissioners Sheets' motion regarding the pressure irrigation lines.

Planner Lister stated that any development on slopes greater than 15 percent require a hillside development application. This was not submitted. The current plan depicts no disturbance of those areas. However, they do have a line going through that area, thus the condition.

Commissioner Nevill stated they should not be approving any subdivisions that do not have a fire fighting plan that complies with International Fire Code and Urban Interface Requirements.

Roll call vote: 6 in favor and 1 opposed. Motion passed.

**3. ACTION ITEM - APPROVAL OF BYLAWS UPDATE**

Interim Director Gibbons provided the final edit of the bylaws last week. If approved, he will make the punctuation edits (commas) request by Commissioner Nevill and give the document a final "clean up" and a copy will be provided to the Commission.

Commissioner Nevill referred to pg. 6, Roman Numeral 8, below the table in the middle that specifies time lines, there is a paragraph he is concerned with and is not sure where the language came from. The concern was in regard to the word "equal" the only way to achieve that is if they do percentages. He provided an example. He would like this removed.

Interim Director Jay Gibbons stated this came from the attorneys' final review, but he has no issue with the removal. He understood the concern with the word "equal."

**MOTION:** Commissioner Nevill moved to approve the Bylaws with the changes noted, including punctuation edits, seconded by Commissioner Sheets. Voice vote, motion carried.

**4. DIRECTOR, PLANNER, COMMISSION COMMENTS**

Interim Director Gibbons noted that the P&Z Script will be sent out and will be used at the next public hearing.

Planning Supervisor Carl Anderson stated the Board has implemented this change to the script. He also noted that a "schedule letter" is sent out to applicants with the date of their hearing and this letter includes information about the hearing and how it is conducted. He also stated they will be trying out not including draft FCOs with the staff report.

Commissioner Nevill asked for clarification on the FCOs and what will be in the staff report. Planning Supervisor Anderson stated that what the P&Z Commission will be evaluating the criteria. The Commission can concur with staff's analysis or they can not and provide additional information as to why it does not concur with the analysis.

Chairman Sturgill asked for an update on DSD Management. Interim Director Gibbons stated that Sabrina Minshall is no longer with the County. A search for a new Director will begin after the first of the year.

Commissioner Villafana asked what percentage of cases pending are still based on the 2020 Comprehensive Plan. Interim Director Gibbons stated that the older cases have been assigned but there may be a handful left.

**ADJOURNMENT:**

**MOTION:** Commissioner Nevill moved to adjourn, seconded by Commissioner Sheets. Voice vote, motion carried. Hearing adjourned at 12:00 a.m.

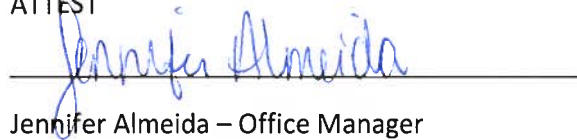
An audio recording is on file in the Development Services Departments' office.

Approved this 6<sup>th</sup> day of February, 2025.

A handwritten signature in blue ink, appearing to read "Robert Sturgill", is written over a solid horizontal line.

Robert Sturgill, Chairman

ATTEST

A handwritten signature in blue ink, appearing to read "Jennifer Almeida", is written over a solid horizontal line.

Jennifer Almeida – Office Manager