

Commissioners Minutes

July 25, 2023 – 1:35 p.m. to 5:30 p.m.

PUBLIC HEARING - THE APPLICANT, BORTON-LAKEY LAW REPRESENTING EW REAL ESTATE, LLC, IS APPEALING THE P&Z COMMISSION'S DECISION REGARDING THE DENIAL OF CASE CU2022-0034, A CONDITIONAL USE PERMIT (CASE NO. CU2022-0034-APL)

Commissioners Brad Holton and Zach Brooks

Commissioner Van Beek (recused herself from the hearing), Deputy PA Zach Wesley, DSD Director Sabrina Minshall, DSD Planning Official Dan Lister, DSD Office Manager Jennifer Almeida, County Engineer Devin Krasowski, DSD Planner III Michelle Barron, DSD Planner II Samantha Hammond

IN FAVOR: Bill LeClerc, Todd Lakey, Deborah Nelson, Scott Gipson, Tara Evans, Jolyn Thompson, Dar Symms, Jacob Cragin, James Mertz, Jim Mertz, John Starr, Mary Symms, Liz Dodson, Rheanna Allen, Moya Dobby, Brenna Smith, Eva Symms, Bill Hirschmann, Sydney Weitz-Nederend, Drew Allen, James Nederend

NEUTRAL: Rob Sturgill, Gregg Alger, Hai Longworth, and Herbert Longworth

IN OPPOSITION: Leanne Ferguson, Mandi Williams, Susan Park, Patricia Anne Lodge, Sonnie House, Steven Bair, Mike Gable, J. Warfel, Daniel Bair, Tara Bailey, Gloria Watson, Jennie Jimmerson, John Ottenhoff, Beverly Ross, Scott Jimmerson, Everett Hamlin, Linda Ross, Sue Stark, Dennis Colbert, Colleen Schaub, Bernard Stalp, Stephanie Bair, Jeff Hibbard, Penny Allmer, John Hoadley, Eldon Betz, Irma Noe, Barbara Parshley, Kaye Devenport, Sharon Frost, James Bauer, John Kernkamp, Madeleine Hall, Lynette Enrico, Margie Robinson, Anne Delgado, Judy Hanson, Amy Bitner, Kim Johnson, Emerson Miller, Gerri Smith, Mary Confer, Paul Panther, Cynthia Burnham, Fred Confer, Danny Trevett, Mark Wendelsdorf, Nancy Tiffany, Julie Rundall, Hipolito Delgado, Tara Bailey, Kris Pyele, Ann Ledford, Marianne Reczek-Phoebus, Joanne Bradford, Marlene Moore, Michael Devenport, Wayne Rundall, Craig Davis, Elisha Brooks, Becky Hartmann, Margarita Romero, John Romero, Larry Craig, Paul Trout, Mark Naillon, Diane Eldredge, Ashley Collins, Sandra McCrillis, Annette Stalp, JoDee Arnold, Lea Matthews, Geoff Matthews, Alan Mowry, Dave House, Marjorie Ford, Charles Ford, Vivian Ferkin, Tina Clapier, Bodie Clapier, Cynthia Betz, Donna Schultz, Willow Yadon, Roger Yadon, Dana Hibbard, Robert McCrillis, Judi Hostetter, James Insley, Terry McClellin, Jim Streicher, Mary Adams, Darryl Ford, Jamie Meade, Paunee Uberuaga, Rita Miller, Jennifer Crumm, Phil Uberuaga, Brian Burnham, Laura Jean Rispens, David Delihant, Gregg Dunlap, Kris Crookham, Judy Leathers, Tamera Frans, William Albert, Angie Dunlap, MJ Stuart, and other interested citizens

Deputy Clerk Monica Reeves



PUBLIC HEARING - THE APPLICANT, BORTON-LAKEY LAW REPRESENTING EW REAL ESTATE, LLC, IS APPEALING THE P&Z COMMISSION'S DECISION REGARDING THE DENIAL OF CASE CU2022-0034, A CONDITIONAL USE PERMIT (CASE NO. CU2022-0034-APL)

The Board met today at 1:35 p.m. to conduct a public hearing for Case No. CU2022-0034-APL, where the applicant, Borton-Lakey Law representing EW Real Estate, LLC, is appealing the Planning & Zoning Commission's decision regarding the denial of Case CU2022-0034, a conditional use permit to allow an Agritourism Oriented Special Events Facility use within an "A" (Agricultural) Zoning District. The use includes an outdoor amphitheater with a seating capacity of up to 5,000 guests for concerts, events such as weddings, cidery, u-pick orchards, and other agritourism-supported activities. The subject property is located just southeast of 13748 Sunny Slope Rd, Caldwell on Parcel R335630106. Present were: Commissioners Brad Holton and Zach Brooks, Commissioner Van Beek (recused herself from the hearing), Deputy PA Zach Wesley, DSD Director Sabrina Minshall, DSD Planning Official Dan Lister, DSD Office Manager Jennifer Almeida, County Engineer Devin Krasowski, DSD Planner III Michelle Barron, DSD Planner II Samantha Hammond, IN FAVOR: Bill LeClerc, Todd Lakey, Deborah Nelson, Scott Gipson, Tara Evans, Jolyn Thompson, Dar Symms, Jacob Cragin, James Mertz, Jim Mertz, John Starr, Mary Symms, Liz Dodson, Rheanna Allen, Moya Dobby, Brenna Smith, Eva Symms, Bill Hirschmann, Sydney Weitz-Nederend, Drew Allen, James Nederend, NEUTRAL: Rob Sturgill, Gregg Alger, Hai Longworth, and Herbert Longworth, IN OPPOSITION: Leanne Ferguson, Mandi Williams, Susan Park, Patricia Anne Lodge, Sonnie House, Steven Bair, Mike Gable, J. Warfel, Daniel Bair, Tara Bailey, Gloria Watson, Jennie Jimmerson, John Ottenhoff, Beverly Ross, Scott Jimmerson, Everett Hamlin, Linda Ross, Sue Stark, Dennis Colbert, Colleen Schaub, Bernard Stalp, Stephanie Bair, Jeff Hibbard, Penny Allmer, John Hoadley, Eldon Betz, Irma Noe, Barbara Parshley, Kaye Devenport, Sharon Frost, James Bauer, John Kernkamp, Madeleine Hall, Lynette Enrico, Margie Robinson, Anne Delgado, Judy Hanson, Amy Bitner, Kim Johnson, Emerson Miller, Gerri Smith, Mary Confer, Paul Panther, Cynthia Burnham, Fred Confer, Danny Trevett, Mark Wendelsdorf, Nancy Tiffany, Julie Rundall, Hipolito Delgado, Tara Bailey, Kris Pyele, Ann Ledford, Marianne Reczek-Phoebus, Joanne Bradford, Marlene Moore, Michael Devenport, Wayne Rundall, Craig Davis, Elisha Brooks, Becky Hartmann, Margarita Romero, John Romero, Larry Craig, Paul Trout, Mark Naillon, Diane Eldredge, Ashley Collins, Sandra McCrillis, Annette Stalp, JoDee Arnold, Lea Matthews, Geoff Matthews, Alan Mowry, Dave House, Marjorie Ford, Charles Ford, Vivian Ferkin, Tina Clapier, Bodie Clapier, Cynthia Betz, Donna Schultz, Willow Yadon, Roger Yadon, Dana Hibbard, Robert McCrillis, Judi Hostetter, James Insley, Terry McClellin, Jim Streicher, Mary Adams, Darryl Ford, Jamie Meade, Paunee Uberuaga, Rita Miller, Jennifer Crumm, Phil Uberuaga, Brian Burnham, Laura Jean Rispens, David Delihant, Gregg Dunlap, Kris Crookham, Judy Leathers, Tamera Frans, William Albert, Angie Dunlap, MJ Stuart, other interested citizens, and Deputy Clerk Monica Reeves.

Commissioner Van Beek disclosed that on June 6, 2022, she received an invitation from John Starr and Symms Fruit Ranch to participate in a meeting, but she did not know when she accepted the

invitation that this case would be presented to the Board. She and her husband are agriculturists and have deep ties to the agricultural community and families in the Sunnyslope area, and she sat through a presentation where there was a significant amount of discussion on this project. Her fellow Commissioners did not have the benefit of that and so to protect the integrity of the process, abide by her oath of office, and be fair and impartial she will recuse herself from the decision so that Commissioners Holton and Brooks can hear it for the first time. Commissioners Holton and Brooks said they have no conflicts of interest, nor do they have disclosures regarding site reviews or conversations outside of the hearing.

DSD Planner III Michelle Barron gave the oral staff report. The applicant's proposal includes as an outdoor amphitheater with seating capacity of up to 5,000 guests for concerts; events such as weddings; a cidery; U-pick orchards; permanent concession facilities with farm to fork foods; a wine-tasting pavilion; event garden; permanent restroom facilities; and a production office. The subject property is located on Parcel R33563010; the land division that created this parcel did not occur in accordance with the Canyon County Zoning Ordinance, therefore, the applicant will need to complete an after-the-fact administrative land division with a property boundary adjustment which has been added as a condition of approval. Ms. Barron reviewed the updated site plan. The location of the access on the east corner of the property was moved to comply with the comments from Canyon Highway District No. 4. There was a review of the site photos. The application was submitted under the 2020 comprehensive plan. The proposed use aligns with 8 goals and 16 policies in the comprehensive; the proposed use does not align with 2 goals and 4 policies. It does generally conform with the 2020 comprehensive plan.

There was a review of the site characteristics and surrounding uses, and there was a review of agency comments from Canyon Highway District No. 4 (Exhibit 2, Attachment 8a), Boise Project Board of Control (Exhibit 2, Attachment 8b), Canyon Soil Conservation District (Exhibit 2, Attachment 8c), Idaho Transportation Department (Exhibit 2, Attachment 8d), Santa Clara County Code Enforcement (Exhibit 2, Attachment 8e), and Santa Clara County Department of Environmental Health (Exhibit 2, Attachment 8f), Idaho Transportation Department (Exhibit 9, Attachment 1), Canyon Highway District No. 4 (Exhibit 9, Attachment 2), Canyon County Sheriff (Exhibit 9, Attachment 3), Marsing Rural Fire (Exhibit 9, Attachment 4), Marsing Ambulance District (Exhibit 9, Attachment 5), Canyon County Ambulance District (Exhibit 9, Attachment 6), Caldwell's Economic Development Director (Exhibit 9, Attachment 7), Destination Caldwell (Exhibit 9, Attachment 8), and the Idaho Department of Environmental Quality (DEQ) (Exhibit 9, Att. 9). There was a review of the soils information. The site is in a nitrate priority area.

The applicant is proposing a centralized water system located on an adjacent parcel and installation of an engineered wastewater treatment facility on a different adjacent parcel. The parcel is not located near city services. Conditions imposed by staff require a potable water supply and wastewater disposal to be provided by systems approved by DEQ and Southwest District Health, and for approvals to be provided to the County before the uses commence. The County Engineer spoke with Dab Smith at DEQ who provided additional information regarding the DEQ approval

process for water and wastewater. They will require the system to go through proper approvals demonstrating adequacy of the system for the new use. Adequate subsurface wastewater disposal will likely need to be a large soil absorption system. Site specific conditions and details will have to be considered by DEQ as the system is planned and designed. Access is proposed on Lowell Road and Highway 55. An updated traffic impact study was conducted to address additional information needed by ITD and CHD, and both agencies provided traffic mitigations for the proposed use. With the number of days/events planned, impact of direct traffic does not meet any of the criteria for requiring mitigation except: Lowell Rd and SH-55 (Sunnyslope Road), westbound right-turn lane on Lowell Road, Access B and SH-55, stop controlled T-intersection, Northbound right-turn lane, Access C and SH-55, stop controlled T-intersection, annual traffic control plans including temporary barricades restricting all traffic movement to west bound only from Access A (Lowell Rd), dynamic message signs posted a minimum of 72 hours in advance of events 1 mile south of Lowell Rd., and one mile east of Chicken Dinner Road, and additional notifications to residents in 5 mile radius. A meeting was conducted with Development Services staff and the applicant with providers of emergency services agencies after the appeal was filed. Following this meeting, comments from four agencies were received. Exhibit 9, Attachments 3, 4, 5 and 6. Comments from the public were received where the topics primarily involved economic impact of proposed agritourism and supportive nature of project for wineries, compatibility with existing uses, traffic, emergency services response, noise, and preservation of land for agricultural production.

Testimony in support of the appeal was as follows:

Bill LeClerc, who lives in Los Gatos, California, testified they have a family-run business that has developed, constructed, and operated what is recognized on a national level as a top 10 outdoor concert venue and throughout their 25 years, they have been excellent members of the community. They have roots in this area and one of their partners is a fourth-generation Idahoan, and they are excited about the opportunity to integrate with the Sunnyslope area to deliver a world-class experience that will benefit the entire region. They have worked extensively with the agencies and staff, and they agree with the conditions of approval. They have engaged with community members who have a significant vested interest in continuing agriculture in the region and who support their project.

Deborah Nelson is a land use attorney who represents the applicant and said they agree with the draft findings and conditions contained in the staff report. The special event facility use is conditionally allowed in this agricultural zone, so the question is what conditions are appropriate to place on the use in this location to mitigate impacts on surrounding properties and services. The P&Z Commission issued supportive findings for much of the project but found additional information was needed regarding traffic, EMS, and sound and lighting, to ensure compatibility. They now have additional information and specific conditions to mitigate potential impacts. ITD has provided comments on the traffic impact study (TIS) and identified the specific mitigations. Canyon Highway District No. 4 (CHD4) has commented they agree with ITD's recommended

mitigations. ITD approved the scope and the conclusions in the traffic study which found that Highway 55 has sufficient capacity for this use. ITD has plans to expand this section of Highway 55 in the future, but even as a two-lane highway it has a capacity of 3,200 vehicles per hour. Peak volumes from Hwy 55 and this project plus all existing and background trips is 1,850 vehicles per hour. Traffic impacts from Sunnyslope Ranch will occur only in a limited season April through October and at limited times around events. The applicant will use event staff to control the inflow and outflow of cars and it will be efficiently managed using temporary traffic constraints required by ITD and CHD4 to keep event patrons off local roads. The applicant will staff events with certified EMT's onsite to address immediate medical emergencies and will implement fire protection measures. The Marsing Rural Fire District's comments state that service is available to provide the site with adequate fire and emergency service response times. The Canyon County Sheriff's letter focused on traffic impacts on Hwy 55, Chicken Dinner Road, and Lowell Road, but the approved TIS has confirmed that Hwy 55 can handle that expected vehicle volume even at the peaks. The applicant will follow the conditions of ITD and CHD4 to use those temporary barricades to protect Chicken Dinner and Lowell Roads. The Canyon County Ambulance District proposed conditions that staff has incorporated including to provide advanced notice to the district of all events to have a minimum of two certified EMT's on site, and to designate the nearest helicopter landing zone with the district chief. Sunnyslope Ranch would generate significant tax revenue to help fund services. Based on preliminary sound testing, other venue operations and P&Z Commissioner Nevill's request at the prior hearing, the applicant has proposed, and staff has incorporated a condition of approval that sound levels will be limited to 85 decibels measured at the property line. The applicant will continue to study and work with the sound engineer when the project is designed to ensure appropriate orientation, buffers, and sound barriers to meet this condition and protect the neighbors. The P&Z Commission found that Sunnyslope Ranch is consistent with the comprehensive plan. It supports policies that encourage tourism expansion and development, a diverse business sector, and agricultural and nonagricultural uses in the same area. It will support existing agricultural uses and businesses in the area by providing a venue for retail sales of ag products and by attracting visitors to an area who will spend money at area restaurants, wineries, and stores. It will direct tax benefits to the County and help increase the property values of local wineries and businesses growing the property sales tax base for the community.

Todd Lakey is a land use attorney who supports the applicant and his testimony emphasized items related to fiscal benefit and the economic development benefits from the project. This is marginal farm ground and it was part of the reason the Symms selected this site. They also selected this site because of its acoustic benefits and the buffering that's provided based on its location. They are taking a low contributing piece of ground and turning it into a substantial economic contributor to local government entities in the form of tax revenue and a substantial economic contributor to local business and with that comes increased tax revenue from those businesses and it also adds to the businesses' benefit. The current assessed value for the property based on the Assessor's valuation is \$370,000 and when multiplied by the levy rate it comes out to \$1,867 in tax revenue for Canyon County entities. The estimated value of the facility at buildout is \$25M which would

generate \$126,1650 in tax revenue, nearly 70 times the tax revenue currently generated by this property. Add to that the gross sales tax and that goes into the local government revenue sharing formula. The proposal will provide more revenue to agritourism businesses such as the local wineries, the AgVenture tour, and fruit stands and there will be additional revenue for local businesses.

Scott Gipson testified the Cities of Caldwell and Nampa are seeing a resurgence in their urban environments with new retail, restaurants and entertainment opportunities that have come to these communities and is tied to the growing reputation and expanding customer base of the many wineries in the Sunnyslope region. The work done in Caldwell to develop Indian Creek Plaza included a new vision for the downtown that celebrates and enhances the agricultural heritage of the region. Farm to fork dining, targeted agritourism efforts, and renewed optimism in the community have been the result. This project will further enhance the community efforts and make this region a destination that is unrivaled in Idaho. The Symms have been the primary caretakers of this region and one of the main reasons the wine region exists in the Sunnyslope region at all.

JoLynn Thompson is a resident of Marsing and she testified about the strength this venue could bring in for new commercial and industrial for jobs and businesses.

Dar Symms testified that Symms Fruit Ranch will provide potable water. They put a new irrigation line that is attached to a 500,000-gallon pond to go across the property and irrigates the subject property and part of the Symms Fruit Ranch property. The wastewater system has not been put in yet, but they plan to install it on part of their property on the other side of the highway. They have discussed it with engineers and talked about a processing facility with an overflow drain field, but it will mainly be a processing facility to turn the water back into irrigation quality water that will be pumped to the 500,000-gallon pond for irrigation. It will have 50 lbs. of pressure on the subject property, and the potable water system is fed by a 300-gallon per minute well that has a 40,000-gallon tank that will provide 80 lbs. of pressure to the facility. Symms will provide the pipes and will meter the water to the subject property. They have a purchase price for the property and there is an additional \$1 million to build the treatment site.

Jacob Cragin is a grower at Sawtooth and Skyline Vineyards, the largest vineyard in the state of Idaho and they sell to most of the wineries in southwest Idaho, and they are in support of this project and see it as a net benefit for primarily wineries and agritourism.

James Mertz, who is part of Symms Fruit Ranch, offered testimony about the U-pick orchard that will be next to this facility where they will have apples, peaches, and berries. Symms Fruit Ranch has been here for 100 years and this is a way to capture some attention in the valley with the sale of fruit.

John Starr is a real estate consultant for the Symms Family, and he said they have been having discussions for many years about how to move into the future. The Sunnyslope proper consists of 3,000 acres with 780 individual parcels, and over 70% of those parcels are five acres and smaller.

Their goal is to maintain the essential character as a commercial agricultural area and they feel the venue and other developments that promote agritourism are the way to achieve the continuation of the commercial agricultural activity, not by going with more residential uses. The Canyon County population today is four times what it was in 1970 so stopping residential growth is one of the ongoing goals of agritourism. They didn't realize in the 1970s with the creation of the Ste. Chappelle Winery that they were creating agritourism and continuing with that tourism activity is the best way to continue agricultural activities. The essential character of the area seems like it's moving away from agriculture, and the Symms want to focus on bringing it back to and anchoring it in agriculture with this use.

Elizabeth "Liz" Dodson testified she is the "E" in EW Real Estate from Los Gatos, California. She is a fourth generation Idahoan who attended Kuna high school and Boise State. She is part of a family-owned business that hopes to bring to the area a venue that is not like what many people perceive as a "concert-centric" venue but rather more of a boutique. At their California venue people come early to have dinner where local up-and-coming artists entertain before the main act comes on. They try to support the music industry and the community people in the area. The venue gives them the opportunity to also do a lot of philanthropic events to support the local community.

Bill Hirschman testified that he is the "W" in EW Real Estate, and he believes staff has done an excellent job in looking at everybody's interests and summarizing the facts. At the time of the P&Z Commission hearing they did not have a traffic impact study that was 100% complete, but they do have more information now. He has spent 25 years dealing with their current venue in California. He is available to answer questions about the venue operations.

Mary Symms Pollot grew up in Sunnyslope and is a transportation expert who drives large motor coaches and buses for a living. She wants to teach people where their food comes from, and she has been working on launching a business called *Amazingly Made*. She said the proposal lends to what is needed because people don't understand where their food comes from or what goes into the process, and if they can create a great experience in Sunnyslope where everybody gets to be a part of it and that we need to stop paving over farmland with houses. Regarding traffic conditions between I-84 and Sunnyslope, Ms. Symms Pollot said the biggest change is the corridor where they have added all the houses between I-84 and the turn to Sunnyslope; that area is awful and unsafe, and the road should have been expanded when they made the turn lanes. She emphasized the importance of planning.

Rheanna Allen, who is a marketing expert, gave testimony regarding the agritourism industry and what this will do for the community and the benefits it will bring. The applicants came to her agency for help in communicating and sharing information with the community. She believes the proposal will transform the Sunnyslope AVA in a positive way. This is smart growth, and it will be a beautiful venue.

James Nederend represents Koenig Vineyards and Scoria Vineyards and he testified that he and his wife come from families who have farmed for hundreds of years, and they want that heritage to continue in Sunnyslope which is why they are in favor of this project. Sunnyslope is not known for seed crops, the rare specialty crops that make the Canyon County farming industry unique are grown in Wilder, Huston, Greenleaf, and Caldwell on flat gravity irrigated fields. Orchards and vineyards are farmed in far greater abundance in surrounding states, much more profitably than in Sunnyslope. He said it is no longer sustainable for local farms to sell fruit at wholesale prices while competing with Washington, Oregon, and California. The biggest threat to the farmland in Canyon County is not a concert venue on a 40-acre orchard in Sunnyslope on a highway, it's housing. Farmers in Sunnyslope are left with three choices: continue to farm at a loss until generations of equity is lost; sell their land for houses while they can still make a profit; or move into agritourism and sell directly to consumers. This is a reality of how hard it is to farm the rocky hills and volcanic soils. The views of the farms, orchards and vineyards that create the quiet serenity that people enjoy are impossible to create and maintain as they stand today. Agritourism is how they will keep the land being developed for houses, and it's how we keep the essential character of the area.

Neutral testimony:

Gregg Alger testified that he and his family farm on Chicken Dinner Road and they also make wine, and they are one of the largest wineries in Idaho. He is in a neutral position because this concept is exactly what they looked to do when they started with Roger Brooks in 2013 and the concept developed as an agritourism-related concept. It was identified that the number one asset in this community is agriculture and that if we leverage agriculture to bring tourism to agriculture we can ultimately build an unbelievable experience for tourism and guests. The other thing identified in the plan was to do everything we can to preserve the ag ground. There are 120 different crops grown in this community: fruit, seed crops, vegetables and those crops are paramount for the continuation of the GNP for our county. Mr. Alger said the concept is beautiful, but it needs to be placed near community services or within city limits that can support this kind of a project. Agritourism is about taking farms, crops grown on those farms, and building value and integrating a brand that can be sold retail and it's the job of the Board of Commissioners to decipher the meaning of agritourism.

Hai Longworth lives near the proposed site and her testimony centered on the concern about the negative impacts the proposal will have on birds and the Deer Flat National Wildlife Refuge. She said a complete study should be done on how the facility could impact wildlife within a 5-mile radius with the results being sent to the Idaho Department of Fish and Game, and the U.S. Fish and Wildlife Service to determine the need to mitigate any adverse impacts. She also spoke about how exterior lighting should be reviewed by an expert to see where it would affect migrating birds.

Testimony in opposition was as follows:

Leanne Ferguson lives within two miles of the proposed venue, and she is concerned about the impact the traffic and sound generated by the venue would have on her horses. Horses have a keen sense of hearing and loud noises spook them and cause them to run – through fences and into traffic. She has personal experience with the tragic results of when a horse was spooked by a loud noise and ran into traffic and was killed. She is very concerned about the level of noise generated from the concert venue.

Tara Bailey offered testimony on behalf of a planning group of 50 people, and she thanked the Symms and other historical families of farmers and ranchers for putting their life's work into the beautiful peaceful area they get to experience. Ms. Bailey has 20 years of experience in strategic operations planning and production, explosive and occupational safety and workforce management, while serving active duty in the Air Force. As a safety professional she has evaluated and developed hundreds of site plans and many environmental impact assessments and collaborated on design and construction criteria for large-scale projects. Some of those in the planning group are/represent farmers, ranchers, winery owners and workers, nurses, builders, beekeepers, law enforcement, students, and truckers, to name a few. They do not have professional developers or economic consultants within the group, but they all understand the importance of a strong sustainable economy and smart strategic planned growth, and they will be the most affected by the Board's decision. The team will focus on traffic, lack of service, characteristics of the area, and quality of life. The applicant has stated they are not farmers, and they will not farm on this land therefore the subject parcel does not meet the criteria for agritourism or agritourism activity. The applicant's letter of intent clarifies the proposed special events facility is the primary use of the parcel, with accessory uses and activities being supported by agritourism. The concert venue requires a farm or ranch, not the other way around. Will the proposed use be injurious to the other properties or negatively change the essential character of the area? Will there be undue interference with existing or future traffic patterns? The answer to both questions is yes. Ms. Bailey referenced the TIS and said it contains erroneous information and should be rejected. She further testified about traffic impacts, proposed widening plans, construction not beginning until 2027. The Canyon County Sheriff's Office believes this section of Hwy 55 cannot support the amount of traffic based on the current roadway design of two lanes between South 10th Avenue, Farmway Road and Hoskins Road. She referenced agency comments related to the TIS. Concerns include excessive traffic, noise, vibration, air pollution, and adverse health effects as well as property value. Increasing congestion will result in the community being isolated from fire, ambulance, and other emergency services.

Patricia Anne Lodge testified she would support a small music situation with a cidery which would go along with agritourism, but she does not support a large music venue that would impact a lot of people in the valley. She spoke about how the Ste. Chappelle property has a nice music venue and it does not impact the community or traffic across the lake.

Steven Bair has lived a ½ mile from the site for 40 years and he has managed 400 acres of the orchard owned by the LDS church. He hears the noise from Ste. Chappelle, but they do not have

that many events, but the proposed venue will be different. He farms both day and night in the orchard and the nighttime activity is noise in its own right. He is concerned about the impacts on farming and the traffic safety conditions, especially with semitrucks delivering to the area.

Daniel Bair, who works at the orchard with his father, is concerned about the impacts the venue will have on traffic in the area. There are tractors on the road and crossing the road and he is concerned for the safety of the employees.

John Ottenhoff testified about his concerns regarding noise, lights, traffic, and the impacts to wildlife and migratory birds. He said the Lake Lowell lower dam is a popular destination for cyclists, but there is nothing in the TIS about nonmotorized traffic. It's a unique environment and the area should be protected. He believes the proposal is misguided and will bring little benefit and much damage to the area.

Colleen Schaub is opposed to the proposal due to lack of emergency services especially as it relates to the Sheriff's Office. She lives on Orchard Avenue and has tried to reduce the speed from 45 mph to 35 mph because the road is dangerous and has many blind spots. There are walkers, joggers, and cyclists in the area; dogs and wildlife have been killed in vehicle accidents. The traffic is horrendous, and Hwy 55 will be the main road to the facility, but people will use Orchard Avenue. There is a lack of Sheriff's patrol officers, and although the salary increases have helped retain officers we now have to work to get more law enforcement and we are not able to take on this venue.

Jeff Hibbard lives a mile from the subject property and agrees with the opposition testimony. Should the Board approve the application, he asked for consideration of the following conditions of approval:

- In the event the venue goes into bankruptcy, Canyon County would be granted first right of refusal for the purchase of the property.
- If the Sheriff's Office is required to deal with any situation at the facility, or a situation caused by its operation, or a request for assistance by the facility's owners or managers, the full cost of the office's response is to be paid by the facility's owners.
- Noise levels created by the operations of the facility shall not exceed 80 decibels at a distance of 300 feet from the facility. This specification covers all frequencies audible to humans, nominally in that 20 hrz to 15,000 hrz. Testing occurs no less than every five events and reporting the results to the County on a quarterly basis. Three violations of this condition shall result in a permanent shutdown of the facility.
- Events shall not take place on heavily travelled days, such as Easter, Labor Day, July 4, Memorial Day, Thanksgiving, Christmas, New Year's Eve, evenings of the Caldwell Night

Rodeo, and Snake River Stampede to minimize potential strain on County resources as they would be required to watch those over events.

- Any amplified audio event will have a hard end time of 10:00 p.m. That precedent was set by the County in Case Nos. CU2007-86, PH2016-54, and CU2019-0029 (the last two cases are related to the neighboring properties across Lowell Road.) Allowing an 11:00 p.m. end time would be injurious to neighbors who have already had those CUP's approved.
- Hours of operation end for any special event limited to 11:00 p.m.
- Failure to adhere to the 10:00 p.m. end of amplified music will result in a progressive fine. Four violations in six months would be grounds for closure of the facility.
- Alcohol sales to end one hour prior to the scheduled end of the event that evening.
- Due to the increased risk of a mass casualty incident, the County will require the applicant to fund a bi-annual mass incident response training with CCSO mutual aid responders and regional ambulance providers. The first training is to occur prior to the operations of the facility opening.
- Based on the Sheriff's Office written comments, the applicant will fund one fulltime employee at the Sheriff's Office to address the additional workload of traffic management/incident responses to staff May through October in order to relieve the burden placed on the Sheriff's Office by this venue; i.e., manage off-street parking, private patrol cannot police that, and CHD4 or ITD will direct traffic if they are not able to police so County resources need to enforce.
- The applicant is to follow all codes and laws relating to traffic management on a state highway, specifically staff permitted to direct traffic on roadway.
- The applicant shall work with appropriate road and highway departments to procure and install non-parking signage on Hwy 55 and Lowell Road, east and west of the venue.
- The U-pick property and cidery must be owned by the same owners of the concert venue to ensure the investment in agriculture. Failure to maintain an agriculture footprint will be grounds for permanent closure of the facility.
- U-pick orchard and cidery size and hours of operation must be defined and agreed to with the County to ensure they are not just a token gesture to the agritourism designation. Closure of either facility could result in permanent closure of the facility.

- The cidery must be in place and operational prior to the operation of the concert venue.
- At a minimum, the blind curve at Hoskins Road and Hwy 55 must be addressed prior to the commencement of the operations.
- The applicant shall provide cell service analysis to ensure the towers in the area are not overwhelmed with concern attendees blocking 911 calls from nearby motorists that might have emergencies.
- The applicant shall complete a helipad and contract for air ambulance services to be on standby during events.

Bernard Stahl lives a half mile from the subject property, and he gave testimony about a car accident he was involved in. He likes the concept of the venue but does not believe this is the appropriate location for it given the dangerous roads in the area.

Eldon Betts gave testimony regarding the Symms family legacy and his teaching experience and how it was important to inform students about agriculture, as well as farming, ranching and policymaking affecting agriculture. There were several times he and his students would hear Steve Symms speak at events and he always made it clear about the importance of preserving and protecting the ag lands and how underground drinking water needs to be managed. He said Mr. Symms stood out in Washington, D.C., because he had a vision of our future and our ever-growing need for food and clean drinking water. Mr. Betts is disappointed about the proposal to build on fertile farm ground. The Sunnyslope area has been a mecca in agriculture and this proposal could end agriculture in the Sunnyslope area. He said it's a wonderful concept, but it's in a bad location and it should be closer to businesses, hotels, gas stations, etc.

Steve Uhlmer agrees with others who have said this is a great idea, but it is in the wrong location. We don't have the infrastructure and he does not believe development and impact fees will cover what's going to be necessary for what's coming to this area. Fire suppression needs to be above 300 gallons per minute. The cost will be too much for the citizens who decided they wanted to live there because of the existing zoning.

Irma Noe is a 4th generation Idahoan from this area, and she has not heard local businesses talking about how this will benefit the residents. She believes it will ruin homes. Her family no longer farms but she has seen the impacts from traffic and out-of-staters moving in and building million-dollar homes and leaving them vacant and the residents must pay increased property taxes. She wishes we could grow in the manner we need to grow and not always think about the money – we need to think about the residents.

Barbara Parshley testified that she spoke with CCSO officers about the potential impact this facility would have on Sheriff's Office operations. There are 32 officers with 2 in training; they need 48

for overall patrol. The office is requesting 12 deputies over the next 3 years based on our present population without the amphitheater. Each shift has 5-7 deputies at a time. The final staff report states that the crash rate on Hwy 55 is 11 times higher than that of the average state highway in Idaho. Crashes in this corridor also tend to be more severe than on the average highway, and additional traffic will increase the dangers in this corridor and the intersections. With the current shortage of deputies and jail facilities, the office has a catch and release plan for offenders arrested. News articles said Canyon County is so concerned about the dramatic rise in violent crime that a partnership has been formed involving federal, state, county, and city law enforcement. The proposal will bring additional tax burdens to citizens, and negatively impact law enforcement services.

Kay Devenport testified that the residents of Sunnyslope moved to the area for the quality of life. She has lived in the area since 1974 and is concerned about the aquifer. There were droughts and not enough water to irrigate, and the orchards drilled huge wells which caused a lot of water to draw sand or go dry and those wells either had to be re-dug or new wells installed.

John Kernkamp testified that the P&Z Commission FCO's determined that the proposal was in keeping with the 2020 comprehensive plan, but he disagrees; 8 qualities of life are an important consideration in land use planning. The 2030 comprehensive plan continues this concept in its vision to ensure quality of life for citizens. The event center will negatively impact the lives of many people, and the dramatic increases in crowds of people, traffic, and sound and light pollution as well as the urban anonymity that breeds increasing crime is what can be expected. The development is likely to trigger a follow-on effect stimulating more requests for urban-style projects eventually resulting in the conversion of Canyon County into big city living.

Madeline Hall lives $\frac{3}{4}$ of a mile from the proposed amphitheater and is a fourth-generation family member on the farm her great-grandfather bought in 1917. One of her biggest concerns is how the proposal will affect the tranquility of the slope. It will be noisy with added traffic, sound checks, and concertgoers and performers for one-fifth of the year. She is opposed to the concert venue, but she would love to see an apple barn and cider mill that features local harvest in a variety of ways. She is not against development on the slope, but any development needs to protect not only agriculture but the residents and their property.

Lynette Enrico supports farm to fork but this is a bad location, and she believes the proposal would change the essential character of the area and negatively impact the quality of life. She supports the testimony of Tera Bailey and Gregg Algers.

Margie Robinson is from a fifth-generation farm family, and she spoke of the importance of farmland - no farms no food.

Anne Delgado testified about the traffic impact of Hwy 55 and Lowell Road as well as the impacts to surrounding smaller roads. She is also concerned about the impacts to wildlife.

Paul Panther referenced an article from USA Today on the 10 best wine regions and the Snake River Valley AVA is No. 6 on the list. The CHD4 report indicated a potential impact of 1,000 vehicles at peak hours for events at the proposed facility. He is concerned about the speed limit on Hwy 55 and adding significantly more traffic to the roadways. Mr. Panther said agritourism is defined as providing limited liability for agritourism professionals against injury to people coming to those kinds of activities and that's because agricultural activities, unlike going to a concert, are inherently dangerous in some respects as you have domestic animals, potentially wild animals, and farm equipment that can be dangerous. What's contemplated in this proposal is not within the contemplation of agritourism.

Amy Bitner testified she is part of the family owned Bitner Vineyards and she spoke of the massive tractor traffic on the roadways. While it's been stated there are no seed industries in the area, the reality is there are a lot of tractors in the area. This is a beautiful area and people come to the area to get away from the congestion. Most of the wineries in the community close at 5 p.m. or 6 p.m., and people come in and out throughout the day, so having thousands of people come to the area at one time and ending at 11:00 p.m. is like nothing the community has seen. She has a background in emergency services and has worked with police, fire, ambulance, and emergency management where the focal point was emergency preparedness, public safety, and crowd flow simulation. The video she provided to staff today is from July 3rd and it is an aerial view of the valley showing 200 cars parked all over for the July 3rd fireworks. The venue is proposed to have a parking lot for 2,500 people but when the music stops at 11:00 p.m. there are only two entrances for the vehicles to exit and they will either exit off Hwy 55 or Lowell Road. People will park off property alongside the roads, on canal banks and other property. There were no police service or people managing or maintaining the parking situation for the July 3rd event. There are no sidewalks or lighting so if people choose to walk across Hwy 55 that is going to cause some major impacts. She is concerned about people drinking and driving in the community. There could be 60-70 concerts if the proposal is approved and questioned what will happens with EMS services that are strained when other events are happening in the valley the same evening. The Board needs to look at the entire impact - not just this event - on how EMS will be able to handle such a massive project.

Kim Johnson testified regarding concerns of keeping Canyon County one of the top agricultural seed producing counties in the nation. This area contributes greatly to Idaho's standing as one of the top 5 seed producing counties in the nation and it will affect the demise of many of those ag businesses that service that seed industry. As farm and livestock operators for 40 years she asked the Board to review the letter in the file from Johnson Custom Combine as well as a list of the current agricultural businesses in the venue area that have signed a petition along with numerous employees stating their objection to this proposal. This letter consists of current seed companies, livestock and training facilities, hatchery, bee and insect pollinating companies, wineries, custom harvest companies and several other ag related companies that exist in the area. Her custom harvest business covers 5,000-6,000 acres each year between June and November primarily in and around the venue area. The machinery they use travels 20 mph and takes up 18-36 feet in road

space in an allowable 24 feet of road width. Numerous vehicle and machinery accidents have already happened. The venue will disrupt the nature and occupations of this area. You cannot have this type of urban agritourism impact in this area and keep it a prime seed producing area.

Geri Smith testified that of the 98 in favor of the proposal, 81 of those were form letters and they represent finance, relators, developers, and a paid consultant. Regarding emergency services, the EMT vehicles do not transport - they are not paramedics. If something happens on site it will take a minimum of 20 minutes assuming an ambulance is sitting at West Valley Medical Center with no traffic issues. She said the Marsing Volunteer Fire Dept. has had a 40% increase in calls in one year without this proposal. Between 2020 and 2021 there was an increase of 1,000 accidents. We are getting into the 100 deadliest days - and we've already gone past 50 fatalities.

Janet Cryder read the written testimony of Mary Confer who lives a half mile from the site. Her family has lived there for 50 years and said the area has seen a lot of growth in commercial business, but the difference between this proposal and earlier commercial development is the lack of agriculture. Growth should be well planned. This proposal is inconsistent with prior conditional use permit approvals, specifically quiet hours, and concessions of amplified music. This proposal is 8 times larger than the largest event site in Sunnyslope and it does not fit the essential character of the area.

Jim Streicher is a retired law enforcement officer, and he gave perspective on how he saw Sunnyslope from the patrol side. He has heard citizens talk about how great it is that the Sheriff's Office is hiring people, but it takes about 3 years from recruitment to patrol. During his employment with CCSO they were lucky if they had five deputies on a shift. All it takes is a crash and some domestic violence incidents to utilize all the county law enforcement resources.

Darryl Ford stated he participated in a survey in 2019 on rural areas where people said they didn't want to have growth. They want to raise their children in the country and that's why he moved to the Sunnyslope area. He does not believe the venue is a good fit for the area. It would be nice to have bridle trails, a veterinary, and a feed store because those things would match the area. He expressed concern that people go from winery to winery sipping wine and driving on the roads and that doesn't make sense from a safety standpoint.

Brian Burnham is retired from the safety management field, and he offered testimony regarding decibel levels. The applicants have said the venue will be 85 decibels, but he said as today's meeting was getting started the decibel level in the meeting room was nearly 85 decibels. The noise from the music and concertgoers the decibel levels will be 120 or 130.

Michael Devenport said concerts can be held at the fairgrounds or the Idaho Center. His concerns include safety, sound, and bad drivers.

Wayne Rundall testified that he works with the Sunnyslope Community Coalition. He thanked the farmers and ranchers who have been here for years, but this proposal is a concert venue, not an agritourism destination. It does not meet the goal to support and encourage the agricultural use

of agricultural land. It does not protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial, or industrial development. The CUP makes agriculture an accessory use of the concert venue. If the risks inherent to the use differ greatly from those related to the natural conditions, animals, farm structure and equipment it is likely not agritourism. The CUP would take 45 acres of farmland and turn it into a concert venue for 5,000 people, 2,500 cars. The wine tasting facility would not be open unless an event was taking place at the concert venue about 70 times a year and it's clear that the operators of the concert venue will not be involved in any agricultural aspect of agritourism. It will change the essential character of the area.

Becky Hartmann testified that the subject property borders her land. She moved to the area five years ago to this peaceful area with plans to build her future forever home across from her existing driveway whose back deck will now be facing the concert stage. Hwy 55 is two lanes with no shoulders, other than in Sunnyslope. Sunnyslope is 3 miles long, and Napa Valley is 30 miles long and the two should not be compared. A vehicle accident will have traffic backed up for miles. This is not agritourism, nobody comes to a concert to pick apples. The cidery would be great if it wasn't a token facility to pretend it's agritourism. This is not progress, it's an annihilation of the Sunnyslope wine country vine. Her neighbor is putting in a vineyard and tasting rooms and that type of use belongs there. Sunnyslope is a treasure, and it should be preserved as agriculture.

Craig Davis lives a mile from the proposed site, and he owns a winery that was established in 2015 and he believes the proposal will detrimentally change the character of the area. When he went through the permit process for his winery he was denied by ITD because 150 cars were going to be turning off Hwy 55 towards his property onto Lake Lowell. He was eventually approved after showing that people could turn on four different roads. The music venue for 300 seats has been declined and now there is a request for 5,000 seats which he finds baffling. He supports the cidery and U-pick orchard, but a music venue doesn't make sense at this location.

Mark Wendelsdorf offered testimony on behalf of the Caldwell Rural Fire Protection District. The proposal is not located within the district, but simply travelling two miles north or two miles east you will enter the Caldwell Rural Fire Protection District. The impact from the traffic generated by the events will have an impact on their ability to deliver services in the area. From the crest of the hill on Hwy 55 to 10th Avenue the district has full responsibility for that area, and they have shut down traffic because that area is so fast and so narrow the only thing they can do is shut down traffic for the safety of the responders. He referenced the TIS regarding routes, estimates, and delayed response times. The Caldwell Rural Fire Protection District Commissioners are opposed to the project. In a May 11, 2023, email from ITD it stated the current plans for Hwy 55 to be widened from Middleton Road to Farmway Road should be completed in early 2027. Farmway Road to Pear Lane expansion is unfunded at this time. The fire district commissioners believe the additional traffic flow before and after the event will lead to an increase in the number of crashes on an already busy section of road. With the additional traffic and delay in road improvements it will slow emergency vehicles from responding to 911 calls. Once the road has been updated and

able to handle the traffic flow the district believes re-evaluation would be in order for this project or similar-type project.

Nancy Tiffany lives five miles from the venue site. She moved from an area in another state that was very similar to the Sunnyslope area where they held two main events every year that brought in thousands of people to the area and while the income generated benefitted a small number of people the inconvenience and danger involved and the conditions it created impacted thousands of lives.

Danny Trivett said there was testimony that there are only five deputies on a shift and that's nowhere near what is needed to respond to a catastrophic event. The residents in the area will be affected by the noise, lights, traffic from the venue, and delayed EMS response times.

Julie Rundall said the request is for an exception to the agricultural zoning by a newly formed entity headquartered in the San Francisco Bay area that has never turned a spade of soil in Canyon County. She urged the Board to uphold the P&Z Commission denial.

Hipolyta Delgado is a retired law enforcement officer and has experience with similar venues and the incidents that occur there such as assaults, stabbings, and shootings. We do not have the manpower coverage for this proposal. Additionally, he is also concerned about the noise.

Kris Pyell lives .6 of a mile from the proposed event center and she is concerned about the negative impacts on the Sunnyslope community in the form of immense traffic, visual appearance of the area, strain on EMS, and deputy responses and the overall effects to humans, livestock, migratory birds, raptors, and bees. With this number of people gathering, 5G towers may be necessary. Financial hardships will impede the residents, and crime has drastically increased. Are we prepared for a mass casualty event?

Ann Ledford is opposed to the proposal because the amphitheater does not fit the character of Sunnyslope. Both the 2020 and 2030 comprehensive plans speak to the preservation of agriculture, and she questioned how the concert venue helps the future of agriculture, agritourism, and the Sunnyslope area. Agritourism does not include commercial events or commercial entertainment. She believes a cidery and a U-pick orchard would benefit the area. Concerns include traffic and safety. She spoke to ITD last week and they said there is mitigation for the venue to have three exits onto Hwy 55, but they would not tell her how the traffic would flow into the venue. Who will monitor the mitigation and make sure they happen? She lives on True Lane, off Hwy 55 and there are a lot of skid marks at Lowell Road and True Lane because nobody pays attention.

Marianne Reczek-Phoebus lives 3 miles outside of Marsing and testified that the proposal will impact the serene agricultural area she lives in with increased traffic, trash, and litter and the potential for vandalism at Lizard Butte.

Gregg Dunlap is the owner of Dunlap Hatchery which has been in business since 1918 and produces over 2 million birds a year. They also farm several hundred acres. He testified about how noise

affects poultry and how excessive noise can cause conditions where birds will not move, or they will become frantic where they pile up and suffocate the birds below which can result in the loss of thousands of birds in a matter of minutes. The hatchery needs electrical power to run incubators and if the power is disrupted the incubation process is delayed, which can cause problems.

Commissioner Holton made a motion to continue the hearing to July 26 at 9:00 a.m. The motion was seconded by Commissioner Brooks and carried unanimously. The hearing concluded at 5:30 p.m. An audio recording is on file in the Commissioners' Office.