



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, May 4, 2017 6:30 P.M.

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

Commissioners Present: Richard Hall, Chairman
David Scheuerer, Vice Chairman
Shannon Carrell, Commissioner
Gary Duspiva, Commissioner
Sandi Levi, Commissioner
Rod Garrett, Commissioner

Staff Members Present: Patricia Nilsson, Director
Kyle McCormick, Planner
Jennifer Almeida, Planner
Daniel Lister, Planner
Kathy Frost, Recording Secretary

Chairman Richard Hall called the meeting to order at 6:30 p.m.

OLD BUSINESS

ITEM #1 Sunroc Corporation Revised Findings of Facts **CASE: PH2016-66**

Sunroc Corporation has submitted an application for a conditional use permit for a long term (approximately fifteen years) mineral extraction use on a 39.01 acre property located at 21001 Midland Boulevard, Caldwell, ID and is further described as a portion of the NE quarter of Section 17, Township 4N, Range 2W, Boise Meridian, Canyon County, Idaho.

Commissioner Levi will abstain from voting.

MOTION: Commissioner Duspiva moved to approve Case no. PH2016-66 and adopt the recommended Findings of Facts, Conclusions of Law, Conditions of Approval and Order as revised. Seconded by Commissioner Scheuerer. Roll call vote, motion carried with 5 in favor 0 opposed.

NEW BUSINESS

ITEM #2 Midway Park Modification **CASE: CU MOD PH2017-10**

T-O Engineers on behalf of the City of Nampa have made application to modify conditional use permit CU-PH2015-15 for Midway Sports Park for the purpose of including an approximate ½ acre parcel, R32987010, not included as part of the original application. The City of Nampa has purchased the approximate ½ acre parcel and is proposing to include it in the existing Midway Sports Park development. No other changes to the original proposal or uses are being requested. The subject property is located at 14309 Midway Road, Nampa, ID 83651.

Commissioner Levi will be recused

Planner Kyle McCormick: Reviewed the staff report for the record

Chairman Hall: Affirmed witnesses to testify

Testimony in Favor: Levi Howell

Testimony in Neutral:

Testimony in Opposition:

Levi Howell – 332 N Broadmore Nampa ID 83687 – Applicant Representative -in favor

- Staff engineer with T-O Engineers, speaking for Nampa City Parks and Recreation, regarding the modification of the previously approved Midway Sports Park.
- Introduced the rest of the team representing the project.
- Reviewed the conditions and aspects of the project, including the addition of a ½ acre parcel that was added after the original approval of the project. The modification request is limited to the additional ½ acre parcel. We are not requesting any changes to the approved Conditional Use Permit.
- The existing residence that is on the parcel will be used as a project office and will be removed upon completion of the project. The outbuildings and existing well and septic systems that were included in the parcel have been removed or abandoned according to regulations.
- A neighborhood meeting was held on February 28, 2017 all those in attendance were in favor of the addition of the ½ acre parcel. The Highway district and the Nampa Parks and Recreation department, have approved the project modification.

MOTION: Commissioner Scheuerer moved to close public testimony on Case CU MOD-PH2017-10, seconded by Commissioner Garrett. Voice vote, motion carried.

MOTION: Commissioner Garrett moved to approve Case CU MOD-PH2017-10 as well as the Finding of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Carrell. Roll call vote, motion carried with 5 in favor, 0 opposed.

ITEM #3 Maverick Towers-Nunez

CASE: CU-PH2017-13

Maverick Towers on behalf of Luis and Carmen Nunez have requested a conditional use permit for a 110 foot monopole multi-carrier communications tower within a 60x60 leased area to be located at 18941 Can Ada Road, Nampa, ID on tax parcel R34406.

Commissioner Levi will be recused.

Planner Kyle McCormick: Reviewed the staff report for the record.

Chairman Hall: Affirmed witnesses to testify.

Testimony in Favor: Nadine Bostwick

Testimony in Neutral: None

Testimony in Opposition: None

Nadine Bostwick – 6009 N Silver Maple Meridian ID 83646 – Applicant Representative – in favor

- The purpose of this project is to be pro-active regarding the needs of cell service due to the growth that is happening in the area.

MOTION: Commissioner Scheuerer moved to close public testimony on Case CU-PH2017-13, seconded by Commissioner Duspiva. Voice vote, motion carried.

MOTION: Commissioner Scheuerer moved to approve Case CU-PH2017-13, as well as the Finding of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Duspiva. Roll Call vote, motion carried with 5 in favor 0 opposed.

ITEM #4 Jacob & Marnie Fillmore

CASE: PH2017-14

The applicants, Jacob and Marnie Fillmore, are requesting a variance to reduce the required 30 foot front yard setback (Section 07-10-21(1) A of the Canyon County Zoning Ordinance) to 6 feet in order to place a shop on the property. The property is located at 18954 Lower Pleasant Ridge Road, Caldwell. The property is also known as tax parcel R36382-011 in the SW quarter of Section 24, Township 4N, Range 4W, BM, Canyon County, Idaho.

Commissioner Duspiva will be recused.

Commissioner Levi made a declaration, knowledge of applicant however there has been no contact in 10 years. There is no objection to Commissioner Levi continuing to hear this case.

Planner Dan Lister: Reviewed the staff report for the record, including late Exhibit #7

Chairman Hall: Affirmed witnesses to testify.

Testimony in Favor: Marnie Fillmore

Testimony in Neutral: None

Testimony in Opposition: None

Marnie Fillmore – 18954 Lower Pleasant Ridge Rd Caldwell ID 83607 – Applicant in favor

- In agreement with the staff report, except that there is not 14 acres and there is no County road.
- The shop will be six feet away from the property boundary, and there has been no opposition from neighbors.

MOTION: Commissioner Scheuerer moved to close public testimony on Case PH2017-14, seconded by Commissioner Levi. Voice vote, motion carried.

MOTION: Commissioner Scheuerer moved to approve Case PH2017-14, as well as the Finding of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Carrell. Roll Call vote, motion carried with 5 in favor 0 opposed.

ITEM #5 Debra Jantzi

CASE: PH2017-9

Debra Jantzi is requesting a Conditional Rezone of approximately 11 acres of an approximate 52.76 acre parcel from an “A” (Agricultural) Zone to an “R-R” (Rural Residential) Zone. A Development Agreement is also included as part of this request. The subject property (Parcel No. R39372) is located at 31228 Hwy 95, Parma, ID 83660. The property is further described as being in a portion of the SW ¼ of Section 28, T6N, R5W, BM, Canyon County, Idaho.

Planner Jennifer Almeida: Reviewed the staff report for the record.

Chairman Hall: Affirmed witnesses to testify.

Testimony in Favor: Debra Jantzi

Testimony in Neutral: None

Testimony in Opposition: None

Debra Jantzi – 31228 Hwy 95 Parma ID - Applicant in favor

- The portion in question is not suitable for farming due to the lack of irrigation available, it has been vacant and unused, we would like to put a home on that parcel.
- Water is available for a home, however it would be difficult to irrigate the entire section for the use of farming.

MOTION: Commissioner Levi moved to close public testimony on Case PH2017-9 seconded by Commissioner Duspiva. Voice vote, motion carried.

MOTION: Commissioner Garrett moved to recommend approval of a Conditional Rezone as well as the Development Agreement for Case PH2017-9, to the Canyon County Board of Commissioners as well as the Finding of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Scheuerer. Roll Call vote, motion carried with 6 in favor 0 opposed.

ITEM #6 Jace Davis

CASE: PH2017-6

Jace Davis is requesting a Conditional Rezone of approximately 28.02 acres from an “A” (Agricultural) Zone to a “CR-R-R” (Conditional Rezone-Rural Residential) zone. The applicant is also requesting approval of a Development Agreement which would restrict the development of the property into two (2) parcels. The subject property is located at 26550 Upper Pleasant Ridge Road, Wilder, Idaho, in a portion of the SW ¼ of Section 27, T4N, R4W, BM, Canyon County, Idaho.

Planner Jennifer Almeida: Reviewed the staff report for the record.

Chairman Hall: Affirmed witnesses to testify.

Testimony in Favor: Jace Davis

Testimony in Neutral: None

Testimony in Opposition: None

Jace Davis –26550 Upper Pleasant Ridge Rd Wilder ID 83676- Applicant in favor

- We would like to split 4 acres off of the 28 acres we currently have, in order to build a home on the remaining 24 acres. We are outgrowing our current home and would like to build a larger home and remain in the area.

MOTION: Commissioner Carrell moved to close public testimony on Case PH2017-6 seconded by Commissioner Duspiva. Voice vote, motion carried.

MOTION: Commissioner Scheuerer moved to recommend approval of a Conditional Rezone and Development Agreement for Case PH2017-6, to the Canyon County Board of Commissioners as well as the Findings of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Carrell. Roll Call vote, motion carried with 6 in favor 0 opposed.

ITEM #7 Tanya Robinson

CASE: PH2017-7

Tanya Robinson is requesting a **Conditional Rezone** to change the subject parcel (Tax Parcel R36416010, approximately 15.16 acres) from an “A” (Agricultural) zone to an “R-R” (Rural Residential) zone. The subject property is located at 19082 Upper Pleasant Ridge Road, Caldwell, ID, in the SE ¼ of Section 26, T4N, R4W, BM, Canyon County. The property is not located within a floodplain.

Planner Dan Lister: Reviewed the staff report for the record, including late exhibits #20, #21, #22. Late Exhibits entered into the record.

Chairman Hall: Affirmed witnesses to testify.

Testimony in Favor: Tanya Robinson, John Warren, LeAnn Badiola

Testimony in Neutral: None

Testimony in Opposition: Brad Benke, Danielle Van Lith, Dale Maine

Tanya Robinson – 19082 Upper Pleasant Ridge Rd Caldwell ID 83607- Applicant in favor

- As the property owner my husband and I agree with the conclusions and conditions set forth in the request for a conditional rezone.
- We purchased this property knowing that the ability to build a secondary residence existed, after learning more about the process and finding that it would be difficult to get a home loan for a secondary residence that is on the same parcel as the existing home, we determined that it would be in our best interest to split the property into two parcels.
- We are currently using the property to raise performance horses and compete them, our children are in 4H and it is our goal to raise them in the country with a country lifestyle. We respect and welcome the agricultural community and way of life and intend to maintain that lifestyle.
- Ms. Robinson did hold a neighborhood meeting and no one attended.
- The property will maintain the same use as it has now, with the exception of a new home and horse arena. We do not intend to build more than one additional home.
- The irrigation will remain the same, both homes will use irrigation exactly as it is currently being used, there will be no changes.
- This proposal will not change the character of the surrounding properties. We can build a second home as the property stands now, and this request will actually add restrictions and conditions that currently do not exist.

John Warren – 19476 Upper Pleasant Ridge Rd Caldwell ID 83607 – in favor

- The property is more suited for a home than growing crops, due to the rock base.
- Many other neighbors have split their properties and added additional homes.

Leann Badiola – 19465 Majestic View Caldwell ID 83607 – in favor

- This project does meet the 2020 Comprehensive Plan, and the agricultural use will not be changed.
- Not approving this project will not eliminate a second home being built on the property, it will however protect the agricultural use, by adding conditions.
- Land has been split in the area in the past and there was no protection to the Agricultural use, there were no conditions as to what could be done on those properties.

MOTION: Commissioner Duspiva moved to allow 15 minutes of testimony for Brad Benke, seconded by Commissioner Scheuerer. Voice vote, motion carried.

Brad Benke – 19222 Upper Pleasant Ridge Rd Caldwell ID 83607 – Representative for the opposition

- Oppose by-passing current zoning laws that are established in Canyon County, in order to allow splitting this property into two parcels. This presents a conflict between agricultural

and residential development. We would like the Planning and Zoning Commission to enforce the current 2020 Comprehensive Plan.

- The land owners in the area are opposed to this split because it will change current zoning laws for speculation of residential land and development and will be detrimental to agriculture in this area. It will also open the floodgates for more Conditional Rezone requests, as well as encourage more splits and more homes to be built, which will reduce the agricultural use.
- Mr. Benke and his wife own the farmland directly to the west of this property and have farmed there for almost thirty years. Thirty years prior to that the property was owned by family members. As land owners we respect and follow the laws of the County and its agricultural objectives and follow best practices on our farm ground.
- While the area has grown over the years, we have maintained the farm ground in that area.
- The split of this agricultural land into a rural residential piece of property is in opposition to the Canyon County 2020 Comprehensive zoning plan, this is why I, my wife and 100 percent of the land owners directly surrounding this property are against allowing this Conditional Rezone. We believe this is will have a negative impact on agriculture.
- The staff review of this area is flawed and incorrect.
- Less than one percent of the surrounding area is used for parcels of less than 5 acres.
- Irrigation photos show the difficulties we have had with the number of users currently using the irrigation. There have been many repairs over the years that we have had to do. Sprinkling has increased the need for repairs. If we add another user there will be more damage to the pipes. Crop contamination is also a concern, due to animals getting into the fields. Currently there is no one regulating the irrigation and there is no written agreement regarding repairs.
- Mr. Benke explained the multiple splits that he has done on his property.

Danielle Van Lith – 18641 Chicken Dinner Rd Caldwell ID 83607 – in opposition

- Ms. Van Lith has grown up in and used agriculture all of her life and feels obligated to speak on behalf of this lifestyle.
- Encouraging youth to stay in agriculture is difficult and by turning good land into residential land, we are increasing this difficulty, as well as damaging agricultural activity on the surrounding properties.
- If we allow one home to be built, how can we stop additional homes from being built? The Canyon County 2020 plan was implemented to stop this kind of growth. Rezoning this land to rural residential violates all that the plan stands for. The goals of the plan are to acknowledge, support and preserve the role of agriculture, and to support and encourage agricultural use of agricultural lands, and protect agricultural lands and uses from incompatible development. The plan also includes implementation actions such as “to provide or require clear notice to residential users of lands converted from agriculture to residential use”.

Dale Maine – 19600 Country View Ln Caldwell ID 83605 – in opposition

- Opposed to this project because the infrastructure that currently exists has been stretched to the max already, as far as access to the road. According to the Home Owners Association, of Country View Estates, that road was built for four residential lots. We have granted Agricultural use to the parcel in question, but adding another home to that will stress the road. More access would not be granted without road improvements being made.
- Irrigation is a problem now and the system needs to be repaired often. We operate on a rotation system. The irrigation system will have to be updated if another user is added.

Rebuttal: Tanya Robinson –19082 Upper Pleasant Ridge Rd Caldwell ID 83607- Applicant in favor

- Regarding irrigation: The set up and use of the irrigation system was created long before I purchased this property and we are currently using it exactly as it was set up. The previous owner of our property showed us how to use the system and how he had been doing it, we have continued to use the irrigation exactly as he showed us. We have learned more from other neighbors that were here before us. We do not want to cause trouble with the irrigation system and will share in the cost of repairs. We have no problem chipping in to help pay for the cost of repairs to the irrigation system.
- Irrigation use is not going to change at all with the addition of a home on this property, we will continue to use it exactly as we always have, and if the current system is not working it has nothing do with us applying for a property split.
- We were living on the property all of last season and we were never presented with any bills, or requests to stop irrigation in order to make repairs.
- I e-mailed Mr. Benke last season to offer participation in a plan to improve the irrigation issues and his response was, “do not try and be an irrigation expert, you just moved here.”
- Regarding the road use: ACHD called and discussed this and they prefer that we use Country View Lane, however we do not have to use that road, we can access on another portion of our own parcel. We respect the fact that Country View Lane is a private road and will not use it without permission.
- Further development beyond what is requested in this Conditional Rezone will not happen, it is not a part of the request or the conditions. There is no way for us to further develop property, it will be a 12 acre parcel with one home. The condition travels with the property, so if someone else were to purchase it, they would have to abide by the same conditions.
- With this request, we are protecting the agricultural use in the area, by adhering to the conditions and maintaining the Ag Exemption by, preserving at least ten acres in irrigated hay ground and pasture to raise our livestock. We are continuing to harvest nearly twenty ton of orchard grass hay annually. The conditions placed upon this request absolutely protect the agricultural lands and development we are doing by developing a home and splitting the property. This split is compatible in acreage size and dwellings all around us. The slide seen earlier shows other home sites of 2.2 acres, 3.6 acres and the properties on Pride Ln are on 5 acres lots that were split by Mr. Benke.
- Mr. Benke has misrepresented and misleading many of the neighbors about what is really happening with our proposal, we are not changing the Zoning laws, we are using a Zoning Ordinance, which is legal.

Commissioner Scheuerer: Could the property owner currently build a second home on their property without rezoning? Property rights issues are important on both sides. Irrigation disputes could be resolved with a user’s agreement. With this agreement there is a guarantee that the ground will remain open and will preserve the agricultural aspect, by restricting where the home is built. Without the agreement the home can be built anywhere.

Planner Dan Lister: Currently anyone living in an Agricultural or Residential zoning district with a main dwelling can have a secondary dwelling as long as it is secondary to the main dwelling, it is not limited by size, with the exception of the septic system use being compatible.

Commissioner Duspiva: Clarifying the possibility of where a home can be built and that the current home could be demolished and a new home built in its place. It would be helpful if the neighbors could learn to work together and get along.

Chairman Hall: Is there a road users maintenance agreement? Could there be one added? This is two acre development based on the two acre envelope that is required on the twelve acre

parcel in which to build the home. Every effort has been made to prevent loss of agricultural property through the Conditional Rezone Agreement, and attaching the agreement to the property in the event of a sale. The applicant has property rights. Irrigation is a concern, however this agreement states there will be no additional water usage or change in the delivery process.

Planner Dan Lister: If Ms. Robinson were to be granted access from Country View Lane, she would have to enter an agreement with the Country View Estates Home Owners Association that she would maintain her share of the road and if it meets over 100 average daily trips then she would be required to pave the portion of road that she was using, however there is no agreement in place for Ms. Robinson to use Country View Lane.

Director Nilsson: There is an exhibit indicating that Country View Lane will not be used as part of this agreement. As part of the building permit process they will show that the two homes will share a private driveway from the public road and a Road Users Maintenance Agreement will be required.

Commissioner Garrett: Concrete pipes with rubber gaskets do not last forever, it would be nice to get the neighbors together and work out a shared way to replace the pipe. The access to Country View Lane is probably not going to happen.

Commissioner Levi: Looking at how this proposal fits into the Comprehensive Plan regarding agriculture, there is no guarantee of preserving agriculture and that is a concern, however with the restrictions that are attached to the proposal limiting the placement of the home the agricultural aspect will be better preserved. There is concern regarding the possible sale of the property, will the restrictions remain with the property when it is sold? Irrigation repairs need to be done, and the neighbors should come together and make those repairs. It would be nice if the neighbors could come together and resolve their differences.

Commissioner Carrell: The proposed lot size is compatible with the surrounding lot sizes, and the request does preserve agricultural land and the country life style.

MOTION: Commissioner Carrell moved to close public testimony on Case PH2017-7 seconded by Commissioner Scheuerer. Voice vote, motion carried.

MOTION: Commissioner Garrett moved to recommend approval of a Conditional Rezone and Development Agreement for Case PH2017-7, to the Canyon County Board of Commissioners as well as the Findings of Facts, Conclusions of Law and Conditions of Approval. Seconded by Commissioner Carrell. Roll Call vote, motion carried with 6 in favor 0 opposed.

ITEM 8: APPROVAL OF MINUTES:

a. April 20, 2017

MOTION: Commissioner Carrell moved to approve the minutes of April 20, 2017 as presented, seconded by Commissioner Scheuerer. Voice vote motion carried.

ITEM #9 PLANNER & COMMISSION COMMENTS

Director Patricia Nilsson:

- The Board of County Commissioners has scheduled interviews with three potential Planning & Zoning candidates next week, to fill the vacancy and to add to a pool of candidates for later in the year when other vacancies may be created.
- There have been some pre-applications with local people starting up wineries, which is good for the agricultural industry. Some history was discovered; 100 years ago there was a spur off

the urban loop from Sunnyslope to the Marsing ferry. The people purchasing that will be sensitive to preserving that history.

- The Parks Department Director retired April 28th, Nichole Schwend replaced him. They are working on a historic preservation plan.
- We have been keeping up to date on the flooding in the area, and working with other agencies involved.
- 4DLLC has not submitted an appeal yet, he still has until tomorrow to do so, and we expect that he will.
- Treasure Valley Renewables Rezone has been tabled for a month at the applicant's request, in order to put together a Development Agreement. The Comp Plan amendment was approved by the BOCC.

ITEM #10 ADJOURNMENT: 10:06 pm

MOTION: Commissioner Carrell moved to adjourn, seconded by Commissioner Scheuerer. Voice vote motion carried.

Signed this 18th day of May, 2017

Richard Hall, Chairman

ATTEST:

Kathy Frost, Recording Secretary