



CANYON COUNTY HEARING EXAMINER  
MINUTES OF REGULAR MEETING HELD  
Wednesday, May 18, 2022  
1:30 P.M.

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

Hearing Examiner Present: Bruce Eggleston

Staff Members Present: Dan Lister, Planning Official  
Cassie Lamb, Planner  
Bonnie Puleo, Recording Secretary

**Hearing Examiner Bruce Eggleston**, called the meeting to order at 1:32 p.m. and read the testimony guidelines.

**Recording Secretary Bonnie Puleo** called roll and swore in officials and staff.

**MOTION:** Hearing Examiner Eggleston tabled Case no. CU2022-0001 Western Construction to date uncertain at the applicant's request. Case will be re-noticed.

- **Case RZ2021-0062: Jerry & Samantha Nelson:** Jerry & Samantha Nelson are requesting a zoning map amendment (rezone) of parcel R30598 from an "A" (Agricultural) Zone to an "R-1" (Single Family Residential) Zone. The 4.73-acre parcel is located at 7801 E. Victory Road, Nampa; also referenced as a portion of the NE¼ of Section 29, T3N, R1W, Canyon County, Idaho.

**Planning Official Dan Lister** stated that staff just found out that there are new owners of the property that took over this case, explaining that when the new owners purchased the property, they did not know they needed to fill out a new application. They will do so after the hearing. Planning Official Dan Lister reviewed the Staff report for the record.

**Recording Secretary Bonnie Puleo** affirmed the witnesses to testify.

**Testimony:**

**Elizabeth Montoya – Applicant (Representative) – IN FAVOR – 11280 West Rosa Dr Nampa ID 83686**

Ms. Montoya is the applicant's sister and the real estate agent who help them purchase the property. At the time of purchase, they weren't aware the rezone was underway but love the idea of completing it and selling the new lots or keeping them for their family to use. She supports the application and understood what was happening during the hearing.

**Pete Resendez – IN FAVOR – 7801 E. Victory Rd Nampa ID 83687**

Mr. Resendez thanked the staff for all the information. This was the first time they had all the information provided on the project. He said they are excited about the process started by the prior owner. He is part of the family and a local realtor. It is their intention to subdivide the property and keep it as an R1 zone.

They are looking forward to moving forward and keeping it in compliance with the agreement.

**Dmitry Vitruk – IN OPPOSITION – 2036 E Kamay Dr Meridian ID 83646**

Mr. Vitruk owns the lot in the back of this property. When he spoke to the Windmill Ranch subdivision developer, the developer told him they had to give up 100 feet of land for the road so he suspects they (the applicant) will have to give up more of their land for the road. Most of the Windmill Ranch Subdivision has lot sizes of 1.67 acres; his lot is 2-acres, his neighbor has 3-acres. The subdivision on the other side of McDermott are 5-acre lots, from what he knows. He would like to keep the subject property at a minimum of 2-acre lots instead of .25 acre lots. Mr. Vitruk asked if they are proposing .25 acre lots and received clarification from the Hearing Examiner. He said they have views out there and where the applicant builds may block some of the other owners' views. He stated doesn't know how much land the road might take and that is the main thing. He also said the Windmill Ranch might be putting in a roundabout.

**Pete Resendez – Applicant (Representative) – REBUTTAL – 7801 E. Victory Rd Nampa ID 83687**

Mr. Resendez stated the process was started prior to their purchase of the property. He said they purchased this property because it was suitable for their family. Their intention was not to go below 1-acre lot sizes. They also enjoy the views and the openness. Mr. Resendez said they plan on living in the existing building and adding acre lots. He stated their goal is not to make it a cookie cutter subdivision but to make it acreage for people who enjoy a little piece of land.

**MOTION:** Hearing Examiner Eggleston closed public testimony on Case number RZ2021-0062.

**DELIBERATION:**

The Hearing Examiner looked at Exhibit 1 and concurs with the Finding of Facts. He feels it is accurate according to the process before him. He concurs with those findings and the Conclusions of Law.

**MOTION:** Hearing Examiner Eggleston moved to recommend approval of Case RZ2021-0062 including the Findings of Facts, Conclusions of Law and conditions of approval, forwarding the recommendation to the Board of Canyon County Commissioners.

- **Case No. RZ2021-0025 & SD2021-0014: Richard & Lora Gauhan/Lakhota Subdivision:** Richard & Lora Gauhan are requesting a Rezone of approximately 2.71 acres from an "A" (Agricultural) zone to an "R-1" (Single Family Residential) zone. Also requested is a Short Plat for Lakhota Subdivision. The subject property, R33430014 is located on the west side of Lakhota Ln. in the NW ¼ of Section 18, T3N, R4W, BM, Canyon County, Idaho.

**Planning Official Dan Lister** reviewed the Staff report for the record.

**Recording Secretary Bonnie Puleo** affirmed the witnesses to testify.

**Testimony:**

**Jesse Christensen – Applicant (Representative) – IN FAVOR – 2151 W Willow Pointe Nampa ID 83651**

Mr. Christensen, representing ECO Engineers, wanted to address a couple of things that were brought up by the Hearing Examiner. He said with regards to the irrigation water, the property has a water right but they can't get to it. They know, per the Boise Board of Control's letter, they can't pull the water directly from the Watson Canal. They settled on a small hammerhead turnaround so they could satisfy the Fire Department's code as it is slightly longer than the 150 feet required by the County. It is a private road and

at one point there was a road users' agreement but it will need to be rewritten to include the new owners. This application started with the Gauhans but they moved and sold the property. The Garcias have purchased the property and wish to put in two houses; both single family residences, sharing a well but with separate septic systems. They don't plan on doing a lot out there except to live in the country. He has met with all the neighbors but the Garcias have not met the neighbors yet. He stated this seems to fit in the area. When the land was designated, the bench was tagged as wasteland. While most of the properties to the west don't have water rights, this one retained its water right but doesn't have access. Mr. Christensen put the application together for the Gauhans in April 2021 and the plans are now the Garcia's. He resubmitted the application with the Garcia's name. His clients are aware of the process and are in agreement with all of the stated conditions.

**Rachel Johnson – IN FAVOR – 3112 Central Park Ct. Caldwell ID 83605**

Ms. Johnson represented the Garcia's on the purchase of the land. They had been looking for something like this for about a year and were happy to find their dream lot with the beautiful views. They were aware the split was already in process with the prior owners. They are planning to build two modest sized, single level homes being mindful of the views. She believes the neighbors will find the Garcias to be respectful and approachable and thankful for the opportunity.

**Lynette Garcia – IN FAVOR – 5047 N. Schubert Ave Meridian ID 83646**

Ms. Garcia is here representing her family, including her sister and her parents. They are grateful for the opportunity to meet members of the County and their future neighbors. The Garcias are excited about this opportunity. They recently moved to Idaho and are quiet people. They are eager to integrate into the neighborhood and become respectful neighbors. They grew up in an urban area and they wanted to live in a rural landscape. She said they had been looking for over a year for this type of property. They want to be respectful of the beautiful views for the neighbors. They will be attentive to their property and the needs of the neighborhood; they are close knit family and it has always been their dream to have two homes right next to each other to be able to take care of each other.

**Mike Miller – IN NEUTRAL – 23393 Lakhota Ln Wilder ID 83676**

Mr. Miller asked if they are their own subdivision or is his subdivision a part of it? Do they have their own CC&R's or are they separate? The Hearing Examiner responded that they would be separate and nothing would change for their subdivision. Mr. Miller stated that a road maintenance agreement would need to be put in place to be sure they were all taking care of it.

**Marc Asumende – IN NEUTRAL – 23377 Hoskins Rd Wilder ID 83676**

Mr Asumende gave some history about the property. The property was bought by his father and mother. They went through an ordeal with Canyon County and tried to make smaller lots but were told no. Mr. Asumende resides north of the property. He said what Mr. Miller asked was what he wanted to know. He stated that with regards to the private road, the agreement was that he took care of it up to his mother's home; the other three owners would take care of the road from that point to the west, to their lots. He believes the lot to the east paid a third of the cost of that private road and the Millers had to pay 2/3rds of the cost. The former owner of this property refused to participate in the road users' agreement. He said it's good to hear the Garcias want to be good neighbors because they want to put in a road user's agreement. The way it was, the Millers got stuck. Mr. Asumende said everyone out there are good people and want to be good neighbors. The land has been split like crazy in a haphazard manner so it is good we are here to not allow that to happen. He would hate to see half acre lots. It was good to hear the information from the family buying it.

**Susan Smith – IN OPPOSITION – 23387 Lakhota Ln Wilder ID 83676**

Ms. Smith stated the only reason she opposes it is because of water. Water is a big issue. She stated they don't have a well on their property: the well they use is on the property of the people they purchased their property from. It is 200 yards away from their house, down the hill towards the river. Their driveway starts before Lakhota; they are right behind Mr. Asumende. Ms. Smith is opposed to two homes; one home is okay. There was a spring by the property which has now run dry. Their well is not as deep as other people on their street. When they bought their property over 6 years ago, there was a big spring there and now it is dry. That's a concern for them. She said they got a bid to put a well on her property and the company told them they are two years out and it would cost \$45,000. She stated that sometimes water is hard to find out there.

**Cheryl Miller – IN NEUTRAL – 23393 Lakhota Ln Wilder ID 83676**

Ms. Miller spoke about the hammerhead for the Fire Department: The one they put in could handle a fire truck. They had a fire in 2011 and they had no problem coming up to the roundabout and turning around. Richard Gauhan told her they could still use the turnaround but he wanted to reclaim that property that is on the turnaround. She asked if legally do they still have the same right of way that they had before? Planning Official Lister explained they are still proposing a cul-de-sac at the end of the road for the turnaround which is part of the private road and everyone will be able to use it.

**Jesse Christensen – Applicant (Representative) – REBUTTAL – 2151 W Willow Pointe Nampa ID 83651**

Mr. Christensen stated that at one point, the prior owner tried to take away the Fire Department turnaround/cul-de-sac and move the Fire Department turnaround back down to the hammerhead. The full cul-de-sac is going to stay in addition to the hammerhead. He stated the Garcias are looking forward to establishing a new road users' agreement and would like to be good neighbors. They would like to start building the homes as soon as possible.

**MOTION:** Hearing Examiner Eggleston closed public testimony on Case numbers RZ2021-0025 & SD2021-0014.

**DELIBERATION:**

Hearing Examiner Eggleston stated there are two items in front of him: a rezone and a subdivision. In looking at the Finding of Facts for RZ2021-0025, he concurs with them. He advises them to amend the agreement to put the Garcia's name on it. With regards to the standards of review for the rezone, he agrees with them as they are laid out and feels they will address the issues properly for the zone change request. Hearing Examiner Eggleston stated that regarding the preliminary plat (SD2021-0014): on the top of page 1, he would like the Finding of Facts to be changed to reflect the Garcia family as the applicant. He agrees with the Findings of Fact and Conclusion of Law and the four items listed. He recommended approval of the short plat with the following conditions labeled 1 -7 listed including the road users' maintenance agreement.

**MOTION:** Hearing Examiner Eggleston moved to recommend approval of Case numbers RZ2021-0025 & SD2021-0014 including the Findings of Facts, Conclusions of Law and conditions of approval, forwarding the recommendation to the Board of Canyon County Commissioners.

- **Case No. ZV2022-0002: Fackrell & Young:** Brad Fackrell & Jay Young are requesting a variance to allow a property boundary adjustment to take place between parcels R30620010 & R30620020. The subject parcels were created through a conditional use permit in 1992 and allowed the smaller lot sizes than today's County Ordinance. The parcels are zoned "A" (agricultural, one-acre

average lot size). The properties are located at 6406 & 6412 E Sherryanna Ln Nampa; also referenced as a portion of the NW ¼ SW ¼ of Section 29, T3N, R1W, BM; Canyon County, Idaho.

**Planner Cassie Lamb**, reviewed the Staff report for the record.

**Recording Secretary Bonnie Puleo** affirmed the witnesses to testify.

**Testimony:**

**Jay Young – Applicant (Representative) – IN FAVOR – 272 E. Blackhawk Dr. Kuna ID 83634**

Mr. Young is the owner of the property in question: 6406 E Sherryanna Lane. He said he appreciated staff's efforts for their work on his application and agrees with their findings. This is to put the septic system on the correct property. In response to a question from the Hearing Examiner, Mr. Young said the lane that comes into the property is a private lane and it was shaped the way it was because of the ditch that is on the property.

**Brad Fackrell – IN FAVOR – 6424 E. Sherryanna Lane Nampa ID 83687**

Mr. Fackrell stated that this is his family's property since 1972. He still lives adjoining this property and it would be really nice to have the septic on the property they own. It is small enough that there is no other viable place to put it. He stated that he appreciated the help they have gotten from the County.

**MOTION:** Hearing Examiner Eggleston closed public testimony on Case ZV2022-0002.

**DELIBERATION:**

Hearing Examiner Eggleston stated that the variance process revolves on claims of hardship. This is a good solution even though the hardship was created by the original conditional use. He has no problem correcting this. He agrees with the analysis cited in the staff report.

**MOTION:** Hearing Examiner Eggleston moved to approve Case ZV2022-0002 including the Findings of Facts, Conclusions of Law and conditions of approval.

**APPROVAL OF MINUTES:**

**MOTION:** Hearing Examiner Eggleston approved the minutes from April 21, 2022.

**ADJOURNMENT:**


**HEARING EXAMINER** Bruce Eggleston adjourned the meeting at 3:04 pm.

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

Approved this 15th day of June, 2022.

ATTEST

  
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Bonnie Puleo, Recording Secretary

  
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Bruce Eggleston, Hearing Examiner  
June 15, 2022