



CANYON COUNTY HEARING EXAMINER
MINUTES OF REGULAR MEETING HELD
Wednesday, June 15, 2022
1:30 P.M.

1ST 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
Jenna Petroll, Planner
Bonnie Puleo, Recording Secretary

Hearing Examiner Bruce Eggleston called the meeting to order at 1:30 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. SD2020-0036/Ridgeland Estates Subdivision to a date certain of July 20, 2022 at 1:30 pm due to missing comments from Canyon County Highway District #4.

MOTION: Hearing Examiner Eggleston tabled Case no. VAC2022-0001/Ramirez-Lewis Crossing Subdivision to date certain July 21, 2022 at 6:30 pm because it must be heard by the full Planning & Zoning Commission.

- **Case no. CU2022-0009/John & Lisa Bertoni:** The applicants, John & Lisa Bertoni, are requesting a conditional use permit to allow a Special Event Facility use within an "A" (Agricultural) Zoning District. The special events include weddings and private parties. The subject property is located at 8366 Purple Sage Rd, Middleton (Parcel R37493010); also referenced as a portion of the SW SE ¼ of Section 27, Township 5N, Range 2W; BM; Canyon County, Idaho.

Planner Cassie Lamb reviewed the Staff report for the record including late exhibits.

Hearing Examiner Eggleston entered the late exhibits into the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Lisa Bertoni – Applicant (Representative) – IN FAVOR – 8366 Purple Sage Rd., Middleton ID 83644

Ms. Bertoni stated she was applying for a conditional use permit for her home to hold parties and events. She said that staff had laid down a good plan. She clarified that the maximum number of guests would be 120, not 220. They plan on putting up 4 lights around the property, mainly in the parking lot area. They used a professional electrician and have added indoor exit signs. She stated it is downward lighting and not pointed in anybody's direction. There are no other features on their plan not shown on the existing site plan. They are currently living on the property and are not farming the land.

John Bertoni – IN FAVOR – 8366 Purple Sage Rd., Middleton ID 83644

Mr. Bertoni said all the things discussed by County staff is what is currently there. The lighting is on the side of the buildings and is directed downwards toward the parking lot; it doesn't light the road. His wife has always wanted to have a wedding event place. The they found this property and fixed it up. Mr. Bertoni is the maintenance guy and the parking attendant. He also put up a mirror at the entrance of the parking lot for safety which will help people pulling out onto Purple Sage Rd.

Rachael Hall – IN FAVOR – 8310 Purple Sage Rd., Middleton ID 83644

Ms. Hall has lived on her property since 2005. The Bertonis moved into their location in 2019 and have taken good care of the property. They are good neighbors. They have upgraded the property since the previous tenants moved out. They are very respectful about checking in with her to see if the noise is too loud. She is their next-door neighbor and they have been very considerate. Ms. Hall said parking has never been an issue and she doesn't see any safety or other concerns whatsoever.

April Holland – IN FAVOR – 8094 Sage Run Lane, Middleton ID 83644

Ms. Holland lives one mile parallel with and behind the subject property. She has heard music in the past and when she checked with Lisa Bertoni, it was another neighbor's music. She has never heard music from the Bertoni property. She has no issue with anyone coming in and out of their parking lot.

Patrick Williamson – IN NEUTRAL – 19550 Eat A Bite Lane, Caldwell ID 83607

Mr. Williamson wanted to bring up some questions/concerns about parking and canal safety specifically, is it outside the irrigation easement? He said the District asked for a barrier for the canal; is the fence on the canal going to be anything more substantial than a three line, vinyl fence? Staff replied the Irrigation District was shown a site plan on the project with parking along the canal and they didn't say they had an issue with it. As a part of the condition of approval, the applicant will provide DSD staff with a canal safety plan. Mr. Williamson asked about the location of parking next to the road: is it outside the Highway District's easement? Staff replied that the Highway District didn't identify any issues with the site plan which showed parking next to the road. There is a condition of approval that requires a parking and circulation plan which has to be approved by the Highway District, Fire District and Irrigation District.

Lisa Bertoni – Applicant (Representative) – REBUTTAL – 8366 Purple Sage Rd. Middleton ID 83644

Ms. Bertoni said she had a Highway Department employee look at the plan for the parking along the road and he approved it. Regarding the canal, they will not let kids out in the general areas or let them play in the common area. The contract users have to sign states there is no unsupervised children allowed to play in the common area. Whatever the canal people want them to do, they will do. The Bertonis keep up the entire area and canal personnel come by every day. None of the canal employees have ever brought up any issues with them. If they want them to put up a temporary barrier, they will.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CU2022-0009.

DELIBERATION:

Hearing Examiner Eggleston stated that he concurs with the 9 Findings of Fact and concurs with the Conclusion of Law. He would suggest no changes. He finds the conclusions appropriate and correct. He suggested some amendments to the Conditions of Approval involving the maximum number of guests, the terminate of the CUP upon transfer/sale of the property, irrigation and canal safety; plans for off street parking and the approach to the property. Hearing Examiner Eggleston stated they must submit their parking and circulation plan to the Highway District and the Fire Department. He also said food preparation is prohibited on site unless it is approved by the Department of Environmental Quality. He also addressed lighting and sound requirements: he provided specifics on hours of operation for music/sound and lighting.

MOTION: Hearing Examiner Eggleston moved to approve Case CU2022-0009 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

- **Case No. CU2022-0013/Shindig Farms:** The applicant, Shindig Farms, are requesting a conditional use permit to allow a Special Event Facility use within an "A" (Agricultural) Zoning District. The use includes pumpkin patch, straw maze, Christmas tree sales, animal days, and other agricultural related events with local vendors. The subject property is located at 8439 Hwy 45, Nampa (Parcel R29665); also referenced as a portion of the NE ¼ SE ¼ of Section 21, Township 2N, Range 2W; BM; Canyon County, Idaho.

Planner Cassie Lamb reviewed the Staff report for the record including late exhibits.

Hearing Examiner Eggleston entered the late exhibits into the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Kent Mortensen – Applicant (Representative) – IN FAVOR – 511 W. Broadway Ave. Meridian ID 83642

Mr. Mortensen is the managing partner for Shindig Farms, LLC. When they started the farm, they assumed they were covered by the existing code for their straw/corn maze. Once they exceeded that use, they decided to seek the conditional use permit. He wanted to address the structural questions and stated the parking is in place based on direction and engineering plan from a parking lot company. For the parking lot, they have completed the entry / bib from Scism Road with the Highway District. Their events move, so there are no permanent structures on site; the main structure is the straw maze made from about 1000 bales of straw. The structure changes slightly each year for variety. They feel they are an agricultural and family promoting business with educational opportunities. They have the 4H, FFA and Boys and Girls Clubs as sponsors this year. They farm the ground as well with a large pumpkin patch. This is a family activity not in front of a computer that allows people to connect with the earth. It also provides employment for kids in agriculture programs or who are living in the area. This has been challenging process for them and he thanks the group for helping them. He reiterated that they thought they fell under the existing code. He described moving the activities around the site, like the straw maze, a bull ride and mobile vending shacks. Idaho Power came to put in electricity which will allow them to install permanent lighting instead of using generators. They have few neighbors who would be disturbed by the noise. They promote 'animal

love' but did not hold their Animal Days on site this year; they held it at the Idaho Expo. In answer to questions about the site plan and how it was lined up on the parcel, Mr. Mortensen described where the straw maze was and what area on the site was being farmed. Hearing Examiner Eggleston expressed concerns about the limited plan; he said it was imperative to have the full and complete site plan. Mr. Mortensen said the entrance is on Scism and approved by the Highway District. He explained where the straw maze is located, where they plant wheat and pumpkins. He stressed that none of the structures are permanent, including the zipline and slides which are made of straw. The straw is sold to dairies or back the same groups they purchased it from at the end of the season. They have started their growing season and are irrigating and planting pumpkin and wheat now. They have their first event in the last weekend of September for the Fall season and it goes through the Thanksgiving and Christmas seasons. They end the first week of January. In May, they host "Animal Days".

Spencer Stoker – IN FAVOR – 545 East 550 South, Burley ID 83318

Mr. Stoker said he had approached Kent with the idea. He grows crops up in Burley. Their first event of the year is in May or June and it's called Animal Days. During the Fall, they have Harvest Days and in Winter, they have a Christmas Festival. The maze design changes every year; they map it out on computer. After Christmas, they set up structures for the animals to be in during the winter. He said they have 21 acres being farmed; the rest of the land is used for the maze. The ziplines are in the ground but can be easily removed. They work with the Fire Department and have plans in place in case of fire. Mr. Stoker said their straw maze is safer than a corn maze. It becomes a tradition for families and their kids; it's a great addition for the community. The parking area is all gravel and have gravel spread in the other area for safety.

Patrick Williamson – IN NEUTRAL – 19550 Eat A Bite Ln., Caldwell ID 83607

Mr. Williamson asked about the conditions of approval: are food trucks going to be allowed? Staff replied they need the Department of Environmental Quality and Southwest District Health to give their permission for food preparation on site but food trucks do not require that and are allowed. Mr. Williamson also stated that the reason there might not be a hard site plan is because they may have to rotate their crops and the maze may have to move because of that rotation of crops.

Mark Bowen – IN NEUTRAL – 8500 Elkhorn Lane Nampa ID 83686

Mr. Bowen lives down Elkhorn Lane off Highway 45. He requested more signage directing people to the entrance to the parking on Scism Road because people drive down the side roads used for farming looking for the entrance. Last year, the small sign blew over and the highway is getting very busy and dangerous. He would like clear signage directing people to the proper entrance.

Kent Mortensen – Applicant (Representative) – REBUTTAL – 511 W. Broadway Ave. Meridian ID 83642

Mr. Mortensen discussed the level of interest in the parking lot last year because of special needs kids; the parking lot was re-engineered to help people with wheelchairs and walkers. He showed where the entrance was on the map. They have had Special Olympics out twice this year and other groups who want to experience a farm and they are able to accommodate them. The rotation of crops is a good point and is why they haven't been as clear where everything is placed. They did talk to Southwest District Health last year about the food trucks. He reiterated they are interested in following all regulations. He said the parking entrance at the site was hard to understand and they did try to correct it with additional signage on hay bales. He also sent updates to Google and Apple maps to change the entrance. They did provide a barrier with large straw bales and an 8.5 x 12-foot sign which says 'not an entrance' and will continue that in future years.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CU2022-0013.

DELIBERATION:

Hearing Examiner Eggleston reviewed the Finding of Facts, Conclusions of Law and Conditions of Approval; he felt they were adequate to address the issues of the application and he concurs with them. He concurs with the Conclusion of Law section and it said it adequately addresses the concerns for this Conditional Use Permit. The staff report lays out the requirements for the conditional use and he concurs with their analysis. He made some amendments including: 160 days to obtain sign permit approval, listed the hours of operation and stated it was non-transferrable. Hearing Examiner Eggleston addressed fencing on the property and weed management as well as compliance with the site plan which should be submitted to and approved by the Director of Development Services. He also added verbiage to item 10: 'Barriers and signage shall be erected to prohibit access.'

MOTION: Hearing Examiner Eggleston moved to approve Case CU2022-0013 including the Findings of Facts, Conclusions of Law and conditions of approval.

- **Case No. CU2022-0014/Powder River Development - Bowen:** The applicant, Powder River Development Services LLC, representing Mark and Lillian Bowen, is requesting a conditional use permit to modify an existing telecommunications facility (CU2019-0008) on parcel R29679010. The request includes removal of an existing tower and installation of a metal tower at the same 60-foot height. The parcel is zoned "A" (Agricultural). The subject property is located at 8500 Elkhorn Ln, Nampa; also referenced as a portion of the SE¼ of Section 22, Township 2N, Range 2W; Canyon County, Idaho.
- **Case No. CU2022-0016/Powder River Development - Tally:** The applicant, Powder River Development Services, representing Mark & Stephanie Tally, is requesting a conditional use permit for a telecommunication facility on parcel R35543. The request includes the removal of the 80' wood pole and installation of a new 80' metal self-support tower. The parcel is zoned "A" (Agricultural). The subject property is located at 18111 Wagner Rd, Caldwell; also referenced as a portion of the SE¼ of Section 31, Township 4N, Range 3W; BM; Canyon County, Idaho.
- **Case No. CU2022-0017/Powder River Development - Williamson:** The applicant, Powder River Development Services, representing Patrick Williamson, is requesting a conditional use permit for a telecommunication facility on parcel R33477. The request includes the removal of the 80' wood pole and installation of a new 80' metal self-support tower. The parcel is zoned "A" (Agricultural). The subject property is located at 19550 Eat A Bite Ln, Caldwell; also referenced as a portion of the SE¼ of Section 23, Township 3N, Range 4W; BM; Canyon County, Idaho.
- **Case No. CU2022-0018/Powder River Development – Garrett:** The applicant, Powder River Development Services, representing Gregg & Randee Garrett, is requesting a conditional use permit for a telecommunication facility on parcel R33642. The request includes the removal of the 80' wood pole and installation of a new 80' metal self-support tower. The parcel is zoned "A" (Agricultural). The subject property is located at 17499 Allendale Rd, Wilder; also referenced as a portion of the NW¼ of Section 01, Township 3N, Range 5W; BM; Canyon County, Idaho.

Planner Jenna Petroll reviewed the Staff report for the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Zachary Williams – Applicant (Representative) ALL CASES – IN FAVOR – 408 S. Eagle Rd., Eagle ID 83616

Mr. Williams is with Powder River representing the broadband company and discussed all four conditional use permits at once as they are all very similar.

CU2022-0014: This site meets the setback requirements; they are 35 feet off the property line. The existing 60-foot tower is a wooden pole and is old and would be replaced by a 60-foot metal pole. This is to supply broadband service to homes. The towers are made solely for broadband services, not for wireless services. Mr. Williams stated for this location, they are moving this facility 20-35 feet north, away from the existing tower foundation.

CU2022-0016: Mr. Williams said they are moving this tower 15-20 feet away to the west to where there was an old silo foundation. It is a 10 ft by 10 ft site.

CU2022-0017: This tower's location is based on the owner's use of the property, which is a farm/orchard. Mr. Williams said there will be no fence around this site but the tower will have steel plates around the base to prevent anyone from climbing it. The plates can be unhooked and removed for maintenance of the tower.

CU2022-0018: Mr. Williams said the tower in this location is using the existing site and fencing. With all these locations, they are using stealth/lattice towers so you can see through them. They don't stick out as much. It also allows the company to put more equipment on each tower but is designed to hold only the company's broadband equipment.

There is no more federal regulation for distance between towers and Canyon County doesn't have those requirements either. These are not being designed as full macro wireless facilities; just replacing a wood pole for home broadband system. The company could add additional radios and antennas on these towers for broadband service but only for broadband. Mr. Williams said there is nothing additional being added right now; only a swap from one pole to another. He explained the request of the homeowner on CU2022-0017 to move the tower from one site to another, out of the center of the driving area of his property. No guy wires are necessary. The foundation will be 10 to 30-feet deep but they will know specifically after the geotechnical report on each site's soil.

Patrick Williamson – IN FAVOR – 19550 Eat A Bite Lane, Caldwell ID

CU2022-0017: Mr. Williamson explained that he wanted the tower moved from its current site to the new site which is farther away from the house and his daughter's bedroom. He explained why his site won't have fencing around the tower: if you put fencing around the tower site, he wouldn't be able to drive his farm tractors or trailers through the area. He is moving it southeast, about 60-70 feet away from the house.

MOTION: Hearing Examiner Eggleston closed public testimony on Case numbers CU2022-0014, CU2022-0016, CU2022-0017 & CU2022-0018.

DELIBERATION:

CU2022-0014: Hearing Examiner Eggleston concurs with the Findings of Facts and found that the Conclusion of Law is accurate. It fulfills the conditions and he concurs with findings 1 – 8. There are no additions needed to the Conditions of Approval.

MOTION: Hearing Examiner Eggleston moved to approve Case no. CU2022-0014, including the Findings of Facts, Conclusions of Law and Conditions of Approval.

CU2022-0016: Hearing Examiner Eggleston concurs with the Findings of Fact. He finds the Conclusions of Law are adequate to address this application and the Conditions of Approval 1 – 8 address the application and site of the tower. No changes are necessary.

MOTION: Hearing Examiner Eggleston moved to approve Case no. CU2022-0016 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

CU2022-0017: Hearing Examiner Eggleston concurs with the Findings of Fact. He finds the Conclusions of Law are adequate to address this land use and codes and concur with the findings. The Conditions of Approval 1 – 8 address the laws in the application and find them adequate. No changes are necessary.

MOTION: Hearing Examiner Eggleston moved to approve Case no. CU2022-0017 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

CU2022-0018: Hearing Examiner Eggleston concurs with the Findings of Fact. He finds the Conclusions of Law are adequate to address the process and compliance. The Conclusion of Laws address the issues regulating the proposed use and the Hearing Examiner concurs. The Conditions of Approval 1 – 8 address the application of law and are adequate. No changes are necessary.

MOTION: Hearing Examiner Eggleston moved to approve Case no. CU2022-0018 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

- **REQUEST TO RE-OPEN CU2022-0013/Shindig Farms** – Staff requested a reopening of Case CU2022-0013 to address Condition #5.

Hearing Examiner Eggleston approved reopening public hearing on Case CU2022-0013.

Planning Official Dan Lister: Mr. Lister said condition number 5 addresses the hours of operation on the application for main events, however it did not address the special events they hold during the day which include school groups. He described what makes it a special event: selling food, riding rides and charging admissions. The applicant would like to amend their hours for special events to: Monday through Thursday, 9 am to 9 pm, to include schools. Friday hours would be 9 am to 11 pm and Saturday would be 10 am to 11 pm; they would be closed Sundays. The hours of operation are year-round and are not tied to specific months. This change does not affect any of the other conditions.

Kent Mortensen – Applicant (Representative) – IN FAVOR – 511 W. Broadway Ave. Meridian ID 83642

Mr. Mortensen stated they recognized they neglected to notify staff of the hours when school groups and the Girls and Boys clubs would be coming in. These are not their main events but will be using the facilities during the day after school starts. They are considerably smaller events and generally will not have vendors on site.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CU2022-0013.

DELIBERATION:

The Hearing Examiner changed the order and amended CU2022-0013 condition 5 to include the new hours. Hearing Examiner moved to approve Case no. CU2022-0013 and the amended conditions of approval.

APPROVAL OF MINUTES:

MOTION: Hearing Examiner Eggleston approved the minutes without any changes from May 18, 2022.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

ADJOURNMENT:

HEARING EXAMINER Bruce Eggleston adjourned the meeting at 3:50 pm.

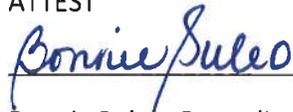
An audio recording is on file in the Development Services Departments' office.

Approved this 20th day of July, 2022



Bruce Eggleston, Hearing Examiner
July 20, 2022

ATTEST



Bonnie Puleo, Recording Secretary