



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, August 18, 2022
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman
Patrick Williamson, Vice Chairman
Brian Sheets, Commissioner
Ron Amarel, Commissioner
Harold Nevill, Commissioner

Staff Members Present: Dan Lister, Planning Official
Elizabeth Allen, Planner
Jenna Petroll, Planner
Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill, called the meeting to order at 6:30 p.m.

Commissioner Sheets, read the testimony guidelines and proceeded to the business item on the agenda.

MOTION: Commissioner Sheets moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case RZ2022-0007, Greg & Ann Obendorf. Motion seconded by Commissioner Williamson. Commissioner Nevill abstained from the vote. Voice vote, motion carried.

Commissioner Sheets: Read item 1b from the agenda; CU2022-0019/Betty Lanum. Project was withdrawn at the request of the applicant.

- **Case No. RZ2021-0048 & SD2021-0060/Morgan & Cooper Subdivision:** Aspen Engineers representing the property owners Kent Morgan and Gina Morgan are requesting a Conditional Rezone with a Development Agreement for approximately 3.00-acres (Parcel No. R29799018) from the current zoning designation of "A" (Agriculture) to an "R-R" (Rural-Residential) zone. The request also includes a Short Plat for Cooper Subdivision. The proposed plat contains one (1) lot. The subject property is located on the south side of Kuna Road, approximately 1,748-feet east of Southside Boulevard, Nampa, Idaho, in a portion of the SE ¼ of Section 25, T2N, R2W, BM, Canyon County, Idaho.

Planner Elizabeth Allen reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Lance Warnick – Applicant (Representative) – IN FAVOR – 7312 Wild Horse Way Nampa ID 83686

Mr. Warnick with Aspen Engineers said they have been working on this project for a year. He thanked the staff for their work. This parcel is a 3 acre property. The previous owner went through a conditional use permit process to get a buildable lot but then the economy crashed so he didn't move forward with it. Mr. Morgan now owns the property and wants it as a buildable lot. The area is a mix of residential rural lots with pastures and small farms. Mr. Warnick said if you look at a subdivision map of the area, there are numerous subdivisions in the area but they were created through the conditional use permit process in the past. He said that process was used because it could set specific parameters on the development of the property which you can't through a rezone. There will be 2.7 acres after a right of way dedication. There is an existing concrete ditch on the west side of the property for irrigation and a tail water ditch on the east side adjacent to a driveway. To the northeast corner of the property, there is a culvert that takes the tail water across the driveway to a drainage ditch. There will be no changes in irrigation; they will continue to use it as it is. He discussed letters in the staff report from neighboring property owners in support of the application: they view it as a compatible use. The Highway District is on board with only the two houses taking access from the existing driveway; they will keep the same access and no road improvements are needed. He said this is as low impact development as you can get. If you look at the map, this is compatible: 2.7 acre lot is a similar size as the surrounding properties. They have excavated a test hole with Southwest District Health and verified there was adequate soil for a septic system. He said there are not high concentrations of nitrates in the area; generally, there is good water. Considering the conditions that staff is recommending, limiting this to a single lot and preserving some space for agricultural use, it can continue to be a compatible neighbor with the other acreages around it. The services they need are minimal. He clarified that the Morgans will not be living on the parcel themselves. Nampa Highway District clarified that the paved apron is not required and the revised staff report reflects that the apron is not required. He said there are surface water rights. The owner purchased the property in 2019.

Kent Morgan – IN FAVOR – 6857 Kuna Road Nampa ID 83686

Mr. Morgan said he doesn't have much to add to the prior testimony. He bought this property for a future site for his kids to have a place to build. He thought the limit to the 1.75 acres was mainly there to prevent them from building over the entire 3 acres. His intent is to give this property to his kids. He said he would like to be able to have horses on the property.

MOTION: Commissioner Sheets moved to close public testimony on Case RZ2021-0048 & SD2021-0060, seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said he would stick with his concern about the building envelope and is willing to leave it to the applicant and his engineer where to put it. There is a lot of flexibility there. He feels they should have a condition that it be put in the final plat. Staff explained that the Planning and Zoning Commission can approve a preliminary plat but the Board of County Commissioners would have to approve the final plat. Commissioner Sheets said he would like condition #3 to state the home site and outbuildings should be located within a building envelope no greater than 1.75 acres to retain open space. He wanted to keep the same character of the area and limit the remaining area to open space/agricultural production. For Condition #7: there should be an additional condition of no secondary residence. Commissioner Nevill agreed with adding Condition #7. He also said he has one concern. He is concerned about a conditional rezone where there are no other conditional rezones nearby. There are some significantly larger parcels that individuals could look at this and say, "let's do a subdivision". This

would be a foot in the door to more subdivisions. He doesn't like the idea that the only option we have is a conditional rezone. He didn't know that there is anything else that can be done other than saying, "no". Commissioner Williamson said he agreed with Commissioner Sheets' recommended changes. He agrees with removing the agricultural production portion. He would like to see the building envelope in a fixed position but the Board of County Commissioners will review that portion.

MOTION: Commissioner Williamson moved to approve Case RZ2021-0048 with modifications to Condition #3 and adding Condition #7, including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets. Roll call vote 4 in favor 1 opposed, motion passed.

MOTION: Commissioner Williamson moved to approve Case SD2021-0060, adding conditions to the plat mirroring the amended conditions of the rezone, including the Findings of Facts, Conclusions of Law and conditions of approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets. Roll call vote 4 in favor 1 opposed, motion passed.

- **Case No. CU2022-0026/Phil Kildow:** The applicant, Phil Kildow, is requesting a conditional use permit for a Staging Area on parcel R30635010. The parcel is zoned "A" (Agricultural). The subject property is located at 16 S Robinson Rd., Nampa; also referenced as a portion of the NW¼ of Section 29, Township 3N, Range 1W; BM; Canyon County, Idaho.

Planner Jenna Petroll, reviewed the Staff report for the record including late exhibits 6 & 7.

Chairman Robert Sturgill entered the late exhibits into the record and affirmed the witnesses to testify.

Testimony:

Phillip Kildow – Applicant (Representative) – IN FAVOR – 16 S. Robinson Rd., Nampa ID 83687

Mr. Kildow said his application is pretty straightforward; the only thing he wanted to say was that he already has a paved apron in front to the road. It looks like dirt, but it is paved. He is okay with the 8 conditions; they are not ideal but he tries to get along with his neighbors, so if that's a condition, he will comply. He said he does work on cars once and awhile and also performs light maintenance on the vehicles staged there. He was asked about oil containment and what goes on the staging area. He said contains the oil and disposes of it. He said the staging area is for starting up medium duty diesel trucks and loading equipment. They have specific equipment for tree maintenance and removal including an Avant which is like a skid steer. There are 5 vehicles and they are his friend's trucks and business; they also have a crane, a grapple truck, two F650 trucks and one F750 truck. Mr. Kildow confirmed that he would not be out any money if the conditional use permit was not approved. When asked about the prior code violations, he said he has not received any visits from Code Enforcement and did not respond to complaints from neighbors because they weren't said in a polite way. He does maintenance on the vehicles after 5 pm, Monday through Friday and on weekends. In response to the allegation of running an auto repair in shop behind his house, he admitted that he does work on cars but it's not a business. He felt 7:00 am was a better start time. Mr. Kildow confirmed that he is doing the maintenance on the (business') vehicles and is compensated for the work. Staff explained the difference between light maintenance work and vehicle service and repair which is not allowed in this zone. If he is doing service for someone else's vehicles and being compensated for it, it falls under 'vehicle service'.

Julie Shipley – IN OPPOSITION – 10 S. Robinson Rd., Nampa ID 83687

Ms. Shipley lives on the adjacent property just north of the subject property. She said Mr. Kildow indicated he didn't care for the way they approached him and it was inconvenient for him that they complained. She has lived there for 30 years and she feels it is rather inconvenient for him to purchase property and have his friend bring in a business. Up until a couple of months ago, he had chainsaws, wood splitters and people coming in to purchase wood. She said that was an inconvenience to them. They are concerned that there is also a fuel tank there and the Shipleys had to move some brush in order to burn it because of the location of the fuel tank. Prior business conducted there has created a lot of dust and bark. She can't enjoy her backyard because of it and they can't use their above ground pool which was on the side of the property next to the staging area. The (applicant's) property used to be a nice driveway and lawn; now it's dirt and dust. She had a realtor come to her property who said since there is a business there, it will difficult to sell and will diminish her property value. They have decided to wait to sell their property because of it. There also was an irrigation ditch that ran between the two properties which was filled in when they took out the fence. She showed her house on the map. She also showed where the fuel tank was on Mr. Kildow's property. She said it would be better to have the sight-obscuring fence than not having it. Ms. Shipley was asked about interactions between her and Mr. Kildow; she said she would go outside when he would start making noise at 6:30 or 7:00 am. Before Code Enforcement was involved, they did try to tell him there were problems. If the conditional use permit is approved, she would like an additional condition that makes them control the dust.

George Starr – IN OPPOSITION – 1130 N. Allumbaugh St. #103, Boise ID 83704

Mr. Starr said that most of his questions have been answered. He owns 105.4 acres across the street and to the west. His only concern is that City of Nampa's Comprehensive Plan is for low density single family residences for his area. He wouldn't want anything Kildow does to affect his property. It is being farmed right now and lends itself to what the Nampa City Comprehensive Plan is.

Phillip Kildow – Applicant (Representative) – REBUTTAL – 16 S. Robinson Rd., Nampa ID 83687

Mr. Kildow said since he has lived there, which is about 4 years, the ditch has always been weeds. It has never been irrigated. He has talked to Mrs. Shipley's husband a couple of times but nothing was said about the trucks or staging area. He tries to be a good neighbor. In response to a question about dust abatement, Mr. Kildow said he would be agreeable to doing the best they can to keep it down. When asked about the fuel storage on site, Mr. Kildow didn't know how many gallons the fuel tank was and said they were in approved containers. He would have to look up the codes on what State law was on fuel containment.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0026, seconded by Commissioner Amarel. Voice vote, motion carried.

DELIBERATION:

The Commissioners were reminded by Chairman Sturgill that a Conditional Use Permit is a decision by Planning and Zoning, not a recommendation to the Board of County Commissioners. Commissioner Nevill said he is not in favor of this application. Commissioner Sheets said based on the testimony tonight about a myriad of things and trying to get an explanation about what is really happening on site, it is difficult to divine what is really happening there. He feels this use is more appropriate in a commercial zone and he would be in favor of denial. Commissioner Nevill said the reason he is recommending denial is that Mr. Kildow doesn't have any skin in the game. It won't cost him any money (if not approved). There is no reason to put his neighbors through the pain if this is not something that takes away his livelihood. He is being an exceptional friend to someone who is running a business that has been declared a nuisance. He just doesn't see any reason to put the neighbors through the pain or to open Mr. Kildow to all the liabilities that could be a part of allowing this operation to continue.

MOTION: Commissioner Nevill moved to deny Case CU2022-0026 including the Findings of Facts, Conclusions of Law and conditions of approval. Motion seconded by Commissioner Sheets. Roll call vote 5 in favor 0 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Sheets moved to approve the minutes from 7/21/2022, seconded by Commissioner Amarel. Voice vote motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister said August 24th is the continuation of the 2030 Comprehensive Plan hearing. Planner Elizabeth Allen has provided updated FCO's and put together a packet with some changes based on comments as well as additional comment letters received from the public. Chairman Sturgill said he will not be able to attend the hearing on the 24th. Dan Lister said the Development Services Department has over 140 hearing cases and 63 Director's decisions they are working through. They are implementing a pre-application requirement for applications that need a public hearing, in hopes of having discussions with applicants to make sure their applications are complete and they understand all their options. He also said they are working on a new staff report template and he requested feedback from the Commissioners on the new format once they begin to see the changes. He feels it will be a better presentation of the information for the Commissioners. Commissioner Larison has stepped down and there will be a search for a replacement.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Amarel. Voice vote motion carried. Hearing adjourned at 8:45 pm.

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

Approved this 15th day of September, 2022



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary