



CANYON COUNTY HEARING EXAMINER
MINUTES OF REGULAR MEETING HELD
Wednesday, October 19, 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
Jenna Petroll, Planner
Cassie Lamb, Planner
Madelyn Vander Veen, Planning Technician
Sage Huggins, Planning Technician
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 the Hearing Examiner and staff.

- **Case CU2022-0028/Wyatt Legacy, LLC:** Borton-Lakey Law, representing Wyatt Legacy LLC, is requesting a modification to an existing Conditional Use Permit (PH2017-23) for parcels R23934022, R23934023, R23934024, R23934025, and R23934. The request is to expand the RV storage to two more parcels. The parcel is zoned "C1" (Neighborhood Commercial). The subject property is located at 22710 Lansing Ln, Middleton; also referenced as a portion of the NW¼ of Section 10, Township 4N, Range 2W; Canyon County, Idaho.

Planner Jenna Petroll reviewed the Staff report for the record including late exhibits. There was discussion with the Hearing Examiner regarding the original conditions for approval, the front landscaping requirements and setbacks. There was additional discussion between the Planning Official, Dan Lister and the Hearing Examiner about the legal access proposed to the property and a cross access agreement with the landscaping business to the west. The Planning Official stated that he felt any future change in access does not be need to be addressed in this application. If there was any access change requested in the future, the applicant would have to come back through Development Services for a modification request.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Todd Lakey – Applicant (Representative) – IN FAVOR – 12905 Venezia Ct., Nampa ID 83651

Mr. Lakey said he appreciated staff's report and agrees with their analysis and conditions of approval. The subject property also contains a landscaping business. He said this application is the 3rd phase of an RV storage facility. The Conditional Use Permit for the site was originally obtained in 2017. Mr. Lakey said the Wyatts have been good neighbors and have developed positive relationships with the Homeowner's Association. The Comprehensive Plan designated this area as a commercial corridor. Mr. Lakey showed

the zoning map of the area which showed that it was a commercially zoned area. He also showed photographs of the landscaping business and buildings on the property. He talked about the commercial access approach off Lansing obtained from the highway district; they would like to maintain that approach while reducing its use because it would help distribute the traffic. He showed the entrance to the existing RV storage. He also showed the site plan and spoke about the revisions to it. They have pulled the line of the RV storage back towards the east and would like to incorporate the pond into the landscaping business. That change moves the boundary of the storage facility about 500 feet from Lansing Lane. He said regarding the access on Highway 44, they obtained an approach permit for the historic access that was there but their agreement with the Highway District was to move it to a more central location and obtain a secondary access permit lower on the site. The two versions of access approaches as outlined in 4 and 5 were options presented to Idaho Transportation Department for internal access. He said when they obtained the initial approach permit for the historic access, ITD required that the cross access agreement be in place. Mr. Lakey stated they have a cooperative agreement with the Homeowner's Association who supports the application. Mr. Lakey said Dans Road is a private road into the subdivision and Mr. Wyatt has access to that easement but he is not using it. The agreement was that they would install a solid vinyl fence and decorative rock with at least a 3-foot berm. Mr. Lakey discussed the buried irrigation pipe and easement. He said that easement limits their ability to locate improvements. He showed photos of Dans Road and the berm being added as a visual buffer. There was discussion on the modifications to condition 4; Mr. Lakey said he was ok with using "and" as long as decorative rock is considered landscaping. Mr. Lakey showed more photos of landscaping and the businesses around the RV storage facility. He showed photos of the southern boundary. Mr. Lakey said the old field fence is Idaho Transportation Department's right of way and includes a setback for the irrigation pipe. They want to maintain the existing fence around the RV storage facility, not ITD's fencing and the irrigation easement. He stated they would like to maintain the frontage along Highway 44 as they have it now. There was a discussion about whether they were meeting the setback requirements. The Hearing Examiner suggested adding some additional 'greenery' to the rocks to enhance the frontage of the site.

Frank Ide – IN FAVOR – 8642 Kingston Way Middleton ID 83644

Mr. Ide thanked staff and the applicant for their responsiveness. He said he requested some information from staff and they responded promptly. He is a landscape architect and land use planner. He said this is an allowed use in a commercial zone providing the impacts are mitigated which in this case, are the Conditions of Approval in 2017 that required landscaping. He is not opposed to this project: it should be allowed to move forward providing they meet the conditions. Mr. Ide read off the conditions from condition 3 in the original Conditional Use Permit. He said he has not seen the landscaping plan but says 'it shall be maintained on an ongoing basis'. He suggests that the conditions of approval from the original CUP are not being met which concerns him. Mr. Ide said the applicant reached out to the Homeowner's Association President about landscaping along Dans Road and asked if a berm and a solid vinyl fence would be okay. The majority of people said yes; he said no. He doesn't believe that a vinyl fence and rock is considered landscaping. He said landscaping rock is a component of landscaping but the purpose of landscaping is to provide screening. He feels what is necessary is tree canopies. He would want the landscaping to include mature trees as was originally conditioned. He understands the County is developing landscaping standards so they can avoid having discussions about what is considered landscaping. His primary concern is to have vegetation to provide screening.

Mary Rengel – IN FAVOR – 22400 Dans Road Middleton ID 83644

Ms. Rengel said she was there in support of the RV storage expansion. She has concerns about the landscaping but thinks they were addressed in the revised condition 4B. She hopes they are enforced in a timely manner. The landscaping along the southern perimeter of the storage facility concerns her the

most because the chain link fencing and the privacy slats are not the best. Without some mature landscaping across there, the homes on Dans Road will have a degraded view. Otherwise they will see a sea of RV rooftops behind a questionably attractive fence. She feels they should follow through and there should be enforcement. She was also wondering what will happen when the highway widens. She is concerned as a neighbor and hopes that everything is being considered so that Wyatt doesn't have to do a lot of crazy stuff when the highway is widened.

Bruce Chinberg – IN FAVOR – 8680 Kingston Way Middleton ID 83644

Mr. Chinberg is the current chairman of the Homeowner's Association. He said he has a good relationship with the Wyatts. Mr. Wyatt approached them with the berm and tall white vinyl fence idea. Since 2006, has been white rail fence, dirt and weeds: it has been unsightly. They (the HOA) have sprayed it and tried to keep it clean as best they could. Mr. Wyatt approached them and said he will take down the old fence, put in a berm, a new vinyl fence, paper and rock. Because of the drainage swale on the shoulder of their road, which the HOA owns, there isn't room to plant trees. Any trees could impact the water runoff. He asked, who would maintain that area? It is hard to get people to donate time to maintain the area as it is. Mr. Chinberg put out an email to all the owners and put Mr. Wyatt's proposal to a vote. Out of nine homeowners, six approved the offer. There has been no landscaping there since 2016. The majority felt it was a generous offer and it would be a win-win-win situation for the Homeowner's Association. Mr. Chinberg said everyone was notified of the offer and the vote.

Craig Golightly – IN FAVOR – 8924 Reflection Lane Middleton ID 83644

Mr. Golightly lives directly south of the RV storage facility. They have five members of the Reflection Lane Homeowner's Association who own property on that southern border. That southern border is a canal; on the side of the Wyatts there is an access road that an excavator has to drive on to clean out the canal. He said there were no items brought up at the Homeowners Association meeting; no members have brought up any concerns about the current or proposed changes. They feel the chain link fence is adequate; any more on that southern side would interfere with the maintenance of the irrigation canal. He feels that on the southern part of the property, the existing fence is more than adequate and he feels that the access road should be left as is. No property owners on the southern part have expressed any concerns or opposition. He noted that on the northern side, there is buried irrigation pipe. It is his opinion that any landscaping that is added on the northern side should be limited to rock and not have any roots that might interfere with the buried irrigation pipe. He fully supports the proposed use.

Bert Wyatt – IN FAVOR – 22710 Lansing Lane Middleton ID 83644

Mr. Wyatt is the property owner. He discussed the original requirement for landscaping. The original plants that were put in were infected by a bug and died last year. He said he didn't see a reason to replace them when the landscape plan might be modified with this application. He assured everyone that any required landscaping will be installed. He wants to be a good neighbor. He said he owns a business on a busy highway on designated commercial property and would hope that everyone understands it is okay to utilize that property to its best use. He has found substantial demand for RV storage and it's something the community definitely needs. He discussed making the entrance to his business look nice with landscaping. Mr. Wyatt said there is a power line along the property line so they can't plant tall trees there; the buried canal will also not allow him to plant anything with substantial roots as it could disrupt the canal. The ditch along Dans Road where the berm is will also not let him plant any type of big trees. There was an old tree along the property line which was burned by the canal company. There was a question about whose responsibility that dead tree was and as a result, it sat for a couple of years. He asked if he puts plants along Dans Road, who irrigates and maintains them? There is a concern about water in the Valley so 'zeroscape' makes sense to him. There are other storage facilities along Highway 44 whose fences go right up to the highway and they use chain link fences with no privacy slats. He gave

examples of other businesses with chain link fencing. He feels that a 7-foot fence with privacy slats is more than what has been required of the other businesses. The Hearing Examiner brought up Condition of Approval number 4 (a, b, c). He asked if Mr. Wyatt agrees with that condition (4b). Mr. Wyatt said on the southern border, he agrees with the landscaping plan. Ideally, He doesn't see the necessity to put landscaping back along the southern border. He also agreed to maintain the easement along the canal but explained the excavators come on his side to maintain the canal. He said putting additional trees on his side doesn't make sense because homeowners have their own large trees on their side that act as a screen. He repeated that he doesn't see a need for that but wants to be a good neighbor. He discussed additional landscaping options for the proposed entrance, including displayed rocks and boulders. Mr. Wyatt made some suggestions on small shrubs for landscaping under the power lines. He is okay with item B as it is written.

Todd Lakey – Applicant (Representative) – REBUTTAL – 12905 Venezia Ct., Nampa ID 83651

Mr. Lakey said as Mr. Wyatt had mentioned, the southern boundary landscaping was part of the plan and they were willing to comply with that. The neighbors from the south stated they don't require it; maybe there is a compromise and only have the eastern feed of that southern boundary landscaped. He said Idaho Transportation Department is planning on an expansion in the future and they will be required to get an approach permit to obtain a new access. In response to a question from the Hearing Examiner, Mr. Lakey said they have done the traffic study but the approach permit will require them to construct the approach to Idaho Transportation Department's standards and connect to the existing pavement.

Hearing Examiner Eggleston closed public testimony on Case CU2022-0028 and entered the late exhibits into the record.

DELIBERATION:

Hearing Examiner Eggleston asked that revised condition number 4 be assigned an exhibit number. (Given exhibit #13). He stated that Option 5, attachment B is the site plan of record. He revised the Finding of Fact, Condition 4 to include the new items received on October 18th and October 19th. There are 9 Finding of Facts that state the present use and referring to the 2017 Conditional Use Permit. He concurs with those Finding of Facts. The Conclusions of Law contain items 1 through 8; he agrees with the Conclusions of Law as stated by staff. The Middleton Area of City Influence agreement has been duly considered and no comments were submitted by Middleton. Hearing Examiner proposed a revised Condition 4; adding item D: "The Northern boundary shall be landscaped using zeroscape landscaping techniques. Plans shall be approved by staff." He also added Condition #13: "RV storage shall not exceed 275 Recreational Vehicles".

MOTION: Hearing Examiner Eggleston approved Case CU2022-0028 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

- **Case No. CU2022-0030/Kevin Miller:** The applicant, Kevin Miller, is requesting a conditional use permit for Farm Implement Service located on parcel R28848010. The requested use includes stainless steel dairy equipment and farm equipment repair services, and a contractor shop. The applicant has proposed approximately 5 employees and parking for 10 vehicles. The parcel is zoned "A" (Agricultural). The subject property is located at 7012 E Locust Ln, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Planner Madelyn Vander Veen reviewed the Staff report for the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Adrienne Miller – Applicant (Representative) – IN FAVOR – 7012 E. Locust Lane Nampa ID 83686

Ms. Miller said regarding concerns about the site plan and landscaping: if you look at photos of the property, they have a private driveway surrounded by trees down both sections which hides their property from the road. They also own the property directly in front of the proposed shop. Between the front trees, the other property they own and where the shop is going to be located, it wouldn't be seen by anyone on any of the outside access roads. She said she was wondering what kind of landscaping they could put in to make it more presentable to the Hearing Examiner. They are super secluded and it will not affect the sights of their neighbors. They held the neighborhood meeting and there were no objections or issues brought up by their neighbors. She explained the repair and replacement services they provide to farmers. She also said they offer stainless repair and replacement for dairies which provides a food grade and longer lasting product. The Hearing Examiner said her letter of intent was very clear and seems to comply with the ordinance. He said the presentation of the land use was the issue; he advised her to take staff's map, label it and add some dimensions to the plan. He asked that she add what they are proposing and what its intended use will be on the parcel. She does not need to hire an engineer, she just needs to measure the dimensions out and put them on the plan.

Adrienne Miller – Applicant (Representative) – REBUTTAL – 7012 E. Locust Lane Nampa ID 83686

Ms. Miller apologized for not having enough information and detail on the site plan. She stated that nothing will be stored outside the shop. She just wanted to know about the landscaping requirements as it is currently on a property with trees.

Hearing Examiner Eggleston closed public testimony on Case CU2022-0030.

DELIBERATION:

Hearing Examiner Eggleston said he concurs with the 9 Findings of Fact. With regards to the Conclusions of Law, under the Canyon County zoning code and Comprehensive Plan, there are 8 items listed. He concurs with all 8. The Hearing Examiner stated there are 13 Conditions of Approval on page 3; he would add a Condition 14 which will state the applicant will submit a detailed site plan and that plan will be approved by staff before the issuance of a permit.

MOTION: Hearing Examiner Eggleston approved Case CU2022-0030 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

- **Case CU2022-0023/Ashley Nansen:** The applicant, Ashley Nansen, is requesting a conditional use permit for a Dog Grooming Home Business on parcel R23730011. The parcel is zoned "A" (Agricultural). The subject property is located at 9658 Galloway Rd, Middleton; also referenced as a portion of the SW¼ of Section 21, Township 5N, Range 2W; BM; Canyon County, Idaho.

Planner Sage Huggins reviewed the Staff report for the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Ashley Nansen – Applicant (Representative) – IN FAVOR – 9658 Galloway Road Middleton ID 83644

Ms. Nansen said she has been grooming dogs for the last 9 years, improving her skills over that time. She worked for a corporation for 8 years and then has been working for the last year at a private shop in Middleton. She knows there is high demand for grooming services so she expects a lot of customers. She will be offering military and veteran discounts. Reviewing the site plan, there will be parking and they have made sound improvements to the site. There wouldn't be any disruptions to the neighbors. Customers (dogs) would be coming and going every few hours; They wouldn't be there all at once. This is her future as a groomer and her first business. She walked to each neighbor's house and talked to them personally (about her application). Everyone seemed to be excited for her. She said there will be no overnight boarding of animals. She thought the reason for the kennel license is because she has three dogs of her own. She clarified that her operation hours will be Monday through Saturday, instead of Monday through Friday as stated in the staff report. She expects Saturday will be a busy day for her.

Julie Bertelli – IN FAVOR – 9680 Galloway Road Middleton ID 83644

Ms. Bertelli was there to support Ashley's new business which is one that Ms. Nansen has thought long and hard about. She said Ashley is a responsible neighbor and she has no doubt that she will be responsible as a business person and will keep the property looking nice. Ms. Bertelli is her next door neighbor so if anyone will be impacted, it would be her. She does not anticipate an impact or any noise or traffic. She hopes they give her what she is asking for.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CU2022-0023. The Hearing Examiner made the interior floor plan late exhibit #7.

DELIBERATION:

Hearing Examiner Eggleston stated in the Finding of Facts, there are 8 findings and he concurs with all eight findings. In the Conclusion of Law portion, there are 8 conclusions and he concluded they are adequate to support the application. In the Conditions of Approval listed on page 3; there are numbers 1 through 8. He said that Condition 6 should be amended to include the days/hours of operation to Monday through Saturday. He also added Condition #9; stating the interior operation shall conform with exhibit #7.

DECISION: Hearing Examiner Eggleston approved Case CU2022-0023 including the Findings of Facts, Conclusions of Law and Conditions of Approval.

APPROVAL OF MINUTES:

MOTION: Hearing Examiner Eggleston approved the minutes from September 14, 2022.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister stated after discussions with the applicant on the first case heard; Case Number CU2022-0028, they wanted to re-open the case for discussions on the limits placed on the number of RV spaces and the overall land use parameters. The number of RVs stated in their letter was an estimation of the number they will have; they anticipate they will need about 330 RV spaces as shown on their site plan.

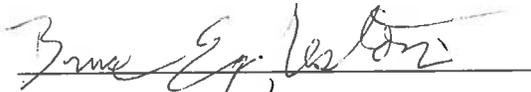
HEARING EXAMINER Bruce Eggleston re-opened Case Number CU2022-0028 and tabled it to a date certain of November 16, 2022 to consider the number of RVs on site. The item would be re-noticed to discuss that issue.

ADJOURNMENT:

HEARING EXAMINER Bruce Eggleston adjourned the meeting at 3:55 pm.

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

Approved this 16th day of November, 2022


Bruce Eggleston, Hearing Examiner

ATTEST



Bonnie Puleo, Recording Secretary