



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, September 15, 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
 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 Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and conditions of approval for Case CU2021-0009/Sage Point RV, LLC. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

- **Case No. CR2022-0008 & SD2022-0015/Rachel Burgo – Dirt Road Ranch Sub:** The applicant, Rachel Burgo, is requesting a conditional rezone of Parcel R37627101 from an “A” (Agricultural) zone to an “CR-R-R” (Conditional Rezone – Rural Residential) zone. The request includes a development agreement restricting division of the parcel into no more than three lots. The request also includes a short plat for Dirt Road Ranch Subdivision (formerly called Rustic Acres West Subdivision). The subject property is located at 24103 Rustic Ct., Star; Lot 2, Block 1 of Rustic Acres Subdivision; also referenced as a portion of the SW¼ of Section 36, T5N, R2W, BM, Canyon County, Idaho.

Planner Dan Lister reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

TESTIMONY:

Richard Burgo – Applicant (Representative) – IN FAVOR – 24103 Rustic Court Star ID 83669

Mr. Burgo said the reason this (project) came to be was they purchased seven and a half acres because it was important to them to have their own food and own a few cows. The farm is mainly for their family; they are not a large operation. He found out that there is a huge cost involved and soon after, he was laid off from his job due to COVID. When they first purchased the home, it had a domestic water right from

their well and surface water rights from Farmer's Union Canal. The surface irrigation doesn't cross over into the other lots. Those lots are dirt right now. The owners who had the property before the people they bought it from, didn't transfer the permit for water rights to the new owners (the people the Burgos bought the property from). He tried to contact the former owners who have the water right under their name but they did not return his calls. Idaho Department of Water Resources told Mr. Burgo to put in the irrigation and when they come out in November to confirm proof of use for the irrigation and issue the right, there won't be a transfer required because they (the Burgos) already own the property. Idaho Department of Water Resources could then give the water right to them and the old permit would simply expire. Mr. Burgo said they were trying to irrigate the full 7 ½ acres out of the domestic well with only a 6 inch casing. He said they could only get so much water out of the well at one time. It cost \$70,000 to put the irrigation in for the 5 acres with Mr. Burgo doing most of the work himself. He tried to seed and irrigate the lots to show use and get the water rights for those two lots but the grass didn't grow. Mr. Burgo said he doesn't think Idaho Department of Water Resources is going to issue the water rights to those lots. He said he thought if they (new owners) put in their own wells, they could irrigate their lots through their wells. Mr. Burgo said the access is definitely going to be off Blessinger Road. The two lots won't be using the Burgos' current access off Rustic Court and they are putting a fence up to separate the two lots from their property because they don't want any additional traffic and cost. Canyon Highway District #4 said they could try to get individual access for each lot but they would prefer (and would approve) shared access off Blessinger Road. In response to a question from Commissioner Nevill, Mr. Burgo described the irrigation system he put in. He described the location of his well and showed it on a map. He said there is only one well on the property and it is a domestic well. When asked by Commissioner Nevill if he had any problem changing the shared access driveway's size to 60 feet (from 56 feet), he replied 'No'. He said he wants whatever causes the least amount of pain. He said he has no objections to any of the conditions of approval. He said when he went down to Idaho Department of Water Resources, the prior owner (2 owners ago) had submitted a plan for an irrigation well with wheel lines but it wasn't put in. He clarified that he asked Idaho Department of Water Resources and they confirmed he would have to apply for an irrigation well on the property. He sat down with one of the Idaho Department of Water Resources engineers to talk about what he could do to irrigate all his land because there were so many different options, which was confusing. In response to a question from Commissioner Sheets, Mr. Burgo said he seeded his pasture last spring and was trying to get it ready to submit his claim of beneficial use to Idaho Department of Water Resources. Commissioner Sheets told him he didn't have to wait until November to submit his claim; he could do it now. Mr. Burgo reiterated that his existing well doesn't have the capacity to irrigate the other two lots which is why they will have their own wells. He said last summer he was running his irrigation 14 hours a day. Planning Official Dan Lister clarified that the 60 foot easement is the easement, not the road or driveway. The easement is for future growth and the 60 feet is so there is plenty of room for any future changes. The driveway itself wouldn't be that big.

Rachel Burgo – IN FAVOR – 24103 Rustic Court Star ID 83669

Ms. Burgo explained she spoke to Idaho Department of Water Resources and said the only reason they didn't irrigate the entire area was because they were hoping to sell part of the parcel. She also said that Idaho Department of Water Resources also said that if they were able to subdivide the parcel, the water right would be split and it would stay with the properties, so they will potentially have surface irrigation.

MOTION: Commissioner Nevill moved to close public testimony on Case CU2022-0008 & SD2022-0015, seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill asked Commissioner Sheets to explain a 'claim of beneficial use'. Commissioner Sheets explained a property owner would have to contact the department, demonstrate how they have been applying water to the claimed areas with their application and marry it up with the permit to demonstrate their beneficial use of the irrigation water along with the requested rates on the places they have requested to irrigate. To expand beyond the half acre water exemption, a property owner has to apply. He said all water in Idaho is subject to prior appropriation doctrine which means all water requested from surface or ground water has to be approved by the State unless they have an exemption (which is the half acre from the domestic well). For anything beyond that half acre, a ground water right for that extra acreage has to be obtained. Commissioner Sheets also said there can be some additional requirements like the installation of a backflow device. Commissioner Nevill said he doesn't have any problem with what the Burgos want to do. He is concerned about the water issues and it seems like there is a little more work they have to do to get the water issue fixed, but he felt Commissioner Sheets had given them some good ideas in that area so he is okay with what they have in front of them. Commissioner Williamson said it sounds like the applicant wants to do a shared easement so he asked, would it make sense to modify the development agreement for the rezone to change the verbiage "...if the two lots taking access from Blessinger..." to "...since the two lots are taking access from Blessinger..." so it would state it is their intention to do that. Staff said they put the phrase "if" in the development agreement so if they wanted to change their mind and apply for a variance, they aren't stipulated to the shared access.

MOTION: Commissioner Williamson moved to approve Case CU2022-0008, 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 Nevill. Roll call vote; 5 in favor 0 opposed, motion passed.

MOTION: Commissioner Williamson moved to approve Case SD2022-0015, 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; 5 in favor 0 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 8/10/2022, seconded by Commissioner Amarel. Voice vote, motion carried.

MOTION: Commissioner Sheets moved to approve the minutes from 8/18/2022, seconded by Commissioner Williamson. Voice vote, motion carried.

MOTION: Commissioner Nevill moved to approve the minutes from 8/24/2022, seconded by Commissioner Amarel. Chairman Sturgill abstained from the vote as he was not present at the hearing. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister introduced two new Development Services Department employees to the Commissioners. He said he is working on getting Commissioner Nevill's term renewed for the Planning and Zoning Commission with the Board of County Commissioners and will get that done before December.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Sheets. Voice vote motion carried. Hearing adjourned at 7:38 pm.

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

Approved this 6th day of October, 2022

A handwritten signature in blue ink, appearing to read "Robert Sturgill", written over a horizontal line.

Robert Sturgill, Chairman

ATTEST

A handwritten signature in blue ink, appearing to read "Bonnie Puleo", written over a horizontal line.

Bonnie Puleo, Recording Secretary