



CANYON COUNTY HEARING EXAMINER
MINUTES OF REGULAR MEETING HELD
Wednesday January 18, 2023
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
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 SD2022-0046 / VanWinkle Subdivision:** A request has been submitted by Jeff VanWinkle for approval of a Short Plat for VanWinkle Subdivision. The development consists of 2 residential lots. The subject property, Parcel No. R33805010A is located at 7388 Desert Wolf Lane, also referenced as a portion of the NE¼ of Section 2, T4N, R2W, 8M, Canyon County, Idaho.

Planning Official Dan Lister reviewed the Staff report for the record including late exhibits.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Jeff VanWinkle – Applicant (Representative) – IN FAVOR – 7388 Desert Wolf Lane Star ID 83669

Mr. VanWinkle explained what he was trying to do: a simple split of the land which is consistent with everything that has happened on his road since he moved there in 2009. Every home that has been built from Blessinger Road to his house has widened the road and brought it up to County standards as a result of that process. The person who is under contract to purchase his land built another house on the road and he said the developer was familiar with the process and has no issue with it. Mr. VanWinkle said the developer also offered to extend the road for that 2-acre split and all the way down to the end of Desert Wolf. Mr. VanWinkle had a map that showed what he intended on widening. Everything from his property to Blessinger had been widened, improved, inspected engineered and signed off by the County. He pulled up photos of the road. He said they had started spreading new pit run but another homeowner brought in some arena sand and it tore up the road. They started putting in some pit run to take care of the ruts and the mud but then the weather turned bad. He said they have more pit run scheduled to be delivered in the beginning of the next week but they needed it to dry up a little. He saw people out there taking pictures that weekend but he couldn't bring a dump truck down the road when it was so wet. They are repairing the road to its current width with the person building the house intending to widen it to 20-feet and construct it to County standards. Mr. VanWinkle said the builder wanted to be there to testify but he had a meeting out of state that he couldn't change. Everyone involved in this process is aware the road

will be widened and brought up to county standards. As the applicant, he doesn't have the means and resources to do it and he would like the County to defer the requirement to the building occupancy stage. The builder is hoping to build on this parcel in May. If Mr. VanWinkle is unable to split the land, his deal dies March 30th. He reiterated that he doesn't have the means to do what they are asking to this road. If the County forces the issue, then all his neighbors will be burdened with the expense whereas if they allow the developer to develop the lot, he will widen the road and bring it up to County standards. He said this is the same developer who developed other portions of the road which the County has approved. He would like to have the road approval as part of the building occupancy process. Mr. VanWinkle had a map which showed the parts of the road that have already been improved and the portion that is planning to be improved. Mr. VanWinkle submitted the map to staff as a late exhibit. He feels what he is asking is reasonable. He has been through two sets of staff in Planning and Zoning; no one is there who was there when he started this process. He would like to see this completed and as part of that completion, everyone knows the road will be improved. If someone decides to develop the parcel to the south of his property, he believes that would trigger the paving of the road. This will be the 7th house on Desert Wolf Way.

Greg Casey – IN OPPOSITION – 7320 Southern Vista Court Star ID 83669

Mr. Casey moved there in 2014. He provided photos, taken that morning, of the road in question to Development Services staff. He is representing himself and the Homeowner's Association of View Ridge Estates, located just south of the road property. His house abuts the vacant lots. On behalf of the HOA, he asks that this decision be postponed because there are other people who wanted to be here and were outside the 600-foot notification radius for the hearing. He said there are things at issue here that are more important than just those impacts on the 600-foot neighbors. He has been here three times in the last 4 – 5 years. Each time he has been here to say there is a problem with roads and the infrastructure in this forgotten part of the county. He said it is a cobweb of private dirt roads and that problem is now with them. It is not necessarily in opposition to Mr. VanWinkle wanting to build but in opposition to the way it has happened. They have been trying to get clarification on this road situation since 2016. He read a 2017 email from Kyle McCormick (County employee at the time). The email said the next building permit application on Desert Wolf Way would need to be improved and paved if it reaches 100 trips per day. The email said each parcel has the potential to trigger just under 20 trips per day so the next building permit will trigger that requirement. Mr. Casey said that nothing has been done to treat the road: it has not been oiled or graveled. In the heat of the summer, they get clouds of dust that come into patios and swimming pools. Mr. Casey said the last time he made a presentation in 2017, they promised the road would be brought up to standards and it is still not up to standard. He said it's not even one road; there are three different roads. He said they oppose this because it exacerbates an existing problem. He said this has to be fixed before we allow another house there. Mr. Casey said they are already in violation of the 100 trips per day. He said everything they come here, they are asked to put up with this. They say they'll fix the road. The time has come that we need to fix the road and not allow more houses.

Jeff VanWinkle – Applicant (Representative) – REBUTTAL – 7388 Desert Wolf Lane Star ID 83669

Mr. VanWinkle said he understands their frustration with dust. Their nice, luxury houses back up to thousands of acres of unirrigated desert land and he said their road is a minor percentage of the dust. There are dust devils that come through those field, especially when they are tilling the fields in spring. He said that development built their houses against dry land; the road is not the only source of dust. Mr. VanWinkle said the road has been brought up to county standards with each and every house that's been built, even the developer who built the home Mr. Casey referenced. The developer built the road up to the property line of each house he has built and he is willing to go above and beyond that to build on this lot. He said no one has any consensus on the 100 trips a day metric: for example, some people on the road work from home. He commutes with his wife in the same car each day. He said the photos Mr. Casey brought were of a small section, about 600 feet, of the road and was in the worst shape. Everything else

has pit run on it and is compacted, inspected and is County standard road. He said that little section of road will be improved when the house is built and the quickest way to make that happen is to let this development move forward. The developer knows he won't get a certificate of occupancy if he doesn't bring the road up to the County's standards. Mr. VanWinkle said those pictures don't reflect the entirety of that road: they reflect the lowest part of the road that was damaged by the sand truck. He said it is scheduled to bring in pit run next week to take care of the mud. The timing of the photos is unfortunate but they don't tell the whole story. They chose to build next to hundreds of acres that are not irrigated.

Hearing Examiner Eggleston asked Planning Official Dan Lister about the notification radius and Mr. Lister explained the state laws governing notification distance and how the County had changed it about a year or two ago to increase that radius. Mr. Lister further explained that all conditions have to be met at the time of final plat. The private road would have to be completed prior to the final plat before the Board of County Commissioners hearing. The code allows the Hearing Examiner to push it off to building permit stage. They reviewed the conditions of approval. Mr. Lister explained code and roadway access as well as a bonding mechanism that could be used. It has to be a final plat before it is a legal lot to sell or improve. Planning Official Dan Lister also requested the Hearing Examiner enter the late exhibits from both Mr. VanWinkle and Mr. Casey into the record.

MOTION: Hearing Examiner Eggleston entered late exhibits 6, 7 and 8 into the record.

MOTION: Hearing Examiner Eggleston re-opened public testimony on Case SD2022-0046.

Jeff VanWinkle – Applicant (Representative) – IN FAVOR – 7388 Desert Wolf Lane Star ID 83669

Mr. VanWinkle said this property is under contract until March 31, 2023. Since it went under contract in April 2021, it has gone down 28% in value so he would like to complete the sale now. The builder has a buyer for the house he intends to build on the land and they (the buyers) want to be moved in by the end of summer, before school starts. He doesn't think the builder will have a problem bonding the road.

Greg Casey – IN OPPOSITION – 7320 Southern Vista Court Star ID 83669

Mr. Casey said the last piece of information they received from the Planning and Zoning Department was an email from Mr. McCormick. He read from an email about road improvements which discussed that County Code Enforcement can't enforce the issue of dust coming from the road. The email stated the only way to enforce the improvement of the road is when the next building permit comes in as that will trigger the private road requirements. He said they are also concerned about the domestic wells in the area. He said the homes are tapping into the domestic water supply and the house down to road is irrigating 2 acres. He said they live by the rules but can't seem to get enforcement of the rules. He said they have an issue with the private roads and asked when will this trigger a paved road? He doesn't know when that is and what to tell his Homeowner's association.

MOTION: Hearing Examiner Eggleston closed public testimony on Case SD2022-0046.

Hearing Examiner Eggleston asked Planning Official Dan Lister about the road and said the applicant stated the developer could provide the bond. He asked if the ordinance stated who must pay for that bond. Mr. Lister read from the ordinance and confirmed that the code does not say who has to provide the bond.

DELIBERATION:

The Hearing Examiner stated that Findings of Fact 1 through 10 addressed the code, the application itself and the physical character of the properties. Regarding the Conclusions of Law, they address Canyon County's requirements and he has found them to be fulfilled. He said the staff reports includes the Conditions of Approval; he would like to change Condition of Approval #2 to include the date of the letter from Keller & Associates. He accepted the condition as proposed.

DECISION: Hearing Examiner Eggleston approved Case SD2022-0046 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners.

APPROVAL OF MINUTES:


MOTION: Hearing Examiner Eggleston approved the minutes from November 16, 2023.

ADJOURNMENT:

HEARING EXAMINER Bruce Eggleston adjourned the meeting at 2:26 pm

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

Approved this 15th day of February, 2023


Bruce Eggleston, Hearing Examiner

ATTEST



Bonnie Puleo, Recording Secretary