



CANYON COUNTY HEARING EXAMINER
MINUTES OF REGULAR MEETING HELD
Wednesday, March 15, 2023
1:30 P.M.

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

Hearing Examiner Present: Bruce Eggleston

Staff Members Present: Michelle Barron, Planner
Deb Root, Planner
Sage Huggins, Planner
Madelyn Vander Veen, Planner
Bonnie Puleo, Recording Secretary

Hearing Examiner **Bruce Eggleston** called the meeting to order at 1:30 p.m. and read the testimony guidelines. Hearing Examiner explained that the Public Hearing room was experiencing some technical difficulties with the projection screens and they had staff working on the issue.

Recording Secretary Bonnie Puleo called roll and swore in the Hearing Examiner and staff.

APPROVAL OF MINUTES:

MOTION: Hearing Examiner Eggleston approved the minutes from February 15, 2023.

Hearing Examiner **Bruce Eggleston** stated the technical difficulties with the monitors were resolved.

- **Case CR2022-0024/John & Sherry Anderson:** John & Sherry Anderson are requesting a conditional rezone of Parcels R36368 & R36368011 from an "A" (Agricultural) zone to a "CR-M-1" (Conditional Rezone – Light Industrial) Zone. The request includes a development agreement restricting uses permitted on the property. The subject properties, 48.17 acres, are located at 19372 Lower Pleasant Ridge Rd Caldwell; also referenced as a portion of the NW¼ of Section 23, Township 4N, Range 4W; BM, Canyon County, Idaho.

Planner **Sage Huggins** reviewed the Staff report for the record including late exhibits.

Hearing Examiner **Bruce Eggleston** entered the late exhibits into the record.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

John Anderson – Applicant – IN FAVOR – 19372 Lower Pleasant Ridge Road Caldwell ID 83667

Mr. Anderson has been a resident of the area for nearly 27 years. He is requesting a conditional rezone from Agricultural to Light Industrial. He read a list of uses that won't be allowed on the property. In consideration of the impact area, he said they presented that list of excluded uses at the neighborhood

meeting and considering the surrounding land uses, they felt the conditional rezone to M-1 light industrial was more appropriate than the current zoning. They are surrounded by industrial uses with over 20 businesses in operation; eight of the businesses are in the impact area. He said this conditional rezone to M-1 will not have any further negative impact to the area and it is designated as M-1 Light Industrial in the 2000, 2010 and 2020 Comprehensive Plans. It is contiguous with other light industrial to the north and the west. Mr. Anderson listed the parcels around them zoned as business/light industrial and said the northern portion of their property has been zoned M-1 since 1977. He said according to top commercial reports, there is a growing need for industrial properties in Idaho. He said the overall lease vacancy for commercial properties in Idaho is 3%. It is a competitive market and lack of inventory has increased the building lease rate in the last two years. Mr. Anderson said Caldwell's year-over-year growth is projected to be 2.9% and developers are looking for areas with population and workforce growth as well as access to arterial highways. He said this rezone would supply jobs and additional tax revenue for the county and this property is contiguous with five other parcels already zoned M-1, some since 1977. In response to a question from the Hearing Examiner, Mr. Anderson said there is no live water on the property; it is a drainage ditch. He currently 'flood and sprinkle' irrigates. The water comes from the Pioneer Irrigation District. He currently grows alfalfa and grass on the property and that is typical of the crops he has grown in the past. He has had the property on the market for the last two years trying to sell it.

Byron Morgan – IN NEUTRAL – 19634 Pride Lane Caldwell ID 83607

Mr. Morgan lives about a third of a mile south from this property. He said the neighborhood has come together several times (to oppose) other properties in the area and the neighbors are concerned about the negative impacts to the area. He would rather no change, but said if this rezone moves forward, he would like to look at something that has no negative impacts to the community. He thinks a lot of that can be done and he appreciates the Andersons excluding some uses. His concern is that the list is incomplete. He came up with a few other uses that he would like to be excluded including fertilizer processing facility and a dog kennel. He would also like to exclude a transit/truck facility because of the impact on traffic. Lastly, he would propose that all animal facilities (large and small) be excluded. Mr. Morgan said the community would like to see the property remain residential. The Andersons have stood with the neighborhood in the past on fights against negative impacts to their properties. Mr. Morgan said they wanted to make sure they were putting things in place if this goes forward. Because they don't know what kind of business will go there, they don't want to be surprised by something with negative impacts. He said he is also concerned about the hours of operations and how that will impact their quality of life. There are some houses immediately to the east and south (of the property) and he is also concerned about the access points and a buffer zone to those properties. He would like to protect the houses that are there.

Judy O'Brien – IN NEUTRAL – 20094 Winslow Drive Caldwell ID 83607

Ms. O'Brien asked if the list of things that will not be permitted had legal standing. She asked about how a business would come in and would there be an application for it. She confirmed that the neighbors wouldn't have a say in what business would come in if it was within the zoning requirements. She said she would like to see the Andersons be able to sell the property but would hate to see anything smelly, loud or dangerous go in on the property. She is also worried about the aquifer; everyone out there has wells. She said if something was to move in there that requires a lot of water, how would that affect the people living around there? She was told that water was regulated at the state level.

Brad Benke – IN OPPOSITION – 19222 Upper Pleasant Ridge Road Caldwell ID 83607

Mr. Benke's property goes from Upper Pleasant Ridge Road to Lower Pleasant Ridge Road and is right across from the Anderson's. He is opposed to this change. He said the West End drain on the property is the borderline and the West End drain became the buffer between the light industrial zone and

agricultural land. He has lived there for over 40 years. He said changing this doesn't make sense now just because someone is moving out of the area and wants to sell it for M-1 (use). He would like to not extend that any further and he asked where does it stop. He talked about some of the stated goals in the Canyon County 2020 Comprehensive Plan: the third goal was to protect agricultural land from incompatible development. Mr. Benke said two of his farmer friends in the area grow good row crops. He said John (Anderson) doesn't do that for a living and he left his pasture ground in pasture. This has been farmed since they took out the sage brush many years ago. The Andersons used to fight the encroachment of Light Industrial when they lived there and now they have moved out of the area. Just to the east and west of this property, several other light industrial zoning requests have been turned down because they did not fit in the area. He said this is putting the cart before the horse when you don't know what is going in there because they can't put the stipulations that they may want on it. His other issue is the gravel pits on Highway 19 in the Dixie area constantly have trucks pulling out from Pinto Lane. The trucks try to get onto the road without waiting too long and they use the entire turn lane to pull in. The road is so narrow, cars have to sit back a whole truck length to allow the trucks to turn and get off the highway. That is the same with the Lower Pleasant Road and Pinto intersection. He said you have to wait until all the cars leave to allow a semi-truck to turn. Mr. Benke is also on the Board of Pioneer Irrigation District. The West End drain flows into the Boise River and they have been trying to clean up the water. Anything that could go in there that would be light industrial, they are trying to clean that stuff up. 30 years ago, he had acreage out there and he used his splits to make 5 acre ranchettes that could grow hay. It is set up perfect for that and he didn't have to put some type of light industrial in the area. The current business to the west of them is a nursery business and that (type of business) can be in an agricultural zone. The Hearing Examiner asked about the Pioneer Irrigation District's concerns about the industrial use and the irrigation system on the property. Mr. Benke said as long as they stay within their use and pay for their irrigation, the Irrigation District doesn't have a problem (with them) but he said the drain is very important to the whole system. They do not like it to be tiled because the water is supposed to be absorbed into the ground. He said if there is a light industrial use located there that could put something in the ground that would drain into the Holcomb Drain and then into the West End drain, you could have contamination in the irrigation system.

Vivian Ferkin – IN OPPOSITION – 19335 Lower Pleasant Ridge Road Caldwell ID 83607

Ms. Ferkin lives directly across from the Anderson property. She said the Hearing Examiner has heard the reasons why the community is against the M-1 zoning for this property. They have all been through it before. She said they are Ag. The roads in their area don't support increased semi-truck traffic and they are protective of their shared water. The Andersons have been their neighbors for 18 years. They watched each other's property, run after their horses together and rounded up wandering cows together. They have fought together to keep the community Agricultural and in 2006, the Andersons fought to keep the property next to them from becoming M-1 light industrial. She provided more examples of the applicants fighting against properties near them being re-zoned industrial. Ms. Ferkin said at times, the Andersons gave more of their time than anyone else. The Community is not in favor of this re-zoning even if it is part of the County's Comprehensive plan, which they were against. The Andersons told them in the neighborhood meeting that this was the last option the County gave them to make their parcel more sellable. She asked why is that. She said they sent a letter to the Commission saying the community would prefer the Andersons be allowed to split the property and create residential agricultural parcels. They are here asking the M-1 zoning be denied and other options preserving and protecting agricultural lands be explored.

Theresa Johnson – IN OPPOSITION – 19921 Upper Pleasant Ridge Road Caldwell ID 83607

Ms. Johnson moved from Eagle to Caldwell to escape the rapid growth and the things Eagle was doing in the rural areas that people didn't want. Before she moved, she did her research to determine if the area

where she was moving was going to be agricultural for the rest of her life. She was happy to see the Comprehensive Plan that constantly referenced preserving agriculture. She understands where the Andersons were coming from and knows that they want to keep it agricultural/residential but that it was designated as M-1 in the Comprehensive Plan. She was the AOI (Area of Influence) Planning & Zoning Commissioner for the City of Eagle and also is retired from the Fire Service. She understands that the City of Greenleaf was saying it was light industrial. She was hoping they could do a Comprehensive Plan Amendment to allow them to do lot splits and ranchettes. Ms. Johnson said there are lots of people looking for 5 to 10 acre properties. She said she lives next to a 10-acre parcel that is sharecropped and they grow very good alfalfa. It is good farmland from what she can see. She was hoping that they will be allowed to do a comprehensive plan amendment instead of re-zoning to light industrial.

John Anderson – Applicant – REBUTTAL – 19372 Lower Pleasant Ridge Road Caldwell ID 83667

Mr. Anderson wanted to address some of the community's concerns. He said there seems to be three concerns: Ag, their prior position on use and the boundaries of M-1 Light industrial. He said according to the Canyon County Soil Survey of 2018, only 22 acres of their 48 is viable farm ground. He said it isn't feasible to support a family on that amount of property. According to the neighborhood petition, the community is not opposed to changing the zoning to Ag, just not in agreement with the County's proposal of Light Industrial. He has never argued with the Commission on the choice of zoning of the properties, nor the designation of M-1 light industrial in the Comprehensive Plan of his and other properties surrounding them. They have requested conditions on properties being proposed for rezoning as well as denials of conditional use permits on those properties. Mr. Anderson said there is no document stating the West End Drain is a distinctive boundary of the Light Industrial zone. He said as stated by the Comprehensive Plan, the boundary for M-1 light industrial is Lower Pleasant Ridge Road which borders their property to the south. Since the 2000 Comprehensive Plan, the property has been designated as future use, M-1 Light Industrial. The 2000, 2010, 2020 Comprehensive plans have all designated this as light industrial, as well as the most recent 2030 Comprehensive Plan. Hearing Examiner Eggleston discussed excluding some additional uses on the property with Mr. Anderson. Mr. Anderson said he didn't have any problem with excluding large and small animal facilities, fertilizer processing facilities, dog kennels and transit/trucking firms. The Hearing Examiner also discussed hours of operation.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CR2022-0024.

DELIBERATION:

The Hearing Examiner appreciates the public's comments that agriculture is the heart of this County, both as crops and animal production as well as the processing of agricultural products. This is the nexus of those two uses. They are both important to the County. He believes both agriculture and light industrial industries are the very things that provide economic impetus to a community. Industrial zoning and land should be encouraged and developed sanely and in a manner that benefits the County. The Hearing Examiner said they provide both a tax base and employment. This could also become an industrial use that services the agricultural community. The use is supported in the Comprehensive Plan under Chapter 4, policy 3. Regarding the Finding of Facts: they are adequate to address the basic condition and situation of the property. He approves of those Finding of Facts. With regards to the Conclusion of Law: he feels the staff has enumerated the Comprehensive Plan policies and they substantiate the proposal and are in compliance with the Comprehensive Plan. The Conclusion of Law in the draft findings numbers 1 through 4 substantiate the new use and the proposed zone change to CR-M-1. He proposed modifying the exclusions in the Development Agreement to include large animal facilities, fertilizer processing facilities, dog kennels and transit/trucking facilities.

DECISION: Hearing Examiner Eggleston recommended approval for Case CR2022-0024 including the Findings of Facts, Conclusions of Law and Conditions of Approval subject to the conditions of the

Development Agreement, and forward the recommendation to the Board of Canyon County Commissioners.

- **Case CU2022-0043/Tristen Rhoades & Barbara Young:** The applicant, Tristen Rhoades, representing Barbara Young, is requesting a conditional use permit to allow a dog kennel use within an "A" (Agricultural) Zoning District. The dog kennel will house a maximum of five (5) dogs for boarding purposes only. The applicant also has two (2) personal dogs. The subject property is located at 11200 Hwy 20/26, Caldwell (Parcel R34089010); also referenced as a portion of the SE ¼ of Section 19, Township 4N, Range 2W; BM; Canyon County, Idaho.

Planner Madelyn Vander Veen reviewed the Staff report for the record including late exhibits.

Recording Secretary Bonnie Puleo affirmed the witnesses to testify.

Testimony:

Tristen Rhoades – Applicant (Representative) – IN FAVOR – 11224 Highway 20-26 Caldwell ID 83605

Ms. Rhoades said she had discussed the fencing requirement with the planner and that she has dropped the number of dogs down to three although she would like to hold the application to 5 dogs in case she wants to expand. She plans on building 3 kennels. She had a diagram of the kennel and apologized that she hadn't given it to the Hearing Examiner before this. She described the property and said there is a 24' x 36' platform there now. The building she is going to put on that platform will have new siding, new doors and windows and 2" Styrofoam insulation on the inside. The 6-foot vinyl fence will be 58' x 40' and encompass the entire area where the dogs will be, but not the entire property. When in the outdoor kennels, the dogs will not see other dogs because of how they are positioned. There will be privacy shades so when the dogs are outside they won't see any other dogs in the facility. The inside will be soundproofed. Ms. Rhoades planned on having 2 parking spaces. She stressed this is not a daycare for dogs and there may be weeks when she doesn't have any dogs at all. The original property (parcel) was split into 3 parcels. It will not be split again. She said there is over 600 feet between her facility and the homes in the development behind them. There is a Jiffy Lube, a bank, a gas station and a storage facility planned for the other two parcels so she doesn't understand the opposition to noise and smell. She explained how the dog septic system worked which will be placed 4 feet below ground. Outdoor kennels will have waterproof, slotted flooring and she showed the existing landscaping barrier which will prevent the homes behind them from seeing the kennel. Ms. Rhoades said the service is truly needed. Her daughter will be helping her with the kennel which will be a small facility. She has 36 years of experience with German Shepherds. Ms. Rhoades said she will be working one on one with the dogs: they will not be with other dogs. There will be no dogs sharing kennels. The fencing is for security and to keep the dogs in. She said she will have indoor and outdoor kennels with dog doors. Her planned hours are 6:30 am to 6:30 pm for drop off and pickups. There would be no evening traffic and the earliest would be 6:30 in the morning. She has her business plan in a notebook but was not able to provide a copy to the Hearing Examiner. She was considering a post and panel sign in the pasture but now she is considering a sign on the fence. The Hearing Examiner discussed exterior lighting with Ms. Rhoades and she explained the lighting that she had on site.

Planner Michelle Barron explained the Hearing Examiner's options to table the item so that staff could digest the new information provided by the applicant or he could continue hearing the item.

Hearing Examiner Bruce Eggleston entered the late exhibits into the record.

Loris Friesen – IN OPPOSITION – 11243 Red Mountain Street Caldwell ID 83605

Ms. Friesen came to the hearing for more information. The first notification letter that was sent out said there would be breeding/training on the property but the second letter said 'boarding only'. She came to the hearing for more information because the information (on the notice) was not enough for her to decide if she was going to be okay with this addition to the neighborhood. After seeing the slides and the location of the kennel, she said she no longer has a problem with the application. She is north of the property on the other side of the creek and they thought the dogs would be running around the entire 3.5 acres and their barking would set off other dogs in the neighborhood. After seeing what the applicant is proposing, she doesn't really have a problem with what she wants to do.

Tristen Rhoades – Applicant (Representative) – REBUTTAL – 11224 Highway 20-26 Caldwell ID 83605

Ms. Rhoades said she was upset when she saw the public notice that mentioned the dog breeding and training. She contacted the planner and said her application never said breeding or training. She reiterated that her facility is just for boarding. She has waited 10 months for this hearing and asked the Hearing Examiner to please not table the item.

MOTION: Hearing Examiner Eggleston closed public testimony on Case CU2022-0043.

DELIBERATION:

Hearing Examiner Bruce Eggleston said his charge is to present a clear record to the public and there were a number of new suggestions from the applicant regarding the hours of operation, the treatment of the animals and the waste disposal but they were largely absent from the application. He said the public has not had a chance to evaluate the complete business and site plans for the facility. He said he would like to continue this to the soonest date possible and have the applicant provide a detailed site plan including the standards for soundproofing, proposed signage, the lighting, definitive hours of operation and an overall parking and operations plan. The Hearing Examiner tabled the case until his next hearing on April 19, 2023 to review a more detailed site plan.

DECISION: Hearing Examiner Eggleston tabled Case CU2022-0043 to a date certain of April 19, 2023.

ADJOURNMENT:

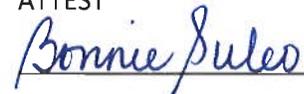
HEARING EXAMINER Bruce Eggleston adjourned the meeting at 3:51 pm.

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

Approved this 19th day of April, 2023.


Bruce Eggleston, Hearing Examiner

ATTEST



Bonnie Puleo, Recording Secretary