



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, August 1, 2024
6:30 P.M.

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

Commissioners Present : Brian Sheets, Acting Chairman
Patrick Williamson, Commissioner
Harold Nevill, Commissioner
Geoff Mathews, Commissioner

Staff Members Present: Jay Gibbons, Assistant Director of Development Services
Carl Anderson, Planning Supervisor
Dalia Alnajjar, Engineering Supervisor
Madelyn Vander Veen, Associate Planner
Amber Lewter, Hearing Specialist

Acting Chairman Sheets called the meeting to order at 6:30 p.m.

Commissioner Williamson read the testimony guidelines and proceeded to the first business item on the agenda.

Item 1A:

Case No. CU2023-0016 / Larson– Approve revised FCO’s.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Order. Motion seconded by Commissioner Mathews. Voice vote, motion carried. Acting Chairman Sheets recused himself due to not being present during that hearing.

Item 1A:

Case No. CU2020-0004-RFE – Hernandez: The applicants, Juan and Esmeralda Hernandez, represented by Dennis R. Parker, are requesting a time extension of the commencement deadline to Dec. 15, 2025 for their conditional use permit to allow a special events facility (initially approved by the Planning and Zoning Commission on June 4, 2020). The subject property is located at 8558 Linden Rd, Nampa ID 83687, also referenced as Parcel R34248, a portion of the SW quarter of Section 27, T4N, R2W, BM, Canyon County, Idaho.

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

Commissioner Nevill asked if the application is considered commenced. Planner Madelyn Vander Veen stated the conditional use permit is not considered commenced because on condition 8, the building permit has not been submitted yet. Commissioner Nevill asked about exhibit C1 where it says the extension is needed to get the rezone. Planner Madelyn Vander Veen explained that was a misunderstanding and as far as she knows there is no application for a rezone, she addressed exhibit C3 where it might be more helpful.

Acting Chairman Sheets affirmed the witnesses to testify.

Testimony:

Dennis Parker (Representative) – IN FAVOR – 2916 East Locust Ln, Nampa, ID 83686

Mr. Parker stated he reviewed the staff report and agrees with everything. Mr. Parker is available for questions.

Commissioner Nevill asked for clarification on why there is a delay and why the request for extension did not happen before commencement. Mr. Parker stated he was the Hernandez's realtor about 4 years ago when they bought the property and helped them get the original CUP. Mr. Hernandez was doing all the work himself with the exception of a few things he couldn't do, with those he hired an architect engineer. Mr. Parker got uninvolved in the project at that time. Two years later he got a call from Mr. Hernandez saying the project was never finished because the engineer got a better job elsewhere and never came back to finish the project. That is when Mr. Parker contacted Planner Dan Lister and they were a few days past the deadline at that point. While waiting for the hearing they found someone else and they have completed the work, they are just waiting to see about getting the CUP extended so they can get the approvals needed.

Acting Chairman Sheets clarified the reason for the extension is because the engineer didn't complete the work and Mr. Hernandez didn't let Mr. Parker know until after the deadline. Mr. Parker confirmed that to be correct. Acting Chairman Sheets asked if Mr. Parker would agree with having an additional condition stating there will be no further extensions on the case. Mr. Parker agreed.

Commissioner Nevill asked if Mr. Hernandez was aware of the commencement date. Mr. Parker stated Mr. Hernandez probably didn't because he depended on Mr. Parker due to Mr. Hernandez not being fluent in English.

Commissioner Nevill asked Staff if there is record for who attended the first CUP hearing. Commissioner Williamson stated the hearing was during COVID when they were doing WebEx hearings. Planner Madelyn Vander Veen stated the people present at the hearing were two County employees and Dennis Parker.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2020-0004-RFE, seconded by Commissioner Mathews, voice vote, motion carried.

DELIBERATION:

Commissioner Nevill stated he is having a difficult time being in support because the commencement date passed.

Commissioner Williamson stated he believes Mr. Hernandez has been working diligently on the project and the engineer moved on to other projects forgetting about this one which is outside of Mr. Hernandez's control. Commissioner Williamson believes that is good cause for the extension.

Commissioner Mathews stated he believes work has commenced just the formality of getting a building permit in place hasn't happened yet. He is sympathetic to the language barriers.

Planner Madelyn Vander Veen stated the reason the application was accepted is because Staff is considering it to be in accordance with the ordinance. The ordinance states the application must be filed before the date of the expiration of the 3-year period of the commencement of the land use or prior to expiration of the 5-year period of completion of the project, it doesn't state that it has to be commenced.

Acting Chairman Sheets stated he believes they have good cause and evidence that would support the good cause. Acting Chairman Sheets would like a third condition added having no further extensions allowed.

MOTION: Commissioner Williamson moved to approve Case CU2020-0004-RFE with an additional condition # 3. Seconded by Commissioner Mathews.

Voice vote, motion carried.

Item 2B:

Case No. SD2022-0005 – Bad River: The applicant is requesting an approval of a preliminary plat, irrigation and drainage, on approximately 49.82 acres of CR-RR zoned property. The subject property, parcel R28608103 are located on 1484 Hill Rd Melba, ID in a part of the N ½ SE ¼ and a part of the S ½ NE ¼, section 27, T1N R2W BM, Canyon County, Idaho. The proposal is a replat of Lot 4 Block 1 of the Murrell Subdivision. There will be 3 new residential homes, 1 private road lot. Each of the 3 new residential parcels will not be less than 7 acres, with individual wells and septic system.

Assistant Director of Development Services Jay Gibbons reviewed the Staff report for the record.

Commissioner Williamson asked about condition 8 if there is a way to word the condition saying the road doesn't need to be paved until building permit is done. Then having a road users maintenance agreement so others can help contribute to the paving of the road. Assistant Director of Development Services Jay Gibbons stated that is how the current state of private roads occurred and are troublesome because it gets continuously pushed to the next guy.

Commissioner Nevill stated on the first page of the application it says the project is a replat and asked if replat means that the applicant has changed what they originally asked for. Assistant Director of Development Services Jay Gibbons stated that is not correct that lot 4 is asking for the replat. Commissioner Nevill asked how the lot size changes changed. Assistant Director of Development Services Jay Gibbons stated previously the land was being farmed and the Commissioners were comfortable having 7 acre lots at that time. Commissioner Nevill asked for clarification for condition 3. Assistant Director of Development Services Jay Gibbons stated they will clean up the wording for the condition but the intent is that each of the new owner will be entered and bound by the user's water agreement. Commissioner Nevill asked if the road users maintenance agreement would be in place for them to assist with paving the road. Assistant Director of Development Services Jay Gibbons stated there is one other house at this time and would defer to the applicant.

Commissioner Mathews asked if the resident is using the road then there would need to be an easement or a road users maintenance agreement to have legal access. Assistant Director of Development Services Jay Gibbons stated that is correct.

Acting Chairman Sheets asked who will own the road lots after they are built. Assistant Director of Development Services Jay Gibbons stated he isn't sure if the applicant has plans to sell them or for family. Acting Chairman Sheets stated he is curious on the ownership of the road lots. Assistant Director of Development Services Jay Gibbons stated the language on the plat notes are unclear and there would need to be some documentation showing who owns the private road.

Acting Chairman Sheets affirmed the witnesses to testify.

Testimony:

William Mason (Representative) – IN FAVOR – 924 3rd St South, Nampa, ID 83651

Mr. Mason stated this was all part of the Mural Subdivision and has a road user's maintenance agreement, once they leave the subdivision it will be a private easement for two lots. They can have a secondary residence on the lots so the maximum number of houses would be 8, having a maximum of around 80 trips per day. Mr. Mason doesn't believe paving of the road is necessary and not in accordance with the code that says 100 trips per day trips the need for paving. Mr. Mason stated they are planning on putting pressure irrigation on all the lots to be able to continue ag on the large lots.

Commissioner Nevill asked for clarification that Mr. Mason agrees with conditions 1-7 but not condition 8. Mr. Masons stated that is correct. Commissioner Nevill asked for clarification on the private road and the driveway easement. Mr. Mason used the map to explain the locations.

Commissioner Mathews asked who owns the road lot. Mr. Mason stated Coyote Trail is owned by all the original Mural Subdivision lot owners to his understanding.

Commissioner Williamson asked who will be the owner of the road lot for Bad River Road. Mr. Mason stated he currently doesn't have anything in place and is willing to have a road users maintenance agreement for just the Bad River Subdivision added to the Plat notes saying they will maintain Bad River Road.

Acting Chairman Sheets asked who will own the road lots. Mr. Masons stated the Coyote Trail is owned by an HOA of Mural Subdivision and Bad River Road will be owned by the Bad River HOA. Acting Chairman Sheets asked if Mr. Mason is ok with a condition being added to add that to the Plat notes. Mr. Mason had no objections.

Angie Cueller – IN FAVOR – 924 3rd St South, Nampa, ID 83651

Ms. Cueller stated the Satterwhite's own the little red strip on the map and that is an easement access. The future owners will be the Satterwhite's family. Ms. Cueller stated for all attempts to get the Nampa fire districts approval has failed, they have been told that they will not give additional documentation because they have submitted their approval to the County.

Brent Wecker – IN NEUTRAL – 1454 Hill Rd, Melba, ID 83641

Mr. Wecker stated he would like to have a road users maintenance agreement put in place that works for all the property owners. He see's what they are trying to do as a family and respects that he would just like the road maintenance to be worked out.

Commissioner Williamson asked if he has a driveway easement to his lot. Mr. Wecker stated that is his understanding. Commissioner Williamson asked if he would be willing to help with contributing to a paved road or would prefer it to stay gravel. Mr. Wecker stated he would be open to discussion and hasn't had issues with the Satterwhite's with maintaining the road together in the past.

Commissioner Nevill asked if Mr. Wecker is a signatory on any road users maintenance agreement. Mr. Wecker stated he isn't sure, he has signed a road users maintenance agreement. Commissioner Nevill asked Staff if they have a copy. Assistant Director of Development Services Jay Gibbons stated he isn't sure if they have a copy and will look into it.

William Mason (Applicant) – REBUTALL – 924 3rd St South, Nampa, ID 83651

Mr. Mason stated there is a road users maintenance agreement and can get a copy to Staff if they do not have one. Mr. Mason asked instead of an HOA for the Bad River if it can be called a Road Users Association.

Acting Chairman Sheets asked if there is a code that supports a Road Users Association instead of an HOA. Mr. Mason stated he isn't sure but he knows that a lot of his clients are using that verbiage.

Commissioner Williamson asked Staff if condition 8 could have a sub condition saying that it wouldn't need to be enacted if it was just the Bad River Subdivision using the road.

Acting Chairman Sheets stated he is still hung up on who is going to own the road and be responsible for it.

Commissioner Mathews stated he did a quick search and nothing came up for a road users association.

MOTION: Commissioner Mathews moved to close public testimony on Case SD2022-0005, seconded by Commissioner Williamson, voice vote, motion carried.

DELIBERATION:

Commissioner Williamson stated he is leaning towards continuing the case to have the applicant or staff get the documents for the road users maintenance agreement or HOA to figure out the ownership of the road lot.

Commissioner Mathews stated he doesn't believe they need a continuance. What needs to happen with the plat is the road lot for Coyote Trail needs to be separated out as does the lot for Bad River.

Commissioner Nevill believes it could be fixed if there are conditions having two different road user's maintenance agreements for the two different roads and two HOA's for the two different subdivisions.

Commissioner Williamson doesn't believe they can condition other subdivisions or lots not in the application.

Assistant Director of Development Services Jay Gibbons stated there is a road users maintenance agreement for Mural Subdivision on record.

Commissioner Mathews believes this creates a legal mess and needs to get it cleaned up.

Acting Chairman Sheets believes the 80 trips or 100 trips would be hard to defend. But could put a condition restricting the use of the road for any sub sequential development that they would need to take it from another access point if it increases to the 100 trips. Acting Chairman Sheets suggested an additional plat note stating Coyote Trail Road and Bad River Road shall be in common ownership and maintained by common ownership for the benefit of those lots.

Conversation ensued between the Acting Chairman and Commissioners in regards to the conditions.

MOTION: Commissioner Mathews moved to recommend approval for Case SD2022-0005 with the modification to condition 8 and a replacement condition for condition 9. Seconded by Commissioner Williamson.

Roll call vote: 4 in favor, 0 opposed, motion passed.

ACTION ITEM – APPROVAL OF MINUTES

MOTION: Commissioner Nevill moved to approve June 20, 2024 minutes. Seconded by Acting Chairman Sheets. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Assistant Director of Development Services Jay Gibbons stated staff is working on a lot of different things and there will be changes on the staff reports, findings, and how they present. It is process improvement currently in draft but will be implemented soon.

ADJOURNMENT:

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

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

Approved this 5th day of September, 2024



Brian Sheets, Acting Chairman

ATTEST



Amber Lewter – Hearing Specialist