



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, November 7, 2024
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman
 Brian Sheets, Commissioner
 Miguel Villafana, Commissioner
 Patrick Williamson, Commissioner
 Harold Nevill, Commissioner
 Geoffrey Mathews, Commissioner

Staff Members Present: Jay Gibbons, Assistant Director of Development Services
 Carl Anderson, Planning Supervisor
 Aaron Williams, Director of Constituent Services
 Zach Wesley, Deputy Prosecuting Attorney
 Michelle Barron, Principal Planner
 Arbay Mberwa, Associate Planner
 Madelyn VanderVeen, Associate Planner
 Amber Lewter, Associate Planner

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

Commissioner Williamson arrived and was sworn in at 6:50 p.m.

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

Item 1A:

Case No. CU2023-0018 – Smith: – Approve revised FCOs.

MOTION: Commissioner Sheets moved to approve the revised FCO’s for case no. CU2023-0018, seconded by Commissioner Mathews voice vote, motion carried. Commissioner Villafana recused due to missing the October 17th hearing.

Item 1B:

Case No. CR2022-0003 – LWD Development Inc: Approve revised FCOs.

Chairman Sturgill included the specific statistics that Superintendent Gee presented for the middle school capacity. Findings, as presented, were over capacity. Chairman Sturgill suggested including specific numbers; middle school at 144% of capacity and the other at 114% of capacity; however, Chairman Sturgill presented that over capacity doesn’t quantify the nature and magnitude the problem the county is facing and will not propose those changes. Commissioner Sheets agreed with Chairman Sturgill’s suggestion, and also requested an edit to page 3, finding 3 to replace the word “feels” with “finds” {criteria2, finding 3}. The statistics in regard to school capacity, shall be added to findings as well.

MOTION: Commissioner Sheets moved to approve the revised FCO’s for case no. CR2022-0003, with the requested edits, seconded by Commissioner Nevill voice vote, motion carried. Commissioner Villafana

recused due to not attending the October 17th hearing.

Item 2A:

Case No. CU2023-0025 – Surber: Sheree and Michael Surber are requesting a conditional use permit to run a dog kennel on approximately 4.72 acres from in an “A” (Agricultural) zone. The subject property is located at 25366 Emmett Rd, also referenced as Parcel R38010, a portion of the SW quarter of Section 25, T5, R3, BM, Canyon County, Idaho.

Planner Arbay Mberwa reviewed the Staff Report for the record.

Commissioner Nevill found a disconnect with the age of the dogs and suggested adding a condition to specify the age of dogs. Planner Mberwa agreed that the condition could be added.

Commissioner Williamson asked for clarification on condition 8, in regard to perimeter fencing. Planner Mberwa stated the intent was to have the whole perimeter of the property fenced, but will defer to the applicant to specify when and where fencing would be added. Commissioner Williamson also asked about condition 13 and commercial approach would be required by Highway District 4. Planner Mberwa explained there were no additional comments received when the agency notice was sent out, so the information submitted with the application is consistent with the information provided.

Chairman Sturgill asked if staff is aware of any unusual situations that need to be addressed before an occupancy permit could be issued. Planner Mberwa stated none that she was aware of. Chairman Sturgill asked if the intent was to commence the conditional use permit until after the residence was completed and occupied. Planner Mberwa stated that is how condition no. 8 is written. Chairman Sturgill asked if there were any concerns if P&Z proposed that the CUP was not granted until the occupancy permit was granted. Planning Supervisor Carl Anderson staff would be amendable to conditions related to timing of proposed use and how it relates to future C of O's for this single-family home.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

Sheree Surber – (Applicant) IN FAVOR – 25366 Emmett Rd, Caldwell, ID 83607

Ms. Surber addressed questions that were previously asked. They are currently in the process of remodeling their home and are living in a fifth wheel. A dog run was constructed on the north side of the property. They currently have six (6) dogs that are housed with owner or kept in kennel weather permitting. The dog run might become larger, but same location. When the house is complete, or close to being completed, the fence construction could be begin, weather permitting. Not all of the dogs are for breeding. One of the dogs is a potential breeder. They have put a lot of money into the dogs. Some are in competitions and one is therapy dog. Ms. Surber works from home and her husband is retired, so someone is home approximately 90 % of the time. This is more of a personal hobby, but structured as business due to the county requiring a permit. She is willing to scale back age of dogs to 3 months. Ms. Surber discussed the extension of the driveway. Her original plan was to put a shop in the southern area of the site, but later removed the shop idea. Therefore, the extension was no longer necessary. There is a minimal amount of people coming onto property if looking at/buying puppies. She is not housing or boarding anyone else's dogs.

Chairman Sturgill asked if Ms. Surber would like P&Z to remove condition 13 requiring improvements to half circular driveway. Ms. Surber stated, yes, would like to do eventually, but is ok with the condition being removed.

Commissioner Williamson asked for clarification on the location of fencing. Ms. Surber specified the location and plans to complete the fencing in the back yard. Commissioner Williamson asked if the entire property would be fenced. Ms. Surber replied yes, and hoped it would be before the C of O for the home. Commissioner Williamson asked if Ms. Surber would be agreeable to a modification of condition 8, requiring a phased fencing plan to be submitted. Ms. Surber agreed. Commissioner Williamson asked about the letter from Highway District 4. Ms. Surber clarified, the original application submitted stated 20 dogs. Ms. Surber was unsure at the time how the process worked with dog ages and the permitting. The plan is to widen in the future anyway.

Commissioner Nevill asked if Ms. Surber had had an opportunity to read the recommended conditions of approval. Commissioner Nevill discussed condition no 7 with the applicant and clarified the dog age/number. Commissioner Nevill liked the idea of phased fencing plan but clarified the time limitations of a CUP [*commence within 3 years and complete within 5 years*]. Commissioner Nevill asked about commencement of the CUP when the home is completed. Ms. Surber was concerned as she already has six dogs and didn't want to be in violation. She was fine with a condition that would allow the expansion after the C of O was issued for the home.

Chairman Sturgill asked Ms. Surber to clarify how the dogs were housed. Ms. Surber stated the existing dog run is 3 rail fencing with no climb wire. There is also a chain link type kennel for water etc.

Commissioner Matthews asked if the perimeter fencing was intended to go across the driveway. Ms. Surber stated they plan on installing gates. The dogs would be in the backyard area with no access to the front. Ms. Surber was fine not installing gates if the condition was worded as such.

Commissioner Williamson clarified if the fencing would be 3ft. or 4 ft high. Ms. Surber replied, 4 ft, 3 rail. The wire fencing would be installed on the entire span of the fencing.

Commissioner Sheets stated he would be recommending a condition that there be no boarding for third parties, Ms. Surber agreed. Commissioner Sheets stated he did not want a condition for the type of fencing, just that the dogs are contained.

Denise Burnett – IN NEUTRAL – 25498 Emmett Rd, Caldwell, ID 83607

Ms. Burnett lives directly to north. The dogs do not run around. Her biggest concerns about finishing the fencing. She had concerns about dogs along the road, good to know they are secure. She liked the idea of some buried fencing to help to prevent digging.

MOTION: Commissioner Nevill moved to close public testimony on Case CU2023-0025, seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill stated he was in favor of the application with some modifications to the proposed conditions. Add to the end of condition no. 7 "over the age of 3 months." Condition no. 8 should be rewritten to require perimeter fencing, and a fencing plan shall be submitted to DSD prior to commencement of use. Add condition no. 14 which would state that before the applicant could expand the use beyond six (6) dogs that the home shall be completed. Add condition 15 that there shall be no 3rd party boarding.

Commissioner Williamson asked for clarification on condition 8 and commencement of use. Commissioner Williamson proposed backyard perimeter fencing and a fencing plan being required prior to commencement of use.

Commissioner Sheets asked if Commissioner Nevill would be amenable to removing condition no. 13 for the approach. Commissioner Nevill stated that the applicant was not proposing commercial.

Chairman Sturgill asked if there were any concerns from staff with the removal of condition no. 13. Planner Mberwa stated if it's limited to what is in the letter of intent and site plan it should be ok.

MOTION: Commissioner Nevill moved to approve Case No. CU2023-0025, with a to Condition No. 7 to add the words "over the age of 3 months" at the end of the proposed condition, re-write of condition no. 8, removal of condition no. 13; addition of a condition regarding no 3rd party boarding and requiring the home be completed prior to expansion of use. Seconded by Commissioner Matthews.

Discussion on the Motion:

None

Roll call vote: 6 in favor, 0 opposed, motion passed.

Item 2B:

Case No. CU2023-0011 – Padlo: Edward Padlo is requesting a Conditional Use Permit for a contractor shop, staging area, and farm implement service for a welding business in the "A" (Agricultural) zone. The welding business is proposed to operate Monday through Saturday from 7 am to 5 pm with metal deliveries 1-2 times per month. The business has two owners and two employees. The subject property is located at 12040 Alamo Lane, also referenced as Parcel R30200011, a portion of the SE quarter of Section 25, T2N, R3W, BM, Canyon County, Idaho.

Planner Madelyn VanderVeen reviewed the Staff Report for the record.

Commissioner Nevill asked where the entrance of the gravel pit was located. Planner VanderVeen stated the photos do not display the entrance. Commissioner Nevill asked how many accesses are on Alamo Ln, Planner VanderVeen replied three on this section of Alamo Ln. west of Rim Rd.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

Ed Padlo –(Applicant) IN FAVOR – 12040 Alamo Ln., Nampa, ID 83686

Mr. Padlo is a welding contractor. His request was for a contractor shop, staging area and farm implement service for welding business. 90 % of his business is offsite now and he would like to keep the agricultural welding.

Commissioner Nevill was concerned with the line of sight. Mr. Padlo stated the gravel pit entrance is over the hill and there is adequate line of sight. Commissioner Nevill asked if Mr. Padlo had reviewed the recommended conditions of approval. Mr. Padlo indicated that he did, but, initially had issue with the requirement for an address for the shop. After speaking with staff, he understands now the need for the additional address. Commissioner Nevill asked Mr. Padlo if he does any machining and if he dealt with magnesium. Mr. Padlo stated, no, it is sourced out and he does not deal with magnesium. Commissioner

Nevill asked if Mr. Padlo would ever have a need for an employee restroom in the shop. He replied not at this time but in the future, perhaps. Discussion ensued with staff regarding a condition in regard to addresses the future possibility.

Darrel Rosti – IN FAVOR – 11621 Alamo Ln., Nampa, ID 83686

Mr. Rosti stated the applicant keeps his property in good condition. There is a need for this type of skill in the valley. He commended Mr. Padlo for going through though the process and trying to do things the right way.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2023-0011, seconded by Commissioner Villafana. Voice vote, motion carried.

DELIBERATION:

None.

MOTION: Commissioner Nevil moved to approve of CU2023-0011 with an addition of a condition 13, which states “ The Commission authorizes the addition of an employee restroom should the need arise.” Seconded by Commissioner Sheets.

Discussion on Motion:

None.

Roll call vote: 6 in favor and 0 opposed. Motion passed.

ITEM 2C:

Case No. OR2022-0003 – Machine Shop: The applicant is requesting a zoning ordinance text amendment in accordance with CCZO §07-06-01 & 05. The application includes a proposed text amendment to add a definition for “Machine Shop” and to add “Machine Shop” to CCZO 07-10-27 Zoning Use Regulations. The request proposes “Machine Shop” as a conditional use in the Agricultural, Rural Residential and Neighborhood Commercial Zones and as an allowed use in the Service Commercial, Light Industrial, Heavy Industrial, and Mixed Use-Arterial zones. No specific standards of development were provided. The Planning and Zoning Commission forwarded this case with a recommendation of denial on September 7, 2023. The Board of Commissioners remanded this case back to Planning and Zoning on January 16, 2024.

AN ORDINANCE AMENDING CHAPTER 7, ARTICLE 2: DEFINITIONS AND ARTICLE 10: ZONING REGULATIONS, OF THE CANYON COUNTY CODE OF ORDINANCES; THE AMENDMENT INCLUDES THE FOLLOWING:

CHAPTER 7, ARTICLE 2, SECTION 3 DEFINITIONS ENUMERATED: ADD DEFINITION: “MACHINE SHOP: A WORKSHOP OR BUSINESS WHERE A MACHINING OR CONTROLLED MATERIAL REMOVAL PROCESS IS USED TO FABRICATE OR REPAIR MECHANICAL ITEMS.”

CHAPTER 7, ARTICLE 10, SECTION 27: LAND USE REGULATIONS (MATRIX): ADD “MACHINE SHOP” AS A “C” (CONDITIONAL USE) IN THE AGRICULTURAL ZONE, RURAL RESIDENTIAL ZONE, AND NEIGHBORHOOD COMMERCIAL ZONE; ADD “MACHINE SHOP” AS AN “A” (ALLOWED USE) IN THE SERVICE COMMERCIAL, LIGHT INDUSTRIAL, HEAVY INDUSTRIAL, AND MIXED-USE ARTERIAL ZONES.

MOTION: Commissioner Nevil moved to postpone case no. OR2022-0003 to a date uncertain.

Before the motion was seconded, Commissioner Williamson asked if staff had a reason for the date uncertain. Planning Supervisor, Carl Anderson stated that noticing had been completed however, the applicant's representative was not able to attend. The date uncertain will allow staff to work with the applicant to find a date that will work.

Commissioner Williamson then seconded the motion. Voice vote, motion carried.

Item 2D:

APA Ordinance - the Board of County Commissioners of Canyon County, Idaho, will consider adopting an Ordinance of Canyon County, Idaho Chapter 7, Article 9, of the Canyon County Code of Ordinances, Canyon County Agriculture Protection Act.:

The purpose of this ordinance is to comply with an Idaho state law passed during the 2024 legislative session- Title 67- Chapter 97, Agricultural Protection Act.

Idaho Code § 67-97 requires counties to establish a voluntary process through which agricultural producers may make application to commit lands actively devoted to agriculture production to remain in agricultural use for a minimum of twenty years. As required by state law, an APA designation aims to protect productive farmland, rangeland, and forest land; encourage best farming practices; support the local agricultural economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code. If approved by the Board of Canyon County Commissioners, the effective date of the proposed ordinance will be January 1, 2025.

Chairman Sturgill asked staff for an update on the APA Ordinance. Interim Director of DSD, Jay Gibbons, stated testimony would be taken this evening. At the conclusion public testimony would remain open. The case would then be tabled to November 21, 2024. Mr. Gibbons explained the materials deadline and the process for the hearing on the 21st.

Interim Director Gibbons presented the history of the APA and the deadlines for counties to adopt an ordinance. Interim Director Gibbons presented his staff report for the record.

Commissioner Sheets asked how much of the model ordinance was included in the draft vs. what Canyon County came up with. Interim Director Gibbons stated that a lot of it is.

Chairman Sturgill asked what benefit there would be for a property owner to designate their property in the APA. Director of Constituent Services, Aaron Williams, stated the benefit would be to protect the parcels for twenty years. Ultimately, it is to protect agriculture. Mr. Williams explained the process for the development of the draft ordinance.

Commissioner Williamson asked what the benefit was for an agricultural property owner to enter into an APA and was concerned about the impact on property value.

Commissioner Villafana asked about the hearing process for an APA and the notification process. Interim Director Gibbons stated that the applications go to the APA Commission and then the Board of County Commissioners. The hearings will be noticed in compliance with LLUPA /Ordinance.

Commissioner Nevill asked if the County Ordinance can be more restrictive than the state. Zach Wesley replied there are minimum standards that have to be met. The APA Commission will make recommendations and comments on those criteria.

Commissioner Williamson the area of city impact and if APA would become an obstruction to city growth. Interim Director Gibbons, stated that city could annex the property but couldn't develop it until the 20 years expired.

Commissioner Villafana stated he would like to answer some of the questions the other Commissioner's asked as he was involved with the Farm Bureau. Commissioner Villafana stated the intent is completely voluntary and the benefit is that the County can see where the APA's are located as they develop plans. Chairman Sturgill asked if once a property was put into an APA if there was discussion in regard to development on adjacent properties. Commissioner Villafana stated Farm Bureau is big on property rights. He noted that this program is voluntary. The language doesn't have enough teeth to not allow development.

Commissioner Nevill asked if the County could use an APA designation in the staff report to say it will change the character of the area or something to that effect. Is the APA just a designation that is simply noted? Interim Director Gibbons stated the staff report would illustrate the vicinity of APA's in the area. The Commission could then make a finding.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

Clay Erskin – IN NEUTRAL – 20021 Hoskins Rd., Caldwell, Id 83607

Mr. Erskin farms 30 acres on Hoskins Road. He is also a supervisor for the Canyon County Soil and Water Conservation District. He is in support of the APA overall. Farmland preservation and conservation of soil and water in the County is important. The APA should proceed in way that shows that there would not be undue pressure put on their farm from development (i.e. aerial spraying and movement of machinery).

Roger Batt – IN OPPOSITION – 25253 Graphic Ln. Wilder, ID 83676

Mr. Batt is testifying on behalf of the Idaho /Eastern Oregon Seed Association. The Association represents approximately 100 seed companies and affiliate businesses that make up the Association. Mr. Batt stated the association opposes the ordinance, as it needs more work. Mr. Batt disclosed that he also is an Agricultural Lobbyist and was directly involved with the drafting but also helping with the passage of the legislation in 2024. The intent of the legislature was to give counties authority to draft an ordinance that would provide positive planning tools for agriculture. Mr. Batt stated that after review of the County APA Ordinance, there is not much incentive for landowners to participate in the APA. Mr. Batt referred to pg. 2 subsection f, of the draft ordinance and the language that states "not located in or within ½ mile of a city impact." Mr. Batt provided a substitute draft of the ordinance from the seed industry.

Keri Smith – IN OPPOSITION – 17741 Linden Ln., Caldwell, ID 83607

Ms. Smith is representing herself and an "Growing Together." Growing Together is an organization that is focused on preserving the economic vitality of preserving agriculture in Canyon County. Ms. Smith stated that the APA falls in line with the 2030 Comprehensive Plan. Ms. Smith encouraged the Commission to make sure that an analysis of the Comprehensive Plan. She agreed with Mr. Batt's testimony. Requiring a comprehensive plan map change will be detrimental to farmers. Properties' already have to be designated as agriculture on the comprehensive plan. Ms. Smith stated that farmers who ask to be put

into an APA understand what they are requesting and they are making the choice to voluntarily apply. She stated that the statute does not require that a comprehensive plan map amendment also be applied for. Ms. Smith questioned the contiguous acreage requirement. The criteria on listed on page 3 (B-H) are at best findings of fact. The language on "I" should be modified to state compatible and consistent with existing development patterns. She suggested not looking at soil classifications, and noted that farming can happen on poor soils with good farmers and water.

Commissioner Nevill asked about the 20-year requirement. Ms. Smith was in support of an automatic renewal if the property owner doesn't ask to be removed.

Josie Jensen – IN OPPOSITION – 20021 Hoskins Rd., Caldwell, ID 83607

Ms. Jensen noted that she farms at 20021 Hoskins Rd. She stated that the APA is a property right given to farmers by Statute. Creating barriers for the farmers to participate is not fair. It is now a farmer's property right to ask for APA designation. She is opposed to the ordinance but not the APA. Any property that is farmed should have the property right. Ms. Jensen stated that 80% ag in urban areas is coming from the types of areas the ordinance may restrict. The APA protects agriculture regardless of location. Urban agriculture is just as important as rural agriculture.

Chairman Sturgill asked what areas within the ordinance Ms. Jensen is opposed to or what process the county should adopt for farmers to participate in the APA. Ms. Jensen stated that there should not be areas where people can ask and where people can't ask.

MOTION: Commissioner Sheets moved to postpone the remainder of the APA Ordinance to November 21, 2024, seconded by Commissioner Nevill. Voice vote, motion carried.

3. ACTON ITEM- APPROVAL OF MINUTES

- A. September 19, 2024**
- B. October 3, 2024**

MOTION: Commissioner Nevill moved to approve the minutes of September 19, 2024, as amended seconded by Commissioner Matthews. Voice vote, motion carried.

MOTION: Commissioner Nevill moved to approve the minutes of October 3, 2024, as amended seconded by Commissioner Sheets. Voice vote, motion carried.

4. ACTION ITEM - APPROVAL OF BYLAWS UPDATE

Interim Director Gibbons stated the final draft was sent out to the P&Z for review. The comments received from Chairman Sturgill & Commissioner Nevill were received. The document before the P&Z Commission this evening reflects four (4) changes highlighted in yellow. Legal has also reviewed the document and some language changes were made. Areas in the bylaws that previously stated "should" were changed to "will." Interim Director Gibbons stated that if the bylaws are approved tonight the hearing script would be modified to take effect on the 21st. If not, the bylaws could be approved on the 21st.

Chairman Sturgill if there was an urgency to adopt the bylaws this evening to adjust the script. Interim Director Gibbons noted the Board has been using an updated script for a few weeks now, however, the script is more semantics than driven by the bylaws.

Commissioner Matthews stated he would like to see a more flexible format that wouldn't require a bylaw update if script needed to be changed.

Commissioner Nevill referred to page 4, roman numeral 8, conduct of meetings, sub C, number 2 B. He stated the words "and the commission" should be deleted and may be a carryover from a previous version of the bylaws.

Commissioner Williamson noted that there are circumstances where a Commission member may not be able to be able to provide prior notice of an absence (in the case of an emergency). Interim Director Gibbons stated the purpose was to be aware of a quorum issue ahead of time and recognized there are times where there will be extenuating circumstances.

Commissioner Sheets referred to the Code of Ethics, Article 10, Section F... "shall not attend or participate in Board of County Commissioner Hearings..." Commissioner Sheets understood the participate portion, but sitting in the audience observing, he didn't agree with. It could be put on the record as a declaration. Interim Director Gibbons, provided an example for context. Ultimately, it is poor public perception that is trying to be avoided. Commissioner Sheets suggested language that stated "discouraged" from attending and "prohibited" from participating.

Chairman Sturgill stated his primary purpose for attending prior BOCC hearings was for understanding only.

Commissioner Matthews stated that anything the Commission can do to improve benefits them. Attending a BOCC hearing can be helpful.

Interim Director Gibbons will make requested changes and bring them back on November 21, 2024.

5. DIRECTOR, PLANNER, COMMISSION COMMENTS

None

6. ADJOURNMENT

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 9:56 PM.

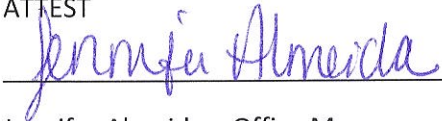
An audio recording is on file in the Development Services Departments' office.

Approved this 16th day of January, 2025.



Robert Sturgill, Chairman

ATTEST



Jennifer Almeida – Office Manager