

Commissioners Minutes

February 4, 2025 – 2:17 p.m. to 3:51 p.m.

PUBLIC HEARING – APPEAL BY KM ENGINEERING, REPRESENTING BONNIE VANCE VERMAAS, FOR A CONDITIONAL REZONE FROM AN “A” (AGRICULTURAL) ZONE TO AN “R-R” (RURAL RESIDENTIAL) ZONE SUBJECT TO A DEVELOPMENT AGREEMENT, CASE NO. CR2022-0022

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

DSD Principal Planner Dan Lister

Interim DSD Director Jay Gibbons

Tracy Vance

Stephanie Hopkins

Lyle Zufelt

Joseph Strongone

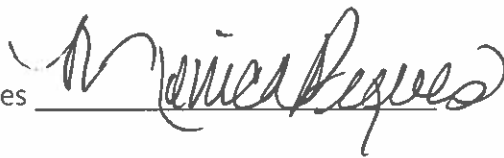
Amanda McComb

Richard Trudeau

Ted Todd

Other interested citizens

Deputy Clerk Monica Reeves



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The Board met today at 2:17 p.m. to conduct a public hearing for Case No. CR2022-0022, in the matter of an appeal KM Engineering, representing Bonnie Vance Vermaas, for a conditional rezone of Parcels R37517 & R37519 from an “A” (Agricultural) Zone to an “R-R” (Rural Residential) Zone subject to a development agreement restricting development to 13 residential lots. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, DSD Principal Planner Dan Lister, Interim DSD Director Jay Gibbons, Tracy Vance, Stephanie Hopkins, Lyle Zufelt, Joseph Strongone, Amanda McComb, Richard Trudeau, Ted Todd, other interested citizens, and Deputy Clerk Monica Reeves.

Stephanie Hopkins with KM Engineering testified on behalf of the property owner. They came before the P&Z Commission twice last year, and at the first meeting they had requested R-1 zoning and had been working with staff on their recommendation to revise the rezone request to a rural residential zone to make for larger lots. At the second hearing in November of 2024, they worked to mitigate the concerns the P&Z Commission had which was primarily the impact on the Middleton School District. The property is approximately 20 acres and has been owned by the same person since the 1970s and she is looking to retire and develop a portion of the land and

retain the existing home to allow for retirement. The subject property is located at 9713 Galloway Road in Middleton, and access will be provided from Galloway Road. If approved the request will be for 8-9 lots. 2.07 acres is the average for developed lots so they think the rural residential zone will be consistent with the area. Ms. Hopkins reviewed similar developments and zoning in the area and said this request will complement existing development. They will maintain the rural character while providing sufficient housing without fragmenting the agricultural land and natural resources. The property does not have water rights and has not been irrigated for 20+ years. It is not prime farm ground; it is very hilly, and all the water would collect in one part of the property so that was the only part that was ever irrigated. The irrigation rights have been transferred to the irrigation district who then gave it to another farmer to use. Condition No. 8 has been addressed by staff on the condition to require the rural residential zone, and if the Board is amenable to that request she asks that the average lot size be 2 acres rather than 2.5 because that is consistent with the development in the area.

Tracy Vance testified that his mother is the owner of the property, and they set up a corporation to develop the property for tax purposes and he is working on his mother's behalf. She has not used any water on the property for the last 20 years. The topography is very steep, the lower eight acres were assigned water rights and they were turned over to the irrigation district about a year and a half ago.

Principal Planner Dan Lister gave the oral staff report. In August of 2024 it was a request R-1 zone and the applicant requested to revise the application to a rural residential zone. The 2030 Canyon County Comprehensive Plan designates the parcel as "agricultural" on the future land use map. However, the request was submitted before the adoption of the 2030 Canyon County Comprehensive Plan. The 2020 Canyon County Comprehensive Plan designates the parcel as "residential" and aligns with many property rights, population, land use and housing goals and policies. The property is zoned "A" (Agricultural) and surrounded predominantly by other "A" zoned properties. Within a 600' radius, the average lot size is 3.45 acres with a median of 2.18 acres. The subject parcel consists of class 3 & 4 soils. Due to slopes ranging from 9% to over 15% (approximately a five-acre portion), a majority of the parcel consists of non-prime farmland/farmland. The area is comprised of residential lots created through subdivision platting. North of the subject parcel is Lansing Heights Estates (89 lots, 3.16-acre average lot size) approved in 1973. To the south is Willowview Subdivision No. 2 (16 lots, 7.11-acre average lot size; 2.21 acres of the large field is not included) approved in 2006. To the southwest is the Thoroughbred Estates Subdivision (40 lots, 2.29-acre average lot size) approved in 2014. To the west is the Grand Estates Subdivision (14 lots, 2.86-acre average lot size) approved in 2000. Within a one-mile radius there are 23 subdivisions with an average lot size of 2.99 acres. The area is comprised of large agricultural properties and residential developments created by old subdivisions. Lot sizes within the area consist of rural residential-sized lots (two-acre lot sizes or larger). The request will allow the development of residential lots (subject to subdivision platting), and it will be served by individual wells and individual septic systems. The irrigation water rights will be transferred and irrigation will be provided via domestic wells. The property slopes from north to south, and

drainage will be need to be maintained via storm drainage infiltration ponds. A drainage plan is required and if it slopes over 15% they have to do a hillside development plan. The property has an existing residential access to Galloway Road, which is a collector road. The conceptual plan shows the development to be served via internal public roads. Highway District #4 will not require a traffic study for developments that generate less than 500 ADT. However, a 40' wide right-of-way dedication is required along Galloway Road and a lot of mitigation would be done through impact fees. Direct lot access is prohibited. Based on the size of the development and distances from SH-44, ITD does not have any concerns about the development. Middleton School District submitted a letter identifying that two of the three elementary schools are over capacity while the middle and high schools are nearing capacity due to continued growth within the district boundaries. The rezone proposes 13 residential lots which equate to 7-9 students. If approved, the school district requests the developer include appropriate planning to ensure safe routes and bus stop spacing. No letter of comment was received from Middleton/Star Fire District, Canyon County Sheriff's Department, or Canyon County Paramedics. Fire district response time is approximately 9 minutes. The applicant's letter of intent states the development will coordinate with the fire district regarding fire suppression requirements. Most public comments dealt with concerns about the lot size being too small for the area; water equality issues due to nitrates; and school capacity issues, drainage issues, and impacts on ag use and parcels, open space and any native species that are out there. Staff recommended approval subject to conditions of the development agreement: the main one is an average lot size of 2.5 acres and no secondary residences. The P&Z Commission recommended denial due to the request not being consistent with the 3-acre average lot size, and concern about the cumulative impact to the school district regarding the capacity issue. Following his report, Planner Lister responded to questions from the Board.

Lyle Zufelt testified about lot sizes in the surrounding developments and his main concern being the effect on the water table. He appreciates the developer going from R-1 to RR and trying to accommodate the community and said it would be encouraging if the CC&Rs required the new homeowners to restrict their development and their need to maintain landscaping to their 2.5-acre lot.

Joseph Strongone testified that he lives south the subject property in a development where the average lot size is 2.3 acres and he thanks the developers for accommodating the neighbors who were suggesting 2.5 to 3 acre lot sizes. He agrees with the 2.5 acre with no secondary home if the following is agreed to: if the schools are under capacity; if there stop lights and bonds passed to relieve traffic; and if there are guarantees there will be no use of domestic well water beyond the half acres.

Amanda McComb testified about her concerns with the water and the slopes where the water swamps because the mosquitoes are bad, as well as concerns with the impact development is having on EMS and schools. Her children attended the middle school and high school, but she pulled them out because there were 48 kids in one class in the middle school; she now homeschools her

children. Development is continuing but she wants to know when are we going to take care of the children in the school district. The school buses are at capacity and sometimes children sit on the floor of the bus, which is appalling.

Richard Trudeau testified that at the P&Z Commission hearing he was primarily concerned with the water table, traffic, and the lot size. His well is down 14 feet since it was drilled in 2003, and at the time that's what he was focused on. When you have a poor school district it affects property values, and if they do remedy the problem with new schools then he pays the taxes. He questioned why Middleton is having a school overcrowding issue when the Nampa school district is closing schools for lack of enrollment. He believes the Board of Commissioners has control over where development takes place.

Ted Todd testified that the school district is in trouble and is over capacity with no end in sight, and the paramedics and fire district are in trouble financially and levies have failed several times because people are not willing to support them because they think it will support further development. There is no room to support any growth without the infrastructure. The wastewater system in the city is going to need millions of dollars in upgrades but there is no funding for it. He is opposed to more development when the infrastructure is overtaxed. He said if you put concrete on the agricultural land it will slope to the environmentally sensitive Willow Creek which is where the stormwater runoff will end up and eventually in the Boise River.

Rebuttal testimony was given by Tracy Vance and Stephanie Hopkins.

Mr. Vance said he spoke with the Middleton School Superintendent about development and school bonds and he said there were unintended consequences with what came out of the planning commission where if bonds are opposed, they will restrict development, but opposing a bond is hamstringing a school forever so you cannot send a message to the community that we are going to deny something because of the school district because then the district will never be able to pass a bond. According to Mr. Vance, the superintendent has a plan to alleviate the overcrowding if the bond passes.

Ms. Hopkins said they would be amenable to including a provision in the CC&R's to limit use to the half-acre requirement. Drainage will be improved with development of the property because it's hilly and slopes down to the south, and with development they have to keep all drainage on their site and maintain it, and it will help replenish the aquifer as well. They will capture water with each lot being irrigated through an individual well whereas right now it's not being irrigated at all. There will not be any standing water because it will be maintained within the property. She said the school district previously had open enrollment, and they have brought in a lot of people from the Vallivue and Nampa school districts.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. Deliberation was as follows:

Commissioner Brooks is comfortable with the 2-acre lot size which will be a difference of 1-2 lots. He does not believe these lots are going to be attractive for families with kids, and assumes they will be more upscale. At some level he agrees with the argument that if we oppose the school bonds then we can stop development, that's a tactic people are doing, but at what point do we insert ourselves into that? Commissioner Van Beek said it's a beautiful area and there are assets in having those hillside slopes that help ensure privacy. She's met with the school district superintendent and has been involved with city council where Councilman Murray made the push to limit subdivisions, but there were already about 7,000 city entitlements. The posture of not supporting infrastructure comes directly from the taxpayer and voter, not the Board of Commissioners. This proposal is enclaved by surrounding subdivisions, and those parcels are not going to be hay or high dollar crop operations. There is a market to live in a rural area with custom-built homes and this fits that area. She agrees with staff's recommendation to exclude secondary residences. The property has no water rights and soil compatibility issues, and the request seems to make sense. Commissioner Brooks does not want to hold individual property owners hostage in something we have no control over as far as the schools and he said if we go down that path we would expose ourselves to liability. There has to be a limit to how much we hang our hat on that argument. Commissioner Holton prefers a lot size of 2.5 acres with no secondary residences. Commissioner Brooks said he is comfortable with that. Commissioner Holton said the school district wants the developer to provide an adequate bus stop spacing for school buses, but they did not address the citizens' concerns. Commissioner Van Beek said with growth comes the need for increased services, but that is beyond the Board's scope of control, that is voter-driven. Commissioner Holton said 8 acres on 20 lots is not much and the applicant seems reasonable in wanting to amend towards consideration of larger lots. The Board reviewed the eight criteria of the Canyon County Zoning Ordinance finding that the request is consistent with the area and compatible with surrounding land uses, and that prohibiting secondary residences will mitigate potential impacts. The impact of the project will be miniscule. Commissioner Brooks made a motion based upon the findings of fact, conclusions of law, and order, and the enumerated changes that were put on the record, to approve Case No. CR2022-0022, a conditional rezone of Parcels R37517 and R37519 from an "A" (Agricultural) Zone to a Conditional Rezone - Rural Residential Zone. And, to include staff's recommended conditions including a 2.5-acre parcel lot size and prohibiting secondary dwelling units. The motion was seconded by Commissioner Van Beek and carried unanimously. The Board will meet at a later date to review the FCO's and conditions. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 3:51 p.m. An audio recording is on file in the Commissioners' Office.