



CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, May 5, 2022  
6:30 P.M.

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman  
Patrick Williamson, Vice Chairman  
Brian Sheets, Commissioner  
Ron Amarel, Commissioner  
Harold Nevill, Commissioner  
Miguel Villafana, Commissioner  
Robert Larison, Commissioner

Staff Members Present: Steve Fultz, Director  
Dan Lister, Planning Official  
Elizabeth Allen, Planner  
Bonnie Puleo, Recording Secretary

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

**Commissioner Sheets**, read the testimony guidelines and proceeded to the first business item on the agenda.

- **Case No. OR2021-0006 / RZ2021-0011 / SD2021-0010: Springbok Development / Shoshone Falls Subdivision** – Tabled to a date uncertain at the request of the applicant.

**MOTION:** Commissioner Williamson moved to table Case OR2021-0006, RZ2021-0011, SD2021-0010 to a date uncertain. Motion seconded by Commissioner Amarel. Voice vote; motion passed.

- **Case No. SD2020-0036: Ridgeland Estates Subdivision** – Tabled to a date certain 6/15/22 due to delay in receiving Canyon Highway District #4 comments.

**MOTION:** Commissioner Williamson moved to table Case SD2020-0036 to a date certain 6/15/22. Motion seconded by Commissioner Sheets. Voice vote; motion passed.

- **Case No. RZ2022-0005: Freedom Acres LLC** – Freedom Acres LLC is requesting a conditional rezone of Parcel R37627102 from “A” (Agricultural) to “CR-R-R” (Conditional Rezone – Rural Residential). The request includes a development agreement to limit development to six residential lots. The property is located as 24082 Blessinger Road, Star (Lot 3, Block 1 of Rustic Acres Subdivision); also referenced as a portion of the SW¼ of Section 36, T5N, R2W, Canyon County, Idaho.

**Planning Official Dan Lister**, reviewed Staff report for the record.

**Chairman Sturgill** affirmed the witnesses to testify.

**TESTIMONY:**

**Curtis Bodenbender – Applicant – IN FAVOR – 13963 Purple Sage Rd, Caldwell Idaho 83607**

Mr. Bodenbender said they are developing this parcel for family, not for profit. He hopes he can answer some of the questions posed by the Commissioners. The irrigation on the property has two different zones. One portion is a pond from the overflow from Mills Slough. A pressurized pump from this pond irrigates the front half of the fields and once the pond is too low, they can shut off the pump from the pond and pump from their well. Instead of dropping 6 individual wells, they would like to do a community well for the homes. Mr. Bodenbender stated there is an easement with a bridge which goes up to the tower on the property. They would use the existing easement and gates to route their road. The main road would go up along the easement along the side of the tower. They would also put in a hammerhead to allow a turnaround point with two homes off that road and then a private drive going back to another two houses. One home in the far-right corner would come directly off Willis Road. Mr. Bodenbender stated Willis Road is mostly maintained by the owners of the horse arena because they are 90% of the traffic but they all pitch in to re-pave it. He said this is an unwritten agreement. He has talked to all his neighbors and they are all in favor of the project. Prior to purchasing the land, he said it was all sage brush and run down. He understands why the Fire Department wants a plan to maintain it because it was a fire hazard. They are also trying to straighten out their road because it is at an awkward angle. He reiterated they have pressurized surface irrigation; their fields use the pond for irrigation now but can switch to the well for back up irrigation. Most of the land would become yards not fields. He discussed what neighbors were building in the area. Mr. Bodenbender stated they planned on putting the community well up the hill to use gravity to help with the pressure. They also planned on having a water users' agreement. He stated they are fine with the conditions of approval. They do not have a fire plan. The only plan related to crossing the drain is the one that currently exists. He agrees that a road users' agreement and 'forward looking' CC&Rs would be needed.

**Trevor Soggs – IN FAVOR – 0 Blessinger Road Star Idaho 83669**

Mr. Soggs stated that a lot of the area around them is being rezoned. Blessinger Road has been improved and is now paved and has signage. Willis Road at its narrowest is a 52-foot easement and the Highway District requires 60 ft with an option to downsize to 50' if they agree. With regards to the water, there are two separate water sources. There is the Mills Slough that dumps into their pond and subsequently dumps into the drainage from the Farmers Union Canal controlled by Wastewater District #2, and then goes into Middleton Canal. He stated the Bodenbender property does have a split water right. The original water right was 634400. It is a 3.5-acre water right, but he was not sure if it was active or not. Mr. Soggs said this proposal is in line with the development in the area and he would rather see it developed under the auspices of the County vs. the City of Star. The City of Star is already at Foothills and Can-Ada Roads and incorporating areas to the north at much higher densities. He feels if it isn't zoned by the County, it is going to be even denser and city-like. He clarified that he can't just pull water from the Farmer's Union Canal. He said you can't request more water if you don't have additional water rights. He said the Fire Department required him to make his pond deeper and treat it with sealer so it would hold water year-round. The Fire Department wanted him to have 30,000 gallons available all year to fight fires. He discussed the amount of water in the slough and his water rights. He clarified that the 3.5 acre of water right is not 3.5 acre-feet of water, it means you can irrigate an area of 3.5 acres.

**MOTION:** Commissioner Sheets moved to close public testimony on Case RZ2022-0005, seconded by Commissioner Williamson. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Williamson reiterated that the 3.5 acres of water is not 3.5-acre feet; it means you can irrigate up to 3.5 acres of land. If the applicant wanted more water, he would have to apply for an additional surface water right or apply for a supplemental irrigation well. He likes the idea of a community well. He suggested adding a condition that if they go with a community well, a water users' agreement would be made and recorded. He also felt a road users' agreement should be made at the platting stage. Commissioner Nevill said he liked the idea of family and keeping it larger lots. He is not enthused that other things haven't been as well thought out like the water and road users' agreements and a fire-fighting plan. It would be better to have a pure, well thought out plan. He is concerned about the Willis Road access but will vote for it. Planning Official Dan Lister clarified that a lot of the open issues would be worked out at the platting stage and discussed the Highway District's comments. There was discussion about updating to the FCO's to include information on irrigation and road maintenance agreements. Commissioner Sheets likes the bigger lots and feels they are the appropriate for the zone. He feels it would stave off some of the pressures in the area. He liked the idea of family building houses together. He also said he liked the development agreement; it would make sure they do what they say they are going to do.

**MOTION:** Commissioner Williamson moved to recommend approval of Case RZ2022-0005, including the Findings of Facts, Conclusions of Law and revised conditions of approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets. Roll call vote with 7 in favor and 0 opposed, motion passed.

- **Case No. RZ2021-0055: Western Consulting/Cory & Cristine Codr** – The applicant, Western Consulting representing Cory and Cristine Codr, is requesting a Conditional Rezone of Parcel R37431017A from an "A" (Agricultural) zone to an "R-R" (Rural Residential) zone. The request includes a development agreement limiting future development to no more than six (6) lots. The property is located approximately 802-feet west of the Eric Lane and Gilbert Road intersection and approximately 540-feet north of Gloria Road, Middleton, ID; also referenced as a portion of the NW ¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.

**Planner Elizabeth Allen**, reviewed Staff report for the record, including late exhibits.

**Chairman Sturgill**, entered the late exhibits into the record and affirmed the witnesses to testify.

**TESTIMONY:**

**Cory Codr - Applicant (Representative) IN FAVOR – 7952 N. 164<sup>th</sup> St. Bennington Nebraska 68007**

Mr. Codr read his statement to the Commission. He stated he was working on getting reclassification with Highway District 4 for a right of way to build a road there. The property has not been farmed or had any agricultural use other than animal pens; it has had a horse training arena in the past. Lansing Heights subdivision is directly south of the property. He has put 6 lots on his application but he recently considered decreasing that number. They plan on improving the road access through the right of way per Canyon Highway District 4 standards to decrease dust and improve safety and traffic flow in the area. Mr. Codr said this project is consistent with the future use map of Canyon County. He is considering changing the number of homes from 6 down to 3 or 4. He is working with Canyon Highway District #4 and will be meeting with them next week about road access. With regards to firefighting; he is putting a cul-de-sac in with a turnaround. If they build 6 homes, there will be another large cul-de-sac in the middle of the homes. He has no specific plans for water for firefighting purposes. There is no

irrigation water on the parcel. He had no objections to the conditions of approval. He discussed the right of way issue with the existing easement and the structures currently next to the road. He said he would be open to wildfire landscape plans.

**Steve Peterson – IN NEUTRAL – 9444 Gloria Road Middleton Idaho 83644**

Mr. Peterson wanted to bring up some considerations on the rezone approval. On March 4, 2022, Canyon Highway District #4 sent an email to the planner which allowed for three road access options. Option 1 had steep grades and limited right of way which wouldn't allow road construction under existing standards. Option 2 is from Gilbert Road to Merlynn Lane; generally flat grade and will allow for road construction under existing standards. He passed out photographs of the area and discussed the topography of the Breezy Lane and Gilbert alignment. He stated the elevation change from the end of Gilbert Lane alignment and the Codr's property exceeds the 15% grade which would require hillside development. Achieving the 56' right of way that the Highway District requires would add 16 more feet further north and would require three power poles to be moved, two of which have underground drops to the residences to the south of the road.

**MOTION:** Commissioner Nevill motioned to grant 2 more minutes of testimony to Steve Peterson, seconded by Commissioner Villafana. Voice vote; motion carried.

Mr. Peterson continued: Access from Merlynn Lane to the east to the property is generally flat and would fit within the right of way with no cut and fill slopes off to the side. His house is on the L shaped property: he understands development is going to happen but he feels bad for the owner who has his house in the right of way. His biggest concern was the hazardous intersection that this will create at Gilbert and Breezy Lane.

**Planner Elizabeth Allen**, entered late exhibits 5B and read the letter (5C) from the property owners at 26495 Eric Lane, Middleton into the record.

**Chairman Sturgill**, entered the late exhibits into the record.

**Mark Rich – IN OPPOSITION – 26630 Merlynn Ln Middleton Idaho 83644**

Mr. Rich knows there is going to be a subdivision there at some point, although many of the neighbors are against it. He wanted to request the subdivision decision to be postponed until they can figure out how the Codrs are going to get access to the parcel. They have been working since January with the Highway District to try to find a solution that will serve everybody well. Regarding the access from the East side through Breezy Lane; he said there is a 6 – 8% grade and if they had cooperation from the owner of the parcel on the east side of the subject property, they can access it that way. He said that landowner has recently gone through a subdivision of his own land and once he can get the parcel sold, he will work with them. He believes they will be able to sort out access to the parcel but Mr. Rich is concerned that decisions will be made too hastily. He will lose his unrestricted view of the mountains and considering where they are proposing to expand the road, he could lose six figures worth of value on his home. If Gilbert Road is improved to 56 feet of right of way, it would take 16 feet of his property and might run into his garage.

**Lisa Trexler – IN OPPOSITION – 9652 Gloria Road Middleton Idaho 83644**

Ms. Trexler is in opposition solely because of the access issues. She pointed out her home on the map and stated it is 17 feet off the proposed right of way if they bring the road down Merlynn Lane which is what they are hoping to prevent. No one is really in opposition to the rezone or subdivision but she is concerned about the access method and the rush to approve the rezone to push the subdivision along. Canyon Highway District #4 wants 80 feet for the road; but they only have 40' if they are forced to come

down Merlynn. She has talked to the neighbor from the east, Mr. Lippert, and he is happy and willing to work with them. If the access point came off Eric Lane, it wouldn't have to be an exception and a single lane road. Ms. Trexler said what they are asking for is to not rush into a rezone and be pushed into making a bad decision.

**Cory Codr - Applicant (Representative) REBUTTAL – 7952 N. 164<sup>th</sup> St. Bennington Nebraska 68116**

Mr. Codr said with regards to the access and the right of way: those access roads were developed over 50 years ago. When they began (the project), they had discussions with Canyon Highway District #4 about access to their property. The Highway District said the road from Gilbert to the west did not meet their standards but from Merlynn Lane to the east did. He said it is tight and the Highway District agreed, but also said they do have existing roads that are a similar size (40 feet). He met with the Lipperts and developing access from the east side will be a long process. He would prefer to move forward with this and meet the conditions set from Canyon Highway District 4. They have everything completed and will meet all the conditions before platting or not move forward at all. He would like to leave access issues to Highway District 4. In response to the Commissioners questions, Mr. Codr explained his constrictions on time and finances to get this completed.

**MOTION:** Commissioner Williamson moved to close public testimony on Case RZ2021-0055, seconded by Commissioner Sheets. Voice vote, motion carried.

**DELIBERATION:**

Commissioner Amarel stated that access to the property is the main issue. Roads and area access are both difficult. He knows the applicant wants to move on with the project but he thinks in the end we have to consider the neighbors. Commissioner Nevill wanted to remind the Commissioners that they accepted a letter as an exhibit that brought up some other issues, other than access. The letter raised issues such as lot sizes, incompatibility and wells. As much as he would like to help the Codrs to move forward, Commissioner Nevill thought there are too many questions about access and other concerns. He won't be able to support this project. Commissioner Larison stated he feels for everyone, but the applicant should do their due diligence when they purchase the land. In his mind, he is not for moving forward until they figure out access. He feels the case should be tabled, the applicant should get access and then come back before the Commission. Commissioner Sheets said to get any access means someone has to give up something. This is real estate; it's land speculation. With that, comes risk. Based on what he has seen and what he understands the process would be to move forward, the access is too uncertain to know who would be giving up their property for whatever purpose, this includes access from the east, from the west and even from the north. Commissioner Sheets said until he knows who the winners and losers are going to be, he can't support it.

**MOTION:** Commissioner Williamson moved to recommend tabling of Case RZ2021-0055 until the access issue has been resolved. Commissioner Sheets stated he thinks it has to be tabled to a date uncertain and be re-noticed. Motion seconded by Commissioner Larison. Roll call vote with 2 in favor and 5 opposed, motion failed.

**MOTION:** Commissioner Nevill moved to recommend denial of Case RZ2021-0055, including the Findings of Facts, Conclusions of Law and change conditions of approval and have staff change finding #6 to state that it does not provide adequate access. He also agreed that finding #7 should be changed to state that legal access does not exist and forward that recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Amarel. Roll call vote with 7 in favor and 0 opposed, motion passed.

**APPROVAL OF MINUTES:**

**MOTION:** Commissioner Sheets moved to approve the minutes from 4/7/2022, seconded by Commissioner Nevill. Voice vote; motion carried.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Director Steve Fultz informed the Commission that Development Services hired an engineer, Devin Krasowski. His primary role will be working on subdivisions, preliminary and final plats. They will also be working on a re-write of the subdivision ordinance following the completion of the Comprehensive Plan. He reminded them they have a scheduled workshop on the 23<sup>rd</sup> of May for the Comprehensive Plan: Planner Elizabeth Allen stated they have received additional 10 or more public comments since the last summary report and those will be included in the next report. There will be more public hearings following; he would like the document adopted before the end of summer. They are continuing to accept Commission and public comments. The Development Services Department is preparing documents in-house for Canyon Highway District 4 impact fees; documents are ready and will be presented to the Board of County Commissioners soon. He stated they are being a little more aggressive with Code Enforcement abatements, addressing some properties that have continued to be in bad shape (burned out houses/shops). They have their first abatement in a long time happening in the next 15 days. There was a free day at the landfill and had over 800 tires dropped off. He noted that before they accept any land-use cases and bring them before the Commission, they want to be sure they are not in violation. Economic Development continues to work with the City of Caldwell on their new urban renewal area, 99% of which is in the County. Director Fultz described meeting with a number of large food processing manufacturers who are looking at sites in the County as well as some of the other projects the department is working on.

**ADJOURNMENT:**

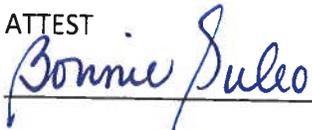
**MOTION:** Commissioner Williamson moved to adjourn, seconded by Commissioner Sheets. Voice vote; motion carried. Hearing adjourned at 9:10 pm.

Approved this 2nd day of June, 2022



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary