



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, April 6, 2023
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman
 Patrick Williamson, Commissioner
 Harold Nevill, Commissioner
 Miguel Villafana, Commissioner

Staff Members Present: Dan Lister, Planning Official
 Jenna Petroll, Planner
 Madelyn Vander Veen, Planner
 Michelle Barron, Planner
 Deb Root, Planner
 Bonnie Puleo, Recording Secretary

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

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

- **Case No. CU2022-0045/Treasure Valley Transit:** The applicant, Treasure Valley Transit, is requesting a conditional use permit to allow a quasi-public use within an "R-R" (Rural Residential) Zoning District. The use includes office buildings, outbuildings, and employee and commercial vehicle parking for a private nonprofit public transportation company. The subject property is located at 3101 S Powerline Rd, Nampa on Parcels R29190; also referenced as a portion of the SE ¼ of Section 03, Township 2N, Range 2W; BM; Canyon County, Idaho.

Planner Jenna Petroll reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witness to testify.

Testimony:

Terri Lindenberg – Applicant (Representative) – IN FAVOR – 1136 W. Finch Drive Nampa ID 83651

Ms. Lindenberg is the director of Treasure Valley Transit. She thanked staff for their work on this application. She wanted to give the history of Treasure Valley Transit; who they are, who they serve and their relationship with Canyon County. Treasure Valley Transit began in 1992 as a consortium of agencies. Ms. Lindenberg said they wanted to bring together resources for a foundation to address the unmet need for transportation. She listed the various agencies who worked with Treasure Valley Transit in the early days. Their goal was to coordinate vehicles and build the foundation for what would become Treasure Valley Transit in 1996 with the focus of providing transportation for healthcare, medical appointments, people with disabilities and seniors. In 1996, they became a standalone, non-profit, public transportation system supported by local cities, Canyon County as well as the organizations they serve. Ms. Lindenberg

said they are non-emergency medical transportation and are an 'on-demand' service. Their largest customer base is now are people with cognitive disabilities and they operate all over Canyon County as well as part of Owyhee County. In 2019, they provided approximately 46,000 rides with 10 vehicles. She said then came COVID. At the time they were recognized as an essential service; they never shut down during COVID although the number of rides declined. They are still operating a little lower than 2019 due to the widespread use of TeleHealth, labor shortages and other things. Ms. Lindenberg said they are sometimes confused with Valley Regional Transit Authority. When they began in 1992, Canyon County was considered rural and that designation did not change until the 2000 census. When it did change, Valley Regional Transit (Valley Ride) was voted in and they took over the rural routes. They also provide services in three other rural areas: Mountain Home, Payette County and McCall. Ms. Lindenberg said their offices have always been located in Nampa. Right now, they are in a very small location on .7 acres with a 1600 square foot building. For the last 10 years, they have been looking for another facility and as a non-profit she said that's difficult. Everything they looked at for the past 10 years, they were not successful at acquiring. She said this property was a government surplus sale and following the federal transportation guidelines, they had to get a categorical exclusion to make sure the property met all the Federal regulations. They entered into the competitive bid process and were successful. She said this is a 10,000 square foot building. They currently hold trainings in a hotel because of space issues. With this building, they will be able to hold trainings at their facility and have a driver's lounge, adequate office space and a board meeting room. They will utilize every square foot of the building. They have 33 employees including 10 drivers. Ms. Lindenberg talked about the neighborhood meeting and the questions that were brought up by the neighbors. She discussed the times the ten buses would leave the facility and said they do not all leave at the same time. She also wanted to address the 25 buses. She listed the amount of buses they currently have (5 buses, 5 vans 7 backup buses). She said the reason they have 7 back up buses is because when they ordered 8 new buses they were told that because of supply chain problems, it would be 2 – 4 years until the buses would be delivered. Those 7 back up buses are held in case a bus breaks down and needs to go in for repairs. This facility is perfect for them and meets their needs. They would be a very good neighbor and they would like to maintain the property in the condition it currently is in. She would like to be able to provide the beautiful surroundings for her staff.

Commissioner Williamson asked about doing vehicle repairs on site. Ms. Lindenberg said they contract with a repair shop in Meridian and that shop does all the maintenance. They would not do vehicle maintenance or repair on site. The only work they would do at the facility is replacing light bulbs or window wiper blades. No hazardous materials would be stored or heavy maintenance would be completed on site.

Commissioner Nevill asked if she had looked at all 16 conditions and asked if she agreed with them all. She responded that she has and they do agree with all conditions. They were surprised about the walking path but are going to work on that with the City of Nampa on construction and funding.

Commissioner Villafana asked about the limit of 25 vehicles. Would they be close to that 25 vehicle limit? Ms. Lindenberg said the only time they would get close to the 25 vehicle limit would be when the new replacement vehicles are delivered. In order to grow enough to require the 25 vehicle threshold, they would have to get the rural grant funding and have a local match. She did not see that happening.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0045 seconded by Commissioner Villafana. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill wanted to add a couple of items to the findings. For Finding #4 if it was injurious to other property or Wilson Pond, he would like to add that the Conditions of Approval will mitigate those concerns because there would be no vehicle maintenance on site which means there will be no oils used and so would not be injurious to the area. He said it is an additional finding that helps support the staff's

finding. For Findings of Fact #5 about adequate drainage; Commissioner Nevill said the drainage will be retained on site and again, as there will be no maintenance on site, so the drainage will be fine and it won't impact Wilson Ponds. He also said for Condition of Approval #7 on the interference of traffic; they found that the vehicles leave at staggered times and that additionally supports the finding.

MOTION: Commissioner Nevill moved to approve Case CU2022-0045 including the modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Williamson. Roll call vote: 4 in favor, 0 opposed, motion passed.

- **Case No. CR2022-0032/Claudia Frent & Virgil Iovu:** Claudia Frent, representing Virgil Iovu, is requesting a conditional rezone of Parcel R29303251 from a "R-R" (Rural Residential) zone to a "CR-R-1" (Conditional Rezone - Single-Family Residential) zone. The request includes a development agreement that limits the number of divisions of the parcel and maintains the existing building envelope. The 2.92-acre property is located at 2505 S Middleton Road, Nampa; also referenced as a portion of the NE¼ of Section 06, T2N, R2W, BM, Canyon County, Idaho.

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

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Claudia Frent – Applicant (Representative) – IN FAVOR – 12359 Rivendell Court Nampa ID 83686

Ms. Frent wanted to be clear that she is not legally representing the Iovus, she is speaking for them due to a language barrier. She is also happy to translate for them if the Commission wanted to ask them questions directly. She said the CC&R's do not prevent splitting the parcel; it states they must go through the County and that is why they are going through this process. The Iovus want to split the property to downsize and build a second home. They are allowed to have the second home on the property now but she said building a second home doesn't make sense for them as they are aging and have no children. They would like to sell off the home they have now and downsize. They meet the criteria; they are not infringing on anyone, they are not creating excess traffic, noise and dust. They will stay within the building envelope and they have no infractions with the Homeowner's Association (HOA) or issues with their neighbors. Ms. Frent said the Iovus have property rights and their request is simple: they want to build another home. In the neighborhood meeting, the two concerns they heard were the neighbors didn't want the Iovus to split because others will want to do it and they were told they should sell, move and build another house. She said they shouldn't have to move in this economy and she said they have the right to split their property. No agencies are in opposition and they will follow all the rules and adhere to the building envelope. She said some neighbors are in favor of the Iovus splitting their property but they don't have the courage to come up and say it because they don't want to go against the HOA. Ms. Frent said the HOA does not have the final say and can't violate the Iovus private property rights: they have to have a valid reason to oppose a split. Up until this point, they have not been given a valid reason. Since the last time they were in front of the Commission (in 2018), the HOA has had the opportunity to amend their CC&Rs to prevent a split but they have not done that. They follow the 2030 Comprehensive plan which designated this area as residential. The Nampa city limits are close and while they are not in the city impact area now, she felt they would be soon.

Chairman Sturgill stated that the Commission doesn't enforce the CC&Rs and can't take the CC&R terms into their consideration. He said they have no bearing on their role in the process.

Commissioner Nevill said it was suggested by neighbors that they sell this home and buy a smaller home, which would maintain the character of the area whereas the Iovus want to split the lot, build a smaller

home and sell the originally home and lot which would change the area. He said in the end, it seems like the same thing to him and doesn't change the character of the area. He asked her to help him understand why she sees that as the same. Ms. Frent said they are not changing the character of the area anyway as there are smaller lots than the lovus's. She said one house near them in the Coyote Subdivision is on .89 of an acre. The house on .89 acre was shown on the map. Commissioner Nevill asked if they were okay with the four conditions of approval. Ms. Frent answered yes. When asked if she knew the future plans of the gravel pit, she said no. Ms. Frent said the lovus shouldn't have to leave the area they live in and it doesn't make sense for them financially to leave. She also said the lovus had always planned on splitting the property and building a second home when they aged, which is why they built the current house where it is.

Chairman Sturgill asked how do the four proposed development agreement conditions (today) impact the Board of County Commissioner's original decision in 2018? Ms. Frent said she didn't agree with the 2018 finding that it would change the character of the area and the lovus weren't able to adequately express what they wanted to do, due to the language barrier. Ms. Frent said Commissioner Dale made a comment after the 2018 decision when he came out and saw the property that he thought it would have been an 'okay split'.

Susan Ray – IN OPPOSITION – 11980 Meredith Court Nampa ID 83686

Ms. Ray is the secretary/treasurer of the Coyote Cove HOA and Coyote Cove water users. She said when the subdivision was developed, there were water rights involved. There is one (shared) irrigation well as well as each lot has an individual domestic well. The concerns that have been brought to her by almost two thirds of the property owners in the subdivision were if there is another well drilled on that property that hasn't been engineered, what will that do to everyone else's water use. She said she is not a water expert, she is just sharing the concerns. She wanted to go on the record as being opposed to the split.

Commissioner Nevill asked about a water users agreement with the HOA. Ms. Ray said the water users' group also encompasses property owners that were not part of the HOA. It was shown on the map where the well was located and the properties it services. Commissioner Nevill asked if the water users' agreement language states that individual lot owners can't split their property unless they have approval from the rest of the association or was there a process for that. She said the water agreement only lists the lots in the original development. He asked if anyone has applied to tap into the irrigation system since the agreement was initially started. Ms. Ray said no and she pointed out one of the property owners who was on the water agreement who then annexed into the City. She said he now uses City water. She said it is on for only part of the year. Commissioner Nevill asked if she was testifying that any new properties would have to tap into the irrigation system because that is the only way the split would have irrigation water. She said she didn't know because they have never had it happen; they would have to find out how to go about it legally. She said the Rambos live behind her and the gravel pit across the street is an actively producing gravel pit. She has not heard of any plans for the gravel pit to leave.

Commissioner Williamson said the existing water right on the current property, wouldn't that be grandfathered in with the lot split. Staff said if they have water rights, they don't just magically go away. During the platting process, they will have to demonstrate how they are getting water and how they are delivering it to that site. Planning Official Dan Lister said this case is to determine whether the zoning is appropriate for the area.

Commissioner Villafana said if the water is with an Irrigation District, the water right follows the property. They still would be able to irrigate lawfully. He asked if the parcel size was the issue or if it was the number of residences using water. Ms. Ray said they didn't know about the water; they would have to find out. They would do what they legally need to do. She said for the lot split itself and the way it affects the community, there are several other properties that have the potential to be split. That is what they are opposed to. Everyone bought into the Coyote Cove development and agreed with what the intent was and they feel this intent is not in alignment with what the rest of the subdivision wants.

Jared Mansfield – IN OPPOSITION – 11951 Meredith Court Nampa ID 83686

Mr. Mansfield is the President of Coyote Cove HOA. He said 95% of the community is against this split. They believe it will ruin the face of the community. He asks the Commission to decline the request and stick to the same reasons for the 2018 decision because nothing has changed.

Chairman Sturgill asked what would ruin the face of area? Mr. Mansfield said this is the start of the neighborhood. It would add a different feel. He feels it is the density of the additional house.

Commissioner Williamson asked if it was the lot size that would also be the issue? Mr. Mansfield said yes, they would kind of go together. Commissioner Williamson said they could still not split the lot but still build a secondary dwelling. Mr. Mansfield said the second home would have to be in the building envelope and still would have to be approved by the architectural committee which he is a member of. Commissioner Williamson reiterated that from the County's viewpoint, they could still do that. Mr. Mansfield said that was true. He said what people have done in the past with the building envelope is put up a barn or an in-law suite and is more in line with what the designers of the community had in mind.

Marc Taylor – IN OPPOSITION – 11820 Meredith Court Nampa ID 83686

Mr. Taylor showed his house on the map. He is a direct neighbor (of the lovus). In 2004, one property owner would not allow the split of a parcel to go to the developer. Subsequently, Mr. Taylor bought the property which they split into like-sized properties to fit the continuity of the subdivision. They also adopted the covenants so this type of thing wouldn't happen. His realtor was adamant that they sign (documents) and the community agreed that they wouldn't split down the road. The lovus built their home off to the side with the full intention of doing this (a split) and no one noticed until the first application in 2018. The community at large has been in opposition to this; they like them as neighbors and told them they could build a shop or mother-in-law quarters but do not set a new precedence in their community. He wonders how the Commission was going to stop this as he has zero building envelope and could put a subdivision there if they start this process. It's going to get really messy and he does not want this to happen. Mr. Taylor said they all get along but this one issue keeps haunting them. He would like the Commission to help this go away. If there is a loophole that needs to be changed, they have their attorney at the meeting and they will get that fixed. Everyone bought with the intention of keeping their properties this way so their values stay the same. He was the one who told the lovus if they didn't like their property's size they should probably sell it and find something smaller. They (the community) have certain restrictions on square footage and they wouldn't be able to downsize that much. They will still have a large lot and he knows how much work it is to take care of the acreages. He asked the Commission not to break precedence in their subdivision and which would cause a lawsuit in the future.

Commissioner Nevill asked if he was saying that the zoning change from Ag to Conditional Rezone to rural residential is the precedence he is talking about. Mr. Taylor said it wasn't the current residents he was concerned about but instead, future buyers might come in and request to split their lots and wonder why they can't. Commissioner Nevill asked Mr. Taylor if he thought rural residential zoning being allowed in an Ag zone would be a foot in the door. Mr. Taylor said yes and that they had fought annexation into the City of Nampa because they wanted to stay in the County to remain rural and agricultural. They wish, as a community, to stay intact.

Commissioner Williamson confirmed with staff that a Conditional Rezone states it is not to be used as a precedence.

Daniel Bower – IN OPPOSITION – 10421 Pheasant Lane Nampa ID 83686

Mr. Bower is the attorney for the HOA. He had one late exhibit, a letter from Mr. Rambo, the owner of the gravel pit, that addressed the question about the gravel pit's future. He said the gravel pit is going to be an active gravel pit and the owner of the gravel pit opposes the conditional rezone. Mr. Bower said if they look at what happened in 2018, you have to look at the findings and ask, "What has changed?" He

read from part B of the 2018 Findings, specifically if the new zoning was more appropriate than the current zoning designation. He said the Commission is going to see testimony from the people who live there who say, 'it is changing'. He said it is about open space. Mr. Bower read another 2018 Finding: 'Is it compatible with surrounding land uses?' which determined it was not compatible because it would create the smaller lots. He said, as a lawyer, he appreciates precedence but we know how the real world works: this will create precedence. He said he appreciates land rights.

MOTION: Commissioner Nevill moved to give Mr. Bower one additional minute of testimony; seconded by Commissioner Villafana.

Mr. Bower continued: He said CC&Rs are important because they go to the character (of the development). They have very restrictive CC&Rs and there is a significant architectural committee requirement and they will be in litigation. He spoke to the architectural committee that morning and they said they will not approve any new construction. Mr. Bower said this is going to create a mess. The better course of action, he said, is to add a second home. There are different ways to protect the property rights. Commissioner Nevill asked if he had looked at the water user agreement. Mr. Bower said it will be a mess; dealing with the irrigation district, there are shares and who owns the shares. He thought they proposed to dig an irrigation well. He hesitates to bring the water issue up because the bigger issue they are concerned about is the character of the area.

Commissioner Williamson asked if was an irrigation well or surface irrigation as an irrigation well doesn't fall under an Irrigation District. Mr. Bower said it was an irrigation well. Commissioner Williamson said if it was a well, there was no Irrigation District involvement. Mr. Bower said he was not adequately prepared to address the legalities of that (water) and water was not the primary focus.

Chairman Sturgill asked staff for a late exhibit number for the letter from Rambo Sand and Gravel. Chairman Sturgill handed out copies of the letter to all Commissioners and asked if there was any objection to the late exhibit. There were no objections and Chairman Sturgill entered the late exhibit into the record.

Ken Jorgensen – IN OPPOSITION – 11228 Coyote Cove Nampa ID 83686

Mr. Jorgensen said he was not in the HOA but he is part of the water district. He came from the San Francisco Bay Area: he said he didn't come to change Idaho, he came to preserve it. He was fortunate to find their house in that neighborhood; there is lots of room around the houses and that is what he wants to keep. He said to say putting another house on that street isn't going to change the character is wrong. He grew up on the San Francisco peninsula so he knows what crowding is. He said the Commissioners need to speak to their counterparts in Fresno. Nampa Planning guy said we have an aquifer with lots of water but Mr. Jorgensen said they don't. He said this is a desert. There isn't lots of water; when they build houses, they channel the water onto the street and it runs away. It doesn't go into the ground. Big fields are being replaced left and right and we are losing that water. If nobody is thinking about what are we going to do in 20 years when the groundwater is gone, it will be like Fresno.

Claudia Frent – Applicant (Representative) – REBUTTAL – 12359 Rivendell Court Nampa ID 83686

Ms. Frent said she lives in a 2-acre subdivision and is the HOA president of that 18 home subdivision. They too have pressurized irrigation. She said splitting this lot will not affect the water; they can irrigate the one acre off its well and the 1.9 acres can be watered off the (existing) irrigation. She believes the Planning Official answered the question well: if approved, they can cross that bridge when they get there. There are checks and balances put in by the County, prohibiting any homeowner from taking water rights from another. She said this will not change the character of the area. If you look at the report that was prepared, the area is a mixed rural/agricultural area. Coyote Cove has lot sizes from 1-acre to 4-acres; the lot sizes

vary. Ms. Frent said according to the attorney and the architectural committee, they aren't even allowed to put up a second home because it won't be approved. She said HOAs do not dictate and override property rights. The CC&Rs state a split can be done if it is approved by the County or if they annex into the City. She provided an example of a neighbor who annexed into the City of Nampa and then completed a lot line adjustment or split. The downsizing refers to their home's size. Ms. Frent said the Iovu's home is 2700 square feet and they plan on downsizing to a 2000 square foot home which is the minimum (size for the subdivision). She said the Iovu's have property rights and are refugees from a communist county: they deserve to have their property rights upheld. When they were denied previously, the Iovus told Ms. Frent that this was more corrupt than Communist Romania.

Chairman Sturgill clarified with Ms. Frent that the 2000 square foot minimum was part of the development CC&Rs. He also asked about the former resident who annexed into the city and why the Iovus couldn't do the same. Ms. Frent said that your property has to be touching the City limits to be able to annex into the City of Nampa.

MOTION: Commissioner Nevill moved to close public testimony on Case CR2022-0032 seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Chairman Sturgill reminded everyone that their decision will be a recommendation to the Board of County Commissioners who will make the final decision at a future public hearing.

Commissioner Williamson said he is mixed on how he leans on this issue. He said the issue seems to fall squarely on whether there are the same negative impacts as in 2018 or is it enough of a difference to have the building envelope along with a conditional rezone. The water issue would probably be worked out at the platting stage. He still hasn't reached a decision on how he leans on the case.

Commissioner Nevill said he is also struggling to figure out what has changed enough that they wouldn't lean heavily on the 2018 findings of non-compatibility. There has been testimony on both sides that it will and won't change the character of the area. He said they have to understand that in the code, a conditional rezone says it isn't a foot in the door and can't be used by future developers. But if you have an Ag zone and the zone changes, to him that is a change in the character of the area that winds up being a fact that supports the finding that it will negatively affect the character of the area. As far as the finding about adequate facilities, they may not have a clear understanding of the impact, but the testimony of HOA board members provided compelling testimony that there is a water users' agreement set for a certain number of users and when adding another house, they are going to have to figure out how to irrigate. He clarified that they can only irrigate ½ an acre off a domestic well and he felt they were reaching with this lot size to irrigate off a domestic well. Commissioner Nevill said they are going to have to come up with a solution to the irrigation problem or else it will become a weed pile and that will affect all the neighbors. He is currently not in favor because there are just too many questions and too many concerns. Commissioner Villafana said he is undecided but he is leaning towards approval. He listed his reasons why: since 2018, there are 14 subdivisions that have gone in close to them and within a mile radius the average lot size is .36. He knows those are within city limits but the growth is rapidly surrounding them. The character of the area has significantly changed in the last 4 years; maybe not in their little bubble, but directly outside their little bubble everything has changed. He would rather see an additional parcel/house created from a 3 acre parcel than take out an area of productive farm ground. He said they are already in an area seeing immense growth so you could argue that this is an area that is already suited to a one acre parcel with a house on it. Commissioner Villafana said that is why he is leaning in favor although both sides have valid arguments.

Commissioner Williamson asked Commissioner Nevill about the testimony that one homeowner already annexed into the city. He believes that removes them off the water users' agreement. If Commissioner Nevill is concerned about capacity, if one or two users are no longer eligible for the well because of annexation, did that alleviate his concerns about the capacity of the irrigation well?

Commissioner Nevill said that no one testified that was the case. If someone had said two lots went off the well and they felt two lots coming on wouldn't make a difference, that would be one thing. But they didn't get any testimony about that and he doesn't have any facts.

Commissioner Williamson asked Commissioner Nevill if this were to be approved, would a condition that they need to clear up the water issue and concerns at the platting stage be something he would be agreeable to? Commissioner Nevill said he doesn't disagree with asking for that (condition) but he doesn't know whether that answers the question. What if they do a full investigation and determine that they can't put any more taps in? Commissioner Williamson said he is trying to see if there is any avenue to try to make things easier for everyone.

MOTION: Commissioner Nevill moved to recommend denial case CR2022-0032 including modified Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Chairman Sturgill. Roll call vote: 3 in favor 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 3/16/2023, seconded by Commissioner Villafana. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister said they are having weekly workshops with the Board of County Commissioners on topics they want to discuss as well as trainings. They will share the calendar with the Planning and Zoning Commissioners. Some workshops will be about the current Comprehensive Plan and in addition, there will be workshops with Water agencies, Fire Districts and Transportation. He mentioned the new Planning processes and new design of staff reports. He stated they wanted to come up with a form that has the specific case findings the Commissioners can use to change, add evidence or findings when listening to testimony during the hearing. There was discussion about adding two new Planning and Zoning Commissioners and the process involved.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Nevill. Voice vote motion carried. Hearing adjourned at 8:42 pm.

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

Approved this 4th day of May, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary