



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, May 18, 2023
6:30 P.M.

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

Commissioners Present : Brian Sheets, Acting Chairman
 Patrick Williamson, Commissioner
 Harold Nevill, Commissioner
 Miguel Villafana, Commissioner

Staff Members Present: Dan Lister, Planning Official
 Michelle Barron, Planner
 Bonnie Puleo, Hearing Specialist

Acting Chairman Brian Sheets 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. CR2021-0006 & SD2021-0032/Leavitt Associates – Dembi Estates Subdivision:** Leavitt & Associates Engineers, Inc. is requesting a Conditional Rezone with a Development Agreement of one (1) parcel, no. R29570011, from an “A” (Agricultural) zone to an “R-1” (Single Family Residential) zone. The request includes a Preliminary Plat (including Irrigation, Drainage, & Grading) for Dembi Estates Subdivision. The **amended** proposed plat contains 4 buildable residential lots and 1 agricultural lot. The subject property is approximately 23.3-acres, is located at 8027 Lake Shore Drive, Nampa, ID in a portion of the SE ¼ of Section 15, T2N, R2W, BM, Canyon County, Idaho. On May 19, 2022 the Planning and Zoning Commission recommended denial of the original requests proposing a 16 residential lot subdivision.

Planner Michelle Barron reviewed the Staff report for the record including late exhibits.

Acting Chairman Brian Sheets entered the late exhibits into the record and affirmed the witnesses to testify.

Testimony:

David Ferdinand – Applicant’s Representative – IN FAVOR – 2419 W Herron Loop Nampa ID 83686

Mr. Ferdinand said he would attempt to read some letters into the record. He said when they received the staff report they noticed that the zone was R-1 instead of R-R. This is the third County staff member they have worked with on this project. After the hearing a year ago, the applicant met with Development Services and requested staff tell them what they had to do to use a portion of the pasture and corrals to build homes for their kids so they could live on the farm with them. Mr. Ferdinand said to gain three additional residences, they were told to apply for Conditional Rezone to Rural Residential. The applicant

would like to convert 8.9 acres of the 23.37 acres for three new future residences. The fourth lot is the existing home. They held a new neighborhood meeting on August 29, 2022. He said the Highway District is requiring a dedication of 40 feet of land (1.53 acres) for public right-of-way from South Powerline Road and Lakeshore Drive, so the application is for 10.43 acres to build homes in the future. He said this will allow them to stay on the farm and it keeps the remaining 12.56 acre lot in agricultural crops. Mr. Ferdinand showed where the new road would be located on a map and where the agricultural lot would be. They held a pre-development meeting with Southwest District Health about the three new lots and said they would have an extended treatment system to reduce any nitrate levels. Test holes were dug on April 5th and no groundwater was encountered to 10' 6". Pressurized irrigation would be supplied by an existing irrigation pump and well. The existing concrete ditch would be tiled to continue to carry surface water to downstream users. Mr. Ferdinand said the Dembis have been on this property for over 20 years. They also met with school district representatives and there is no longer any issue with overcrowding in the Nampa School District. He said many of the policies and goals have to do with the full (16 home) subdivision; in fact, if they could have changed the name, they would have called it the Dembi Family Homesites, formerly known as the Dembi Estates Subdivisions. He said the right-of-way dedication has been approved by the Nampa Highway District and in order to maintain the agricultural feel of the area, the applicant will waive the right to build secondary residences. The subdivision access is restricted to a single access on Lakeshore Drive and has been approved by Nampa Highway District 1. Nitrate reducing systems will be designed and constructed as required by Southwest District Health.

Commissioner Nevill asked if it was the Highway District's land dedication requirement for an easement that created lots 2 and 7. He was wondering what those lots were. Mr. Ferdinand explained lot 1 is the existing home; lot 2 is the 40-foot right-of-way; it is a large easement but he thinks the Highway District wanted to make sure there was enough ground from the corner for the road. He said lot 3 is a larger lot. Mr. Ferdinand said lots 4 and 5 are other home sites and lot 7 is another road easement. Commissioner Nevill asked if anything could be built on the right-of-way/easements. Mr. Ferdinand said it was his understanding that nothing could be built there. Commissioner Nevill asked why access was preferred off Lakeshore Drive and not Powerline Road. Mr. Ferdinand said Lakeshore is considered a local road which is why the Highway District chose it. If anything changes between now and permitting, it would still be under the ruling of the Highway District. The easements had to be put in separate lots because they will go to the Highway District; they will no longer be part of the Dembi property. Commissioner Nevill asked about the surface water for lot irrigation. Commissioner Nevill said he knows the lots are currently planned for the children, but if any lots are sold, how will the new user access the water? Commissioner Nevill asked if there was any plan or would he be amenable to require a water users' agreement so if anyone else owns it, there is plan. Mr. Ferdinand said it is always best to have it in writing. He said the Dembi family's plan is to stay on the farm but it is always good to have a shared irrigation system in writing and he believes they would agree to that if that was part of the development agreement. Commissioner Nevill said the Soil Conservation District said this is good soil and these are big lots. Does the Dembi family plan to do agricultural things on the lots such as FFA or is it just going to be two acres of yard? Mr. Ferdinand said the Dembis have grown up here and want to be part of the farming and agricultural community.

Commissioner Williamson asked where the access to the parcel that will be farmed was, as it was not indicated on the plat. Mr. Ferdinand showed the access point on the map.

Acting Chairman Brian Sheets entered the late exhibit consisting of the applicant's PowerPoint presentation into the record.

Dan Lardie – IN FAVOR – 1324 1st Street South Nampa ID 83651

Mr. Lardie read a statement from the owner, Costa Dembi. The letter explained who the Dembi family was, how they chose to purchase the land they currently live on and how they decided to ask to build

houses on the property. He said they hoped the property would be passed down within the family for as long as possible. Mr. Lardie also read a letter from a neighbor, Patrick O'Brien, in favor of the project. Mr. O'Brien's letter stated he was in favor of the Dembis building three homes on the far east of the property. Mr. Lardie clarified that the areas, designated in pink on the map, were the dedicated right-of-way which will be given to the Nampa Highway District, not easements. He said nothing can happen there except for roadway.

Commissioner Nevill asked how do they prevent the right-of-way from becoming an eyesore and interfering with surrounding farm operations by becoming weeds? Mr. Lardie said once it is a dedicated right of way, the Highway District should maintain it, but Mr. Dembi will also continue to maintain that area as he always has. Ultimately though, the Highway District takes responsibility for the right of way since they want it dedicated to them.

Commissioner Villafana was curious how Mr. Dembi would decide which of his 5 children were going to get the three lots. Mr. Lardie was not sure.

Acting Chairman Sheets asked when the lots would be donated/dedicated to the Highway District. Mr. Lardie said the dedication of the land for the right of way would happen at the platting stage.

Costa Dembi – IN FAVOR – 8027 Lakeshore Drive Nampa ID 83686

Mr. Dembi said that Mr. Lardie read his letter, so that was his three minutes.

Commissioner Nevill said he was interested in finding out the answer to Commissioner Villafana's question; who was going to get the three lots. Mr. Dembi said his daughter married and is happy where she is now. His son Mario chose the first lot and it was up to his wife to agree to live there. If the other sons get married and want to live there, they will build their homes on the other lots. They don't have any plans for secondary homes.

Matthew Clements – IN FAVOR – 12035 W Stagecoach Road Nampa ID 83686

Mr. Clements has been following the application since they were first notified in February of 2021. He represents the property to the west of this parcel and it has been in his family for three generations. He was looking for clarification and wondered why the project is being denied. He sees many projects south of Nampa similar or more congested than this are being developed. He said in the 2021 meeting, one of the Commissioners said there is other land that should be developed first before this was looked at because it was contiguous to but outside the area of impact. He looked at some data from the area of impact and saw over 7000 acres that were zoned either Ag or residential. His question was how many of those 7000 acres need to be developed before they look at properties like this? He said this was confusing to him because he has seen some development that happened down Deer Flat Road and Bowmont Road and he was having a hard time seeing a pattern.

Greg Harness – IN OPPOSITION – 9469 S Powerline Road Nampa ID 83686

Mr. Harness has lived on the parcel in the corner of the property since 1999. He was there for the last hearing on this project a year ago and said the reason this was denied was because the zoning says Agriculture. He said the Comprehensive Plan says everything south of Lakeshore Blvd is agricultural. He said nothing has changed and that was why it was denied last time. It is farmed and will continue to be farmed. Breaking it up and adding more houses does change the quality of that part of Nampa. He believes the County still needs to draw that line and they should hold to that line. From a zoning perspective, nothing has changed. Everything is the same as it was a year ago; everything is agricultural and should stay agricultural.

Commissioner Nevill said the Highway District has said access will be on Lakeshore Drive; are there any major intersections or anything they need to be aware of? Any issues with traffic? Mr. Harness said there are always issues with traffic. Lakeshore and South Powerline is the major intersection and that road is used quite a bit, with a lot of people running and biking. He is also concerned about groundwater, nitrates

and the wells in the area. He has less concerns with three new houses versus 21 new houses but he hasn't seen plans that show his water and soil won't be impacted.

Rick Reed – IN OPPOSITION – 8153 Track Road Nampa ID 83686

Mr. Reed is there representing his family; he believes family is very important. He is also representing some neighbors who couldn't attend. They would like this to be denied. He has gone through the information shown tonight and the reports. It is next to Nampa Area of City Impact and Nampa is recommending denial of the request. He brought up the school district letter that discussed concerns about school overcrowding. He said there are no measures to mitigate impacts. He said this area is growing like crazy and mentioned some developments that are currently under construction in the immediate area.

MOTION: Commissioner Nevill moved to grant 2 more minutes of testimony to Rick Reed, seconded by Commissioner Williamson. Voice vote, motion carried.

Mr. Reed continued: The City of Nampa is annexing in 33 acres for 20 homes on the other side of this development on South Shore. The area is getting crazy with congestion. He contacted Idaho Department of Transportation and in 2018, on Highway 45 between Deer Flat and Lakeshore, there were only two accidents in that area. In 2021/2022, there were 28 accidents in the same area. The intersections of Highway 45 and Lakeshore/Deer Flat are very dangerous. With increased housing being built in that area, there is more and more traffic and it is getting more dangerous to travel the local roads and Highway 45. The area is being developed too fast and it is too much. He would like to see the County slow down on some of this and he said they are also concerned about the city coming out into the area more and more and annexing more land into the city.

Commissioner Nevill clarified with Mr. Reed that the 28 accidents occurred on Highway 45 between Deer Flat and Lakeshore Drive. Mr. Reed showed the area in question on the map.

Commissioner Williamson said that the City of Nampa's comments in the current packet stated that if this land was to be rezoned to "rural-residential", it would block further annexation into the City. Mr. Reed said he was told when he went to City meetings that it is like connecting dominoes; it is layering one area against another because they need to have access to City services. Commissioner Williamson said his question was more along the lines that the City of Nampa did not want this rezoned because it would prevent them from annexing it into the City. Mr. Reed said they were concerned that more and more of the county land was being annexed into the City. When was it going to stop?

Planner Michelle Barron stated that despite not getting an updated letter from the City of Nampa, the City has decided not to go south of the existing line; they are proposing to expand their area of City Impact to the west.

David Ferdinand – Applicant's Representative – REBUTTAL – 2419 W. Herron Loop Nampa ID 83686

Mr. Ferdinand said the 2600 acres that was part of the Nampa presentation is still on the table. They did want to go south at one point in time. He feels bad that some of the residents in the area didn't get the information for the rural residential rezone and were still going off the R-1 application from over a year ago. He said the prior testimony was not from the current report. If this application was in the City of Nampa Impact Area, they would want 70 homes. It's not to their advantage. He would like the group to remember what Commissioner Williamson was saying; the City of Nampa wants higher density so they can bring sewer, water and services that have currently stopped at Liberty. Table Meadows (the original development) is 8 years old; the phase 2 is starting to grow now. When Mr. Dembi bought the property, Mr. Harness was there and Mr. Harness could have bought the lot and stopped the Dembi house (from being built). The same number of people will be there. Traffic is not going to increase; maybe by a car or two. It is not going to increase like a subdivision which he says they were referring to. This is not the 16 lots; it is an entirely different application without going through the application process which is what

Planning staff explained to them they should do. He wanted to reiterate that these will be family parcels. They went back to the drawing board with Development Services and the Planning department told them what they needed to do. They would rather not call it a subdivision because they don't want to be like all those other properties. He said he grew up in the area and all those houses were not there. At some point in time he said someone looked at it after 1979 and asked how they maintain the Ag feel and not disturb the farming. He said you make sure the people living there understand the quality of life and the Dembis do. He said in reference to the traffic, Highway 45 needs some work. He is asking for their approval.

Commissioner Nevill asked if water and sewer from the City ever made it as far south as the Dembi property. Mr. Ferdinand said water and sewer services were brought to Liberty and Victory Charter. Table Meadows has water and sewer. The 30 lot subdivision has water but not enough capacity to bring sewer; they have high quality septic systems. Commissioner Nevill asked Mr. Ferdinand in his estimation, how long until the City of Nampa puts pressure on people south of Lakeshore Drive to consider annexation into the City. Mr. Ferdinand said if they annex, they will have to put in water and sewer and right now they are talking about going west. They are fighting with other cities to make sure someone doesn't get into their growth area. It probably won't change for some time. Multiple agencies will determine how this develops but he doesn't know that he can put a time on it. Commissioner Nevill asked if this parcel was eligible for any administrative splits and Mr. Ferdinand said as he understands it, it was not. Planning Official Dan Lister said the Dembi property was split off through a land division and it was not eligible for an administrative split or a 'non-viable' land division. Mr. Ferdinand said he thought that was why the letter was sent (by the City of Nampa), because they wanted to see higher density housing.

Planner Michelle Barron said the two right-of-way areas should not be actual lots and the dedication is done at the time of the final plat. It would be done through a transfer to the Highway District.

Planning Official Dan Lister said the Nampa City Council has approved an Area of City Impact expansion which does not go south. They have withdrawn that (expansion) and their current Comprehensive Plan does not show that as well. They are going through a process right now to expand their area of city impact boundary to the west so the southern portion is not on the table right now, although it could be in the future. Showing a map, he brought to the Commissioners' attention to Lot 1, which currently has a house on it. Mr. Lister said if the application were to go through, it doesn't meet setbacks. Back in 2002 it met setbacks but it won't now so they would have to get a variance. One of the conditions of approval would be that the Dembis would need to go through a variance process prior to final plat approval. Mr. Lister also said that staff felt maybe this still can be an R-1 zone instead of an R-R zone. He said if this is approved and there are conditions to keep the 10+ acres in Ag production, keeping it in an Ag zone, then the zone that has the housing on it, would need to be R-1 because it would be less than a 2-acre average lot size. He also said the private road does not meet the County's radius standards; there would have to be a condition that it meet Canyon County's private road and radius standards. The cul-de-sac has to be 70 feet wide which would reduce the lot sizes further.

Commissioner Williamson asked Mr. Lister if he knew, for the lot 2 right-of-way, how far the house would be from that right of way. Mr. Lister said it would have to be 20 feet away and based on his measurements, it would not meet the 20 feet.

MOTION: Commissioner Williamson moved to close public testimony on Case numbers CR2021-0006 & SD2021-0032, seconded by Commissioner Villafana. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill said he is in favor of upholding staff's findings on this and recommended denial. He accepts all the findings that staff has created for them. He has other findings that could be added. He thinks they should stick with what staff has recommended.

Commissioner Villafana said he is also in support of staff's recommendation. He appreciates the amended application and the applicant's desire to change it to fit the family's needs. He is sympathetic

to that because housing is needed and it is getting more and more difficult for young people to find a place to live. He knows he is looking at the four lot plan, not the 16 lot plan but they did look at the 16 lot plan (prior) and he worries that this is the beginning of that. Maybe not 16 (lots), but if this is approved, in a couple of years they could see the 12-acres getting split into 6 more lots and he does worry about that. He said this is really good soil and is a good piece of land that is farmable, next to other farmable (land). It is in the designated agricultural area and is not in the planned expansion of the City of Nampa. With all that being said, he supports staff's recommendation for denial. Commissioner Williamson said considering the testimony they heard, he has not heard any evidence to go against the recommendation of staff using the criteria they are required to follow.

MOTION: Commissioner Nevill moved to deny Case CR2021-0006 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 4 in favor; 0 opposed, motion passed.

MOTION: Commissioner Nevill moved to deny Case SD2021-0032 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 4 in favor; 0 opposed, motion passed.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister explained the tool he provided to the Commissioners to use to write their notes if they want to revise findings or conclusions and read them into the record. If they want to modify the tool in any way, please let staff know. They have chosen two new Planning and Zoning Commissioners and notice should be going out next week with who the Board of County Commissioners have chosen. There will be a meet and greet for the new Planning and Zoning Commissioners in June. They had a draft budget meeting for the Department to look at staff, titles and job descriptions. They are also looking at more budget funding for training and a potential consultant for any Comprehensive Plan or Ordinance changes in the future. There was discussion about cases heard in front of the Hearing Examiner vs. the Planning and Zoning Commission.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 8:09 pm.

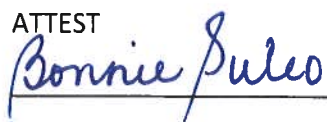
An audio recording is on file in the Development Services Departments' office.

Approved this 15th day of June, 2023



Brian Sheets, Acting Chairman

ATTEST



Bonnie Puleo, Hearing Specialist