



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, May 4, 2023
6:30 P.M.

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

Commissioners Present : Robert Sturgill, Chairman
 Brian Sheets, Vice Chairman
 Patrick Williamson, Commissioner
 Harold Nevill, Commissioner

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

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.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case CR2022-0032/Claudia Frent – Virgil Iovu. Motion seconded by Commissioner Williamson. **Commissioner Sheets abstained from the vote.** Voice vote, motion carried.

- **Case No. SD2022-0014/Rhett's Acres Subdivision:** The applicant, TJ Wellard, representing Best Investments, LLC and Troost Family Living Trust, is requesting approval of a Preliminary Plat for Rhett's Acres Subdivision. The development consists of 10 residential lots and 1 private road lot. The subject property, Parcel No's, R355900120, R35598010A0, and R355980140, are located at Linden Street and Tranquil Place in the NW ¼ of Section 32, T4N, R3W, BM, Canyon County, Idaho.

Planner Michelle Barron reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

TJ Wellard – Applicant's Representative – IN FAVOR – 17842 Sand Hollow Rd Caldwell ID 83607

Mr. Wellard said they are proposing a 10-lot subdivision in a rural residential zone, served by an existing private road, Tranquil Place, and including individual wells and septic. The engineering report has been approved by Southwest District Health pending the final plat. There are existing irrigation service points to each lot. This land was originally created by prior administrative land division process and the existing lots were already served by Tranquil Place. The existing land is surrounded by houses, is unable to be farmed and there are a number of subdivisions north of this project. This subdivision will be similar to the surrounding subdivisions and have no curb, gutter and sidewalks. The (vehicle) approach to this project is

unique and was moved because of site distance per the Highway District. It also aligns with a road to the north. Mr. Wellard had a conversation with the city engineer at the City of Caldwell. The engineer stated their ordinance doesn't allow the City to waive the curb, gutter and sidewalk requirement. They could negotiate with the city to do less than the full scope of what is required but there is no complete waiver (of the improvements). He said they don't even address private roads in their ordinance. One of the reasons they rezoned to Rural-Residential was because neighbors wanted that rural feel; they wanted a buffer between the city to the east and the agriculture to the west. If they do curb, gutter, sidewalks and street lights, those neighbors will be unhappy because it will be like a city subdivision and if that were the case, they would have gone for a higher density. This is why they are requesting a waiver for the city improvements. He is also asking for the condition of approval for a drainage plan for the existing private road be removed. This development had no part in the improvement of Tranquil Place and there is an existing road users' maintenance agreement for Tranquil Place. The road was built to higher standards because of the Administrative Land Division. The hired engineer has gone out and ensured the road was built to the standards of Canyon County. Mr. Wellard said water from the road flows into shallow borrow ditches and there is also irrigation runoff along the side of the road as everything is currently flood irrigated. There are irrigation ditches along the side of the road. The road will be about 30 feet wide including the shoulders. He said the irrigation system was put in to service the administrative land divisions and service points were installed at that time for potential new lots. Power is already in for the lots.

Commissioner Williamson asked what is keeping the irrigation water from flowing onto Linden Street. Mr. Wellard said that everything slopes to the north and the west. There are existing waste ditches that take it under Linden into a drain ditch that runs further west. Commissioner Williamson said it appears on the southwest corner of Lot 2 block 3 there is a gravity irrigation pipe which goes down and as it gets to Linden Road, there is an arrow that says it is an overflow to an existing waste ditch system. He asked is that the waste ditch system you were talking about? Mr. Wellard answered yes; there is a culvert that goes under Tranquil Place that takes everything from the east side of Tranquil Place to the west side and into the existing drainage system. Mr. Wellard said the Preliminary Plat shows the irrigation system that is already in place.

Commissioner Sheets asked if the irrigation system starts in the south and flows by gravity to the north? Mr. Wellard said that was correct. Mr. Wellard said Linden Road was a lot higher than the project; the irrigation flows from the south to the east boundary and then along the east boundary to the north. He explained the direction of the irrigation and the one point of the delivery for the property. He said it was his understanding that the neighbors have one person who controls the irrigation delivery. He was asked if there was a water master or if the Homeowner's Association would control it. Mr. Wellard replied that he did not know. Commissioner Sheets said he was curious how the plat was laid out and how it would be administered as there was potential for conflict there. Mr. Wellard deferred questions to Mr. Bullock about that issue. There was discussion on the (associated) rezone and if adding curb, gutter and sidewalks was a big point of discussion at the time. Mr. Wellard said there were a lot of comments at the rezone about keeping the rural feel and lighting.

Commissioner Nevill asked where the bus would pick up schoolchildren. Mr. Wellard couldn't answer that question; he said he assumes there are already kids who catch the school bus there. Commissioner Nevill asked Planner Michelle Barron to pull up photos of the existing road and said he doesn't see any barrow ditches. Mr. Wellard explained the storm water flows from the field to the road and all that flows to the north. Commissioner Nevill said he still didn't see the ditch. Mr. Wellard said a barrow ditch doesn't convey the water, you want to get rid of the water and he showed the area that was the lowest point.

Commissioner Nevill asked where are people going to walk on a rainy day? Mr. Wellard said the road is almost 30 feet wide so they can walk down the shoulder of the road. It serves 10-14 houses and it goes nowhere so he was not sure how much of a concern that would be. He said people like that rural feel. Commissioner Nevill asked if the new owners will become part of the road users' maintenance agreement.

Mr. Wellard said a legal review said that any new subdivisions would share in the cost of maintaining the road. Commissioner Nevill said there were seven conditions of approval; they asked to take number seven off; was he okay with the other six? Mr. Wellard said they requested 1A be removed; staff said 1B was not applicable. He also said 1C is already covered so he didn't think they needed it, but since it has already been met, so they weren't concerned about it. Commissioner Nevill said for condition number seven, what if they left in the part that stated they still need a water users' agreement: the part that doesn't apply is irrigating off a well. Mr. Wellard said if they changed it to make it an irrigation water users' agreement, that would be fine. Commissioner Nevill felt it would be unwise not to have a water users' agreement because new owners should know what they are getting into. Commissioner Nevill asked if the city moves and there is a forced annexation, are they requiring people hook up to city water and services. Mr. Wellard answered that he didn't know.

Commissioner Williamson asked if they had contacted the school district to see if they had any concerns and Mr. Wellard said they did not.

Commissioner Sheets asked about the existing road and Mr. Wellard said the reason they were asking to remove the drainage plan was because the road already exists and they are not changing what is already there. He didn't think they should put that burden on this development and if any changes had to be done to the drainage plan, the members of the road users' maintenance agreement should have to participate in it. Commissioner Sheets asked about water flowing across driveways; Mr. Wellard said existing driveways did have culverts. Commissioner Sheets he was concerned about the drainage on Tranquil Place and (the potential for) a major rain or irrigation event to wash out the road.

Commissioner Williamson asked if they would be open to the idea of adding a bus stop. Mr. Wellard said he doesn't know what that means because most buses stop at every house. Commissioner Williamson said buses aren't allowed to go into subdivisions. If there are kids in those new homes, they would have to go down to Linden Road and wait for the bus. It would be helpful to have a covered area to wait for the bus; Mr. Wellard said he didn't have that as a kid and he survived. He would talk with the developer but he thinks kids would be tough enough to handle a little rain and snow. Planning Official Dan Lister pointed out that they a bus won't go down a private lane but they didn't receive any comments from the School District or bus company so there is no finding of fact for that requirement. Commissioner Williamson said he was not intending on making it a requirement.

Greg Bullock – IN FAVOR – 504 Bayhill Drive Nampa ID 83686

Mr. Bullock said two years ago they came in front of the Commission for a rezone. This was all farm ground in the past. In 2010, a developer bought the land and had it platted. Some got recorded, some didn't. Then the housing crisis hit and they stopped building. Two years later, they donated the land to Northwest Nazarene University who then, sold it to the Troost Living Trust. There were five administrative splits which had building permits on them and then there are the existing homes that are there. He said for the rest of the property, they have made the application for the ten 2-acre lots. During the rezone process, a member of the Planning and Zoning Commission told the neighbors that the applicant could wait until the City got there, annex into the City and go with the City density rate at four houses per acre. As a result, after the hearing they met with the neighbors who said they would support the 2-acre lots.

MOTION: Commissioner Nevill moved to grant 3 more minutes of testimony to Greg Bullock, seconded by Commissioner Williamson. Voice vote, motion carried.

Mr. Bullock continued: The words the Commissioners used when approving the rezone was "transitional". He said they worked with the neighbors to understand the potential and he feels this is a success story. The road has been there quite a while. It was gravel and Mr. Troost paid to pave the road. He said nobody wants curb, gutter, sidewalks and street lights because they want to leave it a rural setting. Mr. Bullock brought up Mr. Lawrenson who knows the irrigation, controls the head gate and said he tried to convince him to come up and testify. They put in all the irrigation systems to the backs of the lots. Mr. Bullock said

he is a small partner with Mr. Troost in the project and is also a real estate broker in Nampa. Commissioner Williamson asked who and how the irrigation system is being maintained. Mr. Bullock said that Mr. Lawrenson is really best suited to answer those questions. Commissioner Williamson brought up the bus stop. Mr. Bullock said there will be a road users' agreement and an irrigation plan and he said they are more than willing to consider a bus stop. Commissioner Sheets asked who is paying the irrigation bill. Mr. Bullock answered each homeowner will pay their fair share, and that will happen once the plat is recorded and each site has their own address. Mr. Bullock also described how the neighborhood meetings were conducted.

Sarah Lawrenson – IN FAVOR – 18532 Tranquil Place Caldwell ID 83607

Ms. Lawrenson said there will be 18 homes served by the road, Tranquil Place. Her children are picked up by the bus on Tranquil Place at the Linden Street intersection. Ms. Lawrenson said they are the homeowner at the end of Tranquil Place; Tranquil Place dead ends at their property and there is a hammerhead there. Commissioner Williamson asked where the bus stopped for her children. She showed where the bus stopped on the map. Commissioner Williamson asked how the irrigation system is currently maintained and who is maintaining it. Ms. Lawrenson said there is a head gate that the farmers are using right now. Mr. Troost has paid for a new head gate to be installed on the east side of the property. There is a valve at each property location. There is no user agreement right now; Pioneer Irrigation has advised them how they want it installed and the irrigation water to run. There should be a user's agreement to indicate who gets the water at what time. There is a valve at the end to stop the water so each person who wants to use it will have pressure to use it. Commissioner Williamson asked if Pioneer Irrigation told them they preferred to have one person managing the water. Ms. Lawrenson said they didn't want to be involved in that and said it was up to the people using it (the water). She felt there should be something that indicates who gets the water when. She would not be part of the water users' agreement because while the water goes through her property, she is no longer using that irrigation water. On the west side, the water services people who live on the other side of Linden so there are two points of water distribution.

Commissioner Sheets clarified that the east side is where the irrigation water runs and that each of the lots has its own valve.

Commissioner Nevill said it sounds like everyone is on a rotation (for the water) and asked how it was being paid for now. Ms. Lawrenson said she believes the farmers are paying for the irrigation water. There are also two new homes on the west side now that are paying Pioneer Irrigation directly. It is not using a metering method. He also asked her about the bus stop and if it would be a benefit to have a bus structure. Ms. Lawrenson said there was someone who had a special needs kid who gets on and off the bus but her kids were older so she has a tough time answering that question.

Tony Salisbury – IN OPPOSITION – 16492 W. Linden St. Caldwell ID 83607

Mr. Salisbury said one of the problems they have is that the cut off for their irrigation is on the corner on the east side. He said on that corner, where it triangles, is their cut off valve. There is an easement road (there) that is now blocked off by concrete barriers which he said shouldn't be there. He either goes down the easement road or he has to cross Strickland's (property) which isn't good because he has to walk along the edge of the ditch to get down to the cut off valve. That's one really big problem. He also said he is in favor of the bus stop because there are a lot of people who speed down Linden in that area and a lot of his neighbors have kids. He said it's a constant problem. He said Mr. Strickland has almost come to blows with people because they are driving at such excessive speeds down Linden. He said some kids are going to get killed one of these days. He doesn't know if what he said was for or against it, but he would like to see those barriers removed so he can get to his cut off valve.

Commissioner Williamson asked to clarify where the cut off valve was and Mr. Salisbury explained where it was. Commissioner Williamson asked if he knew if the easement had been recorded with the County

and Mr. Salisbury did not, but he said it has been there forever.

Commissioner Nevill asked Planning Official Dan Lister if Code Compliance could be called if (the barriers) were illegally blocking the easement. Dan said a structure couldn't go on the easement however they don't consider a fence or landscaping to be structures. The utility just has to be able to access the easement.

Patricia Salisbury – IN OPPOSITION – 16492 W. Linden St. Caldwell ID 83607

Ms. Salisbury stated that everything she was worried or wondering about was addressed. She didn't know if they had contacted Pioneer Irrigation and made plans for the irrigation. She didn't understand where the new development's gate was. Commissioner Williamson showed on the map where the irrigation water was coming from and where the gate was. She said it seems that they are getting their water from her gate. She feels their gate should be further down from them. At prior hearings, it was said that they didn't look into the effect on the water if everyone drilled their own wells, both on the environment and other wells drying up.

She said they don't know who put the barrier up. Pioneer had always told them they had to keep that easement clear so the Irrigation District could access it and fix any equipment that was broken.

Commissioner Sheets asked if the access blockage is directly adjacent to the water delivery system or does it meander off. Ms. Salisbury said the blockage is on that corner of Tranquil Road and that is where they would walk up to where their gate is. Commissioner Sheets clarified his question and asked if road they use is right next to the ditch that delivers the water. She said it was. She said the Irrigation District has not been able to access the easement since the blocks have been put there.

Chairman Sturgill said they have heard that the neighborhood would like to keep the rural feel with no curbs, sidewalks and gutters but Commissioner Nevill had suggested that with kids in the neighborhood, sidewalks might be desirable. Did she have an opinion on that? She said she liked both ideas; she likes sidewalks but she really likes the rural feel. Ms. Salisbury said she didn't believe that they were ever notified of a neighborhood meeting. They didn't receive a letter and they never went to one of those meetings. Planning Official Dan Lister pointed out that subdivisions don't have a neighborhood meeting and this will be a recommendation. The proposal will go to the Board of County Commissioners for a hearing on the final decision. Planner Michelle Barron said that in the past they have required a water users' maintenance agreement for everyone in the development and everyone on the (water) system. The City of Caldwell did not have any comments during the original rezone request. The Commissioners can ask for the road users maintenance agreement to be updated by amendment with the new residents on the street. She also said that the United States Postal Service (USPS) is requiring a community mailbox for over four lots so a requirement for an easement or common lot can be added unless it is waived by the USPS. Dan Lister said even the city doesn't require covered bus stops but they do require a bus stop location or area within a common lot or easement.

Greg Bullock – Applicant (Representative) – REBUTTAL – 504 Bayhill Drive Nampa ID 83686

Mr. Bullock said after all the discussion they have no problem with a water users' agreement condition of approval. He is in favor of putting a school bus stop protection area but he feels they don't need to make it a condition of approval. Mr. Troost has done everything he has said he was going to do. They will get it done. He said there is no easement there for the Pioneer Irrigation District and explained why the concrete blocks were there. They were there to prevent people from using that as an access point to Linden because it is not safe. There is an existing road users' maintenance agreement and they will draft a new road users' agreement. They don't know if they can change the existing agreement but they can say the residents of the new subdivision will have their own road users' maintenance agreement. He said the Commissioners have heard people say they don't really want curb, gutter and sidewalks so he would appreciate a recommendation to the Board of County Commissioners that they waive the City of Caldwell's curb, gutter and sidewalk requirements. He had a letter signed by 33 residents which he offered to read that said they

support the plat map submitted in this case. It was submitted as an exhibit to the Board of County Commissioners for the final hearing on the original rezone.

Commissioner Williamson discussed the concrete barriers and said it was his understanding that the concrete blocks were further east than the location Mr. Bullock described. Mr. Bullock said the location Commissioner Williamson described was an 'out parcel' owned by a different property owner and he was not aware of any concrete barriers at that location. Planner Michelle Barron said she was out there on site and indicated the road on the map where she saw the concrete barriers. Chairman Sturgill asked Mr. Bullock if it was something they would agree to look at and fix the issue. Mr. Bullock said yes and asked if the concrete barriers were in Linden Street's right of way. Planner Michelle Barron reiterated where the barriers were. Commissioner Sheets said this is a civil matter and said that Idaho code answers this and it is beyond the scope of the Commission.

Commissioner Nevill asked about the group mailbox condition of approval. Mr. Bullock said across Linden Street there are already individual mailboxes standing and said he would go into the Postal Service to ask what they want them to do. Commissioner Nevill also asked about the drainage plan and condition of approval 1A. He asked if part of the water agreement would also address the drainage water. Mr. Bullock said he did and that is why they felt they could eliminate that particular condition of approval. Commissioner Williamson asked if they should remove 1C or amend the agreement to say they will have a new document made and submitted to the County. Mr. Bullock said he could only address a road users' agreement for their ten lots. It is their goal to get everyone together and sign it. He said their request is to just remove the condition of approval and they will deal with the legality. Planning Official Dan Lister said it was better to leave it as a condition of approval and if the condition is already met, then the condition will be satisfied.

Commissioner Sheets asked if there will be a Homeowners Association (HOA) and Mr. Bullock said yes. Commissioner Sheets said that answers a lot of questions as that is the sort of organization that will be billed and handle those types of agreements.

MOTION: Commissioner Sheets moved to close public testimony on Case SD2022-0014, seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said he doesn't believe the City requirements for curbs, gutters and sidewalks are appropriate for this area. He also didn't think the water users' agreement could necessarily coincide with a drainage plan. A drainage plan is an engineering document but a water users' agreement is a behavioral document. It tells you who is going to do what and when and for how long. He said that is different than an engineered drainage plan: it is meant to drain the land. He did believe that for the protection of the current and future residents, the drainage plan should be included along with the water users' agreement and amending the road users' agreement. If those are encapsulated in the Homeowners' Association CC&Rs, then so be it. Commissioner Sheets said not everyone using the assets might be able to be included in the Homeowners' Association. He is indifferent to the bus stop building structure requirement. He said there is an already existing area that looks like a decent place for the bus to stop. If the developer wants to do something, that's a good thing but it shouldn't be a condition. Commissioner Sheets said they should include an easement that allows for the postal service to install the mail delivery system. Commissioner Sheets felt the development is appropriate for the area based on what is out there now.

Commissioner Nevill asked Commissioner Sheets if he was asking to leave Condition of Approval 1A intact but remove Condition of Approval 1B. He said they should change Condition of Approval 1C into 1B and include the existing homeowners in that agreement. Was that what he was thinking? Commissioner Sheets said he was just throwing his thoughts out there so they could have the discussion first. Commissioner Nevill agreed that the development does not need the City of Caldwell's

improvements but they do need to weave some language into Condition of Approval 1A about the drainage plan. He felt they should include existing lots in what is now Condition 1B. He suggests they add a new Condition 7, 8 and 9 about a water users' agreement, bus stop and the USPS easement for mailboxes. He is less inclined to believe in the strength of a Homeowners' Association to protect the neighborhood.

Commissioner Williamson said initially he was thinking they could replace some language in Condition 7 to reflect the irrigation water users' agreement, but decided it would be better to scratch it out. He also felt it would be a good idea to remove Condition 1B as the reduction in the easement is not needed. Commissioner Sheets outlined the additions and changes to the Conditions of Approval with Development Services Staff. Commissioner Nevill made some suggestions for a condition of approval for the bus stop. Commissioner Sheets and Commissioner Williamson both said they didn't think there should be a condition of approval for a bus stop; the developer is already on the record at stating they would look for a place for the school bus to stop. Commissioner Nevill stated he wouldn't vote for approval without one because while the school districts weren't talking about it, it was a big problem. Commissioner Sheets said they hadn't heard any evidence of the absolute necessity for it. Commissioner Nevill said it didn't have to be a covered bus stop but that Mr. Salisbury provided testimony about the safety of the students. He felt there needed to be a stop for the students but they (the Commissioners) didn't have to be prescriptive about what kind of stop it was. Commissioner Sheets said he didn't know how to control the bus on a plat. Commissioner Nevill said a plat was where easements were indicated and that is where a pull off would be noted. Commissioner Nevill clarified that he was asking for the developer and the school bus company to negotiate the best place to pull off and/or pick up the students. Commissioner Sheets said there were too many unknowns in the situation to require the applicant to dedicate an easement and put it on the plat. He felt it was a good issue but doesn't know how to put it on the plat in a way that actually works. A bus area is great but he doesn't know how to make it work. Planning Official Dan Lister read off the proposed condition, similar to the USPS mailbox easement condition.

MOTION: Commissioner Williamson moved to approve Case SD2022-0014 including the modified Findings of Facts, Conclusions of Law and Conditions of Approval (not including Condition 9 for the proposed bus stop), forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets.

MOTION: Commissioner Nevill said a postponement motion is a higher precedence motion and moved to postpone Case SD2022-0014 indefinitely until they get an answer from Caldwell School District's bus company on the question of a bus stop. Motion was not seconded. Motion failed.

Chairman Sturgill returned to Commissioner Williamson's initial motion. Roll call vote: 3 in favor 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Williamson moved to approve the minutes from 4/6/2023, seconded by Commissioner Nevill. **Commissioner Sheets abstained from the vote.** Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister said they are interviewing seven candidates for two more Planning and Zoning Commissioner spots: the Chairman and Vice Chairman are part of the interview panel. The goal is to have the two new Commissioners join the Commission by the first meeting in June. He said they are

working on updating the code relating to private road requirements and should have a timeframe when they will start by the next Planning and Zoning hearing. He expected it to be controversial because the County is proposing added regulations. The change is related to the construction phase of the road, when it is triggered and the ability of the designated person to get the other residents to sign on to a road users' maintenance agreement.

There was discussion about the issues surrounding using prior testimony for current case decisions. Commissioner Nevill also asked for clarification from staff about Idaho House Bill 166 about denying secondary dwellings on residential lots. Planning Official Dan Lister clarified that House bill was restricted to only HOAs and CC&Rs. If the zoning ordinance allowed it, an HOA can't prevent a homeowner from building a secondary home on their property.

ADJOURNMENT:

MOTION: Commissioner Nevill moved to adjourn, seconded by Commissioner Sheets. Voice vote; motion carried. Hearing adjourned at 9:04 pm.

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

Approved this 1st day of June, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary