



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, July 20, 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
 Miguel Villafana, Commissioner

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

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. RZ2021-0047/CS2, LLC:** CS2, LLC. is requesting a Rezone of approximately 40.84 acres from an "A" (Agricultural) zone to an "R-R" (Rural Residential) zone. The subject property, parcel no. R35590 is located on the south side of W. Linden St., approximately 673 ft. east of the intersection of Wagner Rd. and W. Linden St., Caldwell, ID, in a portion of the NW ¼ of Section 32, T4N, R3W, B.M., Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Bob Unger – Applicant – IN FAVOR – 901 N. 29th Street Boise, ID 83702

Mr. Unger represents CS2, LLC who is the owner and developer of the property. He said the staff did a good job covering the project and the rezone. They are not proposing city water because it's over a mile from the project at this point in time. They are in negotiations with the city, but they have not resolved the issue yet. They are proposing 18 buildable lots of 2 acres and it complies with Caldwell's future land uses. They are proposing individual septic systems and wells which will require approval from Southwest District Health, Department of Environmental Quality and Water Resources. They are proposing a private road and it will be built to Caldwell's rural road standards. They will work with the highway district on Linder Street and they will make sure they are in compliance with any improvements they make. Tranquil Road is a private road and they will not be taking any access off it. Only emergency and fire services will have access through Tranquil Road and it will be paved and barricaded. There is a slight drainage ditch

that will be incorporated into the project. They are asking for a recommendation of approval.

Commissioner Williamson asked if they reach an agreement on using city water, will they change their concept or number of lots. Mr. Unger said at this point no; the city realizes that is a great distance to run a water line.

Commissioner Nevill asked about Emergency Medical Services access via Tranquil Place: according to documents, there is a road users' agreement for Tranquil Place. Have they approached the road users and what arrangements have they made if they are going to tap into that road? Will they become a member of the road users' association? Mr. Unger said they are not using Tranquil Place for any purpose other than emergency services. It is a secondary access for emergency services only. Commissioner Nevill asked if they had asked the people who maintain Tranquil Place if they are okay with their using it for emergency access? Mr. Unger replied no, they have not entered into any kind of agreement with them although they were at the neighborhood meetings. Commissioner Nevill asked what their plans were for firefighting water. Mr. Unger said unless they come up with an agreement with Caldwell, the only fire protection they would have are individual wells and because of that, he believes the building department would require fire sprinklers in the homes. While Caldwell Fire said they want hydrants, he said fire sprinklers are a replacement for fire hydrants. Commissioner Nevill asked how they will protect the Cooper Drain from people. Mr. Unger said the drain exists within an easement and they will not disturb it. He said it will also be fenced.

Commissioner Sheets asked how the list of people in support of the project (exhibit B attachment 5c) was created. Mr. Unger explained during the last neighborhood meeting with the residents, Mr. Beers represented the group and they were all comfortable with their two acre lots. Anything more than 18 lots, they felt they couldn't support. When they felt they could support the two acre lots, they provided the letter.

Commissioner Villafana asked how many water rights the parcel has or if they have to use their wells to irrigate the full property. Mr. Unger said he doesn't know the exact number of water rights they have but typically homes use less water to irrigate landscaping than flood irrigation uses. They should not have any issues with sufficient water for their landscaping. He said they will work with Pioneer Irrigation on that.

Chairman Sturgill asked what his timeline was moving forward? Mr. Unger said in the last six weeks they received a review from Engineering on their preliminary plat. Assuming they get the approval from the Planning and Zoning Commission, they will have to go before the Board of County Commissioners on the conditional rezone. He said then they will have to work with Caldwell. Optimistically, it will probably be the end of the year before the preliminary plat approval through the Board of County Commissioners. Mr. Unger said at that point, they can finalize their construction drawings and begin construction. He said they are about a year out. Chairman Sturgill asked when the discuss with the city of Caldwell would occur. Mr. Unger said the conversations with Caldwell are ongoing but they wanted to see where the (rezone) process went before they really got into some solid discussions.

Commissioner Williamson it would be nice to see an exhibit with their irrigation plan when they come with the plat. Mr. Unger said they could follow up with that.

Gary Beers – IN FAVOR – 16840 W. Linden Street Caldwell, ID 83607

Mr. Beers lives directly north of this property. He said they have a petition in favor of the rezone to rural residential signed by some of the neighbors directly across from the proposed subdivision and some down Linden Street. He wanted to be clear that the people who signed the petition are only in favor of the rezoning which comes before the preliminary plat. They look forward to meeting with Mr. Unger in the future with some questions about the preliminary plat. He clarified that exhibit 6 shows the irrigation feed that comes down the south side of the property and on the preliminary plat, the road will go over it. He said that's going to be a concern and area of question for the planning process.

Commissioner Sheets asked Mr. Beers what his relationship was with the developer. Mr. Beers said he has no personal or business relationship with the developer. He explained his role in getting the petition

signatures. He does not officially represent the neighbors, he just went through the process of gathering the signatures. He has kept Mr. Unger up to date on the petition. He feels Mr. Unger has worked with them in good faith to get it down from 60 potential homes to 18 lots. It has been a compromise between Mr. Unger and the neighbors.

Commissioner Nevill asked if the irrigation ditch comes from the south to the north and crosses the road? Mr. Beers confirmed it comes from south to north and crosses under the road. He showed the canal on photos and where it crosses under the road to the other subdivision. Commissioner Nevill asked what his understanding was if the road access onto Linden is across from their entrance road and the ditch has to be relocated or piped. Is he okay with a piped delivery ditch? Mr. Beers said he needs to get educated on that; he knows they have rights to continued water and that discussion would be during the platting process. Commissioner Nevill asked if there were any concerns about piping water delivery? Mr. Beers said he doesn't know enough about the water delivery being piped but assumes it would increase the pressure. He said as long as the amount of water they get is provided to that point and he and his neighbors have access to the water they currently have. He just needs to know how it would be done and their right to the water is enforced. He would look to the agencies to do that. Mr. Beers would be okay with fencing the Cooper Drain as long as the water and run off from the irrigation can get past the fence to the ditch. Commissioner Nevill said he knows Caldwell Fire wants hydrants and the applicant has said sprinklers in the house is an equivalent; does he think that would keep his property safe? Mr. Beers said he was not sure because it is a distance of hundreds of feet. He knows after a certain size home, they have to have an onsite water source to pump from. He can't speak to sprinkler systems compensating for lack of fire hydrants.

Commissioner Williamson confirmed that his development receives water from the ditch. Mr. Beers said yes; he and the neighbors down Birch Way receive that water. Commissioner Williamson asked if they had any problems receiving irrigation water through that open ditch? Mr. Beers said it's a challenge because it is overgrown but it is maintained by the Birchwood neighbors. They go out there once a year and clean it out. He has worked closely with the farmer and with the ditch rider to make sure they get the right amount of water flow. Mr. Beers said they can't take a full head coming from the canal so they work with the farmer to make sure they get 80% of the water.

Commissioner Nevill asked if he had any experience at clearing obstructions in a buried irrigation delivery pipe. Mr. Beers said no and he would look to Mr. Unger and the solution they propose. Who would maintain it and who would clear it are questions he will have when they get to the platting stage.

Commissioner Williamson said he doesn't see any head gate on the concept plan; does he know if the water passes through any other head gate? Mr. Beers said his understanding is that the water comes from the canal to one head gate. He explained where and how the water runs to the subject property and to their development. He also said his understanding there is an easement for Pioneer Irrigation on the far west side of the property that is completely overgrown.

There was discussion about changing Condition #5 which is connecting to Caldwell city water. Commissioner Sheets had concerns about that condition. The finding states the city of Caldwell says the proposed development will connect to the currently available water source but testimony that night said it was a mile away and it will be very difficult for the applicant to connect to it. Under this condition, if the city doesn't grant a waiver, the city can undo the rezone by not supplying that water. Planning Official Dan Lister said they can go back to what the area of city impact agreement says; ordinances by the city that apply to the subdivision can be waived by the Board of County Commissioners. The condition could be changed to say "unless waived by the city and the Board of County Commissioners".

Chairman Sturgill suggested that since the application would go in front of the Board of County Commissioners, staff has an opportunity to refine it before it goes in front of the Board.

MOTION: Commissioner Sheets moved to close public testimony on Case RZ2021-0047, seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Villafana said typically when he looks at a parcel like this, he sees 40 acres of agriculture ground being used surrounded by subdivisions. Mr. Unger has the support of the neighbors and doesn't have any opposition, which is unusual in a conditional rezone. That tells him the applicant has done the proper job of meeting with the neighbors and following up with them. They told him they didn't like the 60 lots and he reduced the number of lots. He is in favor and it seems like this is the natural progression. He believes it goes with the Comprehensive Plan.

Commissioner Nevill said it is probably inevitable that this farm land is going to turn into houses. The fact that it is larger lots mitigates the finding that it might negatively affect the character of the area. He said another part of their job is to make sure new development does not burden others, so he is a little concerned about their answer to question number 5. He thinks the issues with irrigation and fire can be worked out but he has not heard a solid plan in the testimony that night. While he will probably vote in favor of the rezone, he will be much more critical when reviewing the plat. There is a danger that neighbors and the neighborhood could be adversely affected if they don't have the right kind of infrastructure.

Commissioner Sheets said he would like to add "or the Board of County Commissioners" to the Draft Conditions of Approval #3 as a way to address the unknowns in Finding #5.

MOTION: Commissioner Sheets moved to approve Case RZ2021-0047 including the Findings of Facts, Conclusions of Law and amended Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Williamson. Roll call vote: 5 in favor 0 opposed, motion passed.

- **Case No. SD2018-0013/DTH Subdivision:** A request has been submitted by Patricia Dodson for approval of a Preliminary Plat for DTH Subdivision. The development consists of 7 residential lots and 1 public road. The subject property, Parcel No. R30461 is located on the east side of Robinson Rd., approximately 693 ft. north of the intersection of Orchard Ave. and Robinson Rd., Nampa, Idaho, in a portion of the SW ¼ of Section 17, T3N, R1W, BM.

Planner Michelle Barron reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Derritt Kerner – Applicant (Representative) – IN FAVOR – 9175 W. Black Eagle Drive Boise, ID 83709

Mr. Kerner is the project engineer for the development. There was a question about the city of Nampa waiver letter and he wanted to address the question. They worked with the city for a long time and they gave them some property along the northern property line for Stamm Lane. They requested the city give them a new letter because it had been a long time and they wanted the letter to say 'DTH Subdivision'. He said they received their waiver and there will not be any curb, gutter or sidewalks in the development. He believes the city uses that language (in the letter) to give itself a way out. If they were to change and annex into the city, making it a city project, the city will now deem those improvements to be warranted

because the density of the project will likely increase. This (language in the letter) is probably the result of a change in the past. Mr. Kerner said it was unique that he was able to stand before the Commission and state they have already finished a lot of things because they were planning to do a short plat with a private road extension off the end of 63rd Street. He has been involved with this project since 2019 although they paused for an entire year to work with the city to give them the property they needed for Stamm Lane. The city purchased that land from Tom. Mr. Kerner said they were ready to submit the short plat, which included the short plat, the pre-plat and the construction plans, but when they submitted all three of those things completed, the Highway District came back and said they wanted them to extend it as a public road. Right now, 63rd doesn't have a proper dead end; it just ends without a cul-de-sac or turnaround. That kicked them out of the short plat realm. Other agencies have already approved the pre-plat and now have approved their construction plans. That is why they were in front of the Commission with a lot more detail than is ordinarily on a preliminary plat. He said they have irrigation improvements and as a result, the neighbors below them will see more reliable water. It has been maintained and now they will be piping it. They worked with the water master across the street to understand what the irrigation situation was and they will have an upgrade for some of the downstream users. They do have water rights and will be providing pressurized irrigation.

Commissioner Williamson commended the applicant for providing the pressurized irrigation plan with the packet. He said the city is using 'deferral' in lieu of saying 'a waiver' and if a new developer comes in or they make changes, what happens? Who is on the hook? Mr. Kerner said there is no pre-annexation agreement requirement in place for them and so what would trigger that deferral, he couldn't say. He thinks they are keeping their options open. He believes somebody used it against them in the past. He said it is a deferral for a situation that will not come to pass. Commissioner Williamson said the city could say "waiver" instead of "deferral" and put significant compliance language in the letter.

Commissioner Sheets said he was still concerned about this; he read the language in the letter. Commissioner Sheets said the language in the letter doesn't square with the testimony Mr. Kerner just gave. He would like to see the deferral agreement to know exactly what is going on. He asked if they say those things have to be constructed, who will construct it? Will it be you, the residents or will there be an improvement district created? Those are questions that are relevant to the plat and the county is being asked to waive those requirements. Do they have the deferral agreement? Mr. Kerner said no, there is no pre-annexation agreement just the letter from the city. Mr. Kerner said it is confusing and although he sees why they worded it that way, he doesn't have the answer why they did it. This would take place at such time the property is annexed into the city, but they (the developers) are not asking to be annexed into the city. They are deferring it to a time that will not happen. Commissioner Sheets asked for confirmation that there was no other document that referenced the deferral. Mr. Kerner said no. He said they never had to attend a meeting. They asked for the letter but they were never invited to meet with city staff. Commissioner Sheets said he is not comfortable with this because he doesn't know what it means. They have a letter from 3 ½ years ago but it's vague. He would want more clarification on this.

Commissioner Nevill was wondering if they should keep everyone here if they are going to postpone this case. He also doesn't know what it (the letter) means. If they are going to postpone, should they postpone now and let the folks go home with the understanding they will have to come back or get through all the testimony and then postpone?

Chairman Sturgill said there could be a motion to continue at any time but without a motion to continue, they should move forward with testimony from everyone who is here.

Commissioner Nevill said they have folks here that might not be able to come back, so they should probably try to get through the testimony (now). He looked at the map and inquired if Mr. Kerner knew how many more years were on the gravel pit. Mr. Kerner said there is a home on 10 acres immediately to the east of their property and pointed out where the Highway 16 interchange was going to be. Planning Official Dan Lister said the gravel pit permit expired in 2020. The gravel pit was approved before the County's requirements of a conditional use permit so it is a legal, non-conforming gravel pit and does not

have a 'shot clock' date. Commissioner Nevill asked how flat the property was. Mr. Kerner said it is not very flat. He said it has rolling terrain with some peaks and valleys. Commissioner Nevill confirmed that as they develop the property, they will smooth the property out. How will they get water to the property to the south because the plan talks about irrigation on rotation. Will there be a water users' agreement? Mr. Kerner said there will be for the people in their development. They will receive their irrigation water, use only their allotted water rights and discharge it out the historic discharge point for the people to the north to use. Commissioner Nevill confirmed that it was the people to the north who had unreliable water in the past.

Commissioner Villafana asked about deferred improvements: were they already planning on completing some of them or will they defer them all? Mr. Kerner said they were deferring them all. They are not proposing any landscaping, curb gutter or street lights.

Commissioner Nevill asked how they plan on retaining the runoff water. Mr. Kerner said they will have a pond on the easement. They aren't calling it a common lot. They prefer an easement because it doesn't subtract from the lot size but the highway districts like the redundancy of maintenance. He said if the HOA doesn't retain it or fails, they won't have to maintain it. If it is on a private lot, the owner of the lot will maintain it.

Chairman Sturgill said there it is possible they may postpone this item and if they do, he suggested it might be easier to consider putting in those amenities up front and ignore the deferral the city is offering them.

Tom Hood – IN FAVOR – 6405 83rd Ave. SE Snohomish, WA 98290

Mr. Hood represents the owner of the property, Patricia Dodson who is his mother-in-law. This property has been in her family since the 1940's. They have used it as agricultural land and was zoned Ag until 2016. Up until 10 – 15 years ago, it had animals on it and they leased it out to someone with cows. They maintained the onsite irrigation and laterals and kept those functioning well. For the last 10 – 15 years, it has become overgrown. He had the irrigation canal cleaned out and fixed, to re-establish flow to North 62nd Street. He wanted to address the issue of deferral. He said what they have here is an urban growth or impact area. Urban plats can be done to the standard of the underlying municipality or a rural plat to rural standards. He said what they have here is a rural plat to rural standards, He said Nampa is saying because these are one acre lots, they don't want them to do curb, gutter sidewalks and illumination because it doesn't make any sense. However, if a future post annexation land use application comes in, they might want those improvements and they would be required. Mr. Hood said that is what Caleb was stating in his letter, although the language is a little wonky.

Commissioner Williamson asked if one person wanted to annex into the city a number of years down the road, would that trigger the whole neighborhood to have to make the improvements? Mr. Hood said all the property owners in the development would have to agree to annex into the city and if they did, they would all be required to make the city improvements.

Commissioner Nevill asked who would pay for the improvements if at some time in the future, they are annexed in and the deferral is no longer applicable. Mr. Hood said if there is a land use action involved, the developer or the current owner would pay for the improvements. In that case, the owner would be the developer.

Patty Jordan – IN FAVOR – 1912 Glen View Drive Nampa, ID 83686

Ms. Jordan said she has property that is close to Mr. Hood's property. In answer to the question on the gravel pit, the gravel pit is almost finished with any gravel they have, they are actually only doing concrete now. It is moving east. She pointed out where the city sewer line was on a map. She had talked to Mr. Hood about getting the city sewer line to her property. The City had purchased 80 feet to extend Stamm Lane which will meet Highway 16. She talked to her neighbor who was originally going to allow her to extend the sewer line through his property but he changed his mind. She asked when does eminent

domain kick in? There are eight of them out there that could use that infrastructure and it's clear the city wants to go down the north side of his property.

Commissioner Nevill asked Ms. Jordan to point out her property and where she wanted the city sewer line to run to her property. He asked if she had any issues with the proposed improvements and Ms. Jordan said no.

Patty Wolfkiel – IN OPPOSITION – 6220 E. Willow Avenue Nampa, ID 83687

Ms. Wolfkiel lives just north of the project. She said they never have any police out there at all unless the fire trucks come out there for someone's medical issue. The easement they want to use on North 63rd, they already have people traveling 100 mph off Robinson Road. She doesn't know how they are thinking that is going to be a good roadway because it isn't flat. She is concerned about the additional traffic. She said when they talk about the water, she doesn't know how they think the irrigation going to be any better. She only has a tiny drainage ditch in front of her property; that's all they have ever had. Traffic is a concern and water is a concern. They have some people in their subdivision that are having well issues. The big thing is adding more people on and off Robinson and they already have people who don't drive 25 miles per hour. The Sheriff's office won't come and patrol their area.

Commissioner Nevill asked if people will use Stamm Road if it is extended. Ms. Wolfkiel said no, not if they want to get to Franklin Blvd, the Idaho Center or the cheese factory. They will still come down Robinson. She said the interesting thing is every time you talk to someone at the city, they change their mind. They can't tell them right now what they want to do at Stamm and Robinson. She said they are doing some kind of big study to figure out what is the best thing for Stamm Road.

Commissioner Williamson asked how long she lived at her current residence. Ms. Wolfkiel said 40 years. Chairman Sturgill said the applicant has the right to develop the property as a result of the rezone so they are just trying to ensure the plan they are putting in place is appropriate and meets all safety and essential services. He asked if she had any proposals for the applicant in terms of how to address the speed issue? Did she want speed bumps? Ms. Wolfkiel said they asked the Highway District for speed bumps in their subdivision but they said no. She said this is in one of those odd spots, it's cresting a hill there. She wouldn't advise they enter off Robinson because that would be a horrible danger to the people who live there. She doesn't have an answer; where that property is at and what they want to do with it, it's an odd situation.

Commissioner Williamson clarified that she was not saying this development will access Robinson Road. Ms. Wolfkiel said she was saying they wouldn't want to access Robinson Road.

Carol Carroll – IN OPPOSITION – 6237 E. Willow Avenue Nampa, ID 83687

Ms. Carroll lives on the corner of 63rd and E. Willow. She has some concerns about 63rd. She also pulls out on Robinson and she might have to wait for 25 – 30 cars each way now that there are all those industrial buildings on Franklin. They have a lot more traffic. She wasn't sure what the plat was and if they were going to try to come out of the subdivision on Robinson or 63rd. 63rd is a concern of hers as there is a lot more traffic. She said she has been there a long time and they don't have water. There is a stream that kind of comes down and she has paid Nampa Meridian (Irrigation District) for years but they don't have water. No one she knows uses (Irrigation District) water. She put in her own irrigation well. Everyone figured out their own water but it doesn't come from Nampa Irrigation. Her other concern is that she has a well with lots of sand in it. She just put in a new well a year ago and one of these days she might have to dig it deeper. Water is a big concern.

Commissioner Nevill asked if when she said she put in a new well, did she mean a new pump? She said no, she put in an irrigation well and she shares the domestic well with another property. They each had their own pump in that well. They have since dug their own well. She has been there since 1974. Commissioner Nevill said he was confused why the city bought the easement for the extension for Stamm Road if they aren't going to use Stamm for this development. Is there another property to the north that

requires access? Does she have any idea? Ms. Carroll thought the idea was with Highway 16 coming, they were trying to get another road to go through to McDermott because the traffic is so bad.

Philip Hanson – IN OPPOSITION – 1118 N. 62nd Place Nampa, ID 83687

Mr. Hanson's concern is irrigation. He is directly north of the property. It is confusing why the city bought the property to extend Stamm and where it is going to end up. If they extend Stamm, it ends up on another guy's property. If they aren't accessing the property off Stamm Road, it's confusing to him. He had irrigation for one year when there were cattle on the property. He was able to get water on his property through that (the subject) property after he dug some lines down. He had little head gates on his part of the property. If it is developed, how is he going to receive the irrigation water? He is irrigating off his well right now. There is traffic turning down Willow Road and doubling back up which is going to create a lot more traffic there. He said he doesn't know if he is in opposition; it might be nice to have it developed and improve the area. But it is steep and hilly. He said it is like a bird reserve; there are a ton of hawks there and it will impact all that too.

Commissioner Nevill asked if he was getting tail water or an actual water delivery from canal somewhere. Mr. Hanson said they were getting water which traveled through the subject property to his. Mr. Hanson said he gets a bill from the Nampa Meridian Irrigation District and he had access to that water for one year. The trees are all falling down; it is just dilapidated. He felt uncomfortable going on the property and digging around trying to get water to his property but it would be nice to be assured that he would have irrigation water.

Tom Hood – Applicant (Representative) – REBUTTAL – 6405 83rd Ave. SE Snohomish, WA 98290

Mr. Hood said it really is a local neighborhood road serving only the Starcrest subdivision; the speeding is presumably residents and their invited guests. He said maybe some self-policing would be helpful. He said while the Highway District wasn't too keen on speed bumps, maybe they would be amenable to some other traffic calming measures. According to the Institute of Transportation Engineers' (ITE) trip generation manual, their development would only produce seven trips in the peak hour. That is one car every nine minutes. Regarding the irrigation issue: there is a distribution box on the southwest corner of the property. It laterals into the property and it discharges into a ditch along Robinson Road which then is picked up in a channel that cuts across the corner of their property. They have had a contractor clean up the channel that crosses their property and re-established it (the water flow). They have a full water right for the property. The gate/distribution box is controlled by the local water master. Not only will they continue that historic discharge location but it has capacity to be sent down to the Starcrest Subdivision. When he was down there, he did see the water flowing so there is water in the system. The Starcrest Subdivision is an old plat and he researched the wells. He found that most of those are old wells which are very shallow and going into the first ground water aquifer. The wells they drill as part of this project will be in much deeper aquifers. There won't be any negative impact to the shallower wells.

Commissioner Sheets asked if he would be casing and sealing down to that target aquifer so there won't be co-mingling of aquifers by perforating the upper layer and have it drain down to the second one. Mr. Hood said those were Idaho Department of Water Resources requirements.

Commissioner Williamson asked if the Commission votes on continuing this, how much time would they need to get answers from the city of Nampa on an explanation on their waiver/deferral? Mr. Hood said he would call Caleb tomorrow and he thinks he could get clarification within a week or so unless Caleb was on vacation for a couple of weeks.

Planning Official Dan Lister explained more about the deferral; that it isn't simply an annexation, that it is tied to annexation and additional development. He explained the Commission's decision options on this case.

MOTION: Commissioner Sheets moved to close public testimony on Case SD2018-0013, seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said when it comes down to the deferral, it's important to understand what they are talking about. Based on the representation by the applicant, the only thing they have is this letter which comes down to four lines. He is not sure how the city would even enforce it because you would have to have an agreement saying what they require, saying they agree or not agree to it. If it is something the city wants, he feels they can be more explicit. He thinks this is a county project and county standards. He feels like something is hiding out there. He doesn't have all the information here to make a decision and he doesn't know how the city would enforce the letter. He is in favor of continuing this and get some sort of answer from the city. The second option would be recommending waiver of those requirements. Commissioner Sheets' concern is that there is something out there he doesn't know about. How can they issue a letter saying they defer it without an enforcement mechanism there?

Chairman Sturgill said he is concerned that there is a financial overhang for future residents with lack of notification for future liability.

Commissioner Sheets agreed.

Commissioner Nevill asked how soon they could schedule this item to be brought back? Planning Official Dan Lister replied they could schedule it for either August 3rd or August 17th.

Commissioner Sheets said he thought two to three weeks was too short for municipal matters and said he was comfortable with August 17th.

Chairman Sturgill requested that they bring up any other issues before the motion to postpone so they are on the record.

Commissioner Nevill said he would also like an explanation on what their plan is for the extension of Stamm Lane. Does that mean they are going to have an intersection and then keep going? He would like more explanation because if it is going to be extended, it could change the area.

Commissioner Williamson said he would like clarification on where the drain is going to be and how it will go to the north, so the neighbors will be prepared to receive the water. He would like to see either a drainage plat map or have it added to the preliminary plat to better illustrate where the drainage would go.

MOTION: Commissioner Nevill moved to postpone Case SD2018-0013 to a date certain of August 17, 2023. Motion seconded by Commissioner Sheets. Roll call vote: 5 in favor, 0 opposed, motion passed.

- **Case No. RZ2021-0059/Bob Unger – Black Summit:** Black Summit LLC (Brett Hughes) represented by Bob Unger is requesting a Rezone of approximately 10.39 acres from an "A" (Agricultural) zone to a "CR-R-1" (Conditional Rezone-Single Family Residential) zone. The subject property, R30566 is located adjacent to 7722 E Victory Road, Nampa, in the SE ¼ of the SE ¼ south of the Ridenbaugh Canal in Section 20, T3N, R1W, BM, Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Bob Unger – Applicant (Representative) – IN FAVOR – 901 N. 29th Street Boise, ID 83702

Mr. Unger is representing the developer of the project. They are proposing 13 lots with an average of 20,000 square feet per lot. They are extending Nampa city water to the project which is about 250 feet from the west. They have signed a pre-annexation agreement with the city of Nampa which does provide for the water. Sewer service is not available to them. They are proposing a Nampa city rural road without curb and gutters but with an asphalt sidewalk on one side. They are building the road to the city of Nampa standards so when the city annexes the development they can take it over as a city street. They are putting in pressurized irrigation system. They do have water rights and access to the canal on the northern border of the property.

Commissioner Nevill said he is trying to figure out which of the 19 total lots are not buildable lots. Mr. Unger explained the 19 lots. There are three landscape buffer lots down by the road and the private road itself is a lot. Lot 13 is a large common lot which also will handle storm drainage. There is an additional lot to the east towards the cul-de-sac which is also a small drainage lot.

Commissioner Nevill asked staff to make this condition accurate, he didn't want to have "average lot size of one acre" because it wasn't true. Should draft condition of approval #2 say "...13 buildable lots and something about the hook up to the city water which allows that"? Planning Official Dan Lister suggested removing the verbiage "1 acre average lot size" and just stop at "13 lots" because the next condition of approval talks about meeting city requirements. He said the city will do a subdivision review according to their code which means they will either waive requirements for city improvements or not. There is a mechanism in condition #3 for city review for those hook ups.

Commissioner Nevill said drainage lot #11 is against the Ridenbaugh Canal, who said the development will have to maintain drainage on site. How do we keep drainage out of the Ridenbaugh Canal? Mr. Unger said the entire lot will not be used for drainage; it is a common lot for drainage and a park-like area. He said from the center of the canal, there is a 50 foot easement on either side and any drainage facility that they would create would have to be out of that easement, so they are looking at a grassy swale-type drainage. Commissioner Nevill asked how Mr. Unger would protect the canal from people. Mr. Unger said they will be fencing the canal.

Commissioner Sheets wanted to talk about the home site that is being surrounded. What is the situation with that and what discussions has he been having with those people? Is there a history to it? Mr. Unger said they did a one time split off the overall parcel and the owners have their home on that lot with a second home on the parcel. It was done in preparation for the sale of the rest of the property to his clients. Commissioner Sheets asked if that lot would be incorporated into the plan if there was an HOA? Mr. Unger said no, there was not.

Ray McCombs – IN NEUTRAL – 7716 E. Victory Road Nampa, ID 83687

Mr. McCombs said they live in the middle and sold the property to the developer. His only question was that when they first started and drew out the plat, there were going to be 9 homes. It keeps growing but there is no more acreage. He asked what is it going to be next year? They are kind of bothered by that. He asked if there is just one road into the subdivision, will there be curbs and gutters and what size the homes will be.

Chairman Sturgill said staff has recommended conditions on the rezone that will limit the number of properties and that number will not increase. Some of the questions relate to the preliminary plat and they aren't reviewing the plat tonight. He asked staff about the curbs and gutters. Planner Samantha Hammond said it seems that Bob Unger's intent seems to be to have curbs and gutters but that will also be decided at the time of the plat.

Planner Samantha Hammond said they don't regulate the size of the home, just the setbacks.

Commissioner Nevill asked if Mr. McCombs preferred nine lots and Mr. McCombs said yes, that was the original agreement.

Bob Unger – Applicant (Representative) – REBUTTAL – 901 N. 29th Street Boise, ID 83702

Mr. Unger provided a little history for this project. In the first layout of the property, they were looking at nine 1 acre lots but that was prior to the city agreeing they could bring city water to the site and was prior to finding out from staff that if they brought in water to the site, they could have smaller lots. They added four lots to offset the cost of bringing water to the site. There was nothing in the sales agreement restricting the number of lots his clients could build on the property. City of Nampa has reviewed the road and it is a Nampa rural road section. They will look at the road again as a part of the preliminary plat process.

MOTION: Commissioner Williamson moved to close public testimony on Case RZ2021-0059, seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Chairman Sturgill expressed a concern that looking at condition #3, there is reference to conditions and comments by the city of Nampa's letter unless otherwise waived by the city. He said what that suggests to him is the city of Nampa could waive all of their conditions and comments and the County could be left with conditions that do not reference connection to city services. He believes it makes sense to have a condition in there on connection to city services if they are going to allow more than nine buildable lots. He said that would be adding a Condition #5 or an extension to Condition #2.

Planner Samantha Hammond suggested getting rid of "with an average lot size of one acre" on Condition #2 and adding "contingent to connecting to city water".

Commissioner Sheets agreed with adding that requirement. He said hooking up to city services like that is a necessary part of it and ultimately you will have septic on less than an acre which is subject to Southwest District Health authority.

Commissioner Nevill said he is not sure what was just stated was understood by the McCombs; that if they have an issue with the 9 versus 13 lots, it is not the Planning and Zoning Commission's issue, it's an issue for the lawyers. He confirmed that they understood that.

MOTION: Commissioner Williamson moved to approve Case RZ2021-0059 including the Findings of Facts, Conclusions of Law and modified Conditions of Approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Sheets. Roll call vote: 5 in favor, 0 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 6/15/2023, seconded by Commissioner Villafana. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Planning Official Dan Lister talked about adding training to the next two meetings, specifically from Idaho Transportation Department and the County's engineer to summarize the water workshops with the Board. They are also trying to get someone from the Vallivue or Middleton school districts to talk about their jurisdiction and concerns and County Code Enforcement.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 9:49 pm.