



PLANNING AND ZONING COMMISSION
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In the matter of the application of:

**CS2 LLC DA#23-136 Modification – Case No.
RZ2021-0047-MOD**

The Canyon County Planning and Zoning Commission considers the following:

A development agreement modification to edit condition number 3 of DA 23-136 (instrument #2023-033002) regarding City of Caldwell requirements. The applicant would like to have the condition read “City of Caldwell requirements are waived”.

The subject property, parcel number R35590, is located at 0 Linden Road in the NW ¼ of Section 32, T4N, R3W, BM, Canyon County, Idaho.

Summary of the Record

1. The record is comprised of the following:

- A. The record includes all testimony, the staff report, exhibits, and documents in Case File RZ2021-0047-MOD
- B. DA#23-136 was approved October 11, 2023, in conjunction with rezone application RZ2021-0047. (Exhibit B.2.1 of the Staff Report RZ2021-0047-MOD)

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code of Ordinances (CCCO) §01-17 (Land Use/Land Division Hearing Procedures), CCCO §07-05 (Notice, Hearing and Appeal Procedures), CCCO §07-06-01 (Initiation of Proceedings), CCCO §07-06-07 (Conditional Rezones), CCCO §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-01-01 (Area of City Impact Agreement).

- a. Notice of the public hearing was provided per CCCO §07-05-01 and Idaho Code §67-6509. The City of Caldwell was provided on April 1, 2025. The property owners within 600 feet were notified on April 1, 2025, and the property was posted on or before April 4, 2025.
- b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote the public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity, to make the land use more compatible with neighboring land uses. *See CCCO §07-06-07(1).*
- c. **CCCO §07-06-07(7)F:** The presiding party shall review the particular facts and circumstances of the proposed development agreement modification. The presiding party shall apply the following standards when evaluating the proposed development agreement modification:

A development agreement by a developer concerning the use or development of the subject parcel may be modified only by permission of the board after complying with the notice and hearing provisions of Idaho Code section 67-6509. The modification proposal must be in the form of a revised development agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

2. The commission has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use, including subdivision permits. *See* I.C. §67-6504, §67-6511.
3. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCCO §07-03-01, 07-06-05.
4. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCCO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County’s hearing procedures, adopted per Idaho Code §67-6534, require that final decisions be in the form of written findings, conclusions, and orders. CCCO 07-05-03(1)(I).

The application, RZ2021-0047-MOD, was presented at a public hearing before the Canyon County Planning and Zoning Commission on May 5, 2025. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Planning and Zoning Commission decides as follows:

CONCLUSION: CCZO §07-06-07(7)F – Considering the application and supporting materials, the Planning and Zoning Commission concludes the proposed modification complies with CCCO §07-06-07(7)F.

Findings:

1. During the process of public hearing at the Board of County Commissioners on December 2, 2024, for Alyson Meadows Subdivision (SD2021-0039), the Board decided to use the recommendation of the Planning and Zoning Commission to waive all of the City of Caldwell conditions. Staff noted that the Development Agreement for the rezone case RZ2021-0047 stated that the conditions are in place except the requirement to hook up to water, which is waived. At that time, the application was tabled to a date uncertain to allow the applicant to apply for a Development Agreement Modification of condition number 3 of DA23-136. (Staff Report Exhibit B.3.5)
2. The representative applied for the Development Agreement Modification to Condition No. 3 of DA-23-136 on February 12, 2025.
3. The modification would be required for the Board to waive all requirements of the City of Caldwell. The application was in order, with the neighborhood meeting being held on December 16, 2024, and all items required submission.
3. The request from the applicant is to modify condition No. 3 to say “The City of Caldwell requirements for this plat will be waived.” (Staff Report Exhibit A.2)
4. The request was strongly supported by the neighbors to keep the area’s character the same as neighboring parcels.

Canyon County Code §09-01-19 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: CCCO §9-01-19(6) Waiver of City of Caldwell Ordinance Provisions: The requirements listed in the Caldwell ordinances, identified in subsections (2) and (3) of this section, may be waived by the Canyon County board of commissioners in its discretion.

Findings: (1) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0047-MOD.


(2) The city of Caldwell respectfully requested that their previous conditions be adhered to and not waived. (Staff Report Exhibit C.1)

Order

Based upon the Findings of Fact, Conclusions of Law, and Order contained herein, the Planning and Zoning Commission recommends **approval** of Case # RZ2021-0047-MOD, a request to modify Development Agreement #23-136, Condition Number 3 to read "The City of Caldwell requirements for this plat will be waived."

DATED this 15th day of May, 2025.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

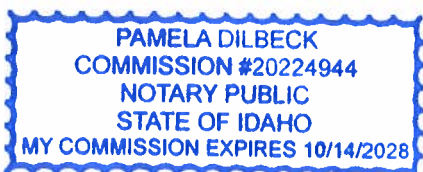

Brian Sheets, Acting Chairman

State of Idaho)

SS

County of Canyon County)

On this 15th day of May, in the year 2025, before me Pamela Dilbeck, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Pamela Dilbeck

My Commission Expires: 10/14/2028