

Commissioners Minutes

July 12, 2023 – 1:34 p.m. to 3:31 p.m.

PUBLIC HEARING - SIERRA VISTA PROPERTIES/MINT FARM ESTATES - REZONE AND PRELIMINARY PLAT, IRRIGATION AND DRAINAGE PLAN

Commissioners Zach Brooks and Leslie Van Beek

DSD Planner III Debbie Root

Andrea Roshalt, Darin Taylor, Ammon Andelin, Derritt Kerner, Allen Colson, Debbie Millsaps,

Dan Richards, Jill Jenkins, Paige Harris, Todd Gray, Keri Smith, other interested persons

Deputy PA Zach Wesley arrived at 1:50 p.m.

Deputy Clerk Monica Reeves



PUBLIC HEARING - SIERRA VISTA PROPERTIES/MINT FARM ESTATES - REZONE AND PRELIMINARY PLAT, IRRIGATION AND DRAINAGE PLAN.

The Board met today at 1:34 p.m. to conduct a public hearing in the matter of a request by Sierra Vista Properties, Inc., for a rezone of 90.75 acres from an "A" (Agricultural) zone to an "R-R" (Rural Residential) zone. If approved, the request includes a preliminary plat, irrigation, and drainage plan for Mint Farm Estates Subdivision, which contains 39 residential lots. Present were: Commissioners Zach Brooks and Leslie Van Beek, DSD Planner III Debbie Root, Andrea Roshalt, Darin Taylor, Ammon Andelin, Derritt Kerner, Allen Colson, Debbie Millsaps, Dan Richards, Jill Jenkins, Paige Harris, Todd Gray, Keri Smith, other interested persons, and Deputy Clerk Monica Reeves. Deputy PA Zach Wesley arrived at 1:50 p.m. Commissioner Van Beek said the Board heard a proposal last year on one of the properties adjacent to this site so there will be some familiarity of the area and the case information.

DSD Planner Debbie Root gave the oral staff report. The subject property is located at 8718 Purple Sage Road in Caldwell, and the majority of the property is currently in irrigated agricultural crop production and does not lie within an area of city impact. The proposed development for rural residential is a result of having the previous application for one-acre minimum lot sizes denied and the Board of Commissioners stating an option for approval would be to come back with an application for rural residential zoning with a 2-acre minimum average which is more commensurate with the development in the surrounding subdivisions. The area is agricultural in nature with larger lot sizes and farms in the area. The average lot size on the proposed plat is 2.04 acres. The property is located east of the current nitrate priority boundary, and there is a monitoring well at the boundary that exceeds 10 milligrams per liter nitrates and is downgradient from the property which is referenced in the County Engineer's letter. The engineer believes the development should be on a public drinking water system and a community waste system. If the development is approved staff recommends the Board impose a condition requiring a public drinking water system and/or that it be connected to an existing municipal system, and to require a public waste water system. Ms. Root reviewed the surrounding area including zoning and land

uses; soils and irrigation information; access/traffic; essential services; potential impacts; agency comments, and public comments. The request does not allow conditions to be placed on the rezone, the applicant signed a disclosure refusing to consider a conditional rezone with a development agreement. The request does not align with five goals and policies of the 2020 comprehensive plan regarding agricultural preservation. On January 19, 2023, the P&Z Commission recommended denial of the request citing cumulative impacts to the existing road system not being adequately addressed and the effects of all development that is occurring in the area. Following her report, Ms. Root responded to questions from the Board.

The following people testified in support of the request:

Ammon Andelin, the applicant's representative introduced the team who will testify today: Derritt Kerner, project engineer; Darin Taylor, project planner; and attorney Andrea Roshalt.

Derritt Kerner is the design engineer on the project, and he provided technical testimony. In their initial plan they had a mixed layout of 1-2 acre lots which yielded 53 lots on 90 acres, and they worked with staff to arrive at a proposed R-1 zoning with a development agreement that restricted density to 0.58 units per acre, but they were denied in 2022. Rural residential zoning was the only thing the Board would support in this area, and they changed the one-acre lots in the middle to 2 acres with 39 buildable lots. The highway district has no objection to their proposal, and they are complying with the future road map with internal connectivity, stub roads to the west and the east as well as dedicating and widening Purple Sage Road along their frontage. They will use surface water rights to supply a pressurized irrigation system to each lot. They did a full design for the retiling of the Black Canyon Irrigation lateral, but it has been paused until they secure preliminary plat approval. He was surprised the P&Z Commission denied the request and wanted the applicant to address the impacts on schools and traffic.

Darin Taylor said the P&Z Commission's FCOs state the Middleton School District capacity impacts are adequately addressed or minimized through approved mitigation measures to gain approval. They met with the district and talked about the Millcreek Elementary School, and the school has acquired additional portable units. The applicants have solicited the Building Contractors Association to assist the school district to get a bond approved for a new middle school and they have pledged to fund up to \$15,000 to the political action committee for the contractors association toward the school bond effort. With the two portable units the school capacity at Millcreek Elementary does not exist any longer. Regarding the stop sign leaving the subject property onto Purple Sage Road, Mr. Taylor said they do not need to install a stop sign until the rezone is approved. Neither Canyon Highway District nor ITD oppose the application. The traffic impacts are being addressed by the entities having jurisdiction. It was made clear by the Board of Commissioners that the applicant needed to come back with a rezone to rural residential and 2-acre average lot size. There was discussion about a development agreement, but it did not fit with the rezone application, so they declined to do one. There are 26 subdivisions totaling 495 lots on 1,164 acres within one mile of the subject property. There have been 7 rezones approved

in the area. Additional dwellings are helping to reduce the cost per dwelling of school bonds and making it more likely for bonds to be approved. Mr. Taylor reviewed irrigation and water supply issues. Following his testimony, Mr. Taylor and Ms. Root responded to questions from the Board. Upon the motion of Commissioner Van Beek and the second by Commissioner Brooks, the Board voted unanimously to accept Exhibits I-3, I-4, and I-5 as presented by Subdivision Maker.

Andrea Rosholt gave testimony regarding the prior application. The applicant applied in 2021 and the Board denied the request, but it specified the actions the applicant could take to obtain approval. In both applications for a preliminary plat and the first conditional rezone, the action identified by the Board for the applicant to take was to receive approval of a zoning map amendment rezone of the property. The 2020 comprehensive plan has identified residential for this area. Canyon Highway District has entered into a Mid-Star agreement for the improvement of roads and that is consistent with the development that it's seen and so it's already addressing these road issues. There is a plan for Highway 44 and Lansing Lane, and this application is 2.2 miles from that.

The following people testified in opposition to the request:

Allen Colson lives adjacent to the subject property and his concerns include negative impacts to already overcrowded schools, and worsening traffic issues. Purple Sage Road is extremely busy; the roads are built for agricultural use, not the high traffic coming from subdivisions. He wants the County to preserve agricultural ground.

Debbie Millsaps lives west of the property and testified that the infrastructure is far behind. She is the secretary of Millcreek Elementary and said when classes are full they will have 265 students in portable units and that means they do not have water or restrooms and they will move from portables to the main building in order to use the restroom. The portables are not a long-term solution, it's a Band-Aid fix. There are homes going in by the dozen on Duff Lane and Lansing Lane, and those developments will have students. The elementary school has nearly 800 students, K-5, and it's tough to manage that many students. She is worried that the infrastructure is not in place, and it could take years for it to get there.

Daniel Richards testified that the people who support the request do not live in the area, and they won't be impacted by the development. His concerns include traffic, impacts to agriculture, water, damage to the aquifer, overcrowded schools, and road safety issues.

Jill Jenkins testified she owns 8 acres that border the property. She irrigates with agricultural ground water rights, and the canal goes behind her property, but they do not have surface water rights, it's all ground water irrigation rights. Her concern with tiling the ditch is that it won't allow for recharging, and it will limit the aquifer that the neighbors rely on for house water and irrigation water. The sewer leach fields cross contamination is another concern as is groundwater quality, lack of open spaces, and no sidewalks. She believes the applicant is putting the cart before the horse, and they need to bring in city services for what they are trying to do. It is not compatible with the surrounding properties which are over five acres, and she stressed the importance of

agricultural preservation. Additionally, the schools are overcrowded, and we need a better approach to the growth.

Rebuttal testimony was offered by Darin Taylor and Andrea Rosholt. Mr. Taylor spoke of their communication with the Middleton School District and how they can pledge their effort, but there is no guarantee the bond will be approved. Ms. Rosholt said there are going to be traffic impacts, but the highway district and the Idaho Transportation Department have not opposed this project and therefore there is no evidence in the record that they would oppose it. There is a project plan, and the intersection costs will be paid either from impact fees or tax dollars and increasing residences will help spread out those tax dollars. Regarding schools, she said the current issue has been mitigated and steps are being taken to mitigate it. Commissioner Van Beek had follow-up questions for Ms. Rosholt.

Commissioner Brooks asked if he is bound to statements a prior Board made to the applicant. Deputy PA Wesley said it's not necessarily binding, it was just the Board meeting the denial criteria at that point when it denied the land use application, however, that is not a commitment for approval in the future. Each application must meet the criteria on its own. Upon the motion of Commissioner Van Beek and second by Commissioner Brooks the Board voted unanimously to take a recess. (The Board took a break at 3:16 p.m. and went back on the record at 3:24 p.m.) Commissioner Van Beek said she does not have clear definitions on what constitutes a material change, and the Board has accepted three late exhibits, but she has not absorbed what the impact is on the information that has been provided. The application was submitted in 2020 and she was part of the Board at that time that made a recommendation and gave direction on how to move forward. She would like to continue the hearing to give the full Board an opportunity to evaluate the late exhibits. Deputy PA Wesley said in the past when a Commissioner has not been available on the hearing date they have been able to listen to the audio, go through the evidence on their own, and then appear at the next hearing to participate in the deliberation. He prefers the Board close evidence today and if there is evidence that is taken at the next hearing the record can be reopened. Upon the motion of Commissioner Van Beek and second by Commissioner Brooks, the Board voted unanimously to close public testimony. Upon the motion of Commissioner Van Beek and second by Commissioner Brooks, the Board voted unanimously to continue the hearing to August 24, 2023 at 1:30 p.m. The hearing concluded at 3:31 p.m. An audio recording is on file in the Commissioners' Office.