

Commissioners Minutes

October 22, 2024 – 1:31 p.m. to 3:25 p.m.

**PUBLIC HEARING – REQUEST BY DARIN TAYLOR, SUBDIVISION MAKER, LLC, REPRESENTING RYAN AND HEIDI WALKER, FOR A CONDITIONAL REZONE OF AN “A” (AGRICULTURAL) ZONE TO A “CR-RR” (CONDITIONAL REZONE – RURAL RESIDENTIAL) ZONE, AND THE SHORT PLAT FOR EDENBROOK SUBDIVISION, CASE NOS. CR2021-0012 AND SD2021-0057**

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

DSD Director Sabrina Minshall

DSD Principal Planner Michelle Barron

Deputy PA Zach Wesley

Darin Taylor

Ryan Walker

Heidi Walker

Terrel McHenry



Deputy Clerk Monica Reeves

PUBLIC HEARING – REQUEST BY DARIN TAYLOR, SUBDIVISION MAKER, LLC, REPRESENTING RYAN AND HEIDI WALKER, FOR A CONDITIONAL REZONE OF AN “A” (AGRICULTURAL) ZONE TO A “CR-RR” (CONDITIONAL REZONE – RURAL RESIDENTIAL) ZONE, AND THE SHORT PLAT FOR EDENBROOK SUBDIVISION, CASE NOS. CR2021-0012 AND SD2021-0057

The Board met today at 1:31 p.m. to conduct a public hearing in the matter of a request by Darin Taylor of Subdivision Maker, LLC, representing Ryan and Heidi Walker, for a conditional rezone and development agreement for approximately 14.906-acres, to change the zoning district from “A” (Agricultural) to “CR-RR” (Conditional Rezone - Rural Residential). The request includes a short plat for Edenbrook Estates Subdivision. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, DSD Director Sabrina Minshall, DSD Principal Planner Michelle Barron, Deputy PA Zach Wesley, Darin Taylor, Ryan Walker, Heidi Walker, Terrel McHenry, and Deputy Clerk Monica Reeves. Darin Taylor, the applicant’s representative, testified that Ryan and Heidi Walker acquired the land years ago and they owned 25 acres and administratively divided off two 5-acre pieces to the north and were left with a 15-acre which is what the Board is considering today. The final plat is still going through the changes requested by the Black Canyon Irrigation District (BCID) related to an easement along the Conway Gulch along the south boundary. The Walkers were required to sign an easement agreement but it has not yet been recorded. Rural residential properties are located to the west and north, and the property to the south is being farmed. The Walkers bought the property so they could build a home, and they are splitting the land to help pay for the purchase of the land and for their house. They concur with the FCO’s and the recommended conditions of approval, except for the wording that restricts the secondary residence on the parcel they might otherwise be entitled to. The agencies have approved the preliminary plat. There is access, and there is a gravity fed pressurized irrigation system for the

three lots. They started off with 5-acre lots on the north with the smaller piece on the south which is the one the Walkers wanted to build on, but they needed separation from the Conway Gulch so for the southern piece they had to increase the size so that it could have the drain field on its property and meet the separation requirements for the health district and the irrigation district. They changed the lot sizes, they are all 4+ acres and the one on the south is just over 5 acres, but other than that there have been no changes to the preliminary plat or the final plat since they were filed several years ago. Following his testimony, Mr. Taylor responded to questions from the Board. Commissioner Holton had questions regarding the fire turnaround that is shown 3 different ways, a concept of a Y and then a T and on the final plat drafts it's not shown at all. Mr. Taylor said because of the width of the road, the only required turnaround is at the end. Each lot is 5 acres so they have to have a turnaround on each lot unless the further corner of their structure is within 200 feet of the road. The Walkers want a shop and given the topography of the land they want those structures near the north end of the property but that's where a turnaround would be. If they have a driveway with some parking that would accommodate their studio location and their house and there is plenty of room for a turnaround. The fire district okayed this modified turnaround type. According to Mr. Taylor, fire district turnarounds are not typically shown on a final plat because they are house specific. There was further discussion and explanation regarding the turnaround and the easement.

DSD Principal Planner Michelle Barron gave the oral staff report. The request includes a development agreement to limit residential development to three buildable lots. The subject property is located approximately 600-feet south of Goodson Road and approximately 1,000 feet east of the Goodson Road/Wagner Road intersection in Caldwell. The case was submitted on October 28, 2021 and was originally heard by the P&Z Commission on September 1, 2022 and they recommended approval of the conditional rezone with conditions and the short plat. The applicant needed to build out the private road and get the irrigation district approval on the improvements. While the applicant was working on the road there were some family health concerns that paused the process. They have been working with BCID for nine months to get their approval which includes the easement for the ditch that's on the parcel. Planner Barron reviewed the history of the property noting that in March of 2021 an application for an administrative land division was approved from the original parcel; the parcel was divided into two 5-acre parcels and a 14-91 acre parcel that was ag-only with no building permit available. The agricultural parcel is the parcel that is being proposed for rural residential zoning today. There was a review of the three-lot concept plan. When DSD received information from BCID regarding their requirements for an easement, the final plat dated May 9, 2023 was attached to the comment letter and at that time the planner contacted the applicant to verify that the current short plat had been approved by the County engineer. The County surveyor did sign the final plat, but per state code, an engineer needs to look at both the preliminary plat and the final plat and make sure engineering requirements are taken care of. The final plat cannot be considered today because we do not have the final sign offs by the County engineer and BCID. The preliminary plat has changed since the approval by Keller Engineering, but it was at a time when DSD had a county surveyor on staff and

she has no record of them sending it to the county engineer. There was a small change in lot sizes to allow for setbacks from the drain field to the irrigation ditch which resulted in a minor change to the preliminary plat. The proposed lots will have access onto Goodson Road via a private road. The future land use designation is residential and there are 10 platted subdivisions and two subdivisions in process and the average platted lot size for subdivisions within one mile is 4.84 acres. It appears there has been approval of a preliminary plat for Stadium Subdivision No. 2, and two phases submitted for the final plats and that would represent 136 total residential lots in the area and when combined it brings the total to 277 lots with a 1.89-acre average lot size. The proposed plan aligns with five goals and two policies within the 2020 comprehensive plan as well as the future land use map. Planner Barron reviewed the agency comments and public comments. She recommends the following conditions if the Board choose to approve the request:

1. The applicant shall record easement on Lot 2, Block 1 of Edenbrook Estates for a modified turnaround for Edenbrook Lane and the easement shall be shown on the final plat with the instrument number.
2. The road users' maintenance agreement (RUMA) shall be amended to lots 1-3 of Edenbrook Estates.

Following her report, Ms. Barron responded to questions from the Board.

Public testimony was as follows:

Ryan Walker testified that they amended the RUMA to include the parcels to the south on June 7, 2024. They have no interest in having a second house but they would like to have a barn and shop building adjacent to their house to the west and they would like an apartment above that building for future family needs. In regards to the modified turnaround, Mr. Walker said their desire was for a modified hammerhead turnaround and but the fire district said that is only allowed if the road continues past the turnaround and so they had to choose a different one. The second choice was the 60-foot "Y". They had already built the front part of the road to 24 feet before finding out the district wanted it to be 26 feet, and that was granted in writing in October of 2022. Following his testimony, Mr. Walker responded to questions from the Board.

Heidi Walker testified that they have seven children and some have special needs and they would love to have a barn-dominium/apartment/music studio and the extra dwelling will help take care of her family's needs. They are not proposing several buildings, but they would like some flexibility with the use of each lot. As far as selling the lots, their hope is to build a house and be debt free. They will occupy Lot 2, but Lots 1 and 3 will be sold and it would be nice to have the entitlement for a secondary dwelling on all the lots.

Terrel McHenry testified he came to the hearing because he didn't know why the Walkers wanted a rezone to build a house but now that he knows what's going on he doesn't object to what they want to do. He does not want a massive project that will disturb the area.

Rebuttal testimony was offered by Darin Taylor who addressed the slope of the parcel, and the amended RUMA which was put into place at the request of one of the homeowners who purchased the northwest parcel and wanted the road paved. The amended RUMA specifically addresses the paving of the road, and the intent is to pave it. If a time limit is imposed, Mr. Taylor asked that it be a 10-year space of time so they can make sure it gets done.

There was discussion regarding the secondary dwelling/accessory dwelling unit; paving of the road; and the administrative land division and rezone process. Commissioner Holton said wants to see the road verbiage on the plat. He said we are not treating the three lots fairly compared to the front two lots, and if it has the potential for having 10 dwelling sites, he will not participate in a development with a gravel road with 10 lots. He said they have built a good road base and it's up to them if they are going to do a future lot line adjustment. The land deserves a paved road even with the paved turnaround. Mr. Taylor said if the Board's concern is that it wants the road paved for the five lots then require it at the 4<sup>th</sup> or 5<sup>th</sup> lot. The cost to pave the road is about \$120,000. For the easement to be shown on the final plat, those are typically not shown on preliminary plat, it's a final plat document. Director Minshall said if the Board is looking for having it paved at some point she recommends it be done before certificate of occupancy. If you do it prior to a C of O we don't let anybody move in, but the lot could still be sold. DSD would require the applicant's engineer to certify that the road meets county code and any conditions and you could do that at any number. The Board could also approve the preliminary plat with the condition that it gets revised to have the easement shown for the turnaround and then the final plat would have to be consistent with the preliminary plat. Commissioner Van Beek would like a condition that the road be paved before the issuance of the certificate of occupancy, and that the preliminary plat show the turnaround easement with the final plat that is substantially compliant with the preliminary plat easements. The RUMA should be amended as well. Upon the motion of Commissioner Holton and the second by Commissioner Brooks, the Board voted unanimously to close public testimony. The Board's deliberation on the rezone was as follows:

1. *Is the proposed conditional rezone generally consistent with the comprehensive plan?* Yes.
2. *When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?* Yes.
3. *Is the proposed conditional rezone compatible with surrounding land uses?* The proposed development as conditioned is compatible with surrounding land uses. Commissioner Van Beek said the Board wants staff to amend the section in the FCO's pertaining to a single dwelling unit, and to update the section to reflect the Board's conversation about the ADUs. Staff will confirm the data and prepare modified language.

**4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?** Commissioner Van Beek said staff's language restricts it to no secondary dwelling units will be permitted and no additional splits available. Commissioner Holton wants to remove the language about additional splits. Planner Barron said if the Board wants to condition it to the three lots and the private road lot that will lock it down to the average lot size we are looking at. Commissioner Holton agrees.

**5. Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate the proposed conditional rezone?** Yes.

**6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns?** They have installed a paved apron to join with Goodson Road and have discussed the future conditions on the RUMA. Legal access exists and no public street improvements need to be made to provide adequate access to/from the subject property.

**7. Does legal access to the subject property for the development exist or will it exist at the time of development?** Yes.

**8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire and emergency medical services? What measures will be implemented to mitigate impacts?** Three lots with three residences will not be an impact. It is a positive impact because of the increased property taxes that will be available.

Regarding the conditions of approval, Planner Barron removed the condition pertaining to no secondary dwellings, and added language to amend the RUMA, and that paving at the certificate of occupancy for the fifth (5<sup>th</sup>) dwelling unit will all be at the subdivision conditions of approval, not during the rezone process. Staff will prepare modified language for the FCO's and bring them back for Board review at a later date. Commissioner Holton made a motion to approve Case No. CR2021-0012 with the noted changes and to approve the FCOs at a later date. The motion was seconded by Commissioner Brooks and carried unanimously. Commissioner Holton suggested the preliminary plat be set for an unknown date certain and have the applicant come back with the additions to the preliminary plat and the notations discussed today and bring it back as a revised exhibit. Following discussion, Deputy PA Zach Wesley said the Board has approved the conditional rezone subject to the changes in the FCO's and the intent is to continue the hearing in total on the plat issue in which case at the next hearing the Board can reopen public testimony on the platting portion of the hearing. Upon the motion of Commissioner Holton and the second by Commissioner Van Beek, the Board voted unanimously to continue the hearing to November 20, 2024 at 1:30 p.m., for the purpose of reviewing and receiving testimony on the preliminary plat and final plat. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 3:25 p.m. An audio recording is on file in the Commissioners' Office.