

Commissioners Minutes

November 19, 2024 – 1:31 p.m. to 3:44 p.m.

PUBLIC HEARING: CONSIDER THE PRELIMINARY PLAT AND AN IRRIGATION AND DRAINAGE PLAN FOR ALYSON MEADOWS SUBDIVISION, CASE NO. SD2021-0039

Commissioners Brad Holton, Zach Brooks and Leslie Van Beek

Deputy P.A. Zach Wesley (arrived at 3:00 p.m.)

DSD Principal Planner Michelle Barron

DSD Planning Supervisor Carl Anderson

Elwin Butler from Matrix Engineering

Gary Beers

Greg Bullock

Sarah Lawrenson

Other interested citizens

Deputy Clerk Monica Reeves



PUBLIC HEARING: CONSIDER THE PRELIMINARY PLAT AND AN IRRIGATION AND DRAINAGE PLAN FOR ALYSON MEADOWS SUBDIVISION, CASE NO. SD2021-0039

The Board met today at 1:31 p.m. to conduct a public hearing in the matter of a request by Elwin Butler, PE for Cory Swain, CS2, LLC, for approval of a preliminary plat and irrigation and drainage plan for Alyson Meadows Subdivision, Case No. SD2021-0039. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, DSD Principal Planner Michelle Barron, DSD Planning Supervisor Carl Anderson, Elwin Butler from Matrix Engineering, Gary Beers, Greg Bullock, Sarah Lawrenson, other interested citizens, and Deputy Clerk Monica Reeves.

Elwin Butler, with Matrix Engineering, testified the plat consists of 18 residential lots with a minimum buildable lot size of 2 acres, with each to be served by individual wells and septic systems. The Linden Street right-of-way will be widened to the required width and includes a 20-foot buffer strip along the frontage of the property. Access will be via private road and they have received approval to use Birchwood Lane. It covers the minimum 26-foot wide requirements of the fire department. Drainage will be along the swales of the private roads and collected into an infiltration swale; the easements are provided on the plat. Irrigation will be pressurized and the irrigation water will be tiled and a head gate will be placed at the head of the cul-de-sac to provide diversion to Rhett's Acres, Pleasant Ridge, and to Alyson Meadows so they can easily control irrigation water. The development compliments the surrounding area of small acreages and all the surrounding properties are rural residential lots with wells and septic. There was a concern about access to Tranquil Road and during the plat reviews they discovered: 1. The frontage of Alyson Meadows that fronts Tranquil Place was not provided an access easement on Rhett's Acres; 2. the turnaround for Tranquil Place was on the Alyson Meadows property; and 3. The irrigation main to Rhett's Acres went across Alyson Meadows without an easement. They have worked with Rhett's Acres to correct these items and they are addressed on the plat. The Caldwell Fire Dept., did not require a second access with the cul-de-sac as designed but having a second access

provided to both Rhett's Acres and Alyson Meadows is a win-win for both projects. There was concern about having the access open and the developers have agreed to gate that so that EMS and service vehicles can access irrigation and emergencies and still keep it a non-public use. Tranquil Place and Birchwood Lane will be private roads and will be maintained by the HOA. There was concern from neighbors that they did not want this subdivision to be a city development with streetlights, sidewalks, and utilities. Item No. 6 in the conditions of approval was recommended by the P&Z Commission to waive all city requirements and the developers support this in the fact that these lots are served by their own wells and septic tanks and they are surrounded by rural lots that provide their own utilities. In order for the city to annex this property they have to have a direct line for annexation and without the small properties annexing to the city first they cannot annex Alyson Meadows. If the developers had to put in sewer and water lines in addition to wells and septic tanks it would be 30 years before they could be annexed and those lines would be halfway through their useful life before they would be utilized so the developers support the idea of keeping this a rural development. Following his testimony, Mr. Butler responded to questions from the Board regarding the road maintenance, ingress/egress, the road users' maintenance agreement, the irrigation system, and accessory dwelling units.

DSD Principal Planner Michelle Barron gave the oral staff report. The development consists of 18 residential lots and 4 common lots, including a private road lot on approximately 40.84 acres. The subject property, parcel number R35590, is located at 0 Linden Road. The property will take access off Linden via new private road, Birchwood Lane. There is an easement that will provide access to irrigation structures for this subdivision and to Rhett's Acres to the east, and it will also be available for a secondary access for emergency services that will remain gated unless needed. The applicant has requested a waiver of the city's requirement to install a 10-inch dry water main and the Board of Commissioners had previously waived the city's recommended requirements to connect to city water services at the time of the rezone. Sewer is not available at this time and the subdivision will be serviced by individual septic systems. The city is requesting some buildout of sewer structures. The property is zoned rural residential and is located in the Caldwell's area of city impact and has a future land use designation of residential estates. On August 15, 2024, the Planning & Zoning Commission recommended approval with conditions, and recommended all of the city's requirements for this plat be waived by the Board. The preliminary plat was approved by Keller & Associates acting as the County engineer, with an updated review by Centurion Engineers on January 8, 2024 with conditions. The City of Caldwell wishes to require the developer to provide funds to construct a forced pressure sewer line from Birchwood Lane to the east boundary of the frontage. The city is requiring the developer to place a 12-inch water main along the frontage of the property for future hookup to the city water after annexation. The Board waived the requirements to connect to city water during the conditional rezone process and made it part of the development agreement. At the time of annexation into the city there will be a transfer of irrigation water rights to the city. The City of Caldwell is requiring ribbon curb and marked walkways on the pavement but that does not include curb and sidewalks. Principal Planner Barron reviewed the conditions of approval, including a potential additional condition that a gate be installed with a lock that is only accessible by emergency services at the property line for the Rhett's Acres Subdivision. It probably needs to be accessible for irrigation purposes as well. Following her report, Principal Planner Barron responded to questions from the Board regarding the City of Caldwell's requirements and future annexation of the property.

Public testimony was offered as follows:

Gary Beers, who lives on West Linden Street directly north of the proposed subdivision, testified that he supports the P&Z Commission's recommendation and requests the Board approve Condition No. 6, which is the waiving of the City of Caldwell requirements. The record includes a neighborhood petition with 22 signatures also in support of the waiver which is in keeping with the rezoning plat requirements previously approved by the Board for Tranquil Place Subdivision located east of Alyson Meadows. He appreciated that during the rezoning hearing for Alyson Meadows, Commissioner Brooks raised a concern about placing city requirements on the Alyson Meadows Subdivision that were not placed on Tranquil Place, and Mr. Beers agrees with that concern. Both subdivisions are in the impact zone and he understands the desire to enhance the area; however, the existing properties already have a rural aesthetic that is enjoyed by current residents and many have worked in good faith with the developers of Tranquil Place and now Alyson Meadows to support development of the properties in keeping with the current rural residential aesthetic. Mr. Beers testified that he coordinates irrigation with the residents of Birchwood and in partnership with the ditch rider for Pioneer Irrigation.

Greg Bullock testified about his involvement with the Rhett's Acres project and his knowledge of the development on Tranquil Lane. As part of the development he was working on he became acquainted with the neighbors who were opposed to bringing in a new subdivision, but understanding that there would be much higher density with a city development the neighbors supported a rural 2-acre subdivision. He is not surprised that the P&Z Commission recommended denial of the City of Caldwell's requirements because it does not fit the rural area. They needed an easement across the Alyson Meadows property for irrigation purposes, which they granted and they requested that Rhett's Acres give an easement for emergency vehicles only. Neither Rhett's Acres nor those who had lived there for a while wanted the connectivity to another subdivision. The easements are inclusive of maintenance and improvements, and they will put gates at both ends of the emergency areas.

Sarah Lawrenson lives on Tranquil Place at the end of the Rhett's Acres development and her concern deals with the future development connecting to the private road, Tranquil Place. She has submitted a letter for each hearing regarding this development and she does not feel that her concerns have been seriously considered. Tranquil Place is a private road that each lot owner is mutually responsible for the maintenance and upkeep of and they are all tied to the RUMA and it's tied to their deeds. Tranquil Place services 18 possible lots and she wants to know why can't Alyson Meadows simply have a hammerhead like Tranquil Place has or use the culdesac as designed and eliminate all of the concerns for possible extra traffic use and burden on Tranquil Place and those financially responsible for the maintenance. It's not just vehicle traffic, there will also be more people and bicycles, kids, etc. Regarding irrigation, she said when Rhett's Acres was being developed part of the requirement was the irrigation had to go through her property to get irrigation to Rhett's Acres and in doing that there is no easement. In the State of Idaho you do not have to have an easement for irrigation purposes so there doesn't need to be an easement for

irrigation for Rhett's Acres to get their water and she doesn't think it needs to have road/vehicle access because people can walk through the nine acres to get to their head gate for Rhett's Acres. Back when she appeared in support of the Rhett's Acres development it was an oversight that the hammerhead area was not property of Rhett's Acres, that it was property of Alyson Meadows and she feels like that was a backdoor deal between the developers and she would have fought harder back then to make sure that was not going to be accessible for this new development. Her concern is that it will increase traffic, people and activity whether there is a locked gate there or not. She would like the connection in between to be removed and Alyson Meadows do the same as Rhett's Acres and have just a hammerhead or the culdesac that is shown as their emergency turnaround. The Board had follow-up questions for Ms. Lawrenson and for staff.

During rebuttal testimony Elwin Butler said if they proceed to meet city annexation requirements, an agreement will be required for each lot that when the city is able to annex they will have to annex and pay annexation and connection fees at that point. Personally, he has a difficult time with that because if he is putting in a well and septic and has to abandon those and connect to city water/sewer and pay those fees that will be a heavy burden on a rural lot. He addressed the head gate on Tranquil Place and said once the new road is put in with a culdesac it will end by the head gate so it will reduce requirements to service it from Tranquil Place. He said he widened the easement to 60 feet and after objections from neighbors he reduced it to 30 feet, which is what the highway district originally required for that secondary access. It will be gated. He would like the Board to uphold the P&Z Commission's recommendation excluding the city's annexation requirement. In order for a developer to annex they will have to have 40 acres to justify bringing water/sewer, putting in lift stations, and updating easements through properties to do that and with all of the small rural lots it's not practical for annexation to happen.

Principal Planner Barron said when the rezone was approved the development agreement states the application will comply with the proposed conditions of the City of Caldwell Engineering Department and the Director of the City of Caldwell P&Z Department letters, with the exception of the requirement of connecting to the public water system which is waived. If the Board were to waive the other improvements it would be through the decision for the subdivision through the preliminary plat. Planning Supervisor Anderson spoke about the noticing requirement under Canyon County Ordinance Section 09-01-19 that talks about waivers of city of Caldwell ordinance provisions. He response to the request for waiver, the City of Caldwell sent an email dated 11/01/24, stating in part, because of this the city will not waive the condition for requiring the subdivision to be developed under city standards. Those items, 7F and 7G, with the exception of the water component, were part of the development agreement; however, that waiver request would have been part of this subdivision with the preliminary plat as recommended by the P&Z Commission.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. The Board's deliberation was as follows:

Commissioner Van Beek likes the proposal for connectivity and future development, and said a 60-foot road could allow for the vacation of residences if there was an emergency. Where the 60-foot easement on the dogleg goes down to 30 feet she would like that brought across all the way to 60 feet. Commissioner Holton agrees. Commissioner Van Beek spoke of her preference to have the road be a public road in terms of maintenance. Commissioner Holton said it would be outside of the scope today to discuss the potential for it to be a public road. There was discussion about limiting secondary residences or additional dwelling units on the properties given their size and the concern for the potential of the project doubling in size. Commissioner Brooks said it is unreasonable to expect this to go from 18 units to 36 units and if we want to plan for this be city in the future why condition it to prevent it from being city-level density by restricting additional dwelling units. Commissioner Van Beek noted that Sarah Lawrenson wants to make sure the gates are installed. The Board reviewed the draft findings of fact and there was discussion about the City of Caldwell being unwilling to waive their requirements. Planning Supervisor Anderson the requirements in the Caldwell ordinance may be waived by the Board of Commissioners; the applicant bears the burden of persuasion in that regard. Those items were listed in the development agreement that was approved as part of the rezone last year and staff is unclear on how to amend a development agreement through a platting process.

Deputy PA Wesley addressed the question of what is the proper notice to the City of Caldwell using our area of impact waiver. The waiver to the city implies that we have an application for a waiver and that sounds like it's separate than the preliminary plat application. Has the County explicitly told the city that we are considering a waiver and asked for comment, or has it come through the applicant? Planning Supervisor Anderson said we do not have an application in place. Principal Planner Barron said it's her understanding that the applicant has to contact the city and request a waiver. Deputy PA Wesley said it sounds like that has been our process and they have met our regular routine process. Supervisor Anderson said it may be a process we want to look at because it uses the word *application* but that can be informal. Deputy PA Wesley said the development agreement has a condition that says the applicant will comply with the proposed conditions of the City of Caldwell Engineering and the Director of the City of Caldwell P&Z Department letters as seen in Exhibit D, Attachments 7F and 7G, with the exception of a public water system which is waived. If we override the conditions of approval on the development agreement with the preliminary plat someone could later challenge the agreement and say they didn't comply and we would have to go through a process to either amend it or void it so it creates a technical problem for us. If the Board wants to change the development agreement you have an application to amend it that's separate from this preliminary plat application. They should be separate entitlements processes and they should work together and one shouldn't override the other at a later stage is how our system is built, but it could very much depend on what is said in those exhibits because they may say we will follow the City of Caldwell's Engineering and Director of the Caldwell P&Z Department's instructions but those may include the option for a waiver, although he doesn't know since he hasn't seen the letters. Commissioner Brooks asked what in the development agreement the Board is looking to amend? He thought in the decision on the rezone

we wholesale waived Caldwell's requirements. Commissioner Holton said we did not. The P&Z Commission wanted to wholesale waive that, but they didn't take into consideration that we have a development agreement on the change in zone. Commissioner Brooks wants to see that because he has no idea why he would make the comment that he is in substantial approval of the application without making it adhere to standards that we didn't make some other subdivision adhere to, but yet we passed it anyways? That doesn't sound right to have subdivision requirements on one but not the other. DSD Planning Supervisor provided clarification on the documents identified as Exhibits 7F and 7G, which are referenced as part of the condition, but he is unable to find those documents in the current record for today's consideration. DSD Principal Planner Barron said they are part of the record but they are referenced as Exhibit 6H and 6I, under Exhibit III. Upon review Commissioner Brooks said the second bullet point states development shall comply with the City of Caldwell subdivision requirements within the City of Caldwell, and he asked if that is saying it needs curb and sidewalk? Because if it is, he cannot believe the Board approved the rezone one year ago with those intact. Commissioner Holton would like DSD and Legal to do some research and give advice to the Board. Upon the motion of Commissioner Holton and the second by Commissioner Van Beek, the Board voted unanimously to continue the hearing to December 2, 2024 at 3:00 p.m. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 3:44 p.m. An audio recording is on file in the Commissioners' Office.