

Commissioners Minutes

May 1, 2025 – 1:32 p.m. to 4:28 p.m.

PUBLIC HEARING – REQUEST BY MASON & ASSOCIATES, REPRESENTING VAN SLYKE FARMS, LLC FOR A COMPREHENSIVE PLAN MAP AMENDMENT FROM AN "AGRICULTURE" DESIGNATION TO A "RESIDENTIAL" DESIGNATION, AND A CONDITIONAL REZONE FROM AN "A" (AGRICULTURAL) ZONE TO "CR-R-1" (CR-SINGLE FAMILY RESIDENTIAL) ZONE, CASE NOS. OR2021-0012 AND RZ2021-0027)

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

DSD Principal Planner Debbie Root, DSD Planning Supervisor Dan Lister, Assistant DSD Director Josh Johnson, Deputy PA Zach Wesley, Elizabeth Koeckeritz, Will Mason, Phyllis Indart, George Crookham, Brandon Van Slyke, Sharon Burdine, Greg Parker, Angie Cuellar, Richard Burdine, John Tavares, Terry Vollman, Nathan Piercey, Geraldine Parker, Heather Easterday, James Marshall, Wilson Vollman, Shawna Kondo, Paul Garcia, Dawn Kompaniet, Nick Kompaniet

Deputy Clerk Monica Reeves



PUBLIC HEARING – REQUEST BY MASON & ASSOCIATES, REPRESENTING VAN SLYKE FARMS, LLC FOR A COMPREHENSIVE PLAN MAP AMENDMENT FROM AN "AGRICULTURE" DESIGNATION TO A "RESIDENTIAL" DESIGNATION, AND A CONDITIONAL REZONE FROM AN "A" (AGRICULTURAL) ZONE TO "CR-R-1" (CR-SINGLE FAMILY RESIDENTIAL) ZONE, CASE NOS. OR2021-0012 AND RZ2021-0027)

The Board met today at 1:32 p.m. to conduct a public hearing in the matter of a request by Mason & Associates, representing Van Slyke Farms LLC, for the signing of a comprehensive plan map amendment (Case No. OR2021-0012) which was approved by the Board of Commissioners to amend a 4.66-acre portion of parcels R33211 and R33212 from an "Agriculture" designation to a "Residential" designation. The request includes a conditional rezone (Case No. RZ2021-0027) of a 26.2-acre portion of the subject parcels from an "A" (Agricultural) zone to "CR-R-1" (CR-Single Family Residential) zone subject to a development agreement with the County.

Commissioner Holton made the declaration that he is the Mayor of the City of Greenleaf and their P&Z administrator submitted a written comment but as Mayor he was not directly involved with it nor did it represent his personal opinion; he does not have any conflicts of interest or any means of financial gain or loss from this decision as being the Mayor and also serving as a Canyon County Commissioner.

Elizabeth Koeckeritz testified on behalf of the applicants. The comprehensive plan map amendment was approved in 2022, but because of the various continuances and to do a conditional rezone with a development agreement, the findings were never signed, but they are asking for those FCOs to be signed today. The Van Slyke's have owned and operated the farm for over 105 years. They participated in the Garrett Ridge Subdivision development to the west and they are now hoping to develop the Van Slyke Farms Ridge. The proposal consists of 26.2 acres of a much larger parcel. The comprehensive plan map amendment was approved by Commissioners Keri Smith and Leslie Van Beek to residential. The property is currently zoned agriculture and there

is some rural residential to the north. It is difficult to farm and although there has been some farming over the years, right now they have offered it for free to various tenants, but no one wants to farm it. They intend to farm their other property in the area. The request came before the Board in 2022, and they submitted the conditions to the County but with a lot of staff turnover and back and forth, they are finally back for the second hearing.

They are requesting a single-family residential zone, and they are only requesting 14 residences on the site with an average minimum lot size of 1-acre and when they come forward with the plat it will meet the zoning code. R-1 zoning is more compatible than the agriculture zone; the purpose of the ag zone, in large part, is for the protection of viable farmland and farming operations but this is a small piece of property that has a mix of class iv to class VIII soils. It is not great property for farming which makes this a perfect location for a low-density infill type development that doesn't have a lot of other uses it can be used for. A sizable chunk of it is within the Greenleaf area of impact and it will not have any effect on any of the surrounding ag uses in the area. This development is compatible with the Garrett Ranch Ridge Subdivision to the west; it's similar property that also had poor soils for farming and it was developed at the 1.4 average lot size and in this case they are proposing a 1.87 average lot size gross, but once you take out the roads it comes to 1.35-acre average lot size. The Property has steep slopes and is not conducive to pivot irrigation. Howard Van Slyke tried to farm it for years and his former renters have said it's not farmable by not continuing to actively farm it rent free. It has been occasionally planted over the years, mostly to try to reduce erosion on the property. It is in a nitrate priority area and some lots will have to have enhanced treatment, but DEQ has not said they could not be or nor have they said it's an area that could not have septic systems. Southwest District Health will review the well and septic locations to make sure there is adequate separation, and as a condition the applicant will make sure the future homebuyers are aware of potential nitrate and other issues in this area. They have an irrigation water right that will be converted into their pressurized irrigation system, and they are proposing individual wells for homes, which will be beneficial to the water table instead of the water being used and evaporated. The request is consistent with the comp plan, and it meets all necessary findings for approval, and they agree with all the conditions of approval. With the way this area is developing it will be predominately residential. They do not need any secondary dwellings.

Principal Planner Debbie Root gave the oral staff report. The case was formerly before the Board as a comprehensive plan amendment and a straight rezone to develop the property as R-1 single-family residential. The request is to rezone approximately 26 acres from agriculture to single-family residential. The applicant has revised their preliminary plat, which is not before the Board today, from 18 lots to 14 lots with the intent to fall below a DSD engineering requirement for a community water system. The County engineer at the time recommended that the property have a community water system due to concerns with water quality in the area, wells testing for high arsenic and uranium as well as elevated nitrates. At the very least there should be a note on the final plat and disclosed to future buyers that there are high nitrates, arsenic and uranium on area wells that are above the limits that are typical for approvals in well testing. The

property also lies in an area with slopes that are 15% or greater. The applicants revised the lot layout to provide for somewhat better areas for development on the lots that are in the 15% slope or greater. The applicant chose not to do any soil reports or hillside development plans. That leads to future concerns and issues with erosion control and grading and drainage.

A previous Board recommended approval of 5.44 acres for residential. The criterion for the conditional rezone is identified in the staff report. There is some residential development in the area but it is primarily agricultural in nature. The existing shop that's on the property will have to be removed should this be approved because it does not meet setback requirements. The property has been in agricultural production, and it appears that around 2010 they put the entire property into crop production. A ground water right was amended and applied to 21 acres of the 26-portion of the property, and the remainder was where the barnyard and equipment storage had been near Van Slyke Road; it did not have a water right available and was not in crop production. Planner Root referred to the Williamson rezone that was approved in 2008 for future residential development noting however there has been no residential development on that property since that time. The Williamsons contracted it to an orchard for an extended period. The property around the golf course was approved with a 2.65-acre average lot size - calculated with the open space of the golf course - even though the residential lots are smaller in nature, about a ½ acre in size. Other developments in the area are due to building permit transfers and clustering, for the preservation of farmland, including a small development created by the Van Slyke Family and they did not choose to put it on this nonviable, difficult to farmland. At the time the property was viable and was being used for ag purposes and was in that type of production until 2018. There are four platted developments in this area that were done in 2006, 2007 & 2011. There has not been a development trend towards residential. The property consists of moderately suited soils that are not considered prime farmland; however, the USDA cropland report indicates the property and surrounding properties are used for sugar beets, alfalfa, and is actively farmed south of the Mora Canal. There is a ridge where there is less viable properties for cropland, but not necessarily for ag purposes: there is a feedlot, dairy, vineyards that thrive in sloped areas. Staff believes this is viable ag land and that residential development is creating a residential note that may set precedent for additional development in area that does not have services readily available in the near area and could provide stress to the existing services. A nutrient pathogen study identified that they could have no more than 19 lots; they presented a plat with 18 lots and the County engineer and the engineer for DEQ said there needed to be careful attention to the location of septic systems to ensure that migration of contaminants did not exceed the limits at the property lines. The applicant has reduced the number of lots which should help the situation, but the area has some water quality concerns. There was a review of agency comments and public comments and the potential impacts. Should the request be approved, it would set a precedent and support low-density in an area not currently planned for low-density residential growth and development. There are no established services to meet the needs of continued residential sprawl where services are already taxed in and around cities where growth is planned and forecasted.

The City of Greenleaf sent a letter waiving the subdivision improvement requirements but expressed the following recommendations and concerns: property creation should preserve agricultural uses as long as possible and limit threats to crop dusting practices in the area. Preplanning future residential uses is necessary, which includes infrastructure pathways and annexation path. There currently is no path to annexation. The revised plat from 2023 made no plans pathways or open space to be included in the development. Walking paths should be considered; there are concerns about individual wells in a high nitrate area and a community water system is highly recommended. The P&Z Commission recommended approval of the comprehensive plan, the rezone to R-1, and they recommended approval of the preliminary plat that had been presented at that time. The current plat is much more complete and does not reflect what the P&Z Commission approved. Planner Root recommends denial of the comprehensive plan map amendment and zoning map amendment, although the comprehensive plan map amendment has been formerly approved.

Commissioner Van Beek disclosed that she had a conversation on April 24, 2025, with James Hibbs, formerly of Hibbs Laboratory where she was employed 30 years ago, and it is now known as Analytical Labs. She needed help interpreting what the data meant, and Mr. Hibbs reported that both uranium and arsenic were high and the information she had was that the arsenic in particular was unsafe at a level that it was not potable for either animals or humans, and that a water treatment system would be required with the values that were listed on the report. Commissioner Van Beek had follow-up questions for Deputy PA. Zach Wesley regarding the failure to sign the FCO's for the comprehensive plan map amendment decision.

Deputy PA Zach Wesley said a Board majority voted to approve the comprehensive plan map amendment and then the parties were asked to come back with the changes that were requested or the new ideas that were proposed. That is not unusual, and typically we would sign all the findings at one time and not separate them individually. The unusual thing in this case is that it took this amount of time to get back to the Board of Commissioners from that initial direction to have the case looked at in a different way, to re-evaluate their application for the conditional rezone and so his opinion is that the comprehensive plan map amendment is valid and the only question today is of the conditional rezone. Although there was a failure to sign the FCOs in 2021/2022, we should honor the decision. Dan Lister said the change to the comprehensive plan is only to the 2020 future land use map; it does not change the 2030 map. Ms. Root said the comp plan amendment was specific to 5.44 acres of the 26 acres. The balance of the 26 acres under consideration are designated for residential on the 2020 comprehensive plan future land use map.

The following people testified in favor:

Will Mason testified that when they originally submitted the application they submitted a preliminary plat which went to hearing at the P&Z Commission but was pulled before the Commissioners had a chance to hear it as a separate item. While they were going through the pre plat analysis with the County engineer there were things pointed out before they ever submitted the plat and they knew they were in a high nitrate priority area, so they had an NP study done and

DEQ had some questions and they asked for additional well analysis and it came back saying 18-19 lots would fit in this area without contamination going off the site. Since then, they have reduced the number of lots because of the water quality and the request of the County engineer at the time. They have to look at the cost to provide the clean water to the homeowners; the reverse osmosis systems can take out 95% of the arsenic and 95% of the nitrates. With the idea that the future homeowners are told they have to test their wells and see what they need to treat for is the most cost-effective way for them to have water for their house without having a system that costs a lot to maintain. With the reduction in the number of lots, they believe the NP study will show it will have even less impact on adjacent property owners than they would have had when they met DEQ's requirements back in 2021. They have met all the requirements of the Golden Gate Highway District. Following his testimony, Mr. Mason responded to questions from the Board.

Brandon Van Slyke is the vice president and partial owner of Van Slyke Farms. He grew up on the farm and testified about the 26.2-acre portion of the property and said a significant factor is around the viability for crop production. He doesn't have full history back to 1917 when the farm was originally homesteaded but he can confirm that before 2012 there was no water right associated with the property, and the best use of the land in his youth was to turn out cattle in the winter months to get them out of the mud on a sandy dry hillside. Until 2012, the groundwater right was associated with the farm ground below the canal; it was supplemental irrigation to the surface water right from the Mora Canal. His father, Howard Van Slyke, last actively farmed in 2010 and they have been renting the farmable property to other farm operators since. The goal of moving the water right to above the canal was to turn that land into viable crop production and to rent it. It was planted in grain and farmed from 2012 on; however, ultimately, they were not successful. The property was last rented and farmed in 2018 for \$50 an acre. That same year, they received \$400 per acre for the farm ground below the canal. Contributing factors are lack of automated irrigation; poor soil; steepness; and irregular shape. In 2019, they offered to rent it at no charge, but the farmer declined and since that time they have had no interest from any farm operator to rent or farm that land. There is one lot below the canal that has surface water from the Mora Canal, but the 13 lots above the canal would be part of the groundwater right. The right is for 120,000 gallons per day; they estimate the development would be less water required than if someone were to farm it. He is concerned the Board's decision could be influenced because of a perceived precedence of future developments and he hopes the case is weighed on its own merits.

Angie Cuellar with Mason & Associates gave a summary of the reports for the 26 wells in the area which included the average well depth of 268.3 feet, and the average static water level was 137 feet, and the average gallon per minute of water is 59.9 gpm, and the average house needs 7. Of the 26 wells, two were in bad shape and at risk of failure. Most people do not install the screen casing to protect the aquifer inlets, they use solid casing down and no screen casing to protect the water coming because it's expensive. A shift of the earth can cause that unprotected area to collapse resulting in no aquifer water getting into the well casing. If the wells are done properly

with lid casing and screen casing to protect the areas where the aquifer inlets come in there should be no issues about getting water into the wells with the average gallons per minute. Ms. Cuellar responded to questions from the Board following her testimony.

The following people testified in opposition to the request:

Sharon Burdine voiced concerns about the lack of findings of facts on the comprehensive plan map amendment; area safety; and the negative impacts on emergency services as well as the proposal being incompatible with the surrounding area.

Richard Burdine testified that the proposal is not more appropriate than the current zoning designation nor is it compatible with the surrounding area. It is surrounded by production ag ground with pivots, and he said the property is prime ground for a vineyard. He stated he valley loses two farms a month due to expansion and development which should be a cause for alarm and to hold on to the ground we have. Mr. Burdine responded to questions from the Board.

Greg Parker agrees with those who have testified in opposition to the proposal, and he testified about his concerns with the impact of rapid development that has put a strain on public services such as the ambulance service. He said some communities have imposed a 6-month moratorium on new development that has allowed schools and essential services to catch their breath and evaluate and assess how to move forward and he believes the County should do the same.

John Tavares agrees with the testimony that has been given in opposition to the proposal.

Nathan Piercey testified that the area is in unincorporated Canyon County and the land is productive with minimal government interference and maximum output. Development will impact wildlife in the area and approval will set a precedent that will be used again and again to destroy the culture and character of the area. He asked when is incompetence or laziness a valid reason for regulatory relief? What makes an area worth conserving?

Heather Easterday has experience as a volunteer paramedic and testified there is not enough coverage for this area. Growth has impacted the Homedale schools, EMS, fire, and roads. The proposal is not a good idea.

Shawna Kondo agrees with the testimony that has been given in opposition to the rezone. Her concerns include increased residential traffic and road safety issues, preservation of ag land and the rural character of the area. She said the conversion of the land to a residential subdivision will fundamentally alter the landscape and will diminish the rural quality of life that residents deeply value and it will threaten the longtime viability of local agriculture, both economically and culturally. She submitted the water quality test results and said it's been mentioned that arsenic, nitrate and uranium levels are high, but it's not been mentioned that the arsenic level in their well is 10 times higher than the maximum contamination level set federally. She has a PhD in physics and pharmaceuticals and further testified about analytical lab results and her concerns about the harmful effects on water quality and the importance of having water tested for contamination.

Paul Garcia agrees with the people who oppose this project. He embraces the culture in the area and it comforts him to see there is so much production coming off the land and having all of these houses is not what he came here for.

George Crookham commended the Van Slyke Family for being here over 100 years. He said the most important thing in farming is water and the second most important thing is management of how you water your crops and the type of crops you prefer. He said they look for a farmer before they look for soil types.

Rebuttal testimony was offered by Elizabeth Koeckeritz. The highway district has no problems with the proposal which will be limited to no more than 14 residences. Van Slyke Road is a collector road and can handle that amount of traffic. There are slopes that are greater than 15% and there are other issues with the land that will be brought forward at the time of the preliminary plat hearing. The developer has no intention of developing on slopes they are not allowed to legally develop on. There are quite a few lots surrounding the property that have been turned into residential lots including those owned by almost everyone who testified today who lives on 2-5-acre lots on Everose Lane. Those lots exist because the Van Slykes did a nice job subdividing the property and preserving other property and making sure this was an area where people wanted to live and that is what they intend to do with this property as well. This is a small subdivision on a small parcel that is not farmable in a way that they are able to make any sort of reasonable money on and to their knowledge no one has ever approached them about wanting to turn it into a vineyard. This property has been vacant and this a great option to have another small development that fits in well with the neighborhood that offers a rural lifestyle. The water can be treated through a reverse osmosis system which is not as expensive as a community water system. There will be a plat note about the high level of water contaminants and they will have real disclosures at the time of closing.

Upon the motion of Commissioner Van Beek and the second by Commissioner Brooks, the Board voted unanimously to close public testimony. The Board's deliberation included a review of the criteria.

Commissioner Van Beek said with the decision in 2021 she finds value in the statement that surrounding rezones and comprehensive plan amendments do influence, even though there is a statement in our ordinance they should not, but she appreciates the refresher from Planner Root that the 2030 comp plan was not passed until the fall of 2022 so when this was presented to the Board it was a 5-acre piece inside of that and it was done because the rest was listed as residential. She has relatives who live in Timberstone Subdivision and so that is in close proximity and she is familiar with the area that has hillsides and slopes.

Is the request generally consistent with the comprehensive plan?

Commissioner Van Beek said an R-1 designation is an improper zone. Commissioner Brooks said it's the same piece as Garrett Ranch and is within .05 of the same average and that is why he asked

if the Board could limit it to a lower number of lot sizes to increase the average lot size. He can figure out two different ways to substantiate question no. 1.

Is the proposed conditional rezone more appropriate than the current zoning designation?

Commissioner Van Beek said she cannot support that with a yes. Commissioner Brooks said it depends on whether we are conditioning it to have fewer lots; he wholeheartedly disagrees with the precedent being set. This ground is unique in its soil composition and in its ability to produce; it's not what the ground is on the south side of the canal. We can make it R-R with a condition. He has concerns with the slopes. Usually, applications with steep slopes have larger lots to compensate for the steep slopes. Commissioner Holton said the burden is on the applicant to demonstrate that the one-acre lots with a steep setting is functional and he didn't hear substantiation that it's not a problem. By the time you put in a drain field and wells things would be tight and we usually see designated building envelopes.

Is the proposed conditional rezone compatible with the surrounding land uses?

Commissioner Van Beek said she cannot find an affirmative finding for this question given the emergency services discussion, the fact there is prime agriculture surrounding it, and every time there are additional homes in a large-scale diversified ag area it makes it more difficult for farmers. Commissioner Brooks said the Board of Commissioners also sits as the ambulance board, but not once does he recall a discussion evolving into growth in unincorporated Canyon County being the source of our problems; it has revolved around money and legislative actions that restrict the ambulance district's ability to levy enough money to staff what we have. He has a hard time believing 14 homes will break EMS; it's already broken financially. The City of Nampa is looking at adding thousands of homes via the annexation process. Commissioner Van Beek said it's a legitimate consideration for the Board when adding more homes in a rural area is a compounding problem. Commissioner Holton said the school district, fire district, Sheriff's Office, and the ambulance district chose not to respond so the Board is tasked with making a conclusion in an information vacuum.

Will the proposed conditional rezone negatively affect the character of the area; what measures will be implemented to mitigate impacts?

Commissioner Van Beek said this will negatively affect the area and to change that small section will introduce a variable and a factor that sways the character of the area. From the City of Greenleaf's comments, it was stated that it appears to meet only the County's most basic subdivision standards; there are no meaningful open spaces or amenities provided, only large residential lots surrounded by agriculture, orphaned for future haphazard redevelopment. There is an opportunity to change some of the lack of clear direction by previous Boards on what development in rural Canyon County should look like. Commissioner Holton spoke of the Williamson property and the adjacent 311 acres.

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

Commissioner Van Beek said the former engineering review said there should be a water treatment system, and we should be valuing the quality of life and the quality of what we are providing out there and the monetary amount should be secondary. Commissioner Holton inquired whether the County is protected from liability by including a notice on the plat regarding health risks associated with the area's water. Deputy PA Wesley stated that he prefers not to discuss liability to the County on the record. He noted that there are agencies with authority over such matters, although he is uncertain about the specific regulations concerning individual wells for drinking water. Commissioner Holton said if the Board contemplates a community system it must automatically meet the regulatory requirements, but private wells do not. He is not comfortable receiving the data from a certified lab that his city uses on a weekly basis; he does not question the data that's been presented because of where it comes from. Commissioner Van Beek said what she heard from the analytical labs technician is that the amount of arsenic is 10 times more than the tolerance level; that is not safe for animals. The information on the record speaks sufficiently to her. Commissioner Holton wants to make sure he does not make a decision that puts the County in a bad situation.

The Board recessed into Executive Session as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND
COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY
LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 4:04 p.m. pursuant to Idaho Code, Section 74-206(1)(d) and (f), to discuss records exempt from public disclosure and to communicate with the legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Brooks. A roll call vote was taken on the motion with Commissioners Holton, Van Beek, and Brooks voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, and Deputy PA Zach Wesley. The Executive Session concluded at 4:16 p.m. with no decision being called for in open session.

While in open session, Deputy PA Wesley said the Board adjourned into Executive Session not to talk about the merits of the case, but to talk about the County's role in water quality. Generally, the County does not provide a water system like a city; we don't provide, and we generally don't deal with water. It's not a part of our zoning code or our building code as far as water quality. With platting we do consider the availability of water but we never make a particular finding about water quality or water health. The County has no existing regulatory authority over water quality for these wells. There is one method to get the state involved, which is if there is a community water system that is large enough to be regulated by the state, then the state will do all the

permitting and they have their practices and policies on that. The applicant has the burden to prove their case and one way to address this may be to have some additional testimony either from an applicant as far as what they are going to do to address these issues, maybe more expert testimony on what the water quality is out there to get us over this question that's been raised that is outside of our norm. Commissioner Van Beek said it is the water quality, or the lack of testimony brought forward by the applicant, but there are other criteria of the 8 criteria that the Board is evaluating that would not allow her to go forward and her motion would be to deny the application rather than request additional information. Commissioner Brooks said he is in favor of allowing the applicant the opportunity to bring back information. Commissioner Holton made a motion to give the applicant 45 days to submit documentation and provide expert witness testimony on water quality and how they might address and manage the arsenic, nitrates, and uranium, and come back to the Board with a plan. The motion was seconded by Commissioner Brooks. Commissioner Van Beek was opposed to the motion. The motion carried by a two-to-one split vote. Upon the motion of Commissioner Holton and the second by Commissioner Brooks, the Board voted unanimously to continue the hearing to Monday, June 23, 2025 at 1:30 p.m. There were follow-up comments. Commissioner Holton made a motion to continue the application to June 23, 2025 at 1:30 p.m. with testimony being limited to water quality health issues in this area, not across the valley. Written comment will be accepted during the 45 days related to water quality health issues in this immediate area. The motion was seconded by Commissioner Brooks. Commissioner Van Beek was opposed to the motion. The motion carried by a two-to-one split vote. The Board voted unanimously to adjourn at 4:28 p.m. An audio recording is on file in the Commissioners' Office.