



Planning and Zoning Staff Report Sleight – Development Agreement, DA2019-0001

Hearing Date: February 21, 2019

Development Services Department

<p>Owners: R. Paul Sleight</p> <p>Staff: Dan Lister, Planner II</p> <p>Tax ID: R29370</p> <p>Parcel Size 3.34 acres</p> <p>Current Zone: “RR” Rural Residential</p> <p>Future Land Use Designation: Residential</p> <p>City Impact Area: Nampa</p> <p>Applicable Zoning Land Use Regulations: CCZO §07-05-01, §07-06-07</p> <p>Notification:</p> <ul style="list-style-type: none">• 1/15/2019: Agencies/Nampa• 1/31/2019: Property Owners• 2/5/2019: Newspaper• 2/12/2019: Posting <p>Exhibits:</p> <ol style="list-style-type: none">1. Proposed FCO’s2. Draft Development Agreement3. Letter of Intent/Site Plan4. BOCC Staff Report with Exhibits (12/19/2018)5. Draft BOCC Minutes (12/19/2018)6. Agency Comments:<ol style="list-style-type: none">a. ITDb. City of Nampa – Engineering<ul style="list-style-type: none">• City Utility Planc. Nampa Highway Districtd. Southwest District Healthe. Nampa Fire District7. Large Aerial	<p>Request Upon request by the Board of County Commissioners, the applicant, Paul Sleight, requests a Development Agreement related to RZ2018-0022 to conditionally rezone Parcel R29370 from Rural Residential (RR) to Single-Family Residential (R1). The property is located at 840 Sage Creek Road, Nampa further described as a portion of the NE quarter of Section 10, Township 2N, Range 2W; Canyon County, ID.</p> <p>Background/Setting On September 21, 2018, the applicant submitted an application to rezone parcel R29370 from “RR” (Rural Residential, 2 acre minimum lot size) to “R1” (Single Family Residential, 1 acre minimum lot size). Approval of the request would allow the applicant to divide the 3.34 acre parcel through an administrative land division application in accordance with Canyon County Code §07-18-01.</p> <p>The rezone (RZ2018-0022) was heard by the Planning and Zoning Commission (P&Z) on November 1, 2018. The P&Z recommended approval of the rezone with a 3-2 vote (Exhibit 4).</p> <p>On December 19, 2018, the Board of County Commissioners (BOCC) heard the request and found that a development agreement was necessary to protect the integrity of the surrounding area (Exhibit 5). The request was tabled to allow the applicant time to apply for a development agreement to restrict the lot size and ability to further divide the parcel. Pursuant to Canyon County Code §07-06-07, the development agreement must be heard by the P&Z prior to the BOCC making a final decision regarding the rezone with development agreement.</p> <p>The draft development agreement (Exhibit 2) requires the applicant to adhere to the following conditions:</p> <ol style="list-style-type: none">1) The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property.2) The subject 3.34 acre parcel, R29370, shall be divided in accordance with §07-18-01 of the Canyon County Code. The division included the following restrictions:<ul style="list-style-type: none">• The parcel shall be configured in substantial conformance to the Site Plan (Exhibit 3). The proposed shared access easement, as shall comply with all applicable regulations of §07-10-03 of the Canyon County Code.• The division of the parcel shall not exceed a total of two parcels. Unless annexed into the City of Nampa, no further subdivision is allowed other than the one-time division allowed through the administrative land division application process.
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- Secondary dwellings, as defined in §07-02-03 of the Canyon County Code and as regulated in §07-10-27 and §07-14-25 of the Canyon County Code, are prohibited. This condition shall be notated as part of the land division review and approval.
- 3) The developer shall comply with CCZO §07-06-07 (4) Time Requirements: “All conditional rezones for a land use shall commence within two (2) years of the approval of the board.” Commencement is the submittal and approval of a land division application, including associated fees, in accordance with CCZO §07-18-01.

Comments

Public Comments

On January 31, 2019, notification regarding the development agreement was sent to property owners within 300 feet. No comments were received.

County Agency Comments

On January 15, 2019, notification regarding the development agreement was sent to all affected agencies. Comments received support the rezone and development agreement (Exhibit 6). All comments require review either during the land division application process or at the time of building permit submittal.

Decision Options

- The Planning and Zoning Commission may **recommend approval** of the development agreement to the Board of County Commissioners;
- The Planning and Zoning Commission may **recommend denial** of the development agreement to the Board of County Commissioners; or
- The Planning and Zoning Commission may **continue the discussion** and request additional information on specific items.

Staff Recommendation

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed rezone request. Staff is **recommending approval** of the development agreement (Exhibit 2) related to rezone application RZ2018-0022 and has provided findings of fact and conclusions of law for the Planning and Zoning Commission’s consideration found in Exhibit 1.



Canyon County Planning and Zoning Commission

R. Paul Sleight – Rezone Case No. DA2019-0001

Development Services Department

February 21, 2019

Findings of Fact, Conclusions of Law, and Order

Findings of Fact

1. Upon request by the Board of County Commissioners, the applicant, Paul Sleight, submitted a Development Agreement related to RZ2018-0022 to conditionally rezone Parcel R29370 from Rural Residential (RR) to Single-Family Residential (R1). The property is located at 840 Sage Creek Road, Nampa further described as a portion of the NE quarter of Section 10, Township 2N, Range 2W; Canyon County, ID.
2. On December 19, 2018, the Board of County Commissioners requested that the rezone requested by the applicant include a development agreement (Exhibit 5). The hearing of the rezone (RZ2018-0022) has been tabled to allow the applicant time to apply for this development agreement.
3. The 3.34 acre parcel was created in 1961. Pursuant to §07-17-03(1) of the Canyon County Code and §10-27-01(2) of the Nampa City Code, the parcel is original.
4. The parcel is currently zoned “RR” (Rural Density Residential, 2 acre average minimum lot size. The 2020 Canyon County Comprehensive Plan designates the parcel as “Residential” on the Future Land Use map.
5. The subject property is located within the Nampa Area of Impact. City of Nampa’s Comprehensive Plan designates the parcel as “Medium Density Residential, 4-9 units per acre” of their Future Land Use map. The City was noticed in accordance with the Nampa Area of City Impact Ordinance (CCZO §09-11-23).
6. On January 15, 2019, the following affected agencies were noticed: Canyon County Sheriff, Canyon County Ambulance, Southwest District Health, Nampa Highway District No. 1, Idaho Transportation Department, Nampa Fire District, Nampa School District, Boise-Kuna Irrigation District, Canyon County Assessor’s Office, COMPASS (Community Planning Association of Southwest Idaho), Idaho Department of Water Resources, Idaho Power, Intermountain Gas Company, and Nampa Police Department. Letter of support were received from Nampa Highway District No. 1 and Idaho Transportation Department.
7. Notice of the public hearing was provided as per CCZO §07-05-01. Agencies were notified on January 15, 2019. All property owners within 300 feet of the subject parcel’s boundaries were noticed on January 31, 2019. Newspaper notice was completed on February 5, 2019. The subject property was posted with a notice on February 13, 2018.
8. The record consists of exhibits provided as part of the public hearing staff report, testimony and any additional evidence submitted during the public hearing on February 21, 2019 and all information contained in Case File DA2019-0001 and RZ2018-0022.

Conclusions of Law

For this request the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for a Zoning Amendment (§07-06-07):

A. Is the proposed conditional rezone generally consistent with the comprehensive plan?

Conclusion: The proposed rezone with development agreement is consistent with the 2020 Canyon County Comprehensive Plan.

Finding: The requested conditional rezone is generally consistent with the comprehensive plan. The comprehensive plan designates the parcel as “residential” on the Future Land Use map. The conditional rezone meets the following comprehensive plan goals and policies:

- Property Rights Policy No. 1: *“No person shall be deprived of private property without due process of law.”*
 - The notice of the public hearing was provided consistent with CCZO §07-05-01.
- Property Rights Policy No. 11: *“Property owners acknowledge and expect that Canyon County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental land uses.*
 - This policy is enforced by the Canyon County Zoning Ordinance (CCZO). The zoning amendment request was reviewed subject to required criteria pursuant to CCZO §07-06-07. Evidence within this Findings of Fact, Conclusions of Law, and Order demonstrates that the zone amendment as conditioned by the development agreement will not negatively impact or pose incompatible uses into the existing residential setting.
- Public Services, Facilities and Utilities Policy No. 3: *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”*
 - The parcel is located within Nampa Fire District.
- Land Use Component – Residential Policy #1: *“Encourage high density development in areas of city impact.*
 - The conditional rezone meets current residential densities found in the surrounding area. The primary use of the surrounding area is residential. The surrounding area has an average parcel size of 1.4 acres. Nampa’s Future Land Use Map within Nampa’s Comprehensive Plan designates the area as “Medium Density Residential, 4-9 unit an acre”. The conditional rezone will not impact the ability for high density residential development to occur on the property when annexed into the City of Nampa.
- Population Policy No. 3: *“Encourage future population to locate within areas that are conducive to residential living and that do not pose an incompatible land use to other land uses.”*
 - The primary use of the surrounding area is residential. The surrounding area has an average parcel size of 1.4 acres. Nampa’s Future Land Use Map in Nampa’s Comprehensive Plan designates the area as “Medium Density Residential, 4-9 unit an acre”. The conditional rezone does not pose an incompatible land use into the existing residential setting.

B. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?

Conclusion: The conditional rezone with development agreement is more appropriate as the current zoning designation.

Finding: The primary use of the surrounding area is residential. The surrounding area has an average parcel size of 1.4 acres. The outcome of the rezone, as conditioned by the development agreement (Exhibit 2, Condition 2), allows the parcel to be divided through a land division application into a total of two parcels with a lot size no less than 1.6 acres as shown on the applicant’s site plan (Exhibit 3). Therefore, the rezone is consistent with average lot size in the area.

The parcel is located within the Nampa Area of Impact. The rezone is consistent with Nampa’s Future Land Use Map designation which designates the parcel as Medium Density Residential, 4-9 units per acre (Exhibit 4e). If the parcel was located within the City of Nampa, the land division would be allowed without rezone or application submittal (§10-27-04(E) Nampa City Code). Therefore, the conditional rezone is more appropriate than the current zoning designation.

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

Conclusion: The proposed conditional rezone is compatible with the surrounding land uses.

Finding: The primary use of the surrounding area is residential. The surrounding area (within 300 feet of the subject parcel) has an average parcel size of 1.4 acres. The outcome of the rezone, as conditioned by the development agreement (Exhibit 2, Condition 2), allows the parcel to be divided through a land division application into a total of two parcel no less than 1.6 acres as shown on the applicant's site plan (Exhibit 3). The proposed conditional rezone is consistent with the average lot size found in the area. Therefore, the conditional rezone is compatible with surrounding land uses.

D. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: The proposed conditional rezone with development agreement will not negatively affect the character of the area.

Finding: The primary use of the surrounding area is residential. The outcome of the rezone, as conditioned by the development agreement (Exhibit 2, Condition 2), allows the parcel to be divided through a land division application into a total of two parcel no less than 1.6 acres as shown on the applicant's site plan (Exhibit 3).

On December 19, 2018, the Board of County Commissioners (BOCC) heard the item and found that a development agreement was necessary to protect the integrity of the surrounding area (Exhibit 5). Pursuant to Canyon County Code §07-06-07, the development agreement must be heard by the Planning and Zoning Commission prior to the BOCC making a final decision regarding the rezone with development agreement.

The draft development agreement (Exhibit 2) requires the applicant to adhere to the following conditions:

- 1) The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property.
- 2) The subject 3.34 acre parcel, R29370, shall be divided in accordance with §07-18-01 of the Canyon County Code. The division included the following restrictions:
 - a. The parcel shall be configured in substantial conformance to the Site Plan (Exhibit 3). The proposed shared access easement, as shall comply with all applicable regulations of §07-10-03 of the Canyon County Code.
 - b. The division of the parcel shall not exceed a total of two parcels. Unless annexed into the City of Nampa, no further subdivision is allowed other than the one-time division allowed through the administrative land division application process.
 - c. Secondary dwellings, as defined in §07-02-03 of the Canyon County Code and as regulated in §07-10-27 and §07-14-25 of the Canyon County Code, are prohibited. This condition shall be notated as part of the land division review and approval.
- 3) The developer shall comply with CCZO §07-06-07 (4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board." Commencement is the submittal and approval of a land division application, including associated fees, in accordance with CCZO §07-18-01.

As conditioned by the development agreement, residential development on the parcel will not change and cannot exceed current zoning allowances. The development agreement is also consistent with lot sizes found in the surrounding area. Therefore, the rezone will not negatively impact the existing rural setting.

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

Conclusion: Adequate sewer, drainage, and storm water drainage facilities and utility systems will be provided to accommodate the residential uses at the time of development.

Finding: Agency comments received (Exhibit 6) regarding the development agreement (DA2019-0001) and conditional rezone (RZ2018-0022) require permit review either at the time of land division or building permit submittal. The responding agencies did not find the request to create service impacts. Therefore, the agencies are not opposed the rezone of parcel R29370.

F. Does legal access to the subject property for the conditional use exist or will it exist at the time of development?

Conclusion: Legal access to the parcel currently exist via Sage Creek Road, a public road.

Finding: The parcel has access from Sage Creek Road, a public road that runs south of the property. An unmaintained public right-of way also abuts the parcel on the north. Nampa Highway District requires Sage Creek Road to be used as the main access point and does not recommend access from the unmaintained right-of-way (Exhibit 5b).

The applicant is requesting the rezone in order to divide the original parcel through the land division process (Canyon County Code §07-18-01). During the land division application process, the access must meet Canton County Zoning Ordinance access requirements (CCZO §07-10-03) as well as Nampa Highway District (Exhibit 6b & 6c) and Nampa Fire District requirements (Exhibit 6e). Therefore, future development of the parcel will be consistent with all applicable access requirements.

G. Does the proposed conditional rezone require road improvements to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

Conclusion: The conditional rezone of the subject property will not cause undue interference with existing or future traffic patterns as proposed.

Finding: Access is proposed from Sage Creek Road (Exhibit 3). Nampa Highway District #1(Exhibit 6c) and ITD (Exhibit 6a) supports the request. Nampa Highway District requires an approach permit and related improvements from the existing access along Sage Creek Road prior to building permit submittal. No impacts to existing and future traffic patterns are anticipated.

H. 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?

Conclusion: Essential services can accommodate the requested rezone.

Finding: The parcel currently has an existing dwelling utilizing existing essential services. The applicant intends to split the parcel in accordance with Canyon County's land division requirements (CCZO §07-18-01). The development agreement limits the rezone to a division totaling two residential property. Secondary dwellings are prohibited by the agreement. Therefore, the request has the potential of adding one residential dwelling which will be required to meet all applicable access requirements. Therefore, based on the surrounding residential uses with existing services available and residential development resulting from the conditional rezone, essential services are not anticipated to be impacted by the request.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **recommends approval** of Case #DA2019-0001, a request for a development agreement to restrict the related rezone application RZ2018-0022 to allow Parcel R29370 to be conditionally rezoned from an "A" (Agricultural) zone to an "R1" (Single Family Residential) zone.

APPROVED this _____ day of _____, 2019

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Richard Hall, Chairman

State of Idaho)

SS

County of Canyon County)

On this _____ day of _____, in the year 2019 before me _____, a notary public, personally appeared _____, 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: _____

My Commission Expires: _____