

March 17, 2015

7:00 p.m.

Planning Department  
Council Chambers

**MEMBERS PRESENT:** Commissioners George Morrison, James Wyatt, Natalie Black, Joanne Denney, and Darren Josephson.

**MEMBERS ABSENT:** Margaret Wimborne, Donna Cosgrove, Brent Dixon .

**ALSO PRESENT:** Planning Director Brad Cramer, Assistant Planning Director Kerry Beutler, and interested citizens.

**CALL TO ORDER:** Chair Morrison called the meeting to order at 7:00 p.m. and reviewed the public hearing process.

**Minutes:** Wyatt asked to have the minutes amended on page 3, indicating that Mr. Jackson was representing county properties. **Wyatt moved to approve the minutes of March 3, 2015 as amended. Josephson seconded the motion and it passed unanimously.**

**Public Hearings:**

**1. Preliminary Plat: Heritage Hills.**

Beutler presented the staff report, a part of the record. Josephson asked about the gravel access road to the south. Beutler explained it needs to be maintained for fire access, including being plowed for snow. Once the new public road, shown on the plat, is paved the access road can be removed. Black asked if a traffic study will be required. Beutler said there would not be a traffic study. A traffic study was not done with the initial master plan because the developer had agreed to install turn lanes on East River Road. He also stated that there was no explanation for why the turn lanes approved as part of Division 1 were not constructed. She asked if the City will widen East River Road to include bike paths. Beutler said the current plan is just for the turn lanes. Once all of the right-of-way is acquired the road will be upgraded in the future. Beutler explained that the developer, at the request of the City, as identified the residential collectors within the development. In response to a question from Black, he also explained that the developer will be responsible for the proposed park. The park will not be dedicated to the City, but will be a private facility. Josephson asked if there was an existing HOA and if they would be responsible for the maintenance of the park. Beutler responded that his understanding is that there is an HOA associated with the development and that they will be responsible for the park and the landscape lots.

**Morrison opened the hearing.**

**Applicant: Kurt Roland, Eagle Rock Engineering, 1331 Fremont Avenue.** Roland represents the applicant. The developer is aware they will need to install the turn lanes. He confirmed there will be an HOA and they will be responsible for the park, the landscape lots, and maintenance of the emergency access lane. Black asked for clarification on when the emergency access road will be removed. Roland indicated that it would be removed at the time the new public road is constructed into the subdivision and that the easement will become part of the new lots.

**Michael Smith, 3897 Stein Creek Circle.** He is not necessarily for or against. He is concerned about the lack of walkways adjacent to a busy street. He is concerned about the safety of the school children. The school bus stops on East River Road. He also is concerned that the HOA was not previously aware of the responsibility of maintaining the park and landscaping. Denney questioned if the School District wouldn't move the bus stop into the subdivision as more homes are built. Smith is still concerned about kids walking on East River Road.

**Greg Bazik, 3760 Tradition Circle.** Appreciates the recommendation for the turn lanes, but requested that they be installed before any more homes are built. He is concerned that the emergency access road has not been maintained. He has addressed the bus stop issue with the school board. They will not move the bus stop until the next access road is built to create a loop. He is also concerned that the park is too close to East River Road.

**Kurt Roland, Eagle Rock Engineering, 1331 Fremont Avenue.** He clarified the park lot is not a typical park. It will be more of a landscaped lot and provide an entrance feature into the subdivision and possibly include a monument sign. He stated that the overall master plan provides for a park for the subdivision in the far southwest corner. Wyatt asked if the same developer was doing future divisions. Roland stated that Rockwell Homes was part of the original development of Division 1. Liberty Homes, which was formerly a part of Rockwell, is now the developer of the property. Josephson asked how long the turn lanes will be. Roland said it will be 300-350 feet long as a center turn lane. He recommended the bus enter the subdivision and utilize the temporary turn around.

### **Morrison closed the public hearing.**

Black asked when the appropriate time would be to require the installation of the turn-lanes. Beutler said they could make it part of the motion and then when the next final plat comes forward it will be part of the development agreement. Wyatt asked how it would be enforced this time. Beutler said building permits can be held until the improvements are constructed and there will need to be coordination with Public Works.

Black wants to make sure the turn lanes are constructed. She feels the park is not as big of a concern if it is more of an entryway to the subdivision and because there will be a larger park in the future. Wyatt said he would like to include language about removing the access road when Division 3 is constructed. **Black moved to approve the preliminary plat for Heritage Hills with the following conditions:**

- 1. Adjust Lot 1, Block 6 to meet the 10% larger corner lot size.**
- 2. Left and right hand turning lanes be constructed on East River Road at Independence Drive prior to building permits being issued for Division 2.**

3. **The emergency gravel access road removed once Teasedale Way is constructed.**
4. **Note be placed on the plat and subsequent final plats regarding the proximity to the Idaho Falls Regional Airport noise impact area.**

**Wyatt seconded the motion. Motion passed 4-0**

**Wyatt moved to approve the Reasoned Statement of Relevant Criteria and Standards with an amendment to condition #2 that the turn lanes be constructed prior to issuance of building permits and the added condition that the gravel road be removed with the completion of Tisdale Way. Second by Black. Motion passed 4-0.**

## **2. Preliminary Plat: Avalon.**

Morrison explained that the Commission has received 20 letters regarding this application. He formally included them in as part of the record. He then summarized similar points of concern throughout the letters that were received. Some of those points included smaller lot and home sizes, the impact on property values, access to existing subdivisions, additional traffic and safety concerns, non-matching street sections between City and County streets, requiring similar covenants and the requirement that the development provide mitigation to these concerns. Morrison asked for a show of hands of those who agreed with those summarized points. Cramer indicated that Morrison, as chair of the Commission, had submitted several questions regarding the letters that were received to staff in advance of the meeting. Those questions and answers were shared with all members of the Commission. Cramer summarized those questions and answers for the Commission and audience.

Cramer presented the staff report, a part of the record. He clarified that there were two reports that have been sent to the Commission and that they should refer to the revised staff report for the staff portion and recommendations. Previous public hearings have been held regarding a final plat within a portion of this preliminary plat area. The City Council denied that final plat because they determined it was not in compliance with the approved preliminary plat. The developer has now made application for a modified preliminary plat. It is not unusual for a preliminary plat to be modified in this manner. Cramer showed a slide that showed three different preliminary plats that have been considered for this same area. The previous preliminary plats are not guiding documents and do not have bearing on the new application. They can be referred to, but there is no requirement that a new plat follow or reference the previous plats. The guiding documents for a preliminary plat include the City's Comprehensive Plan, State law and local laws and ordinances, including the subdivision and zoning ordinances. Cramer indicated that a preliminary plat is a planning document. Idaho Statute does not require a preliminary plat process, but it is a "best practice". Preliminary plats are not a regulatory document. Cramer referred to legal cases from the Idaho Supreme Court. He then presented that remainder of the staff report including the presentation slides. Cramer discussed current subdivision in the area that have bollards preventing through traffic between the subdivisions. He indicated that the City and County officials have met and agree that the bollards should be removed and have committed to a plan to connect the road segments. Cramer reviewed the proposed density for the subdivision. The subdivision meets the minimum density requirements. The applicant has made all the requested changes by staff and meets the City's Subdivision Ordinance. Black asked Cramer to repeat the density numbers for the subdivision. Cramer

clarified those numbers for the proposed preliminary plat. Morrison asked staff to review the questions submitted by the Commission and provide the answers. Cramer reviewed the Planning Commission's questions and provided staff's response. Black asked why there are several roads that are straight and the roads area not being designed to have more curves. Cramer indicated that the City does have specific standards that require a standard road pattern. There are standards regarding the length of dead end streets. She also asked about parks within the subdivision. Black asked for an explanation of what "estate" means within the Comprehensive Plan. Cramer indicated that this largely refers to larger existing lots within the county.

**Morrison opened the public hearing.**

**Kurt Roland, Eagle Rock Engineering, 1331 Fremont Ave.** Roland represents the applicant. He indicated that the proposed lot sizes within the development are more than double the minimum lot size required by the R-1 zone. The development exceeds many of the minimum standards for development. The applicant has worked with staff to meet all the requirements of the City. Black asked about the average lot sizes in surrounding developments. Roland indicated that he wasn't familiar with specific numbers of the other developments. Black also asked if there would be a HOA within the development.

**Greg Hansen, Rockwell Development, 5699 Vail Drive, Ammon ID.** Hansen indicated that all of their subdivisions have HOA's. They did their due diligence on the property prior to purchase and found nothing recorded against the property. They chose to redo the preliminary plat in part based on recommendations from staff. They invited residents to their Green Valley Subdivision to show them what they want to build in Avalon. There has been some obvious frustration with promises that were made from the previous developer. Rockwell purchased the property with their own plans, not the plans of the previous developer. The existing R-1 zoning was important to them because it establishes some development rights and protects their investments in the property. Their subdivision meets or exceeds all of the requirements of the subdivision and zoning ordinances and the comprehensive plans. They plan on building a variety of housing types in this development. He has read all of the letters from neighbors and spoken with some on the phone. Rockwell is an experienced home builder in the area. Hansen showed several awards that they have received for their homes over the years. Hansen submitted two letters to the Commission. He indicated that Rockwell's has a range of products and price points and they have not seen any effect on property values in the neighborhoods near their subdivision. He is unaware of any requirement within City Ordinance that refers to prohibiting the approval of any subdivision because of concerns relating to property values. Rockwell has not made any promises or agreed to promises from the previous developer. Rockwell has met all of the minimum requirements of the City Ordinance for this development. Black asked about the turn lanes from the previous subdivision that was heard tonight. It was stated that Rockwell was the developer. Hansen indicated that to his knowledge they complied with everything that the City had required of them for that development. He stated that he was not part of that development so he doesn't know the specifics to that situation, but that they always comply with the requirements of the municipalities that they build in.

**Alan Kelch, 7466 South 15<sup>th</sup> West, Idaho Falls.** Mr. Kelch owns property to the west of the proposed development. He thinks that the Commission should take consideration of the land

uses along York Road. Commercial along York Road is an appropriate use of the land because of the power lines. He has had difficulty in farming the property there because of the height and size of the power lines. He thinks the road patterns are appropriate for the existing layout of the property.

**Tracy Tremelling, 462 Sunterra.** Tremelling spoke with the previous developer (Mike Hicks) when the property was sold, earlier this year, and he told him that nothing would change with the preliminary plat. When the plats came forward previously this year he noted several differences. He is referring specifically to the portion east of the Sunterra development. He noted that the 1/3<sup>rd</sup> acre lots were shrunk down to 1/4<sup>th</sup> acre lots. Several people in this area purchased their homes based on the previous preliminary plat. Tremelling went over statistics related to home values and lot sizes in nearby developments. He showed slides of existing homes within Sunterra. He then showed pictures of Rockwell homes and indicated that they would like to avoid this type of home construction. He stated that this area is not for this type of home development. They would like to let the development continue to proceed as it was originally proposed. Traffic along Holmes should be reviewed with the completion of these subdivisions. Water and sewer have been run through what was to be Sunterra Division 3 and the plat has been acted upon. Josephson asked about phase one and two of Sunterra and why Tremelling thought the developer did not continue with the development. Tremelling indicated that he did not know why they didn't continue because homes are being built within the current phases now.

**Clair Fitch, County Resident.** Mr. Fitch lives about a quarter mile from the development. He referred to State Statute 67-6508 under property rights which requires an analysis regarding property values. His main concern is the commercial property. It does not currently show on the comprehensive plan. The comprehensive plan recommends a buffer zone between commercial and residential and he is not seeing that.

**Bill Asen, 355 Hallmark Drive.** He continues to hear the word minimum being used. When they bought their home it was represented that they were buying a nice county property. Now they will have four neighbors and park. There are two issues, a county subdivision losing value and traffic. Hallmark and View Drive do not need to be used by the subdivision. He questioned the need for the subdivision within the City.

**Martin Woodbury, 378 Hallmark Drive.** They purchased their home in Hallmark Estates because of the larger homes on larger lots and the aesthetics of the area. They were led to believe that the developments in this area of town would be of the same quality. Woodbury is concerned about the effect on property values in the area, higher taxes, and the proposed commercial development on the southern end. He would like to see the use of this property defined now. Lots adjacent to Hallmark Estates and Sunterra should be a minimum of 1/2 acre lots. He would like to see the minimum square footages and elevations of the homes be set out now. He stated that we should not abandon what was previously planned 20 years ago that far exceeded the minimums and approve a substandard development in a prestigious area of the county.

**Carl Stoots, 336 Yucatan.** He would like to see consistency in the area. He doesn't think the proposed subdivision provides for consistency.

**Jim Johnson, 398 Hallmark Drive.** Johnson does believe that the development will have a negative effect on their property values.

**Randy Williams, 5391 Villa Mirage.** Just because the previous plat was not recorded doesn't mean it shouldn't be considered.

**Drew Facer, 168 Stone.** Searched on the internet and found an article that indicates that home values are affected by a smaller home being built next to a larger home.

**Joseph Moore, 6020 View Drive.** Is concerned about safety and traffic by connecting the roads. The bus stop is on this road and there are no sidewalks along View and Hallmark.

**Jim Johnson, 398 Hallmark Drive.** Wanted to clarify that Rockwell mention that they have built in subdivisions with \$150,000 homes and \$700,000 homes, but that is now what is being proposed here.

**Dale Herley, 347 Yucatan Way.** Has purchased several homes in the California area and knows that the surrounding homes due have an effect on property values. He took a lot of time looking for a home and expected the covenants from the previous phases would be continued.

**Kurt Thompson, 2635 Channing Way.** Thompson is an attorney representing Rockwell. Thompson stated that this body is to act according to the law. The law includes the zoning and subdivision ordinance. The Planning Commission's job is determine if the subdivision will comply with the law. If the subdivision complies with the law then the Commission should approve the preliminary plat. There have been no statements tonight that demonstrate that the subdivision does not comply with the ordinances. Thompson read from state statute regarding land use planning. He then read from the City's comprehensive plan. The proposed development exceeds all of the minimum requirements of the R-1 Zone. Preliminary plats can be changed. The Sunterra preliminary plat was abandoned by the previous developer. Rockwell purchased raw, unencumbered ground. They now have a right to develop according to the existing ordinances. There have been several comments about the type of housing to be constructed. There is nothing in the zoning ordinance that regulates the type of house that is built. Josephson asked if there has been any discussions with home owners regarding a possible compromise. Thompson said that Rockwell did invite the neighbors to come out and look at some current projects and meet with them, but he is not aware of any mediated discussion or resolutions. There is no legal requirement to meet with the neighbors.

**Melissa Williams, 5391 Villa Mirage Ct.** Williams wanted to clarify that they have tried to visit with Rockwell for a compromise, but has not had any returned calls.

**Clair Fitch, 878 E. Countryside Lane.** Wants to clarify that the commercial lot is not shown on the comprehensive plan so the commercial lot should not be shown on the plat. There is also no buffer shown as is discussed in the plan.

**Bill Asen, 355 Hallmark.** Has received no invitations from Rockwell. They would like to see larger homes, larger lots and buffer adjacent to their homes as a compromise from the developer.

**Tracy Tremelling, 462 Sunterra.** In previous meetings Rockwell made it clear that they had no requirement to honor the previous covenants or promises from previous developers.

**Greg Hansen, Rockwell Development group.** He has responded to all phone calls that they have received. They have tried to reach out to the residents, but the list that they had was for those in the Sunterra development. Also stated that not everyone can afford a larger home and lot. There should be a diversity in housing types. Black asked about the price range for the development. Hansen indicated that it would be in the \$160,000 to \$250,000.

**Morrison closed the public hearing.**

Black asked staff regarding the average lot sizes in surrounding development. Cramer reviewed a list of average lot sizes in neighboring developments. Black indicated that her understanding of the Comprehensive Plan was that this area would have larger lots and larger homes. There are not very many areas where you can have the “estate” mention in the plan. Cramer showed the estate zone on the comprehensive plan and clarified that the “estate” designation as mentioned in the plan specifically covers existing county development. The remainder of the area, not developed is shown as lower density residential. Cramer further clarified that the “estate” designation is not on the property within the plat. Black discussed trying to be consistent from division to division in an area. She feels that it is part of our planning to help protect that consistency and the expressed standards.

Morrison discussed the options that the Planning Commission has to either approve, approve with conditions or deny.

Josephson asked about the ability to require a landscape buffer between the developments. Denney questioned how a buffer might look and what size the lots would end up being. The Commission asked to clarify what is meant by the buffer in the Comprehensive Plan. Cramer stated that he is not sure which standard in the Plan is being referred to. He then stated that he is aware that the comprehensive plan refers to buffers in land uses or zones or adjacent to arterial streets. He also clarified that certain zones will require a buffer. Wyatt asked staff about the proposed commercial zone. Cramer clarified that the RSC-1 Zone does require additional review and public meetings from a traditional commercial zone. Denney questioned if that could be changed later. Cramer clarified that the zoning would take place at the time of annexation.

**Wyatt move to approve the preliminary plat with conditions listed in the staff report. Denney seconded the motion. The motion failed by a vote of 0-4.**

**Wyatt moved to deny the preliminary plat for the Avalon subdivision because it is not consistent with the essence of other subdivisions in the area and the standards to which they were built. The motion was seconded by Josephson. Wyatt, yes, Denney, yes, Josephson, Yes, Black, yes. Motion passed 4-0.**

**The Commission then discussed the Reasoned Statement of Relevant Criteria. Wyatt stated that his decision is based on the essence of the law and what should be done from a planning perspective not the letter of the law. Black stated that the proposed plat is not consistent with the standards of previous divisions.**

**Black moved to approve the Reason Statement of Relevant Criteria for the denial of the preliminary plat as written with the addition that it is not consistent with standards of the previous divisions and the standards approved for those subdivisions. The motion was seconded by Denney Motion passed 4-0.**

Meeting adjourned 10:30p.m.