

MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
FEBRUARY 13, 2006
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MEMBERS PRESENT: Don Wilkerson, Steve Ethington, J.B., Jim Hutchins, Fred Nussbaumer and David Poole.

MEMBERS ABSENT WITH PRIOR NOTICE: Brent Jensen.

OTHERS PRESENT: Brad Hawkins-Clark- Planning Director, Sissy Stewart – Administrative Assistant, and Jennifer Kharrl - Development Services Department Staff; David Hargraves- Prosecuting Attorney.

Chairman Wilkerson opened the public hearing at 7:00 p.m. and welcomed everyone, then explained the public hearing process.

Item One - A continued hearing for a Special Use Permit request by Trae Buchert and Jeff Schwerts to allow gravel extraction. The general location is West Salesyard Road. 6N, 2W, Section 23.

Cancelled.

Item Two - A Rezone request by William D. and Virginia M. Brown Trust to rezone approximately 11.220+/- acres from A-2 Rural Transitional Agriculture to M-1 Light Industrial. The general property location is West Highway 52. 6N, 2W, Section 14.

Cancelled.

Item Three - A Rezone request by Antoinette Archambeau to rezone approximately 1.00+/- acres from A-2 Rural Transitional Agriculture to R-1 Residential. The property is located at 1875 East 12th Street. 6N, 1W, Section 17.

Sissy Stewart showed a power point presentation on different views of the property.

No ex parte or conflicts of interest were reported.
Chairman Wilkerson has prior knowledge of the property.

Letters read into record:
Southwest District Health.
City of Emmett.

Marc Archambeau - 10953 Hanley Place.

We have a one-acre parcel and we would like to create two parcels. We already have one permit for the house that is under construction. And we would like to build another house on the front parcel we create. Since we have applied for the rezone we had several meetings with the Planning Department and the Health Department and we determined that there is

not enough room for a second septic. Our intention is to rezone the property and get it split and annex the front parcel into the City. That way we could hook into the City service.

Steve Ethington-The front parcel will have City services, what about the back parcel?

Marc Archambeau-It will have its own septic and there is an existing well on the property. We already have a permit for the septic system.

Steve Ethington-How will you access the back property?

Marc Archambeau- I would like to show you a picture on the access.

David Poole-What is the problem with annexing the whole property into the City?

Marc Archambeau-We were pressed for time. We have a lock on our loan and we wanted to get the process going immediately. We were not sure on the timing of the annexation and we wanted to still be able to obtain occupancy. We didn't want to lose our great interest rate. And we wanted to avoid the fees for the City services on the back lot.

David Poole-Strictly economical then?

Marc Archambeau- Yes, sir.

Chairman Wilkerson-Your application shows that you want to create three or four parcels, but you said in your testimony that you want to create two parcels.

Marc Archambeau- That was the original plan but after figuring out what it what take with the canal and setbacks with some open space there just is not enough room. We also wanted enough room for a horse if someone wanted.

Chairman Wilkerson-Have you had any conversations with the Last Chance Ditch Company about access? It mentions in here that it was at one time a non-approachable easement.

Marc Archambeau- We wouldn't use their easement, we will put our easement parallel to the ditch company's easement.

J.B.-It is my understanding that this entire parcel falls into the City impact area.

Chairman Wilkerson-That is correct.

Chairman Wilkerson- Have you talked to the City of Emmett about annexation?

Marc Archambeau- No, we have talked with Brad about it though, and it was his opinion to annex the entire property. He said that our new plan might be a possibility. When we talked with Jeff from Southwest District Health his recommendation was if we obtained approval for the rezone and split the property that we could run in a tie in for water and sewer for the front and back parcel so in the future if that system failed we could just tie into the lines.

Chairman Wilkerson-Brad, should we be looking at this application if there is a chance for it to get annexed?

Brad Hawkins-Clark- This is an odd situation where they have already received a building permit through the County as well as their septic permit and they are under construction. The parcel is large enough to split up. The application could be either way from staff's perspective. You could deny the application and recommend that they annex or approve it and they would be allowed to go down to 6,000 square foot lots. If they apply to annex just the front parcel the City may deny them and want the entire parcel annexed. We need to look at both possibilities, but ultimately I think the entire parcel needs to be annexed.

Jim Hutchins- According to Southwest District Health they will require a central septic system and central water. I would say it would be advantageous for the applicant to annex the entire parcel.

David Hargraves-I just wanted to remind the commission that if there are some questions in your mind, it would be appropriate to take this under advisement for a final decision to be prepared for the next meeting. I just wanted you to know that there is that option.

J.B.- My biggest concern is if we recommend that they annex into the City, that we will be forcing the City to act on our decision.

Marc Archambeau- How long does the annexation process take? Is it just a simple process? The only problem I have is I don't want to delay the Certificate of Occupancy on the home being constructed.

Brad Hawkins-Clark-It takes about three or four months.

Marc Archambeau-That is a problem then because I only have sixty days to finish the house and obtain the Certificate of Occupancy.

David Poole-I think in this case getting the Certificate of Occupancy will not be an issue, since the house is already under construction. If he wanted to build new homes then they might be affected.

Brad Hawkins-Clark-I Agree.

Marc Archangeau- So, if I finish the septic system and use the existing well then annex into the City, are the well and septic grand fathered in?

David Poole-That would be entirely up to the City.

Chairman Wilkerson opened the public portion of the hearing.

None.

Chairman Wilkerson closed the public portion of the hearing.

J.B.-I think we should side with the City on this application. It is within the City Impact Area and it will be annexed anyway.

Jim Hutchins- I agree with J.B. on this I think that since Southwest District Health will require a central sewer and water system, I would like to see this parcel tied into the City.

Don Wilkerson- I agree that as small as the parcel is it should be annexed into the City so City services will be available to it. If this rezone is approved there is the potential of creating more parcels. I think with its close proximity to the City I think it should be annexed as a whole.

Fred Nussbaumer- I agree also if we approve the rezone there is the possibility of creating more parcels in the future. I think it is up to the City to decide on the size and the number of the parcels.

David Poole- Made a motion to recommend denial of the Rezone for Antoinette Archangeau to rezone approximately 1.00+/- acres as the request can be used as it is currently zoned.

The motion received a second.

Vote: Unanimous.

Item Four- A Rezone request by A. Ralph Gurney to rezone approximately 13.54+/- acres from A-2 Rural Transitional Agriculture to R-3 Rural Residential. The general property location is 1111 West Central Road. 7N, 2W, Section 36.

No ex parte or conflicts of interest were reported.
Jim Hutchins has prior knowledge of this property.

Letters read into record:
Southwest District Health.
Emmett Irrigation District.
James and Priscilla Turner- Several concerns.

Sissy Stewart showed a power point presentation on different views of the property.

A. Ralph Gurney-1111 West Central Road.

We rezoned a 7-acre parcel that we split and I kept the last lot and I plan to build a house there. This 14-acre parcel is directly behind that last lot. We will not be using the access off of U.A. Avenue, it became a hassle to increase the width and ask the neighbors for more access. We will extend the Quail Hollow Lane to the middle of the 14-acres and it will be built to County specs. My intention is to come off of Central Road with the forty-foot easement I already have recorded. I want to create four equal lots, approximately 3.33 acres for each. All utilities will be brought underground from Central Road. Along the top of the fourteen acres there is a concrete ditch that will supply the top two parcels with irrigation. On the property line in the center, I will put a buried pipeline to the other property line so the other two parcels will be supplied with irrigation also. We already have an irrigation association established.

Jim Hutchins-What about drainage wastewater coming off of the upper two lots to get it down?

A. Ralph Gurney- We will place a culvert and a borrow pit so it will drain down to the drain ditch through that. We have maintained the drain ditch that we currently have.

Chairman Wilkerson-Have you seen the letter from the Turner's?

A. Ralph Gurney-No, I have not.

Chairman Wilkerson- I suggest you look at copy while we open the hearing to the public so you can respond to the concerns.

Chairman Wilkerson opened the public portion of the hearing.

James Turner- 2279 U. A. Avenue.

Our property is where the easement runs through, that property has a lot of confusion as to where the easement was but it sound like it has resolved itself. The general topic of development of Gem County is what I would like to talk about. I am very afraid that Gem County will no longer be a rural farming community. I would like the Commission to consider development fees on a per parcel basis to go towards health and safety. Our area is in the City zone of influence and the sooner the area is annexed the better.

Jim Hutchins -Part of the moratorium is to work on these areas.

James Turner-We have lived in areas that have let themselves be piecemealed into oblivion. Where there was a huge need for school, public, and health services and there was no money anywhere. There is no grant money for growth. If there are development fees it will get the money up front.

Steve Ethington-I feel that the impact fees should be put into place also. I believe the State regulates impact fees and I don't believe school funding is included. I recommend everyone contact his or her Legislators to discuss that.

A. Ralph Gurney- As far as the concerns in the letter the irrigation will not change. The homes will be higher end homes I will build a house right next door to this property. There will be covenants. I will continue to maintain the ditch.

Chairman Wilkerson closed the public portion of the hearing.

J.B. -Made a motion to recommend approval of the Rezone for A. Ralph Gurney to rezone approximately 13.54+/- acres as the request complies with the Comprehensive Plan.

The motion received a second.

Vote: Unanimous.

Item Five- A Special Use Permit request by Carl and Bonnie Porter to allow the temporary placement of a manufactured home for hired help. The property is located at 6081 West Highway 52. 6N; 2W; Section 8.

No exparte or conflicts of interest were reported.

Letters read into record:
Southwest District Health.
Idaho Transportation Department.

Sissy Stewart showed a power point presentation on different views of the property.

Carl Porter-6081 West Highway 52.

The pictures pretty much explained what we want. We would like a temporary permit, it is not long term, at this point I can't tell you for how long but I guess you can tell me. It is pretty straightforward.

Steve Ethington-You are applying for this permit for what purpose?

Carl Porter-For my son to live in a modular home so he can help us. We rent out pasture in Pearl and he will help us irrigate and move cattle.

Steve Ethington-How much land do you own around the house?

Carl Porter-I only own six acres, but I rent out pasture for horses and cattle. I rent out about 320 acres in Pearl and I rent a feedlot here in town.

Steve Ethington-So, the 320 acres is right around your home?

Carl Porter-No, it is up in Pearl.

Steve Ethington-So you don't rent out any of the 6 acres that you own?

Carl Porter- No, but I would love to.

Chairman Wilkerson-How far is the house being constructed to the South of you?

Carl Porter-Mr. Carter's home is about 800 feet behind mine.

Fred Nussbaumer-Does your son have other employment or will he work for you full time?

Carl Porter- He has other employment.

Fred Nussbaumer-So, this is just a place for him to live?

Carl Porter-Temporarily.

Chairman Wilkerson-So, what you are saying is he won't be working for you full time. May I ask why he doesn't live in the existing home on the property?

Carl Porter-He is married.

Chairman Wilkerson opened the public portion of the hearing.

Allan Carter-6085 West Highway 52.

I am directly South of Carl's property we adjoin property lines. Carl is a good neighbor. I have no personal problem with him putting on a temporary modular home for his son to live. He keeps up his property really nice. I have no problem with it at all.

J.B.- I am not seeing a need for your son to live on the property. This is not a hardship it is strictly a convenience of helping your son. Do you see where this is allowed by code?

Carl Porter-I don't know of any reasons it should be allowed but on the other hand I don't know of any reasons it shouldn't be allowed.

J.B.-Generally there is one residence allowed per parcel unless there is a special need. The only way around it is to have something attached to the existing house, that way it is part of the one dwelling.

Brad Hawkins-Clark- This is not a use that is specified by code. This is not a use that is allowed. Generally that section of code would be interpreted that the rest of the code is silent. You can't have two dwelling units on the same property.

J.B.-I am not so sure it says that in fact, two dwellings are allowed on some properties. We allow compounds where families want to live on the same property. Don have you allowed a second residence on a piece of property?

Chairman Wilkerson- Since I have been here we have allowed a second residence for employment of farmhands. This application is for living quarters for this gentleman's son and it is apparent he will be having employment off of the property.

Sissy Stewart-The ordinance allows one dwelling per parcel unless it is a temporary hardship or a Special Use Permit for hired help. Gem County does not allow mother-in-law quarters at the present time although we have talked about amending the Ordinance to allow that.

J.B.-Brad, so you are telling me that this doesn't go against the Ordinance.

Brad Hawkins-Clark-I think that the Ordinance provides for uses that are not listed through for special use to come before this Body to make that determination. I think it is important that the application did not mention that the employment would be off site.

Jim Hutchins-The ones we have dealt with on Special Use before were for full time employment on the site. My recollection is the ones we approved were for full time employment on the site.

Chairman Wilkerson-I agree and I believe that the applicant had to prove wages for the full time employment.

Steve Ethington-The reason that is because it is an agriculture zone and we cater to the agriculture needs because of a full time need.

J.B.- On a personal note I feel that a family should be allowed to have more than one dwelling. Under the current rules I do not find a reason to approve this.

Carl Porter- I am not sure I understand, I would like some clarification. I have heard the attached word used, I am not trying to do anything illegal that is why I am here tonight. If I attach another building with a walkway, everyone knows why I am doing this, I just don't understand what the difference would be if were approved tonight.

David Poole- The difference would be that you would be remodeling your house as it stays as one dwelling. Whether you have a breezeway or a walkway between two structures is stays as one dwelling.

J.B.-It would be a covered walkway. I bring it up because it is a loophole and I know you are here tonight to do things right. Under the current rules I cannot help you tonight.

Chairman Wilkerson- There is an example on Salesyard Road where a party bought an older home and attached a mother-in-law house and it has a walkway attached to both ends. The County regulations only allow dwelling per parcel, you can add on to it ten times but it remains one dwelling. That is the question we are hashing out here.

Carl Porter- I understand that.

Chairman Wilkerson-Brad, I have a question on your staff report. Where can I find 11-6-3B in the Ordinance?

Brad Hawkins -Clark-I think if you just start with Chapter 6 you may not have an eleven in front of your version. Eleven is the title number not the chapter number.

Chairman Wilkerson closed the public portion of the hearing.

Chairman Wilkerson-Brad I think you will have to show it to me, I don't think our book has it.

Brad Hawkins -Clark-It looks like we might have a problem with our books.

Steve Ethington-Our books need to be updated.

Chairman Wilkerson-I see in the Ordinance where it states that a temporary house can be placed for up to 180 days while construction of a new home is taking place.

Brad Hawkins-Clark-My point there in the staff report was referencing to temporary buildings. It was the only place I could find where a temporary home was addressed and it only pertains to new construction type of situations.

Fred Nussbaumer-I think there is a fee of \$85.00 for six months and it has to be reviewed every six months and then another fee will be required at that time, isn't that right Sissy?

Sissy Stewart- It is an \$80.00 fee and they have to remove the temporary home within 180 days or purchase another permit for another 180 days.

Chairman Wilkerson- I have a little concern that we would be changing the policy that the County has had in place where we would allow this Special Use Permit where the employment is strictly off of the premises. It appears it is only being used for living quarters for the son. With that being said I think we should deny this permit.

Jim Hutchins-I think we would open up something that has not been historically in the past. It has always been strictly for employees.

Steve Ethington- Made a motion to deny the Special Use Permit for Carl and Bonnie Porter to allow the temporary placement of a manufactured home for hired help because it does not meet the conditions of the Special Use Permit.

The motion received a second.

Vote: Unanimous.

Regular Meeting:

Item One – Approval of Minutes of January 9, 2005.

J.B.-Made a motion to approve the minutes as corrected.

Motion received a second.

Vote: Unanimous.

The minutes were approved and signed.

Item Two – Items from the Public.

John Evans- 1103 Phillips.

I like the power point presentation, I just think the acreage should be added so we know how much land we are looking at.

Item Three – Items from the Planning and Zoning Office.

Brad Hawkins-Clark- You received a draft for the moratorium activities in your packet, it is mostly for you're your information. If you have comments or any ideas give us a call. I just wanted you to be aware of what the plans are for the next five months.

Steve Ethington-It looks like the activities should be complete by July.

Brad Hawkins-Clark-That is correct.

Chairman Wilkerson-Did the Board of County Commissioners remand the CAFO back to us?

Brad Hawkins-Clark-They did remand that back. They actually thought they had already remanded it back. At this point I am working with David to change some of the text. That was the only comment the Board had. You should have also received the information about the Mason Herrington workshop in April; you are strongly encouraged to go it is great information. It is on a Saturday and if you would like to go, fill out the form and turn it in to our office so we can get it paid.

Chairman Wilkerson-My only question is if there is a way to track previous workshops we have attended so we don't repeat the same one.

Brad Hawkins-Clark-They always try to have these workshops after the Legislature breaks so they can update you on any new statutes changes.

David Hargraves-I would like to comment on the training we discussed, of course they are not going to discuss our Ordinance but they will discuss Idaho Land Laws and I think it will be a great refresher course. I will be attending.

A. Recent Board of Commissioners P&Z Decisions.

None.

Item Four – Items from the Zoning Commission.

J.B.-I was a little embarrassed tonight when we couldn't find what you were talking about in our books. That makes us look very unprofessional. I would like the staff to take our books and make sure we are all on the same page.

David Hargraves- What we've got are the same books, one is just codified.

J.B.-I don't care what we've got, I want it to be the same.

David Hargraves- You do have the same thing, just on different pages.

J.B.- That is my point, I want you to be able to tell us turn to a certain page and we can and look at the same thing. Does building permits get issued through your office also?

Brad Hawkins-Clark- Yes.

J.B.- I want to see the County do something progressively with water conservation. Specifically when it comes to toilets. There are new toilets for water issues. I would like us to develop something in the County to address what we can to conserve water. So we can have a hand in the reduction of water use.

Brad Hawkins-Clark- The Land Use Planning Act says that governing bodies can set up commissions and one of the purposes of the commissions is to review Ordinances and make recommendations.

J.B.-I am suggesting that we become progressive and not necessarily wait for the Federal Laws, there are towns and counties that have tighter restrictions because of water conservation.

Brad Hawkins-Clark- Most of the Ordinances I have read from other jurisdictions around the Country have other Ordinances adopted on top of the Building Code.

J.B.-That is my only comment, I feel that water is going to continue to be a huge issue and we if get on the proactive side of water conservation on some issues regarding new construction we can help control it.

Chairman Wilkerson- I would like to add like Brad said if any member of this Commission has an item that they would like to bring forward they need to do some research with other Counties and bring it forward.

Steve Ethington- Brad, has there been anything on any agendas about addressing impact fees through this Ordinance revamp or even through the Legislature as far as the schools being left out of the impact?

Brad Hawkins-Clark- I do believe there is some initial drafting from other counties.

Steve Ethington- Is that over in Boise?

Brad Hawkins-Clark- Yes.

Steve Ethington- I think we really need to look into that. That would be the time if someone bought some property to tack on a fee for schools and infrastructure. We are always getting hit for new schools. The taxpayers get hit by all those fees.

Chairman Wilkerson- Isn't there a difference between impact fees and development fees? Doesn't the State Legislature dictate which cities by population can enforce impact fees?

Brad Hawkins-Clark- There is enabling legislation that would allow any community to do so but you have adopt a local Ordinance.

Steve Ethington- The second home on an original parcel is something we need to look at again at a workshop. We had some great ideas and worked really hard for that. It may discourage the splitting and the non-ending rush to make a dollar by splitting up the land.

Chairman Wilkerson- In the past we have had workshops about this but we decided to let the new Subdivision Ordinance come through so we don't have to keep changing. Brad, can you tell us the status of the Subdivision Ordinance?

Brad Hawkins-Clark- The draft is coming together, we are including anything that this Board and the Board of Commissioners have brought up.

Steve Ethington-Brad, I would then encourage you that when you need some help on what we have worked on to come to us so we don't have to piggyback it. If we could intertwine with it to help the process along.

Chairman Wilkerson- Brad has mentioned that the new Subdivision Ordinance is something that needs to be finished before the Moratorium is lifted. When is that actual date?

Brad Hawkins-Clark- June 26th.

J.B.- So, Brad do you hear what we are saying that when you bring us the Subdivision Ordinance that we would like to see additional dwellings allowed on a parcel?

Brad Hawkins-Clark- I do, but to clarify that would be the Zoning Ordinance. The thing we are the closest to finishing is the design standards and process of defining land division. Just to let you know that if I would have known on the Porter application that the employment was off site my staff report would have been different.

Item Five – Adjourn.

J.B.- Made a motion to adjourn.

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The motion received a second.

Vote: Unanimous.

Chairman Wilkerson closed the meeting at 8:40 p.m.

Chairman

Secretary