

SUMMARY MINUTES
GEM COUNTY ZONING COMMISSION
GEM COUNTY COURTHOUSE
October 13, 2009

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NOTE: AN AUDIO RECORDING OF THE FULL PROCEEDINGS IS AVAILABLE THROUGH THE DEVELOPMENT SERVICES DEPARTMENT.

MEMBERS PRESENT: Dale Reynolds, Don Wilkerson, Fran Yett and Reisse Perin.

MEMBERS ABSENT WITH PRIOR NOTICE: Kirk Darnell.

OTHERS PRESENT: Planning Director/Administrator - Brad Hawkins-Clark, Development Services Coordinator- Jennifer Kharrl and Deputy Prosecuting Attorney- Tim McNeese.

Chairman Reynolds opened the public hearing at 6:57:45 p.m. and welcomed everyone, then explained the public hearing process.

CONSENT AGENDA

1. APPROVAL OF THE MINUTES OF SEPTEMBER 14, 2009:

Reisse Perin made a motion to approve the minutes as submitted.

Don Wilkerson seconded the motion.

Vote: Unanimous.

PUBLIC HEARING

1. (Continued) A Special Use Permit (#SUP-09-007) request by Shawn Nickel to allow extraction of gravel on property owned by Anthony Loucks. Located at 1811 W Sales Yard Road in T 06N, R 02W, Section 25 & 26:

No ex parte or conflicts of interest were reported.

Applicant/representative testimony:

Shawn Nickel – Representative for Tony Loucks.

He stated that the Commission had sent him from the last meeting to get more information regarding an alternate access to the property, fire access, drainage, fencing for pit safety and a reclamation plan of the pits. He stated that they are in the process of working out an agreement with an adjacent property owner for an alternate access. He

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handed the Commission a copy of an agreement with the adjacent property owner. He stated that he had met with Brad Hawkins-Clark and Rick Welch on site regarding the fire access. He stated that he also met on site with the two drainage districts to see if the de-watering of the ponds could drain into them. Gem Drainage #1 can probably handle the drainage if they rebuild the culvert and they still need to get approval from the Farmers Cooperation Canal. One of the conditions of approval is safety fencing around all open pits and they agree to that. The question came up with what the pits will look like after the reclamation. He showed some photos of how they will reclaim the pits and they will bond for the reclamation of the pits. He also stated that they are no longer asking for an asphalt plant or on-site retail sales.

Staff Review: Brad Hawkins-Clark presented the Commission with a site map, parcel map and site photos.

Public testimony:

In Favor: None.

In Opposition:

Bob Payne – 3976 Ranch Road.

Had concerns with water levels and the quality of his well.

Carol Briggs – 1871 West South Slope Road.

Had concerns with the health issues of asphalt plants, traffic congestion, odors, noise, loss of local organic farming, impacts on lakes and ponds and negative impacts on property values.

George Shenk- 1823 West Sales Yard Road.

Had concerns with a culvert near his home that is already too small.

Ramona Sloan – 1714 West South Slope Road.

Had concerns with noise, odors, safety, impacts on the wells, impacts on the roads and increased traffic.

Julia Morley - 3755 Mill Road.

Had concerns that her well would dry up.

Ruby Winkler- 3785 ½ Mill Road.

Had concerns about the impacts on her well, impacts on the animals and the noise from the trucks.

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Robert Shepherd - 3733 Mill Road.

Had concerns about the impact on the wells and on the wildlife in the area.

Merl Spicer - 3785 Mill Road.

Had concerns about the asphalt plant.

Kevin Stott – 1530 Mill Road.

Had concerns with the water quality.

Mel Britt - 3755 Mill Road.

Had concerns that the reclamation of the pits will take years and will be an eyesore until the ponds are complete.

Joe Morton – 5722 Silverleaf Extension.

Had concerns and questioned the dust control and decreased property values.

Tessa Delvalle – 3200 Mill Road.

Had concerns about the pollution and quality of the air from the asphalt plant.

Clayton Winn – 1675 West South Slope Road.

Had concerns with decreased property values.

Shirley Brown – 1842 West South Slope Road.

Had concerns about the shallow wells in the area.

John O’Leary – 1622 West Slope Road.

Had concerns with the impacts of the asphalt plant and the mess it would be on the cars in the valley.

Renee Rekow – 2888 Star Lane.

Had concerns with decreased property values, traffic issues and the crusher and truck noise.

Gail Gaul – 2307 West Sales Yard Road.

Had concerns with the plan for Gem Valley that would protect us from these zoning bombs.

Neutral:

Rick Welch – Gem County Fire District #1.

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He stated that he did meet on site with the applicant and he asked them to submit a plan but that he hadn't seen one yet.

Doyle Fackler- Gem County Drainage District #1.

He stated that if they are going to access west of the site on the adjacent parcel, it would definitely lighten the load of the existing culvert. Before the District can give a definite answer they would need to know how much water will be going into the drain. He stated that they are comfortable with whatever the Fire District requires.

Applicant Rebuttal.

Shawn Nickel- Stated that the use they are asking for is allowed in this zone with a Special Use Permit and it will have conditions of approval that have to be met. He stated that they still have a lot to do before they can begin excavating. There are State and Federal guidelines that have to be met. He stated that if they do get approval, he is going to recommend to his client that they do a Level I groundwater study so they can see any issues with the surrounding wells. He stated that they are not taking the well concerns lightly.

Chairman Reynolds closed the public hearing.

Discussion by the Commission. The Commission discussed the Special Use Permit standards and site specific conditions of approval recommended by staff and raised concerns about fire access requirements, drainage, reclamation of the pits, additional buffering between residential properties and the impact on the wells.

Don Wilkerson made a motion to deny the Special Use Permit #SUP-09-007 application based on the fact that three of the required nine standards for a Special Use Permit cannot be met.

Reisse Perin seconded the motion.

Vote: Unanimous.

2. A Temporary Hardship Permit (#THP-09-007) request by Larry and Connie Atkinson to allow the temporary manufactured home that was approved in 1998 as a Temporary Hardship Permit to remain on the property for hired help to live in to help care for the farm. Located at 2586 West Idaho Boulevard in T 07N, R 02W, Section 35:

No ex parte or conflicts of interest were reported.

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Applicant/representative testimony:

Connie Atkinson – 2588 West Idaho Boulevard.

She stated that they are here for her mother's existing double wide that was approved for a temporary hardship permit on their property. They had asked for permission to switch that permit to keep the manufactured home there. She stated they would like their daughter to live there temporarily while she is on bed rest because she is expecting twins. Their main intent is to maintain the home for hired help once her mother no longer needs it. She stated that her son-in-law is currently working on the farm. They would really like to maintain the home and keep it there.

Staff Review: Brad Hawkins-Clark discussed with the Commission the request and the reason for the application to come before them. They need to determine if the need still exists since their mother does not currently live in the home but could potentially come back to the home.

Public testimony:

In Favor: None.

In Opposition: None.

Neutral: None.

Chairman Reynolds closed the public hearing.

Discussion by the Commission. The Commission discussed the request, what the definition of need is and the option of a refund to the applicant.

Don Wilkerson made a motion to deny the Temporary Hardship Permit amendment #THP-09-007 because they felt that there was no change to the existing temporary hardship permit #249. The applicant can come back to staff to ask for a temporary use permit for the hired help to live in the home at a later time when their mother no longer needs the home. The motion included issuing a refund of \$110.00 to the applicant.

Fran Yett seconded the motion.

Vote: Unanimous.

3. A Special Use Permit (#SUP-09-006) request by Michael and Sarah Redman to allow the operation and construction of a new 1,500 square foot restaurant. Located in Ola on Third Fork Road in T 010N, R 01E, Section 23:

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No ex parte or conflicts of interest were reported.

Applicant/representative testimony:

Michael and Sarah Redman – 2309 N 18th Street, Boise.

They stated that they have 167 acres in Ola and it borders Third Fork Road and they would like to build a restaurant. The feel of the restaurant will be a country café and a roadhouse type place with simple well-priced food. This will be a place for the community to get together and for people to stop by as they are heading up that way. They stated that they are not trying to change the feel of the area. They plan on buying products and using services locally and hope to help the local economy.

Staff Review: Brad Hawkins-Clark presented the Commission with a site map, parcel map and a few site photos and reviewed the staff report and the recommended conditions of approval.

Public testimony:

In Favor:

Kim Urwiller – 22855 Sweet Ola Highway.

She stated her property line shares their property line and she is very much in favor of the restaurant.

Gloria Sutton – 22955 Sweet Ola Highway.

She stated that she has lived in Ola since 1972 and there were two businesses in town at that time and they were both able to thrive. She felt that the restaurant would be very beneficial to the community.

In Opposition: None.

Neutral: None.

Chairman Reynolds closed the public hearing.

Discussion by the Commission. The Commission discussed the access, speed limit on the Ola Highway/Third Fork Road, lighting, fire access, parking lot, landscaping and time limits.

Reisse Perin made a motion to approve Special Use Permit #SUP-09-006 as it meets the standards as outlined in Chapter 7; Section 7-3 of the Gem County Zoning Ordinance

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subject to the site specific conditions of approval recommended in the staff report along with the proposed native landscaping.

Don Wilkerson seconded the motion.

Vote: Unanimous.

4. A new ordinance of Gem County establishing regulations for the location and operation of Confined Animal Feeding Operations (CAFO):

No ex parte or conflicts of interest were reported.

Public testimony:

John Kienitz - 3512 Sunset Drive- Representing the Farm Bureau.

Had several concerns regarding the proposed ordinance and asked for some clarification on a few sections.

Joe Morton – 5722 Silverleaf Extension.

He stated that he helped write this ordinance and he had a few questions and concerns.

Larry Goodsell- 9111 Silverleaf Extension.

He stated there are several reasons to keep a large CAFO 1,000 feet away from any residence.

David White – 2213 Haw Creek Circle.

He wanted to commend and thank the Commission for drafting this Ordinance. He stated that the grandfathered status needs to have some hooks in it.

Terry Jones – 9000 Silverleaf Extension.

He stated that he wanted to commend the Commission for taking this on and he felt that this Ordinance will help take care of the frivolous complaints.

Melinda Harper – Idaho Rural Water Association.

She felt that this is really important and commended the Commission and the public for participating in this effort.

Chairman Reynolds closed the public hearing.

Don Wilkerson made a motion to continue the proposed CAFO Ordinance to their November 9th meeting so they can discuss the changes proposed tonight along with getting some Legal Counsel from the Attorney before recommending approval to the Board of County Commissioners.

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Reisse Perin seconded the motion.

Vote: Unanimous.

5. An amendment to Gem County Code, Title 11, Chapter 6 (adding a new Subsection 9 entitled “Recreational Vehicles, (“RV”) – Living Quarters”), which was remanded back to the Zoning Commission by the Board of County Commissioners for the purpose of holding a new public hearing:

Public testimony:

In Favor: None.

In Opposition: None.

Neutral: None.

Chairman Reynolds closed the public hearing.

Discussion by the Commission. The Commission discussed the Remand Order and the changes that the Board of County Commissioners had made and the recommended policies from staff.

Don Wilkerson made a motion to recommend approval of the proposed amendments to Title 11, Chapter 6, Section 9 – RV - Living Quarters to the Board of County Commissioners along with the staff recommended policies with the following changes:

- Add to 11-6-9.B - One RV used as a primary living quarters.
- Clarify #3 of the recommended policies.
- Add vacate to #4 of the recommended policies.
- Clarify #5 of the recommended policies.
- Add fee schedule to #6 of the recommended policies.

Fran Yett seconded the motion.

Vote: Unanimous.

REGULAR MEETING

1. ITEMS FROM THE PUBLIC: None.

2. ITEMS FROM THE PLANNING DIRECTOR/ADMINISTRATOR:

Brad Hawkins-Clark stated the Commission received their new Zoning and Subdivision Ordinance on the table this evening. He also stated that the Community Economic Profile will be completed soon and each Commission member will receive a full color copy once it is done.

3. ELECTION OF OFFICERS:

Don Wilkerson made a motion to nominate Dale Reynolds as Chairman.

Fran Yett seconded the motion.

Vote: Unanimous.

Don Wilkerson made a motion to nominate Fran Yett as Vice Chairman.

Chairman Reynolds seconded the motion.

Vote: Unanimous.

4. ITEMS FROM/OR QUESTIONS FOR THE DEPUTY PROSECUTING ATTORNEY: None.

5. ITEMS FROM THE ZONING COMMISSION: None.

6. ADJOURN:

Don Wilkerson made a motion to adjourn.

Fran Yett seconded the motion.

Vote: Unanimous.

Chairman Reynolds closed the meeting at 11:08:30 p.m.

Chairman Dale Reynolds