

MINUTES
LEMHI COUNTY PLANNING AND ZONING COMMISSION
REGULAR MEETING
January 20, 2010

MEMBERS PRESENT: Chairman, Dale Peterson, Vinn Strupp, Bret Heaps, Eleanor Wisner, John Ziegler, Raymond Cockrell, Roy Barrett, Tammy Bailey, Ed Tolman

STAFF PRESENT: Gary Goodman

GUEST PRESENT:

MEETING CALLED TO ORDER:

MINUTES OF PREVIOUS MEETING: Minutes of November 18, 2009 where approved. Moved by Tammy Bailey and Seconded by Bret Heaps

COMMUNICATION:

Shirley and Roger Rockwell address the board concerning an issue on an easement involving their property and the neighboring property. Karl Lewies, Lemhi County Deputy Prosecuting Attorney is on the phone to listen to the matter. Rockwell's are concerned that an easement intended for the use of the neighboring subdivision property owners was incorrectly overlaid onto their property. Rockwell's submit correspondence and maps to help planning and zoning understand their issue. Bret Heaps ask the Rockwell's if they are inside the subdivision and they state that they are not. Karl Lewies explains that this particular issue has many legal issues that in his opinion would require a judge and that it needs to be done in a court of law. He also does not believe that the planning and zoning commission have any jurisdiction to render a legal decision. Roy asks Karl how they should direct the Rockwell's to and Karl states that they need to retain legal counsel. Rockwell's do not agree that they should have to obtain legal counsel and think that the planning and zoning can make the decision. The planning and zoning thank Rockwell's for their time and let them know that this matter is under advisement. Bob Fryer also comments on the issue brought before the board and presents the board with numerous pictures. Mr. Fryer asks the board to let him know of any decision made and states that if they need more information he would be happy to present them with that.

PUBLIC HEARING:

John Ziegler recues himself from the board

John: I am John Ziegler, 63 Ziegler Road, Po Box 1101. We would like to subdivide part of our ranch, my brothers and I. I will start with the items here.

- C. **Water Quality:** The development will meet all federal, state and local regulation. Water will be derived by wells installed by individual owners.
- D. **Runoff and Erosion Control:** Codes does not require a runoff and erosion control plant at this time as the disturbed segment of land does not exceed 8% in area nor are there impervious surfaces. However, roads installed for the development will be placed so as to meet or exceed erosion control requirements and will meet Lemhi County Road standards.
- E. **Wetland:** Wetlands have been inspected by Aspect Wetland Consulting and a report will be submitted.
- F. **Stream Corridors:** Setbacks will be required when applicable.
- G. **Floodplain:** This development does not fall in the flood plain
- H. **Slopes:** Test holes were provided for District 7. No slopes

- I. **Expansive Soils:** Do not exist for the most part. When clay does exist it is under 3 to 4 foot deep so would be removed before building.
- J: **Wildfire:** Not applicable
- K: **Air Quality:** This project will meet all federal, state, and local air quality requirements.
- L. **Nuisances:**
1. **Noise:** the noise level will be at or below normal residential levels.
 2. **Light:** Levels will be equal to a rural residential level to include security lighting on out building and will fall within the requirements of the county code.
 3. **Electrical Interference:** No electrical interference is anticipated due to the nature of the use of the property.
 4. **Waste Disposal:** Waste disposal will be located conveniently.
 5. **Industrial Commercial Waste:** Minimal. No hazardous waste
 6. **Storm/Snow Runoff:** Runoff from rain or snow will be handled by each owner and will not be a factor.
 7. **Weed Control:** Each owner will be required to maintain weed control.
- M. **Hazardous Substances:** Hazardous substances will not be allowed on the development.
- N. **Livestock on Residential Lots:** Livestock will be allowed on residential lots.
- O: **Protecting Irrigation Systems:** Ditches will be removed and water will be delivered in pressurized pipeline. The pipeline will be compatible with yard sprinklers set on timers and the local fire district. On that also we are at the end of the ditch so there is no other below us, there are people that get water from below us but they have no rights. They collect waste water and what not and I have provided for them with the way we are changing the water direction and everything, they will get water from two sources but that they now use, it will still be there this property will have under in a pipe line so everything we use will be sprinkled.
- P. **Land Use Compatibility:** Roads will be located to have the least visual impact on the valley and building sites will be established on the final plat to maintain the ultimate in area separation from neighbors. Similar subdivisions located across highway 93 north.
- Q. **Connections:** Ingress and egress will be by private drives constructed for this development.
- R. **Signage:** All signage will be in compliance with County and State requirements.
- S. **Safe Access:** All access will meet county code requirements
- T. **Access to Arterials:** Will meet requirements as noted in item "Q" connections above.
- U. **Alternate Points of Access:** Not applicable
- V. **Roads:** All roads constructed for this development will meet county highway standards.
- W. **Off Street parking and Loading:** Off street parking/loading will meet requirements.
- X. **Utilities:** Utilities will be provided in the form of power and telephone. Individual owners will provide their wells and septic systems as residences are constructed.
- Y. **Individual Water Supplies:** Individual owner will construct wells.
- Z. **On Site Sewage Disposal:** Septic systems will be constructed at the time each owner constructs their dwelling.
- AA. **Private Utilities:** Adequate rights of ways are provided as noted on submitted plat.
- BB. **Construction in Utility Easements:** Building construction will not be allowed in public utility easements.
- CC. **Public Access:** No public access to historic or public lands will be affected.

- DD. **Fire Protection:** Fire protection will be provided by Lemhi County Fire Protection District. Access to pressurized irrigation line will be provide to fire trucks. There will be access to two ponds when the pipeline is not running.
- EE. **Additional Facility Needs:** Additional Facilities needs will be by county code
- FF. **Maximum Average Density:** All lots are over five acres in size, wetlands have been mapped and there are no known slopes over 30%
- GG. **Minimum Lot Size:** Basic lot size and density is 2.5 acres for ground water vulnerable but these are all over five acres so that should be a problem.

Chapter 7

1. **Protection Irrigation Systems:** refer to Article "O" above
2. **Fencing Stock Driveways:** Property is fenced
3. **Maintaining Viable Agricultural Operations:** All parcels are large enough to be classed as agricultural.
4. **Protecting Productive Lands:** The irrigation ditches providing water for the neighbors will be protected through easement. It is the intent of this application to protect water rights to this development as well as adjoining neighbors.
5. **Limiting Conflict with Mining Operations:** Not applicable
6. **Limiting Conflict with Logging Operations:** Not applicable
7. **Commercial Location:** There may be two
8. **Airport Zoning District:** Not applicable
9. **Area of City Impact:** Not applicable

Chapter 10

1. **Plat or Record of Survey Required for all Land Divisions:** See plat attached to this submittal.
2. **Subdivision and Manufactured Home Park Design:** Manufactured homes may be allowed in this development.
3. **Solar Access in Subdivision:** This development was designed to take advantage of maximum solar gain.
4. **Subdivision of Irrigated Land:** This development has water rights attached to it.
5. **Subdivision Improvements:** See plat attached
6. **Manufactured Home Park:** Not allowed in this development
7. **Manufactured Home Park Improvements:** Not applicable.

John: As far as the irrigated land, it is fairly marginal, we would have to fertilize the heck out of it.

Tom Taylor: This is a 19 lot subdivision that average 5.77 acres per lot obviously we have different acreages per lot. The two highway accesses, one is on the south end and along the road and one on the

north end. They have been approved by the department. We do have a single access to lot 17 via private drive so it doesn't need a cul-de-sac cause it only access one lot. The lot 19 has access out through Ziegler's ranch, there is also a private road between lots 6 and 4 and that is actually for the ranch's uses versus the subdivision, so the Ziegler's can still use this to get in and out. There is a ten foot access on both sides of the road not access but easement for utilities and irrigation on both sides of the road. There is ten feet on both sides of the road. All common lot lines have five foot easements on both sides, this is ten foot for irrigation and utility along all lot lines. So the power can come back here and serve two houses they can so they will have sufficient easements on the whole subdivision.

Bret: Ten foot on the, five foot on each side?

Tom: Right ten foot along both lines.

Gary: So the road is sixty wide

Tom: It is fifty foot wide, and then ten foot on either side so we are actually seventy foot wide. Ten foot from the right of way of the road to the easement which is what Idaho Power and the phone company are pushing for now. They don't want it in the road because they have been running into problems with that, pushing stuff out with backhoes blocking the road. The power company wants to see the easement on the outside of the right of way so they won't run into those kind of problems, that is what they have been telling me.

Dale: Is there any other questions? Hearing none...

Bret: I do I guess, where would your commercial stuff be?

John: It is down here where this access comes from above the fairgrounds. This one here will be commercial and this one will be commercial. Lot 15 and 13. There is commercial across the highway, the sawmill and then you got the fairgrounds and everything.

Teresa: I have a question, are you saying that your covenants are going to allow or are you asking for those two lots to be zoned commercial.

John: Yes

Gary: How do we know what is going to go in there?

John: Well they would have to come in front of you.

Teresa: That is why I am asking you that, that is our point. We are not going to blanket zone those commercial.

John: They will be allowed to be commercial but they will have to come in front of the planning & zoning board.

Dale: Teresa will now enter the written correspondence into the record for us.

Michael Overacker

*To whom it may concern,
The Ziegler Brothers Subdivision will have no effect on the Norton Wheeler Ditch operations and the delivery of water to their patrons.*

Sincerely, Michael Overacker

Eastern Idaho Public Health

Dear Commission Members;

This proposed project presents some unique challenges due to the hydrology and geology of the area. Nineteen test pits were reviewed and thirteen soil samples were analyzed by Rock River Laboratory, Inc. to determine suitable soils for subsurface sewage disposal. Groundwater monitoring indicates that there is an extreme water table within the boundary of most of the lots. There is some indication that modifying irrigation practices may change groundwater levels but there has been no long term monitoring to confirm this. The lots as proposed will be able to be issued sewage permits but until additional monitoring is done each individual system will be required to be engineered prior to the issuance of a permit to meet the conditions demonstrated during the review process. These lots are to be served by individual wells and as such this agency has no jurisdiction regarding the issuance of permits for well drilling. Should you have any questions regarding the information in this letter or work performed give me a call.

*Sincerely,
Steve Adams*

Emergency Services

In the matter of the John Ziegler subdivision the issue I had with ingress and egress have been rectified. I have no problem with it now.

*Janet Nelson
Emergency Services*

Lemhi County Road and Bridge

Concerning Ziegler's Subdivision

The Road and Bridge Dept would like to see the access route on the west side of the fairgrounds become a county/public road off the Diamond Creek Road. It would be 900 ft through/by the fairgrounds. This would ensure public access to the fairgrounds on the back side. We would like to ask that a blanket statement be added to each parcel when purchased that states something to the effect that the purchaser understands there is a rock pit/quarry close by and there can be equipment being operated at odd times and occasional blasting of the rock. This can help avoid future issues with land owners. Is this the time to think ahead (future planning), as we look at our county transportation plan and having an alternate route from the fairgrounds to town???

*Thank You
Kerrie Cheney*

Idaho Department of Transportation

John Ziegler has a access permit with the Idaho Transportation Department that has expired but he was waiting for the core of engineers so he could start I guess he just got that permit back so I told John to go ahead and build his access. He will put the access in this week I guess.

*Derk Williams
Idaho Transportation Dept.*

Department of the Army

Dear Mr. Ziegler

This concerns your February 5, 2008 permit application proposing to construct a subdivision access road in wetlands which border highway 93. Your project is located in Section 19, Township 22N, Range 22E, Boise Meridian, Lemhi County Idaho. It is our preliminary determination that the highway 93 borrow ditch wetlands and the other mapped wetlands on your proposed subdivision are subject to our jurisdiction under Section 404 of the Clean Water Act and a Department of the Army permit is required for your project. Your project meets the terms and conditions of our Nationwide Permit Program at 33 CFR 330, Appendix A however, the Idaho Department of Environmental Quality has denied water quality certification for Nationwide Permit 14. Before we can authorize your project, you will need to obtain certification or waiver of certification for the IDEQ. To help you through the certification process, we sent a letter to the Idaho Falls Office, asking them to consider water quality certification for your project. We also asked them to notify you of their decision. If you have not received a response by July 20, 2009, you may assume that water quality certification has been waived. If IDEQ denies water quality certification, your application for permit will be denied and you may not construct the project. If IDEQ issues water quality certification, your project will be authorized under Department of the Army nationwide permit 14 and you may proceed with construction as shown on the enclosed drawings, subject to the conditions of the water quality certification, the terms and conditions of the enclosed nationwide permit, and the special conditions listed below. If you cannot meet these conditions, or if you change the project described in your application, this nationwide permit verification letter is not valid. This authorization applies only to Department of Army permits administered by the Corps of Engineers. Your project may also require permits from other Federal, State and local agencies. You should contact your local city or county zoning office for any permits they may require for your project. This verification is valid for 2 years from the date of this letter. If you start or are under contract to start this activity before this date, you will have an additional 12 months to complete the activity under the present terms and conditions of this NWP. We have not prepared, and this letter does not constitute, an approved jurisdictional determination for your project. If you want us to make an approved jurisdictional determination concerning highway 93 borrow ditch, you need to send us a request prior to the start of work and not begin construction until we have issued our approved determination.

*Sincerely,
Robert Brochu*

Aspect Wetland Consulting

Historically, this property has been irrigated agricultural ground and lies between residential home sites and agricultural ground. The plant communities within the proposed subdivision are pasture grasses and legumes, suitable for agricultural production. This property has traditionally been flood irrigated from the Norton Ditch and two natural springs. Two main irrigation ditch systems traverse the property

running south to north along the east and west property boundaries. These ditches supply water for irrigation and stock use and are controlled by head gates. We were contracted to consider building sites, to review the proposed subdivision access plan and determine whether any jurisdictional waters or wetlands concerns exist along access corridors. We first visited the project site in March of 2007. We have revisited the site throughout the past year to review seasonal changes to surface water and identification of the grasses has been more difficult. Flood irrigation has also continued to influence the surface hydrology. At this time monitoring wells have been installed for District 7 health Department to analyze septic system permits. We utilize these same wells to determine underground water levels. Proposed access to this subdivision would be from two separate points off highway 93 north. One access already exists to the north end of the property. A second access would need to be established and would require crossing the eastern ditch and the borrow pit adjacent to highway 93 n. This road would be approximately 30 feet wide. Mr. John Ziegler has consulted with Lemhi County and the Idaho Transportation Department concerning this new access. Please consider the attached permit to construct the new subdivision access road through the borrow pit and the ditch.

*Respectfully,
Michelle Tucker*

Public Comment

Dear Mr. Goodman

We appreciate your providing the opportunity to respond to your letter of 18 December 09 and comment on the proposed Ziegler Brothers Subdivision. We are not in favor of this proposal as described in your letter of 18 December 09. As adjacent homeowners to the proposed subdivision separated only by US Hwy 93 from the project site, the following negative impacts to our property are foreseen:

- a: Creation to two potentially dangerous access roads onto Hwy 93*
- b: Increased dust and degraded air quality from unpaved roads due to construction and residential traffic.*
- c: Increased truck traffic on Hwy 93 and adjacent roads, which is currently allowing access to shale and rock pits adjacent to the proposed site.*
- d: Increase in noise and light pollution to existing unacceptable levels from extensive activities at the Lemhi County Fairgrounds from May through September; the clarity of the existing night sky should not be further degraded.*
- e: Without appropriate covenants, the potential degradation of current landscape quality that is consistent with existing residential and cultural practices on Dogwood Lane is of concern.*

Concerns include swine or cattle feed lots, single family dwelling mobile homes and/or increased density of residential sites beyond the current proposal.

We are also not supporting the subdivision proposal for the following additional site related conditions:

a: We suspect the soils of the project area are highly alkaline with high clay content. These conditions result in a high water table with a low level of permeability rendering them unsuitable for domestic septic installations. Ditching the perimeter of proposed residential sites is not a viable option to controlling the water table.

b: Degraded water quality as well as low water quality could be deterrents to residential development.

c: The demand for irrigation water from the Norton/Wheeler irrigation ditches due to proposed residential development will likely reduce the amount of available water to service the remaining agricultural acreage outside of the proposed subdivision.

In summary, we would prefer to see the proposed acreage left in full agricultural production.

Sincerely,

William Osborne & Lucinda Haggas

Dale: We will hear testimony by those who support this application

Michael Overacker: Mr. Chairman and Planning & Zoning Members, I am Mike Overacker I am the neighbor to the immediate south of the Ziegler Brothers. I respect the Ziegler Brothers right to do with their property as they want. I realize that it would be nice if all the land in Lemhi County stayed as agricultural but I do know the challenges and sometimes it is just not possible to keep every ranch in agricultural. There is a few things that have been discussed that I would like to make some comments on. One of them is the water table. On our ranch we went from flood irrigation which Ziegler's are now doing too, to totally sprinkler, all of our ranch now is sprinklers. It has dramatically lowered the water table so concerns about septic I don't see that they are really going to become an issue because I think you will find the water table two years from now will be a lot lower then it is today. So I can understand the counties desire to connect the fairgrounds but you know another access, I have seen the travel plan but I also see the travel planning coming right through middle of my place and no one has come to me and said "hey mike how about we purchase a right of way" or anything like that and I don't see anybody asking the Ziegler Brothers to say will you sell us a right of way you just want them to give it to you and it is not how it works in this world. I certainly think if you folks want to start acquiring roads via the new travel plan then there is a value there, you are asking these folks to give up something you better be willing to compensate them for that. Ziegler Brothers mentioned that they will be putting in power and telephone and I think there are some definite changes that you folks need to address. In my own case, in my last subdivision has ten lots, I paid Centurytel 7,000 dollars so they would put in the telephone. I

have sold seven of those ten lots and zero, nobody has connected to a landline. There are more telephone companies now, we have got one out of Challis and there are numerous wireless companies. I don't think it is right that you require a sub divider to put in the telephone lines. While the trench is open from power they should be invited, given a week's opportunity to put their lines in if they want, but I see no reason why we should subsidize Centurytel with something that is outdated. Nobody wants it and don't require these guys on nineteen lots you are looking at 15 grand at least to put in telephone and nobody wants it. Don't ask them it is out of date guys, if Centurytel wants to put their lines in there let them do it but don't make Ziegler Brothers do it. I appreciate the opportunity to comment on this and I wish the Ziegler Brothers well.

Dale: Is there anyone else in support?

Clee Ziegler: I am Clee Ziegler I am one of the Ziegler Brothers, I spend most of my time in Alaska and bring money down here to keep Salmon green. We are putting that road down through there right now, almost have it completed. I am running the excavator and we are excavating the topsoil down we are getting down to gravel. Some places are gravel six inches deep some places about 20 inches deep. Coming down there we have been at it for a mile I guess, I dig a hole a deep hole and I have yet to find water. Like I say it is gravel it is really good gravel, I haven't panned any yet but I want to. So I don't think the septic system is going to be a problem. They have some wetlands flagged on these maps here, those little spotted green things. One corner of lot 2 that is right where our spring raises and there is a little pond there and that is what that wetland is. The wetlands in the other corner and that, we hay that. We are on it with our tractors and our swather's right after irrigation and we do not get stuck so there are no cattails in there, it can't be very wet.

John: It is Garrison Meadow Foxtail, we plant brush, we planted it in there and it is a wetland grass so they have to go with that. We don't want it, it can dry up and blow away.

Clee: It is like anywhere, if you don't water it won't grow. As Mike was saying on the cell phones, I was reading a report this morning, 26% of the homes in Idaho are landline phone free. 26% of the homes are cell phones. It seems that people don't want a cell phone and a landline and pay for both of them when one will do it. That is all I got to say.

Bret: How deep is the deepest soil before you get to the gravel?

Clee: Some of it was six feet but it wasn't very far I didn't find that very often. The majority of it was 15-18 inches to the gravel.

Eleanor: In that same?? Do you have a well on your home property?

Clee: No

Eleanor: How far how deep do you think you would have to go to get potable water, what is the code, you have to be so far.

John: There is layers down there, I know that some of the people on the other side over there, my brother built one of those house and they have to have a filter for the iron over there. There is one of them that didn't it is really good water but we use a spring ourselves.

Zeigler Brother: We dug a well for a corral, we pump water to our corrals and it is between 9 feet, it is good water.

Clee: It hasn't killed any cows yet

Eleanor: What does the flow permitted

John: All you want

Dale: Any testimony by those that are uncommitted?

Sam Polanski: I am Sam Polanski and I live east of the proposed subdivision. I just have a couple questions. One of them is for you folks directly and the Ziegler's would be affected by that. As time goes on there is going to be more and more of those subdivision that people are going to want to established. Eventually you are going to get to a point that you can't install more and more septic systems. Do you have a plan, a five year plan or a ten year plan that kind of addresses that issue. They had awhile back a plan to put a sewer system into the area and it was voted down. Like it or not eventually with the influx of people and subdivisions that can't continue, it just isn't practical. There is only so much water in the valley and it is fairly shallow. It seems to me that it just is common sense that this can't continue on and Ziegler's won't be the last subdivision to have an impact on the groundwater in the area. Well what would it be, well sewage, high nitrate, whether it be animals or whatever. That has an impact on babies and infants and old people, I don't see anybody old in here but I don't see any babies either, that can be an issue because it can kill you. The maximum limit of nitrate that can be treated by our current technology is 90 parts per million. Above that you cannot make potable water standard. That is like ninety basketballs in 999,000 basketballs, so we are not talking about much. One gallon of oil can pollute one million gallons of water. That is what we are talking about. These are the kind of issues that I have

been wondering about having lived here for the time that I have because I was really surprised when the sewer system thing was rejected because that could have been established and extended to encompass the subdivision, each property owner pay a hook up fee, people like the Ziegler's that are putting that subdivision in, there can be a fee that maybe is set aside and when they sell a lot, whoever buys it reimburses them for whatever a hook up fee might be, that ???? it looks to me like a pretty decent operation but there is some things coming down the pipeline you can't continue to ignore. The other thing is when the subdivision lots are decided how big they should be. On our side of the highway through perk tests and other information they decided that it should be at least 2.5 acres for each housing development. Now there is more to it than that as you well know, the number of bedrooms and the people living in the structure are going to make a difference. When you size a lot depending on who is buying the thing, if I am going to built something like a hotel if I come out of California, you may have to buy two or three of Ziegler's lots in order to have enough ground there to put the septic system in, otherwise I think we are going to be dealing with an issue. The other question I have is in the are there any restrictive covenants that are being established or developed for your subdivision. I haven't heard of that yet but a couple commercial lots I understand how that is going to dealt with in the future, I don't have a problem with that although I don't want a glue factory in there, I don't think the government will allow that. So when you have animals on there, is it any kind of animals, can we have pigs on five, six, seven acres, goats, giraffes, what is the limitation. I think we should know when you develop a subdivision there should be a complete record up front so that people living in the area can look at it and say I either support that or I don't think I like that much. As it stands right now I am kind of on the fence, I don't know whether to say yes go ahead and do it, I really think a guy should do what he wants with his place but because other people are going to be living there. I bought my place knowing there were limitations to what kind of animals can go there, they can have horse and cows and things like that, no pigs, no goats and I kind of like that. That was a restriction that appealed to me. Without knowing what these folks are going to do, I don't know whether to invest in there subdivision or not, I might, that is a pretty nice side of the highway I don't see a problem with that, but I would like to know if are you going to require some kind of up front idea as to what is allowed and what isn't allowed. It might have an impact on who buys those lots and how much they are willing to pay for them. I guess that is, other than I hope the lots are sized according to the water table, I know there is people made comment about it. I don't feel qualified, I am an engineer but I am not an hydrologist, so I don't feel qualified to make a comment like that. What would the water table two years, five years now, I haven't a clue, I have no idea, but it might be worth wild getting the right people in to find out what that might be and in the mean time it might have an impact as to what people build out there. Thank you.

Janice Richardson: My name is Janice Richard I live at 26 N.Dogwood Lane. I have lived here for a little over thirty years and I love it. I also have a place out at Gibsonville. I have seen a lot of different things, my daughter has a place over in Montana, they have covenants, we have covenants there on dogwood

lane. When I looked at this when it was sent to me, I asked a few people if they had received one, they said one, not everyone had received them. Anyway I have had a stroke so please be patient with me so I can understand. You are telling that 13 and 15 are going to be commercial, which lots are these can you show me. These two here? I live between Smith's and Beller's, there is a pasture between Beller and me and as I used to have the dirt lane, I had to plant things because the dust was so bad. Everyone would go up and down, my question to you is, you are putting in a proposed highway access, and I understand what that is, but my question is, the people here on the east side, are you going to have a lane or a road between the east and west? How do you get to the east side?

John shows Ms. Richardson the plat map

Janice: So they will have to build a fence or they can't pull into a driveway or make a driveway here?

John: This is the only driveway, the access is to the highway

Janice: Okay thank you, that makes me feel better. Sam spoke about covenants, can you build three or four stories.

Dale: Go ahead and ask your questions and he will take note and then get up and answer these questions in just a minute.

Janice: This is all that I had but it doesn't tell me if I am going to look across the highway and I used to live in L.A. okay. Am I going to see apartment buildings on five acres, is it just going to be one level, seriously, covenants like Sam said can one person have so many things and another person can do their thing, that is okay, as long as you can still breath, as long as you can still live. If you can hear the pigs, someone comes along and if it is commercial, I am further down, not totally all the way down there but the commercial, is it going to make noise? Are we going to have smoke? Are they going to be burning these huge things, you know what I mean. Some places here in Salmon, they do, they burn all kinds of stuff, and then I will have to move, because we get what they call a "north wind" and if that commercial is where they are really burning a lot of stuff I can't live there anymore. So if I could kind of have an idea what the covenants are I would really it would make me feel better.

Dale: Can I answer your commercial question. Even if those two lots are if we allow those to become commercial, whatever is built there will have to come before this board again to ever be established. Not any commercial can go there, it will have to come before this board again. It will have to be approved by this board.

Janice: And you would notify me right?

Bret: yes

Dale: It would entail another public hearing

Gary: Only if she is within the 300ft

Teresa: That is probably why some of your other neighbors did not get one because they didn't not fall within the 300 ft of the external boundaries.

Janice: I would be within that 300 feet?

Teresa: I don't know

Dale: I am not sure you would get a notice but it would be posted on the property and it would appear in the paper notices like that would appear.

Janice: That kind of bothers me, cattle and horses and I have two horses and not everybody goes by all the covenants, but at least if you have them and it really effects your family and I don't want to see apartment building going up and stuff, I just don't, it would break my heart. There is no water, no less water coming out of our ditch coming out of Dogwood Lane. If like you guys were talking if somebody did, if somebody bought three or four lots could they put one big thing on there, is it restricted to just one building per lot kind of like a barn and house or something like that or can they really come along, that is what I am afraid of. Do you publish covenants, is there any way I could find out later on about this.

Dale: Covenants are done privately by subdivision and they are enforced by the subdivision, the county nor the state do not enforce covenants in Idaho, they are enforced civilly.

Janice: Are you going to continue to live where you are living?

John: Yes

Janice: Good

Dale: If you are done will let John go ahead and stand and maybe oh there is one more I am getting ahead of myself.

Janice: Thank you for letting me talk

Bill Osborne: My name is Bill Osborne I live on Dogwood Lane, Sam and Janice are my neighbors, we I don't know you might remember the letter that the young lady here read off that I wrote up. I don't know I guess I am testimony by opponents section. I actually feel somewhat in and around what Janice had to say and what Sam had to say, I have a lot of the same questions. Just to kind of start off with, I will tell you I have got some other neighbors that are not here tonight but they have some of same feelings on Dogwood lane folks that they didn't get their written testimony in but they have some of the same feelings that I am going to kind of relate here if I can. John, I don't know about your guys or what the state said to you guys but man o man the creation of two access points to the subdivision off a US Highway 93 and believe me I have lived out there now over ten years, the traffic, the truck traffic, the speed of vehicles is unbelievable. I will tell you, will have only one access road into Dogwood Lane and then there is one into Mike Overackers dairy and along Mikes property. I want to tell you they are damn dangerous access points and I cannot believe that the state is going to approve either one of these access points in your property, maybe they already have but I am really surprised about it. You cannot believe the amount of times that I have tried to get into just the Dogwood Lane access point especially at night I guess, this is with no fair events going on, this is maybe no hunting season no nothing, the traffic out there, there are times where it absolutely not safe to stop on that highway and I just turn into Mike's old dairy lane, I think they call it Long Road or something now. Moore Creek Rd, just to get out of the traffic, you don't want to be stopping in the middle of 93 with these semi's bearing down on you and all this kind of thing. That is just one thing I say, like I say I am not necessarily a big opponent to the project but the impact of the project and something like that with those roads, I can't believe the state would approve something like that, they are extremely dangerous is all I am going to say. I talked about the dust and all the things, there is a lot of dust and there is a tremendous truck traffic on the Moore Crk Rd from the rock pit and things like that. Apparently the Ziegler's have looked at the feasibility of accessing the proposed project off the Long Road access, I don't know if you have that up there. That would be a much safer access way if you could go around the old Hunziger property, that is the place on the corner, the original landowner to the place if you know where I am coming from, opposite end of the project from the fairgrounds. That would be much safer and I don't know the feasibility of that and maybe all the ownership situation. There is also a big spring involved in there that would have to be negotiated. There is a tremendous amount of dust and truck noise. I know the county tries to keep down some of the dust and the hauling operation and all of that kind of thing was worked out on Moore Crk Rd when Mike had the dairy and the rock pit and I don't even know all the details on that. Certainly there is a lot of air quality issues. I also would like to get into we talked about something was mentioned about a 40 page study about the wetland and something about the soils. Nothing has been mentioned about a potential I am going to go a little further then say potential, I think there is an existing Lemhi County soil survey

that was done by the NRCS, I am pretty sure there is a full soil survey of Lemhi County stating what the applicability for these different types of soils is for building or for roads on or whatever. Mike talked about how the water table might change a lot. Well his soils are a lot different, a hell of a lot different than the soils where the Ziegler's are proposing their project. I am no soil scientist, I am a biologist, I do know one thing living directly across from where the project is being proposed. As I said I know the soils are very alkaline they do have a high clay content, the water table is damn high and it is really high during the irrigation system. The water table is within 30 inches of the soil surface and I would probably would have to say about my own property it is probably bare minimum for good peculation and permeability of a good functioning septic system. Now I don't, I am not going to pretend to put any words in anybody's mouth but how the Ziegler's propose to use the existing irrigation water that they have. Our subdivision has 1/3 of the water that comes down that main Wheeler irrigation ditch, the Ziegler's have 1/3 of the water for their place, then you have the former Aldous Ranch by Wendy and Jeff Hoffman have that they get a 1/3 of the water. Actually that is not true it is more Martha Edgar's and the Knights. So I don't know how you are going to use things up or divide it up with the projected parcels, that would be something you would have to decide but it certainly could have an influence on the level of the water table as affects septic systems. Also I am not going to speculate on what you guys plan to do with the rest, are you going to still have some cattle and hay and all that, that is none of my business, but you certainly need irrigation water over there, which would be a portion of allotted 1/3 type of thing. I guess going along the lines of what Sam Polanski said and Janice also, lot of questions because they weren't as I think we feel they weren't in the original application, anything about covenants. No we don't want to see tons of mobile homes, not that there would be on five acre plots, there wouldn't be tons that is probably a poor choice of words. We don't allow over on our side, hog feed lots and a lot of things. Most everybody has a horse or something over there people have even had chickens and things like that, I don't think that is anything out of line. Certainly feed lots and those kind of things wouldn't be in the interest of maintaining the value of our residential little subdivision I guess you would say. I don't know, covenants and those things, sir you mentioned the fact that would something done down the line that would be brought up, I am not so sure that is correct.

Dale: I believe that is correct

Bill: As far as the state goes

Dale: About commercial property

Bill: Yes and how things go

Dale: Lemhi County, any commercial development that is not classified as a home occupation has to be brought before this board

Bill: Okay

Member of the audience: When do covenants have to be declared

Dale: I think owners can declare covenants anytime they choose to, we have no jurisdiction over covenants that is between that is all the developers choice what he wants to do with covenants, we don't enforce them and we don't, it is nice to hear about them your right if they choose to they can tell us about them.

Bill: But the state would certainly have something to say if feed lot situation or a swine yard was being proposed, health inspection.

Dale: We do have code on confined animal operations, but they would have to buy the whole place to qualify for any of our jurisdiction.

Bill: Well I don't know I think that pretty much wraps up what I want to say. Probably a lot more questions than substantial facts.

Dale: We are going to turn the time back over to John maybe he can address some of those. Wait a minute John we got one more.

Lucinda Haggas: My name is Lucinda Haggas and I live at 22 N. Dogwood along with my husband Bill that just spoke. I would just like to bring up another point that I think needs to be clarified and brought forward. I agree with the points that my husband brought forward and also those that Sam and Janice have brought forward so I feel no need reiterate those, however a new item I would like to address to John as I heard him describe in his application about lighting will meet rural residence requirements for security lighting as per county code would be required. I am not trying to pick on my neighbors certainly, I enjoy you guys out there with your search lights looking for your cattle and doing your haying believe you me I do appreciate that, however I would like to bring forward a point on requirements for this board to consider in future subdivisions unfortunately such as yours and elsewhere in the county, and that has to do with directional lighting. Certainly I have no quarrel with anyone trying to light up their own property for security reasons and keeping track of their animals and selves and whatnot. My point is I support that kind of lighting that is directed toward the ground and not upward toward the sky.

Dale: Believe it or not we do have codes that address that, I think that Gary has that looked up and if you are interested we could show you that code, there are codes in place.

Gary: In a nut shell they have to be hooded and downward directional and we have a whole section on all about lighting, we have a dark sky ordinance and we enforce it as best we can.

John: Go over there on Dogwood Lane and enforce it.

Lucinda: Anyway I am glad to hear that and I guess I need to become familiar with that document and my question to you and I will just wrap this up right now. My question is does that apply to all new development and when did that ordinance come forward because I see plenty of things that are not in compliance with that but maybe the timing is off. That was the only point I wanted to bring forward. Thanks again for the opportunity to have this hearing and hear us speak.

Janice: When I come off onto the highway from Dogwood Lane it had a whole bunch of bushes there, this was when I was younger okay. I looked and the Sheriff was right across over there sitting there by the little house and I looked and looked and I pulled out of Dogwood Lane and I pulled out right in front of motorcycle. I want to tell you I don't who is doing this now but they are cutting those weeds and thank god I can see. I am serious it is extremely dangerous so if you come out with these two things, don't have trees and bushes right there so you can see up and down the highway.

Dale: We have a clear vision code that addresses that too.

Janice: Thank you thank you

John: To your questions or points the access roads, whether this subdivision goes in or not there is already one existing we will upgrade it and the other one we have already put in and most of the road is already finished except for the topping which we have to figure out some way to get a hold of that.

Bill: A hard surface type of thing

John: No the $\frac{3}{4}$ that the county requires. We are lacking about 30 loads of rock to finish the road except for the one access.

Bill: Have you actually got a state permit to do this

John: oh yes we have had that a long time, actually my access coming off the highway are a lot safer then where your Dogwood Lane Road comes off or Moore Crk because of the visibility. The dust, I can't see why, the roads are almost built that part of it will be over. I don't see where it would increase truck traffic on highway 93 we haven't put a truck on the highway we have done it all from inside the place. The increase noise, there may be some kids running around hollering in the subdivision sometimes. Light pollution is covered in the code so the light can't get off your place. There will be some covenants we haven't gotten them drawn up or anything. We are not going to have pig feed lots there, I am not going to say nobody can have a pig because one pig isn't going stink. I have had over 170 pigs over there did you ever know that.

Bill: We detected that some years ago

John: Most of the time they were pretty mild. The covenants maybe they will be able to put a trailer house there while they are building a house they can use pre-fab push together house as long as they put them on foundations. Animals, there will be a limit to the amount of animals they can have on the place. Hopefully we can have them build the houses in such a way that you can farm around them and keep the weeds and stuff down. A lot of people don't want five acres but we went to the five acre lots because of the water venerable area which we could go down to 2.5 acres according to code but we stayed up at five acres. If we can have them build the houses and fence around those and then hay around them, whether we do it or a contractor does it or whatever it will be all taken care of rather than have cross fences on each one or something. Maybe a common area to keep their animals or something it is an idea that we are going to be put forward.

Member of the Audience: Single dwelling units, there will not being any apartments

John: There is a soil report that has been turned in for a long time, the one you are talking about has been submitted from the NRCS and Aspect Wetland has done quite a bit of stuff. We have done some soil testing and I have had Aspect Wetland take the samples and brought them to the county agent so we would know the amount of clay and the soil for the sewers and everything like that and everything is all passed. The sewers, he has given us permission to put septic in, District 7 Health, there is one thing I would like to say about that. The Aspect Wetland sent him 4 different reports all through over 2 years time, he ended up with 2 of them and he couldn't even find his own when he went out there and measure the holes. When we first started I asked him if he wanted to measure them or wanted to have somebody else it so I hired Aspect Wetland. They came out and measured and done the monitoring and where it went I have no idea in his office. Degraded water quality, the high calcium and iron are already in the ground there is nothing I can do about that. Actually the demand for irrigation water, there would be no change, we would be using our right that is decreed to us and you guys have a right on that side that is

separated. We will be having everything in this subdivision sprinkled. The first year they may be some flood irrigation but once the system is put in it will be charged up and have the capacity that everyone can sprinkle at once if they want.

Member of the Audience: Off of their own well?

John: No, off of the water that comes out of the river, off of Norton/Wheeler Ditch. It will all be set up that way. As far as the commercial, there is code here that says what can and can't be put in there and I wouldn't want to see any big fires or smoke over there. I might be coming after somebody with a stick. Access is already there, we need another one for when the stock gets on the road or whatever having to running them all the way down to the fairgrounds and open the gate so we were going to put that other one in anyway and we got the permit and well it is in. The Army Corps took almost two years to allow us to cross the barrow pit, the guy that started the deal ended up in Pakastain or Afghanistan, when he come back we got the permit, I am glad he came back.

Tom: I didn't introduce myself earlier I apologize my name is Tom Taylor I own Taylor Mountain Surveying, we have been working on this project for several years. I live at 315 Neyman, my office is at 301 Waller if you don't know where that is, it is across from the Hockey Rink in case you need any surveys. I want to address a couple of things. I want to point out none of this is personal in here sometimes people get heated and it gets personal and it is not meant to be personal. We are here to do a job you are trying to live your life and so are we. I have run against several of the arguments in P&Z before and I just want to point out some things. The road access has been brought up several times, the road access is exactly what we have been asked to do by the state, the county by the P&Z boards. They don't want to see a bunch of accesses on the highway, we went with the regulation, we have two accesses we have a loop road, we have nineteen lots serving two accesses to the highway, that is exactly what we have been told to do. That is why, we keep hearing no, no, no, on one side this is what you are going to do. We are doing what we are asked to do. The covenants, and I can be corrected on this Gary maybe you could help me out there. The question about covenants, as far as I know are recorded, there is some evidence out there and we have run across problems with P&Z before being that the P&Z does not have right to enforce covenants but they are recorded at the courthouse. When you record a plat, typically what the courthouse is asking and this hearsay but maybe you can correct me if I am wrong. Covenants have to be recorded to have any teeth in them at all, so they are public record at the courthouse, so once they are recorded you can look at them, you can look at them ten years from now, hundred years from now, they are recorded in the courthouse as public evidence. The clerk has asked us that if there are covenants to record it right on the plat itself, see restrictive covenants filed as instrument number such and such. So there is another way to find it when you go to look at a subdivision plat they are asking us now to record the covenants if there are covenant attached to the subdivision to put the number on the

plat so there public record of that. The NRCS has a how do I put this, it causes me a lot of heartburn in these P&Z meetings. They do their job and we do our and don't get me wrong I think they do a great job, the problem is that it is just like GIS, it is taken as gospel and it is not. They are taking pictures from satellite and telling us what the soil is like at John's property. That doesn't work, it is a general idea to tell you what soils you need to look for. We as people that work in subdivisions they brought in Aspect Wetland Engineer, professional people that define wetlands, the Corps of Engineers look at it, we had test holes, we had 30 test pits I believe it was. The facts say this is a viable land for subdivision not the NRCS overall map, Google earth map I am sorry that is not the fact and there is a 40 page report stating those fact. The other thing I run into constantly is all these septic fields are going to ruin the water, that is not fact, the fact of the matter is that the State of Idaho and the County of Idaho and District 7 Seven Health says that one acre ground per each septic field is enough to have potable water. Lemhi County said if it is groundwater vulnerable we want 2.5 acres, fine we are working within law and fact and not hearsay that all these 18-19 septic fields are going to ruin my water, that is not a fact, that is not what the State of Idaho is putting their stamp on by law and I am frustrated that I keep hearing it because it is not the fact. The facts were presented and the facts say it is viable for subdivision thank you for your time.

Dale: At this time I will close this hearing. We do have 35 days into which to make a decision

Discussion

The board discusses designating lots within a subdivision to be considered commercial. Gary lets the board and audience know that Lemhi County only allows changes in zoning for a particular use and that use only, any changes in use would require a new special use permit.

The board then discusses the appointment of a new chairman and vice chairman Vinn nominated Roy Barrett as chairman and is seconded by Eleanor. Roy Barrett is unanimously voted as Chairman. Roy nominates Tammy Bailey as Vice Chairman and Bret Heaps seconds. Tammy Bailey is unanimously voted as Vice Chairman.

The board discusses a potential gravel pit being ran as a home occupation. Gary references section 5.17.6 of the Lemhi County Development Code concerning home occupations. Gary is asking the board if they would consider the operation presented before them a home occupation or if they would require a special use permit. Dale asks Gary if the person is selling the gravel that is being made. Gary states that this person is moving gravel in and moving gravel out, there is processing of gravel going on and sorted piles. The pictures show piles of rocks and equipment being used for this. Dale wants to know if he is selling it then he needs to come before the board. Gary states that his office will take the next step.

The board also discusses a potential Turkey farm wanting to be established in the Elk Bend area. The board is presented with information supplied by the interested developer. The potential developer would like to ask the board if this type of business would be considered agricultural or would need to go through a special use permit. After reviewing the information supplied and realizing it doesn't not fall under requirements of CAFO the board would require that this type of use go through a special use permit.

Gary brings up a matter that is continuing in Gilmore and an person that is unable to meet the requirements for a well and he would like to use a systrin instead of a conventional well. Gary is worried that if this applicant is allowed to use a systrin maybe five or ten years from now a well will be installed without our knowledge and this person may have made the neighboring property unusable with is against code. Gary is asking the board if having this applicant sign a document stating that they will not put in a well until at which time enough property or other means shall be met as to not affect the neighboring property owners. The board agrees that this would be fair and Gary will visit with the County Attorney for the verbage of such an agreement.

The board would like to see a letter drafted by the Lemhi County Deputy Prosecuting Attorney letting Rockwell's know that the Planning & Zoning Board does not have jurisdiction to make a decision on their question concerning the easement they have brought before them tonight.

The board tables the decision of John Ziegler until the next scheduled meeting. Before closing the meeting the board discusses areas that need to be thought of before making a decision.

Motion to adjourn was made by Ed Tolman and seconded by Raymond Cockrell.

Respectfully Submitted

Teresa L. Morton