



Planning & Zoning Commission
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Paris, Idaho 83261
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PLANNING & ZONING MEETING
May 15, 2019
SCHOOL DISTRICT BOARD ROOM
PARIS, ID.

ATTENDANCE: CHAIRMAN RON JENSEN
ALBERT JOHNSON-VICE CHAIRMAN
STEVE HARDY
KRISTY CRANE---Excused
KAY BECK
SEAN BARTSCHI
DEVIN BOEHME
MITCH POULSEN, ADMINISTRATOR
WAYNE DAVIDSON, SECRETARY

Welcome by Chairman Jensen at 7:07 pm and thanked for attending everyone.

The pledge of allegiance is led by Albert Johnson.

Chairman Jensen says we are volunteers all representing different areas of the county trying to do what is right for the county.

Three items were added to agenda.

- **Motion** to approve the amended agenda by Kay Beck, seconded by Devin Boehme, all in favor.
- **Motion** to go into a hearing for Brian Hircshi Conditions of the Commercial Rezone is made by Steve Hardy, seconded by Devin Boehme, all in favor.

Mitch explains the rules of a hearing. We have already had the hearing for the rezone this one is for the conditions of the rezone. Please keep your comments to what is in the conditions. To bring the audience up to speed, the Planning board thought there should be some conditions on the commercial rezone which is only for a wave runner or watercraft rental. The board was advised by legal counsel, since the last meeting, that we need to have another public hearing to discuss the conditions of the rezone. There have been some changes to the list of conditions, minor changes to the wording of a few conditions. Mitch hands out the list of the new conditions. Chairman Jensen explains that this rezone is conditional to only allow what the intent of this business is, to rent watercraft to the public. These conditions are to create a framework for what is allowed in the zone.

Brian Hirschi is asked to make his presentation; he looks at the changes on the list of conditions. Mitch explains them. Brian says it's the third go around for him and reiterates his desire to conduct a watercraft rental business. He wants a decision. Wants it fair for everyone, his people must be able to drive down and park on the beach. He needs that for his business to work. Has spoken to the Idaho lands and he will work with them to make them happy. His people would put things on the beach during the day not at night. Like tents and things. They will control the renters. They sign a contract and if the people mess up, he'll boot them. He could put a dollar minimum on the rental if they are going to use his beach. Don't like the shuttling, can't put the potties on the beach. On low water years when people have to use the potty, they would rather drive to the rest room. If they must walk, many won't, and they will use the beach for a litter box. Brian suggests making a ditch on the highwater's edge to prevent people, who are not his customers, from driving down to the beach. He nor the county can say what can and can't be done on sovereign land, the county or he can't make the rules. Other people can drive to the water's edge and park their cars, why can't he. Good for goose good for gander. Might open up the gates and let everyone go down if he doesn't get his way. Wants a chance to prove himself and keep things right so everyone can see. He asked Idaho Lands if he can groom the beach, they said he won't get into trouble if he grooms the beach. Albert is concerned that we don't have control below the high-water mark. Brian's attorney says we can't make controls on the beach. State Lands don't control what's happening on the beach, so there is no control. Brian says they, (his rental business) have some control with his contract that people are required to sign. How can the board enforce the conditions? Brian worries that he will get reported and it will go to another hearing. Kay asks if he will sell access to his beach. He says no, only his customers who rent equipment will have access to the beach. Steve asks for a copy of the contract he uses for the review of the board. Brian suggests a \$100 minimum purchase for people to use his beach. Albert asks how we can know if his people are paying customers. Sean asks how can you really control anyone who want to break the contract? Albert says we must be even handed. What if someone else wants to do the same type of business? The state has no mechanism to control that. Brian says the commissioners are trying to get involved. Chairman Jensen says they are mostly concerned with the motorized travel. Brian wants the same for him as for everyone else. Albert found that just because you own property don't mean that you have inherent right to allow public access. The owner has right to access the lake but not the public. Brian asks what if others receive payment to allow friends or family on the lake, is that commercial? Albert explains in the forest we can walk or ride horse anywhere but can't drive a vehicle anywhere you want. There are many restrictions in the forest. The lake is kind of the same. Brian wants to drive on the beach.

From the audience Bill Stock says there is a county ordinance in effect and has been for years that speaks to activities on the beach. The board don't know about it. Bill insists it's in the books.

From the audience;

In favor of conditions.

TJ Budge attorney for the Jones' who are neighbors to Brian Hirschi's lot. They are opposed to the rezone but in favor of the conditions. TJ presents a power point to show the board some talking points. He says that mostly people are all treated the same for how they have been using the beach. Brian is trying to do something different. What affect does the change have on

everyone else? He mentions a term called Littoral Rights. His clients bought the land with the idea of a certain use of the land. He likes most of the conditions on the list the board has compiled. Encourages the board to keep the good parts. Has some comments to #7 and #16. He has some suggested changes to the list he thinks its better to understand. Wants the county to have the leverage to pull the conditional use permit if Brian doesn't comply. Parking how does the renters know where to park? How do they know not to park on the highway? Enforcement, we need a way to enforce, the only leverage is to pull the permit if they don't comply. If Brian can't control things, then county can revoke the conditional use or the rezone. Questions?

Mitch says they have been talking with Stephanie Bonney, it's suggested to try a 3 strikes and you're out idea. Maybe there could be time allowed to make corrections after violations are noticed. Could be some type of communication with Brian by letters or other means for getting things corrected. Hot Springs is a mess and bad access. Budge don't know about the history with Hot Springs it's a preexisting commercial zone. He doesn't think it will operate the same as the past.

Conner Gabrealson works with Brian. We all love the lake; he needs to support himself by allowing everyone to use the beach. Everyone should be allowed to experience the awesome beach.

Todd Jones owns the lots next to Brian and the Hot Springs park. Has concerns about parking on beach. What about anchored boats? Can be cumbersome. Wants to clear up the way he, (the Hot Springs) and Brian Hirschi, parted ways, to clear up his honor. The last year he has passed up revenue to get things in order. Brian's rezone would be in the middle of other residential property. How do we prove how many people will actually use the beach? A 4-foot fence isn't very private. He proposes to change to a 6 foot or 8-foot fence. If the Department of Lands don't control things, then it should be denied. Some of the comments Brian said isn't written, would like to get things written. Thinks they are rushing to pass this for Brian to get him in business. Says Brian has 5 other rental spots to make money while they are fixing this. Sean asks what kind of a privacy fence he would like to see. Maybe a vinyl or wood fence that you can't see through. Maybe not a chain-link fence. Other people don't know whose property is where, so they just walk onto property. Todd appreciates the time the board has put into this. Wants strict conditions, wants a higher fence 6 feet or more high. Don't want parking on the beach. Brian should control the traffic on the road, no parking in front of his (Todd's) place. Enforce the 192 feet to the water's edge. It's his deal he should control it. Todd asks who he reports to when he sees a violation, who will be the enforcers? Please enforce it. Wants the ability to hold Brian accountable.

Adam Nebeker, the Idaho Lands won't allow a ditch. Should be held to 192 feet. Brian has other lots rented next to this one to spread out on and is worried of the overflow to these lots. Adam wants no parking on or near the highway. Thinks it is only about 1200 feet to low water.

Carolyn Rasmussen shows a picture of below her place of people on the beach.

Curtis Merrill worked for Brian for 8 years, says Brian is a great boss. They have room enough for parking on Brian's land. They have controlled parking in Utah on their rental lands. They are trying to not interrupt the neighbors. Once you get below the high-water mark people can go anywhere. Wants the ability for the renters to park near the water. Wants a compromise for everyone. Can't draw line when water is low. He feels their company got a bad rap from their relationship with the Hot Springs. Won't allow motor bikes etc on the beach as part of the business.

Pat Argyle Garden City thinks it's great to have conditions. In Garden City parking is the #1 problem. In Garden City the rental companies are required to plat out the parking area, so they know before how many spaces there are to park. Maybe the board can require getting it drawn out.

Denice Jones is happy with the conditions but wants one more to control the noise issue. Tractors on the beach make noise.

Cindy Jones don't like the re-zone, but Brian's first letter states he wanted to allow public access to the beach. Worries that it can't be controlled. People who are ticketed would rather pay the fine then move the car. How do you enforce the parking? 192 feet isn't really enough, usually families come in groups. That's too many. Wants the people shuttled to the beach. Should have a barrier at the high-water mark. Maybe golf carts could be used. How do we enforce the numbers of people accessing the beach?

Sheriff Bart Heslington supports the conditions. Worried about conflict, wants to avoid conflict instead of managing conflict. Conditions are needed. Enforcement is his job, if there isn't a penalty for noncompliance how will it be enforced? What about traffic ingress and egress? He hasn't seen how Brian has addressed the parking and traffic on the road. He could tow the cars parked illegally, but towing cars in the county isn't a good response. There are problems with where to put the cars, and the tow trucks would cause more congestion. Still there will be parking on the road. Idaho Lands hasn't made a MOU of how to use the beach, so things are unclear as to the enforcement.

David Kimble asks about enforcement and how to enforce it? How to implement the conditions. Setting the precedence for others to rent out their own land and boats. Enforce the parking and safety issues. He doesn't want to take the rights of others on their property. People bought land with the understanding there wasn't going to be commercial near them.

Michael Nebeker asks about life safety; his kids were almost run over by 4 wheelers on the beach. Enforcement is the key.

Oppose:

Abby House thinks things are ambiguous. She feels the lot is too small for parking. Things are not always fair that's why there is zoning laws. It's why we have a board. People try to sue now because the road is too narrow. More congestion will make it worse.

Steve Harrison, asks what's the recourse when the violations start? What can they do? Do they take pictures? Get Mitch and Wayne involved then the sheriff?

Rebuttal:

Brian Hirschi responds saying that not everyone is a millionaire and can afford beach front property, what about the little guy? There aren't many places to launch boats. How do people get to the lake? What about individual cabin rentals and their noise and their renting boats? Cabin owners are usually the worst offenders of noise and motor bikes on the beach. Brian thinks the Hot Springs dodged questions concerning the cars they have let on the beach; he feels they are like a politician. He says Garden City is the worst offenders of allowing people to spread out on the beach. He wants to go on record that he is not selling beach passes to let people spread out on the beach. He thinks ditches can be dug on the beach to restrict traffic. People can't park on the road physically since the road is too narrow. He has an approach to his land, its' approved by the county road and bridge. As far as boat anchors, they don't anchor their boats unless it's the small SeaDoos and that is only on occasion. He doesn't launch his bigger boats until people come. On average he has 30 machines to rent, most people only bring one family to rent, thus less cars on the lot. He won't stack up cars on the beach and will avoid giving people reasons to complain. He wants to be a

good neighbor. Wants a balance, wants a chance to do it right. Albert asks if 80% of his renters actually leave the property with the boat after renting, would he still open the business if he wasn't allowed to drive to the water's edge? Brian says Idaho Lands would allow him to open the gates and let all people in to cross his land and access the beach. Someone noticed that Brian has drilled a well, he confirms that he has found water in a well.

Glenn Transtrum asks, does Idaho allow a well to be used for commercial purposes? TJ Budge, the attorney in the audience, offers, if the well uses less than 2500 gal /day then it's allowed for commercial use.

Carolyn Rasmussen, a neighbor, watched what has happened with the Hot Springs renters. She is worried about people spreading out on the beach.

- **Motion** to go out of hearing is made by Albert Johnson, seconded by Devin Boehme, all in favor.

The board decides to change the order of the agenda to some of the rezoning issues, so those people won't have to wait so long during deliberation.

- **Motion** to go into hearing for the Martin Phipps variance is made by Devin Boehme, seconded by Sean Bartschi, all in favor.

Martin Phipps wants to build a garage on his land in BLW the slope of the land is steep. It would be difficult to cut into the hill and it would require a tall retaining wall. If he could get a variance to get closer to the road, he won't have to cut so much of the hill out. Won't need a retaining wall. Thinks it will protect the mountain by not cutting it up as much.

From the crowd

Opposition:

Rob Hohman has a lot to the NW next to Martin's. Concerned, Martin asked for a variance before with the last house he built and got it. Rob bought his lot knowing it was on the slope. If the 20-foot set back is allowed today with a variance, then his view of the lake is restricted, he paid for the view. Also, he wasn't notified about the variance, he just happened to see the posting.

Rebuttal:

Martin says they each bought land and he knows sometimes there are variances allowed. He thinks it will be less damaging to the mountain.

- **Motion** to go out of hearing is made by Sean Bartschi, seconded by Kay Beck, all in favor.

Tamra Armstrong lot split. Wants to build on one 10-acre lot north of Joes Gap Road. Has been rezoned to rural community before as part of the Joes Gap Preliminary Plat which has been abandoned.

- **Motion** to approve the Tamra Armstrong lot split is made by Albert Johnson, seconded by Sean Bartschi, all in favor.

Lola Miller lot split, South of the Smith subdivision, wants to split 26 acres. The western piece of the split is actually landlocked by design. By trading property with the neighbor, the problem will be solved. Some land trading among neighbors, but a lot needs to be split to allow it to happen. It's one-acre zoning so it fits in the zone.

- **Motion** to approve the Lola Miller lot split is made by Albert Johnson, seconded by Devin Boehme, all in favor.

JaNae Transtrum lot split in Pegram they are buying 40 acres want to split off 10 acres for a house. It qualifies for a family lot split since it's being passed from father to son. Can do it in this zone.

- **Motion** to approve the Janna Transtrum lot split is made by Albert Johnson, seconded by Devin Boehme, all in favor.
- **Motion** to go into hearing for Berry Anderson rezone is made by Devin Boehme, seconded by Albert Johnson, all in favor.

Berry is requesting a rezone on Pescadero Rd to a Rural Community zone. Wants to combine part of the land with an existing house now, and then split off the remaining land. Combine one acre into 19 acres then split the remaining into two ten-acre parcels.

- **Motion** to go out of public hearing is made by Albert Johnson, seconded by Devin Boehme, all in favor.
- **Motion** to approve the Berry Anderson rezone is made by Albert Johnson, seconded by Devin Boehme, all in favor.
- **Motion** to approve the lot split is made by Devin Boehme, seconded by Albert Johnson, all in favor.
- **Motion** to go into hearing for the Adam Nebeker rezone is made by Kay Beck, seconded by Devin Boehme all favor.

Adam explains he has land on North Beach, and he wants to sell access to the beach, then later wants to put an RV park on the lot. Finding potable water is a problem now. Sewer will be an issue. For now, he wants to rent it out for public access to the beach, then next year try making the campground. He needs it commercial to do this. There is a need for the beach access. Will allow up to 200 cars for the first year. PacifiCorp is in negotiations to turn their property into another public beach. Thinks there are government leaders supporting this to allow more public access to the beach. Thinks he can enforce the traffic on his property by restricting motorized traffic, allowing foot traffic only below the high-water line. Will try to protect the neighbors. Will have a pamphlet telling people what they can do on the beach trying to control where people go and not disturb others. They have experience in RV parks. If it's a RV park they will sell 6 months leases to campers. This will affect The Browns development, to the West, but he will have a buffer. Will have some design of the RV lots looking nice. Will control the cars going in and have a large turn around to get

them off the road. Haven't thought about the garbage yet, maybe some dumpsters. Would be good with conditions for conditional use.

From the crowd

In Favor

Brian Hirschi, supports it, any other guy who wants to try a business on the beach it's good. Don't know how he can enforce the rules.

Opposed

Glenn & Linda Transtrum, 5 generation ranchers are proud of ranching. Surrounding land is used as AG. Almost impossible to move cows along the road now because of traffic or events. Has sat in line to get through the crowd on the road. Lots of litter on the road now. Irrigation is an issue with neighbors when others want to build or develop near ranchers.

Mark Parker BL CO Fire would like to see some type of plan. What about the road? It will need to hold a fire truck. Worried about the safety of camping and fire pits etc.

Bart Heslington concerned about the roadway. RVs coming and going on and off of the road. Need enough room to get traffic off the road including RVs. Beach access keep all vehicles off the road. Don't create another line up spot on the road. Chairman Jensen asks Kirk Rich from the State Parks how do the parks feel about a rental place? Kirk says they are supportive of responsible development along the beach. It will be a long time before Pacific Corps will release more beach. Question does campgrounds need two accesses from road, answer is yes.

- **Motion** to close the hearing is made by Albert Johnson, seconded by Sean Bartschi, all in favor.

Deliberation, Mitch says he hasn't completely resolved how to enforce the rental properties. Would that be needed before it goes to commissioners? Yes, it should be in the recommendation. Is there an ordinance in the county about lake beach uses? Should the board see it?

The variance for Martin Phipps, how do they feel. They both bought the land knowing it was on steep ground. One or the other will suffer some type of effect. Rob would be okay to allow 25 feet of variance instead of 20 if Martin is okay. Martin says he is good with 25 feet since it's better than nothing.

- **Motion** by Albert Johnson to grant a variance allowing Martin Phipps to build 25 feet from the road, seconded by Steve Hardy, all in favor.

Deliberation on Nebeker rezone, and Hirschi rezone. Sean says they opened a pandora's box with Hirschi's now they don't know how to make it good or fix it. The board has heard so many nightmares, will it work? Sean thinks the board has an obligation to protect the rights of those who have been using the land for generations. Asks, can they undo the rezone changing it to commercial? Mitch has visited with Stephanie Bonnie, the attorney, she said they could reverse the motion for the rezone and then revisit it. The person who made the original motion must make the motion to reverse. Can the board move forward with Hirschis using the conditions as the guidelines? Sheriff found an ordinance from the county records that has some definitions about how the beach is used. It is from 1992 but didn't have too much to affect today's discussion. How

can they move forward and meet a timeline for Hirschi without another meeting? Brian requests to speak, he would be okay with the conditions. Others in the crowd now want to talk, they are allowed. They think the board is unprepared to make the decision since there are ordinances out there the board don't know about. Mr. Budge in the crowd says that a state statute says that a rezone should only be allowed if it doesn't affect public services. He says the board and sheriff are concerned that public services are being affected.

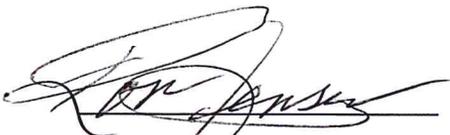
The board decides that they are unprepared to decide on the Nebeker rezone today since the Hirschi project is so similar and they are uncertain about that one.

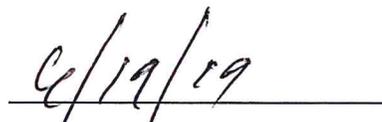
- **Motion** to table Nebeker's rezone until they figure Hirschi's rezone out is made by Devin Boehme, seconded by Sean Boehme all in favor.

The crowd ask questions at will. People are getting tired, it's hot.

- **Motion** to approve the conditions for Brian Hirschi rental with the conditions from the board as amended and presented by Mr. Budge and introduced by Brian, including the height of fence changed to 6 feet or taller, changing wording in #7, #16 and #17. Long term parking on the beach to be no more than 30 minutes, and enforcement provision by Albert Johnson seconded by Sean Bartschi. Vote Albert Johnson, Chairman Jensen, Kay Beck, Devin Boehme, Sean Bartschi in favor. Steve Hardy abstained from voting, motion passes.
- **Motion** to approve the minutes from last month is made by Devin Boehme seconded by Sean Bartschi, all in favor.
- **Motion** to adjourn is made by Sean Bartschi, seconded by Devin Boehme all in favor at 11:32 pm.

APPROVAL OF MINUTES:


Ron Jensen, Chairman


Date