

Buhl Planning & Zoning  
203 Broadway Ave N

February 22, 2023  
**MINUTES**

**COMMISSIONERS PRESENT:**

Barbara Gietzen      Commission Chair  
Jeanne Gannon      Commission Member  
Maggie Himmelberger      Commission Member  
Patricia Beltran      Commission Member  
Gary Dannenhauer      Commission Member  
Jeff Gabardi      Commission Member

**CITY STAFF PRESENT:**

Karen Drown      City Clerk  
Scott Bybee      City Engineer  
Mike Hampton      Building Inspector  
Jazmine Mills      P & Z Administrator  
Teresa Robbins      Public Works Clerk  
Jason Scott      Public Works Director

**ALSO PRESENT:**

Shawn Sharp      Applicant  
Justin Cleverley      Applicant  
Concerned Citizens

**VIA ZOOM:**

J'Dee Adams      CEO-North Canyon Medical

**OPENING** The meeting was called to order at 10:30 AM.

**CONFIRMATION OF QUORUM for Public Hearing #1:** Jazmine Mills confirmed a quorum.

**PUBLIC HEARING #1**

Barbara Gietzen asked the applicant to make a statement.

Justin Cleverley of Buhl handed out an aerial view picture of his property to the Board members. He stated he would like to annex the piece of property that is in between SOS Printing and North Canyon Medical that measures 82' by 200' to build a 3000 sq. ft. clinic that has a PT area. The purchase agreement included a shared use of the parking lot with SOS Printing and shared access to the property on the existing west side. The property has been addressed as 720 Hwy 30 and SOS Printing has maintained the 20264 Hwy 30 address. His son will be joining the business and will be needing the extra space. He stated that he believes that this will benefit the city.

Barbara asked if there were any questions from the Board. There was none.

Barbara asked if there was any testimony in favor of this application.

- J'Dee Adams, CEO of North Canyon Medical Center, stated he has discussed this project with Justin and McKay. He stated North Canyon's overall support and listed two items of concern; (1) extension of sidewalk, curb, and gutter that was required for North Canyon and (2) parking specifications. J'Dee Adams asked if there was a formal parking agreement that ensures Cleverley's continued use of the parking area in the event of SOS selling the building. North Canyon's parking is tight so he suggests that Justin secures the parking to have a successful practice.

Barbara asked if there was any testimony in opposition to the application. There was none.

**STAFF REPORT**

Jazmine Mills stated that this application is for an annexation request by Justin Cleverley for the property located at 720 Hwy 30 Buhl, ID. This property had been used as a parking area and bare

ground for SOS Printing. The owner of SOS Printing, McKay Lundgren, applied for a lot split on his property 20264 Hwy 30 dividing the 0.38 acres off to sell to Justin Cleverley. The lot split was approved and the letter is dated January 16, 2023. Justin Cleverley purchased the land from McKay Lundgren in December 2022 and is requesting annexation into city limits. She stated the property is zoned B-2 Neighborhood Business District. The proposed business matches the zone, the Comprehensive Plan, and meets the requirements for a complete application. The annexation request is to allow the applicant to build on the 0.38-acre lot and connect to city water and sewer systems. Without annexation, the size of the parcel would be considered unbuildable so annexation would be logical to extend the city boundary. The staff recommends approval.

Barbara closed Public Hearing #1 at 10:40 AM.

## **REGULAR MEETING**

**CONFIRMATION OF QUORUM:** Jazmine Mills confirmed a quorum.

## **OLD BUSINESS:**

### Minutes of January 18, 2023:

Jeff stated that 2/3 of the way on page 4, the sentence ending in the word “full” needed the thought to be completed. Jeanne moved to approve the minutes with the correction. Gary seconded. There was no discussion. All voted in favor. The motion passed.

### Review and Consideration of the Tabled Decision of Shawn Sharp’s CUP Request:

Jeanne moved to take this off the table. Gary seconded. All voted in favor. The motion carried.

Barbara reminded the Board that Shawn Sharp is requesting to waive the water and sewer connections on his property on Main St.

Barbara asked the applicant if he wished to speak. The applicant did not.

Jazmine stated that this conditional use permit application is only to waive the water and sewer connections since the industrial zoning district requires one to waive them. The Board requested more information regarding properties that are not connected to city water and sewer systems. Examples included: West End Diesel Equipment Yard, Nutrien Ag Solutions Equipment Yard, Transport Properties Storage Shop, Quigley’s Fabrication Shop, and Sprinkler Head Rebuilders Storage Shop. The respective zones and reasons why they are not connected were discussed.

She stated that there aren’t exact matches to Shawn Sharp’s type of business, but that there are similar properties that store vehicles on their properties. The first example was Barragan Auto Sales, where the sale and storing of vehicles occurs and the zoning is light industrial like Shawn Sharp’s property but is not connected to city services due to having a well and septic. Other buildings located at 1226-1/2 Main St and 220 Broadway Ave N are where vehicles are being stored, have limited use of services, and are fully connected to city water and sewer systems.

Barbara stated that it appears that the properties that are not paying for water and sewer have another property where they are paying water and sewer bonds.

Jazmine stated that the Board also asked to see the ordinance wording regarding bonds. Ordinance 964 states the same wording in City Code 7-4-1 that “the mayor and city council shall, from time to time, by resolution, set a ‘Bond Fee’ to be charged against owners of all real property located

within the city and owners of real property located outside the city limits which use city water or city sewer services.” That is why the city utility bill has the bond fees.

Barbara asked Karen if the bond fees can just be charged to Shawn Sharp without the connections. Karen stated no because these fees are tied to the connection to city systems. If they are not connected, they’re not utilizing that water or sewer system, so that’s why the bond fees are attached to the property that uses these systems.

Jeff asked if the storage building attached to the Circle 5 Feeds building had the same ownership. Jazmine stated yes. Jeff stated that they can access water and sewer, as do all 5 examples on the first page.

Jeff stated the bond fees are charged once water and sewer connections are made to a property. Jazmine agreed and stated that if they aren’t connected, they do not pay for the bonds.

Karen stated this conditional use permit application is not to waive the bond fees but to waive the connections to city services. If the Board requires the applicant to connect then they would be required to pay the bond fees.

Jeff stated there wasn’t a piece of property shown that matched the applicant’s property. Jazmine agreed and stated each property has a unique situation as to why they’re not connected to city services and there isn’t one that is an exact match to Shawn Sharp’s. She stated the applicant is trying to establish a business on the property without these services and centralized water and sewer facilities are required in an industrial zone unless waived by a conditional use permit

Shawn Sharp stated the property has never had plumbing—water, sewer, sink, or toilet. Jazmine stated the previous use did not require those facilities and that is why there weren’t any there. She stated with a new business coming into the property it must comply with City Code.

Jeanne asked the applicant if the property will only be used for storage. Shawn Sharp stated yes for online auctions and there wouldn’t be any employees on the property. Jazmine stated that the applicant’s public hearing testimony indicated that to maintain a dealer license the applicant must be open to the public once a week, which means the property is not just a storage location, but a dealership.

Gary asked if the conditional use permit approval can only be applied to Shawn Sharp. Scott Bybee stated yes.

There was a discussion about fire protection and how this property was a coal yard.

Jeanne stated her concern about approving this request and setting a precedent with other businesses that are open to the public.

Jeanne moved to deny Shawn Sharp’s conditional use permit request. Jeff seconded. There was no discussion. There was a roll call vote; Jeff yes, Gary no, Jeanne yes, Maggie no, and Patty no. The majority nay vote failed the motion.

Gary moved to approve Shawn Sharp's conditional use permit request. Patty seconded. There was no discussion. There was a roll call vote; Patty yes, Maggie yes, Jeanne yes, Gary yes, and Jeff no. The majority yay vote passed the motion.

Barbara asked the Board if stipulations were wanted to be added to the approval. Gary stated the approval should only apply to Shawn Sharp's ownership.

Gary moved to amend the motion on the table, to approve Shawn Sharp's conditional use permit request with the condition that the conditional use permit does not transfer to a new owner. Maggie seconded. There was no discussion. There was a roll call vote; Jeff yes, Gary yes, Jeanne yes, Maggie yes, and Patty yes. The motion passed.

**NEW BUSINESS:**

Review and Consideration of Justin Cleverley's Annexation Request:

Jeanne moved to approve Justin Cleverley's Annexation request. Patty seconded.

Gary asked about access and parking to the property. Justin Cleverley stated the existing west side entrance is included with the property to allow access and an easement agreement is being completed to ensure access and parking in the future.

Jeanne asked about the sidewalk concerns brought by J'Dee Adams. Scott Bybee stated that it would be in the ITD right-of-way so a discussion with them would have to take place for their requirements.

Jazmine stated parking spaces will be addressed with the Building Department once plans are submitted since City Code does guide determining the number of spaces based on building size.

Jeff asked about curb and gutter requirements. Scott Bybee stated curb and gutter end at the west side of Cleverley's property, ITD would have to determine the extension, and he suggested that it isn't extended at this point.

There was a roll call vote; Jeff yes, Gary yes, Jeanne yes, Maggie yes, and Patty yes. The motion carried.

**CITIZEN CONCERNS** — There were none.

Barbara stated the next meeting is with City Council on the 27<sup>th</sup> at 6:30 p.m.

**COMMISSION CONCERNS** — Barbara stated it was difficult for her to follow the meeting on the screen and without paper documents on hand. Gary agreed.

**MEETING ADJOURNED** — Maggie made a motion to adjourn. Patty seconded. All voted in favor. The meeting was adjourned at 11:05 PM.

Minutes prepared by Jazmine Mills, Planning & Zoning Administrator