

Buhl Planning & Zoning
203 Broadway Ave N

October 18, 2023 **MINUTES**

PRESENT:

Barbara Gietzen	Commission Chair	Karen Drown	City Clerk
Maggie Himmelberger	Commission Member	Scott Bybee	City Engineer
Patricia Beltran	Commission Member	Jazmine Mills	P & Z Administrator
Jeff Gabardi	Commission Member	Teresa Robbins	Public Works Clerk
Bob Vande Water	Commission Member		
Reme Pullicar	Commission Member	David Fisher	Applicant
		Concerned Citizens	

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. Karen Drown, the Buhl City Clerk, stated these streets were considered for vacations in the summer and fall of 2016 and the P & Z Board and the City Council approved them. Staff noticed the residents within 300' of this land use action were not notified by certified mail with a return receipt per Idaho Code. Karen noted vacating Catalpa and Walnut left 4 legal parcels landlocked, which meant there wasn't any legal access to those parcels. These parcels are owned by the same property owner who has frontage on Clear Lakes Rd or 4150 N, but since they're separate legal parcels, vacating would leave them landlocked. She stated this application was brought back to the Board, notification was sent by certified mail, and would like the Board to rescind motions of both vacation approvals to reconsider them and clean up the process.

Maggie asked what landlocked means. Karen explained it meant no legal access or easement to get to the back parcel off of Clear Lakes or Elm St behind the frontage parcel. Even though they're owned by the same person, they could legally sell the parcel behind them, but there's no legal access to this property.

Karen referred to the maps on the Mondo Board showing the area for these vacation requests.

Jeff asked how the third/East parcel was not being landlocked. Karen stated the alley off of Juniper St provided access to it.

Reme asked why this application had been brought seven years later and what the urgency was to complete it. Karen explained during the 7 years, there was a change in PZ Administrators and city attorneys, the file had been pushed aside, and then COVID hit; she stated the Area of Impact agreement is in progress with Twin Falls County, so the city must finalize open files before completing it.

Barbara stated the applicant statement took care of the staff report.

Barbara asked if there was any testimony regarding this application.

- Dusty Barrett of Buhl started this vacation process seven years ago because, before purchasing his property, he didn't want a roadway through it. He stated he and his neighbors do not want to sell the land, but to keep it as pasture. He stated he wanted the roadways to be vacated.

Karen stated the Catalpa Vacation would allow lot line adjustments to occur for these property owners to make properties into one parcel; with the roadway, they cannot do it. She noted the city does not have plans to develop the roadways.

There was a discussion about creating easements and whose responsibility it is to create them. Scott noted the city's responsibility to vacate streets, while the lot line adjustments were the property owners' responsibility.

Reme asked if this application served the city's vision for this area and its impact on the Area of Impact agreement. Karen stated the original application is from a citizen, so the residents would benefit from approval because it would allow them to do lot line adjustments if they wish to make their parcels into one. She noted the approval or denial of these vacations does not directly affect the Area of Impact agreement, rather, the fact that there are open pending applications does.

Patty asked if we had heard from Santa Valdez. Karen stated no.

Karen noted the city's recommendation is to vacate Catalpa St. and that vacating Walnut adds complex issues.

Barbara invited more testimony.

- Elsie Hatfield of Buhl stated their land in the area has been owned by four generations and they don't want to sell it to keep it as agricultural.
 - Jeff addressed Ms. Hatfield stating vacating the street would add land to her property; he asked if that would be okay with her. She said yes.
- Devin Hatfield stated he does not want to take land away from Dusty.
 - The Board clarified to Mr. Hatfield that each would gain land from the roadway, not from private land.

Karen informed the Board and the property owners in the audience these vacations would change property tax assessments for the additional 25' onto each of their land.

- Michael Nolevanko of Buhl asked the Board for clarification of the proposed application. There was a discussion with him about his property proximity to Catalpa and Walnut Vacations and property taxes.

Bob stated that the property owners of this area claim they do not intend to sell, but with time that plan can change. Bob asked if these roads were vacated and a new owner wanted access, and how that would be possible. Scott stated it would have to be re-platted.

Barbara closed Public Hearing #1 at 10:56 AM.

PUBLIC HEARING #2

Barbara Gietzen asked the applicant to make a statement. The Patterson Living Trust representative, David Fisher of Buhl, stated they want to annex their property into city limits to give access to city water and sewer systems. He noted there currently was a well on the property that will be capped. Barbara asked if there were adjacent properties that were within city limits. David stated the property to the North is inside city limits, and the properties SW are county.

STAFF REPORT

Jazmine Mills stated that on March 2023, Douglas and Connie Patterson (Patterson Trust) purchased the land at 4219 Barsness Ave. She stated a complete annexation application was submitted on 08/16/2023 for the 0.841-acre parcel. She noted that the public notice was published on 10/03/2023 in the Times-News. Jazmine stated the property is zoned R-4; Medium-Low Density Residential and that annexation of the parcel is a logical extension of city boundaries because the property to the North is already inside city limits.

Barbara asked if there was any testimony in favor of this application. There was none. Barbara read for the record, a statement in opposition.

“Objection petition for against annexation at 4219 Barsness Ave Buhl, ID 83316 by Patterson Living Trust Subdivision.

RED FLAGS:

1. Lane is not off the city street. Therefore, it will cause harm to existing neighbors and traffic patterns and is not compatible to the neighborhood.
2. Utility easement is given and developed by Marsha Brooks who will have to pay taxes and repairs to the road that three houses will cause harm to.
3. Also, Marsha Brooks developed the easement because she was told it could only be for two driveways because if more it would have to be classed as a development which we were told a curb and gutter, fire hydrant, cul-de-sac and sidewalks would have to be in place. We developed city sewer, Idaho Power poles and drilled a well for this cause, a country lot to keep in character with the other eight acres and high-end homes.
4. The easement is all rock and is 21’ wide. If the blasting and work will take approximately 8 to 9 months, according to the front house that development took up last summer, it blocked the road for four months. This will be a long roadway and impedes our way out to exit.
5. Putting three small homes in a back lot impacts the lane and affects our daily life. Also, no respect for the existing quality of homes and the scale does not conform to the other houses built.
6. We, the people in this neighborhood love and live here, that is why we bought and built here. We feel the Patterson Living Trust is developing this with the intention only of making a profit.
7. Three small, crowded homes will be ugly and harm the neighbors with all the cars and traffic needed to come and go. Please deny this as this does not conform to what a subdivision is required and is illegal.
8. The easement is 21’ and one-way would only be a One-way Lane which is not a legal roadway for a subdivision. Two-way traffic is needed, so again this is illegal.
9. Also, there is no power permission granted for three homes with Marsha who has paid for and has a contract for five years with Idaho Power for placing power poles down the alley.”

Jazmine stated the majority of the concerns in the written statement were for Public Hearing #3 and comments provided should be about the annexation and concerns regarding the subdivision could be addressed in the next hearing.

Barbara invited further public testimony.

- Marsha Brooks of Buhl stated she was not notified about the annexation and asked why they wanted to be annexed.

- Jazmine stated the applicant wanted to connect to city water and sewer services and they can apply to annex because the property north of the applicant's that she owns is annexed into city limits. She informed the Board that the public hearing sign on Barsness was for both public hearings # 2 and # 3 and property owners within 300' were notified.

Marsha Brooks stated history regarding the development of the area, the power poles were privately installed to allow only four homes, the applicant will not be living in the neighborhood, and they were subdividing for profit.

- Jazmine called a point of order to remind Ms. Brooks that testimony should be about the annexation application and to reserve comments about the subdivision for the next hearing.

Marsha Brooks stated she was against the annexation.

Barbara invited the applicant up for rebuttal. David Fisher stated they contacted the Fire Department, Idaho Power, and the School District, which all said they could service this property.

Patty clarified that this hearing is for an application for annexation into city limits and nothing more.

There was a discussion of what properties were inside city limits and which were in the area of impact.

Barbara closed Public Hearing #2 at 11:12 AM.

PUBLIC HEARING #3

Barbara Gietzen asked the applicant to make a statement.

The Patterson Living Trust representative, David Fisher of Buhl, stated they would like to divide the 0.84-acre parcel into three lots for starter homes with 3 beds/2 baths, ranging from 1300-1400 square feet. The proposed lots are a little bit bigger than those in the subdivision toward the East. He stated minimal traffic impact in the easement lane because it is 21', while the Fire Code requires a 20' minimum for what is considered a two-lane road. David noted there is a power pole to the west and a well that will be abandoned. He spoke to his contractor about bringing in water lines and estimated 2 weeks for installation.

STAFF REPORT

Jazmine Mills stated a complete subdivision application was submitted on 08/16/2023 for the 0.841-acre parcel, the public notice was published on 10/03/2023 in the Times-News, and property owners within 300' were notified by mail. She noted the Public Works and Engineering Departments did not require a curb/gutter/sidewalk for this applicant's proposal and the turn-arounds for the Fire Department apparatuses were to be determined with each building permit application. She stated the Fire Chief, herself, and the applicant met that morning and received the type of turn-around that would be added to the plat before finalization. Jazmine stated the proposed lots are 0.28 acres and would require the applicant to connect to city water and sewer systems since the Public Health District requires connection to city sewer if within 300' of the city line and one acre lots for wells. She noted the city water was accessible off of Barsness Ave, the applicant would have to install a private line in the N utility easement to the proposed lots, and the city sewer was accessible on the SW corner of lot 3 in the platted alley. Jazmine informed the Board of the utility company letters included in the staff report for their review.

Barbara asked if there was any testimony to the application.

- Marsha Brooks of Buhl stated she paid for four power poles to be installed and has a five-year contract with Idaho Power for this area. Her concerns were increased traffic, dust, noise and light pollution, rock blasting blocking access to in easement lane, and the private sewer line running through that parcel. She stated she was against the annexation.
- Aracely Garza of Buhl stated she is against it because her semi-truck will not fit in the easement lane during the utility installments.

Barbara invited the applicant for a rebuttal. David Fisher stated he was not sure about the private sewer line Marsha was concerned about. He referred to the map stating they were to tie into the city's main trunk line and not Marsha's line. David noted his experience with Idaho Power with bringing power to his other property and the letter they provided for this subdivision saying they would service three lots. He stated his contractor has the boring equipment and is confident of a short timeline. David stated the utility lines would be installed in about 4' of the easement leaving 16' for the neighbors' use.

Barbara closed Public Hearing #3 at 11:30 AM.

REGULAR MEETING

CONFIRMATION OF QUORUM: Jazmine Mills confirmed a quorum.

OLD BUSINESS:

Minutes of September 27, 2023: Jeff moved to approve the minutes. Patty seconded. There was no discussion. Jeff, Bob, Maggie, Barbara, and Patty all voted aye. Reme refrained from voting. The motion passed.

NEW BUSINESS:

Review and Reconsideration of Walnut-Catalpa Vacations:

Patty stated this was a hard decision to consider because they weren't part of the Board when the first decision was made and her opinion of land-locking was only an issue for the property owners if they divided and sold the land. She noted she was not opposed to vacating the roads.

Reme proposed to vacate a portion of East Walnut St, starting from the platted alley toward the East and keeping the platted road affecting Santa Valdez. Barbara added to vacate all of Catalpa. Jeff and Bob agreed.

Jeff moved to rescind the previous Planning and Zoning approval of the East Walnut and Catalpa Streets vacations done in 2016. Bob seconded. All voted in favor. The motion passed.

Jeff moved to vacate a portion of East Walnut St starting from the platted alley to the East toward Hatfield Ln and all of Catalpa St toward Hatfield Ln and retain East Walnut St from the alley toward Clear Lakes Rd. Reme seconded. There was no discussion. There was a roll call vote; Jeff yes, Bob yes, Reme yes, Maggie yes, and Patty yes. The motion passed.

Review and consideration of Patterson Living Trust's Annexation request:

Bob moved to approve the Patterson Living Trust annexation. Jeff seconded. There was no discussion. There was a roll call vote; Patty yes, Maggie yes, Reme yes, Bob yes, and Jeff yes. The motion passed and will be sent to the City Council.

Review and consideration of Patterson Living Trust's Subdivision prelim & final plat: There was a discussion about the number of dwellings and whether these restrictions were on the deeds.

There was a discussion about the different requirements between private and public roads.

Scott pointed out that the city's sewer mainline is 8" and located at the SW corner of the applicant's property. Jazmine added that the location is in the city-owned, platted alley.

Barbara asked Scott if the lot sizes conform to the Buhl Comprehensive Plan. Scott said yes. Jazmine noted the Old Farm Subdivision across the road has lots that are similar in size, one of which is 0.23 acres and the proposed lots are 0.28 acres.

Reme stated he was not concerned about utility access and availability for the applicant's property.

There was a discussion about Idaho Power reimbursement contracts. Barbara stated a benefit and possibility for Marsha to be reimbursed for the costs accrued for putting in powerlines. The Board asked Marsha when the Idaho Power contract was signed and she declined to provide an answer.

There was a discussion about the location of the city sewer and the private line. Jazmine added that the applicant will not be tapping into a private line, but rather, into the city-owned sewer line, the manhole location was verified by the Public Works director, and the location is at the SW corner of the applicant's property.

Bob noted the private line owner and the applicant need to have an agreement in place since the private line cuts through the applicant's property. Scott stated there needs to be a private easement issued between owners for this private sewer line.

Reme moved to approve the application based on the standards, findings, conclusions, and recommendations stated in the staff report. Bob seconded. There was no discussion. There was a roll call vote; Jeff yes—he stated it met our requirements, Bob yes, Reme yes, Maggie yes, and Patty no—the reasons being entryway was too narrow and winter conditions would make accessibility difficult for multiple vehicles.

There was a discussion about why these concerns weren't brought up before the vote.

Teresa Robbins added that initially, Marsha had one piece of land, and applied for lot line adjustment and lot split. She stated Marsha was given the applications for a subdivision and explained what steps to take, and that the city never told Marsha she couldn't do a subdivision.

COMMISSION CONCERNS — there were none. Barbara introduced the new Board member, Reme Pullicar.

CITIZEN CONCERNS — Marsha Brooks' concern was her sewer line possibly being disrupted with the Barsness development. Barbara stated that would be between the two property owners. Scott stated the city can only guarantee sewer service from the mainline on and the private line will be a matter between the two property owners and how their recorded agreement reads.

MEETING ADJOURNED — Jeff moved to adjourn. Maggie seconded. The meeting was adjourned at 11:50 a.m.

Minutes prepared by Jazmine Mills, Planning & Zoning Administrator