

# Buhl Planning & Zoning

September 28, 2022  
203 Broadway Ave N

## MINUTES

### COMMISSIONERS PRESENT:

Barbara Gietzen	Commission Chair
Jeannie Gannon	Commission Member
Margaret Himmelberger	Commission Member
Jason Richardson	Commission Member
Gary Dannenhauer	Commission Member
Jeff Gabardi	Commission Member

### CITY STAFF PRESENT:

Scott Bybee	P & Z Administrator
Jason Scott	Public Works Director
Karen Drown	City Clerk
Jazmine Mills	Assistant Clerk

### ALSO PRESENT:

Peggy Kidd	Applicant
Rae Ann Bower	Applicant
Concerned Citizens	

### OPENING

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

### CONFIRMATION OF QUORUM for Public Hearing #1:

Scott Bybee confirmed a quorum.

### PUBLIC HEARING #1

Barbara Gietzen asked the applicant to make a statement.

Peggy Kidd is the owner of The Beach Tanning Co. She stated that the property at 289 Clear Lakes Rd sat vacant for 4-1/2 years before her occupancy. The day spa services include tanning beds, spray tans, massage, and lash extensions. The goal of having a day spa is to enhance the city, bring business into Buhl and make visitors feel welcome and relaxed. She stated the benefits of another service provided called infrared red-light therapy. She stated that this building can also be used in conjunction with other local businesses such as the Artisan Den for art classes, or events like bridal showers.

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

- Gary Amoth is the land owner of the property on 289 Clear Lakes Rd. He stated that he is in favor of the Rezone application and believes it'll improve that end of town.

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### **STAFF REPORT**

Scott Bybee stated that the only staff concerns were parking. He looked at the property and determined that it has enough space for 7 parking spaces and 1 handicapped space. He stated that the application meets the requirements for a completed application.

Barbara Gietzen asked if there was any testimony in opposition to the application. There was none. Barbara Gietzen closed Public Hearing #1 at 10:35 AM.

### **CONFIRMATION OF QUORUM for Public Hearing #2:**

Scott Bybee confirmed a quorum.

### **PUBLIC HEARING #2**

Barbara Gietzen asked the applicant to make a statement.

Rae Ann Bower and her family are BBR Investments LLC. She stated that they purchased the 60 acres on the South edge of city limits on Fair St last year. They are requesting to be annexed into city limits because they feel that Buhl City Planning & Zoning is easier to work with than Twin Falls County Planning & Zoning as far as communication, friendliness, and shorter time frames on projects. She stated that there aren't concrete plans regarding the acreage at this time.

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

- Jacob Speck stated that he is in favor of the Annexation application because the City will be able to enforce the area. He is against rezoning for business use. He stated that it should be kept as AG.

### **STAFF REPORT**

Scott Bybee stated that staff has met with BBR Investments a few times regarding their land. He stated that they have two applications: the annexation and rezone request. This application is to annex the entire property into city limits. Scott reminded the Board about the pending 3-page Area of Impact agreement with Twin Falls County and the City's inability to enforce code in the area at this time. He stated that residents in the Area of Impact are informed about annexing into city limits to continue working with Buhl Planning & Zoning instead of the County before the agreement changes.

Barbara Gietzen asked if there was any testimony in opposition to the Annexation application.

- Gail Lupton stated that she was not against housing on this land. She stated that she's more concerned about the Rezone application which she will speak about in the following hearing. She also stated concerns about the survey of BBR Investment's land and how it affects her property.

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Karen Drown called a point of order due to citizens speaking in the background and disrupting the verbatim recording of the public hearings.

Barbara Gietzen asked again if there was any testimony in opposition to the Annexation application. Jazmine Mills stated there was a letter submitted in opposition. Barbara Gietzen stated it will be read in the Rezone public hearing because of its contents.

Barbara Gietzen opened up the discussion for rebuttal. There was none.

Barbara Gietzen closed Public Hearing #2 at 10:40 AM.

### **CONFIRMATION OF QUORUM for Public Hearing #3:**

Scott Bybee confirmed a quorum.

### **PUBLIC HEARING #3**

Barbara Gietzen asked the applicant to make a statement.

Rae Ann Bower and her family are BBR Investments. She stated that they are asking to rezone the 11 acres on the south end of the property. With the rezoning approval, they would like to put up storage units for RVs and personal storage. She stated that with the growth of Buhl and new construction on the SE side of Buhl, there will be a need for additional storage space. Their 11 acres could be a great spot for storage units because there is easy access off of Fair St and 4000 N. She stated that they do not foresee a huge increase in traffic on those roads because most people do not enter storage units daily.

Barbara Gietzen asked if there was any testimony in favor of the application. There was none.

### **STAFF REPORT**

Scott Bybee stated that the BBR Investments Rezone application meets all the requirements and that all fees have been paid for a completed application.

Barbara Gietzen asked if there was any testimony against the Rezone application.

- Jacob Speck stated that he was strongly against the rezoning to a B-3. He stated that there are more appropriate areas where storage units can be built such as Hwy 30 or the northern side of BBR's acreage. He also stated that storage units invite crime and that a B-3 zone doesn't belong near agricultural and residential areas.
- Gayle Lupton stated that she is against rezoning the 11.89 acres. She stated that the area is next to her house and she does not want storage units there to devalue her property. She stated her concern about traffic increases, dust, and littering that could occur on her property, and the lack of appeal for potential homeowners who would build near the storage units.

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- Michael Jensen stated that growth is inevitable in Buhl, but manageable. He had concerns about increased truck traffic, speeding, muddy road conditions on Fair St, and experiences with the Ratzlaff hay shed business. He stated that he'd like to dedicate his 2.19-acres to the City as Jensen Park. He stated that he thinks highly of the Bower family, that storage units are not offensive, and that cameras and security can be added to the storage units.
- Jason Stokes stated that he is against the Rezone application. He stated his agreement with Jacob Speck's point of storage units being too close to residential areas. His concerns included B-3 zones allowing other unsavory businesses in the area, bringing a better land-use tax base, decreasing property values, and increasing crime if storage units were allowed there.
- Barbara Gietzen read, for the record, a written comment in opposition from Jayme Lynn Anderson and Debby Robinette. Their concerns were: the increased truck traffic on Fair St, speeding on 4000 N, diminished air quality from neighboring businesses, and light and noise pollution.

Barbara Gietzen opened up the discussion for rebuttal.

Rae Ann Bower stated that she understands the neighbors' concerns. She stated that BBR Investments cannot be held accountable for what the hay shed business has done to the area. She stated that they are unaware of any increases in crime in storage units and are not off-put by the sight of storage units near residential areas. She also stated that there aren't current storage unit building plans yet because they wanted the approval of the rezoning before hiring a draftsman. She agrees that cameras, fencing, and security features are needed to keep people's valuables safe.

Barbara Gietzen reminds the audience that the time for testimonies for or against has passed. Barbara Gietzen closed Public Hearing #3 at 11:00 AM.

### **REGULAR MEETING**

**CONFIRMATION OF QUORUM:** Scott Bybee confirmed a quorum.

### **OLD BUSINESS:**

Minutes of August 17, 2022: Jeanne Gannon moved to approve the minutes; Gary Dannenhauer seconded the motion. There was no discussion. There was a roll call vote: Jeff yes, Gary yes, Jeanne yes, Jason yes, and Margaret yes. The motion passed.

### **NEW BUSINESS:**

Review and Consideration of Whitson LLC and The Beach Tanning Co Rezone request:

Gary Dannenhauer moved to open for discussion. Jeanne Gannon seconded. Jeff Gabardi asked about parking, landscaping design, and the venue capacity at this location. Peggy Kidd stated that Mimi Ford used to hold events at this location, Choke Cherry trees will be added in line with the

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power pole, trees and shrubs will be around the building, and visitors will be able to park all around the building. Jeff Gabardi asked if bridal showers would be held mainly indoors. Peggy Kidd stated that it primarily can be inside and there on the outside patio. She stated that Gary Amoth purchased the surrounding land near this building and will work with her in beautifying the area. She stated that the hours of operation are Monday through Friday from 8 AM – 8 PM, Saturday 9 AM – 12 PM, and Sunday 11 AM – 2 PM.

Jeanne Gannon moved to approve the Rezone. Gary Dannenhauer seconded. Scott Bybee suggests that the Board approve with the condition that the applicant provides a site plan for all additional changes in use.

Jeff Gabardi amended the motion and moved to approve the Beach Tanning Co Rezone request with the condition of the site plans provided. There was discussion about the reason to rezone the area even if a business was already conducted there before The Beach Tanning Co. Scott Bybee stated that the previous business was not in compliance with the zoning district it was in and the new business use is being brought up to compliance with the rezone change from I-1 Light Industrial to B-3 Community Business District. There was a roll call vote. Jeff yes, Gary yes, Jeanne yes, Jason yes, and Margaret yes. The motion passed.

### Review and Consideration of BBR Investments LLC's Annexation request:

Jeff Gabardi asked if it was appropriate for him to vote on the following requests due to living on Fair St. Karen Drown reminded the Board of the recusal requirements. Jeff Gabardi stated that he shares the same concerns about the traffic increases on Fair St.

Jeanne Gannon moved to approve the BBR Investments Annexation request. Jason Richardson seconded. There was a discussion about the meaning of annexing the land out of the impact area into city limits and the benefits of it. Scott Bybee stated that the land is zoned for residential use and homes can be put in now if that's the use BBR Investments choose to do. He also explained that this annexation allows the city to manage the change and growth of the city.

Jeanne Gannon asked about providing city services to the annexed land and maintaining it. Scott Bybee stated that the services would be installed at the developer's expense and once built to the City's standards, the City takes over the maintenance. Barbara Gietzen stated her concern about denying the annexation would give the land to the County and they could determine the uses at the time of taking over the Impact Area.

Jeff Gabardi asked about the water impact, the status of a water management plan, and if the expenses could be sent to a developer for that study. Scott Bybee stated that City Council determines the collaboration in expenses for the water study and the study still needs to be conducted. He stated that the City's water and wastewater systems were upgraded 12 years ago

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and with the current capacity, the city could provide services if the residential population doubled. He stated that the wastewater system updates were for an increase in industrial load, but since that type of load has dropped, an increase in residential load isn't a problem. Scott Bybee stated that if BBR Investments' land is developed it will not negatively impact the city's systems.

Barbara Gietzen asked if there were any other questions. There was none. There was a roll call vote. Jeff yes, Gary yes, Jeanne yes, Jason yes, and Margaret yes. The motion passed.

### Review and Consideration of BBR Investments LLC's Rezone request:

Jeanne Gannon moved to approve the BBR Investments Rezone request. Margaret Himmelberger seconded. Jeanne Gannon asked if there was a better location of the acreage for the storage units. Rae Ann Bower stated that the North end is a more residential area that doesn't fit with storage units and the South end is more accessible with the two roadways on the corner. She also stated that the north side of the property is still being farmed until they decide to subdivide it.

Jason Richardson asked if the storage units will cover the full 11 acres. Rae Ann Bower stated she doesn't know at this time, the reason why they chose that area is because of a fence line that runs through there. She also stated that the storage units will be built in stages, possibly starting on the SE corner.

Jason Richardson asked how would the 11 acres be cordoned off. Rae Ann Bower stated that they are in the early stages of planning and inspiration from storage units that use the back wall as the fencing and storage inside could be an option that provides a secure area. There was discussion about this area being for both storage units and RV storage.

Jeanne Gannon asked if the change to their property is to add storage units in the area they're already farming. Rae Ann Bower stated yes on the southern 11 acres.

Jason Richardson asked if property values would diminish with storage units around. Scott Bybee stated he has seen many storage units that enhance neighborhoods, so it would depend on how it is managed. Scott Bybee reminded the Board that they can table their decision until more information is given by the applicant regarding a discussion of the storage unit design, accesses, and protection of nearby houses.

Jason Richardson stated that plans can get expensive and asked if there was a way to approve the rezone request with the condition of seeing the design later to allow the applicant to move forward. Scott Bybee stated that it is an option. There was discussion about keeping the City involved in the project's progress.

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Barbara Gietzen asked what zone is being requested. Scott Bybee stated B-3. Rae Ann Bower stated that a storage unit plan wasn't submitted because of the expensive plan cost and they wanted Board approval before going through with this expense.

Jeanne Gannon asked if the Board could approve the rezone and later approve the storage units. Scott Bybee stated that storage units are an allowed use in a B-3 zone and once the rezoning is approved, the applicant can put storage units in the area after following Building Department permitting requirements.

Gary Dannenhauer asked if the Board would have a final say on the Building Permit plans. Scott Bybee stated that once the rezone is approved to a B-3, then the decisions with the plans go to another department. He stated that the Board can make the plan design review with Planning & Zoning as a condition of their rezone approval. Jeff Gabardi stated that it would be reasonable to add a condition to have Planning & Zoning review the storage unit building plans.

There was a discussion about the shortage of storage units in Buhl and the benefits of the Board working together in making this work for the community. Jason Richardson asked for wording for a motion. Barbara Gietzen stated that there was already an active motion on the floor.

Barbara Gietzen stated her concern about the rezone area wrapping around the back of 2 homes on 4000 N.

Jeanne Gannon asked if the rezone approval allowed the Board the opportunity to weigh in on the outcome of the storage units' plan review. Scott Bybee stated that the Board has the option to approve the rezone, deny, or table their decision.

There was a discussion on the process of motions passing or failing. Scott Bybee stated that if the Board wishes to go in a different direction than the current motion of approving the rezone, they can let the motion die and make another motion and table it for discussion another time.

There was a roll call vote. Jeff no, Gary no, Jeanne no, Jason yes, and Margaret no. The motion failed with a majority nay vote.

Barbara Gietzen called for another motion.

Jeanne Gannon moved to table the decision for BBR's Rezone request for more information. Gary Dannenhauer seconded. There was no discussion. There was a roll call vote. Jeff yes, Gary yes, Jeanne yes, Jason no, and Margaret yes. The motion passed with a majority yay vote.

Scott Bybee stated that he will meet with the applicant and gather information to address the Board's concerns. He stated to the concerned citizens in the audience that BBR Investments'

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Rezone application has not been approved, but the Planning and Zoning Board will discuss their tabled decision in the next meeting.

Barbara Gietzen thanked everyone and stated that this was a hard meeting because of the many other uses that a B-3 zone allows.

Karen Drown stated that the next meeting will not be open for public input for this Rezone application, only for the Board, but the public can still listen and attend.

**COMMISSION CONCERNS**— Gary Dannenhauer stated that this Rezone application shows the inevitable growth that is occurring in Buhl. Jeanne Gannon agreed and stated that that was why the Board must be careful in how the growth is managed. Jason Richardson stated that he was concerned about leaving the applicant with a tabled decision and little direction. Scott Bybee stated that the next step is for the applicant to meet with him to create a plan to address the Board's concerns.

Scott Bybee stated that he feels comfortable with the approved annexation of BBR's land so the city could work with them in their plans and not the County.

Barbara Gietzen asked if the County approved the Ratzlaff hay sheds across the street. Scott Bybee stated that the P&Z Board approved the annexation of Ratzlaff's land into city limits and the city is working with them on their hay shed project that is still in progress. Jazmine Mills stated that the Ratzlaff property is zoned for agricultural use, so when a building permit was submitted for the hay sheds, the Buhl Building Department approved the plans and didn't go to the Planning & Zoning Board because the hay shed project plans fit the use of the land's zone. Scott Bybee stated that the agricultural zone allows hay sheds but that there are things they are doing that aren't exactly as promised. Scott Bybee stated that we cannot hold other people accountable for the actions of the hay shed business.

**CITIZEN CONCERNS**— Debbie Robinette stated her concern about speeding at 4000 N and increased traffic. Barbara Gietzen stated that it is a County road. Scott Bybee stated that as the area becomes more developed, statistically, people will slow down.

### **MEETING ADJOURNED**

Jeanne Gannon moved that the meeting be adjourned; Maggie Himmelberger seconded the motion and all were in favor. The meeting was adjourned at 11:35 AM.