



MEETING MINUTES

PUBLIC HEARING

Date: 30 October 2023

Time: 6:00 PM – 8:30 PM

Pledge of Allegiance and
Meeting called to order by: Commissioner Bill Lewis

IN ATTENDANCE

County Commissioners (Ken Eliassen, Bill Lewis, Brian Jeppsen), County Legal Counsel Cody Brower, County Clerk Lon Colton, Planning & Zoning Administrator Rhonda Neal, Geologist/Scientist Andrew Mork (Ada County), Developer Allen Nielson, Developer Vilate Nielson, Jennifer Early, Terry Price, Tony Werr, Melanie Coleman, Brad Coleman, Susan Whitman, Bart Kendall, Nathan Harmston, Ann Benjamin, Les Benjamin, Kirk Willey, TJ Daniels, Erin White, Kristi Neilsen, Shanci Dorius (clerk), other community members and members of the Church of Jesus Christ of Latter-Day Saints and the Kingdom of God

PURPOSE OF THE HEARING - COMMISSIONER BILL LEWIS

Commissioner Bill Lewis: This public meeting is regarding the developer's desire to re-zone 120-acres of land to Rural Residential (from Agriculture) for the purpose of dividing it into twenty 5-acre lots for development. Idaho code requires a hearing before Planning and Zoning, then a similar hearing before the County Commissioners.

FACTS & FINDINGS - RHONDA NEAL, PLANNING & ZONING ADMINISTRATOR

Planning & Zoning case file 23-0016 for a 120-acre parcel of land the developer wishes to divide into twenty 5-acre lots for a neighborhood. Referenced land use, development, county road system, and the P&Z public hearing held previously. Cited 2A-3, 2A-4, 4A-8, 4B-1, 6-5, 6-1C, 6-8-2. At the previous P&Z hearing, concerns were presented by opposition (water, roads, zoning, impact, etc.).

P&Z Commission voted against re-zone (concerns about sprawl, burden of cost for services, water study was vague, road maintenance, etc.).

DEVELOPER PRESENTS INFORMATION – ALLEN & VILATE NIELSON

Developers Allen & Vilate Nielson asked the commissioners to let them know if there is anything they could address / expand on that would keep them from being approved.

- Nielson's wish for this neighborhood to provide affordable, safe homes for the younger generation and wish to be good stewards of the land.
- "This is a zero-discharge project" – storm water contained within the site
- Here for a re-zone and some of the public concerns were about water for firefighting.
 - Nielson's are willing to work with the fire district (i.e. have water storage on site)
- Roadways and access concerns
 - Nielson's will bring the roads up to standard for the county and then hand them over to the county (should the county want/choose to accept responsibility)
- Concerns about distance from services
 - Nielson's timed a drive from the court house to the site, following all laws. Time was 10 min 11 seconds.

GEOLOGIST, SCIENTIST PRESENTS INFORMATION – ANDREW MORK

Andrew "Andy" Mork - 208-509-0021 – Full Circle GeoScience in Boise, ID

- Discussed data collected from wells within a ½ mile radius from the center of the Nielson property.
 - **NOTE:** Residents questioned Mr. Mork - some existing wells within the perimeter Mr. Mork set were not discussed and some of the wells' data was from when they were drilled 40+ years ago
- The Nielson's intent tonight is to move forward with the rezoning. Mr. Mork was retained by them to do a water study.
- Tonight Mr. Mork is presenting 7 slides to show the ground water availability process.
 - Factors to consider in the study:
 - Number of wells
 - Rare to get "well impacts" greater than ½ mile radius so this is a respectable-sized area to consider (again, the radius is from the center of the Nielson property.
 - Idaho Department of Water Resources
 - online resource to check water availability based on Township, Section, Range.
 - Used this online reference site to see several wells in that ½ mile radius. All but one of the wells are domestic supply wells and each of the wells are more than enough to support residential development

Commissioner Bill Lewis question for Mr. Mork

- What is the possibility that the proposed neighborhood would draw down the available water in their wells?

Allen Nielson briefly interjected that they would drill 2 test wells to prove there is sufficient water. The neighborhood development would stop if those tests failed

- *Clarification: this is something that would happen after the phase being discussed in this meeting*

Andrew Mork

- The process is supervised by licensed, professional geologists. They use industry standard methods for assessment
- Wells that are in close proximity and are sucking air, or that had to drill new wells (or drill deeper), may not represent the water-bearing zones in the area

- The closest well to the neighborhood, according to Mr. Mork's data, is 1,500 feet away
- The layers in these zones are "long and skinny vs "layer-cake"
 - This means that as one well goes dry, another one a short distance away may not be affected because they are not connected.
 - Mr. Mork presented a visual cross-section to help others understand the layers. He stated that instead of "layer-cake" it is more of a "marble-cake"
- Discussed the term "no recovery" regarding wells.
 - Means no data or samples were taken. It is common for people who know they are going deeper than normal in order to get to the water, like the Thomas well referenced in Mr. Mork's slides.

Cody Brower, County Legal Counsel, asked for clarification on several points, specifically cumulative impact on the county.

- Andrew Mork's opinion seems to indicate sufficient water to supply the Nielson's development but acknowledged he had not looked at the impact further down the county and the possibility that it might reduce water in the aquifer.

ALLEN NIELSON – OBTAINED INFORMATION FROM ONEIDA COUNTY ASSESSORS OFFICE

- Attempted to compare the size of the proposed development and the benefit to the community with existing outlying communities in Oneida County
 - provided numbers regarding population, placement, and money to base his opinion that there would be little negative impact from the development
 - used info about the acres of land compared to the number of homes in St. John, Pleasant View, and Samaria

*****END OF FORMAL DISCUSSION*****

TIME IS NOW OPEN FOR PERSONAL TESTIMONY (FOR OR AGAINST) THE RE-ZONE.

Commissioner Bill Lewis opens the discussion to those in attendance who wish to speak to the re-zone issue and gives a 3-minute limit to each speaker.

- Multiple names on the list on both sides, but several opted not to speak

SPEAKER IN FAVOR OF THE RE-ZONE FOR THE NIELSON DEVELOPMENT:

- Kristi Nielsen:
 - Feels like there is more room for controlled growth as long as the main issues are focused on (water, agriculture, land growth, etc.)
 - Comments about their religion should not be a factor and is also unkind. She and her husband have lived here for 5 years

SPEAKERS AGAINST THE RE-ZONE FOR THE NIELSON DEVELOPMENT:

- Jennifer Burley:

- The Willey's lose 350 gallons/minute when they turn on their well. It affects his neighbors and his well is in the center of the zone discussed in Mr. Mork's presentation.
- Mr. Willey shared personal statistics from the wells that show him the aquifer will not support the development. He is concerned about running out of water with what is currently there.
- With the really wet winter and spring past year, Mr. Willey noticed zero change to his water levels outside of some standing surface water.
- City has stopped growth due to sustainability
 - Commissioner Bill Lewis clarifies it is a pressure issue in the city
- TJ Daniels
 - TJ was invited by the Commissioners to come to the microphone to answer their questions, as he owns 3 of the wells indicated on geologist Andrew Monk's slides.
 - TJ states that there is not enough water to run 2 center pivots simultaneously. Water must cascade to the bottom of the well and then be pumped up.
 - From Spring to Fall, the water dropped 250 feet per minute on the old Thomas place. TJ is unable to pump enough to even meet his allotment with his water rights (water shares).
- Erin White
 - Had to put up cameras at home after the last meeting because someone from out of the area was causing a disturbance at / near her home and scared her daughter

*****END OF PUBLIC SPEAKING*****

COMMISSIONER BILL LEWIS ASKING QUESTIONS FOR ALLEN NIELSON

Mr. Nielson's responses

- The property was in CRP for 30 years. When it fell out of CRP the owner chose to sell and the Nielson's bought it.
- Nielson's are paying an engineer to preserve what it has on the land already. At best, this land is non-profitable agriculturally
- Tried to find property closer to the city

COMMISSIONER BRIAN JEPSEN SHARES WHAT HE HAS LEARNED WHILE STUDYING THIS PROCESS AND THE LAW

- Read from the development code and discussed the Attorney General's checklist
 - We need to follow the law/code/comprehensive plan in place
 - Takings

CODY BROWER, COUNTY LEGAL COUNSEL EXPLAINS "TAKINGS" REGARDING EASEMENT LAW, RESTRICTIONS, ETC

- Mr. Brower states that he is not imposing his opinion and wants commissioners to make their decisions without being influenced by opinion rather than legal counsel
- Zoning is not considered a "taking"
- Advises commissioners to read the 26 letters the Nielson's introduced at the beginning of the meeting tonight. They were presented before/at the original hearing but Vilate Nielson stated

she was presenting them again tonight because she did not see them listed as evidence and did not want them missed.

**COUNTY CLERK LON COLTON REMINDS THE COMMISSIONERS TO TABLE
DISCUSSIONS SINCE THIS IS A PUBLIC HEARING**

- The decision was made to discuss the issue at the next commissioners meeting on 13 November 2023 at 9:00am.
- Meeting was adjourned at 8:30 pm