

**CARIBOU COUNTY PLANNING & ZONING COMMISSION  
MEETING MINUTES OF May 4, 2016**

The Caribou County Planning & Zoning Commission met in regular session and for a Public Hearing on May 4, 2016, at 7:00 p.m. Present were Loren Smith, Scott Shuler, Ross Harris and David Miles, commission members. Also in attendance were Krista Christensen, Planning and Zoning Secretary, Louis and Tereasa Berg, Julie Snooks, Jim Mindey, Wade Olorenshaw, John Goode, Chris Guedes, JoAnne Mooney, Bryce and Tamara Griffiths, Kent Canaday and Destinee Canaday.

Loren Smith opened the meeting. Mr. Smith explained public hearing procedures and the floor was then opened to Louis Berg to present his application for a Conditional Use Permit to open Oregon Trail Gift Shop and Oregon Trail Wildlife Ranch, located at 680 and 690 W. Hwy 30, Soda Springs, Caribou County, Idaho.

Mr. and Mrs. Berg are in the process of cleaning up the property. They intend to sell art work and other memorabilia at the Gift Shop. They will rent kayaks, canoes and paddle boats. It is their intention to raise horned and antlered animals, as well as fowl, for the purpose of feeding their family and not for commercial use. They will build an 8 ft. fence over the next two years to house the livestock. They will limit their wildlife to no more than 30 antlered and horned animals and no more than 200 birds. They will have a nature trail for the public to view the animals. They will not be charging a fee, nor will they accept donations.

Mr. Berg informed the commission that there is no license requirement from Idaho Fish & Game. He stated that Trespass Laws provide excellent protection to land owners that don't accept fees. He will require the public to sign a Release before entering the property. The entrance to the nature trail will be through the back of the Gift Shop. They will require all children to be accompanied by an adult. They are considering possible events for the public to include building projects like bird feeders, wildlife photography, archery, art projects and dog sled rides.

Mr. Berg passed out Zoning Ordinance Chapter 5 District Regulations and Requirements.

Ross Harris asked Mr. Berg how much parking exists for the public. Mr. Berg stated there are 12 vehicle spaces around the Gift Shop. He has obtained a letter from the Highway Department allowing parking in the front, on the side and in the back of the Gift Shop.

Mr. Berg asked of the commission that he be treated as other property owners in the area and not be required to obtain a Conditional Use Permit.

Mr. Smith explained that each application is reviewed individually and no decision is made for the general public. He further explained that the regulations are only a basis and that there is too broad of a scheme to make regulations for all matters. Mr. Smith informed Mr. Berg that the reason the commission is requiring a Conditional Use Permit is due to the proximity to Soda Springs and their belief that conditions are necessary for the protection of the public.

The written correspondence from Bob Johnson was read by Secretary, Krista Christensen in support of the Berg's application.

The floor was then opened for public comment.

Mr. Smith invited those in support of Mr. Berg's application to take the floor.

Julie Snooks was given the floor. She works for the Forest Service at the local office in Soda Springs. She visits with tourists daily who want to know what there is to do in Soda Springs and where they can purchase tourist trinkets. She believes the Berg's project would be a great benefit to Soda Springs. She said people want to see wildlife and Gray's Lake is currently the closest location. She has personally visited the Berg's park and says people love it.

Non-partison attendees were invited to take the floor.

Mr. Mindey with Idaho Fish and Game, located in the Pocatello Office, took the floor. He informed the commission that if the Berg's intention is to raise livestock rather than wildlife, Fish and Game would not be involved and it becomes an issue with the Department of Agriculture, so long as they do not accept money for the Wildlife Ranch. If the Bergs decide they need to charge the public money, he will need to apply for a permit from the Department of Fish and Game. Mr. Mindey stated that if animals escape, it would be taken up by the Department of Transportation.

Mr. Smith asked Mr. Mindey about concerns regarding brucellosis. Mr. Mindey informed him that it would come under the purview of the Department of Agriculture.

Mr. Smith invited those in opposition of Mr. Berg's application to take the floor.

Wade Olorenshaw who resides at 1930 Ivins Rd. in Bancroft, and is employed by Farmers Land and Irrigation Canal Company (The Canal Company) took the floor. Mr. Olorenshaw informed the commission that one concern of The Canal Company is that the structures could impede the Canal Company and their right of way. He quoted Attorney Jerry Rigby, who referred to Idaho Code §42-1102, which guarantees that no parties will encroach on any easement of canal without the written permission of the irrigation district. No encroachment will interfere with the access to the canal.

Mr. Olorenshaw added that there needs to be a way to get a back hoe in and out of the canal. He recommended that one condition should be that an agreement needs to be formalized in writing between Louis Berg and Canal Company before Mr. Berg should be able to proceed. He said there is an added concern of the possibility of someone falling into the canal and drowning and questioned whose insurance would cover that.

Mr. Harris asked Mr. Olorenshaw how wide the setback was from the canal. Mr. Olorenshaw stated that it is 62.5 feet from the center line. He added that the statute does not prescribe a width, but only states it is that which is required to operate and maintain the canal.

Mr. Smith asked for a recess and the Public was dismissed to allow the commission to deliberate.

The public was invited to return to the Commissioners' Room.

Mr. Berg was given the floor for rebuttal comments.

Mr. Berg informed the commission that he has addressed all the concerns and requests of the Canal Company, but has been unable to get any kind of approval from them in writing. His concern is that The Canal Company will continue to stall and he will be unable to move forward with his project if the permit is conditioned upon written approval from the Canal Company. Mr. Berg said The Canal Company has no incentive to respond to Mr. Berg. He added that there already exists laws on the books that regulate the easement agreement between the Canal Company and the land owners and that if there are any problems with the Canal Company, it should be settled by attorneys and not with the County Planning and Zoning Commission.

Mr. Harris raised the concern that it is Mr. Berg's responsibility to protect the public from danger; that much of the public that will be visiting have not had experience around animals. Mr. Berg responded saying the public will only be allowed on the nature trail. The will only be close to the canal when crossing over it, and there is a fence along the bridge.

Mr. Berg added that the Idaho Recreational Trespass Law protects the Canal Company and the land owner so long as they do not charge a fee to the public for use.

Mr. Smith recommended the Conditional Use Permit be issued with the following conditions:

- 1) Mr. Berg has full responsibility to take care of all fly control;
- 2) Mr. Berg has full responsibility to take care of odor control that may arise; and,
- 3) Mr. Berg must build an enclosed fence over the bridge so that people cannot jump into the canal.

Mr. Harris made a motion to approve the permit with the above-stated conditions. David Miles seconded the motion. All were in favor. The Public Hearing was closed. This decision will be presented to the Caribou County Commissioners.

Agrium was given the floor to present their application for a Conditional Use Permit to develop the new Rasmussen Valley Mine for the recovery of phosphate ore reserves contained within Federal Phosphate Lease I-05975. The proposed action is located in Caribou County, within a known phosphate leasing area (KPLA) on the southeast end of Rasmussen Ridge and adjacent portions of Rasmussen Valley in Caribou County approximately 18 miles northeast of Soda Springs, Idaho.

John Goode, Manager of Phosphate Special Projects at Agrium, took the floor. He handed out copies of the application. Mr. Goode informed the commission that the project has been developing for six years and the cost should be between \$40-50 million just to get approval. The overall disturbance will be very little over the 40 acre project. The existing use is by the Forest Service, BLM, the Department of Fish and Game Land Management and private ground owned by Agrium. Agrium has completed a draft environmental impact notice. Mr. Goode passed out a map of the area to be mined. From an economic perspective the mine would employ approximately 500 people and pay them approximately \$50 million a year. In addition it would pay approximately \$1 million per year in property taxes and Federal royalties of \$4-5 million per year, one-half of which would return to the State of Idaho, and with one-half of that returning to Caribou County. Mr. Goode passed out a CD containing a draft of the environmental impact, with all implications to the environment. Agrium intends to start the infrastructure in approximately January 2017, and mining would start in about mid 2017.

Chris Guedes, Mine Permit Project Manager at Agrium, joined Mr. Goode. He explained the location of the project. He informed the commission that Agrium intends to do all they can to use existing disturbances for haul roads, like Monsanto's South Rasmussen Mine. He said that environmental groups are supportive of their project due to the limit of new disturbances for haul roads and no disturbance to wetlands at an even greater expense to Agrium. He added that there will be no open pit. They intend to backfill in the last phase of mining to avoid a large hole remaining.

Mr. Smith asked who will pay for the road. Mr. Guedes said Agrium intends to.

Mr. Harris asked how much elevation will come off the ridge when the mining has been completed. Mr. Guedes replied that the project is not a ridgetop mine, so the ridge will not be disturbed.

Mr. Ross then asked what Agrium intends to do with the land once the mining is complete. Mr. Goode informed the commission that as part of the permitting efforts, there is a fairly extensive mitigation component which states you keep everyone whole; Agrium intends to make payments to the Land Trust to do projects in the area. Agrium is also talking with the Department of Fish and Game about additional mitigation.

Mr. Miles made a motion to recommend Agrium's Conditional Use Permit for a public hearing. Mr. Harris seconded the motion. All members were in favor. A public hearing will be held on June 1<sup>st</sup>.

The floor was given to Kent Canaday and Destinee Canaday to present their application for a Zone Change or Variance to allow a second modular home to be placed on the property located at 5587 Weber Lane, Freedom, Caribou County, Idaho.

Destinee took the floor to explain that there are 3 parcels of property owned by the Canadays: Parcel #1: .5 acre piece of land that is owned by Kent Canaday, with his house, shop and garage on the property. Parcel #2: .6 acres with cinderblock building formerly a milking shed and 14 x 70 mobile home. The property is owned by Kent Canaday and the mobile home is owned by Cody and Destinee Canaday. Destinee's roommate is in the process of purchasing Parcel 2 with

the mobile home. Cody and Destinee Canaday and their children, along with her roommate, currently reside in the mobile home. Parcel # 3 is 1.6 acres and is the property with which Cody and Destinee Canaday desire to put a mobile home. Destinee informed the commission that they intend to use the mobile home for their permanent residence. She said a septic permit has been approved by Jesse Englesee. She added that Freedom is not an incorporated city. She further stated that Ralph Hopkins informed her that he sees no other purpose for the property than as a residence.

Kent Canaday joined Destinee. He presented a map of the property. He said there is a water line from a well in Wyoming, a fire hydrant on the property and street lights. There is school bus service and trash pick-up. He said there are wall to wall houses going from North to South on the road.

The commission determined that a Variance would be necessary rather than a zone change.

Mr. Shuler motioned to hold a public hearing. Ross seconded the motion. All were in favor. A public hearing will be held on June 1<sup>st</sup>.

Bryce Griffiths was given the floor to present an application for a Variance to allow a 30 foot easement rather than the required 50 foot easement on property he is purchasing from M. Wells Properties LLC (Wells), so he can gain access to the north part of his property. The Legal Descriptions are as follows:

Wells: Township 8 S Range 41 E Section 24: NE $\frac{1}{4}$  SE $\frac{1}{4}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$   
Griffiths: Township 8 S Range 41 E Section 24: SE $\frac{1}{4}$  SW $\frac{1}{4}$

Mr. Griffiths informed the commission that Wells deeded him 30 feet of easement property, but the county requires a 50 foot easement. The land is a 40 acre parcel zoned agriculture and is located between Presbyterian Farm and Wells property. The property has been divided 1 time. It is their intention to build a house about 250 feet off Government Land Road. The purpose of the 30 ft. easement is just to allow access to the property. Mr. Griffiths provided a map of the property and 3 letters from neighbors in support of the easement. He said the Power Company has no objections to a road being built.

Mr. Harris made a motion to set the matter for public hearing. Mr. Miles seconded the motion. All were in favor. A public hearing will be held on June 1<sup>st</sup>.

A discussion was then held regarding the City Impact Area. Mr. Harris made a motion to accept the City Planning and Zoning Commission's proposal including the two proposed ordinances and the map of the proposed City Impact Area. This decision will be presented to the Caribou County Commissioners.

The meeting minutes from the April 6, 2016 meeting were reviewed. Mr. Miles motioned to approve the minutes. Mr. Shuler seconded the motion. All were in favor. Meeting minutes were accepted.

Mr. Smith asked if there was any other business. There was no other business. Mr. Shuller motioned to adjourn the meeting. Mr. Harris seconded the motion. The meeting was adjourned. The Planning and Zoning Commission will meet on June 1, 2016.

Signed: \_\_\_\_\_  
Loren Smith, Committee Chairman

Signed: \_\_\_\_\_  
Krista Christensen, Secretary