



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Wednesday, January 19, 2022
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Patrick Williamson, Vice Chairman
Brian Sheets, Secretary
Ron Amarel, Commissioner
Harold Nevill, Commissioner

Staff Members Present: Stephen Fultz, Director of Development Services
Dan Lister, Planning Official
Zach Wesley, County Attorney
Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill, called the meeting to order at 6:30 p.m.

Commissioner Sheets, read the testimony guidelines and proceeded to the business item on the agenda.

OLD BUSINESS

- **Action Item: Case No. OR2021-0029: ORDINANCE AMENDMENT – Approve revised FCO’s.**
MOTION: Commissioner Sheets moved to approve and sign the revised FCO’s for Case No. OR2021-0029; Commissioner Williamson seconded. Voice vote; motion carried.

NEW BUSINESS

Case OR2021-0031: Star AOCI: An Ordinance amending Chapter 9, Areas of City Impact, of the Canyon County Code of Ordinances; to add Article 19, Star Area of City Impact.

On April 20th, 2021, the County entered into negotiations with the City of Star to establish an Area of City Impact and Ordinance. The purpose of the amendment(s) is to recognize recent annexations, and add areas where city services have been expanded. The main purpose of an Area of City Impact is to identify areas where future annexation into a city is anticipated.

County Attorney Zach Wesley and Planning Official Dan Lister, reviewed Staff report for the record, including three (3) late exhibits.

Chairman Sturgill, entered the late exhibits into the record.

MOTION: Commissioner Williamson motioned to break for 10 minutes to allow them to read over the late exhibits; Commissioner Sheets seconded. Voice vote: Motion carried.

TESTIMONY:

Andrea Nielsen - Applicant (Representative) In Favor – 5700 E. Franklin Rd. Ste 200, Nampa ID 83687

Ms. Nielsen is speaking on behalf of the City of Star. She spoke about the pending litigation which she said is a distinctly separate matter from the Area of City Impact. They are separate issues because the pending litigation has to do with Category A annexations. Category A annexations, as opposed to B or C annexations, can only be completed if they have the consent of the property owner and if the property is contiguous to the city. She stated whether or not the Planning & Zoning Commission or the Board of County Commissioners decides to change the Star Area of City Impact, it will not affect whether the City of Star can legally expand under Category A annexations. Ms. Nielsen also stated they haven't had a hearing on the litigation yet however it doesn't have any effect on Star's Area of City Impact. She also said that the timeframe for Star's Area of City Impact is outlined under LUPA (Land Use & Planning Act), and there is a time schedule. The litigation may take several years and if Canyon County wants to delay because of the litigation, they might violate LUPA. Ms. Nielsen explained the positions of both the defendant and the plaintiff and the possible results of the current litigation; she reiterated that the litigation should have no bearing on deciding on or approving Star's new Area of City Impact. Ms. Nielsen described LUPA: it is a state law that provides authority to cities and counties to make decisions upon how land is zoned and used. She also explained that Star hadn't started the Area of City Impact process sooner because Star has only participated in Annexation A type annexations which doesn't require any approval. She couldn't speak directly to the timing other than stating Star's Area of City Impact now is a part of Star's long-term comprehensive planning. Annexation type A has always been done in the past but the Area of City Impact is more important now as Star begins to grow into Canyon County. Canyon County has often provided comment on past annexations but it is a City process. Adopting the Area of Impact as shown on the proposed map may require land owners to annex into the City of Star but it is a legal process through Title 50 with judicial review provisions. The City of Star is coming to the table asking to create the legal authority to be able to exercise its power to long term, comprehensive plan; this may lead property owners to arrive at the point of consenting to being annexed into the City.

Michael Keyes - In Favor – 338 S. Long Bay Way, Star ID 83669

Mr. Keyes was a member of the committee of nine and until recently, a Star City Councilman. Mr. Keyes said it is the intention of the Star Sewer and Water District to extend services to everything between the river and east of Kingsbury. The Sewer and Water District is an independent District, not associated with the City of Star and was formed 24 years ago before Star became a city. The peninsula was annexed into the city 17 years ago; that is as far west as the City plans to go. He feels it should have been done earlier; the prior mayor felt that since all they did was A annexations, they didn't really need to create the Area of City Impact. The current mayor and city council believes there is value in creating the City Impact area. He said that the current statute actually requires a city establishes an area of impact that overlaps with another city so that they can begin the process to resolve the dispute. The process tonight was necessary to resolve a dispute. Mr. Keyes also clarified that the vote on the Committee of Nine, was 5 – 3, because one Commissioner was absent.

MOTION: Commissioner Sheets motioned to grant 2 more minutes of testimony to Michael Keyes seconded by Commissioner Nevill. Voice vote, motion carried.

Mr. Keyes discussed Category A Annexations: Annexations have always been done at the landowner's request. The City of Star doesn't go asking them. The City of Star currently has 7 enclaves of unincorporated County land and they don't have any intention of annexing those properties into the City. Also, the Annexation A type statute says that you can't annex in any property greater than 5 acres. Star Sewer & Water is not affiliated with the City of Star government, but they do coordinate and work

very closely with them and they do have a cross annexation agreement with them. There is an intention to serve that area. Pending applications for subdivisions and plans for annexation are usually because they want urbanization, city services and curb, gutter and sidewalks. The Comprehensive plan map for that area says 1 to 3 units per acre; but that doesn't always mean 3 and sometimes the City of Star has made developers back off in the number of units per acre. The City of Star is looking at a 3 to 5 year horizon for areas that may be annexed into the City in the future: their application currently in front of the County goes about a half a mile past Kingsbury. As soon as services are extended into an area, things start happening very quickly. They looked at their boundaries with that 3 to 5 year horizon in mind. Mr. Keyes said that in contrast, when Middleton created their area of impact 16 years ago, there was no way they could have had a 3 to 5 year horizon of annexations up to what was Star's city limits at the time. He feels their Area of City Impact was in violation of the three items the statute requires. Regarding trade, Mr. Keyes says that everyone commutes through Star twice a day and that is the trade area. The closest supermarket and gas stations are in Star. He also discussed the geographic factors they used to create their Area of City Impact. He stated that many farmers are selling their land to developers; they aren't recruiting them, the City is responding to what is coming before them. Star also creates special buffer zones around existing land that they believe won't be subdivided. He described the various partnerships the City of Star has with Canyon Highway District and the Sheriff's Department. Mr. Keyes reiterated that this is the first step in the Area of City Impact process and creating a disputed area is part of that process. He said that he got the traffic numbers (about trips through Star) from ITD. Mr. Keyes discussed the City of Star's "south of the river" plan; development of an Idaho version of the San Antonio River Walk and moving the downtown south of the river. He also discussed overhauling their Comprehensive Plan in 2019 and how many residents and non-residents gave input on that plan. They try very hard to be respectful of the voters as well as those who are impacted.

NEUTRAL:

Steve Burton - Neutral – 6915 Canyon Bend Ct. Star ID 83669

Mr. Burton was there speaking on his and four neighbors' behalf. He begs to differ with Dan (Lister) about the Comprehensive Plan. The Comprehensive Plan is a fundamental part of what we were talking about. The Canyon County Comp plan was revised to reflect long term goals of the county, including development and the preservation of farmland. Mr. Burton read off the five goals of the Comprehensive Plan. Mr. Burton said everyone was there to discuss two fundamental standards: 1. Establish land use planning and 2. Abate public nuisances.

MOTION: Commissioner Sheets motioned to grant 4 more minutes of testimony to Mr. Steve Burton, seconded by Commissioner Nevill. Voice vote, motion carried.

Mr. Burton said that the proposal by the City of Star to extend into Canyon County is not consistent with the area and the land use plan. The Canyon County Comprehensive plan states that this land was to remain "R-R" and not put three houses per acre which won't support the current wildlife in that area. He attended all the Committee of Nine meetings and he felt one issue was overlooked: most of the area of conflict should remain in rural or agricultural status per the Comprehensive Plan. Mr. Burton showed a map that the County Commissioners offered in October 2021 as a compromise. The impact areas for both cities should be limited to the areas on that map. If the impact area for Star is approved, the zoning should remain the same as it is now on the Canyon County land use map.

MOTION: Commissioner Sheets motioned to enter exhibit 10 into the record. No opposition.

OPPOSED:

Mark Hilty – In Opposition – 1303 12th Ave. Rd. Nampa ID 83686

Mr. Hilty appeared in front of the Commission in his capacity of Middleton City Attorney. Mr. Hilty apologized for bringing a twenty-eight-page letter from Attorney Chris Meyer, representing Middleton, as a late exhibit on the night of the hearing but felt that it had some important analysis that needed to be considered. He also brought a three-page letter from the White-Petersen law firm with what he felt was important analysis. Mr. Hilty would like to submit those letters as the position of the City of Middleton and noted that their position has not changed. Mr. Hilty made comments on the approval criteria. Geographic factors: the Middleton Area of City Impact exists in almost all the area that Star is proposing as their Area of City Impact. Creating a conflict so that the conflict can be resolved doesn't make sense to him. Middleton has largely been excluded from the Committee of Nine process and should have had a place at the table.

MOTION: Commissioner Williamson motioned to grant 5 more minutes of testimony to Mr. Mark Hilty, seconded by Commissioner Amarel. Voice vote, motion carried.

Mr. Hilty said that by not being included in the Committee of Nine, they lost the opportunity to resolve the conflict before it arose. The County would have been better served by talking to Middleton during the process to determine if there was area in Canyon County for the City of Star because of their annexations. Because Middleton was never included in the process, he felt the Commissioners should recommend denial. He referenced the arguments in Mr. Meyer's letter. The litigation involves the Area of City Impact and A annexations. The problem is when a property owner, most often a developer, owns property in one Area of City Impact and wants to annex into another city. Impact areas are important and are the basis of urban planning and ordered growth. If we let developers decide which jurisdiction to go into, a problem is created for the city who is relying on that impact area for their future planning, especially when there is a city like the City of Star who is serious about rapid growth. Star has a higher density growth format and that is creating a conflict between the two cities. Mr. Hilty stressed that once those areas of city impact have been established, they cannot be changed without the consent of both parties and the County has not approached Middleton about doing that. He also felt that Star Sewer and Water District has engaged in planning and construction that did not respect Middleton's Area of City Impact. While the Area of City Impact process is between the City of Star and the County, there is nothing in the statute that precludes the City of Star working with Middleton when it started. The nature of the litigation was that the City of Star felt that A Annexations permitted them to annex that area into their city and the City of Middleton doesn't believe that A Annexations allow you to annex into another city's impact area. If we let individual cities and developers decide where the boundaries are, it puts the whole purpose and intent of having an area of city impact on its head. Middleton is seeking a declaratory judgement stating the category A annexation does not allow one city to reach over into another's impact area. At this point, Middleton does not see a need to change its Area of Impact boundary.

MOTION: Commissioner Sturgill asked if there was any objection to adding exhibits 11 & 12 into the record. No opposition.

Eileen Vanderpool – In Opposition – 6177 Somerset Lane Star ID 83669

Ms. Vanderpool is frustrated with the lack of planning by Star. She is primarily concerned with the roads: they have allowed houses to be built too close to the road. They encroach onto Can-Ada Road, a major north/south road to Highway 84. They are allowing major development and lots of houses to be built too

close to a two-lane road. As a result of two major subdivisions going in, that road is overwhelmed already. Some of the houses on the Canyon County side are so close to the road, if they needed to expand the road, they would have to buy out those homes. There is no excuse for the Ada County side not to have anticipated that that was a two-lane road and it would need to be expanded; neither Ada nor Canyon County should be forced to have to buy out houses to expand the road. It's poor planning. She agrees with Mr. Burton; Canyon County should have the right to have its Comp plan supersede whatever Star's Comp plan is. She also agrees with Mr. Hilti in that development should not be able to come in and change Comp plans. The property owners are really the ones who are poorly represented in meetings. She is speaking of the rights of the property owners who choose to farm and those Canyon County residents who shouldn't have their rights stepped on by a City who has decided to step over into a different county. The Canyon County Comp plan should trump any plans the City may have.

Rosalyn Studarus – In Opposition – 6474 Foothill Rd Star ID 83669

Ms. Studarus would vote against this amendment. When they moved here 10 years ago, they carefully chose Canyon County. She shops in Middleton and avoids going farther east because of the traffic and time involved. She may represent a number of people who may not have been aware of this meeting because everybody is complaining about the growth. Canyon County Supervisors have been very good to them. They have listened to them; they have come out to Blessinger Road to look at some of the problems they have out there and answered the questions residents have had. The County Commissioners have helped them and she implores the Commissioners, don't give up on them now. Ms. Studarus feels that if they are in the impact area, it would feel like taxation without representation. If they went to a meeting in Star, she felt you weren't heard unless you were a developer.

Mark Cron – In Opposition – 6808 Saddleman Ranch Ct. Star ID 83663

For the record, Mr. Cron said he is against Star expanding into unincorporated Canyon County as are most of his neighbors. He and his neighbors moved there to live in a rural community and not in or surrounded by tightly packed subdivisions. Has been to multiple Star City Council meetings to express his objections to the many annexations and expansions into rural Canyon County and when he would speak, he would get interrupted and asked 'Where were you in 2018 when we were working on our Comprehensive Plan?' He and his neighbors never saw or received any of those postcards. He thought maybe the postcards went to only City of Star residents and not the residents in the proposed area of impact. He asked if Canyon County received any of those postcards? He did not receive any of the Comprehensive Plan meeting notices even though they would affect him and now he is fighting after the fact. He feels like he has had no representation on what is happening around him until now and he is hopeful this meeting changes that. The Commissioners have asked a lot of the same questions he has had over the past year. He asked the City of Star in meetings about the infrastructure; roads, water, sewer and where are the new kids going to go to school. The answer has always been 'that's not our department' or 'that's in the development phase now'. He feels that the infrastructure should be first in a Comprehensive Plan so it doesn't put strain on the people currently living there.

MOTION: Commissioner Nevill motioned to grant 2 more minutes of testimony to Mr. Mark Cron, seconded by Commissioner Williamson. Voice vote, motion carried.

Mr. Cron doesn't see any new infrastructure. He said they are expanding so fast that the other entities can't catch up. His subdivision can't annex because they are all at least five acres and they are on a small two-lane road but they are allowing all this growth around them. There is a 300 house subdivision going in at the end of their little road and he doesn't see any chance that road is going to be expanded. Mr. Cron isn't against growth but he is against city density development in a rural area like the city is doing. The developers know that in unincorporated Canyon County there is a one house per two acres or one house

per five acres rural housing code. The developers will offer to buy farmers' land with the agreement that it will be annexed into the City of Star. Development should be slow and steady, like the City of Middleton, to let the infrastructure catch up. He has not gotten any details on the buffer zone; he has not seen any specifications on what that buffer zone is.

Albert Dauver – In Opposition – 22020 Blessinger Rd Star ID 83669

Mr. Dauver's south boundary is on the edge of the 300 home subdivision. The plot map has a house every 60 feet down the south side of his property. They have zero lot lines. Mr. Dauver asked, does that sound like a rural subdivision to them? Sounds like apartment living to Mr. Dauver. They are out there digging big holes for lakes right now and completely cleared off all the big trees they were supposed to leave. The canal is 19 feet wide; how are you going to run 600 cars up and down that road on a 19 feet wide culvert? He thinks the City of Star and the development in that area is building another Highway 55; a death road. The street is narrow with a little turn off. Mr. Dauver stated to see what they want to do, he said just look at what they did before Can-Ada Rd. Instead of making a turn off for people going down Can-Ada, they dead ended it about 500 feet short. Mr. Dauver thinks that tells you what the City of Star is; he thinks the City will tell you anything. When asked, Mr. Dauver could not cite any examples of the City of Star adopting any concerns or recommendations from him or his neighbors.

Trace Leighton – In Opposition – 21270 Trigger Ranch Star ID 83669

Mr. Leighton bought his property in 2014 with the intention of developing some of it. He followed the County Comp Plan; he developed one home per two acres which is what was legal then. He is not anti-development but he is definitely 'controlled development'. Regarding the third line item, "Reasonably expected": that is out the window because Star has been annexing in to Canyon County for so long now. Any property developed over there is expected to go into Star because they have already established roots over there. Mr. Leighton believes the only other city who crosses county lines is Chubbuck and Twin Falls County. It happened because the Snake River divided the part of the county Chubbuck was in and Chubbuck couldn't service the utilities across the river so they made an agreement with Twin Falls to annex that part. He feels part of the problem is that Star created their Comp Plan before they created their Area of Impact. Mr. Leighton feels their Comp Plan is junk because by state law they didn't have an agreement with Canyon County to create an Area of City Impact by which they could create a Comp Plan.

MOTION: Commissioner Williamson motioned to grant 5 more minutes of testimony to Mr. Trace Leighton, seconded by Commissioner Sheets. Voice vote, motion carried.

Mr. Leighton was never notified of any meetings for Star's Comp Plan and he owns eight different parcels. He is pretty sure the agreement that former Councilman Keyes mentioned with the Canyon County Sheriff's Department just happened at the end of last year. Regarding the buffer zones; he asked, when he saw what they were doing with building the new Star City line which comes right up to his eastern property line, he asked Sean from Star, how he could get a buffer zone on his eastern side. Sean explained the process but when the information didn't arrive, Mr. Leighton called again and was told that since his property was removed from the Area of Impact, the buffer zone doesn't apply and he wouldn't be getting a buffer zone next to his property. Mr. Leighton was required to put in a left turn lane on Highway 44 for the 17 lots he developed on his property. He was wondering why Star or the Ada County Highway District did not require any kind of turn lane on Can-Ada Road. There have been some serious accidents at that road. Mr. Leighton said that Middleton Sewer and Water is on the west side of Kingsbury; one mile north of Highway 44. They are within 'crossing a road' of where Star wants to bring their sewer and water. He also believes that the city-owned sewer and water district has put in a major amount of dollars in their systems to handle all the land in their area of impact and now they are out all that money? Mr. Leighton asked, are you are going to just take hundreds of acres from them? He also

feels that the County is being fiscally irresponsible; burning tax dollars by considering this now before the lawsuit between Star and Middleton is decided by a judge. "When" Middleton wins, how is the County going to undo all this stuff? He was never asked to annex in because he thinks they knew he would never agree to it.

Commissioner Sturgill suggested a 10 minute break to read some of the exhibits they were given. Break was taken.

REBUTTAL:

Trevor Chadwick – Applicant in Favor – 9705 West Compton Court Star ID 83669

Mr. Chadwick said the committee of nine was at the request of the County. All three County Commissioners met with the City and then invoked the 30-day rule to create the committee. In May, they created the Committee of Nine which meant they had 180 days to create the Area of City Impact. Mr. Chadwick stated that he and Mayor Rule from Middleton met in early spring in the City of Middleton to discuss the areas of impact. They did some drives together and had discussions about city boundaries. Star actually pulled their Comprehensive Plan back from where it initially was. Mayor Rule was there and provided testimony at two of the Committee of Nine meetings. Mr. Chadwick stated that Star is not "stack and pack" mentality any more; he has pushed developers to reduce the density of their projects. City of Star likes to provide open space.

MOTION: Commissioner Williamson motioned to grant 5 more minutes of testimony to Mr. Trevor Chadwick, seconded by Commissioner Sheets. Voice vote, motion carried.

Mr. Chadwick stated the City of Star has done a lot of planning for their community and also has come up with some interesting and unique ideas to get some of the transportation ideas funded. They created a proportionate share agreement to help collect funds from developments to help fund State Highway systems through the City of Star. They have collected almost \$2 million, which will help fund widening an unfunded portion of Highway 44 which wouldn't have been widened for years. He stated there are two other cities that cross county lines; the City of Burley in Cassia County and Fort Hall by Pocatello. Mr. Chadwick was contacted by some citizens above Blessinger Road who were having problems with a developer and he helped them even though he didn't represent them as an elected official, so he is all about representation. Mr. Chadwick explained his buffering areas: it is all in their planning documents. They try to do half acre to one acre lots or 100 foot buffer. He also explained they have had agreements in place with Canyon County Prosecutor's office since 2009. They have a new agreement now. He is a firm believer in private property rights; as long as he is mayor, he won't do a B or C annexation as he doesn't believe in forced annexations. He stated Idaho has been discovered; Star doesn't wish to grow as fast as they are but they have been discovered. There are easements on all the roads to allow them to grow. He explained what a buffer area is and stated they are very conscientious about open space.

Chairman Sturgill suggested that they finish reading the late exhibits prior to closing public testimony.

MOTION: Commissioner Nevill moved to take a 10 minute recess to read the late exhibits, seconded by Commissioner Williamson. Voice vote, motion carried.

MOTION: Commissioner Sheets moved to close public testimony on Case OR2021-0029 seconded by Commissioner Williamson. Voice vote, motion carried.

MOTION: Commissioner Sheets moved to deny Case OR2021-0031 and direct staff to provide revised Findings of Facts, Conclusions of Law and Conditions of Approval and bring them back to the February 3rd, 2022 Planning and Zoning Commission Hearing. Motion seconded by Commissioner Amarel. Roll call vote: 5 in favor 0 opposed, motion passes.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Sheets. Voice vote motion carried. Hearing adjourned at 10:40 pm.

Approved this 17th day of February, 2022



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary