

0362154

Instrument # 362154

STATE OF IDAHO, PAYETTE COUNTY
8-21-2009 10:03:00 No. of Pages: 4
Recorded for : CITY OF PAYETTE
BETTY J DRESSEN Fee: 0.00
Ex-Officio Recorder Deputy *Christina Hysell*
Index to: ORDINANCE - MISC

ORDINANCE NO. 1306

AN ORDINANCE DE-ANNEXING CERTAIN PROPERTY GENERALLY LOCATED NORTH OF CENTER AVENUE, EAST OF IOWA AVENUE, WEST OF PAYETTE HEIGHTS ROAD AND SOUTH OF SEVENTH AVENUE NORTH, WHICH PROPERTY IS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", ALL SITUATED IN PAYETTE COUNTY, IDAHO, AND ADJACENT AND CONTIGUOUS TO THE CORPORATE CITY LIMITS; MAKING CERTAIN FINDINGS IN THE OFFICIAL MINUTES OF THE CITY CLERK; PROVIDING THAT COPIES OF THIS ORDINANCE SHALL BE FILED WITH THE PAYETTE COUNTY ASSESSOR, THE PAYETTE COUNTY RECORDER, AND THE IDAHO STATE TAX COMMISSION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION BY SUMMARY.

WHEREAS, the City of Payette annexed certain real property pursuant to Idaho Code § 50-225; and,

WHEREAS, the property owner requested that the property be de-annexed because the adjoining property did not develop; and

WHEREAS, the Payette Planning & Zoning Commission, pursuant to public notice, held a public hearing on May 28, 2009 and recommended to the Mayor and Council that the proposed de-annexation be approved; and,

WHEREAS, the Payette City Council, pursuant to public notice, held a public hearing, on July 6, 2009, on the proposed de-annexation for the property described in Exhibit A, as required by Idaho Code § 50-225 and Idaho Code §67-6525.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PAYETTE, IDAHO:

Section 1. The lands and territory situated in Payette County, Idaho, particularly described in "Exhibit A" which is attached hereto is hereby de-annexed for a period of five years or until such time when any development is within 150 feet of said property.

Section 3. The City Engineer of the City of Payette is hereby directed to lodge and file with the City Clerk of Payette within ten (10) days after passage and approval hereof, a legal description and map prepared in a draftsman like manner which shall plainly and clearly designate the boundaries of the lands and territory de-annexed, pursuant to the provisions of Section 1.

Section 4. The City Council having considered the oral comments of the property owner whose land would be de-annexed and other affected persons, makes the following express findings:

The proposed described property in Exhibit "A" should be de-annexed and subject to the same exclusionary period as similarly surrounded properties.

The City Council directs the City Clerk to set forth said findings in the minutes of the City Council meeting at which the de-annexation is approved.

Section 5. The City Clerk is hereby directed to alter all use and area maps as well as the official zoning maps, comprehensive plan and all official maps depicting the boundaries of the City of Payette, in accordance with this ordinance.

Section 6. The City Clerk of the City of Payette is hereby directed to file, within (10) days after the passage and approval hereof, a certified copy of this Ordinance with the Payette County Assessor, County Recorder and County Treasurer of Payette County, Idaho, and the State Tax Commission of Idaho, and to file a copy of said legal description and map, as prepared and lodged with her by the City Engineer, with the County Assessor and County Recorder of Payette County, Idaho, and the State Tax Commission of Idaho, all as provided by Idaho Code § 50-223 and § 63-2215.

0362154

EXHIBIT "A"

The N1/2E1/2E1/2SW1/4NE1/4 of Section 35, Township 9 North, Range 5 West, Boise Meridian, Payette County Idaho.

Together with an easement for ingress & egress over the following described parcel of land located in the S1/2E1/2E1/2SW1/4NE1/4 of Section 35, Township 9 North, Range 5 West.

Commencing at the SE corner of SW1/4NE1/4 of said Section 35;

Thence S°89°43'40" W a distance of 20 feet;

Thence N 00°09'49" W a distance of 500.00 feet to a point;

Thence N 89°51'30" W a distance of 10.00 feet;

Thence N 00° 0'45" W a distance of 154.5 feet to a point on the North line of the S1/2E1/2E1/2SW1/4NE1/4;

Thence N 89°51'30" E a distance of 30.00 feet;

Thence S 00°09'49" E a distance of 654.50 feet to the point of beginning.

Ordinance 1275

11

01

*From: 11
To: 01*

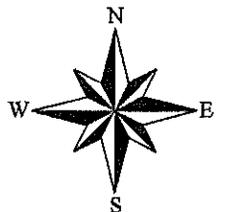
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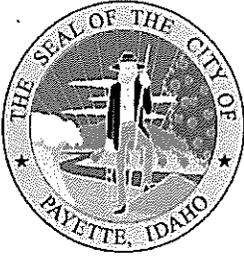
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**Payette County
City of Payette
Ordinance 1275, 4/16/07
Sec 35 T9N R5W BM**

Legend

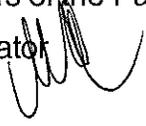
-  1275
-  Tax Code Area





CITY OF PAYETTE, IDAHO

AGENDA STATEMENT

To: Honorable Mayor & Members of the Payette City Council
From: Mary Cordova, City Coordinator 
Date: 7/3/2009
Re: Gerald & Jane Young De-Annexation

BACKGROUND & JUSTIFICATION:

A petition for de-annexation was received from Gerald & Jane Young in order to de-annex 4.95 acres of property located on the north side of Center Avenue between Iowa and Payette Heights Road. The property address is 2875 Center Avenue. The applicant seeks to

This item was heard at the May 28, 2009 Planning Commission meeting. No one was present to speak against the de-annexation. Gerald & Jane Young, Aaron Sobers, and Kathy Bear all spoke in favor of the de-annexation.

The Planning and Zoning Commission unanimously voted in favor of the de-annexation upon the same terms of the other two properties which were not annexed in the original annexation procedure, (5 years or development within 500' of the property, whichever comes first).

FISCAL IMPACT:

The Young's taxes have increased from 1363.18 to 2916.06 as a result of annexation, or approximately \$1500 per year.

RECOMMENDATION:

It is not in the best interest of the City to de-annex a property once it comes in to the City. However, this annexation clearly proceeded upon the assumption that Gold Ridge Estates would have up to thirty houses constructed by today, which would have brought construction within 500' of the Young's property.

Prior to a decision on de-annexation, it would be prudent to ask for a letter from Payette County consenting to the de-annexation as the property will fall within the jurisdiction of Payette County for the next three years.

RECEIVED

APR 30 2009

CITY OF PAYETTE

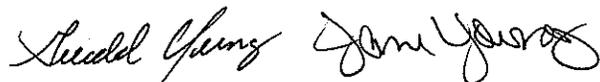
To: Council Members - City of Payette
Re: Deannexation of Property - 2875 Center Ave, Payette, Id. 4.95 acres, back of property borders Payette
County

April 30, 2009

Since the annexation of our property, there has been no progress, no development, lack of developer, Gene Lancaster to keep his property according to city codes. Our taxes have increased from \$1363.18 to \$2916.06, forced by city codes to take a garbage service and what else will we be forced to follow. What has been done to justify our burden of expenses? Two property owners were excluded two years ago, because they own business I guess because no logical reason was given at the time, but we are retired people so there is a discrimination. We did have a clean up problem with brush, etc when we county but the difference in taxes, etc we can do the work we are doing now and not pay the price.

The annexation 18.01.05 section H, K, & L should be reviewed. Section N was certainly follow to the code. If we are denied deannexation please notify us of all reasons and when we can expect the developer to comply to city codes and try not to give him more excuses. A few swipes along Center Ave with a tractor is insufficient as Gene Lancaster knew the condition of property he annexed now what reason is there lack of funds (which should have been established prior to annexation) or an "I don't care" attitude. This project was not fesible two years ago and question if it ever will be.

Also annexation code 18.01.090 (c) yes this has been a negative fiscal impact on us and (d) the development proposal does differ there has not been a development option of deannexation.



Gerald & Jane Young, 2875 Center Ave, Payette, Id 83661

**MINUTES OF A REGULAR CITY OF PAYETTE PLANNING AND ZONING MEETING
HELD MAY 28, 2009, AT 6:00 P.M. IN CITY HALL, 700 CENTER AVENUE,
PAYETTE, IDAHO.**

THE MEETING WAS CALLED TO ORDER BY COMMISSIONER JIM FRANKLIN.

MEMBERS PRESENT: Tom Ladley, Kevin Hanigan, Brent King, Larry Hogg and Jim Franklin were present, with Randy Choate and Matt Keith being absent.

APPROVAL OF MINUTES: Commissioner Hanigan made a motion to approve the minutes of April 23, 2009, as written. The motion was seconded by Commissioner Ladley and passed by unanimous voice vote.

COMMUNICATIONS - None

PUBLIC HEARINGS

- A. An application Garry & Janet Toth for a Conditional Use Permit to build a garage with maximum height of 15'6" on property at 340 S. 16th Street, Payette Krug, Lot 1 & N. 26.25' of Lot 2, less E. 12 ½' of Block 1. The property is zoned C-Commercial.

Garry Toth, 340 South 16th Street, addressed the Commission. He wants to build a shop and needs a permit due to the peak being 15'6" in height. His building is under the 400 sq ft building requirement and he can meet all the setbacks. He stated that Burger King's sign is taller than his request as is all his neighbor's buildings. Mr. Toth stated that his building would be in line with the neighborhood. He is requesting the additional height due to wanting to work on his RV if necessary.

No one else addressed the Commission.

- B. An application by Morton Buildings, Inc. on behalf of Bob Simons for a Conditional Use Permit to build a post frame building at 10380 Scotch Pines Road, Section 26-9-5, W. 218.18' of North 290.7' of W1/2 SENW, less W. 30'. The property is zoned A-Residential.

Robert Moss, 1410 Franklin Blvd., Nampa, ID, addressed the Commission. He is building a 24 X 40 post frame constructed building for Bob Simons at 10380 Scotch Pines Road. Mr. Simons was part of the recent annexation and had presented the plans to the County and the County told him he needed to apply to the City. The eve height is 13' and the roof height is just under 16'. Mr. Moss needs a permit for the square footage and height of the building. Mr. Simons has bought a piece of property in Nampa and is moving due to the annexation. He has his property for sale.

No one else addressed the Commission.

- C. An application by Bryan Smallwood for a Conditional Use Permit to build a storage building 14' tall at 806 North 8th Street, Calhoun Subdivision, South 87' of Block 7. The property is zoned B-Residential.

No one addressed the Commission on this permit.

- D. An application by Lancaster Development for a Conditional Use Permit to allow pasturing of 2 horses per acre, 35-9-5, portion of SE1/4NE1/4, W1/2SW1/4NE1/4 & S1/2E1/2E1/2SW1/4NE1/4. The property is zoned B-Residential.

Gene Lancaster, 11428 Scotch Pines Road, addressed the Commission. He is asking for a permit to put horses on his land on Center Avenue that he has plans of putting a subdivision on. He needs to keep the weeds under control for fire control. He has 2 wells on the land. He stated that the horses would be kept on non irrigated pasture from April thru July. He has 76 acres, but no horses would be on the lower portion, just 37 acres on the top. Mr. Lancaster stated that hopefully he will start development on the lower portion. The Commission asked Mr. Lancaster the number of horses he is requesting. He stated that local people have shown interest in the pasture and a New Plymouth man that spoke to him about a stallion set up. Mr. Lancaster said that he had the Fire Chief and Chief of Police out to his property and they told him that having the horses would be better than mowing, because they would eat the weeds down and not just lay them on the ground. If he couldn't get the horses on the pasture to get the weeds down he would have to mow it. He stated that he could have the fences up by next week. He planned on rotating the horses on 3 pastures, but his main concern is getting the weeds under control on the top portion. He stated that 54 horses would not be a problem for 64 acres.

Aaron Sobers, 2055 Center Avenue, addressed the Commission. He is the one that proposed to Mr. Lancaster to put horses on the property. He said that 2 years ago the weeds were 2'-4' tall and at that time Mr. Lancaster promised to take care of the weeds. He has money to take care of the property. Mr. Sobers stated that he spoke to the Fire Chief and was told that mowing was better than having horses on the property. He has no problem with the horses; he just wants the weeds taken care of now, not down the road. Creating fire barriers does not take care of the weed problem. Mr. Sobers stated that he thinks Mr. Lancaster is stalling and doesn't want to spend the money to take care of the problem.

E.J. Bear, 9847 Payette Heights Road, addressed the Commission. He has no problem with the horses as long as no electric fence is installed. He has small children.

Charlie Miller, 2985 Center Avenue, addressed the Commission. He has no problem with the horses, but does have a problem with the weeds.

No one else addressed the Commission.

- E. A request by Gerald & Jane Young to be de-annexed for property at 2875 Center Avenue, 35-9-5, portion of N1/2E1/2E1/2SWNE. The property is zoned B-Residential.

Jane & Gerald Young, 2875 Center Avenue, addressed the Commission. They are asking for de-annexation and a letter was provided from them to the Commission and Mrs. Young stated that would be sufficient for their reasons. She stated that no city codes are being enforced. Their property borders the Lancaster property on 3 sides and County is on the North side. They were forced to take garbage service that they don't need. They own 4.95 acres and their taxes were \$1368 and went to \$2916. The City has done nothing for them. They have complained for 2 years about the weeds and nothing has been done. She stated that it will be another 5 years before anything would be done. She asked why 2 property owners were excluded from annexation for 5 years, but they were not.

Aaron Sobers, 2055 Center Avenue, addressed the Commission. He stated that 2 years ago he was in favor of the annexation due to being told that the lots would be 1-5 acres lots to keep the country atmosphere, he was lied to. When the property was being annexed they were told that water/sewer services would be available within 6 months to 1 year and nothing has happened. He is in favor of the de-annexation and wants the City to put the lots back to 1-5 acres as originally told. He stated that it is cheaper to move back to Nampa than live in Payette. Mr. Sobers stated that realtors Sue Mio & Jeff Williams told them it would be 1-5 acres and showed them plans. Commissioner King stated he is a realtor and he can't tell people what a government agency can do, anything can change. Mr. King said that it sounded like the problem is with the realtors, not the City. Mr. Sobers said his taxes have doubled and he now has to pay for trash.

Kathy Bear, 9847 Payette Heights Road, addressed the Commission. Her property was one that was not annexed. They were told that the subdivision would be done in 5 phases and they were the last phase that is why they did not get annexed. She stated that it is not right that other people were annexed when 2 properties were not.

No one else addressed the Commission.

OLD BUSINESS

1. Conditional Use Permit for Steve Nunes to have residential living units above a commercial building at 15 North Main Street – postponed

Steve Nunes, 5 North Main Street, addressed the Commission. When he started the project his bank gave him the go ahead for the fire suppression and now they have backed out due to wanting more value in the buildings. He would like to finish the 2 apartments above 15 North Main Street. Originally he tied all the fire suppression to the 4 buildings and now would like it separated. He will have detection in the 2 apartments he wants to complete first. He still wants to put the suppression system in eventually. The Commission asked him if he would meet fire code. Mr. Nunes stated that he would have egress with ladders out of the windows.

Mary Cordova, City Clerk, addressed the Commission. She stated that the Commission cannot waiver from building and fire codes. Mr. Nunes's new plans will not meet the codes. She recommends that the Commission denies the permit and then he can appeal to the City Council.

Commission Hanigan made a motion to deny the Conditional Use Permit for Steve Nunes, 15 North Main Street, due to not meeting building and fire codes. The motion was seconded by Commissioner Ladley and passed by unanimous voice vote.

2. Approval of Findings of Fact, Conclusion of Law for annexation request for Piotr & Paul Babichenko

Commission Ladley made a motion to approve the Findings of Fact, Conclusion of Law for an annexation request for Piotr & Pael Babichenko as presented. The motion was seconded by Commissioner King and passed by unanimous voice vote.

3. Approval of Findings of Fact, Conclusion of Law for an annexation request for the City of Payette (Northwest Payette)

Commissioner Hanigan made a motion to approve the Findings of Fact, Conclusion of Law for an annexation request for Northwest Payette as presented. The motion was seconded by Commissioner King and passed by unanimous voice vote.

NEW BUSINESS

- A. An application by Garry & Janet Toth for a Conditional Use Permit to build a garage with maximum height of 15'6" on property at 340 S. 16th Street, Payette Krug, Lot 1 & N. 26.25' of Lot 2, less E. 12 ½' of Block 1. The property is zoned C-Commercial.

Commissioner Hogg made a motion to approve the Conditional Use Permit for Garry & Janet Toth to build a garage with a maximum height of 15'6" on property

at 340 South 16th Street as presented. The motion was seconded by Commissioner Hanigan and passed by unanimous voice vote.

- B. An application by Morton Buildings, Inc. on behalf of Bob Simons for a Conditional Use Permit to build a post frame building at 10380 Scotch Pines Road, Section 26-9-5, W. 218.18' of North 290.7' of W1/2 SENW, less W. 30'. The property is zoned A-Residential.

Commissioner Hanigan stated that he was confused that the owner was not present and he is trying to sell his home. Mary Cordova, City Clerk, informed the commission that construction on the building had already started and then the annexation happened.

Commissioner King made a motion to approve the Conditional Use Permit for Morton Buildings on behalf of Bob Simons to build a post frame building at 10380 Scotch Pines Road, per plans presented. The motion was seconded by Commissioner Ladley and passed by unanimous voice vote.

- C. An application by Bryan Smallwood for a Conditional Use Permit to build a storage building 14' tall at 806 North 8th Street, Calhoun Subdivision, South 87' of Block 7. The property is zoned B-Residential.

Mary Cordova, City Clerk, informed the Commission that Mr. Smallwood has already built his storage building and it is in the setbacks of his property line.

Commissioner Hanigan made a motion to approve the Conditional Use Permit for Bryan Smallwood to build a storage building that is no more than 14' in height at 806 North 8th Street with the stipulations that the building is moved and all setbacks are met. The motion was seconded by Commissioner Ladley and passed by unanimous voice vote.

- D. An application by Lancaster Development for a Conditional Use Permit to allow pasturing of 2 horses per acre, 35-9-5, portion of SE1/4NE1/4, W1/2SW1/4NE1/4 & S1/2E1/2E1/2SW1/4NE1/4. The property is zoned B-Residential.

The Commission discussed that this year the City has received complaints about the weeds and the suggestion that if Mr. Lancaster disked 2 tractor lengths around the property would be sufficient, does not take care of the weed problem. The City has a weed ordinance and the neighbors have complained, so it should be done. Mary Cordova, City Clerk, said to placate everyone, horses were brought up as a possible solution. This Commission does have the authority to say when the horses have to be on the land. A new weed ordinance will be presented at the City Council meeting on Monday. There are a lot of properties in violation of the weed ordinance including the school district which is by the Lancaster property. If the horses did not eat enough Mr. Lancaster would still be

out of compliance. The consensus is that horses would be better than nothing. Electric fences are not allowed in the City limits. There seems to be no concern on the amount of horses, just the weeds. Granting the permit will be a step, but will not solve the problem. The Commission can put time constraints on when the fence must be completed. The Commission stated that the weed problem is outside the scope of the issue for the permit for horses.

Commissioner Hogg made a motion to grant the Conditional Use Permit to allow no more than 54 head of horses on the property with the stipulations that they are only pastured between April 1st and July 31st, the permit expires 2 years from date of issuance and the permit can be revisited upon any complaints. The motion was seconded by Commissioner Hanigan and passed by unanimous voice vote.

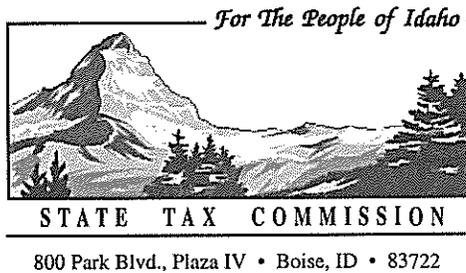
- E. A request by Gerald & Jane Young to be de-annexed for property at 2875 Center Avenue, 35-9-5, portion of N1/2E1/2E1/2SWNE. The property is zoned B-Residential.

The Commission discussed that when the property was annexed we had recommended approval on the Lancaster property being developed. The Commission did not exclude any property; the City Council decided to delay the 2 properties for annexation. Nothing has happened with the property being developed; the economy has had an effect on it being developed. It makes sense to offer the Young's the same offer that the Miller's & Bear's received. The City Council is still the one that decides what happens. Mary Cordova, City Clerk, stated that the Planning & Zoning adopted the Facts and Findings of annexation based on what was presented at the time. The Commission can recommend alternatives to the City Council. De-annexation does make sense, but offer them the same as the other 2 properties that were not annexed.

Commissioner Hanigan made a motion to recommend to the City Council to approve the request from Gerald & Jane Young at 2875 Center Avenue to be de-annexed until 5 years or development of 500' within their property, which ever comes first. Commissioner Ladley seconded the motion and it passed with unanimous voice vote.

There being no further business, the meeting adjourned at 7:15 P.M.

Recording Secretary
Bobbie Black



September 9, 2009

Mary Cordova
Payette City Clerk
700 Center Ave.
Payette, ID 83661

Subject: Ordinance No. 1306 PAYETTE (CITY)

Dear Ms. Cordova:

The Idaho State Tax Commission (ISTC) received the documentation that was provided for the de-annexation of real property in PAYETTE (CITY), for tax year 2010. We approve the map and legal description; however this approval is limited to the acknowledgement that the map and legal description meet the requirements of Section 63-215 Idaho Code, and Idaho State Tax Commission Rule 225.

Please review the documentation for accuracy and **respond** in a timely manner or it may be too late to make corrections. Please respond if the attached documentation is correct or if there are issues. You can contact me by email at gis@tax.idaho.gov or by phone at 208-334-7750. Thank you for your cooperation.

Find current year information (2010) about taxing district change requests at the Current Status Web page.

Visit http://tax.idaho.gov/propertytax/GIStca_status.cfm

Sincerely,

Craig Johnson
GIS Analyst
Technical Support Bureau
Idaho State Tax Commission

ID_yr080 - Annexations -- List of Changes

Idaho State Tax Commission

Run Date: 9/24/2009 11:23 AM

Effective 01/01/2010

COUNTY: 38 - PAYETTE**Districts Created****Districts Dissolved**

<u>To TCA#</u>	<u>Map Change</u>	<u>From TCA#</u>	<u>Map</u>	<u>Location</u>	<u>Dist. Chg</u>	<u>District</u>	<u>Action</u>	<u>Document</u>
03-0000	Enlarge	31-0000	FRUITLAND	SEC 10,14,15,16,22,23,27 T8N R3W BM		FRUITLAND (CITY)	Annexation	506
03-0000	Enlarge	03-0002	FRUITLAND			FRUITLAND (CITY)	Annexation	506
32-0000	Enlarge	03-0001	FRUITLAND			FRUITLAND (CITY)	Annexation	506
11-0000	Enlarge	01-0000	PAYETTE	SEC 35 T9N R5W BM		PAYETTE (CITY)	De-Annexation	1306
01-0000	Enlarge	11-0000	PAYETTE CITY	SEC 26 T9N R5W BM		PAYETTE (CITY)	Annexation	1303

