



## Valley County Planning & Zoning Commission

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Todd Hatfield, Chairman  
Harry Stathis, Vice-Chairman

Ed Allen, Commissioner  
Mike Diem, Commissioner  
Gerald Patterson, Commissioner

### VALLEY COUNTY PLANNING AND ZONING MEETING MINUTES

**DATE:** April 3, 2008

**TIME:** 6:20 to 9:40

**LOCATION:** American Legion Hall, Cascade, Idaho

**ATTENDANCE:** Commissioner present: Chairman Todd Hatfield, Harry Stathis, Gerald Patterson, Mike Diem and Ed Allen. Staff members present: Cynda Herrick, AICP, Planning and Zoning Administrator and Paula Amundson, Planning and Zoning Administrative Assistant.

The meeting was called to order by Chairman Hatfield at 6:00 p.m.

#### A. Special Meeting

**1. Proposed 4.06 Scenic Byway Overlay District:** The proposed amendment will add Section 4.06 Scenic Byway Overlay District to the Valley County Land Use and Development Ordinance (LUDO). The scenic byway overlay district boundary runs along Highway 55 through Valley County, excepting the cities of Cascade, Donnelly and McCall. It is the intent of this overlay district to accomplish protection of views by regulating land uses along the byway. The overlay will prohibit all non-residential uses in the 1000' wide area along Highway 55, with exceptions for Lake Fork, Smith's Ferry, Clear Creek, and grandfathered businesses.

Chairman Hatfield announced the item and said that due to the large turnout, that tonight they would hear all public testimony and the meeting would be continued to next Thursday, April 10, 2008 at 6:00 p.m. in the Valley County Courthouse.

Chairman Hatfield asked for the Staff Report.

Staff presented the Staff report. Since that Staff Report had been completed additional correspondence had been received and was read into the record as follows:

That evening Staff received letters from:

- Jo-Anne Zimmer and Peggy Arp – property owners at 13911 State Highway 55, McCall (Exhibit 1) - opposed

- Jean Zimmer – Lake Fork (Exhibit 2) – opposed

The additional correspondence received since Staff Report was completed was as follows:

**Proponents** (Exhibit 3):

- McPaws Regional Animal Shelter – 831 S. 3<sup>rd</sup> Street, McCall, ID
- Larry Shake – 1612 S. Samson Trail, McCall
- David Miller – 287 Rio Vista Blvd., McCall
- Melinda Nielsen – 1004 Evergreen Drive, McCall
- Rod Nielsen – 1004 Evergreen Drive, McCall
- James & Gail Tucker – 201 W. Cascade St., Cascade
- Cutler Umbach - 2380 Sharlie Lane, McCall – **2 e-mails**
- Ann Edwards – P.O. Box 176, McCall
- Jim Arp – 1704 Pine Circle, McCall
- Marilyn Arp – P.O. Box 228, McCall
- Robert Youde – 1210 S. Samson Trail, McCall
- Chris Randolph & Linda Dressler – 2784 Marchall Lake Drive, Oakton, VA
- Jackie J. Turnipseed-Aymon – 1311 Ponderosa St., McCall
- Charles & Joyce Clarke – P.O. Box 1966, McCall
- Joy Hamilton – P.O. Box 2064, McCall
- Evelyn Strawn – P.O. box 1199, Plymouth, MA
- Kimberly Apperson – 415 S. Samson Trail, McCall
- Tim & Mary Hart – 301 Finn Church Lane, McCall
- Janet Houlihan, Long Valley Veterinary Clinic
- Darice Ratliff, 100 Pearson Lane, McCall
- Timothy Ratliff, 100 Pearson Lane, McCall
- Kathy Deinhardt Hill, 14068 Pioneer Road, McCall
- Benjamin & Valerie Cabel, 14009 Easy Street, McCall
- Patricia M. Olsson, 15 Canyon Trail, Boise
- John & Kris Hauck, 37 Ilka Lane, McCall
- Debra K. Ellers, P.O. Box 1030, McCall
- Heather Friedrichs, 44 Rogers Lane, McCall
- Jim & Alex Jones, 84 Elk Haven Way, McCall
- Marilyn Olson, 890 Timber Ridge Ct., McCall
- George W. Dorris, 1163 Eld Lane, Donnelly

**Opponents** (Exhibit 4):

- Gary Swain – 13675 Farm to Market, McCall
- Joel & Christine Droulard – 13848 Highway 55, McCall, ID
- Wes Rhoades – 1384 Eagle Drive, McCall, ID
- Wylie & Jan Griffith – 13734 Highway 55, McCall, ID
- Rod & Melanie Skiftun – 13784 Highway 55, McCall, ID
- Kay E. Jones – 13 East Lake Fork Road, McCall
- Jennifer Newcomb – Elo Road, McCall
- Kenneth Allard – 13526 Highway 55, McCall

- Tyan Colenbaugh Traxel, Kim Colenbaugh, Lisa Colenbaugh Pirnie – 9168 Genesis Ln SE, Port Orchard, WA
- Jeffrey Lappin & Joice Eld, P.O. Box 1448, McCall
- Jim Jones, 13302 Highway 55, Lake Fork
- Derek Jones, 13805 Highway 55, Lake Fork
- Mike Voris, P.O. Box 432, Donnelly, ID 83615
- Kelly & Anna Clark, P.O. Box 1832, McCall

Staff gave a short synopsis of what the Scenic Byway Overlay District encompassed due to the fact that it was available on Valley County's website and at Valley County's Planning and Zoning office. One clarification that needed to be placed in the ordinance was that this does not overlay the McCall Impact Area. The ordinance applied only to unincorporated areas outside the cities and outside the McCall Impact Area.

Chairman Hatfield asked if the McCall Impact Area had been expanded since the City of McCall had adopted a revised comprehensive plan with an expanded impact area. Staff stated that the McCall Impact Area was still the same as it has been for years. During their recent comprehensive plan process the Board of County Commissioners did not look at an expansion of that area.

Chairman Hatfield stated at this time they would hear from the proponents.

Janet Houlihan, 13712 Highway 55, McCall, stated she was a business owner along Highway 55 and her veterinary clinic would be considered a noncompliant use. She fully supported this ordinance. Very concerned with the visual corridor and the scenic beauty it provided for tourists. The State of Idaho has designated Highway 55 as a scenic byway and it needed to be kept that way.

Bill Houlihan, 13712 Highway 55, McCall, stated that he has lived in Valley County for eight years and has seen a dramatic change in the landscape. He gave an example of Cleveland Avenue in Caldwell and that we must not allow scenic Highway 55 to become such an ugly testimony to the concept that says it is my property and I can do whatever I want with it. The future of Valley County can only be secured through a long term vision that balanced the needs of economic growth and scenic beauty.

Ed Elliott, 1840 Warren Wagon, McCall, stated he was born and raised in Idaho. He owned several businesses in McCall. The two greatest assets that we have in Valley County are the scenic beauty and quality of life. Both are diminished if we do not take steps to preserve Highway 55 scenic corridor. The right thing to do is to approve this ordinance. It is naïve of us to think that what has happened to Fairview Avenue cannot happen here. It can and it will.

Lana Marie Bear, 119 Skidoo Place, Cascade, said she would like to see the Commission address the messes along the highway. Outside of Cascade by the Hasbrouck farm there is property that is full of cars, busses, and trucks and junk. She stated there are still homes that have not put up siding that can be seen plainly from the highway. We need to clean up the messes from the last hundred years and clean up our scenic byway.

Alana Shoemaker, 461 Smitty Avenue, McCall, said she has lived here all her life. She stated that maybe the proposed ordinance may not be the best, but something needs to be done. Does have empathy with the landowners, but she has seen in the last 20 years that people with lots of money and lawyers do whatever they want.

Claudia Delaney, 1303 Mill Road, McCall, commended the committee and Valley County for working on this ordinance. She strongly supported this ordinance that will protect our unique resources and property values.

Claire Remsberg, 14003 Comfort Road, McCall, said he agreed with the other proponents to adopt this ordinance. She was concerned with safety issues along the highway and should have entrances and exits to and from the highway grouped and not every 100 yards.

Steven Padgitt, 2250 Highway 55, McCall, stated he was a proponent of individuals having rights to their property. But it is important that you protect the right of the county and the rights of those that come to visit. You need to mandate and control who does what on the property on each side of Highway 55.

Tim Ratliff, 100 Pearson Lane, McCall, said he agreed with the ordinance.

Curt Mack, 230 Buckcamp Lane, McCall, said that the scenic views need to be protected and safety issues along Highway 55 with traffic congestion and accesses on and off the highway needs to be addressed, which the ordinance has. He thought the committee had struck a balance between property rights and protection of our scenic values. Believed the proposal has room for modifications, but it is a good start for protecting our scenic byway.

David Miller, 287 Rio Vista, McCall, thought the ordinance made a lot of sense environmentally and economically. The number one reason that brings tourists to an area was natural beauty and this ordinance will preserve the beauty of Valley County.

Liz Warner, 156 Carefree Lane, McCall said she had previously sent in written testimony. She just wanted to say to please support the scenic byway overlay. Also believed there would be a safety issue with the access on and off the highway with all the commercial development up and down the highway.

Denise Novolselski, 175 Pearson Lane, McCall, said she believed the ordinance should be adopted because a tool was needed to guide the future of the valley. She thought there were some misconceptions about the ordinance regarding property rights. She hoped that after their considering what the proponents and opponents had to say, that they would also consider what may or may not be correct about the ordinance.

Tim Novolselski, 175 Pearson Lane, McCall, agreed totally with previous speaker and everyone before that. Thought the ordinance was long overdue. He stated that there needs to be a clearer definition of nonconforming uses means.

Marilyn Olson, 890 Timber Ridge Court, McCall, stated she thought the ordinance balanced private property rights with the protection of our scenic resources. Land use issues and the scenic corridor should be a top priority now and not when it looks like State Street going into

Boise.

Linda Corder, 903 Buckboard Way, McCall, said she thought the ordinance was comprehensive, well-thought out and reasonable. There are already businesses along the corridor that detract from the scenic value of the valley. The Valley County Comprehensive Plan alone has not been able to protect the scenic value.

Earl Dodd, 903 Buckboard Way, McCall, said he has been a resident of the county over 50 years. He said that the ordinance was needed to protect our quality of life and scenic byway.

Margaret McDaniel, 113 Carefree Lane, McCall, stated she concurred with the previous speakers and urged that the ordinance be adopted.

Susan Bechdel, 11401 N. State Highway 55, stated she had submitted a letter previously and just wanted to say she supported the ordinance and hoped they would to.

Norm Garrison, 1414 Stone Lane, McCall said he supported the ordinance.

Kim Apperson, 415 S. Samson Trail, McCall, said she agreed with everyone that preceded her and their comments. She thought it made sense to focus and promote development in certain areas. This would help economically those commercial nodes by concentrating commerce in those areas.

Larry Shake, 1612 S. Samson Trail, McCall, said he supported the ordinance. The ordinance can be a starting point for a better plan. The definition for how existing businesses are able to succeed and grow in nonconforming nodes needed to be clarified. It is very important to save the scenic byway for our community. It needed to be free flowing and attractive. He believed the comprehensive plan did not protect our highway.

Judy Linman, 12900 Mesa Court, Donnelly, said she was in favor of adopting the proposed ordinance. There was a need to preserve the scenic value of the highway and the commercial nodes made sense. The cities will benefit from the economic growth. With less urban sprawl there will be less infrastructure costs spreading it out.

Diane Mack, 230 Buckcamp Lane, McCall, said she fully supported the ordinance and its intent to balance growth with scenic and natural resource values. The ordinance created a clear framework for land use decisions. She thanked the Scenic Byway Committee for their solution to a complicated issue and encouraged the Commission to support their efforts. Hoped it wouldn't have to be all or nothing and the ordinance could be amended so that the intent of what it was trying to do would remain.

Mike Medberry, 108 Finn Church Lane, McCall, said he was strongly in favor of the ordinance. He stated the Lake Fork village had been badly developed. He will submit a letter with how this can be addressed and hope they would respond.

Dennis Marguet, 1289 Wickham Way, Cascade, said he had a couple of questions. He asked if the ordinance applied to McCall city limits or to the McCall Impact Area. Staff stated it was outside the McCall Impact Area. He also wanted to know what property rights meant.

Chairman Hatfield stated that chapter three in the Valley County Comprehensive Plan talked about private property rights and read the definition.

Mr. Marguet stated that there was a lot of misinformation out there. He thought the ordinance should be approved with an amendment that allowed current businesses that are in the impact area that will allow them to grow. He said we should protect the property rights of all and not for just one.

James Egnew, 73 Rogers Lane, McCall, said he supported the ordinance and it was very much needed in this county. There have been businesses allowed or modified in his immediate area that shouldn't been allowed. The conditional use permit requirements have not been enforced and he felt it has affected his property values. He thought this was a good start and zoning would be a good way to go.

Harry Adams, 10973 Highway 55, Cascade, said he owns two miles of highway frontage and was impacted by this ordinance. He thought the scenic values needed to be protected. He felt this protected and enhanced his property rights. He agreed that there needed to be clarification for existing businesses, because the current interpretation could put those businesses out of business.

Chairman Hatfield asked for the undecided.

Michael Truxel, 13752 Highway 55, McCall, said he thought there are definite enforcement issues. He said there are laws and ordinances on the books about nuisances, debris and trash and are they being enforced. He wondered if this would be another ordinance that doesn't have the teeth to be enforced.

Chairman Allen asked for proponents.

Gary Swain, 13675 Farm to Market Road, McCall, submitted signed petitions with 393 signatures against this draft ordinance (Exhibit 5). He was representing a group called Valley County Residents for Responsible Growth. He stated that this draft ordinance cannot be changed or tweaked into acceptance, because it would fail to withstand the legal test as did a similar ordinance in 1973 that failed when Valley County citizens sued Valley County all the way to the Idaho Supreme Court and prevailed on an ordinance similar to this one. This group was not against change along the highway but was opposed to this overly oppressive ordinance that did not follow established procedures and did not represent the people and property owners along the highway that are most effected. They did not believe that the Commission of Planning and Zoning authorized the committee to be formed or engaged in the approval process of this draft to this point. The draft created zoning and if that was what was wanted by the Valley County voters, then there should be a discussion of zoning the entire county and not just create strip or spot zoning by this ordinance. He had submitted letters on how the ordinance conflicted with the Valley County Comprehensive Plan and the Valley County Land Use Ordinance. He requested that this ordinance be denied and the dreams, hopes and visions of property owners along Highway 55 be protected.

Sue Patterson, 10 Redmon Lane, Cascade, said she was a co-spokesperson for Valley County

Residents for Responsible Growth. She also stated that she was the owner of Alpha Nursery and Garden Center, and the Cutting Edge Lawn & Landscape Service. She was currently building on the property for her nursery which is on Highway 55 and not in the commercial nodes. As opponents they also wanted to protect scenic values and not allow rampant growth. The details within the ordinance are the real killer. It would kill businesses and devalue property, and there would be legal issues involved. The draft ordinance would not allow nonconforming businesses to increase in size or intensity. Size and intensity covers growth of any kind, but a business has to grow a minimum of 5 to 7 percent per year just to keep up with the cost of inflation. There are issues here that needed to be resolved, but this was not the way to go. You are not just messing with people's property; you are messing with people's lives, their inheritances, their employees and their families.

Shawn Williams, 955 S. Highway 55, Cascade, said he wanted to submit his comments in writing (Exhibit 6). He stated he was employed by a business located on Highway 55 that would be affected by this ordinance. He said if his employer is prevented from growing and expanding he is afraid that he could find himself unemployed. Also regarding the scenic view, he stated that he drove the highway every day and that required him to keep his eyes on the road and not looking at the view. He said when he does get to look at the views of the county it was the mountains in the distance that caught his attention.

Chairman Hatfield asked that the applause be held so that everybody gets their time to speak and to be fair to the proponent's side as they were to the opponent's side.

Alex Hatfield, 14070 Deerfield Road, McCall, stated he strongly objected to this proposal. He recently reenlisted into active infantry and he was going to be shipped to Iraq and fight for freedom, and was confused that people out here were more than willing to take it from their neighbors. He referred to the plaques and flags on the walls in the Legion Hall and stated that every person that had fought under those flags didn't fight for nothing, they had fought for freedom. This proposal takes away that very freedom they fought and died for.

Dave MacGregor, 17 Snowbank Mountain Road, Cascade, he said most legal issues turn into disputes. The issue they are dealing with here tonight was a moral issue that one group of people wanted to take something away from another group of people without their consent. Even though development in Long Valley has ruined the personal life that he wanted to have here, I have never objected to anything that anyone wanted to do with what belonged to them.

Laurins Herrick, 1045 Lick Creek Rd., McCall, stated his taxes were greatly increased on his three acres north of Lake Fork for the commercial value and now they want to take it away from him. If you want to take it away from him now, you pay the taxes and buy that land from him. What you're trying to do here is unconstitutional.

Mark Pasculli, 13888 Highway 55, Lake Fork, owned and operated Rocky Mountain CTR from that location. The Staff Report stated that the committee would be formed with large property owners along Highway 55, legal counsel, developers and proponents. What were missing were the small property owners, small business owners and opponents of the ordinance. Because of that he didn't see how it could be said that this was a balanced ordinance. He noted that the Lake Fork node doesn't include Lake Fork. When you look at the ordinance as a whole it lacked common sense that you needed and from a business standpoint it doesn't make any sense at all.

Kathy Pierce, 13827 Highway 55, Lake Fork, stated she was a private individual that owned the property where their home was. The businesses in the area are good neighbors and take care of the area and the people. She doesn't think you should impact them as property owners or us as property owners.

Gretel Kleint, 13010 Highway 55, Donnelly, said she owns land on Highway 55 and was on the committee. She was not invited to be on the committee and didn't find out about it until the second meeting. She thought the committee was made up mostly of non-highway 55 land owners. She also noticed that there were people involved that should have been neutral to the process. As the process continued it became clear to her that there were very restrictive ramifications on only some of the landowners, and others could sell as they pleased. Their only hope for those of them that owned ranches was to sell them for a profit to a business owner or a developer. Please deny the ordinance.

Jeanette Carson, 44 Pleasant Acres Dr., Lake Fork, stated she was opposed to the Scenic Byway Ordinance.

Jack Hellbusch, 14030 Highway 55, McCall, stated the address was his place of employment and he lived in New Meadows. He came on behalf of Harlow's Bus Service. He was opposed to the ordinance because of the way it was written and because it destroyed what a business can do and how it can grow. The ordinance would make Harlow's worthless.

Trudi Hasbrouck, 50 Hasbrouck Lane, Cascade, stated she was married to a fourth generation rancher. Based on her experience as a realtor there are three kinds of property; agricultural, which is the lowest value per acre; residential, which has a higher value; and commercial, which has the highest value. The way the ordinance was written was that it devalues property opportunities. She urged the Commission to object to the proposed ordinance as it is currently written.

Rod Skiftun, 13784 Highway 55, McCall, stated he has a home surveying business at that location. He recently acquired his conditional use permit through Valley County for that business. He felt that the multiple use concepts that are in place have worked very well. He thought there were issues with compatibility that needed to be worked out. If you look at communities where these issues are working, they are using tools that we haven't explored yet and they need to be explored. One big tool would be enforcement. The common thread for successful zoning in areas was enforcement. The local government needed to enforce what was already in place. If zoning was going to happen we have to embrace it.

Capella Ikola, 14179 Highway 55, McCall, stated she was a 30 year property owner along Highway 55. In general she agreed with the need to promote the open corridor in Valley County. What she opposed was the questionable establishment of commercial nodes. There are commercial areas that are being denied as commercial nodes. The requirements are unacceptably restrictive for existing businesses outside designated nodes. The ordinance limits increased revenue to the county by severely limiting property that could potentially be subject to commercial property tax. She asked how the current size and intensity of nonconforming commercial areas was going to be monitored. She strongly recommended that additional nodes be established where commercial activity is occurring.

Kelly Clark, 441 Krahn Lane, McCall, stated he was representing his wife and sister. They have a small 71 acre ranch. He believed the proposed commercial nodes are too restrictive and small in area. He thought he woke up in the United States of America this morning. If this ordinance was approved, one of two things would need to happen; you would need to pay me a fair price for his property or be prepared for a fight, because this was his property and he will defend his rights as a property owner with highway frontage.

Jean Zimmer, 13911 Highway 55, Lake Fork, stated she was a renter and not a business owner. She disagreed with the ordinance with everything that has been said. She lived sixty-seven feet from the highway right now and the land areas that are left that cannot accommodate a business because it is not located 1000 feet off of the highway, will become undesirable residential houses with either mobile homes or affordable housing. Because being this close to the highway was undesirable for residential houses because it was noisy and dangerous. She was all for affordable housing, but not in undesirable areas. She asked to please oppose this ordinance the way it was written.

Peggy Boyett, 13834 Wild Goose Ct., Lake Fork, stated she was disappointed that the people who had given their opinion in favor of the ordinance had decided to leave before they listened to what the actual landowners had to say. She stated there was no balance for private property rights in the ordinance. She wondered if the Valley County Comprehensive Plan had been eliminated in favor of this ordinance. Several years ago she and her husband purchased property that was supposed to be part of Lake Fork commercial area according to the comprehensive plan. The property was advertised with plenty of room to build at an acre with one shop on it; they invested their retirement money and totally cleaned up the mess left behind by the previous owner. They spent countless hours and thousand of dollars improving the property. Their property is completely encompassed in the 1000 foot setback; and their property value would drop dramatically because it was not suitable for a residence. We share a driveway with two other people, but one of them has 50 to 60 cars coming in and out of that driveway every single day Monday thru Friday. This ordinance does not protect her property values at all.

Kay E. Jones, 13 E. Lake Fork, Lake Fork, stated she is fourth generation in Long Valley and is opposed to the ordinance. She has a daughter serving in Iraq and would hope that when she comes home, she might want to open up a business in Lake Fork, but with this ordinance she would not be allowed to do that.

Christie Grob, 13813 Highway 55, McCall, stated their home was on two acres just south of Lake Fork. She was informed about a year ago, and was not sure if it was true or not, but that if her home burned down, they would not be able to rebuild where it presently located. They know that they are not in a preferred residential area, so they were hoping to someday be able to sell their property with highway frontage as commercial. Their retirement was tied up in that and maybe their children's education also. What was going to happen was that the value of their land was going to go down the tubes. This ordinance would devastate a great number of people like them.

Jerry Grob, 13813 Highway 55, McCall, stated he was completely against the ordinance. He said when he bought his place 25 years ago, it wasn't a bad place. Back then it was not a busy highway and what was most appealing about it was that the highway was always plowed. Now it

was not an appealing place to live, because the highway was so busy. So if this ordinance were to go through we would not be able to sell our property as commercial and our property would be worthless.

Ron Lundquist, 513 Lefever Drive, Cascade, stated he was now the fortunate operator of Cougar Mountain Lodge as of January 1<sup>st</sup>. Unfortunately he has financing hanging on the decision of this Scenic Byway Overlay. He has a very interested investor, but they want to wait and see what is going to happen. Specifically for him the size of the overlay will hinder this business to grow. There is 8 acres at Cougar Mountain Lodge which the majority is useless. The overlay would reduce his operations down to less than an acre. His hope was that when you specify Smith's Ferry that you start at the corner where Cougar Mountain Lodge is at. He felt for the impact and the detail he has to operate with, and for the things that have been said here about personal property rights as U.S. citizens, that this has to be looked at very, very closely.

Janet Sanford, 13960 Highway 55, Lake Fork, stated she was also a fourth generation resident and she has no desire to sell commercially. She did think that they are stepping on people's personal property rights by enforcing this.

Gerry Ikola, 14179 Highway 55, McCall, stated he wanted to go on record to be completely opposed to the proposed Scenic Byway Overlay Ordinance. The strict limitations that it placed on the use of private property were totally unacceptable. The treatment of existing businesses along Highway 55 that would be impacted was oppressive and showed total disregard of their rights as private property owners. The ordinance did everything but strike a balance. It was too extreme, goes to far and he didn't like it.

Ken Roberts, 12765 Highway 55, Donnelly, stated he was a property owner along Highway 55. He also became a committee member on his own accord. He stated initially the set back was going to be half a mile. With the help of Gretel, Tracey and Elt they were able to get it to 1000 feet. They were out numbered from the beginning. His biggest concern about the ordinance was that some people were not allowed to be on the Committee, and he didn't know who made that decision, but if it was a county official or commissioner they should tender their resignation. He found out that business owners along the highway were not allowed to be on the committee. He stated that the U.S. Constitution and the Idaho Constitution discuss regulatory takings and abuses and the sanctity of private property ownership.

Tracey Kennedy, 11004 Highway 55, Cascade, stated she was listed as a committee member on the Scenic Byway Overlay Committee and was able to only attend three meetings. Then the fire season started up and she was unable to continue. She was shocked when she read the final draft that was placed in front of Planning and Zoning in February, and was ashamed that her name was attached to it. She believed she was used as a façade promoting a diverse citizen committee, which she did not appreciate. She was one of ten at the first meeting and she asked if there was anyone there that owned property on Highway 55. There was no one, besides herself. She spent the next two days searching for property owners along Highway 55 to join the committee. She was able to enlist Ken Roberts, Gretel Kleint and Elt Hasbrouck. Due to schedule conflicts only Gretel and Ken were able to remain for the duration. Two out of twelve is not diversification. The ordinance placed exaggerated value on the scenic view for the pleasure of the passer-by at the expense of the property owner. The scenic value along Highway 55 was undeniable, but it needed to be put in appropriate perspective.

Joe Kennedy, 11004 Highway 55, Cascade, he said to please protect their private property rights and to please listen to the people.

Phil Davis, 19 Warm Lake Highway, Cascade, said that he believed that the ordinance would benefit himself and his family. He came forward because of due process and about government, and what was missed in that process. Government has its place, but it has a process which needed to be open and transparent. Your guidance for issues like this is setup in the LUDO, in the Comp Plan, Idaho Code and the Constitution. He felt that every one of those was ignored during the process. It stated in LUDO that you were to create the committee, but I know you had nothing to do with creating the committee. His question was who did create the committee. He looked in the Commissioner minutes and could not find anywhere on who created this committee, who authorized it and who could be on it.

Jim Hutchings, 13792 Highway 55, Lake Fork, stated him and his wife owned and operated Jim's Well Drilling. They own property in Kuna and a few years ago the County came to them and said they needed a corner of the property which was 1.5 acres, and that they would pay them \$150.00. They did not accept their offer and their property was condemned and taken from them. They took legal measures to try and get the property back, and they eventually gave us a little more money for it. He has driven the Highway 55 for quite a few years, and he can't believe that anyone can see what was right along the highway, because they are passing him at 80 miles an hour. He agreed 100 percent with the gentleman that was going to Iraq regarding the people who have served our Country for the sake of freedom, and that it appeared that they have totally wasted their time. If the ordinance was approved they would not be able to see their business grow and prosper.

Gene Ganz, 415 Colorado Street, McCall, said he owns ten acres north of Pleasant Acres Road. He does have a conditional use permit that allowed him to build a shop and a house at the current time. He has invested \$15,000 to comply with his CUP and this ordinance would put a halt to that. He asked that they please deny the ordinance.

Bob Fodrea, 105 N. Main Street, Cascade, stated private property rights are a fundamental value of our country and constitution. He said it is not realistic to balance private property rights and views of our mountains and rivers. The comprehensive plan has been around along time, and there are six questions that you go through and come to some conclusions on for establishing these new ordinances. Our courts have pointed out that we do not need another unconstitutional illegal situation created by our government. The proposed ordinance needs to be dropped.

Jim Newcomb, 31 Pleasant Acres Drive, Lake Fork, stated that he has a business at 13866 Highway 55 in Lake Fork. He submitted his letter for the record (Exhibit 7). He believed that the means are in place with Planning and Zoning with the present rules and regulations for responsible growth and development in Valley County. He noticed on the way down tonight, and his wife pointed out, some areas that were business orientated. Overall he didn't focus on those areas and focused on the beauty in the distance. He checked on the website for Idaho Department Commerce & Labor and their long range 2008 goal was to stimulate business growth and development, and to provide jobs for low and medium income families in Idaho.

Jim Jones, 13802 Highway 55, Lake Fork, stated he was not opposed to keeping the scenery neat

and tidy, but he was opposed to the ordinance. The ordinance would have a negative effect throughout this county in many ways. The people that would be most effected were the hard working local people that needed those businesses for both the jobs and services they provided. These were the people that make this community and not the part-time, trophy homeowner who expected the pristine and unfettered view.

Ed Hattrup, 13758 Highway 55, Lake Fork, said he protested the ordinance for many reasons. First he believed the County Commissioners number one responsibility should be to protect its landowner's property rights from things like this ordinance. Second, no county funds should have been allotted for special interest groups like the byway committee, and if that was allowed then an equal amount should had been allotted for an opposition study. As far as a scenic byway was concerned, he thought West Mountain Road, Norwood and Farm to Market Road would be better choices than a main state highway.

Jeff Henggeler, 13861 Highway 55, Lake Fork, stated he was a residential property owner and has an interest in commercial property on Highway 55. He said their property was split in half. You can use half of their business on your 330 foot setback and the other half is going to be done with. Their residential property was purchased in order that someday they could expand their business onto that property. He does not want to live on Highway 55 for the rest of his life. If the ordinance passes you are forcing him and his family to live on the highway and deal with the traffic and influxes. His driveway is on the highway and he has been entering and exiting the highway for ten years without any traffic incidents. He stated that with his experience as an EMS for the McCall Fire Department, one of the worst incident sites for accidents was Heinrich and Highway 55.

Larry Henggeler, 13957 Rustic Road and 13849 Highway 55, Henggeler RV, Lake Fork, stated that they are also U-Haul renters at their location on Highway 55. In the last year they have seen a lot of families move out and they have seen a lot of higher class folks move in (no offense intended). In the last few years he has been across the country to the Midwest on some of the greatest scenic byways in seven to nine states and there are businesses on every single scenic byway across the country. Businesses are what support communities such as ours. We needed businesses in order to survive and grow as a community.

Demar Burnett, 513 Sawyer Street, Cascade, stated that by seeing the turnout tonight by people who have a concern for private property rights, has reaffirmed his faith in the folks in Valley County. He was opposed to the ordinance the way it was written and it should be rejected, and he had thought of ways on how it can be redone, and was more than happy to relay those ideas.

Linda Jarvis, 10552 Highway 55, Cascade, stated that over twenty years ago they moved here to Cascade to raise her family in a small community. She used to have great views, but they have since moved the telephone pole in front of her house that blocked their mountain views. Then if they widen the highway that will put it right in her front yard. The snowplow turnaround was at the corner of her house, so now she hears beep, beep all night long. All of those things make it pretty impossible to sell their property as residential and they were hoping that some day they would be able to sell it as commercial property. She said on behalf of Sue Patterson and her nursery business, that it was a great business and if they can't expand how can they prosper.

Elt Hasbrouck, 50 Hasbrouck Lane, Cascade, stated he was initially on the committee, but after

three or four meetings it was clear that certain minds could not be reasoned with. He apologized to the Commission for just quitting like that, but he had gotten so upset with the process. For him personally it affected about 180 acres of his land and a great deal of money. He believed the ordinance could work, but it needed to be done in a different way.

Pat Hill, 227 Rio Vista, McCall, stated that common sense is what needed to be looked at. Small businesses which are the life blood of our community needed to be in a quality location on the highway in order for them to survive and that can be addressed.

Ann Potts, 10707 Highway 55, Cascade, stated she can understand the different nodes and that everything else in between was residential. She wanted to know where the school buses are supposed to go. She said there are miles of where there is nowhere for a bus to pull over to get the children. It is hard enough for the busses right now with the few places where they can pull off. Those cars on the highway go 70 to 80 miles an hour and you can't stop them all. She doesn't agree and very opposed to the ordinance.

Tom Olson, Jr, 351 Cabarton Road, Cascade, stated he has a business on Highway 55, Road Runner Ready Mix, and he strongly opposed this. He stated the ordinance does not fit everybody; it needs to be personalized, parcel to parcel. The County needs to be held accountable for the money that has been spent to pursue this.

Kim Onthank, 13974 Rustic Road, McCall, stated her property was not on the highway but was in the 1000' foot setback. The properties next to hers do go all the way to the highway. The land in front of them was zoned commercially and they offered to buy the one acre ten years ago for \$10,000, but were told no this was commercial property and it was worth a lot more money. Now with this proposed ordinance he won't be able to do anything with it as commercial property and the property will not perk for a house. But somebody bought this land as commercial property for \$150,000 for the acre and now they can't do anything with it. She stated it was great for her, but these are people that live and pay taxes in this community that you are taking away from.

Monika Riegel, 176 Goslin Loop, Cascade, stated she was a property owner and the manager of Alpha Nursery and Garden Center. She was not eligible to vote but was very opposed to the ordinance. She stated scenic views alone do not feed the family, livable wage jobs do. That happens by having viable businesses that are allowed to grow and people that are allowed to run businesses off of their properties.

Robert Seastrom, 54 Pine Cone Lane, Cascade, asked with regards to all the reasoned and well thought out arguments against this proposal tonight how did this proposal get this far. He agreed with so many of the people that got up and spoke tonight. He had to wonder how this proposal got to the stage it's at the way it's written.

Frank Hurlbutt, 1 Quail Lane, Boise, wanted to reiterate everything that was said by the people opposing this ordinance. He asked to please reject the proposal and think it through further for other revisions so that everybody could be happy.

J.R. Allen said lived down the road by the airport. He has three or four miles of land on one side of Highway 55 and couple of miles on the other side of the highway. That land has been in his

family for over seventy years and thought it looked pretty good. He stated he did not appreciate any government coming to take or change what he has. He asked for help protecting his deed.

Mike Collins, 13078 Highway 55, Donnelly, stated his situation is unique because his wife and her children have 56 acres on Highway 55 there. The 1000' feet will encompass all of it except for a pie shape about 330 feet by 200 feet. When he married her he signed away any right to that land. That land belongs to her and her children, it is their future. So if anyone takes that away from them that is just not right. He was thankful to everyone here for standing up for these children's rights.

Troy Hinck, 182 Goslin Loop, Cascade, stated he was opposed to the ordinance and he also wondered how it got this far.

Tobie Olson, 11140 Highway 55, Cascade, stated that he operated a small business on land south of town, Olson Excavating, which the ordinance included. He said his great-great uncle first started with that land in the Olson name and he and every member of his family have made a living on that land, and he would like to pass that on to his children, which the ordinance is not in favor of.

Tom Forest, McCall, read a letter that a friend of his had written and it stated that the ordinance should not be passed, not only to protect the property rights of those in the proposed overlay, but also in the interest of the basic freedom this country was founded on. Doesn't see how any businesses can survive with the restrictions that are in the ordinance.

Matthew Carpenter, 42 Red Fox, Cascade, stated that in terms of economic wealth the county has definitely gone down in the last twelve years. People are moving out of the county because there is no real economic development here. Tourism is just low wage jobs. The constitution has checks and balances in itself to defend your private property rights.

Marvin Allen, 311 N. Van Wyck, Cascade, stated he is against the ordinance because it was going to devalue his property. This whole thing was on the backs of the landowners of Highway 55 and he didn't think that was right.

George Wisbey, P.O. Box 871, Cascade, stated he is a Highway 55 property owner and he has everything he owns invested in it and if this ordinance passes, it would be worth nothing.

Becky Johnstone, 507 Hemlock, McCall, stated she is a realtor and she has never had anyone come into her office and say that they really wanted a house overlooking Highway 55. Highway 55 is the ideal commercial corridor for this area, and those businesses are not blocking the views. She said the ordinance needed to be dropped in its entirety.

Michael Potts, 10707 Highway 55, Cascade, said he believed this is going in the exact opposite direction it should be going. The businesses should be on the corridor and be properly maintained.

Dave Cummings, 9719 Highway 55, Smith's Ferry, owns property just south of Cougar Mountain Lodge and owns the land where the takeout is for the Cabarton river run. The way this ordinance was written would make that property worthless to him, because nobody would be

able to park there. This ordinance will devastate his family financially.

Butch Stahl, 313 Gold Fork Road said he owns property in Swain's Business Park. He stated he is totally against this ordinance and it needed to be forgotten.

Commissioner Patterson asked to speak before the public hearing was closed. He asked Mr. Davis to come up to the stand and further discuss the process of the procedures. Mr. Davis then stated:

- Who did create this committee; there is no mention of it in the minutes.
- No authorizing motion for the committee.
- It was moved and seconded and passed to approve the contract with Parametrix to develop the Highway 55 Overlay at a cost estimated at \$11,465.00. There was no mission statement on how this committee was expected to address that.
- There was no motion to send this to the Planning and Zoning Commission.
- There was no application for this amendment to the ordinance. Due process was completely lacking.
- There was no notice to people who own businesses along Highway 55 that would be nonconforming under this ordinance.
- Idaho Code states if you grant a Conditional Use Permit you have to have permission in writing from the person you granted that Conditional Use Permit to reverse that decision.
- This will definitely lose in court. Planning and Zoning in Valley County has never lost a case that has gone to the Supreme Court at least three times in the last ten years, because due process was followed correctly.

Chairman Hatfield stated that the County Prosecuting Attorney was looking into if the Committee was formed legally. It was decided to go forward with the Public Hearing because there had been so much input and a lot of work had been done. Hopefully we will hear something from him by our next meeting.

Commissioner Stathis wanted to clarify that when this ordinance was drafted it was brought to the Planning and Zoning Commission in its final form and we had a short work session on it with the Board of County Commissioners and the Committee.

Staff stated this whole process took well over a year. A lot of time and effort went into this. Whether it was right or wrong, that is up to the P & Z Commission to recommend approving or denying and then the Board of County Commissioners would make the final decision, based on the public input. That was the public process and we came here to listen to the public.

Commissioner Allen stated we are here only to listen to what you have to say and deliberate about that.

Commissioner Patterson stated that if you read the ordinances it stated that the way that this can come to them was by a motion by the Board of Directors; or a formal request by the Board of County Commissioners; or by some individual producing an application. He had not been able to see any of those things. He perceived that to be procedural error.

Staff stated when this whole thing was started there were some names thrown out; large property

owners and other individuals along the highway. Then a professional planner was hired out of Eagle, and he called the property owners to see who wanted to be on the committee.

Chairman Hatfield stated at this time everyone has had a chance to speak that wanted to, so the public hearing would now be closed.

Commissioner Stathis moved to table deliberations for the proposed amendment for the Scenic Byway Overlay District to Planning and Zoning's Commission next regularly scheduled meeting on April 10, 2008 at 6:00 p.m. at the Valley County Courthouse. Commissioner Diem seconded the motion. Motion carried unanimously.

**Meeting adjourned.**