



## Valley County Planning & Zoning Commission

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Todd Hatfield, Chairman  
Harry Stathis, Vice-Chairman

Ed Allen, Commissioner  
Gerald Patterson, Commissioner  
Rob Garrison, Commissioner

### VALLEY COUNTY PLANNING AND ZONING MEETING MINUTES

**DATE:** October 9, 2008

**TIME:** 6:00 p.m. to 8:15 p.m.

**LOCATION:** Valley County Courthouse

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

**MINUTES:** Chairman Hatfield asked if there were any changes or corrections to the September 11, 2008 minutes. Commissioner Allen said that he noticed on a motion made and seconded that it was stated Commissioner Patterson made both. Staff stated she would find the error and correct it. Commissioner Stathis moved to approve the minutes for September 11, 2008 with the correction to be made. Commissioner Patterson seconded the motion. The motion carried unanimously.

#### A. OLD BUSINESS:

**1. C.U.P. 06-44 Whitehawk Subdivision – Extension Request:** The applicant is JJS Southwest, LLC. They are requesting approval of a two-year extension of Phase 1 and additional one year for each phase 2 – 6. Currently, Phase 1 expires November 8, 2008. The site is accessed from Smiths Ferry Drive, Packer John Road, and Upper Murray Creek Road. It is located in the S ½ Sec. 11, Sec. 14, & N ½ Sec. 23, T.11N, R.3E, B.M., Valley County, Idaho. [Not a public hearing]

Chairman Hatfield announced the item and stated it was not a public hearing.

Staff stated a request had been received from the applicant for a two year extension for Phase One and subsequent extensions for phases two thru six as stated in their letter dated August 22, 2008. The applicant's reasons for the extension request were as follows:

- They needed approval from Central District Health for their revised phasing plan.
- They needed to submit an application to Idaho Department of Water Resources for a water right permit for an optional community water system.

- They needed to finalize the Road Development Agreement and the Capital Improvement Program for Smiths Ferry Road.
- They would be implementing erosion control measures per their wetlands permit along the green roads within the project and begin burning the slash piles in September and October, 2008.

The letter also stated what progress had been made and is listed as follows:

- All phases of the road construction drawings have been approved.
- They have conducted water well soundings in six locations to locate the most probable well locations for the two wells that are going to be drilled for their community loop system.
- They have obtained their Wetlands 404 Permit.
- They have obtained the Joint Application Permit from State of Idaho Department of Water Resources.
- They have plans to start the road construction improvements, underground utilities to the new proposed Phase One and the common area trail system in late spring/early summer of 2009.

Commissioner Patterson asked about the letter they received from the Smiths Ferry Homeowner's Association stating they are unhappy with the applicant's response that they will not be improving Packer John Road until Phase 3.

Staff stated that the Road Development Agreement (RDA) and the Capital Improvement Program for that area have not been finalized yet. The condition was to participate in a RDA prior to recording of the final plat.

Staffs stated the applicant was currently working through the project and are not ready to record in November, 2008. Regarding Packer John Road and Murray Creek Road that was a road department issue.

Sal Gallucci, Whitehawk Land Development, came forward to answer any questions.

Chairman Hatfield said the concerns are that while the development is being built there is going to be a lot of wear and tear on Packer John Road, while the residents are maintaining it. Mr. Gallucci said he didn't think there would be much impact to the road during the development for Phases One and Two, because they won't even be down on that section of road until Phase 3. Once they get to the third phase that is when they will be addressing Packer John Road. They are not trying not to improve the road; just the timing for the improvement is not in Phases One or Two.

Discussion ensued amongst the Commission and they agreed that the applicant was fulfilling what he initially agreed to do in the phases, but the roads are bad now and it is not the applicant's issue to deal with at this time. So by allowing the extension it will push the road issue back several years and that seems to be the residents concern. It was determined it was a public road, but was not county maintained.

Commissioner Stathis moved to approve the two year extension request for C.U.P. 06-44 Whitehawk Subdivision as outlined in their letter dated August 22, 2008. Commissioner Allen seconded the motion. The motion carried unanimously.

**2. C.U.P. 03-22 Pointes at Horsethief Shores No. 2 – Final Plat:** The applicant, Johnson & Alberg Partnership, is requesting final plat approval for Phase 2 (Lots 18 – 27) on approximately 42.95 acres. The Commission will review the final plat and Conditional Use Permit to determine conformance with the preliminary plat. A year extension of the final plat is also requested. Phase I was recorded October 24, 2006. The site is located in SE ¼ Sec. 25 & NE ¼ Sec. 26 T.14N, R.4E, and NW ¼ Sec. 31 & SW ¼ 30, T.14N, R.5E, B.M., Valley County, Idaho. [Not a public hearing.]

Chairman Hatfield announced the item and stated it was not a public hearing.

Staff presented the Staff Report. She recommended approval for the final plat and one year approval to record.

Commissioner Patterson moved to recommend approval for final plat with conditions in the Staff Report, allow the plat to be recorded within one year, and authorized the Chairman to sign for C.U.P. 03-22 Pointes at Horsethief Shores No. 2. The motion carried unanimously.

## **B. NEW BUSINESS:**

**1. V-2-08 Loening/Brandt Shared Driveway:** The applicants are Mark & Christie Loening and Victor & Myra Brandt. They are requesting approval of a variance to expand variance V-1-07 from two homes on a shared driveway to 3 homes on a shared driveway. The site is currently addressed as 10740 Hwy 55 and includes parcels RP13N04E4804A, RP13N04E7204A & RP13N04E7806A. It is located in the S ½ Sec 33, T.13N, R.4E, B.M., Valley County, Idaho.

Chairman Hatfield announced the item and asked if there was any exparte contact or conflict of interest. There was none. He then asked for the Staff Report.

Staff presented the Staff Report.

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

Dave O'Brien, Cascade Lake Realty, 204 N. Main Street, Cascade said he was representing the Brandt's and Mark Loening, 10740 State Highway 55, Cascade said he was the current property owner. Mr. O'Brien said that the buyers he was representing were planning on building a home on the southeast 20 acres of the 80 acres they are purchasing.

Commissioner Allen stated he recalled a variance being requested for that property for two homes on one driveway not to long ago. Mr. O'Brien said that was correct, that the current parcel was 120 acres and his clients were purchasing 80 acres in the back. Currently there is a variance with the intention of one building site being on the westerly 40 acres and then the home site which was the on the easterly 80 acres. It was the buyer's intent to have a third home site on

the easterly 80 acres.

Staff stated that it cannot be platted because they do not have the right-of-way width for access to the property. Commissioner Allen asked don't they own the land. Mr. Loening said they only own the driveway and not the land on either side of the driveway to their property.

Commissioner Patterson asked if a maintenance agreement had been entered into between the three families. Mr. O'Brien stated it was currently being drafted by their attorney's.

Commissioner Allen felt the issue was that they are continuing to subdivide somehow. Staff clarified that according to the subdivision regulations with their 120 acres they could subdivide into six 20-acre parcels if they had adequate access. They only have the 25 foot strip into the property and that was the hardship here. If they ever wanted to do a formal subdivision plat they would have to acquire an additional 45 feet of property.

Chairman Hatfield said at this time they would hear from the proponents. There were none.  
Chairman Hatfield said at this time they would hear from the undecided. There were none.  
Chairman Hatfield said at this time they would hear from the opponents. There were none.

Chairman Hatfield closed the public hearing.

Commissioner Allen moved to recommend approval for Variance V-2-08 Loening/Brandt to the Board of County Commissioners with conditions as specified in Staff Report. Commissioner Stathis seconded the motion. The motion carried unanimously.

**2. P.U.D. 08-01 Mountain Prairie Subdivision – Preliminary Plat:** The applicant is Farm-to-Market 60, LLC. They are requesting a conditional use permit/preliminary plat approval of a mixed use development on approximately 60 acres. The proposal includes 60 single-family lots (40 at approximately 15,000 sq ft and 20 at 5,000 sq ft) and five common lots (33.63 acres). A 2-acre agriculture/commercial lot would be used as an equestrian center. Also proposed are public walking paths, street lighting, and a pond. The subdivision would be served by individual wells. North Lake Recreational Sewer and Water District would provide sewer services. The site would be accessed via new paved public roads. The site is located at the northwest corner of Barker Lane and Farm-to-Market Road. It includes parcels RP16N03E147655A, RP16N03E149005A, RP16N03E149755A, and is located in E ½ SE ¼ Sec. 14, T.16N, R.3E, B.M., Valley County, Idaho.

Chairman Hatfield announced the item and asked if there was any exparte contact or conflict of interest. Chairman Hatfield stated he had a conflict with this application because he appealed the Commission's decision on their previous application located there and recused himself.

Commissioner Stathis asked for the Staff Report. Staff presented the Staff Report. Staff stated an additional condition of approval would be added to C.U.P.'s that would require that the engineering fees accumulated to date needed to be paid within ten days before the Conditional Use Permit was issued. This new condition would also apply at the time of extensions for C.U.P.'s. This was a result of meetings with the Board of County Commissioners regarding all the outstanding engineering fees that are owed to the County as a result of so many extensions

being applied for in the last couple of years.

Staff stated additional correspondence had been received since the Staff Report had been completed.

David & Kathy Fritschle, 86 Barker Lane, Donnelly, responded by letter and had the following comments:

- They were opposed to the previous site subdivision when it was 2 to 3 acre lots. Now they want to put 60 homes on 23 acres. This is a rural area, not downtown Boise.
- There is not adequate room for snow removal in their plan.
- The proposed 18 acres for horse pasture would not sustain many horses.
- This property has standing water issues.
- Street lights are not acceptable in this neighborhood.
- Currently there are 366 vacant lots for sale in the Donnelly area. There are approved subdivisions that have either gone bankrupt or the developer cannot see to go ahead with at this time. Why should you approve another one?

Staff clarified that this piece of property was approved for preliminary plat two years ago as a single family residential subdivision with two to three acre lots. They then requested an extension which was approved. Staff believed they were not able to get septic approvals, so now they are going to bring in sewer.

Commissioner Stathis stated they would hear from the applicant.

Brad Klahr, with Farm to Market 60, LLC, 1111 S. Orchard, Ste. 237, Boise, stated they are the applicant and property owners. He said they do have an approved C.U.P. for a different natured project on this piece of property. But because of the water table and the inability to get the septic tank approved was why they started discussing with North Lake Sewer District to bring sewer into that area. Bringing sewer in was obviously an additional expense and so they reevaluated the site and their plan. They are trying to go with a more equestrian centric subdivision development and the additional density helps defray the expense of bringing sewer to the site. They have taken in consideration the comments received from the agencies and staff and they feel that they can come to mutual resolution on all of those. Regarding the equestrian center they do not have a business owner participating at this time. Regarding all the questions regarding how it would be handled, they ask that the equestrian center be required to obtain its own conditional use permit for that business entity to operate there. Homeowner's fees and general public fees will help support the center. They would like the lot approved now, but any commercial use would require a separate C.U.P.

Commissioner Allen asked how many lots do they have with their current conditional use permit. Mr. Klahr stated they had sixteen buildable lots. Their engineer calculated that there were maybe five or six sites that could be septic approved. They determined it was not economically feasible for them to offer those six sites with larger acreage with the market as it was today.

Commissioner Patterson asked the applicant about the diagram labeled Landscape Plan (Exhibit 2) and asked him to clarify the smaller lots and why they called them drive thru lots. Mr. Klahr

stated they wanted to provide two different lot types for two different types of property owners; one being a permanent resident requiring more space and the other being a seasonal occupant who wouldn't want as much ground to maintain. For the smaller lots they have asked for a reduction in the rear setback to the common area where the horses would be so the property owner could have a small outbuilding or a drive thru garage for the benefit of the horses, and the horse trailers could be backed up to that area to loaded and unloaded. Their density averages to about one lot per acre which should allow them to make a relatively affordable project. The addition of sewer is quite pricey and to bring sewer to this site was around \$300,000. They realized that they are trail blazers for this region and are willing to participate in any discussions on how to develop this area from a global point of view and how to develop the area responsibly.

Commissioner Allen asked how many horses were going to be allowed. Mr. Klahr said that would not be determined until the proprietor for the equestrian center was involved with the project.

Commissioner Allen asked about the setbacks. Mr. Klahr said that since the application had been submitted they had been thinking about building those lots with a zero lot line on one side and a ten foot setback on the other side so then they would treat them like a town home and would reduce the number of structures from 20 individual structures to ten more substantial structures. That would allow them to grant a greater setback on one side and place twenty feet in between two structures for snow storage.

Commissioner Garrison asked if they would be going with a community well rather than individual wells. Mr. Klahr agreed that was correct so as to conform to the P.U.D. requirement.

Commissioner Allen asked how vital was the commercial aspect to their project. Mr. Klahr said it would add distinction to their project and it would set it apart from the numerous other lots and subdivisions in the area. The commercial use would be limited to an equestrian use only. The equestrian center will be supported through Homeowner's Association fees.

Commissioner Stathis stated they would hear from undecided.

Amy Loomis, Pathways Board, PO Box 455, Donnelly, said they are neutral to the subdivision and was commenting on pathways only. She asked that their pathways be pathway ready when they are dedicated to the County. Due to the drainage issues the pathways need to be the correct height between their land and the County's land. Amy said it was her personal opinion since North Lake Sewer would be coming down Barker Lane that if the applicant could create a pathway from their subdivision down Barker Lane to Highway 55 that would be most logical for that area and its uses. She felt there were more questions than answers and the different uses need to be clarified for the pathways.

Commissioner Stathis stated they would hear from proponents. There were none.

Commissioner Stathis stated they would hear from opponents.

Paul Kleint, 13010 Highway 55, Donnelly, said when this came up a couple of year's ago he was undecided but knew then there was a drainage problem. This time around he's opposed because

it's not going to be just sixteen houses anymore. That property's located in a hole and the water drains from the north, east, south and west, and there is only one outlet out there. He said the lots would probably need to be raised four feet and that was a lot of dirt to bring in. He objected to the density and individual wells.

Mike Voris, 13760 Clear View Road, McCall, stated he was opposed to the project. He wanted to point out how the application conflicted with Valley County's Land Use and Development Ordinance (LUDO) and Valley County's Comprehensive Plan. He said page 2 of the LUDO spelled out the purposes and goals of the LUDO and Comp Plan. He read items "f", "g", and "h" from LUDO. He noted that the application scored a -2 for proposed use compatible with the dominant adjacent land use. Mr. Voris went on to recite "1.03 Purpose" from the LUDO. He then referenced "3.02 Policy" from the LUDO. He felt the ordinances were clear in that Valley County was not against these types of developments, but they should be placed in areas that have already had precedents set for this type of use.

Katheryn Whitney, 24093 Blessinger Road, Star, Idaho, stated she and her husband own adjacent property on the northwest corner and also on the West side of this property. She said she grew up riding on this ground and moving cows. She realizes times are changing but the proposed subdivision was like a city. She said she was not anti-growth and was not anti-personal property rights. It should not be their issue if the applicants were going to lose money or not. Believed the applicant was incorrect when he stated there were 60 lot one acre pieces. They are not one acre pieces and she came up with 60 houses on 23 acres. She said the smaller lots back up to the biggest part of the drainage on the property so the horses would not be able to get to the equestrian center, so the applicant's comment made no sense regarding that benefit. Parking for all the recreational trailers in the subdivision will be a huge issue. She was opposed to the street lights and was very concerned with the irrigation issues and what could happen to the neighboring properties if this land was developed. She drove by there this spring it was a lake all the way to Barker Lane.

Larry Mangum, Donnelly Planning and Zoning, P.O. Box 144, Donnelly, stated the City of Donnelly Planning and Zoning Commission wanted to submit their following comments (Exhibit 3):

- The density was too high.
- Density was not compatible with the neighborhood.
- The test well data was from 1978 and 60 individual wells would affect the water table.
- Property was not compatible for commercial development.
- Letter should be submitted from a humane society stating the acreage that can support a horse population with the amount of density proposed.

Rob Whitney, 24093 Blessinger Road, Star, Idaho, stated he came prepared to talk about the individual well issue, but the density was also an issue. He and his wife were not opposed to the original application with 16 lots and 16 individual wells, but the current application proposing 60 individual wells was out of control and would never work. The issue regarding how many animals per acre is going to be allowed needs attention.

Robin Hoffler, 297 Barker Loop, Donnelly stated she drives past this property every day on her

way to work. She agreed with all the previous comments opposing it. She was disappointed with the 16 houses that were going to be there, but now 60 was totally out of the question. She said the application reminded her of the Meadows, which sits 90 percent vacant. Farm to Market and Barker Lane was a rural area and she just couldn't see how it could work out there.

Todd Hatfield, 14070 Deerfield, McCall, stated the lot sizes are city sized lots and he agreed with everything Mike Voris quoted from LUDO and the Comprehensive Plan. The most important thing about this subdivision was that the land was very flat and poorly drained. If development was going to be allowed here with high density and sewer, it's going to need to be master planned by the county to have adequate drainage for that whole area. Right now the water sits on both sides of Farm to Market with nowhere to go. He said the equestrian facility which was a part of the P.U.D. which appears that was what qualifies this for a P.U.D. and to have smaller lot sizes, that there should be a P.U.D. layout and there was no layout of the equestrian facility whatsoever. He wondered if it was feasible to run sewer out there for just the 60 homes, he could see them abandon the equestrian facility design and then put another sixty house over there and that may make it feasible.

Mr. Hatfield also said regarding Staff's comment regarding the additional Condition of Approval stating that engineering fees need to be paid prior to the issuance of the permit or an extension being approved, should be looked at more closely by the Planning and Zoning Commission and implemented properly since it has not been required in the past at their level.

Judy Linman, 12900 Mesa Court, Donnelly, said she wanted to go on record opposed to the development. It should be denied because it was not compatible with the surrounding area. It was not good planning for the County and she thought the commercial should go into the city. With the drainage problems and the horse usage there would be horse manure and bacteria in the water and the stormwater runoff. She was opposed to their previous application for Barker Ranch Estates due to the increased traffic and now it would be worse. Tax payers should not have to pay for improvements to Barker Lane and Farm to Market to make the area safer for bicyclists and walkers due to the increased traffic.

Commissioner Stathis asked the applicant for his rebuttal.

Brad Klahr had the following comments for the issues raised:

- Regarding the concerns over the individual wells that have been modified to a community well system.
- Regarding their lighting they have proposed the downcast lighting that was the preferred method for Valley County. They felt there was a safety issue when there are multiple home owners involved.
- They realized the density was unique to the area at this time, but with the introduction of sewer to the area there will be more development to come.
- They have acknowledged that the drainage was a concern and are willing to participate and spearhead to find a more global view for drainage in the area to add compatibility for future development that may come to the surrounding parcels.

Commissioner Stathis asked if they had a plan for improving Barker Lane. Brad said they are planning to dedicate additional right-of-way along the portion that they own and have control

over. They are prepared to meet with the Valley County Road Department to figure out what their impact was going to be on that road and mitigate that.

Commissioner Stathis asked what the exact acreage that those homes sat on was. Brad said they thought it was a 20 – 40 split. But they viewed it as a 60 acre parcel, and there will be no future development on the additional 20 acres.

Commissioner Patterson asked the applicant to show him the where the drainage was located on the map. Brad showed it on the “Lot Layout” map marked as Exhibit #4. Commissioner Patterson asked if they felt there was not going to be an issue with the lots being flooded all the time. Brad said they believed the drainage could be controlled because it was relatively a flat area. It was not their intention to impact any adjacent property owners. They are confident that their engineer can address all those concerns adequately.

Commissioner Patterson asked how they expected the horses to be fed. Brad assumed they would be outsourcing food off site in addition to the pasture. He said at this time it was premature to know how the equestrian center was going to operate specifically since they did not have a proprietor.

Commissioner Garrison asked if the development was a single phase operation. Brad stated yes it was.

Commissioner Stathis closed the public hearing and brought it back to the table. Discussion ensued amongst the Commission. The issues covered were that it was too dense as written for that area. The location was not compatible with the area and the visible impact was too much. The drainage may or may not be a problem but putting 60 homes where historically there are drainage issues that was a potential problem. There are ordinances to follow and that was how everyone’s private property rights are protected.

Commissioner Patterson agreed with most but not all. He thinks the small lots are still a problem and that is why he wanted to read into the record Idaho Statutes Title 67 Chapter 65 which read as follows:

- Whenever a governing board or zoning or planning and zoning commission grants or denies a permit, it shall specify:
  - The ordinance and standards used in evaluating the application;
  - The reasons for approval or denial; and
  - The actions, if any, that the applicant could take to obtain a permit.

Commissioner Patterson said that they need to do that and that’s why he’s saying that the project was too dense and if they could change that he could support their application.

Commissioner Allen wanted to remind them that they did already have an approved conditional use permit for this site. Commissioner Allen asked if they were ready for a motion.

Staff stated the motion was a recommendation to the Board.

Commissioner Patterson asked if they had covered what the applicant could do to get approval

and if they have met that requirement. Commissioner Stathis said yes they had.

Commissioner Allen moved to recommend denial for P.U.D. 08-01 Mountain Prairie Subdivision to the Board of County Commissioners because of the reasons as discussed. Staff read the reasons for denial: too dense; drainage issues; water usage for landscaping; not compatible with surrounding land uses; lots too small; visibility of project; density should be along valley fringe; and too many horses.

Commissioner Garrison seconded the motion. The motion carried unanimously.

### **C. OTHER ITEMS:**

#### **1. Facts and Conclusions: Approved as presented.**

- C.U.P. 08-15 Larkin House – Retail Shop
- C.U.P. 08-16 Jughandle Well Facility Project
- C.U.P. 08-17 Redridge at Blackhawk
- C.U.P. 08-18 Grose Office Space & Warehouse
- V-1-08 Chantrill

#### **2. Correspondence:**

- **Donnelly Snowmobile Club** – Requesting installation of a detached exterior vault 2 –stall bathroom at Platt Warming Hut & Groomer Shed located at Tamarack Falls Snowmobile Parking Area – Staff stated their original plans for the restrooms were to be attached to the structure and have central sewer. They don't know when the sewer was coming so now they want to build a vault toilet and/or detached restrooms when the sewer does come in. Staff stated the question was this a substantial enough change to warrant another public hearing. The Commission agreed it was not.
- **Gold Fork Bay Village** – Staff stated that in their application they stated they would have a well site for their central water system that would enhance the whole Day Star area. This was always a part of their application approval but the location was never drawn on the map. Staff just wanted to make sure since it had been through district court and the Supreme Court that it should be determined exactly where the well was to be located. They are going to put it in the northern portion of the property; the parcel that used to be the drain field easement for that adjacent subdivision. The Commission had no problem with the proposed location for the well site.

**3. Subdivision Regulations** – Staff proposed to move to the November meeting due to a light agenda.

**4. Appendix A Amendment** – Staff proposed to move to the November meeting due to a light agenda.

**Meeting adjourned**