



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 10, 2008

TIME: 6:00 P.M. to 9:00 P.M.

LOCATION: Valley County Courthouse

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.

MINUTES: Chairman Hatfield asked if there were any changes or corrections to the March 13, 2008 minutes. Chairman Hatfield noted that on page 8 regarding motion voted on for C.U.P. 06-43 all Commissioners except for Commissioner Diem were in the favor of the motion made. Commissioner Stathis moved to approve minutes for March 13, 2008 with changes. Commissioner Patterson seconded the motion. The motion carried unanimously.

A. OLD BUSINESS:

1. Proposed Scenic Byway Overlay District Ordinance – The Planning and Zoning Commission will deliberate on testimony received at the public hearing held on April 3, 2008. [Not a public hearing.]

Chairman Hatfield announced the item and stated they will begin their deliberations from last Thursday's public hearing. He stated this was not a public hearing as the public hearing had been closed at the end of that meeting. He thanked everyone that was on the committee for all of their time and effort they put into the proposed ordinance.

Staff stated at this time they would hear the report from Valley County Prosecutor Matt Williams.

Prosecutor Williams stated he was asked to review a list of five questions received from Commissioner Patterson last Tuesday that were procedural questions. He also reviewed Idaho Code, Valley County's Land Use Ordinance and the minutes from the Board of County

Commissioners meetings involving the Scenic Byway Proposed Ordinance. Prosecutor Williams major concern was how the ordinance came in front of the P&Z Commission. Valley County's ordinance specifically lists how an ordinance can be amended which are:

- An application; he believed an application was not necessary because it was coming from the Commissioners and not from an applicant.
- A motion; he looked through the minutes and could not find where a motion had been made.

He further stated the reason for that was that when the BOCC were deciding what to do next with the proposed ordinance and it was asked if a motion needed to be made to forward it to Planning and Zoning it was thought not because they were staff. Prosecutor Williams stated he had given his approval to that. He now believed that approval was not correct and there should have been a formal motion made. He further stated that was a procedural error at the Commissioner level and that it would have to be fixed at the Commissioner level if the ordinance was amended. His advice to P&Z Commission was to base their deliberations tonight not on the fact that there is a procedural error that will have to be remedied prior to adoption of any ordinance, but to consider that proposal on its merits and let the BOCC deal with the procedural issue when and if it gets to them.

Commissioner Diem asked if Planning and Zoning were to establish a new committee to review the proposed ordinance would that be in conflict with our deliberations tonight. Prosecutor Williams responded that could be a possibility, but did not believe that would be appropriate while that current issue was pending. After that issue has worked its way through, then that was something this Commission could take up.

Chairman Hatfield brought it back to the table. A discussion ensued amongst the Commission and they had the following consensus:

Commissioner Allen stated there were valid concerns regarding private property rights; current businesses not being offered an opportunity to expand; and new businesses not being able to develop along the corridor. He believed that it needs to be looked at for a better balance of representation for all along the corridor.

Commissioner Stathis stated when you start going into private property rights, that the only way to have a scenic byway is to buy the property owners out. But he knew that the County is not in a position to do that. He would really like to revamp the compatibility questionnaire evaluation sheet more thoroughly and fair for the public and applicants.

Commissioner Diem stated that multiple things needed to be considered. The most contentious issues that Planning and Zoning deals with are along that corridor. Whether that proposed ordinance is approved or not, that is something that needs to be dealt with and it is not going to go away. After listening to the testimonies there seemed to be a lot of issues that would spin-off of this ordinance if approved. These issues are correct taxation of properties, looking at the commercial nodes and where light industrial businesses would fit in, and there wasn't enough site specific nature about it; didn't feel it was appropriate to go across the whole corridor. There are six questions in the Valley County Comprehensive Plan that dealt with private property rights that needed to be considered and be used as a guide for establishing an ordinance like this. He

also thought that we needed to look at the transportation plan at a long term standpoint with traffic patterns in conjunction with the scenic byway. He said he did like the residential aspects and the set backs as stated in the proposed ordinance, but felt that there are other alternatives to deal with the scenic byway corridor.

Commissioner Patterson said that after reading all the e-mails and letters, and hearing all the testimony he compiled a report on his findings. He said there are issues with the commercial nodes, where it stated the businesses shall all be accessed from county roads and not Highway 55. For existing businesses this would cause undue hardship and make them nonconforming. Regarding the commercial node at Smith's Ferry, they cannot meet the setback and access requirements off of Highway 55. That will make Clear Creek Station, nonconforming and noncompliant. Regarding the Smith's Ferry node, it is too small, there are wetland issues and the west side of the highway is very steep. Cougar Mountain Lodge that is already there, will be nonconforming and noncompliant. He stated an ordinance has been drafted that has created problems that cannot be easily resolved. One of the biggest issues was nonconforming businesses cannot grow and prosper. Also, the proposed ordinance makes no considerations for the approved Conditional Use Permits, which are now in place. Idaho Code stated you cannot come along and change that. He further stated that several hundred lots have been created in the last couple of years, and it doesn't make sense to be adding residential, which is the highest rate of growth, but not businesses, because they obstruct the view. His data concurred that the approval would have a negative impact on Valley County.

Prosecuting Attorney Matt Williams responded that the existing nonconforming businesses cannot be changed within four years of being approved. The requirements needed to be followed as set out in Idaho Code 65-67-6511(d) and this would result in spot zoning, because those areas wouldn't be able to be changed for four years.

Chairman Hatfield said it does create more problems in other aspects. One being increased transportation with businesses having to relocate to Adams County outside of our area. There would be more impacts on roads, more fuel consumption and, more emissions put into the air. Also, after reading the Fifth Amendment and the comprehensive plan he believed that it goes against private property rights and how we are supposed to address an ordinance like this. The way this ordinance is written it restricts businesses completely and would drive them out of the County. He also thought the nodes are too small. The proponents have said that everything can go into the cities, but that is not true at all. The availability is not there and there is no more room in the cities. He said that if another committee was to be created, the focus should not to take away the potential to have businesses along the highway, but to look at creating light industrial park areas, at least in three different parts of the County.

Commissioner Allen said we needed to go back to the real background of the proposed ordinance. Why did the Commissioners put together a committee? We are primarily concerned with Valley County and our scenic corridor. What can be done to achieve our goal so that the corridor stays presentable? He didn't believe that the proposed ordinance was the perfect answer, but where do we go from here. Do we throw it out as a bad idea or do we make a proposal that we move forward and look at this in a different light with a different committee, to be pursued in the future.

Chairman Hatfield stated with the whole nonconforming use he wouldn't care to go any further with this. Regarding going forward with a new committee, that would not be appropriate right now until this was resolved with the Commissioners, per Prosecuting Attorney Williams's recommendation.

Prosecuting Attorney Williams stated that once the Commission passed on their recommendation for approval or denial to the Commissioner's they had 30 days to act on that.

Commissioner Patterson asked about Title 67-Chapter 65-67-6504 which stated that the Commission may establish sub-committees and advisory committees to advise and assist the responsibilities under that chapter. He asked if that is saying that they can appoint anybody they wanted and that they did not need permission to do so. Prosecuting Attorney Williams stated that was correct and that the Planning and Zoning could have started this process themselves.

Commissioner Stathis wanted to add that regarding the compatibility evaluation questionnaire form and the matrix he wanted to make it more thorough and more specific to noise, offensive odors, obstruction of views, water contamination, loss of needed resources, devaluation of property and infringement on lifestyle. With the right people in place on the Commission and the Board of County Commissioners to oversee what the applicants are bringing us that we would have a handle on controlled growth on the highway and on the valley floor. He thought the scenic byway committee did a great job of presenting us this for the first time, but he didn't believe that it fits regarding private land owners and existing businesses.

Commissioner Patterson moved to recommend denial of the adoption of the proposed Scenic Byway Overlay District Ordinance to the Board of County Commissioners. Commissioner Stathis seconded the motion. Commissioner Hatfield asked for additional discussion.

Commissioner Diem moved to amend motion to recommend denial of the proposed Scenic Byway Ordinance, and that it is delegated back to the Planning and Zoning Commission to form a committee to address the issues as stated in the Comprehensive Plan. Commissioner Allen seconded the motion. Chairman Hatfield asked for discussion.

Commissioner Patterson moved to amend Commissioner Diem's motion and remove the portion that the BOCC delegate back to the Planning and Zoning Commission to form a committee. Commissioner Stathis seconded the motion. Chairman Hatfield asked for discussion.

Chairman Hatfield asked who was in favor of Commissioner Patterson's second motion to amend Commissioner Diem's motion to remove the words for the action for the creation of a committee. Commissioner Patterson, Commissioner Stathis and Chairman Hatfield replied yes. Commissioner Diem and Commissioner Allen replied no. The motion carried.

Chairman Hatfield asked who was in favor of Commissioner Diem's amended motion to recommend denial of the proposed Scenic Byway Ordinance, but that it is delegated back to the Planning and Zoning Commission to form a committee. Commissioner Diem and Commissioner Allen replied yes. Commissioner Patterson, Commissioner Stathis and Chairman Hatfield replied no. The motion failed.

Chairman Hatfield asked who was in favor of Commissioner Patterson's original motion to recommend denial of the adoption of the proposed Scenic Byway Overlay District Ordinance to the Board of County Commissioners. All Commissioners' responded yes. The motion carried unanimously.

2. C.U.P 05-10 Herrick Hills Subdivision No. 2 – Extension Request: The applicant is Cascade South, INC. They are requesting approval for a 2 year extension of their Conditional Use Permit which is due to expire in April 2008. Herrick Hills Subdivision No. 1 final plat was recorded on June 8, 2007. The site is located at Sections 8, 9, & 16, T.12N, R.4E, 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 letter was received dated March 3, 2008 asking for a two year extension for Phase 2 for Herrick Hills Subdivision. Phase 1 has already been recorded. The applicant is currently working with Idaho Transportation Department regarding the turn lanes on Highway 55, and with the Valley County Road Department in regards to their development agreement. Since the applicant doesn't know the time frame on how those two things are going to occur, he is asking for an extension request to April 26, 2010.

Commissioner Diem at that time excused himself from any discussion or voting on the extension for personal conflicts.

Staff further stated the Subdivision Regulations do allow the phasing. The applicant has complied with their Conditional Use Permit by recording the first phase and now they want to delay recording the second phase for two years to deal with Idaho Transportation Department.

Commissioner Stathis moved to approve a two year extension to April 26, 2010 for C.U.P. 05-10 Herrick Hills Subdivision. Commissioner Allen seconded the motion. The motion carried unanimously.

3. C.U.P. 07-05 Cascade Highlands – Extension Request: The applicant is Alpine Idaho LLC. They are requesting approval of a one year extension of their Conditional Use Permit which is due to expire on April 12, 2008. The site is RP16N03E219990A, RP16N03E280005A, RP002860010010A (Wagon Wheel Ranch #1 Lot 1 Blk 1), & RP0028600100020A (Wagon Wheel Ranch #1 Subdivision Lot 2 Blk 1) located in Sections 21 & 28, T.16N, 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 this extension was heard at the last meeting, but it had been confused with the Highland's Subdivision. This subdivision is down in the area of the Wagon Wheel Subdivisions off of Durham Lane. Staff said Joe Pachner was here to explain why the one year extension was needed.

Joe Pachner, Toothman-Orton Engineering, 9777 Chinden Blvd, Boise, stated he was here representing the applicant. He said the reason the extension was needed was because the project was

going to be served by the North Lake Recreation Sewer and Water District (NLRSD) for both their water and sewer. NLRSD has been working on the second phase of the completion of the sewer plant. Mr. Pachner met with the sewer district this past week and they are working to get the biological portion up and running. NLRSD said they are very close to getting this done, but the applicant preferred not to move forward with selling lots until it was all in place.

Mr. Pachner said regarding water, the NLRSD has an existing system out there which needed improvements. North Lake has now come up with the water plan to show what improvements are needed to serve the four proposed developments out there. Now they have the water and sewer in place and they can move forward with the project.

Staff asked if any work had been done on the wetlands. Mr. Pachner responded they have submitted their plans to the Army Corp of Engineers.

Staff asked about cutting down trees that they had planned on doing. Mr. Pachner said that it ended up that there was very little cutting that had needed to be done to get the line of sight for the road.

Commissioner Allen moved to approve a one year extension to April 24, 2009 for C.U.P. 07-05 Cascade Highlands. Commissioner Diem seconded the motion. The motion carried unanimously.

4. C.U.P. 05-20 Ashton Ridge Ranch Phase II – Final Plat: The applicant is JSS Southwest LLC. They are requesting final plat approval of a two lot single-family subdivision on approximately 8.44 acres. The Commission will review the final plat and Conditional Use Permit to determine conformance with the preliminary plat. Phase I was recorded on October 24, 2006. The lots will be accessed via a shared driveway from Ashton Ridge Place. The site is located in NE ¼ Sec. 12, T.17N, R.3E, B.M., Valley County, Idaho. [Not a public hearing.]

Chairman Hatfield announced the item and asked for the Staff Report.

Staff presented the Staff Report. Staff stated that all utilities have been installed. Since the staff report had been prepared, Briggs Engineering has done some work on the plat, and they assured her the final plat would be in order before the mylars are submitted.

Commissioner Diem asked about the dimensions on the shared driveway and if they would remain the same. Staff replied yes and that is why the easement had been created for the lots, so the property owners could have access to their lots. Staff stated the two lots had not been recorded with the first phase, because Mr. Gallucci was trying to get access for them off the private road behind them. Those negotiations were not successful, so he has come back to Planning and Zoning with the easement for the shared driveway and final plat approval for Phase II.

Commissioner Diem moved to approve final plat for C.U.P. 05-20 Ashton Ridge Ranch Subdivision Phase II and authorized the Chairman to sign. Commissioner Stathis seconded the motion. The motion carried unanimously.

D. NEW BUSINESS:

1. C.U.P. 08-02 NDI Contracting INC – Business Office and Equipment Storage: The applicants are James R. & Lorraine G. Newcomb. They are requesting approval to store excavation equipment and to build a 75' x 60' 2-story building. The second story would be used as a residence. The existing well and septic system would be used. The site is 2.33 acres located at 13866 State Hwy 55, within parcel RP00204000004BA in Pleasant Acres Subdivision, SW ¼ Section 3, T.17N, R.3E, B.M. Valley County, Idaho.

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

Staff presented the Staff Report. Since the Staff report had been completed the following correspondence had been received:

- Central District Health responded by letter received April 4, 2008 (Exhibit 1). Their office can approve the addition of a 64' X 74' 2 story shop with a 20' X 74' two bedroom residence on the second floor. A permit for a three bedroom septic system was issued on August 5, 2005 and approved on August 22, 2005. Central District Health Department approval is subject to the owner's acknowledgement of statements that are listed in the Accessory Use Authorization.
- Alex Jones, 84 Elk Haven Way, McCall, responded by letter dated April 8, 2008; she stated that she is opposed to this application (Exhibit 2). She wrote that this is exactly the kind of mish-mash, land use that has made Lake Fork such a visual blight. She stated it is time for a clear definition between residential, commercial and industrial properties.

Commissioner Stathis asked about the roof height. Staff stated that a variance was not requested, and the maximum proposed structure height is 32 feet.

Chairman Hatfield stated now they would hear from the applicant.

Jim Newcomb, 31 Pleasants Drive, McCall, said he would like to resubmit his application for his expired conditional use permit. Originally the initial shop building he proposed was smaller than this one. At this time he wanted to amend the size of the building from 60' X 70' to 64' X 74' and there will be a residence over one portion of the structure on the second floor with the measurements of 20' X 74'.

Commissioner Patterson asked if he had access off of Highway 55 or a county road to his property. Mr. Newcomb stated his access is off of Highway 55 which has been there for several years.

Staff stated they needed to see a larger site plan showing landscaping, to clarify that in the 100' setback there is no parking or driveways.

Commissioner Stathis said he would like to see what the building is going to look like and the materials it will be made of.

Mr. Newcomb said at this time he is having the plans drawn up. His setback from the highway is 120' to accommodate any parking that is required. His plans for the building is going to be a wood frame structure with a hardy board siding which will be paintable. He is going for an

environmentally friendly look, which he thought would be an improvement for his business in that area. They did plant trees last year and a good percentage of them died. They did plant more trees before winter set in. Now they have their well and electrical in, which will enable them to do a certain amount of irrigation for watering the trees. The biggest reason they haven't been able to develop the property more than they have was because he was a member of the Idaho National Guard and in October, 2005 he got an activation notice with a total of eighteen months active duty in Afghanistan. He did file for an extension, but didn't realize the extension for his conditional use permit had expired in July, 2007. They have put in a couple of berms with trees on them, and they now have to plant evergreens on the south side of the property.

Commissioner Allen asked for clarification on the size of the second floor residential unit.

Mr. Newcomb said the upstairs portion will be a two bedroom living space at 20' X 74'.

Commissioner Allen stated it is important for them to see what the building is going to look like and a clearer site plan for them to be able to decide the outcome for this application.

to scale of your property showing the boundaries, setbacks, building location, the berms and their location, the plant sizes and location. He stated they will most likely table the decision for this application before they make their final decision.

Mr. Newcomb asked if they needed to see his building plans. Chairman Hatfield said they did not require the building plans, but would like to see what you are planning to do with design guidelines and elevation.

Chairman Hatfield asked for proponents.

Gene Ganz, 415 Colorado Street, McCall, said he is a neighbor of Jim's, with property close by. He felt that what Jim is proposing would not cause any problems whatsoever. He is right next door to Robertson Supply and he had begun to start work on his project until he got called back to active duty. He stated that this fits in with the area and the proposed node policy for Lake Fork.

Lorraine Newcomb, 31 Pleasant Acres, McCall, said she didn't believe it was their problem to take care of Robertson Supply's tent, but they did build a berm back there with trees on it. She said she has planted 150 trees in Pleasant Acres over the years. She believed that their improvements would make the subdivision and the road look better.

Chairman Hatfield asked for undecided. There were none.

Chairman Hatfield asked for opponents. There were none.

Mr. Newcomb came forward and stated he respected Mr. Jones letter, but he felt that the reference to the Scenic Byway Overlay should not be a factor at this point.

Commissioner Patterson asked Mr. Newcomb if he would be able to have his renderings done by next meeting. Mr. Newcomb replied that he thought he could.

Chairman Hatfield closed the public hearing. Discussion ensued amongst the Commission that it was standard procedure to request a site plan, landscaping plan and renderings of what the project is going to look like before they make their final decision.

Commissioner Patterson moved to table C.U.P. 08-02 NDI Contracting to May 8, 2008 to make their final decision. Commissioner Allen seconded the motion. Motion carried unanimously.

Commissioner Allen asked Staff to look into the situation with the tent at Robertson's Supply that everybody keeps referring to. Staff stated the Planning and Zoning Commission sent it to the Board of County Commissioners, but Commissioner Eld told Staff to send it to the Prosecuting Attorney, which she has done.

2. C.U.P. 08-03 Northwind – Preliminary Plat: The applicant is SANWAN LLC. They are requesting approval of a 10 lot single-family residential subdivision on 9.26 acres. The subdivision would be served by individual wells. Northlake Recreational Sewer & Water District would provide community sewer. The lots would be accessed via a new gravel public road onto Northwind Road. The property would subdivide Lots 1 & 2 within the Donnelly Estates Subdivision, addressed as 106 Westwind Road and 12866 Northwind Road. The site is W ½ SE ¼ Section 27, T.16N, R.3E, B.M., Valley County, Idaho.

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

Staff presented the Staff Report. She commented regarding cartographer's comments those are ownership issues that will be taken care of before final plat.

Joe Pachner, Toothman-Orton, 9777 Chinden Blvd, displayed grading and landscape plan for subdivision (Exhibit 1). Mr. Pachner stated that this is the original subdivision as previously submitted. The issues have been taken care of regarding the public dedicated roads and the deed with the title company. As with the original application North Lake Sewer District is going to service this subdivision and we have been waiting for them to get their phase two treatment plant running so that they would have the capacity to serve us. Mr. Pachner brought up for the Commission's consideration about the developers idea of having individual sprinkler systems in each home instead of installing a 10,000 water tank for fire prevention. They felt that the underground tank wouldn't be as effective due to lack of use over time. Initially the Fire Department was in favor, but now they are not. So of course they will do whatever the fire department required.

Commissioner Stathis commented that with the underground tank storage they have to be maintained. He had seen firsthand working with the McCall Fire Department that if not maintained the water can get pretty nasty.

Chairman Hatfield asked for proponents. There were none.

Chairman Hatfield asked for undecided. There were none.

Chairman Hatfield brought it back to the table and closed the public hearing. General consensus was that it was the same subdivision application, but it had expired and now they were reapplying. Regarding the fire prevention, they will need to follow the fire departments requirements as stated in their letter.

Commissioner Allen moved to approve preliminary plat for C.U.P. 08-03 Northwind Subdivision. Commissioner Stathis seconded the motion. The motion carried unanimously.

4. OTHER ITEMS:

1. Facts and Conclusions: Approved as presented.

- C.U.P. 08-01 Pero Subdivision
- VAC 08-01 Smylie Lane Subdivision

2. Correspondence:

- C.U.P. 06-02 Settler's Mill Subdivision #1 (2 Phases) – 90 day final plat approval extensions to August 14, 2008, to finish water delivery system negotiations. It was approved as presented.
- C.U.P. 06-48 Brewster Mills Subdivision – Final Plat Approval Extension and C.U.P. Extension to October 9, 2008. They need the time to get the money together for the Road Development Agreement. It was approved as presented.

3. Work Session:

- Matrix and compatibility rating evaluation. It was agreed to postpone work session to the next meeting on May 8, 2008 at 3:00 p.m.

Meeting adjourned.