



Valley County Planning & Zoning Commission

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Todd Hatfield, Chairman
Harry Stathis, Vice-Chairman

Ed Allen, Commissioner
Rob Garrison, Commissioner
Tom Olson, Jr., Commissioner

VALLEY COUNTY PLANNING AND ZONING MEETING MINUTES

DATE: August 13, 2009

TIME: 6:00 p.m. – 9:00 p.m.

LOCATION: American Legion Hall

ATTENDANCE: Commissioners present: Chairman Todd Hatfield, Rob Garrison, Tom Olson, Jr., Harry Stathis, and Ed Allen were present. Staff member present: Cynda Herrick, AICP, Planning and Zoning Administrator.

A. OPEN: Call to Order

B. MINUTES:

Commissioner Stathis moved to approve the minutes for **June 25, 2009** with the following corrections:

- change the Location to American Legion Hall

Commissioner Olson seconded the motion. Motion carried.

Commissioner Stathis moved to approve the minutes for **July 9, 2009**. Commissioner Olson seconded the motion. Motion carried.

Commissioner Stathis moved to approve the minutes for **July 28, 2009** with the following corrections:

- change the Location to American Legion Hall

Commissioner Olson seconded the motion. Motion carried.

C. OLD BUSINESS:

1. **C.U.P. 05-48 Wild Wings Subdivision – Final Plat Extension:** The applicants, Loomis Homes, INC, are requesting a 60-day final plat extension. The Commission approved the final plat on May 14, 2009. The property is accessed from Day Star Lane and is located in the NW ¼ of Section 4, T.15N, R.3E, B.M., Valley County, Idaho. [Not a public hearing.]

Chairman Hatfield announced the item. Staff explained that the applicant was requesting a sixty day final plat extension. They have reached an agreement with North Lake and DEQ. If improvements aren't done they will make financial guarantees in order to record. Staff recommended a ninety day extension in order to be able to schedule on the Board's agenda.

Commissioner Olson moved to approve a ninety day final plat extension on C.U.P. 05-48 Wild Wings Subdivision and authorized the Chairman to sign the plat. Commissioner Garrison seconded the motion. Motion carried.

2. C.U.P. 08-20 Elk Meadows River Ranches Subdivision –Final Plat Extension: The applicant, Elk Meadows River Ranches LLC, is requesting approval of a 90-day final plat extension. The Commission approved the final plat on May 14, 2009. The property is currently addressed as 536Gold Fork Road, and is located in the E ½ E ½ of Section 30, T.16N, R4E, BM, Valley County, Idaho. [Not a public hearing.]

Chairman Hatfield announced the item. Staff explained that the applicant was requesting a ninety day final plat extension. They had unexpected issues and delays regarding power – all other aspects are on track. They are also requesting extension of the time allowed for paving Empty Saddle Way until after the sell of two lots. Staff commented that she recommended the ninety day extension and stated that Empty Saddle Way is a private road which does not require pavement, but the Commission should make it clear to the applicant that they will not be required to pave the road.

Commissioner Stathis moved to approve a ninety day final plat extension on C.U.P. 08-20 Elk Meadows River Ranches; agreed that the paving could be postponed as requested; and, authorized the Chairman to sign the plat. Commissioner Olson seconded the motion. Motion carried.

3. C.U.P. 09-03 Prairie Pine Subdivision –Final Plat Extension: The applicant, Christopher Clark, is requesting approval of a 30-day final plat extension. The Commission approved the final plat on May 14, 2009. The property is currently addressed as 44 Heinrich Lane and is located in the W ½ E ½ SESW of Section 33, T.18N, R3E, BM, Valley County, Idaho. [Not a public hearing.]

Chairman Hatfield announced the item. Staff explained that the applicant was requesting a thirty day final plat extension. They are not sure if they can get on the Board's agenda before their final plat expires. Staff commented that she recommended the ninety day extension

Commissioner Garrison moved to approve a ninety day final plat extension on C.U.P. 09-03 Prairies Pine Subdivision and authorized the Chairman to sign the plat. Commissioner Olson seconded the motion. Motion carried.

4. C.U.P. 06-31 Brundage Mountain Air – C.U.P. Extension: The applicant, Idaho Mountain Air, LLC, is requesting approval of a one-year extension of the conditional use permit to establish an extension of the current AM radio tower to 195-foot tall. The new tower was to be in use by August 2009. The property is currently addressed as 13451 Farm-to-Market Road

and is located in NWSW Section 26, T.17N, R.3E, B.M, Valley County, Idaho. [Not a public hearing].

Chairman Hatfield announced the item. Staff stated that the conditional use permit was issued in 2006. They have had two extensions since the original approval. Comments were received from David Eaton, Brundage Mountain Air – he states the extension is unwarranted and the existing improvements should be removed since the site is no longer used.

Marshal Sage, MountainAir LLC, bought property in question from Eaton in order to buy KMCL AM station. The existing tower was represented to be licensed by FCC. After three or four months into transaction discovered FCC license was for transmission tower that was 125', etc. They had some disagreements with Eaton and are in a lawsuit. FCC attorney recommends extension. Hands are tied at this time, because they cannot disturb ground.

Commissioner Olson asked if tower was in use. Sage said, no.

Discussion ensued concerning use. Commission clarified that anything other than an AM tower would require a new conditional use permit.

Commissioner Stathis moved to approve extension of C.U.P. 06-31 Brundage Mountain Air for one year. Commissioner Garrison seconded the motion. Motion carried. Commissioner Allen abstained.

Commissioner Ed Allen now in attendance.

1. PUD 09-01 Payette Landing – Payette Landing Development LLC is requesting approval of a mixed-used development consisting of a private airport and a variety of aviation, light industrial, commercial, and residential land uses. Multiple phases are planned.

Contained within the application is a combination of permits, as follows:

- **Concept Approval and Planned Unit Development** in accordance with Chapter 8 of the Valley County Land Use and Development Ordinance, as published September 21, 2006.
- **C.U.P. 09-08 Payette Landing – Phase 1 Preliminary Plat:** Includes the private airport, the Fixed Base Operator, 159 aviation estate lots, 54 low-density residential lots, several future development parcels, and open space. This portion of the proposal contains 813.21 acres.
- **VAC 09-01 Payette Landing – Vacation of Public Right-of-Way on Portions of Spink Lane, Paddy Flat, and Nasi Lane:** Vacation of a portion of Paddy Flat Road, realignment of a portion of Nasi Lane, and relocation of the intersection of Spink Lane and Highway 55 approximately 1000 feet to the south.

Chairman Hatfield announced the item and asked for any exparte contact or conflict of interest. There were none. He stated that this item was tabled from July 28, 2009.

Commissioner Garrison moved to remove PUD 09-01 Payette Landing from the table. Commissioner Allen seconded the motion. Motion carried.

Chairman Hatfield asked for a Staff Report. Staff reiterated the process to date. Staff stated that

testimony would be taken from proponents and opponents. She also stated that she had received a request from the applicant to allow rebuttal at a different meeting (exhibit 1).

Chairman Hatfield asked for the Staff Report. Staff stated additional correspondence had been given to the Commission and labeled as "Payette Landing, Additional Correspondence, August 13, 2009, Public Hearing; and, that she had received additional information, as follows:

- exhibit 2 - Review of Payette Landing Development/Long Valley Airport Noise Study as prepared by Kari Frederick, Axiom-Points, as requested by Valley County;
- exhibit 3 – additional public correspondence received with a date of 8-6-09 or before (Anderson, Howard, Provant, Young, Russ Jones, Dana Jones, Joshua Jones, Rebecca Jones, Liz Jones, Anna Howard, Marcia Howard).

Staff also stated that minimal additional correspondence had been received, but nobody will get a copy unless the hearing is reopened.

Chairman Hatfield explained that we would hear from proponents, undecided, and proponents.

Chairman Hatfield asked for proponents:

Rory Veal, 14048 Easy Street, McCall, made the following comments:

- Response in newspaper is reiteration
- Wrote a letter to editor that has not been presented and was in the Star News
- BBC Research provided comments on spending patterns of visitors in county.
- Destination travelers arrive by airports and spend on average 700% of local travelers.
- We have gone to tourist economy.
- While Tamarack was in operation there was huge benefits to Valley County and put a lot of people to work.
- Impact area is a small percentage of all the area in Valley County -- no impact to south northeast and west.
- This is neutral to vast majority of property in Valley County.
- You are charged with stewardship and leadership – look at 20 years in the future.

Russell Jones, 3841 Vista Lane, McCall, made the following comments:

- Agree with what was said
- The impact will be there – don't consider immediate area
- Consider long term and benefits for whole valley.

Chairman Hatfield asked for those undecided:

Juan Bonillo, Donnelly Rural Fire, 238 Spink Lane, Donnelly: (exhibit 4)

- District understands FAA has no requirements or regulations for a private airport – it is up to local jurisdiction (Donnelly Rural).
- #1 concern is mitigation for proposed project.
- A mitigation agreement must be in place.
- Phase 1 district would require training for personnel, a rapid intervention, and station to house equipment and apparatus.
- #2 concern is temporary fire station – to date no place has been platted for Tamarack.
- Temporary facility is a smoke screen to placate Donnelly Fire Board.

- Should be defined in writing.
- Volunteers did not work at Tamarack.
- Concerned with flight line and all other surrounding areas.
- Must meet NFPA guidelines.
- A funding mechanism must be created.
- Taxes will not pay for mitigation – taxes pay for maintenance and operation.
- What is the outcome of dealing with current developers?

Bob Allen, 12866 Morning Drive, Donnelly, made the following comments:

- Could be a great economic impact in the future.
- You are here to represent people not special interests.

Chairman Hatfield requested that there be no clapping after everyone speaks.

Chairman Hatfield asked for opponents:

Gary Swain, 13675 Farm to Market, Citizens for Responsible Growth, made the following comments:

- Submitted another 311 signatures opposed (exhibit 5)
- Submitted technical information which consisted of studies and reports from across the nation (exhibit 6)
- Submitted letter and list of 40 opponents who gave him their time for 120 minutes (exhibit 7)
- Stated that their presentation would include a noise expert and two attorneys
- Asked that the rebuttal be required tonight with a decision tonight.

Greg Aizpitarte, Bionomics Environmental, Inc., 1045 East Winding Creek, Eagle, made the following comments:

- Identified himself as an expert in noise analysis.
- Submitted site selection study from Wood River Region (exhibit 8)
- Talked about how sites are selected.
- Agreed with Baldwin, HMMH, but conclusions are different.
 - a. 65dBA is a guideline of FAA, but is up to local jurisdiction
 - b. He came up Monday to do his existing noise studies and it is serene and quite.
 - c. Discussed “Common Indoor and Outdoor Noises”
 - d. 85 dBA impairs speech – you should be wearing protection
- Described his noise study (exhibit 9)
- Described previous noise study he had done in McCall (exhibit 10).
- Described Gowen study. (exhibit 11)
- Again addressed Baldwin, HMMH, noise study.
- It is not steady stream of traffic that drives you crazy – it is the intermittent noise like the barking dog.
- Agrees that noise does not reflect off mountain.
- He is related to guy that is a pilot – he guess there will be no control tower – how can you control an approach without a tower.
- Local communities are currently very very quiet.
- Technically he agrees with Baldwin, HMMH, but impact of 500 impacts daily is

tremendous.

- Event noise is more impacting.
- 50 dBA is a hum – people tune it out – event noises are more of an impact.
- Did a noise study in Idaho Falls, one of the houses is noisier than others...engineer gave him wrong data for elevations.
- There will be no control of large airplanes landing.
- Noise is personal and emotional.
- This is non standards, should be site selection and environmental assessment.

Victor Villegas, 1405 W. Main, Boise, ID, made the following comments:

- Attorney at law
- Discussed comprehensive plan and land use ordinance.
- There is ample evidence to deny this application.
- Comprehensive plan reflects goals and objectives of community -- comp plan is not a valid zoning ordinance
- Idaho Supreme Court directs that if an ordinance directs you to consider a comprehensive plan you must consider.
- 3.02 LUDO states shall be allowed when complies with comp plan.
- Comp plan should be a guide and can be contradictory
- Asked commissioners to pay special attention to chapter 7 Transportation – emphasis is on roads and paths.
- Goal 1, Objective 5 states to seek to balance investment of airports and importance of quiet in the communities.
- Community may want to see airport but also desire quiet.
- Continued making comments on comp plan.
- Comp plan cannot be only reason to approve or deny an application.
- 3.03.06 (1 and 3) of LUDO addresses noise – this application does not comply.
- FAA guidelines direct the community to gauge acceptable level of noise.
- The people you represent are the people who will determine acceptable levels of noise.
- PUD standards state that as part of concept approval you should consider whether it is more desirable to have a PUD or a subdivision. Legal standards state it falls within the Commissions discretion. A court does not substitute their discretion for the Commissions – *Sanders Orchard v. Gem County ex rel. Bd. Of County Comm'rs, 137 Idaho 695, 52 P.3d 840 (2002).*
- When you have conflicting evidence, the courts say the agencies factual determinations are binding on the reviewing court so long as they are supported by professional experts – *Friends of Farm to Market v. Valley County 137 Idaho 192 (2002).*
- Role of public for sustainable growth are leaders, planners, comp plan, ordinances, and people. That is how you find out what the people want.
- Community is telling you what they want.

Charles Nicholson, Attorney at Law, PO Box 547, Boise, 83701, made the following comments:

- Intended to address comp plan, Victor did that adequately.
- Commented on e-mail from Cynda Herrick to Millemann – June 29, 2009 – commented on *Urrutia v. Blaine County* -- Supreme Court decision – comp plan reflects desires of future situations – it guides and advises. (exhibit 12)
- Addressed appendix A of LUDO – requires review of comprehensive plan

- Please consider comp plan – it is a very good comp plan
- Process is fair – board is conscientious and fair,
- Use to be Valley County prosecuting attorney – in 1982 plan and LUDO were bad – quite impressed with current documents.
- Addressed compatibility evaluation –
 - a. Not as objective as intended
 - b. Mary Hart’s rating was -31, staff’s was +12.98 – differences are dramatic
 - c. Hart assumed adjacent land was agricultural and staff’s was governmental or fraternal
 - d. Each commissioner should go through compatibility rating
 - e. Would be surprised if commission came up with anything close to staffs.
 - f. Weighting in doing this evaluation is not accurate.
 - g. Supreme Court decision did not confirm weighting.
 - h. Use is inconsistent with comp plan and LUDO – it would ruin lives of people in area.
- Discussed lengths of runways.
- Represents client in Hailey who lives ½ mile from airport and she has to leave for 10 days every year during convention.
- If you look at this objectively and do compatibility rating, you will come to conclusion that this is not an appropriate use for area and will constitute a taking of people’s off-site property.

Don Lojek, PO Box 1712, Boise, 83701, made the following comments:

- A pilot and familiar with flying and pilots.
- 21-605 passed in 1939 by legislature – reserves state land from sale so long as used for airport – no one has seen a need to build an airport.
- 21-606 authorized to lease lands.
- 21-801 regional airports – not aware of any attempts – state can condemn land to establish a regional airport.
- 21-401 allows counties and highway districts to condemn up to 1280 acres for an airport
- If this is a good idea, it would have been done at some point in the last 70 years.
- A larger airport is not needed in this county – 9,000 ft. is over kill.
- Length is function of altitude and temperature.
- Aspen’s airport is 7,000 feet; Telluride is only 6,000 feet, etc.
- A 9,000 ft runway provides for instrument landings for inclement weather.
- Consider if this is a good idea based on community input and comp plan.
- Talked about approaches at 1,000 feet for several miles.
- Let future catch up and see if Tamarack is viable in the future – proposal is premature.

Stephen Lewis, 13632 Highway 55, Lakefork, ID, made the following comments:

- Asked if received letter offering a demonstration flyover – they confirmed.
- Submitted maps – ex A, B, C (exhibit 13)
- Superimposed HMMH information over McCall airport. Recommended Commission go to those sites to hear what the noise level would be.

Anne Stillwell, 13604 Farm to Market, reiterated e-mail and signature on petition:

- Opposed to application

- Would provide employment and growth opportunities
- Quality of life would be forever changed
- Property values would decrease
- Someone has been riding a motorcycle on Farm to Market very fast and they have reported it.
- Wants current noise level maintained.

George Dorris, 163 Eld Lane, Donnelly, made the following comments:

- Discussed com plan and other issues
- PUD is not excluded from compliance with comp plan
- PUD should retain rural character of county
- Should grow existing towns.
- No problem with homes or industrial – commercial is not needed.
- This is a new city.
- Clustering is not saving anything, such as a lake or forest...

Zella Strickland, 2503 Annet, Boise, ID, made the following comments:

- Has property across highway – her springs etc. are fed from ground water on this property.
- Wetlands are in danger if this property is drained.

Sherr Clark, Lake Fork, 6 miles south of McCall airport. Planes coming from McCall disturb her, especially the fire planes.

Robert Yelton, 165 Titus Lane, he flew 747 off 9,000 foot runways.

Kim Manley, 13771 Horizon View Road, made the following comments:

- Concerned about the ground water being polluted from de-icing compounds and other pollutants, oil, gasoline, etc.
- If a lot of water is drawn quickly you can create changes in the water table that will be far reaching in other locations – will cause great number of changes, even upstream.

Jan Whitney, 13864 Williams Road, Lakefork, made the following comments:

- Lived across street from airport at one time, you could hear, smell and taste, jet fuel.
- Mr. Veal stated residents weren't proponents of progress – strip mall is not progress – community college would be progress.

Ed Parker, 14060 Pioneer Road, made the following comments:

- Every morning during summer he is awakened by aircraft flying over his house
- He accepts that he bought knowing that – he does not accept a new airport.

Dan Wilson, 13629 Farm to Market Road, made the following comments:

- Stopped yesterday and observed quieter new airports – he had to cover his ears at fire station.
- Lives one mile north of Spink Lane – he will hear jets taking off.
- Lowing flying jets will not help his organic gardens health.

Steve Connelly, 174 Sand Hill Lane, McCall, made the following comments:

- Ex-pilot. 9,000 foot runway will promote commercial transport aircraft.
- Why is 9,000 foot needed?
- This is an invitation to major airplanes.

Craig Peterson, 13304 Farm to Market Road, made the following comments:

- Valleys life blood is Boise, Oregon and Washington – they come by car.
- Airport will serve need of greedy people searching for their own agenda.
- Spinoff jobs would not be created.

Rob Ryan, 13655 Morris Ranch Road, made the following comment:

- There is not a need for additional air service in this valley.

Linda Pyle, 16640 Morris Ranch, would rather listen to her kids than airplanes.

Jacklyn Bonilla, 234 Spink Lane, stated, Valley County is a retreat not a destination.

Patsy Kelly, 13629 Farm to Market, stated we have a unique resource in our valley -- we can only destroy it once.

Doug Ultican, 13741 Trammel Lane, made the following comments:

- When they rebuilt McCall airport they had to dig down ten feet to de-water.
- Last airstrip he did was in Boise and they put in 5 feet of ballast and that was in the desert – with ground water high will have to dig trenches.

Becky McCay, 1029 Brizario, Meridian, ID, made the following comments:

- Has done a lot of planning projects.
- Represents the Vinsons, OH Ranch.
- Concerned about impact on their property – they are in the direct flight path.
- What future land use restrictions will be imposed on their property?
- What will be elevation of planes taking off over their property?
- Impact on single family residences values is negative when compared to residences not located near an airport.
- Could be as much as 27%

Chairman Hatfield closed the public testimony portion of the hearing. He asked Millemann if he wanted to continue to a different day for rebuttal – Millemann confirmed.

Commissioner Garrison moved to table PUD 09-01 to October 8, 2009, at 6:00 p.m. at the American Legion Hall. Commissioner Allen seconded the motion. Motion carried.

D. NEW BUSINESS: None

E. OTHER ITEMS:

1. Facts & Conclusions:

- C.U.P. 09-09 Elo Estates

Commissioner Garrison moved to approve Facts and Conclusions. Commissioner Allen seconded the motion. Motion carried.

2. Correspondence:

- Knife River: Commissioner Stathis will look at site.
- C.U.P. 09-06 Matt Falvey : Staff stated will received engineering by end of September.
- C.U.P. 04-46 Storage & Landscaping (Betts): Trying to get a hold of owner.
- Construction in ROW – Allen Subdivision Lot 18: Explained letter.
- Violation – Setback for outbuilding – Wagon Wheel Ranch # 4, Lot 28, Blk F: Explained letter.

Meeting adjourned 9:00 p.m.