



Valley County Planning & Zoning Commission

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Rob Garrison, Chairman
Ronda Sandmeyer, Vice-Chairman

Tom Olson, Jr, Commissioner
Kathy Deinhardt Hill, Commissioner
Ed Allen, Commissioner

VALLEY COUNTY PLANNING AND ZONING MEETING MINUTES

DATE: June 13, 2013

TIME: 6:00 p.m. – 9:30 p.m.

LOCATION: Valley County Courthouse

ATTENDANCE: Commissioners present: Commissioners Kathy Deinhardt Hill, Ed Allen, Ronda Sandmeyer, and Chairman Rob Garrison. Staff member present: Cynda Herrick, AICP, CFM, Planning and Zoning Administrator. Commissioner Tom Olson was excused.

OPEN: Call to Order

MINUTES:

Commissioner Sandmeyer moved to approve the minutes of May 9, 2013, with the changes on Page 3, Para 2, from “to” to “do”. Commissioner Allen seconded the motion. Motion carried.

A. OLD BUSINESS:

- 1. C.U.P. 05-31 Smylie Lane Subdivision Phase 2 – Final Plat:** Michelle Basye is requesting final plat approval. The Commission will review the final plat and Conditional Use Permit to determine conformance with the approved preliminary plat. The approximately 9.6-acre site is located in the NWNW Section 27, T.17N, R.3E, B.M., Valley County, Idaho.

Chairman Garrison announced the item and asked for the staff report.

Staff Report giving history of the subdivision, vacation of gravel pits, and moving of easements. Gave extension and have worked hard to get to where they are this point. The only thing remaining is the release of sanitary restrictions.

Commissioner Allen moved to approve final plat, and authorize the chairman to sign. Commissioner Sandmeyer seconded the motion. Motion carried.

- 2. C.U.P. 98-6 Camp Cascade – 5 Year Review:** The Commission will review the provisions of Conditional Use Permit 98-6 and determine whether the Camp is in compliance. This C.U.P. is reviewed every 5 years. The owner is Columbia River

Conference of Free Methodist Church of North America, INC. The camp is located at 1719 W. Roseberry Road in Section 16, T.16N, R.3E, B.M., Valley County, Idaho.

Chairman Garrison announced the item and asked for Staff Report.

Staff stated that in 1998 they received their conditional use permit. There were some neighbor complaints about the access on the west side of the property and some activities in the southwest portion. Therefore, the Commission and applicant agreed to do reviews every 5 years. There have been no complaints for years.

John Benson, manager of the camp, was told there have been no complaints. They ride herd on the campers to abide by activity times and lights out.

Commissioner Allen made a motion that they are in compliance with their approval and will come back again in 5 years. Commissioner Sandmeyer seconded the motion. Motion carried.

3. Cloud Seeding: It is proposed to amend the Valley County Code, Title 9, Chapter 4 to allow cloud seeding as a permitted use. [*Tabled from meeting on May 9, 2013.*]

Chairman Garrison announced the item.

Commissioner Hill moved to remove the Cloud Seeding item from the table. Commissioner Sandmeyer seconded the motion. Motion carried.

Staff stated the proposed ordinance amendment had not been removed from the table at the last meeting and advised the Commission to make a motion making the last hearing part of the official record.

Commissioner Sandmeyer moved to place the May 9, 2013, hearing into the official record. Commissioner Allen seconded the motion. Motion carried.

Staff explained process that has been followed thus far.

Chairman Garrison stated that the public hearing was closed at the last meeting for deliberations and a recommendation to the Board. He requested each Commissioner make their statement for discussion.

Commissioner Hill stated she thought long and hard. Evidence presented at last meeting showed that it is not harmful to people and does work. She would like to echo what Commissioner Allen said at the last meeting. She cannot figure out why Idaho Power is so adamant that this is a permitted use. If she has to get a CUP for a 9' solar panel or windmills then why not for cloud seeding? She believes a CUP is required. What concerns her for a permitted use is, if it is for anybody, then anybody can do it. Science changes and they could use a different chemical and then there would be no control.

Commissioner Sandmeyer state she too has thought about this. At first she had grave concerns about the chemicals. At this point at the research company, it is a data collection center and not a fact presenter. Do we really know what the chemical does to the environment? It "seems" to be okay, "not it is" okay. All for the project, but has some strong concerns on the chemicals. It

bothers her why a CUP would not be required. Then, anyone can walk up and say they are going to do cloud seeding. The average person who has no knowledge could just go out and do it. CUPs are needed for cell towers, fencing, solar panels, etc, why not cloud seeding, so we know what chemicals will be used.

Commissioner Allen echoes what Commissioner Hill and Commissioner Sandmeyer said. Why is Idaho Power concerned about asking for a CUP? In a CUP you can say you can only do 10 units in a basin – there needs to be transparency. Idaho Power is concerned about public scrutiny. Does not have strong environmental concerns, but we don't know what the future is going to be. Temporary is just a guise to get underneath the radar and some of them haven't been moved for years – for all practical purposes they are permanent. There needs to be some security especially with 500 gallons of propane in the forest. The studies need to be reviewed periodically. There are studies being done in Wyoming at this time. Colorado is doing quite a lot of it. During droughts perhaps irrigation would want to seed the upper reaches of Lakefork Creek. This is not an exclusive property of Idaho Power. All these things demand periodic review – it is hard to turn back the clock on permitted uses.

Commissioner Sandmeyer stated that we ask all CUPs what chemicals will be used and how they will protect against wildfire. Wants to know how chemicals are stored and what their plan is if there is a wildfire. We need drawings and spec sheets on chemicals. In a permitted use it is hard to say you can't change your chemicals. What if 30 people all want to seed in the same area?

Chairman Garrison thought long and hard over the last several months. Initial concerns were fire, etc. Read statement into record (ex. A).

“While I do not believe that what Idaho Power proposes will be vastly detrimental to the environment and that it may have significant value to both power generation and irrigation for agricultural uses. I do however believe that making it a permitted use in the county is not in the county's best interest. If we make this a permitted use anyone with the means would be able to do it, we would not be able to control the number of cloud seeding apparatus. This I feel could get out of control. Idaho Power submits they are regulated by state and federal agencies, but through testimony that regulation is passive and relies on Idaho Power input. Not that Idaho Power would do wrong, but a permitted use allowing anybody to cloud seed could present a problem and begin to run amok. If we cannot review cloud seeding operations we cannot ensure coordination through state and federal agencies that toxins are within specified limits. Since we cannot write an ordinance or amend an ordinance to benefit a single entity or person than I do not see a way to make cloud seeding a permitted use in Valley County. I do not think that cloud seeding should not be allowed in the county, but I believe strongly that our current way of doing conditional use permits is the proper way to proceed to ensure that we have good review and input from outside agencies so that the P&Z Commission and Board of Commissioners can make well informed decisions on something that could significantly affect the county and its neighbors.”

Chairman Garrison emphasized that the permitting of the state is passive. It seems we are all in agreement that this needs to be a conditional use. If it is permitted it will just open the gateway – who said Joe Rancher will not do the same thing and how many will be in a single basin.

Commissioner Hill said, a conditional use permit is not a denial but a control.

Commissioner Allen stated it will let people know in a neighborhood and give the public a chance to comment. This has been an informative, well thought out process.

Commissioner Allen made a motion to recommend to the Board that there needs to be a conditional use permit process rather than a permitted use for cloud seeding operations. Commissioner Sandmeyer seconded the motion. Motion carried.

4. **Oil and Gas Ordinance:** An Oil and Gas Ordinance for Valley County is proposed. It would make oil and gas wells permitted uses in accordance with Idaho State Statutes. The standards would be in Title 9, Chapter 4. [*Tabled from meeting on May 9, 2013.*]

Chairman Garrison announced the item. He then recommended the item be left on the table until Commissioner Olson was present since he had experience in the oil and gas industry. Discussion ensued.

Commissioner Sandmeyer moved to postpone to June 20, at 6:00 p.m. Commissioner Hill seconded the motion. Motion carried.

Staff introduced Mike Wissenbach with the Bureau of Reclamation. He summarized what BOR does here in Valley County.

B. NEW BUSINESS:

1. **V-1-13 Variance to Relax Side Setbacks:** Jeff Likes and Eric Anderson are requesting a variance to relax the side yard setback from the required 7.5 feet to the existing footprint of 3 feet. A permanent easement, to remain in a natural state, exists on the west 10.5 feet of the adjoining Lot 45. The site is 12850 Dawn Drive, Lot 30 of Morning Dawn Subdivision, in the SW ¼ Section 28, T.16N, R.3E, Valley County, Idaho.

Chairman Garrison announced the item and asked if there had been any exparte or conflict of interest. There was none.

Chairman Garrison asked for the Staff Report. Staff presented as written and then answered Commission's questions concerning the easement.

Scott Marquart, 228 Cranmar, Meridian, ID 83642, stated he was representing the applicants.

- The applicants agree with the findings and plan of action.

Allen asked about the mistake. Marquart stated that the survey was done afterward and the agreement was worked out later.

Mike, with the BOR, asked about leaving easement in natural state. It was explained it would only be used to provide for the well and the setback.

Chairman Garrison asked for Proponents or Opponents: There were none.

Chairman Garrison closed the public hearing.

Commissioner Sandmeyer moved to recommend approval to the Board to allow the relaxation of the side yard setback from 7 ½ feet to 3'. Commissioner Hill seconded the motion. Motion carried.

2. It is proposed to amend the **Valley County Code, Title 9 Land Use and Development, Chapter 1, Section 10 Definitions** to read as follows:

Agricultural Building: Any building to be used for agricultural purposes, placed on agriculture land of five (5) acres or more, categorized as agricultural by the Valley County Assessor's office, and which is not intended for human habitation (including pump houses, barns, toolsheds, storage buildings, etc.) or as determined to be a bona fide agricultural use by the Valley County Planning & Zoning Administrator.

Chairman Garrison announced the item and asked for a staff report. Staff explained that there are cases where people want to build agricultural buildings on property adjacent to property that they lease for agricultural use, i.e. hay storage or a big barn. Another example is that it would take just a few acres to have a raspberry farm, which would be a bona fide agricultural use. Staff also stated that the Building Official had concerns about the future use of buildings not constructed to any code.

No one was present to testify.

The public hearing was closed.

Discussion ensued and some recommendations were made. The Commission determined that some thought was needed on this matter.

Commissioner Sandmeyer moved to table the matter to June 20 at 6:00 p.m. to make recommended changes of the requirement of a copy of the lease and/or proof of agricultural business. Commissioner Allen seconded the motion. Motion carried.

3. It is proposed to amend the **Valley County Code, Title 10 Subdivision Regulations, Chapter 4 Design Standards, Section 6 Easements** to read as follows:

Utility Easements: There shall be provided easements for the utilities upon and across the front ~~and rear~~ of lots of a width of a minimum of twelve feet (12') (except for entrance service) or as and where considered necessary by the commission.

Chairman Garrison announced the item and asked for a staff report. Staff explained that we had previously removed utility easement requirements from side lot lines, but had failed to remove them from the rear lot line.

No one was present to testify.

Chairman Garrison closed the public hearing.

Commissioner Hill moved to recommend approval as presented by staff. Commissioner Sandmeyer seconded the motion. Motion carried.

Meeting adjourned.