

Valley County Planning & Zoning Commission

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Bryan Cooley, Chairman
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Ed Allen, Commissioner
Ray Cooper, Commissioner
Johanna Defoort, Commissioner

MINUTES

Valley County Planning and Zoning Commission
November 14, 2019
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:00 p.m. Quorum exists.

P&Z Administrator – Cynda Herrick:	Present
P&Z Commissioner – Ed Allen:	Present
P&Z Commissioner – Bryan Cooley:	Present
P&Z Commissioner – Ray Cooper:	Present
P&Z Commissioner – Johanna Defoort:	Present
P&Z Commissioner – Scott Freeman:	Present
P&Z Technician – Lori Hunter:	Present

B. MINUTES: Commissioner Freeman moved to approve the minutes of October 10, 2019. Commissioner Cooper seconded the motion. Motion carried unanimously.

C. OLD BUSINESS:

- 1. C.U.P. 19-12 Pickens Subdivision – Final Plat:** Nathan Pickens is requesting final plat approval. The commission will review the final plat to determine conformance with the preliminary plat and conditional use permit. The preliminary plat approval was for a 2-lot residential subdivision on 4.8 acres. The site is located in a portion of “unplatted” Northlake Subdivision 1 in the SW ¼ Section 8 and NW ¼ Sec. 17, T.15N, R.3E, Boise Meridian, Valley County, Idaho. **[Not a public hearing.] Action Item**

Chairman Cooley asked for the Staff Report. Staff presented the staff report and summarized the following exhibits:

- **Exhibit 1** – Chip Bowers, Valley County Surveyor, noted changes that need to be made to final plat.
- **Exhibit 2** – Jess Ellis, Donnelly Rural Fire Protection District, responded with a revised comment letter. At this time, the District has no comments or concerns.

No build zone is due to wetlands.

Commissioner Defoort moved to approve final plat for C.U.P. 19-12 Pickens Subdivision and authorize the Chairman to sign. Commissioner Freeman seconded. Motion carried unanimously

Chairman Cooley explained the ten day appeal period.

2. P.U.D. 98-1 Tamarack Resort: Construction Update and 3-Year Plan: Tamarack Resort Holdings LLC will present an updated plan for construction, landscaping, and layout of the buildings. All but two of the dome units will be removed in 2020 and uses moved into the commercial space within the Village. Plans include employee housing, 45 foot climbing wall, and increased public parking. The proposal includes a 12,000 sq.ft. building to be used for administration/ski patrol/First Aid purposes instead of a Condominium Residence Club as previously approved. The proposal also includes an amendment to allow 18 estate lots in a site originally designated as water treatment, rope challenge course, and horse corrals. Eleven estate lots are proposed in an area originally designated as condominiums. The Design Plaza will be converted into 22 townhome/duplex units. The site is located in T.15N, R2E; T.16N, R.2E, and T.16N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item*

Chairman Cooley introduced the item. Chairman Cooley asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Cooley asked for the Staff Report. Staff presented the staff report. A preliminary plat for these changes has not yet been received or approved. Currently, approval would expire December 31, 2019. In the future, the applicant will make a new phasing plan for build out. The Commission will make a recommendation to the Board of County Commissioners.

Chairman Cooley asked for the applicant's presentation.

Chris Kirk, planning consultant for Tamarack Resort Holdings, spoke on behalf of the applicant. In 2019, reconstruction of the Village began; it will be completed in two phases in about 2 ½ years. The Village contains both commercial space and multiple residential units. In 2020, food court, restaurants, coffee shop, and wine bar will be completed. The grocery market is being constructed in a different spot. He discussed parking plans and drop off zones. There will be no loss in parking spaces but will be better organized. Once the existing domes are removed, the useable ski area will be increased. Two domes will remain until 2022: childcare dome and operations dome with ski patrol.

Workforce housing: four of the design plaza units have been converted into temporary worker housing and will sleep 32 people. These are in the Design Plaza area off of Village Drive.

Scott Turlington, consultant, spoke on workforce housing. Tamarack has also made many rental agreements to be able to offer about 50 beds for housing. They intend to erect employee housing at the resort.

There was explanation on the proposed change in use for some sites. The water treatment site

is no longer needed due to service provided by North Lake Recreational Sewer and Water District; 18 estate lots are proposed instead. The Ponderosa Ridge area will decrease from 70 condominium units to 11 lots. Preliminary plats will be submitted to make these changes.

They would like to have periodic camping for special events; currently have six bike and bmx events scheduled for 2020. A previous amendment to the original PUD allows for this. The primitive camping sites will be near West Mountain Road, not too far south of the main entrance into Tamarack Resort.

A marina lease is currently being negotiated. Administrator Herrick said the Board of County Commissioners have sent letter to Bureau of Reclamation and Idaho State Parks asking to participate in this process.

Mr. Kirk confirmed lighting will continue to be dark sky compliant.

Chairman Cooley asked for proponents. There were none.
Chairman Cooley asked for undecided. There were none.
Chairman Cooley asked for opponents. There were none.
Chairman Cooley closed the public hearing.

The Commission deliberated. This request is to modify the previous approval and give an extension to complete.

Commissioner Allen moved to recommend to the Board of County Commissioners approval of P.U.D. 98-1 Tamarack Resort: Construction Update and 3-Year Plan with modifications as presented and an extension through December 31, 2022, to allow for a more specific phasing plan. Commissioner Defoort seconded the motion. Motion carried unanimously.

Chairman Cooley explained the ten day appeal period.

E. NEW BUSINESS:

[06:41:16 PM \(00:39:26\)](#)

- 1. C.U.P. 19-24 Keller Room Rental:** Wes Keller and Shelly Garriott are requesting a conditional use permit for a short-term rental. The 692 sq. ft. room has a bathroom and kitchenette and is detached from the home. The site is on a 0.68 acre lot addressed at 260 Moonridge Drive. It is Lot 28 in First Amended Payette River Subdivision No 1, in Section 30, T.18N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item **Withdrawn by applicant.***

Chairman Cooley introduced the item. Administrator Herrick requested they apply for conditional use permit. They appealed the administrative decision that one was needed; however, the P&Z Commission upheld the Administrator decision. The applicant then applied for a conditional use permit.

Exhibit 1 – letter dated November 13, 2019, from applicant withdrawing the application. The applicants said the staff report misrepresented their short-term rental as a hotel

room and commercial use instead of a residential use. They quoted from House Bill 216.

Previously the P&Z Commission concurred with Administrator Herrick that short term rentals have to be a residence. The applicant is renting a detached building for which they received a building permit for a recreation room. Central District Health (CDH) responded that the septic system is not adequate for an additional one-bedroom dwelling. {Staff rated the use as a +28.}

Administrator Herrick read the draft response letter to applicants from P&Z Commission. This letter gives notice that they cannot rent out the unit. Even if the draft ordinance on short-term rental is approved, this site does not qualify. They also would need to improve septic and get CDH approval. The subdivision's CCRs do not allow commercial uses. Their subdivision does currently have multiple vacation rentals. The Commission is not denying them that use. However, they cannot ignore the requirements.

Commissioner Freeman moved to authorize the chairman to sign the letter to mail to the applicant. Commissioner Allen seconded the motion. Motion carried unanimously.

[06:51:28 PM \(00:49:38\)](#)

2. C.U.P. 19-30 Worthen Family Cemetery: David and Sharla Worthen are requesting a conditional use permit for a 50' x 30' family cemetery on their private property. The site is on a 16.5 acre parcel addressed at 196 West Mountain Road, T.13N, R.3E, Section 13, Boise Meridian, Valley County, Idaho. *Action Item*

Chairman Cooley introduced the item. Chairman Cooley asked if there was any *exparte* contact or conflict of interest. There was none.

Chairman Cooley asked for the Staff Report. Staff presented the staff report. A conditional use permit is only needed if more than one person is buried at a site. Notice letters were sent to Central District Health and Department of Environmental Quality.

Chairman Cooley asked for the applicant's presentation.

David Scott Worthen, 196 West Mountain Road, said that the cemetery will be small portion of the 16-acre parcel. Flat headstones only. Access will be from a man-gate from West Mountain Road. Precast concrete vaults to mark sites will be done. This is a dry site and heavily timbered.

Chairman Cooley asked for proponents.

Karen Johnson, 221 Pole Cat Ridge Road, was surprised that a conditional use permit is required for this use. People should be able to use their private property. She did have questions about casket type, burial depth, cremation remains, and state requirements for burial sites.

Brent Thompson, 201 Polecat Ridge Road, is in favor.

Chairman Cooley asked for undecided. There were none.

Chairman Cooley asked for opponents. There were none.
Chairman Cooley asked for rebuttal.

Mr. Worthen replied that normal burial practices will be used. There may be some sites for cremation ashes. All remains will be in precast concrete vaults.

Chairman Cooley closed the public hearing.

The Commission deliberated. There does need to be a document recorded for perpetuity to mark cemetery location and have an easement for family to visit even if land is sold.

Commissioner Allen moved to approve C.U.P. 19-30 Worthen Family Cemetery with the stated conditions. Commissioner Cooper seconded the motion. Motion carried unanimously.

Chairman Cooley explained the ten day appeal period.

[07:09:57 PM \(01:08:07\)](#)

3. C.U.P. 19-31 Daugherty Excavation: Dan Daugherty is requesting a conditional use permit to park vehicles and equipment for a business including mini-excavators, skid steers, and snow-removal equipment. A new 40 x 40 ft garage for equipment storage is proposed. The site is 2 acres addressed as 13978 Rustic Road. It is Eld's Country Subdivision Lot 3 in the SE ¼ Section 33, T.18N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item*

Chairman Cooley introduced the item. Chairman Cooley asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Cooley asked for the Staff Report. Staff presented the staff report and summarized the following exhibits:

- **Exhibit 1** – Dan Daugherty [applicant] responded to comments and questions within the staff report.
- **Exhibit 2** – Jeremy & Kimberly Onthank responded via letter dated November 7, 2019. They reside at 13974 Rustic Road, adjoining the south side of the Daugherty property. They are very strongly opposed to a new building being used commercially.

Administrator Herrick stated that this is a residential business that may have some impact on neighbors. Commercial setbacks are 30 ft from front and 10 feet from side property lines. A house and garage exist; a shop would be added to the lot. The Commissioners should determine if this use is compatible with the nearby land uses. If so, Commissioners should specify conditions that can be approved to mitigate the impacts.

Chairman Cooley asked for the applicant's presentation.

Kevin Daughtery, spoke on behalf of the applicant. He and his dad [applicant] would like to start a small excavation/snow removal business. Currently he expects it to be only him and his dad, possibly one additional employee in future. He is very aware of the concerns of the neighbors. The proposed garage could likely be moved further from Rustic Road. There is a possible issue

with high water table that exists in the back (east) portion of the lot.

The shop would have drive-in/out entrances. There was discussion on operation time periods and cleaning of vehicles and equipment. He has been and will continue to eradicate knapweed on the property.

Chairman Cooley asked for proponents. There were none.

Chairman Cooley asked for undecided. There were none.

Chairman Cooley asked for opponents.

Leslie Topliff, 13977 Rustic Road, lives across the street. The area already has enough problems with Crawford Landscaping, particularly road damage. He does not want additional traffic or noise. Actual hours for this type of business are dark to dark, particularly when equipment maintenance is added. Snow removal starts at 2 a.m.

Kimmy Onthank, lives on the south side of the applicant's property. The applicant's family is nice. However, she is concerned with impacts. Crawford Landscaping is much larger than the landscaping business that existed when the Onthank's bought the property. ION Electric has moved in. Another business is not needed in the neighborhood. Traffic and noise are concerns. Her house is 10 feet from the property line. The proposed shop building is 20 feet from her bedroom window.

Chairman Cooley asked for rebuttal.

Mr. Daugherty understands the neighbor concerns. He is willing to try to move the proposed shop further back from Rustic Road.

Chairman Cooley closed the public hearing.

The Commission deliberated. Commissioner Defoort requested that staff check into the conditions of approval for Crawford Landscaping and determine if it is still within the scope of the conditional use permit.

For this application, the applicant is willing to do mitigation. There was discussion if Highway 55 could be used as the business access. A shared easement with ION Electric onto the highway could possibly be negotiated. Conditions of approval could limit size of operation and hours. Administrative Herrick read the Residential Business definition from Valley County Code.

Commissioner Allen would like a landscape plan. Commissioner Defoort requests the business owner suggest maximum number of equipment, business hours, etc. Moving the access to Highway 55 should be explored.

Commissioner Allen moved to table C.U.P. 19-31 Daugherty Excavation to January 9, 2020 in order to obtain more information. Commissioner Freeman seconded the motion. Motion carried unanimously.

5 minute recess

[07:52:38 PM \(01:45:37\)](#)

F. OLD BUSINESS CONTINUED – ORDINANCE REVIEW:

- 1. Ordinance Amendment - Accessory Dwelling Unit:** This proposal would modify the definition of Accessory Dwelling Unit and remove the definition of the defunct Valley/Adams Regional Housing Authority within Valley County Code 9-3-1. Chapter 9-4-7 Accessory Dwelling Units would be modified. Requirements for long-term and short-term rental property would be specified as to whether they would be administratively approved or conditionally approved. Parking for accessory dwelling units will not be allowed in public right-of-ways. [Tabled from Sept. 12, 2019.] *Action Item*

Chairman Cooley introduced the item and opened the public hearing.

Administrator Herrick mentioned a minor spelling change. This is amendment is to fine-tune the existing ordinance. She recommends it is tabled to specific date.

Chairman Cooley asked for proponents. There were none.

Chairman Cooley asked for undecided. There were none.

Chairman Cooley asked for opponents. There were none.

Commissioner Allen would like to have a special meeting date for to discuss the ordinance amendments in more detail.

Staff will notice work session to interested parties and put notice in newspaper in addition to noticing the public hearing on January 9th. Public comment will be allowed during work session.

Commissioner Defoort moved to hold a work session for **Ordinance Amendment - Accessory Dwelling** on January 7, 2020, at 6:00 p.m., and a public hearing on January 9, 2020, at 6:00 p.m.. Commissioner Freeman seconded the motion. Motion carried unanimously.

- 2. Ordinance Amendment - Recreational Vehicle Campground:** This proposal would define Recreational Vehicle Campground and Recreational Vehicle Park in Valley County Code 9-3-1 and create Chapter 9-4-8 Recreational Vehicle Campground. Administrative permits would be required for two or three RV units. Other requirements include sewage disposal, garbage, setbacks, rentals, lighting, camp fires, quiet hours, lot coverage, and notification of adjacent property owners. [Tabled from Sept. 12, 2019.] *Action Item*

Chairman Cooley introduced the item and opened the public hearing.

Administrative Herrick detailed the changes she had made since September 12th meeting as recommended.

Chairman Cooley asked for proponents.

Steve Herrick asked for clarification of requirements.

Administrator Herrick replied that this will create an administrative permit for family use up to three (3) RVs. To rent the RV(s) out, a conditional use permit would be required.

Chairman Cooley asked for undecided. There were none.

Chairman Cooley asked for opponents. There were none.

The Commissioners discussed the draft ordinance. Additions and changes were suggested. In response to Commissioner Allen's comments, Administrative Herrick said she would add a part explaining the process of applying for an administrative permit. She will improve the topic headers.

Commissioner Defoort moved to hold a work session for **Ordinance Amendment - Recreational Vehicle Campground** on January 7, 2020, at 6:00 p.m., and a public hearing on January 9, 2020, at 6:00 p.m.. Commissioner Cooper seconded the motion. Motion carried unanimously.

3. Ordinance Amendment – Short Term Rental: This proposal would create Chapter 9-4-9 Short Term Rentals. Short Term Rentals would require an Administrative Permit with specific standards regulating sewage disposal, garbage, setbacks, rules of operation, lighting, camp fires, quiet hours, and notification to adjacent property owners. [Tabled from Sept. 12, 2019.] *Action Item*

Chairman Cooley introduced the item and opened the public hearing.

Administrator Herrick detailed changes made since the September 12th draft. The Commissioners discussed the draft ordinance. Additions and changes were suggested

Staff will create a process form for these permits.

Commissioners discussed additional concerns to consider (**Exhibit 1**). Occupancy will be limited by Fire Marshall, Central District Health, and number of legal bedrooms; not how many beds and tents can be added to the site. These limits will be based on health and safety standards. Only one transient residence per parcel allowed without obtaining a conditional use permit. Parking requirements were discussed. If the Fire Department determines the site is a commercial use, a conditional use permit could be required. McCall has limited numbers in vacation rentals; over 20 people require a special permit. Quiet hours and limits on amplified sound were discussed.

Administrative Herrick will add the administrative process and enforcement.

Exhibit 2 – WCMDC letter

Exhibit 3 – letter from a concerned tax paper

Chairman Cooley asked for public testimony.

Maggie Brilz, 64 Vista Point Loop, appreciates the interest in this issue. She supports the changes that have been added.

Jim Newcomb, 31 Pleasant Acres Drive, said vacation rentals will continue to increase. They result in are negative impacts to the County. There should be a financial benefit to the County. Do single-family homes that are converted into rentals meet codes? Do they have to be retrofitted to meet commercial requirements? Well permit applications ask if the well is for a single-family use.

Greg Plummer, 63 Vista Point Loop, has concern about water usage and septic systems. Neighbor got permit for 16-bedroom septic system. He is concerned about this system's effect on the neighborhood shared well. He has as questions on who will issue and enforce this permit.

Administrative Herrick will research if short term rentals get home-owners property tax exemption. A requirement saying short-term rentals cannot get the home-owners exemption. She will also research the well permit requirements and the difference in building requirements for single-family use versus commercial use. At what point does the vacation rental become a hotel.

Commissioners deliberated. The Commission is not trying to deter the use, just trying to regulate. Our economy is tourism based. Our County needs this use.

Jim Newcomb is concerned how the process will deal with changes in property ownership.

Valley County cannot prohibit the use of short term rentals but can regulate the use of them.

Commissioner Defoort made a motion to table to work session on January 7, 2019, at 6:00 p.m., and public hearing on January 9, 2019, at 6:00 p.m.. Commissioner Cooper seconded. Motion passed unanimously.

Chairman Cooley explained the ten day appeal period.

[08:47:25 PM \(02:40:24\)](#)

E. FACTS AND CONCLUSIONS - Action Items:

- C.U.P. 19-14 Aldrich Private RV Campsite
- C.U.P. 19-27 Butler Containers
- C.U.P. 19-28 Pole Structure
- C.U.P. 19-29 Escosa Multiple Residence

Commissioner Defoort moved to approve the Facts and Conclusions as presented and authorize the chairman to sign. Commissioner Freeman seconded the motion. Motion carried unanimously.

Chairman Cooley adjourned the meeting at 8:48 p.m.