

Valley County Planning & Zoning Commission

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Johanna Defoort, Chairman
Scott Freeman, Vice-Chair

Brian Benton, Commissioner
Ray Cooper, Commissioner
Neal Thompson, Commissioner

MINUTES

Valley County Planning and Zoning Commission
January 14, 2021
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 – Brian Benton: | Present |
| P&Z Commissioner – Ray Cooper: | Present |
| P&Z Commissioner – Johanna Defoort: | Present |
| P&Z Commissioner – Scott Freeman: | Present |
| P&Z Commissioner – Neal Thompson: | Present |
| P&Z Technician – Lori Hunter: | Present |

Chairman Defoort explained tonight's public hearing procedures which are based on the Governor's current requirements for Covid-19. The public can livestream the meeting and may testify telephonically.

- B. MINUTES:** Commissioner Benton moved to approve the minutes of December 10, 2020. Commissioner Cooper seconded the motion. Motion carried unanimously.

C. OLD BUSINESS:

- C.U.P. 19-35 Lake Fork Landing – Final Plat:** Lake Fork Development LLC is requesting final plat approval. The commission will review the final plat to determine conformance with the preliminary plat, approved densities, and conditional use permit. This plat consists of 10 single-family residential lots on approximately 21 acres. Access would be from Pleasant Acres Drive (public) onto a private road. The site is RP17N03E034205 located in the SENW Section 3, T.17N, R.3E, Boise Meridian, Valley County, Idaho. **[Not a public hearing.]**

Chairman Defoort introduced the item. Administrator Herrick presented the staff report and summarized the following exhibits:

- Exhibit 1** – Laurie Frederick, Valley County Cartographer, commented on the plat.

- **Exhibit 2** – Additional information and updated final plat from applicant responding to comments and questions within the staff report.

Chairman Defoort asked the application for clarification of the 20-ft wide irrigation easement.

Cody Draper, 2589 S Groom Way, Meridian, responded to questions from the Commission and Staff. The underground irrigation pipe will jog on the property line and will maintain a slope so not to disrupt water flow. The irrigation line has been completed. There is a note on the plat regarding water rights. Conduit does exist if needed in future. The buried irrigation pipe is buried three feet in ground with cleanouts along the pipe along the boundary of Lot 3 and Lot 5. Irrigation district has access to the pipe and clean-outs. CCRs include information regarding maintenance and repair of irrigation pipe. There is a 12 ft easement. An irrigation easement existed before the subdivision was approved.

Staff will clarify easement information with the Irrigation District. If a separated written easement is necessary, one will be recorded.

The original property line and the fence line did not match. A new survey was done, and the property boundary has been adjusted to the south to match the existing fence line.

Commissioner Benton moved to approve the C.U.P. 19-35 Lake Fork Landing final plat and authorize the Chairman to sign. Commissioner Freeman seconded. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

D. NEW BUSINESS:

1. **C.U.P. 20-28 Eis RV Site:** Dale and Joyce Eis are requesting approval of a conditional use permit for a Recreational Vehicle campground to allow four RVs to be used as dwellings for more than 30 days in duration. The campsite will be for personal use and will not have any commercial use. There is an individual well, individual septic, RV holding tanks, and electrical power. The 1.3-acre site is addressed at 3 Hemlock Trail, located in CR-4 Subdivision Lot 32, in the NE ¼ Sec. 15, T.13N R.3E, Boise Meridian, Valley County, Idaho. Action Item. **Tabled from Dec. 10, 2020.**

Postponed to February 11, 2021 at 6:00 p.m.

6:20 p.m.

2. **C.U.P. 20-26 Hayes Short-Term Rental:** Christopher Hayes is requesting a conditional use permit for a short-term rental with 18 guests. The home is approximately 2,692 sq.ft. with an attached carport. Central sewer and water are provided. The 0.46-acre site is addressed at 28 Pointe at Goldfork CT, located in Lot 7, Block 1 of The Pointe at Goldfork, in the NW ¼ Section 34, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item. **Postponed from Dec. 10, 2020.**

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Staff presented the staff report. Staff showed the aerial of the parcel as displayed on the PZ GIS map which is on-line. The building permit site plan and C.U.P. application were discussed.

Chairman Defoort asked for the applicant's presentation.

Christopher Hayes, 348 W Cub Street, Meridian, continues to offer a short-term rental for 18 people. He discussed the reasons this property was purchased. It was one of the first homes built in the subdivision. He uses VRBO for the bookings and sales tax collections (**Exhibit 1**). No parking on the street. There is overflow parking in an area that is hidden on the aerial map by the tall pine trees. There have been two instances of renters parking on the street during daylight hours in past three years. There are four motion cameras onsite to monitor the property. Parking was further discussed in response to questions from Commissioners. The neighbor to the southwest also has similar overflow parking. The surrounding lots were discussed. He did not sign and agree to the 2017 amendment (**Exhibit 1**). He was told in 2017 that he was grandfathered in to have a short-term rental in the subdivision. There have been zero negative instances in the past four years. The home has three full bedrooms, three bathrooms, and bunkbeds for a total of sleeping areas for 18 people. The fire pit and water hose were mentioned. Rental agreement with rules is posted on site. The original site plan was modified to preserve large pine trees on the property during construction. Winter maintenance is contracted. The main driveway is plowed, including the compacted gravel for overflow parking.

Staff stated that parking is not allowed in the setback areas.

There have been extensive email conversations with the neighbors. The renters are not to use the common subdivision dock. He bought the property in 2007, prior to the amendment to the CCRs. The parking in the garage is used as well as the driveway. The open loft area has triple bunk beds. He does have three liquified-propane sensors and also carbon-monoxide detectors in the house.

Chairman Defoort asked for proponents, undecided, and opponents to speak. All comments were by telephonic testimony.

Mike Fein, the adjacent property owner to the north, is opposed to any numbers over 12 people. Rules were established to for the protection of both renters and proximity to owners. Parking is occurring everywhere, including on the street.

Chairman Defoort asked for rebuttal from the applicant.

Mr. Hayes responded to the parking concerns and the reference of a carport.

Staff responded to questions from staff regarding parking for conditional use permits. Valley County Code 9-5-3h states that parking is not allowed in setbacks. The setbacks for this specific lot were discussed.

Chairman Defoort clarified that parking is not allowed within any of the setbacks. This needs to be understood by all renters.

Chairman Defoort closed the public hearing.

The Commission deliberated. They discussed the impact an increase from a maximum of 12 guests to 18 has on the area and on the neighbors. The use of a dock is a homeowners association decision, not the Planning and Zoning Commission. Septic limit is not an issue for this site as it is on sewer. The Donnelly Fire Marshall submitted a letter stating things are ok. Parking can be enforced and added to conditions of approval.

Revise COA #13: Parking should be in designated parking spots and not in the right-of-way or setback area.

Commissioner Cooper moved to approve C.U.P. 20-26 Hayes Short-Term Rental with the stated conditions. Commissioner Benton seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

Staff will be providing a list of short-term rentals to Valley County Dispatch which will include contact information and maximum number of guests allowed.

3. C.U.P. 20-31 Tall Timber Machining & Lumber: William Smith is requesting a conditional use permit for continued use of C.U.P. 15-10, an existing covered sawmill and log storage yard that was approved for five years. A machine shop will also be constructed. The approval will also be for a variance from 9-5F-2.A (75' frontage requirement) and 9-5F-2.B.2 (setbacks). The site is 4.8 acres addressed as 228 Maki Lane. It is in Long Valley Subdivision # 1, Tax # 94 in Lot 4 and Tax # 86 in Lot 5, in the SE ¼ Section 8, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item. **Postponed from December 10, 2020**

Postponed to February 11, 2021 at 6:00 p.m.

4. C.U.P. 20-35 Snow Bike Race Event: R&R Promotions LLC is requesting a conditional use permit for a commercial event on January 30, 2021, and then on an annual basis. The property is currently owned by Franklin and Christine Loomis. Parking and portable toilets would be available at the site; 400-800 total people are expected. The site is the southeast portion of parcel RP16N03E240004. The parcel is addressed at 385 and 387 Gold Fork Road and located in the NE ¼ Section 24, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item. **Withdrawn by applicant.**

7:29 p.m.

5. C.U.P. 15-17 Lake Fork Commercial Center – Extension Request: Dream Development INC is requesting a two-year extension of the conditional use permit that expires on February 23, 2021. The approval included four commercial buildings with rental housing on the second floors to be built in Lake Fork at the southeast corner of Highway 55 and Pleasant Acres Drive. The 2.5-acre site is Lots 7A & 7B of Krueger’s Folly Subdivision in the SW ¼ Section 3, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

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

- **Exhibit 1** – Gary Swain letter dated Jan. 12, 2021.

Chairman Defoort asked for the applicant’s presentation.

Gary Swain spoke telephonically.

There was no one in the audience. Chairman Defoort asked for anyone who wished to speak telephonically. There was no response.

Chairman Defoort closed the public hearing.

The Commission deliberated. If the new owners receive a new conditional use permit for this site and establish the use by construction, this C.U.P. will then be null and void.

Commissioner Benton moved to approve C.U.P. 15-17 Lake Fork Commercial Center – Extension Request with the stated conditions. Commissioner Freeman seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

7:37 p.m.

6. V-4-20 Spade Setback Variance: Deborah and Kent Spade are requesting a variance to relax the front-yard setback from the required 20 feet to 15 feet. The 1.38-acre lot is addressed at 210 Moon Drive. It is Payette River Subdivision No. 2, Tax # 43 in Lot 66 and located in the SE ¼ Section 30, T.18N, R.3E, Boise Meridian, Valley County, Idaho. Action Item

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

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

- **Exhibit 1** – Bruce Granston, adjacent neighbor, in support of the variance (Jan. 6, 2021).

Chairman Defoort asked for the applicant's presentation.

Heather Susemihl, McCall Design & Planning, Commerce Street, McCall, representing the applicant, said the main issue is water flowing toward the home. They would like to add on to the roof and build four feet into the 20-foot setback. Drainage around the home was discussed.

There was no one in the audience. Chairman Defoort asked for anyone who wished to speak telephonically. There was no response.

Chairman Defoort closed the public hearing.

The Commission deliberated. French drains can be built within a setback area. However, there is a basement there which would greatly increase the expense. The variance is one of the multiple solutions the property owners are considering; adding an overhang may not cure the problem. Chairman Defoort appreciates that the homeowner association and neighbor have responded positively to the variance request.

Commissioner Freeman moved to recommend approval of V-4-20 Spade Setback Variance to the Board of County Commissioners. Commissioner Benton seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

7:56 p.m.

7. VAC 20-03 Vacation of Access and Utility Easements: Robert Grunsky is requesting vacations of the ingress/egress easement and utility easement for Ashton Ridge Ranch Subdivision Phase II Lots 8 & 9. The property where the shared driveway is located would then be transferred to the adjacent Lots 5 and 6. Lots 8 and 9 would then be accessed from Sweet Iron Court. The site is in the NE ¼ Section 12, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Administrator Herrick presented the staff report.

Chairman Defoort asked for the applicant's presentation.

Rob Grunsky, 13793 Sweet Iron CT, wants to buy Lots 8 & 9, across the street from his home. This would preserve beauty of both subdivision communities. All HOA members are in favor. In addition, removing the shared driveway access would reduce the amount of asphalt and a driveway crossing over a wetland area.

There was no one in the audience. Chairman Defoort asked for anyone who wished to speak telephonically. There was no response.

Chairman Defoort closed the public hearing.

The Commission deliberated. The proposal makes sense and would reduce the amount of driveway required. The Commissioners have no issues with this request.

Commissioner Benton moved to recommend approval of VAC 20-03 Vacation of Access and Utility Easements to the Board of County Commissioners. Commissioner Thompson seconded the motion. Motion carried unanimously.

The Board of County Commission will also hold a public hearing for VAC 20-03.

8:06 p.m.

8. Ordinance Amendment 9-6-2 Flood Prone Areas: This amendment is being proposed to allow legally platted lots that existed on February 1, 2019, and are in a floodplain to be developed. If there is no portion of the lot where the structures can be located outside the identified flood prone area, then a permit can be issued so long as there is compliance with subsection D and Title 11 of the Valley County Code. Action Item.

Chairman Defoort introduced the item and opened the public hearing. This is a legislative matter.

Chairman Defoort asked for the Staff Report. Administrator Herrick presented the staff report. The reasons for the changes in flood maps was discussed. The Blackhawk area has a headgate (uncertified levy); therefore, the floodplain map does not include the levy in determining and designating the floodplain. This resulted in three existing subdivision lots being added into the 2019 designated floodplain. A floodplain ordinance was originally adopted in 1990. In addition, Valley County adopted 9-6-2 preventing development in the designated floodplain. However, if a lot is completely within the floodplain, then Title 11 allows and regulates building requirements. The new floodplain maps adopted in 2019 placed existing subdivision lots into the designated floodplain. The date should have been updated to February 1, 2019, when the 2019 maps were adopted. This change still does not allow any building in the floodplain except for those lots that already existed prior to February 1, 2019, and where there is no other place on the lot to build. These four known lots were legally platted; if the date does not change, these lots cannot be developed or built on. If the date is changed, then the lots would require all buildings to be elevated two-feet above base flood elevation and flood vents would be allowed in foundations. Central District Health will issue a septic permit in a floodplain but not in a floodway. None of these four known lots front on any waterbodies. The difference between Zone A and Zone AE was discussed.

This proposal would not change any requirements for new subdivisions or developments.

Staff summarized the following exhibits:

- **Exhibit 1** – Judy Secrist, Payette River Subdivision, is opposed. Property that lies in the flood prone area can be used for purposes other than residential. (Jan. 7, 2021)
- **Exhibit 2** – Craig Utter, Payette Land Trust, states that this is an administrative change to restore building privileges to lots previously platted as buildable prior to the Feb. 1, 2019 adoption of the flood insurance rate maps. The letter further describes the Payette Land Trust and Payette River Basin Initiative. (Jan. 7, 2021)
- **Exhibit 3** – Valley County Soil and Water Conservation District is opposed. Research has

shown that allowing structures to be built in flood prone areas creates potential for conflict and further degradation of water quality. (Jan. 7, 2021)

- **Exhibit 4**– Angela Staup of McCall is opposed as the long-term consequences outweigh the short-term economic gain. (Jan. 7, 2021)
- **Exhibit 5** - Lynn Lewinski of McCall is opposed to development in wetlands in order to protect habitat and wildlife as well as ensure drainage and water flow. (Jan. 7, 2021)

There was no one in the audience. Chairman Defoort asked for anyone who wished to speak telephonically.

Wes Keller spoke about the potential for future impacts. LIDAR allows high resolution flood plain maps that are very accurate. These sites would be poor choice to develop and would be flooded in high-water events. He is water restoration professional. There is much riprap in the Blackhawk area. He found five lots and believes there is many more. This ordinance should not be approved until the impact has been properly researched.

Ruth Lewinski is a 20-year resident of Valley County. She finds this ordinance confusing and is opposed. All lots in the drainage basin contribute to the toxic algae in Lake Cascade. An ordinance should not be change for the benefit of a few lots.

Administrator Herrick stated if the amendment was approved and these sites were to be built on, buildings would have to be two-feet above the base flood elevation, including ductwork. Only four lots are known to be unbuildable due to the new floodplain maps as those entire lots are within the floodplain designation and are not common area/open space lots. Wetlands were discussed. The floodplain GIS map layer was viewed and discussed. The letter of map revision process was discussed.

Wes Keller and Ruth Lewinski are opposed to a general ordinance change and would prefer specifically stating which lots would be allowed to have buildings within the floodplain.

Chairman Defoort closed the public hearing.

The Commission deliberated. We cannot take away value from property owners. These are not wetlands. Stringent building requirements exist under Title 11. This is only four residential lots that are now completely within the floodplain due to the 2019 maps. There are platted open-space lots that are completely within the floodplain; however, these common areas are not buildable. Other lots may be partially within the floodplain; building must occur on the portion of the lot outside of the floodplain. The Smith Ferry area lots that are completely within the floodplain were allowed under the previous ordinance.

Commissioner Freeman moved to recommend approval of Ordinance Amendment 9-6-2 Flood Prone Areas to the Board of County Commissioners. Commissioner Benton seconded the motion. Motion carried unanimously.

The Board of County Commission will also hold a public hearing for the ordinance amendment.

E. FACTS AND CONCLUSIONS - Action Items:

- C.U.P. 20-32 Herrick Court– Preliminary Plat
- C.U.P. 20-33 Valley County Pickleball
- VAC 20-02 Vacation of Utility and Drainage Easements

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

F. OTHER - Action Items:

- **Election of Officers**

Commissioner Defoort nominated Ms. Herrick for Secretary. The motion was seconded and passed unanimously.

Commissioner Benton nominated Commissioner Defoort for Chairman; Commissioner Freeman seconded. Motion passed unanimously.

Commissioner Defoort nominated Commissioner Cooper for Vice-Chairman; Commissioner Freeman seconded. Motion passed unanimously.

- **Meeting dates for 2021**

Commissioner Benton moved to have the regular meetings be held on the second Thursday of each month, beginning at 6:00 p.m. Commissioner Cooper seconded. Motion passed unanimously.

Chairman Defoort adjourned the meeting at 9:12 p.m.