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STAFF REPORT

Amendment to the Valley County Code 9-6-2 Flood Prone Areas

HEARING DATE: May 3, 2021
TO: Board of County Commissioners
STAFF: Cynda Herrick, AICP, CFM
REQUEST: Allow legally platted lots that existed on February 1, 2019, and are now in a floodplain to be developed.

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.

This is only being proposed due to the adoption of new flood insurance rate maps (FIRM) on February 1, 2019, that made some lots undevelopable under current Valley County Code. Staff has identified four lots that were legally platted in 2006 but will not be buildable now due to the newly adopted Flood Insurance Rate Maps (see attached map showing four lots). Three of the lots are interior lots that are downstream from an uncertified levy (old irrigation headgate). None of the lots front on the North Fork of the Payette River.

The proposed modification is:

9-6-2: FLOOD PRONE AREAS:

C. Permitted Uses: The following are permitted uses within flood prone areas:

Agricultural and open space uses, except structures for enclosing animals.

Civic or community service uses, except structures, shelters, sewage treatment facilities, cemeteries, or sanitary landfills.

Industrial uses, except structures and the storage of chemicals, petroleum products, and similar products which are water soluble or floatable. Wood processing plants without structures may be permitted uses.

Private or commercial recreation uses, except structures or shelters for human occupancy or for enclosing animals.

Residential uses when the lot is located within a subdivision plat recorded prior to ~~September 5, 1990~~ February 1, 2019; there is no portion of the lot where the structures can be located outside the identified flood prone area; and, the structures comply with the applicable standards in subsection D of this section.

Structures established prior to ~~September 5, 1990~~ February 1, 2019, that are in a flood prone area, that are destroyed or substantially damaged by extraordinary events such as fire, earthquake, etc., may be replaced, but shall be in compliance with title 11 of this Code.

FINDINGS:

1. The Planning and Zoning Commission recommended approval of the proposed at legally noticed public hearings on January 14, and March 11, 2021. The recorder shut off 10 minutes before the end of the hearing on January 14, so an additional public hearing was held on March 11, 2021; both meetings were properly noticed.
2. Legal notice was posted in the *Star News* on April 8, 2021 and April 15, 2021. Potentially affected agencies were notified on March 31, 2021. People who commented for the Planning & Zoning public hearings were noticed on March 31, 2021. The notice sheet was posted on bulletin boards at post offices and libraries in Cascade, Donnelly, McCall, and Yellow Pine. The notice was posted on the Valley County website “Public Hearing Information” on March 29, 2021.
3. Response: (includes comments received for previous public hearing)

Jon and Katy Vanderhoef, 35 Moonflower Place, said their home is adjacent to several lots that are under review on the floodplain map. Allowing construction or fill on these lots will push the water onto other existing properties that are not currently in the floodplain. Pictures of the property are attached. The back portion of these lots are approximately 4 feet below the surrounding area. If these 2 lots were combined into 1, there may be enough area to build a home and meet setback requirements. (April 19, 2021)

Kara Utter, Valley County GIS analyst, provided maps of the 4 lots affected. (March 9, 2021)

Central District Health can issue septic permits in a flood zone. However, rules prohibit the issuance of a septic permit in a designated floodway. (Dec. 17, 2020 and Feb. 19, 2021)

Kati Carberry, Watershed Coordinator for the Idaho Department of Environmental Quality, stated that the proposed amendment should include provisions that would include retention of riparian vegetation and natural canopy cover of adjacent waterways. Repealing or altering this ordinance has the potential to negate some of the longstanding efforts to protect water quality unless proper consideration is taken (i.e. overlay amendments that appeal to both landowners and maintenance or adequate riparian vegetation and canopy cover. (Jan. 7, 2021)

Craig Utter, Payette Land Trust, emailed the following (Jan. 5, 2021):

- Trying to wrap his head around the potential impact of this ordinance change and the downstream impacts.

- Not knowing how many lot/acres this will impact makes it difficult to gauge the impact.
- Is there a way to provide actual impacted lot data before a decision is made? A study maybe?
- This is coming right on the heels of the water quality summit for the Valley; building in these areas are contributing to the Water Quality issues we are beginning to experience.
- Will there be language that specifies how large a home, requirements for mitigation of impacts?

Kara Utter, 258 Moonridge DR, made the following comments (Jan. 5, 2021):

- She opposes the amendment as written.
- Could possibly apply to hundreds of properties throughout the county.
- Requests in-depth research on each parcel.
- Concerned with erosion and destabilizing banks downstream.
- Each site should require a separate permit.

Ruth Lewinski wants to uphold the standards currently in place. stated that building homes on riverfront property and low-land regions may present short-term economic gain for Valley County. However, I do not believe that this is a wise investment for the long-term health of current residents or future homeowners. Historic flood plains have high water tables where septic systems and wells can be difficult to maintain. (Jan. 7, 2021)

Wesley Keller, 260 Moonridge Drive, is a watershed restoration specialist and believes the proposal weakens protections to our floodplains and should be rejected. The flood prone areas identified in the FEMA maps are based on elevation data; low areas near a stream are at higher risk for flooding. Amending this ordinance does not change the fact that these flood prone areas are still not suitable for development. The proposal ignores the goals of surface water and natural resources identified in the Valley County Comprehensive Plan. The March correspondence includes information and maps on parcels that are at least partially within the floodplain. (Jan. 7, 2021; Jan 20, 2021; Mar. 3, 2021)

Lenard Long, Cascade, is opposed to building in a floodplain. Current requirements protect ill-informed future residents from gambling with a natural disaster; future flood victims will look to taxpayers for compensation for flood damages; altering the flood flow cross-sectional area through land development will likely create problems for other property owners; and floodplains are often in wetlands for riparian areas and changers would have long-term adverse impacts on water quality and bank stability. (Feb. 10, 2021)

Brian Dickens, The McCall Associates LLC and Black on the River LLC, supports the proposed correction to the floodplain ordinance. It seems like Valley County inadvertently made previously approved lots unbuildable. This proposal corrects the discrepancy. (Feb. 4, 2021)

Jim Pfeifer submitted email correspondence and pictures regarding headgate and floodplain issues at the Blackhawk on the River developments. Resolution of the bank headgate issue should free three of the five lots but will not solve the problem for Lots 120 and 121. Boulders placed seven years ago have been washed away which exposed the sandy banks and reduced the HOA open space. (Feb. 21, 2021)

(Exhibits – January 14, 2021)

Judy Secrist, Payette River Subdivision, is opposed to the proposed amendment. Development within the floodplain area is detrimental to natural resources and affects waterways. is opposed. Property that lies in the flood prone area can be used for purposes other than residential. (Jan. 7, 2021 - Exhibit 1)

Craig Utter, Payette Land Trust Executive Director, 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 2)

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 3)

Angela Staup of McCall is opposed as the long-term consequences outweigh the short-term economic gain. (Jan. 7, 2021 - Exhibit 4)

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 - Exhibit 5)

(Exhibits – March 11, 2021)

V. Mark Lotta owns Blackhawk on the River Lot 91 which is one of the affected lots. (March 9, 2021 - Exhibit 1)

Jim Pfeifer included information regarding Blackhawk lots, floodplain designation, and building. (March 9, 2021 – Exhibit 2)

Floodplain analysis by Kara Utter, Valley County GIS (Exhibit 3)

STAFF COMMENTS

I scanned the floodplain and could only find four new lots that will have to build to floodplain standards in Title 11 of the Valley Code. Prior to the February 1, 2019, there were approximately five lots that qualified.

If this code is not amended those four lots will go from a market of approximately \$60,000 each to 0. They were legally platted in 2006.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

FLOOD ZONE: A geographical area shown on a Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area, and applicable insurance rate.

ATTACHMENTS:

- Proposed Ordinance 21-05
- Planning & Zoning Meeting Minutes of March 11, 2021 and January 14, 2021
- Maps showing affected 4 lots and floodplain
- Responses
- P&Z Staff Reports

END OF STAFF REPORT