

Valley County Planning and Zoning

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STAFF REPORT: Appeal of Planning and Zoning Commission Approval of C.U.P. 22-37 Tamarack Falls Estates - Preliminary Plat

HEARING DATE: January 9, 2022

TO: Planning and Zoning Commission

STAFF: Cynda Herrick, AICP, CFM, Planning and Zoning Director

APPELLANTS' REPRESENTATIVE: Julia Thrower
Mountain Top Law PLLC
614 Thompson Ave, McCall, ID 83638

APPLICANT/ PROPERTY OWNER: Hess Properties LLC
15031 Spyglass LN, Caldwell ID 83607

REPRESENTATIVE: Stephanie Hopkins, KM Engineering LLP
5725 N Discovery Way, Boise, ID 83713

ENGINEER: Joe Pachner, KM Engineering LLP

SURVEYOR: Kelly Kehrer, KM Engineering LLP

LOCATION: South of Tamarack Falls Road and west of Norwood Road. Parcels RP16N03E200004, RP16N03E201635, and RP16N03E207845 in the East ½ of Section 20, T.16N, R.3E, Boise Meridian, Valley County, Idaho

SIZE: 115.04 acres

REQUEST: Single-Family Residential Subdivision

EXISTING LAND USE: Single-Family Residential Rural Parcels

Hess Properties LLC is requesting a conditional use permit for a single-family residential subdivision comprised of 124 developable residential lots (79.9 acres) and 5 landscape lots (11.8 acres). Overall density is 1.08 dwelling units per acre. (Applicant has a different calculation.)

North Lake Recreational Sewer and Water District would provide central sewer and water services. A sewer lift station would be constructed in Phase 1. A well house and an additional open space lot will be constructed during Phase 3. Fire hydrants are proposed.

Road right-of-way will be dedicated to Valley County along Norwood RD and Tamarack Falls RD. Three accesses would be from private streets onto Norwood RD (public), Margot DR (public), and Tamarack Falls RD (public). The access onto Margot DR would be for emergency access only.

Three phases are proposed:

Phase 1	Phase 2	Phase 3
34 1.0-acre lots	4 1.0-acre lots	14 0.5-acre lots
14 0.5-acre lots	30 0.5-acre lots	28 9,000-sqft lots
irrigation and drainage pond		Well House
Sewer lift station		Additional Open Space Lot
Finished by Summer 2023	Completion Market Driven	Completion Market Driven

Phase 1 would be accessed from Norwood Road. Margot Drive would be used for emergency access. Phases 2 and 3 would have additional access from Tamarack Falls RD.

A 3.5-acre irrigation and drainage pond is included in Phase 1 and will serve as a central amenity for the community. Pressure irrigation water would be provided by the pond. Pathways would be provided for residents. A school bus stop would be located along Tamarack Falls Road.

FINDINGS:

1. The Valley County Planning and Zoning Commission approved C.U.P. 22-37 Tamarack Falls Estates at a public hearing on November 10, 2022. The matter had been previously heard and tabled during a public hearing on October 20, 2022.

A public hearing was held on October 20, 2022. This matter was tabled to November 10, 2022, for rebuttal from the applicant's representatives and Commissioner deliberation. The Valley County Planning and Zoning Commission approved the conditional use permit and preliminary plat on November 10, 2022.

2. **Appeal:** A coalition of neighbors and residents opposed to Tamarack Falls Estates as listed in appeal letter was received November 18, 2022. A total of 48 names were listed. The appeal was received in a timely manner on November 18, 2022, with the appropriate \$500 fee. The appeal is attached. Summarized reasons for appeal are listed below:

- Drainage.
 - The proposed plan does not demonstrate that it can comply with Valley County Code 9-4-3-4, which states that "water should not be directed onto neighboring properties."
 - The development plans, Impact Report, and conditions of approval are devoid of any plans to address runoff issues.
 - The lack of information is inconsistent with requirements to disclose potential impacts and mitigation measures.
 - The lack of information renders the Planning and Zoning commission's approval unreasonable and makes it impossible to put meaningful and enforceable conditions of approval.
- Impact Report requires the applicant to "address potential environmental, economic,

and social impacts and how these impacts are to be minimized." VCC 9-5-3-D2. The submitted Impact Report lacks detail or analysis and is deficient regarding:

- o Traffic
- o Water and Wetlands
- The proposed project conflicts with the Valley County Comprehensive Plan.
- The burden is on the Applicant to establish that this project complies with all Codes, Guidelines, and the Comprehensive Plan; the applicant has not done so.

3. **STAFF RESPONSE TO APPEAL** based on the Application, Presentation at the Public Hearing, Required as Conditions of Approval, and Laws of State of Idaho and Valley County: (See the Minutes and Facts & Conclusions of the P&Z Commission)

Valley County Code (VCC) 9-5H-12: APPEALS:

Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the nature of his or their interest and extent of damages.

(Appellants identify themselves as aggrieved individuals.)

Definition of Aggrieved Person: a person sufficiently harmed by a legal judgment, decree, or order to have standing to prosecute an appellate remedy. (Merriam-Webster)

(Appeal Issue)

- Drainage.
 - o The proposed plan does not demonstrate that it can comply with Valley County Code 9-4-3-4, which states that "water should not be directed onto neighboring properties."
 - o The development plans, Impact Report, and conditions of approval are devoid of any plans to address runoff issues.
 - o The lack of information is inconsistent with requirements to disclose potential impacts and mitigation measures.
 - o The lack of information renders the Planning and Zoning commission's approval unreasonable and makes it impossible to put meaningful and enforceable conditions of approval.

Staff Comment:

"Title 9 Land Use, Ch. 4 Permitted Uses, 4 Site Improvements, F. Best Management Practices: Best management practices should be used for surface water management for permanent management and during construction to control or prevent the erosion, mass movement, siltation, sedimentation, and blowing of dirt and debris caused by grading, excavation, open cuts, side slopes, and other site preparation and development. Water should be retained on site or directed to drainage easements, natural drainages, or rights of way. Water should not be directed onto adjoining properties."

VCC 9-4-3-4 is for permitted uses, not subdivisions; when individual homes are constructed they cannot direct their runoff onto neighboring properties. The water will need to be retained or directed to drainage easements, natural drainages, or rights of way.

Mitigation was proposed by the applicant in the form of a retaining pond (detention basin), improvements to the natural drainage to the Bureau of Reclamation property, and Bioretention Swale check dams.

The Planning and Zoning Commission believed that runoff was adequately addressed in preliminary plans and will be further addressed through the detailed and engineered stormwater

management plan and site grading plans with BMPs (see Valley County Engineer letter).

(Appeal Issue)

- Impact Report requires the applicant to “address potential environmental, economic, and social impacts and how these impacts are to be minimized.” VCC 9-5-3-D2. The submitted Impact Report lacks detail or analysis and is deficient regarding:
 - Traffic
 - Water and Wetlands

Staff Comment:

The Impact Report was completed as part of the application submittal. The Planning and Zoning Commission considered the information in the report and asked follow up questions as needed.

The Valley County Road Director responded in a letter with recommendations and requirements. The P&Z Commission recently received all of the traffic trip counts from the Road Director for review of applications in this general area. The P&Z Commission believes the traffic issues and concerns will be addressed in the funded Master Transportation Plan that is being reviewed. The applicant has agreed to participate in a Road Development Agreement.

Wetlands are addressed in the impact report and the GIS layer indicates a very small amount of wetlands in the NE corner and some drainage ditches to the SW. All development in or near wetlands will be submitted to and approved by the US Army Corps of Engineers for compliance with Section 404 of the Clean Water Act. This is standard operating procedures.

(Appeal Issues)

- The proposed project conflicts with the Valley County Comprehensive Plan.
- The burden is on the Applicant to establish that this project complies with all Codes, Guidelines, and the Comprehensive Plan; the applicant has not done so.

Staff Comment:

The P&Z Commission Comprehensive Plan analysis is in their Facts and Conclusions.

The P&Z Commission stated the application is consistent with the comprehensive plan and complies with all codes.

The Commission commented that this is the best development (application) they have reviewed and approved in a long time.

(End of Appeal and Appellant’s Attorney Comments with Staff Comments)

4. **Applicant’s Response to Appeal** was received on December 22, 2022. It is attached directly behind the Appeal and will be presented by the Applicant.
 - Drainage issues were adequately addressed by the PZ Commission and the technical, engineering drawings will be confirmed and approved by the County Engineer.
 - The Appellants’ arguments require more of the impact report than is justified by the express language of Valley County Code.
 - The impact report and the subsequent commitments made by the applicant are adequate to justify the Commission’s conclusion that traffic impacts are addressed.

- o The impact report and the subsequent conditions are adequate to justify the Commission's conclusion that water and wetlands area addressed.
 - The Commissioner's conclusions regarding the Valley County Comprehensive Plan are supported by substantial evidence in the record.
5. Legal notice was posted in the *Star News* on December 15, 2022, and December 22, 2022. Potentially affected agencies were notified on December 7, 2022. Property owners within 300 feet of the property line were notified by fact sheet sent December 7, 2022. Additional people who previously commented were notified by fact sheet sent December 7, 2022. The appeal letter and notice and the application were posted online at www.co.valley.id.us on December 7, 2022. Three locations were posted on December 27, 2022 (Tamarack Falls RD, Norwood RD, and Margot DR).

6. Additional Information:

- **Facts and Conclusions as approved by the Planning and Zoning Commission:**

The following are the **Facts** of the Planning and Zoning Commission:

1. That the existing use of the property described in the Petition is single-family residential rural parcels and will now be a single-family residential subdivision.
2. The application and submittal information presented at the public hearing meets all the requirements of the Valley County Ordinances as codified in Title 9, Title 10, and Title 11 of the Valley County Code, most specifically VCC 10-3-2 Preliminary Plat.
3. That the land use categorization in Valley County Code (Table 9-3-1) are as follows:
 - 2. Residential Uses (c) Subdivision for single-family subdivision
4. The land use categorization of Subdivision for single-family subdivision classifies this as a land use that will be reviewed under Title 9-5 Conditional Uses, Title 10, and Title 11 of the Valley County Code.
5. That the surrounding land uses are Agriculture, Single-Family Residential Subdivisions, and U.S. Bureau of Reclamation.
6. That the proper legal requirements for advertisement of the hearing have been fulfilled as required by the Valley County Land Use and Development Ordinance, Valley County Code, and by the Laws of the State of Idaho.
 - The application was received on August 18, 2022, from the applicant Hess Properties LLC.
 - Legal notice was posted in the *Star News* on September 29, 2022, October 6, 2022, and October 27, 2022.
 - Potentially affected agencies were notified on September 20, 2022.
 - Property owners within 300 feet of the property line were notified by fact sheet sent September 20, 2022.
 - The site was posted at three locations (Tamarack Falls RD, Norwood RD, and Margot DR) on Sept. 28, 2022.
 - The notice and application were posted online at www.co.valley.id.us on September 20, 2022.

7. In the last 10 years the number of building permits have exceeded the number of lots platted. Only 260 lots have been recorded in the last ten years. Between 2003 and 2008, the County approved several developments in this area including Hawks Bay, Crane Shores, The Meadows at West Mountain and Sage Meadows; over 400 lots were developed on the 118 acres and all the lots have been sold. This subdivision is 124 lots on 115 acres.
8. There are existing services such as sewer, water, and power already located in this area. The developer will connect to the central sewer and water systems. The water system will be a deep well and will be connected to the Hawks Bay subdivision water system which will improve water pressure in Hawks Bay subdivision. This community well will be much deeper and access a different aquifer than the typical individual well in the area. Applicant will place conduit for fiber optics and plans on upgrading broadband at this site.
9. The larger, one acre lots, are to the south of the pond and will provide additional retention. Will collaborate with other property owners and developers to implement a regional stormwater management plan.
10. The main slough needs Best Management Practices (BMPs) but they will occur in cooperation with the Bureau of Reclamation. This area has a lot of erosion; high water velocity scours the site.
11. There has been significant amount of development in the area. Eventually this area should be part of the City of Donnelly.
12. On August 3, 2022, Regan Berkley responded by email for a different application on property to the north of the current site. She stated they are unaware of any specific migration routes through this property, and it is unlikely to serve as a migratory route due to existing development surrounding the property...".
13. Other persons in attendance expressed approval and disapproval of the proposed use.
14. On October 20, 2022, the Planning and Zoning Commission recommended the applicant work with Valley Soil & Water Conservation District (VSWCD) on storm water management and identification of proper BMP's. There are emails in the record indicating the applicant contacted VSWCD for recommendations. On November 10, 2022, the applicant submitted as part of their rebuttal a letter received on November 8, 2022, from VSWCD recommending implementation of certain tactics such as open space for snow melt/water infiltration, detention basins, and biofiltration techniques. The applicant confirmed at the November 10, 2022, public hearing that they would implement these tactics and diverse BMPs in coordination with the Valley County Engineer.

The following are the **Conclusions** of the Planning and Zoning Commission:

1. That the proposed use is in harmony with the general purpose of Valley County ordinances and policies and will not be otherwise detrimental to the public health, safety, and welfare.
2. Valley County must follow the laws of the State of Idaho and those identified in the Valley County Code.
3. Valley County has one mixed use zone that is a performance-based ordinance which promotes mitigation of impacts.
4. The proposed use is compatible with surrounding land uses. Surrounding land uses are single family residential lots, some of which are smaller than the lots proposed, and

agricultural land uses. It is compatible with surrounding land uses and has more density than adjacent subdivisions. The compatibility rating was positive.

5. That the proposed use is consistent with the Valley County Comprehensive Plan, as follows:

Chapter 3: Private Property Rights

- Goal I: Protect individual private property rights while considering community rights.
- Objectives: 1. Design all provisions of the Comprehensive Plan in order to protect both private property rights and the community's rights to have a safe and healthy community.
5. Design land use regulations to protect the health, safety, and welfare of the community, avoiding any unnecessary conditions, delays, and costs.

Chapter 8: Housing and Community Design

- (6) Valley County recognizes that housing is crucial to the success of our region
- (7) Short term vacation rentals have consumed much of the housing that was previously used for rental units.

Goal I: To encourage an adequate supply and variety of affordable and quality housing types for the local residents including current and future, working and retired.

Objectives: 2. Encourage affordable housing to be located in a wide range of locations.

Goal V: Provide a variety of quality housing types for current and future working and retired residents.

Objectives: 1. Encourage or provide for affordable housing.

Actions: Amend land use ordinance to increase densities in areas supported by sewer and where it is compatible with surrounding land uses.

6. Valley County should by providing varying lot sizes and a mix of housing types.
7. Lack of housing inventory leads to high prices which prohibits service workers from having affordable housing.
8. Affordable housing is much needed throughout Valley County; this development will add to the available housing inventory and will not be allowing short-term rentals.
9. The Valley County Engineer will approve the stormwater management/drainage and snow storage plans in accordance with the requirements of the Valley County Code and through implementation of BMPs as adopted by Dept. of Environmental Quality, State of Idaho. The site will need retention basins in addition to the pond. The large drainage pattern east of property will not be affected. The historical drainage patterns on the property will remain and sediment to Lake Cascade would be reduced. The larger, one acre lots, are to the south of the pond and will provide additional retention. Will collaborate with other property owners and developers to implement a regional stormwater management plan. The lake problems are not a one-person solution. Developers must work with the other parties for solutions. The applicant is willing to help enhance the area. Drainage issues have been addressed.
10. In response to Valley Soil and Water Conservation District, it is agreed that water runoff will be managed. **Valley County Code 9-4-3-4: Site Improvements is specifically for PERMITTED USES, NOT CONDITIONAL USES;** however, once the construction of the subdivision is completed the following will apply to individual lots:
- i. "F. **Best Management Practices: Best management practices should be used for surface water management for permanent management and during construction to control or prevent the erosion, mass movement, siltation, sedimentation, and blowing of dirt and debris caused by grading,**

excavation, open cuts, side slopes, and other site preparation and development. Water should be retained on site or directed to drainage easements, natural drainages, or rights of way. Water should not be directed onto adjoining properties.

11. Fertilizers will be limited for lawns and landscaping, so it will decrease the amount of fertilizer from agricultural uses from entering into Lake Cascade.
12. This applicant is volunteering to participate in off-site road improvements and infrastructure. The S-bridge is a safety consideration; however, the applicant will participate in a voluntary Road Development Agreement. The S-bridge is not the only access to this area. Valley County is currently working on a Master Transportation Plan. Without developers agreeing to voluntary road agreements, the County may never have the money to fix the S-Bridge and other infrastructure.
13. Even though there will be 124 lots platted in 3 phases, it does not mean all the houses will be built at the same time. There will be a lag in which to make off-site road improvements.
14. The pond will provide pressurized irrigation, storm water retention, and will capture sediment. The pond will be aerated for mosquito treatment. The pond will also connect to the pathways and be an amenity.
15. All interior roads will be private roads. The applicant will limit the access onto Margot DR, a public road, to "emergency access only". The internal road system aligns with other off-site roads.
16. There were no negative comments requesting the development not be approved from any taxing district including, but not limited to: school district, road department, fire department, Sheriff's office, utility companies, post office, etc. The Mayor of Donnelly spoke as a proponent. School impacts are paid by levies; new students will bring more money into the district.
17. This application had a positive compatibility rating in accordance with Valley County Code Appendices 9-11-1.
18. This application complies with all of the Standards in Valley County Code Title 9 Land Use, specifically 9-5 Conditional Uses, and Title 10 Subdivision Regulations.
19. Macro economics acknowledges that more inventory will bring down prices and a lack of inventory increases prices.
20. This is a well laid out development that is not trying to cram in a lot of tiny lots. This is one of the best projects that has been proposed in Valley County.

- **Minutes with Exhibits - Attached**
- **Planning and Zoning Commission Staff Report is attached for review.**

7. All Agency comment received:

New Comments –

Lori Clemens, Donnelly City Clerk, states the City of Donnelly believes this project is good for the community and meets the density requirements set by Valley County. However, the city

does have concerns with the added traffic generated from this project at the intersection of Highway 55 and West Roseberry. The city would like to know how the new Master Transportation Plan will manage this intersection in the future in the. (Dec. 12, 2022)

Paul Ashton, Parametrix and Valley County Engineer, has performed a cursory review of the application. Detailed preliminary site grading, drainage, and stormwater management plans are required for review and approval. The Valley County Engineer will ensure that roadway and site grading and drainage features meet the Valley County Design standards, including provisions for stormwater and snow drainage. This will also include appropriate Best Management Practices for stormwater pollution prevention during construction and post-construction. (Dec. 19, 2022)

Tom Reinhardt, Cascade Medical Center, encourages incorporation of pathways conducive to walking, hiking, bicycling, and general recreation through and adjacent to Tamarack Falls Estates if the development is approved. The development runs along Norwood Road and Tamarack Falls Road which are part of the Pathways master plan adopted by Valley County in July 2017. As our County grows and fills in with housing, responsible development will incorporate single-track sidewalks and dedicated pathways/trails for public enjoyment and cardiovascular benefits. Pathways like this will also separate vehicular traffic from bicycles and walkers, creating a safer environment for everyone by reducing the risk for accidents and trauma. Integration as a condition of development during planning is much easier than adding pathways later. (Dec. 22, 2022)

Brett Shepherd, Valley County Pathways, recommends that pathways along Norwood and Tamarack Falls Roads be incorporated into the C.U.P. to alleviate traffic congestion and benefit all residents. These roads are part of the Valley County Pathways Master Plan. Map is attached. (Dec. 28, 2022)

Wendy Howell, Idaho Transportation Department Development Services Coordinator, states this project does not abut the State Highway system thus ITD has no further comments at this time. (Dec. 16, 2022)

P&Z Comments –

Central District Health requires more information including an application and engineering report. (Sept. 20, 2022)

Jeff McFadden, Road Department Superintendent, recommends dedication of 35-ft of right-of-way for property owned by the developer immediately adjacent to Norwood Road and Tamarack Falls RD. He also recommends mitigation of impacts to local roads by negotiating with developer the payment of road improvement costs attributable to traffic generated by the proposed development. The value of the developers proportionate share may be determined by several methods. The recommendations that are agreeable to the developer should be memorialized in a future voluntary road agreement negotiated between the Valley County Board of County Commissioners, Valley County Road Department, and developer identifying the value of road improvement costs contributed. (Sept. 26, 2022)

Jess Ellis, Donnelly Fire Marshal, replied with requirements. (Oct. 5, 2022)

Valley Soil & Water Conservation District's response to the Applicant's representative. (Exhibit 1, Nov. 10, 2022)

Travis Pryor, North Lake Recreational Sewer and Water District, responded that the District is supportive of the water system improvements and extension. The District has approved the annexation pending Conditions of Annexation being adopted. (Exhibit 2, Nov. 10, 2022)

Brett Shepherd, Valley County Pathways, recommends that pathways along Norwood and Tamarack Falls Roads be incorporated into the C.U.P. to alleviate traffic congestion and benefit all residents. (Exhibit 1 Oct. 20, 2022)

Valley Soil & Water Conservation District's response. (Exhibit 2, Oct. 20, 2022)

Regan Berkley, Idaho Dept. of Fish and Game Regional Wildlife Manager, response to P.U.D. 22-01 Roseberry Park, stating she is unaware of any specific migration routes through this property and it is unlikely to serve as a migratory route due to existing development surrounding the property in question. (Aug. 8, 2022)

8. All **public comments** received for Board of County Commissioners:

Responses Received After the PZ Commission Meeting on October 20, 2022 – In Opposition

- Impact report fails to address potential environmental, economic, and social impacts and how impacts are to be minimized.
- This development would overwhelm Norwood Road, Roseberry Road, and the S-Bridge.
- Margo Drive is becoming a racetrack for off-road vehicles that seldom obey the speed limit.
- The entrance at Margot should be eliminated.
- Run-off concerns.
- Pond will increase mosquito breeding and risk of disease.
- The only proponents of this development are developers and realtors who have an interest in financial gain.
- Condition of approval should include documentation showing communication and support for the project's plans from the Valley Soil and Water Conservation District and the U.S. Bureau of Reclamation.
- Short-term rentals should not be allowed.
- The proposed access to the beach should be change to alleviate over-crowding.

1. Rick and Jeanette Mather, Oct. 30, 2022
2. David Gallipoli, Reese Gibboney, and Lenard Long, email to U.S. EPA, Nov. 7, 2022
3. Gregg and Therese Gibboney, Nov. 10, 2022
4. Dennis and Patricia Scroggins, Nov. 10, 2022
5. Margaux Edwards Crockett, Nov. 10, 2022
6. Bruce Gestrin, Dec. 21, 2022
7. Liz Jones, Dec. 29, 2022
8. Mark and Sandra Nasse, Jan. 3, 2023

Requests to change time of appeal:

1. Julia Thrower
2. Geri Gallupe
3. Joey Pietri
4. Pamela McChrystal
5. Therese and Gregg Gibboney
6. Dennis and Patty Scroggins
7. Bill and Linda Eddy

All public comments and exhibits at meeting received for P&Z Commission not in the Staff Report:

Exhibits – October 20, 2022

Exhibit 1 – Brett Shepherd, Valley County Pathways (Oct. 14, 2022)

Exhibit 2 – Valley Soil and Water Conservation District letter (Oct. 20, 2022)

Exhibit 3 – Cheri Wingert is opposed. (Oct. 20, 2022)

Exhibit 4 – Guy and Kathryn Hendricksen, 12870 Norwood RD, listed comments, concerns, and recommendations. (Oct. 17, 2022)

Exhibit 5 – Applicant's Slide Show

Exhibit 6 – Conceptual Map

Exhibit 7 – Drone Video of the applicant's recently completed project in Middleton, Idaho called Purple Sage that is similar in size with an aerated pond and 1-acre lot. (Not Attached)

Exhibits – November 10, 2022

Exhibit 1 – Applicant's Slide Show

Exhibit 2 – Valley Soil and Water Conservation District letter (Nov. 8, 2022)

Exhibit 3 – Travis Pryor, North Lake Recreational Sewer and Water District (Nov. 10, 2022)

Responses Included in the PZ Commission Staff Report for October 20, 2022

In Favor But Has Questions and Concerns:

Lisa Mohler, 47 Johnson LN, has researched the developer. Valley County needs homes to purchase at affordable prices for people who work in the area. No short-term rentals should be allowed in this subdivision. Questions include home builders, homeowner association information, lighting, bus stop location, fish stocking, and road maintenance. (Oct. 9, 2022)

Has Questions and Concerns:

Tim Tyree, 12890 Norwood RD, states unless the applicant can show it will not have an unreasonable burden on the adjacent neighborhoods by addressing access to broadband and traffic access onto Tamarack Falls RD, this project should be denied. (Oct. 10, 2022)

Stu Young, 12880 Norwood RD, asks if the southern outlet onto Margo RD could be eliminated or at least restricted to emergency access only. (Oct. 12, 2022)

Rod and Traci Puzey, Ora May Subdivision Lots 44 and 45, have questions regarding drainage, S-Bridge, traffic light at Roseberry Road and Highway 55, speed limits, lack of road shoulders, impact on existing wells, landscaping, sewer, requiring underground utility lines, cell coverage, and emergency services. (Oct. 12, 2022)

In Opposition – Reasons Given Include:

- New development will further overload infrastructure and existing services. Roads, broadband, schools, medical facilities, wells, and sewer are particular concerns.
- Increased traffic will cause issues; the “S-Bridge” is a specific concern and is inadequate. Additional access into this area is needed.
- Infrastructure updates on both Norwood and Roseberry roads are needed.
- A master plan for infrastructure upgrades is needed prior to more development.
- Wells in the Hillhouse Loop area are shallow (less than 45-ft deep) and some have briefly gone dry a few times this summer with normal use.
- The current sewer system was not built for the expansion that is proposed in this area.
- Need to protect the reasons why people visit Valley County, including Lake Cascade and the rural environment.
- How will mosquitos be controlled at the pond.
- High density should not be required in this “peninsula” area, aka Government Point
- Existing drainage patterns and flows would be significantly altered although application states otherwise.
- The application references the old Handbook of Valley County Stormwater Best Management Practices; this was replaced with state minimum BMPS and Valley County Addendum to State Manual.
- The cumulative impact of all developments add pollutants and destroys filtering wetlands, unless permanent and well-engineered BMPs are installed like detention basins and constructed wetlands for filtration.
- Would ruin quiet neighborhood.
- Cascade Lake, water quality, and wildlife should be considered.
- A new road should not be built adjacent to an existing residence.
- All building should be paused in Donnelly area.
- Working people of Valley County have rights and should be listened to; not just the landowners wanting to develop. Planning and Zoning Office should be “neutral”.
- Studies need to be completed at developers’ expense, so we know the ramifications of these developments before they are approved.
- Project is for second homeowners, not affordable housing.
- Any new subdivisions that are not directly contributing to local housing with deed restrictions for owning and local employment proof for rentals is compounding the lack of affordable housing and lack of employees in Valley County.
- The exit onto Margot Road should be for emergency vehicles only. Margot Road and Norwood Road are narrow with blind corners and no sidewalks. The road is difficult to plow in the winter.
- The development is surround by acres of agricultural uses including horses, cattle, pigs, goats, and sheep.
- There is an existing water right conveyance that is maintained from a pump taken out of the lake on the north side of Tamarack Falls Road. The water flows down a ditch into this

development and there are no provisions to transport this water through this development.

1. Steven Topple, 12983 Norwood RD, Oct. 5, 2022
2. Tim Tyree, 12890 Norwood RD, Oct. 10, 2022
3. Mark and Sandra Nasse, 171 Margot DR, Oct. 11, 2022
4. Mickee Ellis, Donnelly, Oct. 11, 2022
5. Therese Gibboney, Oct. 11, 2022
6. Chelsea Tuttle, 13090 Hillhouse Loop, Oct. 11, 2022
7. Lenard Long, representing Friends of Lake Cascade, Oct. 12, 2022
8. Mike and Melissa Maini, 169 Margot DR, Oct. 12, 2022
9. Larry and Becky Froemming, Caldwell and Donnelly, Oct. 12, 2022
10. Laura Jakious, Oct. 12, 2022
11. Marsha Moers, Hillhouse Loop, Oct. 12, 2022
12. Angela and Scott Garrard, 130 Forrest Lake Circle, Oct. 12, 2022
13. Liz Jones, 12880 Norwood RD, Oct. 12, 2022
14. Bill and Linda Eddy, 13041 Hillhouse Loop, Oct. 12, 2022
15. Margaux Edwards Crockett, Oct. 12, 2022

9. **RECOMMENDATIONS:**

- Part of the Valley County Board of Commissioners deliberation and decision should be a "**reasoned statement** that explains the criteria and standards considered relevant; state the relevant facts relied upon, and explain the rationale for the decision based on applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record, 'all of which' should be part of the motion to approve or deny, or should be developed with staff assistance for action at a subsequent meeting." (VCC 9-5H-11.8)
- **Idaho Code 67-6519. APPLICATION GRANTING PROCESS.**
 - (1) As part of ordinances required or authorized under this chapter, a procedure shall be established for processing in a timely manner applications for zoning changes, subdivisions, variances, special use permits and such other applications required or authorized pursuant to this chapter for which a reasonable fee may be charged.
 - (5) **Whenever a governing board or zoning or planning and zoning commission grants or denies an application, it shall specify:**
 - (a) The ordinance and standards used in evaluating the application;
 - (b) The reasons for approval or denial; and
 - (c) The actions, if any, that the applicant could take to obtain approval.
- If the Board of County Commissioners uphold the Planning and Zoning Commission approval, they should remove or add to the Planning and Zoning Commission Facts and Conclusions so that a separate document can be prepared for their approval at a later date.

ATTACHMENTS:

- Conditions of Approval - Approved by P&Z Commission
- PZ Commission Facts and Conclusions
- PZ Commission Meeting Minutes – October 20, 2022, and November 10, 2022
- PZ Commission Staff Reports – October 20, 2022, and November 10, 2022
- Appeal Letter
- Applicant's Response to Appeal
- Vicinity Map
- Aerial Map
- Wetlands Map
- Assessor Plat – T.16N R.3E Section 20
- Preliminary Plat – Page 1.0
- Pictures Taken Sept. 28, 2022, and Dec. 27, 2022
- Idaho Code 67-6519 Application Granting Process
- All Responses
- Application Submittals

ATTACHMENT

Conditions of Approval

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein. Any violation of any portion of the permit will be subject to enforcement and penalties in accordance with Title 9-2-5; and, may include revocation or suspension of the conditional use permit.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
4. The final plat shall be recorded prior to issuance of building permits, or this permit will be null and void. Phase 3 shall be completed by December 31, 2028, or a permit extension will be required. The construction of phases cannot be solely market driven.
5. The applicant will update Planning and Zoning Staff on an annual basis until all final plats are recorded.
6. Must have an approved storm water management plan and site grading plan approved by the Valley County Engineer prior to any work being done on-site.
7. The Valley County Engineer shall confirm there is adequate snow storage.
8. Prior to recordation of the plat or issuance of building permits, the Developer's engineer shall certify that the roads are constructed in accordance with the plans approved by the Valley County Engineer.
9. A Private Road Declaration is required prior to recordation and must be noted on the face of the plat.
10. Must bury conduit for fiber optics in the roadway.
11. A Declaration of Installation of Utilities shall be recorded and noted on the face of the plat.
12. A letter of approval is required from Donnelly Fire District prior to recording the final plat.
13. All easements shall be shown on the final plat.
14. Wetlands must be delineated and shall be marked as "no-build areas" on final plats.
15. CCR's should address irrigation of landscaping, lighting, wildfire prevention, noxious weeds, hydrant maintenance, wetlands, and limit each lot to one wood burning device.
16. Shall place addressing numbers at the residence and at the driveway entrance if the house numbers are not visible from the road.

17. Must have a fencing plan with neighboring properties if they run livestock for over 30 days per year.
18. Prior to construction of any on-site improvements, the applicant shall meet with the Valley County Road Director and/or Board of County Commissioners to discuss off-site road improvements. If an agreement cannot be reached the application shall be set for another public hearing with the Valley County Planning and Zoning Commission to determine if the application can be approved without improvements and still meet their mandates concerning public health, safety, and welfare matters. The discussion will be concerning current road conditions and potential mitigation for impacts caused by the development.
19. The following notes shall be placed in the notes on the face of the final plat:
 - “The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed.”
 - “All lighting must comply with the Valley County Lighting Ordinance.”
 - “Only one burning device is allowed on each lot.”
 - “All lots shall be accessed from internal roads and not Tamarack Falls Road or Norwood Road.”
20. Margot Drive will be gated for emergency access only.
21. CCRs shall require low water landscaping.
22. Should limit use of fertilizer on lawns and landscaping in CCRs.
23. If ever contiguous to City of Donnelly, owners will not oppose annexation into city limits.
24. Will work with U.S. Bureau of Reclamation to place pedestrian access as far west as possible.
25. Will have a maintenance plan in CCRs for stormwater management into perpetuity.
26. Shall attempt to collaborate with neighboring properties and Valley County engineer on a regional stormwater management plan
27. Will prohibit short-term rentals in the CCRs.

END OF STAFF REPORT