

# Valley County Planning and Zoning Commission

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, Chairman  
Ken Roberts, Vice-Chair

Katlin Caldwell, Commissioner  
Sasha Childs, Commissioner  
Scott Freeman, Commissioner

## MINUTES

Valley County Planning and Zoning Commission  
January 12, 2023  
Valley County Court House - Cascade, Idaho  
PUBLIC HEARING - 6:00 p.m.

**A. OPEN:** Meeting called to order at 6:00 p.m. by Acting Chairman Roberts. A quorum exists.

|                                     |         |
|-------------------------------------|---------|
| PZ Director – Cynda Herrick:        | Present |
| PZ Commissioner – Katlin Caldwell   | Present |
| PZ Commissioner – Sasha Childs:     | Present |
| PZ Commissioner – Scott Freeman:    | Present |
| PZ Commissioner – Ken Roberts:      | Present |
| PZ Commissioner – Gary Swain:       | Present |
| PZ Assistant Planner – Lori Hunter: | Present |

Acting Chairman Roberts welcomed Gary Swain, the newest member of the Commission.

**B. MINUTES:** Commissioner Freeman moved to approve the minutes of December 8, 2022, with corrections: replace Chairman Thompson with Vice Chairman Roberts on page 4 and change the meeting adjourned time to 10:25 p.m. Commissioner Childs seconded the motion. Motion passed unanimously. [The video of the meeting was reviewed, and Staff determined that the meeting ended at 9:25 p.m.]

## C. OLD BUSINESS:

**1. C.U.P. 21-20 Gold Fork River Estates – Final Plat:** Gold Fork 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 is a six-lot single-family subdivision plus an open space lot along the Gold Fork River. Lots would be accessed from a new private road onto Davis Creek Lane (public) and from Gold Fork Road (public). The 46-acre site is parcels RP16N04E295625, RP16N04E296770, and part of RP16N04E296006 in the SW ¼ Section 29, T.16N, R.4E, Boise Meridian, Valley County, Idaho. **Not a public hearing.** Action Item

Acting Chairman Roberts introduced the item and asked if there was any exparte contact or conflict of interest. Acting Chairman Roberts submitted a comment letter as the President of the Gold Fork Irrigation Company. He does not see this as a conflict of interest, and he has zero financial interest in this application. Acting Chairman Roberts will pass the gavel to Commissioner Caldwell to run the public hearing; Commissioner Roberts will still vote as a commission member.

Acting Chairman Caldwell asked for the Staff Report. Director Herrick presented the staff report, displayed the site and GIS map on the projector screen, and summarized the following exhibit:

- **Exhibit 1** – Wildland Urban Interface Fire Protection Plan (Jan. 10, 2023)

Rob Pair, Crestline Engineers, McCall, responded to questions within the Staff Report:

- The fire suppression water storage tank is located on southeast side of the culdesac and is shown on page 2 of the final plat.
- The 10-ft wide power easement along Lot 2 and 3 is an existing overhead power easement; a portion of which has now been placed underground. The easement that crosses the river is preexisting and the one within Lot 5 is a new easement.
- The 30-ft easement across Lot 2 is shown on page 2 of the plat.
- The applicant agrees to adjusting the Gold Fork Irrigation Company canal easement to parallel the road right-of-way.
- The Wildland Urban Interface Fire Protection Plan (**Exhibit 1**) will be included in the CCRs.
- Septic maintenance information and website links will be added to the CCRs.
- The shared access has not been constructed; it is addressed in CCRs 7.2. The driveway easements will be constructed or paved by the developer at or before the time of the first occupancy permit is granted for any of the lots that use the driveway easement. The maintenance responsibility of the shared access will be included in the private road declaration.
- The road centerlines are based on previous surveys. Pins have been drilled in the asphalt and generally follow the centerline of Davis Creek Lane. He will confirm with the surveyor that Gold Fork Road, adjacent to Lot 6, is also 35-ft from centerline.

Director Herrick does not believe base flood elevations should be required on this plat as the information can change.

Director Herrick stated that applicant wants to financially guarantee the pavement of the internal road. Mr. Pair added that a letter was submitted stating that the road surface and base material has been constructed; pavement would likely occur in 2023 and no later than November 2024. The Commissioners should discuss if building permits for the lots can be approved prior to the private road being paved.

Director Herrick recommends a Declaration of Utilities be provided and recorded as recorded by Valley County Code. The declaration will need to include what utilities have been provided. Mr. Pair replied that one will be submitted.

Mr. Pair for clarification regarding a financial guarantee and timeline for implementation of the Wildland Urban Interface Fire Protection Plan. The CCRs require that individual lot owners must comply with the plan. The specifics in the Plan will need to be reviewed to determine if work is required prior to the sale of lots.

The road right-of-way dedication for Gold Fork Road was discussed.

The plat will also need to be modified to differentiate the boundaries of the private road and Davis Creek Lane; the surveyor is aware of this.

The timeline for paving the private road and the issuance of building permits were discussed with staff and Mr. Pair who stated the applicant wants to pave the road as soon as possible.

Commissioner Roberts moved to recommend approval of the final plat for C.U.P. 21-20 Gold Fork River Estates with the stated conditions of approval in addition to the following:

- Eliminate requirement of Base Flood Elevations (BFE) on the face of the plat, and
- Change the language regarding paving of the roads to “prior to November 2024 or upon the sale of the second lot”,

and authorize the Chairman to sign.

Commissioner Freeman seconded. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

Commissioner Roberts returned to the role of Acting Chairman.

6:25 p.m.

**2. C.U.P. 22-16 Camp Modern – Annual Review:** The Planning and Zoning Commission will access impacts and compliance with the approved conditional use permit. The 3-acre site is addressed at 12815 Highway 55, parcels RP16N03E269260 and RP16N03E269290, and located in the SESE Sec. 26, T.16N R.3E, Boise Meridian, Valley County, Idaho. Action Item

Acting Chairman Roberts introduced the item and asked if there was any exparte contact or conflict of interest. Acting Chairman Roberts recused himself as he is a neighboring property owner.

Director Herrick presented the staff report and displayed the plat on the projector screen and summarized the following exhibits:

- **Exhibit 1** – Jess Ellis, Donnelly Fire Marshal, responded with requirements for both Phase 1 and Phase 2. (Jan. 9, 2023)
- **Exhibit 2** – Applicant submitted a packet of information including Donnelly Fire letter, fire pit design, bear-proof trash can use, information sheet for guests, sign permit, Idaho Transportation Department (ITD) permit, septic application, and building drawings. (Jan. 12, 2023)

Acting Chairman Caldwell asked for the applicant’s presentation.

McKenzie Hansen, Boise, referred to **Exhibit 2** and answered questions listed in the staff report. They are working with the US Army Corps of Engineers and will have more knowledge of wetlands this upcoming spring, prior to construction. The fire pits surrounded with gravel were in compliance with Donnelly Fire Department; however, Jess Ellis was unsure about the stoves and tent materials. The string lights have been removed. Annette, the Valley County Building Department Official, stated that building permits were not required for the decks if the tents were removed as the decks are under 36” in height, less than 200-sqft, and no one will be residing on them during the winter. The decks will be removed in spring 2023. Bear-proof trash cans are in use as shown on the invoice in **Exhibit 2**. The information given to guests has been revised to include fire safety, no burn season details, food storage, and trash collection. The property owner is working with Idaho Department of Water Resources regarding a well. Noxious weeds were sprayed in 2022 and also will be sprayed in 2023. A sign has not yet been installed; a sign permit has been submitted to Planning and Zoning Staff and ITD. The property lines have been clearly marked. She is not aware of any issues with the neighbors. They have a permit from ITD for the driveway approach; construction to occur in spring 2023. Neighbors were given contact information; no complaints were made. The porta-potty was relocated in June 2022 to a site 150 yards away from the north property line; previously it was 75 yards from the boundary. Ground water monitoring is being conducted for septic approval. The packet contains general

structural notes for the A-Frames. Power line has been brought up to code by an electrician; they have approval to connect to the bathhouse in Phase 2.

Commissioner Childs moved to accept the review of C.U.P. 22-16 Camp Modern with the condition of a compliance review in January 2024. Commissioner Freeman seconded. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

6:35 p.m.

Acting Chairman Roberts returned to the Commission.

#### **D. NEW BUSINESS:**

- 1. C.U.P. 22-49 Morel Glamping Site:** Abel Morel is requesting approval of a conditional use permit rental of a recreational vehicle site and a shed for sleeping quarters. No utilities are available at the site. Access is from Price Loop (a public road) onto Skunk Creek Road (a public road). The 2.7-acre site, addressed at 70 Price Loop, is Hidden Trails Estates Subdivision Lot 41 located in the W ½ Section 16, T.12N, R.4E, Boise Meridian, Valley County, Idaho. Action Item. **WITHDRAWN BY APPLICANT**

The applicant has withdrawn their application.

Commissioner Caldwell moved to accept withdrawal of the application for C.U.P. 22-49 Morel Glamping Site. Commissioner Childs seconded. Motion approved unanimously.

- 2. C.U.P. 22-50 Elk Haven Acres Subdivision – Preliminary and Final Plat:** Chad and Sarah Chastain are requesting a conditional use permit for a 2-lot single-family subdivision on 20 acres. Individual wells and individual septic systems are proposed. Access would be from Elk Haven Lane (private) onto State Highway 55. The site is parcel RP17N03E144865, located in NESW Section 14, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

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

Acting Chairman Roberts asked for the Staff Report. Director Herrick presented the staff report and displayed the site and GIS map on the projector screen.

Director Herrick recommends that COA # 12 be removed. Building permits are not allowed for sites within the designated floodplain. Horizontal drawings must show that construction, including duct work, is outside the designated floodplain and two feet above the base flood elevation.

Director Herrick recommends that COA # 16 be removed as no public Valley County roads lead to this site. The private road accesses State Highway 55.

Director Herrick clarified staff comments regarding the existing private road. The road is built to fire code per Jess Ellis Donnelly Fire Marshal. When Elk Haven Subdivision was platted in 1998, a private road was constructed. This 20-acre site was left outside of the subdivision boundaries but was included in the road access easement [Instrument 237222].

Valley County Code states that a subdivision must be connected to an existing public road, or a private road built to Valley County standards. These standards have not changed since the Elk Haven Subdivision was recorded. The road was approved by the Valley County Engineer at that time. Thus, Director Herrick believes this road is still adequate access according to Valley County. The road meets Fire Code according to the Donnelly Fire Marshal. The applicants do not own the private road within the existing Elk Haven Subdivision. The applicants have an access easement on the road to reach their property. Acting Chairman Roberts agrees that the applicant cannot be required to make improvements to a road they do not own.

The proposed conditions of approval include a note on the plat stating, "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." This note is required by Valley County Code Title 10 Subdivision Regulations on all recorded plats.

Acting Chairman Roberts asked for the applicant's presentation.

Jeanne Carpentier, 14060 Pioneer Road, McCall, represented the applicants. She concurs with the Staff Report. The road maintenance agreement requires shared maintenance by all property owners using Elk Haven Lane for access. The portion owned by applicants is currently an access easement and will be platted as a 70-ft right-of-way. The applicant was previously working with Tom White who is no longer with Central District Health; test holes and groundwater monitoring completed June 7, 2021. The discrepancies noted by the Valley County Cadastral Specialist have been resolved by the surveyor. The requirements of the Donnelly Fire Department will be met. A Declaration of Private Road will be provided. The existing road is built to Fire Code. The applicant has no intention to add fiber optics for two single-family residences. The surveyor will correct the dedicated right-of-way on the plat. A Wildland Urban Interface Fire Protection Plan will be submitted. Neither CCRs nor a homeowner's association is proposed. Staff believes the access road does comply with Valley County Code requirements.

Acting Chairman Roberts asked for proponents. There were none.

Acting Chairman Roberts asked for undecided. There were none.

Acting Chairman Roberts asked for opponents. There were none.

Acting Chairman Roberts closed the public hearing. The Commission deliberated. Staff recommended removing both proposed Condition of Approval # 7 requiring buried conduit for fiber optics and proposed Condition of Approval # 5. This proposed subdivision only has two lots; therefore, the applicant can complete a Wildland Urban Interface Fire Protection Plan without hiring a professional.

Commissioner Childs moved to approve preliminary and final plats of C.U.P. 22-50 Elk Haven Acres Subdivision with the stated conditions of approval in addition to the following:

- Add plat note stating, "Surrounding land uses are subject to change, and
- Remove proposed Conditions of Approval # 5, 7, 12, and 16,

and authorize the Chairman to sign.

Commissioner Caldwell seconded the motion. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

*Short break*  
*7:07 p.m.*

- 3. C.U.P. 22-51 Amendment of C.U.P. 16-21 Mountain Meadow Rentals:** Ben Esplin of Mountain Meadows Rentals is requesting an amendment of a conditional use permit allowing a business renting ATVs, snowmobiles, and watercraft at 2445 West Mountain Road. The new request is to expand the business onto 0.31 acres, addressed at 319 W Tamarack Falls RD, that is the N ½ Lot 34 of Smiling Julie Subdivision and Tax #1-C in the NE ¼ Section 19, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

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

Acting Chairman Roberts asked for the Staff Report. Director Herrick presented the staff report, displayed the site and GIS map on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – Brad Oakey and Abby Fry, 2439 Palladin RD, are opposed. (Jan. 12, 2023)

Staff responded to questions from Commissioners. The applicant has a conditional use permit for his business. Overflow parking was approved for clients in the US Forest Service parking area. The business has expanded and has been using the proposed site for parking of business equipment.

Proposed Condition of Approval #5 would apply if the parking lot was paved, or drainage was redesigned.

Proposed Condition of Approval #15 was discussed. The applicant states he is not doing any improvements but only using the site for parking. The verbiage can be changed to reflect this site-specific request.

Director Herrick stated that there have been complaints as the business has been parking outside of the approved boundary for C.U.P. 16-21. This application was submitted to correct violations.

Acting Chairman Roberts asked for the applicant's presentation.

Ben Esplin, 13330 Vili Road, Donnelly, disagrees with the Road Superintendent's comments and proposed condition of approval #15. The public is having a much larger impact on the roads in the area than his rental business. Acting Chairman Roberts stated this would be a discussion for Mr. Esplin to have with the Board of County Commissioners and Road Department Superintendent Jeff McFadden. The proportional share of impact is used to determine Road Development Agreements (RDAs).

Mr. Esplin stated that his business has been using the lot for parking for five years.

The boundary of Smiling Julie Subdivision was discussed. The plat was recorded in 1959.

Mr. Esplin stated the public hours of operation are 9:00 a.m. to 6:00 p.m. Washing of equipment for personal use does happen after 6 p.m. He has made design changes to mitigate noise from the wash bays.

The business rents off-road vehicles (ORVs), snowmobiles, and watercraft. At maximum, the site has 15 ORVs, 14 boats, 9 personal watercraft, and six snowmobile trailers are stored at the site.

Acting Chairman Roberts asked for proponents. There were none.

Acting Chairman Roberts asked for undecided. There were none.

Acting Chairman Roberts asked for opponents. There were none.

Acting Chairman Roberts closed the public hearing. The Commission deliberated.

Commissioner Caldwell stated this was a good application; it is good to bring the site into compliance. The impacts are being mitigated.

Commissioner Caldwell moved to approve C.U.P. 22-51 Amendment of C.U.P. 16-21 Mountain Meadow Rentals with the stated conditions.

- **COA 15:** change verbiage to state “Within two (2) months of approval, the applicant shall meet...”

Commissioner Childs seconded the motion.

Acting Chairman Roberts is opposed. The Valley County Comprehensive Plan Chapter 3 Goal 1 states “Protect individual private property rights while considering community rights.” Objective 2 says “Protect private property from the negative effects of recreational uses...and nearby incompatible uses.” This proposal is for a commercial use in a single-family residential subdivision (the back portion of the lot). The Commission recently rejected a commercial business at the adjacent lot. Chapter 13 of the Comprehensive Plan designates Tamarack Falls Store, not the surrounding area, as an economic hub. He calculated a -3 Compatibility Rating.

Director Herrick added that Mr. Esplin stated he would only be able to store one trailer on the back [western] portion of the lot. Tamarack Falls area was identified as a tourist area. Tamarack Falls store is also within the Smylie Julie Subdivision. Valley County Comprehensive Plan states: “Expansion of services should be encouraged to locate in the tourist hubs. The mapped boundaries are advisory only and are expected to be flexible.” Mountain Meadow Rentals is an established conditional use permit. Mr. Esplin has recently purchased the property on the south side of W. Tamarack Falls RD.

Commissioner Caldwell stated this business has an established conditional use permit. This site mitigates impacts at already established commercial businesses. This would bring the entire business site under one conditional use permit. Approval would bring the business into compliance. Approving this use would not violate ordinances. Ultimately, ordinances come before the Comprehensive Plan.

Acting Chairman Roberts asked if the applicant was to buy more adjacent subdivision lots, would the Commission approve further expansion. Commissioner Caldwell countered that a new conditional use permit and public comment would be required prior to further expansion. Commissioner Freeman added that only one trailer will be stored on the portion of the lot within the Smiling Julie Subdivision. Commissioner Swain stated this business already has an approved conditional use permit. This would allow an expansion onto only the adjacent one-third acre (1/3).

Commissioner Caldwell, Commissioner Childs, Commissioner Freeman, and Commissioner Swain voted for the motion; Acting Chairman Roberts voted in opposition. The motion passed.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

*7:40 p.m.*

- 4. C.U.P. 22-52 North Pasture Subdivision – Preliminary and Final Plat:** The DRC Trust is requesting a conditional use permit for a 1-lot single-family subdivision. The 2.2-acre lot would be accessed from Farm to Market Road, a public road. An individual well and septic system is proposed. The site is part of a 107-acre parcel RP17N03E125420 in the NWNW Section 1, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

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

Acting Chairman Roberts asked for the Staff Report. Director Herrick presented the staff report, displayed the site and GIS map on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – Revised Plat submitted January 12, 2023, which contains changes that were requested in the staff report.

The wet areas are not designated wetlands but will be shown as a “no-build area” on the plat. The driveway would run along the north boundary, adjacent to 13926 Farm to Market Road. Fiber optic requirement was discussed.

Acting Chairman Roberts asked for the applicant’s presentation.

David Carey, 13895 Lang Court, representing the applicant, described the location. The proposal is to split the large parcel for an affordable single-family lot to be used by an existing local teacher’s family. Conduit will be added. It was chosen in order to locate the parcel away from Farm to Market RD for aesthetic reasons and to provide distance from the existing home to the north. Septic testing monitoring will occur. The site will be fenced as the adjacent area owned by the applicant is used for cattle grazing. Approximately 30-ft of pressurized line will be moved. The wheel-line in the pasture south of this site will still be useable.

Acting Chairman Roberts asked for proponents. There were none.

Acting Chairman Roberts asked for undecided. There were none.

Acting Chairman Roberts asked for opponents.

Ellen Wehrle and Mark Morris, 13926 Farm to Market Road, are the adjacent neighbors to the north. Their concerns are the proposed driveway location and dust. The existing blue spruce trees on their property does help mitigate dust. They ask if the driveway could be paved and/or landscape added. They realize traffic will be minimal but there will still be delivery vehicles, etc., using the driveway. They understand the affordable housing issue in this area and are not opposed to the new home itself.

Acting Chairman Roberts asked for rebuttal from the applicant.

David Carey appreciates the comments; however, the adjacent neighbors do not have a paved driveway. Traffic using Farm to Market Road increases the dust and noise in the area. He anticipates a gravel driveway to the new home site and does not want to require landscaping. The home location was chosen intentionally.

Acting Chairman Roberts closed the public hearing. The Commission deliberated. Commissioner Freeman said the proposal fits the area. The lot size and location ties into the surrounding area. Dust is a part of summer living in Valley County. Acting Chairman Roberts calculated a positive compatibility score and is reluctant to require pavement and/or trees for screening. Commissioner Swain stated there is not room for trees in the driveway area when snow storage area is considered.



Commissioner Childs moved to approve preliminary and final plats of C.U.P. 22-52 North Pasture Subdivision with the conditions as stated and authorize the Chairman to sign. Commissioner Freeman seconded the motion. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

8:08 p.m.

**5. C.U.P. 22-53 Harlow Subdivision – Preliminary and Final Plat:** McCall Donnelly Joint School District #421 is requesting a conditional use permit for a 2-lot single-family subdivision on 20 acres. Individual wells and individual septic systems are proposed. Access would be onto State Highway 55 from a shared access easement. The site is addressed at 14030 Highway 55, parcel RP18N03E330455, and located in NENE Section 33, T.18N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

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

Acting Chairman Roberts asked for the Staff Report. Director Herrick presented the staff report and displayed the site and GIS map on the projector screen. Director Herrick clarified the shared access proposal and wetland locations.

Director Herrick recommended that proposed Conditional of Approval # 12 be removed as the site is not accessed by any Valley County right-of-way.

Director Herrick stated that Idaho Statute requires sanitary restrictions be removed from subdivision lots. The Central District Health (CDH) approval letter for this subdivision would state sanitary restrictions exist for Lot 2. Thus, a letter from CDH would be required prior to doing construction of any buildings on Lot 2. Since the future use of Lot 2 is unknown, the applicant prefers to record the plat with sanitary restrictions and require the future owner of Lot 2 to apply to CDH for approval of a septic system for a specific use. Any uses other than agricultural use would require a new conditional use permit approval. Table 9-3-1 in Valley Code and classification of a single-family subdivision was clarified. Shared access will be required as Highway 55 is a limited-access highway. The existing bus barn on Lot 1, future use of Lot 2, and the parcel to the south would be able to use the shared access onto Highway 55.

Acting Chairman Roberts asked for the applicant's presentation.

Mathew Adams, Eagle, ID, representing the applicant, stated the staff report was thorough. The School District had determined the site is surplus property. The subdivision plat is required so Lot 2 can be sold and the proceeds for other capital improvements for the McCall-Donnelly School District. The applicant is prepared to complete the groundwater monitoring if required for Lot 2. The district is willing to remove the restriction in order have the property more marketable. The access easement on the flag portion of Lot 2 will allow use by the parcel to the south. This consolidates access to a single entrance and aligns with entrance across the highway. The future owner of Lot 2 would apply for a conditional use permit for any future use. The school district will obtain a access permit from Idaho Transportation Department, will construct the entrance from Highway 55, and will use the single entrance to access the Bus Barn. The existing second driveway entrance will be removed. The future owner of Lot 2 would then be responsible to extend the driveway eastward.

Acting Chairman Roberts asked for proponents. There were none.  
Acting Chairman Roberts asked for undecided. There were none.  
Acting Chairman Roberts asked for opponents. There were none.

Acting Chairman Roberts closed the public hearing. The Commission deliberated. Commissioners agreed that it is not appropriate to require removal of sanitary restrictions of Lot 2 when the future use of the site is unknown. The Commissioners agreed that consolidating access is good for safety.

Commissioner Caldwell moved to approve preliminary and final plats of C.U.P. 22-53 Harlow Subdivision with the stated conditions of approval, except

- Remove proposed COA 12,

and authorize the Chairman to sign.

Commissioner Childs seconded the motion. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

8:30 p.m.

- 6. C.U.P. 22-54 Haney Solar Panels:** David Haney is requesting a conditional use permit for detached solar panels for personal use. The residence is addressed at 1504 Crown Point Parkway. The 1.5-acre lot is Alberta Estates Subdivision Lot 6 located in the NWSE Section 11, T.14N, R.3E, Boise Meridian, Valley County, Idaho. Action Item

Neither the applicant nor a representative was present.

Commissioner Freeman moved to table C.U.P. 22-54 Haney Solar Panels to February 9, 2023. Commissioner Caldwell seconded. Motion passed unanimously.

## E. OTHER

- **Is a Conditional Use Permit Required?** Not a public hearing.

Director Herrick presented the staff report. Three (3) sites are included.

- **For a Commercial Kitchen at 12756 Skain Road (Parcel RP001810020120 – M&E Wagon Wheel No. 8 Lot 12 Block 2). Action Item.**

Director Herrick reviewed the definition of a Residential Business and the request. Staff recommends a conditional use permit not be required for this use. Central District Health (CDH) would review and permit the commercial kitchen. The applicant should be aware that property insurance would be impacted by this use.

Commissioner Childs moved to not require a conditional use permit for the use of a commercial kitchen at 12756 Skain Road, parcel RP001810020120, M&E Wagon Wheel No. 8 Lot 12 Block 2. Commissioner Caldwell seconded. Motion passed unanimously.

- **For an excavation business at 11340 Highway 55 (Parcel RP13N04E052406). Action Item.**

This site is across Highway 55 from the Cascade Airport. The family is a recent renter of the site, use it as a personal residence, and have cleaned up the property. Black Canyon Excavation was storing quite a bit of equipment at the site. Recently, the business has been moving equipment from the site to the Emmett area. He would like to be considered a home-based business. The letter states that the skid steer and loader are for personal use. Pictures of the site were taken by Staff on January 10, 2023.

If it is decided that a conditional use permit is not required, the business will still require a commercial access permit from Idaho Transportation Department.

The amount of equipment on the site was discussed. Commissioners discussed allowing smaller equipment to be stored inside shop and parking equipment behind the shop. Equipment is not allowed to be parked in the 100-ft setback from the property line along Highway 55. Currently retaining wall blocks are stored along Highway 55 and should be moved. Other similar businesses were discussed. Home-based businesses and Residential Business definition were discussed.

Commissioner Freeman moved to postpone requiring a conditional use permit at the site; however, if he goes beyond parking equipment inside the shop and one piece of equipment behind the shop, then a conditional use permit will be required. Commissioner Caldwell seconded. Motion passed unanimously.

Staff will inform Black Canyon Excavation of this decision.

- **For an ammunition manufacturing / reloading business at 11 Sawtooth Court (Parcel RP004390000060 – Blackhawk Ranch Phase 1 Lot 6). Action Item.**

Mark Knudson was present and available for questions. In order for Mr. Knudson to sell ammunition, he must receive a permit from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). ATF requires zoning approval from the local jurisdiction, i.e., Valley County Planning and Zoning. The application process also requires that he applies to the Valley County Sheriff's Office.

Commissioner Childs moved to not require a conditional use permit for an ammunition manufacturing / reloading business at 11 Sawtooth Court, parcel RP004390000060, Blackhawk Ranch Phase 1 Lot 6, unless the nature and scope of the use changes. Commissioner Caldwell seconded.

Acting Chairman Roberts suggested that neighbors might want to weigh in on the use; the business could grow in future.

Parameters to determine when a conditional use permit would be required were discussed. ATF will complete a site visit. The floor area for the business and possible noise were discussed.

Commissioner Childs amended the motion to not require a conditional use permit for an ammunition manufacturing / reloading business at 11 Sawtooth Court, parcel RP004390000060, Blackhawk Ranch Phase 1 Lot 6, unless the scope of the production changes beyond one machine. Mr. Knudson must also notify the McCall Fire Department. Commissioner Caldwell seconded. Motion passed unanimously.

In response to Staff questions, Mr. Knudson stated the building is a guest house but not lived in. The building does have a kitchen. Staff stated an Accessory Dwelling Unit (ADU) permit is required. Mr. Knudson will contact Director Herrick for further information.

9:57 p.m.

- **Appeal of Administrative Decision that a Conditional Use Permit Is Required for Solar Panels at 505 Collier View Road.** Action Item. Not a public hearing.

Valley County Code 9-5G-1 states requirements for solar panels.

Mr. Falconer, Star, Idaho, property owner of 505 Collier View Road, was present. He is a past employee of U.S. Corps of Engineers, the Federal Emergency Management Agency (FEMA), and State of Idaho, and understands engineering and regulations. He purchased the property about 12 years ago and designed a septic system to fit the property. Electrical power was not available to the site at that time. The building official at the time was helpful in making it possible for him to build an “off-grid” home. Mr. Falconer did obtain a Certificate of Occupancy from the Valley County Building Department; the power from the solar panels was essential. The cost of the solar system was almost equal to the cost of the home. The term “off-grid” was essential to this site; he is not sure when that term was redacted from the building permit. The solar panels were placed on an engineered “structure”. They were not placed on a building, but a “structure”, per the International Building Code. At that time, the International Building Code did not reference PV panels [solar photovoltaic panels]. One panel is approximately 15-sqft. The structure is 13-ft high and 10-ft x 16-ft wide. The base is 4-ft x 6-ft with reinforced concrete. It is an 8-inch galvanized post. There is single-axel tracking system which moves the solar panel with the sun. It produces about 25 watts of power.

For eight years he thought he was good as he received a Certificate of Occupancy in 2015; now he is told another permit is required. He did not try to circumvent requirements and met all the International Building Code standards. The building official told him he “was good to go.” The State of Idaho electrical permit was to hook up the solar panel. He specified this was an off-grid system. He was not aware of a violation until contacted by Staff. The septic system location is not impacted. He has read the Valley County Code for solar panels [VCC 9-5G-1]. He believes he complies with all the requirements. The neighbors have not complained. The solar panels do not reflect onto neighbors due to the angle. The building standards that apply are those that were in place at the time the application was accepted. The building permit application was discussed. Mr. Falconer stated he does have a copy of the building permit application. The notation on the permit states the panels must be installed on a structure. Mr. Falconer interprets this to mean he is in compliance as the solar panel is on a stand-alone structure. The pole meets the definition of a structure in the International Building Code.

Director Herrick responded to questions and clarified requirements of Valley County Code for Solar Panels and for Building Permits. The Valley County Land Use Ordinance is in addition to requirements of the International Building Code. Valley County Code requires the solar panels to be placed on the primary structure or obtain a conditional use permit. The home is the primary structure. It does not matter if the site is “off-grid”. A Certificate of Occupancy is approved by the Building Department who would have inspected the house to check for compliance with the building permit and Building Code.

The Commissioners agreed there has been a misunderstanding. Valley County Code 9-5G-1 regarding solar panels has been in effect since 2010. The ordinance did exist when this solar panel structure was constructed. Valley County Code states “primary structure” which is the home and/or garage. This solar panel system is on a pole, not on the primary structure. Free-standing panels can impact neighbors.

Commissioner Childs moved to deny the appeal of administrative decision that a Conditional Use Permit Is required for solar panels at 505 Collier View Road, thus requiring a conditional use permit. Commissioner Freeman seconded. Motion passed unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

- **C.U.P. 12-11 ASAP Portables Stipulation Agreement.** Action Item

The Staff and the PZ Commission has reviewed violations of C.U.P. 12-11 ASAP Portables multiple times. Deputy Prosecutor Brian Oakey created a Stipulation and Consent Agreement after a settlement conference was held with staff and Ned Crossley, owner of ASAP Portables. Director Herrick reviewed the details and history of the conditional use permit with the Commission. The Stipulation Agreement will expire on January 1, 2024. If the Stipulation Agreement is violated, then the included consent agreement will be enforced. Commissioner Caldwell moved that the Planning and Zoning Commission ratify the Stipulation and Consent Agreement for ASAP Portables. Commissioner Childs seconded. Motion passed unanimously.

- **Election of Officers.** Action Item

Commissioner Childs nominated Commissioner Caldwell for Chairman; Commissioner Freeman seconded. Motion passed unanimously.

Commissioner Caldwell nominated Commissioner Roberts for Vice-Chairman; Commissioner Freeman seconded. Motion passed unanimously.

Commissioner Freeman nominated Ms. Herrick for Secretary. Commissioner Roberts seconded. Motion passed unanimously.

- **Meeting Dates for 2023.** Action Item

Regularly scheduled meetings are set by Planning and Zoning Bylaws to occur on the second Thursday of every month.

The Commissioners agreed to set a work session for Tuesday, February 21, 2023, starting at 5:00 p.m. Additional work session dates will be determined in the future.

#### **F. FACTS AND CONCLUSIONS – *Action Items:***

- C.U.P. 22-34 Shoemaker Donnelly Storage
- C.U.P. 22-46 Moudy Glamping Site

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

Commission Caldwell moved to adjourn the meeting. Commissioner Freeman seconded the motion. Motion carried unanimously.

Acting Chairman Roberts adjourned the meeting at 9:53 p.m.