

Valley County Planning and Zoning Commission

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Katlin Caldwell, Chairman
Ken Roberts, Vice-Chairman

Sasha Childs, Commissioner
Scott Freeman, Commissioner
Gary Swain, Commissioner

MINUTES

Valley County Planning and Zoning Commission
February 21, 2023
Valley County Court House - Cascade, Idaho
JOINT WORK SESSION
5:00 P.M.

- A. OPEN:** Meeting called to order at 5:00 p.m. by Chairman Hasbrouck.
A quorum exists for both governing bodies.

Board of County Commissioner Chairman	Elt Hasbrouck	Present
Board of County Commissioner	Sherry Maupin	Present
Board of County Commissioner	Neal Thompson	Present
Valley County Deputy Prosecutor	Brian Oakey	Present
PZ Director	Cynda Herrick	Present
PZ Commissioner	Katlin Caldwell	Excused
PZ Commissioner	Sasha Childs	Present
PZ Commissioner	Scott Freeman	Present
PZ Commissioner	Ken Roberts	Arrived at 5:35 p.m.
PZ Commissioner	Gary Swain	Present
PZ Assistant Planner	Lori Hunter	Present

C. Joint Training for PZ Commissioners and Board of County Commissioners

Valley County Deputy Prosecutor Brian Oakey led the joint training session. Deputy Prosecutor Oakey is typically available at all Board of County Commissioner and Planning and Zoning Commission meetings.

The role of Commissioners was discussed. Commissioners have a legislative function when they take public testimony for a proposed ordinance change. Commissioners have a quasi-judicial function when a land use change is proposed, similar to a court proceeding. Valley County uses "Multiple Use" Zoning, not traditional Euclidian zoning. Commissioners must make well-reasoned thoughtful, articulate decisions.

Public Hearing Procedures

Public hearings are different from other action items. There are legal requirements for public hearings that must be met. Testimony must be taken from public.

- Notice requirements exist.
- Must give public the opportunity to present and rebut evidence during public comment period.
- A three-minute limit on testimony may be enforced. The rules limiting testimony must be fair and equitable and not excluded evidence from the public hearing. A public hearing requires due process with a fair and equitable opportunity to present evidence.
- Commissioner input during public comment period should be limited. This is the time for the public to speak and Commissioners to listen.
- Commissioners can ask questions of commentors during a public hearing to elicit clarifications and relevant information regarding the public hearing.
- Public testimony time is not the time for deliberation or discussion among Commissioners as this can sound as if a Commissioner is biased and/or considering evidence that is not in the record.
- Commissioners must reserve judgement until all evidence is submitted. This is not the time for Commissioner's personal experience to be in the record.
- Site visits must follow open meeting law. If an agenda is created, the meeting noticed, and public invited, then Commissioners could visit the site. Valley County Code says a Commissioner can visit a site individually, but we have to be very careful.
- Once public hearing is closed, evidence gathering is ended.
- Do not make a decision until all the facts are in the record.
- Do not feel rushed to make decisions. Get information on the record to make the right decision based on fact. Can table the matter and give direction to staff to compile additional information.
- Commissioners can discuss motion after it has been seconded. Or can let it die for a lack of second.
- Commissioners are not legally required to deliberate immediately following the public hearing. Commissioners can close public hearing and deliberate at a later date.
- Planning and Zoning and County Commissioners can consult with Prosecutor Office if there are legal questions.
- Put on the record the decision and important facts.
- Relevant ordinances are included in Staff Reports. The ordinances should be referenced in decisions.
- Prepare Facts and Conclusions of Law, a written analysis of decision made.
- Need transcribable record. It is difficult to get transcribable record if Commissioners talk over each other. All should talk clearly into a microphone.

Facts and Conclusions

- Commissioners must be deliberate in the deliberations.
- Decisions must be put in writing.
- Commissioners must state reasoned, rational decisions for the record. Reference ordinances.

- Draft of Facts and Conclusions are prepared by Staff and given to Commissioners at a later date for review, editing, and approval.
- There must be indication from the PZ Commission or Board of County Commissioners that a proposal is denied due to lack of compliance with Valley County Ordinances, or that the proposal is approved as it complies with the Ordinances.
- If an application is denied, Idaho Code requires the Commissioners to state what mitigation measures, if any, the applicant can take to get approval of a conditional use permit.

Comprehensive Plan

The Comprehensive Plan is not an ordinance but is referenced in the law. Goals in the Comprehensive Plan do contradict each other. Commissioners can use the idea of Comprehensive Plan in decision. There should be evidence in the record that states a particular project is in compliance with the Comprehensive Plan and the ordinances.

Engineering Plans and Approval

Parametrix, the Valley County Engineer, will be submitting a letter to the Commissioners detailing what the Valley County Engineer does when reviewing applications.

Valley County Code requires that stormwater must be maintained on the property. Applications include preliminary stormwater management plans. The Valley Engineer must approve the final stormwater management plan for a project.

Additional Training

A “takings” analysis and private property rights were discussed. Deputy Prosecutor Brian Oakey was asked at what point does denial of an application become a “takings”. Any affected property owner that is given an adverse decision may request a takings analysis. Facts and Conclusions include information on how a decision may be appealed and that a takings analysis may be requested. These analyses are completed by the Prosecutor Office.

VCC 9-5H-11 details how to conduct public hearings. Testimony from the public may be limited to three minutes per individual; a representative of group may be limited to five minutes.

Site visits were discussed. Commissioners must confine decisions to the evidence on record. The Open Meeting Act must be followed.

During an appeal, Commissioners must review all facts and evidence, including new information. The Board of County Commissions hold a public hearing for appeals of decisions of the PZ Commission. These are de novo reviews. The Board has all information from the PZ Commission decision plus also takes additional evidence.

Deputy Prosecutor Brian Oakey did a short synopsis review of topics covered during this work session.

Board of County Commissioners and Deputy Prosecutor Brian Oakey left the work session.

6:25 p.m.

A. Work Session:

1. Plan of Action

The Board of County Commissioners previously met with the Planning and Zoning Commissioners. The Board wanted the PZ Commissioners to review the Comprehensive Plan and discuss potential zoning overlays. The Commissioners began working on these issues. Since then, other topics have taken priority, including the ordinance modifying property splits and review of Impact Areas.

- **Discussion on Subdivision Regulations, Comprehensive Plan, and Zoning Overlays**

The process of updating ordinances, updating the Comprehensive Plan, and creating zoning overlays was discussed. Subdivision Ordinances are based on the Comprehensive Plan. Performance versus Euclidian Zoning was discussed. Commissioner Roberts likes the idea of the PZ Commissioners updating the Comprehensive Plan. The Commissioner may need help evaluating ordinances and possible changes.

Valley County Land Use Ordinance was approved in 1982. The Valley County Subdivision Regulation was approved in 1970.

The Commissioners discussed these topics further. Private property rights were discussed. Specific areas of the Valley County, the changing demographics, industry, and Highway 55 were discussed. Various tools are available in Idaho Law including conservation easements and Transfer of Development Rights (TDRs). TDRs require zoning categories. The PZ Commission makes recommendations to the Board of County Commissioners.

Prior to the next work session, Commissioners will review the previously created maps detailing Assessor's Use Categories. Then they can discuss possible overlay types and areas. Director Herrick clarified that overlays do not give permission or limit an area to a specific use only; a conditional use permit would still be required. The Comprehensive Plan Chapter 3 includes a checklist regarding private property rights. The Comprehensive Plan includes land use patterns.

The Board wants to see the long-term visions of the PZ Commissioners.

2. Matrix Training

Valley County Code (VCC) 9-11-1 Appendix A, Compatibility Evaluation is used for conditional use permits.

- Appendix A gives specific directions on how to fill out the compatibility rating (VCC 9-11-1.G).
- The matrix shall be used for the first three questions on the compatibility rating (VCC 9-11-1.D).
- VCC 9-11-1 defines Dominant Adjacent Land Use (within 300-ft) and Local Vicinity (within one-to-three-mile radius).

Commissioner Roberts does not believe the 23 options listed in the Matrix (VCC 9-11-1.H) reflects the variety of current uses in Valley County. Thus, the matrix should be edited if the Commission continues to use it. Director Herrick stated that the matrix follows VCC Table 9-3-1.

Director Herrick stated that the compatibility rating allows the various uses within a mixed-use application (e.g., both residential and commercial) to be weighted separately. Service businesses versus area businesses were discussed. The Commission can discuss the categories if a Commissioner does not think the use fits the category determined by Staff.

The Compatibility Rating is a tool that should be systematically and consistently applied. Director Herrick stated that Commissioners cannot make the final decision using only the first three questions. Commissioner Roberts disagrees. Director Herrick stated that just because the compatibility rating results in a positive [negative] number, the PZ Commissioners do not necessarily need to approve [deny] the project. The Compatibility Rating is only a tool to assist in a decision; the rating result is not the deciding factor in denial or approval of an application.

Director Herrick explained use of the matrix further [VCC 9-11-1.C].

- +2 = assigned for full compatibility (adjacency encouraged)
- +1 = assigned for partial compatibility (adjacency not necessarily encouraged)
- 0 = assigned if not applicable or neutral
- -1 = assigned for minimal compatibility (adjacency not discouraged)
- -2 = assigned for no compatibility (Adjacency not acceptable)

Short-term rentals must be considered as single-family residence per Idaho Statute.

Commissioner Roberts wants to have further discussion on the Compatibility Rating and possible modifications and additional questions.

The Commissioners should consider proposal impacts that can be mitigated.

3. Upcoming Meetings

There was discussion on topics for upcoming work sessions. Possible overlays were briefly discussed. Impacts would still be mitigated within overlay areas. The cyclical economy and future development were discussed. There was discussion on how to conserve agricultural land.

The next public hearings are scheduled for March 9th and 16th, 2023. A Work Session will be held on April 18, 2023.

The meeting was adjourned at 8:10 p.m.