

# Valley County Planning and Zoning Commission

PO Box 1350 • 219 North Main Street  
Cascade, ID 83611-1350



Phone: 208-382-7115  
Email: cherrick@co.valley.id.us

**Katlin Caldwell, Chairman**  
**Ken Roberts, Vice-Chairman**

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

## MINUTES

Valley County Planning and Zoning Commission

**April 20, 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 Chairman Caldwell. 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

## **C. NEW BUSINESS:**

- 1. C.U.P. 23-11 South Ranch Subdivision – Preliminary and Final Plat:** Tommy Ahlquist is requesting a conditional use permit for a two-lot single-family residential subdivision. Proposed lot sizes are 9.5 to 10.6 acres. Individual septic systems and individual wells would be used. The lots would be accessed from a new private road onto West Mountain Road. Right-of-Way for West Mountain Road would be dedicated to Valley County. The 26-acre site is a portion of parcel RP17N02E120635 located in Section 12, T.17N, R.2E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Caldwell introduced the item and opened the public hearing. Chairman Caldwell asked if there was any exparte contact or conflict of interest; there was none. Director Herrick presented the staff report, displayed the site on the GIS map, and showed the preliminary plat on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – John Simpson, Marten Law, representing The Maria Escosa Revocable Trust, addressed the historical ditch uses, the water system, and a water rights agreement (attached) (April 13, 2023)
- **Exhibit 2** – Valley County Engineer's response (April 17, 2023)

Typically, the Commissioners approve a preliminary plat, the applicant does road work, etc., and then the applicant requests final plat approval. If no road work is necessary, the applicant can request approval of both the preliminary plat and final plat at the same time. If the Commissioners choose to approve both at this time, staff could assure that the road is completed prior to submittal to the Board of County Commissioners. The surrounding land is owned by the applicant but is not included in this subdivision application. West Mountain Road should be a 100-ft right-of-way.

Director Herrick responded to questions regarding the compatibility rating and adjacent uses. The proposed subdivision site is surrounded by agricultural uses; however, the entire parcel is adjacent to a single-family residential subdivision plus single family residential parcels to the south. Therefore, the next largest adjacent use is single-family residential uses.

Chairman Caldwell asked for the applicant's presentation.

James Fronk, Norwood RD, McCall, represented the applicant. The proposed private road already exists and is visible on the GIS map. Excess material from building a pond on the large parcel was used to construct the road. The approximately 600-ft road needs minor grading and approval by the Valley County Engineer. Mr. Fronk referred to the preliminary plat and the existing ditch that crosses the property. The ditch follows the base of the bench, crosses under Hait Lane, and then crosses two other properties. Service was disrupted when the pond was built in late fall. The ditch issues have been rectified with a ditch agreement that all property owners have signed. The irrigation ditch easement is shown on the proposed plat. Only two lots are proposed; the applicant intends to use the remaining property south of the proposed subdivision for livestock grazing.

West Mountain Road has alignment issues and safety concerns. The applicant owns both sides of West Mountain Road in this location and is willing to dedicated a 100-ft road right-of-way. The County will then have the area to realign the road in the future. The applicant previously built a significant part of the road to County standards and dedicated road right of way. When Blackhawk Phase 5 was approved, the applicant, AB West, paved West Mountain Road south past the entrance to Blackhawk Phase 5. No additional paving is proposed at this time. This has been discussed with Jeff McFadden, Valley County Road Superintendent.

The applicant is requesting approval of both the preliminary and final plats. The subdivision is fairly simple, only two lots, and is 80% finished. Electrical power exists approximately 450-ft from the proposed lots. Electrical lines would be required to be placed underground by the future lot owners. During 2000 and 2001, seven test holes were monitored; this may explain Central District Health (CDH) comments. Ground water is not an issue at this location. The test holes for the two proposed lots have preliminary approval. Idaho State code requires an engineering report. This will be sent to CDH soon.

The proposed road name will be revised. There will be no CCRs or property owner association. A road maintenance agreement will be recorded with the final plat [COA 11]. Utilities will be underground and include fiber optics conduit.

Chairman Caldwell asked for proponents. There were none.

Chairman Caldwell asked for undecided. There were none.

Chairman Caldwell asked for opponents. There were none.

Chairman Caldwell closed the public hearing. The Commission deliberated. Valley County Code does not require utilities to be in place prior to recording a plat; however, a Declaration of Utilities is required. For this subdivision, the future buyers of the lots will be responsible for placing utilities, not the applicant. Staff and Commissioners are comfortable approving both the preliminary and final plats of this subdivision. Prior to recording the plat, requirements will be met including a letter from the applicant's engineer stating the road was built to approved plans. The plat does show a 100-ft of road right-of-way dedication.

Commissioner Freeman moved to approve C.U.P. 23-11 South Ranch Subdivision, Preliminary and Final Plats with the stated conditions, and authorize the Chairman to sign the final plat. Commissioner Roberts seconded the motion. Motion carried unanimously.

Director Herrick clarified that it is up to the Valley County Dispatch to approve road names due to emergency response.

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

6:37 p.m.

2. **C.U.P. 23-13 Coulegar Multiple Residences:** Coulegar LLC is requesting a conditional use permit for multiple residences. The 2.06-acre lot would be split into two lots. Each lot would have a primary residence and a smaller home. There are currently three residences on the lot; the new 544-sqft tiny home would be used as a short-term rental. All homes would share an individual well. An additional individual septic system would service the tiny home. Access would be from a shared driveway on to E. Prospector Drive, a public road. The site is Gold Dust Ranch No. 2 Lot 229, addressed at 107 and 109 E Prospectors DR, and located in the SW ¼ Section 10, T.13N R.4E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Caldwell introduced the item and opened the public hearing. Chairman Caldwell asked if there was any exparte contact or conflict of interest; there was none. Director Herrick presented the staff report, displayed the site and GIS map on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – Valley County Engineer response (April 17, 2023)

A portion of the existing driveway goes through the adjacent common area to reach the homes. The adjacent property owner is also using the driveway as access from E. Prospector Drive is difficult. This property has been in violation for many years. The kitchen from the original home was not removed when the other residence was constructed; instead, the original home was rented out long term. An easement does not exist for the driveway through the platted common area. There is not an existing homeowner association for Gold Dust Ranch No. 2 subdivision. There is not a written easement at this time for 45 E Prospector Drive (Lot 250) to use the shared driveway across Lot 229. This driveway has existed for many years and was built by previous owners. Building permits are required for the conversion of sheds. Building Permit 2007-209 stated the previous property owner planned to demolish the existing older home, but this was not done. Problems at this site need to be corrected, including approval of septic permits and building permits. The subdivision was platted in 1975.

Chairman Caldwell asked for the applicant's presentation.

Pam Twilegar and Frank Coulsen, both of Eagle, represented Coulegar LLC. The property was purchased from the mother of Ms. Twilegar in 2021. Her mother, Jane Miller, now has dementia; she purchased the property in 2007. The current owners were not aware of the violations and needed corrections until after they had purchased the property. The building that Staff described as a shed converted to a residence is actually the wellhouse. Long-term renters reside in the two homes at the back of the lot. These are not fancy homes; one person lives in each home. These homes are connected to the original 1977 septic system. The applicants will work with Central District Health to comply with septic system requirements. The home addressed at 107 E Prospectors was built in 2007 with a septic system approved for four bedrooms.

A disabled person lives in an RV at the back (west side) of Lot 250 and uses the same driveway as the applicant for access. The applicant's lawyer has researched the platted common area and the driveway. There is no entity that owns the common area; the last known Common Area

property owner dissolved in 1982. If needed, the applicant could build a driveway that is only on their property; however, that is not their preference.

The applicant applied and won a contest sponsored by Airbnb who picked 100 designs worldwide. The proposed structure is a small home designed as a “fallen log”. The contest awarded money to build the structure; however, the award includes a stipulation to short-term rent the building through Airbnb for one year. They plan to use the rental money to fix up the rest of the property. After the one-year requirement is met, the home will no longer be rented as a short-term rental. The applicants were not aware of the agreement to remove the older home; they desire to fix things legally and believe this is a solution.

Staff confirmed that the lot can be legally split once. This would allow a total of four dwelling units, two per lot.

Frank Coulsen, Eagle, stated that they presented the proposed building design to Airbnb on this specific lot.

Director Herrick suggested that the applicants might execute court action to declare the easement. A lawyer could advise on prescriptive easement law. The applicant will need to comply with Valley County Building Department requirements (COA 5). Staff clarified the 2007 building permit and the CDH letter. Before the occupancy permit was issued for the 2007 house, the owner was to remove the older home. This was not done.

Chairman Caldwell asked for proponents. There were none.  
Chairman Caldwell asked for undecided. There were none.

Chairman Caldwell asked for opponents.

Brad Howlett, 43 E Prospector Drive, is an adjacent neighbor. The site is already noisy including into the later hours of the night. He is opposed to the short-term rental and is concerned about four homes on one well and two septic systems. He believes there is also an abandoned septic system on the property. The driveway was only plowed twice this winter. He is concerned about management of the short-term rental. This is a residential neighborhood. The proposal would affect his ability to enjoy his property and the common area.

Darrell Stewart, 52 E Prospector Drive, states the density is too high. What would keep everyone in the area from putting four homes on one lot. Additional concerns include traffic, shallow wells, and septic systems. The applicants do not live on the property and could not easily respond to issues on the property. Visitors tend to not treat the area well.

Chairman Caldwell asked for rebuttal from the applicant.

Pam Twilegar said the neighbors' experiences are unfortunate. There are already short-term rentals in the area. The subdivision itself is rough and not well maintained. They do have a caretaker for the property; they will monitor the caretaker better in the future. There are monitoring cameras on the property. This request is for a small accessory dwelling unit, not a large home.

Chairman Caldwell closed the public hearing. The Commission deliberated. Accessory Dwelling Units (ADU) and short-term rentals were discussed. The property can be legally split without permission from the Planning and Zoning Commission. The property owners could then have a primary home plus an ADU on each lot. However, ADU permits require that either the primary home or ADU be occupied by the owner; both houses cannot be rented out without a

conditional use permit. The owner does not need to live in the home full-time. This application is to allow the short-term rental of the proposed new small dwelling unit. If this conditional use permit is not approved, the owners could still split the lot, add the new home, and remove the kitchens from the existing older homes. The lot is an original parcel; thus, it can be split once without a conditional use permit. The applicants are asking for a conditional use permit so they can maintain the other two homes as long-term rentals.

Commissioner Roberts is concerned that the previous requirements have not been met and that the older home was not demolished as stated in the building permit for the home built in 2007. He is concerned about adding a fourth dwelling unit when one home was supposed to be removed. He is not in favor of granting until the requirement to tear down the old house is met. The driveway in the common area is problematic but there is an alternative route available. He suggested either denial or the addition of conditions of approval to address concerns. He would require removal of the older home and the driveway relocation. Approval is required from both CDH and the Building Department. Commissioner Childs stated that the applicant does have the legal right to split the lot. Then the applicant just needs to work with the Building Department to meet required building codes. They could have a house and an ADU on both lots. Chairman Caldwell stated that if a conditional use permit is approved, then the applicant must meet all conditions of approval.

Staff confirmed that the Building Department no longer has a copy of the building permit for the older house. Older records were disposed. Multiple residences on a lot did not require a conditional use permit until October 1991. If the buildings were constructed prior to then, they would be legal multiple residences on one lot.

Commissioner Swain is concerned about the past violations. He would prefer the driveway to be off the common area. This driveway could interfere with the use of the common area by other property owners within the subdivision. Commissioner Freeman would require the lot split and bringing both the buildings and septic systems up to code. Long-term rentals are needed in Valley County. Director Herrick clarified that the Planning and Zoning Office would have required removal of the kitchen, not the demolishing of the entire building. That was a voluntary condition by the property owner at that time. This conditional use permit would solve the issues that have accumulated through no action of applicant.

Commissioner Childs prefers adding a condition of approval that prohibits the short-term rental of the two residences in the back. The homes must meet building codes. The property owner can legally split the lot. She does not doubt that they could get a legal prescriptive easement for driveway. This conditional use permit is the best way to solve the existing issues at this property. Chairman Caldwell concurs that a prescriptive easement likely exists for the driveway.

Commissioner Swain stated that other people in the subdivision have a right to a quiet neighborhood. He would not like to be next door to this project. Director Herrick showed nearby permitted short-term rentals on the GIS map. Short-term rentals are a permitted use.

Different possibilities were discussed. The public hearing was reopened to ask the applicant additional questions.

Pam Twilegar stated they will ensure that all buildings meeting building codes. They are amicable to changing driveway location. They have been working with Director Herrick to bring this lot into compliance. They would like to keep the application as it was presented. If the old house does not meet residential building requirements, they are willing to turn it into a barn. They purchased the property in 2021 and are trying to improve it. They would like to improve the back two homes and keep them as long-term rentals.

Chairman Caldwell asked for additional testimony from the public.

Brad Howlett, 43 E Prospector Drive, asked for clarification on the requirements for residency of the primary home by the applicant/property owner.

Staff clarified that the applicant occupies the main home on a part-time basis; it is not rented out.

Chairman Caldwell closed the public hearing and the Commissioners continued deliberations. After a year of use, the new tiny-home would be converted to a long-term rental. This is stated in the application. The Commissioners discussed what could be done without a conditional use permit. Commissioner Roberts is concerned that this would allow four dwelling units on what was originally a single-family residential subdivision lot. Commissioner Childs stated that approval of the C.U.P. allows more control through the conditions of approval. Without an approved C.U.P., violations would be addressed with a "band-aid"; this is a better solution. The Commission cannot deny short-term rentals. The buildings must be in compliance with Valley County Building Department and Central District Health. The site would still meet the maximum 2.5 dwelling units per acre allowed per Valley County Code; a total of five dwelling units would be allowed on this lot if it was split.

Commissioner Childs moved to approve C.U.P. 23-13 Coulegar Multiple Residences with the conditions stated in the staff report and

**COA:** Shall attempt to legally obtain a prescriptive easement for the driveway or relocate the driveway so it is solely on the property owned by the applicant.

**COA:** There shall be no short-term rental of the existing residences.

**COA:** Shall convert the short-term rental to long-term rental after the one-year contract with Airbnb is completed.

**COA:** Maximum of one fire pit per lot.

Commissioner Roberts seconded the motion.

Director Herrick clarified that the property owner is not required to bring the homes up to the current 2018 Building Codes. She believes the Building Department will require that the residence built in 1977 be updated to engineered standards for human habitation and the home built in 2007 to be inspected for final approval. Sheds smaller than 200-sqft in size did not require building permits until 2022; thus, the wellhouse does not require any additional approvals. Proposed Condition of Approvals #5 and #11 cover the requirements of the Building Department and Central District Health. Condition of Approval #13 prohibits short-term rental of the three existing residences.

Commissioner Childs, Commissioner Freeman, and Chairman Caldwell voted in favor. Commissioners Roberts and Commissioners Swain were opposed. The motion carried to approve C.U.P. 23-13 Coulegar Multiple Residences with the stated and added conditions of approval.

Motion carried.

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

*Short recess until 8:15 p.m.*

**3. P.U.D. 23-01 Garnet Valley and C.U.P. 23-10 Preliminary Plat:**  
Postponed to June 8, 2023

- 4. Valley County Code Amendments:** Valley County Planning and Zoning is proposing code amendments to require a neighborhood meeting before certain hearings; require Federal Aviation Administration Form 7460-1 within a certain distance of an airport; require painting of shipping containers; increase density for PUDs; and define Motions for Reconsiderations.

Chairman Caldwell introduced the item and opened the public hearing. Director Herrick presented the staff report and summarized the following exhibit:

- **Exhibit 1** – April Roberts is opposed to higher densities. (April 20, 2023)

The Commission will make recommendations to the Board of County Commissioners.

- **Valley County Code 9-5H-1.D Neighborhood Meetings**

The Commissioner discussed this proposal. The Commissioners are in favor of making neighborhood meetings highly recommended but not required. Neighborhood meetings held prior to application submittals allow the applicant to make changes and improve the concept based on neighbor comments. This can result in a smoother process. However, there are concerns that neighbor meetings are not controlled situations, can get contentious and go awry, and not be productive. More developers are voluntarily holding neighborhood meetings. Commissioners would not be able to attend due to ex parte contact requirements. There have been requests from the public to hold public meetings; the City of McCall requires them. The applicant would submit an attendance list and summary of the neighborhood meeting as part of the application to Valley County. This information becomes part of the application and the public record. Meetings could be held in person or on a digital platform such as Zoom.

The commissioners recommend VCC 9-5H-1D Neighborhood Meetings with the following changes:

- Neighborhood meetings are highly recommended.
- Change “shall” to “should”

- **VCC 9-5H-13 Motion for Reconsideration**

This would be a new section in Valley County Code which would better explain the requirements for motions of reconsideration of decisions of the Planning and Zoning Commission and/or Board of County Commissioners. This is in addition to the appeal process. The Motion for Reconsideration is required by Idaho State Statute; it must be done before an appeal of Board of County Commissioners to Idaho District Court.

- **VCC 6-1-9.G Form 7460-1**

Typically, VCC Title 6 does not come before the Planning and Zoning Commission. Form 7460-1 is currently required on all building permits. VCC 6-G would change this requirement to building permits within an approximately 3-mile radius from the airports of Cascade, Donnelly, and McCall. The purpose of this proposal was discussed. The allowed building height depends on the proposed building's relationship from airport. This requirement was requested by Emily Hart, McCall Airport Manager. If not approved, airport financing by FAA could be affected. Director Herrick showed the Commissioners the links that are available online, the application is simple.

- **VCC 6-1-9.H Paint Shipping Containers**

Shipping containers are currently allowed with placement permits and must meet setback requirements. This proposal would require that the shipping containers also be painted a color that blends with the natural terrain or other structures on the property. Placement permits took effect in May 2021; the \$25 permit is required for any structure over 3-ft in height. The Commissioners were concerned that the paint is likely to wear and look worse in a few years. The Commissioners stated that the setback requirement is more important than color and they do not recommend this proposed change.

- **VCC 9-9-7.D Planned Unit Development Density**

Staff is recommending this ordinance change; it was not suggested by anyone else. Dwelling units per gross acre can be increased to provide community and workforce housing at negotiated percentages that are memorialized in a development agreement with the Board of County Commissioners. Currently an applicant could request a variance to obtain higher density. If this change is approved, higher density would require a development agreement with conditions for workforce housing. Higher densities require central sewer and water services. The cities are struggling with their sewer systems. Impact areas were discussed. Existing P.U.D.s were discussed. The Payette Lake Recreational Sewer and Water District does not plan to expand. An applicant could construct their own sewer system outside of the Impact Areas. This proposed change would give an applicant the ability to apply for higher density. The County would not be required to grant the request.

The higher density for workforce housing should not be the last phase of a development. This would encourage workforce housing where the need for workers exists. It would allow more dwelling units in a smaller footprint. The current cap is six dwelling units per acre. This would be a good incentive. Rentals are a viable project. This would be a method to balance neighborhoods instead of separating people by income. Growth should be encouraged within and closer to city limits; however, this is currently limited by sewer capacity. The County cannot force cities to approve particular types of projects.

Chairman Caldwell stated that there is not anyone present in the room to testify. Chairman Caldwell closed the public hearing. The Commission deliberated.

Commissioner Roberts moved to recommend the following changes to Valley County Code:

- VCC 9-5H-1D Neighborhood Meetings with changes
- VCC 9-5H-13 Motion for Reconsideration
- VCC 6-1-9.G Form 7460-1
- VCC 9-9-7.D Planned Unit Development Density

and to not recommend:

- VCC 6-1-9.H Paint Shipping Containers

Commissioner Childs seconded the motion. The motion carried unanimously.

The public hearing notice for May 11 was not printed in The Star News as required. Thus, the Planning and Zoning Commission will hold meetings on both May 11, 2023, and May 18, 2023.

Chairman Caldwell adjourned the meeting at 9:18 p.m.