

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
April 13, 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:	Excused
PZ Commissioner – Ken Roberts:	Present
PZ Commissioner – Gary Swain:	Excused
PZ Assistant Planner – Lori Hunter:	Present

B. MODIFICATION TO AGENDA

1. C.U.P. 22-20 CAT Rental Store – Extension Request:

Chairman Caldwell stated that two Commissioners have conflicts of interest for C.U.P. 22-20 CAT Rental Store – Extension resulting in a lack of quorum for this item. Thus, the public hearing will be postponed to May 11, 2023, at 6:00 p.m.

C. MINUTES: Commissioner Childs moved to approve the minutes of March 9, 2023, and March 16, 2023. Commissioner Roberts seconded the motion. Motion passed unanimously.

D. OLD BUSINESS:

1. C.U.P. 22-30 Shaw Family Ranch Subdivision – Final Plat: Shaw Family Company 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 consists of six single-family residential lots. Access would be from Boulder Lake Road (public). The 721-acre site is located in Sections 24 and 25, T.18N, R.3E, and Sections 19 and 30, T.18N, R.4E, Boise Meridian, Valley County, Idaho. Action Item. Not a public hearing.

Chairman Caldwell introduced the item. 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** – Paul Ashton, Valley County Engineer response. (April 11, 2023)

James Fronk, McCall, represented the applicant. He concurs with the staff report. The issue stated by the Valley County Cartographer will be corrected by the surveyor.

Commissioners stated that the applicant and representatives have addressed the recommendations of staff and conditions of approval will be met. Corrections to the plat will be made prior to submittal to the Board of Commissioners.

Commissioner Roberts moved to approve the final plat of C.U.P. 22-30 Shaw Family Ranch Subdivision and authorize the Chairman to sign. Commissioner Childs 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.

7:13 p.m.

E. NEW BUSINESS:

1. **C.U.P. 09-01 Blackhawk Lake Estates Phases III & IV – Extension Request:** Liang Wu is requesting a two-year extension of the conditional use permit and preliminary plat that expire on April 22, 2023. The original approval was for nine residential lots and one common lot. The 25.87-acre site is located on the west side of Blackhawk Lake in N ½ Section 2, 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 and GIS map on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – Paul Ashton, Valley County Engineer response. (April 11, 2023)

Chairman Caldwell asked for the applicant's presentation.

Joe Pachner, KM Engineering, Boise, represented the applicant. The application originally proposed one common drainfield; however, the soil at the site is not appropriate. Therefore, individual septic systems for each lot will be used. Individual ground water monitoring began in 2022. One lot is being retested during 2023. Originally the road was going to be terminated at a cul-de-sac near the south end of the property. They are working with adjacent landowners to continue the road through the property and connect with the existing road to the south. The locations of utility lines and conduits of the adjoining properties are being verified. Break-aways at the connection of road segments are not preferred as they would cause difficulties in plowing and remove secondary access during emergencies. The homeowners did vote to approve the road connection. The applicant is willing to enter into a road development agreement. Mr. Pachner has discussed this with Jeff McFadden, Valley County Road Superintendent, who prefers the applicant complete repairs to West Mountain Road.

Director Herrick replied to Commissioner questions. The original approval included a common drainfield. Issues with this have delayed completion of this subdivision. The applicant is working with Central District Health to switch to individual septic systems for each lot.

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. This subdivision was approved years ago but has not been finalized. The applicant's representative has shown projects have been completed.

Commissioner Roberts moved to approve the two-year extension request for C.U.P. 09-01 Blackhawk Lake Estates Phases III & IV with the following changes to the conditional use permit:

Remove COA 10

Modify COA 5: 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.

Commission Childs seconded the motion. Motion passed unanimously.

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

6:27 p.m.

2. C.U.P. 22-12 Gemma's Outdoor Market – Review: The Planning and Zoning Commission will assess impacts and compliance with the approved conditional use permit that was approved for one year to May 24, 2023. Monty Moore, the applicant, would like to revise the site plan and hold a Farmer's Market weekly within the existing parking lot for Gemma's Italian Deli and Market. The 1.5-acre site is addressed at 13840 and 13844 Highway 55 and located in the NW ¼ Section 10, T.17N, R.3E, 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** – Paul Ashton, Valley County Engineer, responded. (April 11, 2023)

Chairman Caldwell asked for the applicant's presentation.

Monty Moore, 13845 Highway 55, said this is a continuation of last year's permit. Both he and the vendor agreed that it would better to move the tent further away from the road. This opens up area closer to Highway 55. He would like to put a farmers' market at this location. The tent was open during daylight hours in 2022. The farmers' market would be one day per week.

The RV that is adjacent to the Gemma's Market building belongs to the applicant. No one is living there. It is not hooked up to a septic system or sewer. The parking lot was graded in 2022 and a storm drain collection was installed. An 8-inch drainage tube was added to reduce erosion of the ditch bank. He showed where the drainage flows into the irrigation canal. Commissioner Roberts stated that it would be good to discuss this with the downstream ditch users.

The outdoor market and farmers' market would be used seasonally during summer and early fall. Regarding the landscaping, he regularly mows the weeds along the bank. There are large ornamental rocks and flower planters on the property.

Staff will contact Idaho Transportation Department and ask if the existing commercial access permit covers the use of the outdoor market and farmers' market.

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.

Chairman Caldwell has no issues; the applicant has done his due diligence. Commissioner Roberts would suggest the applicant contact the irrigation district. Commissioner Childs has no issues with this application.

Commissioner Childs moved to approve the 2023 review for C.U.P. 22-12 Gemma's Outdoor Market with additional conditions of approval:

COA: The applicant shall work with the Lake Irrigation District and staff to ensure runoff has no contaminants that would impact the irrigation water quality.

COA: The applicant shall work with Idaho Transportation Department and staff to ensure that the outdoor market and farmers' market are included in a commercial access permit for State Highway 55.

Commission Roberts 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.

- 3. C.U.P. 22-20 CAT Rental Store – Extension Request:** VP Properties – The Terteling Company INC is requesting a one-year extension of the conditional use permit for an equipment rental store, office, and shop facility that expires on July 6, 2023. The 7.6-acre site is parcel RP16N03E269809, addressed at 10 Davis Creek Lane, and located in the SESE Section. 26, T.16N R.3E, Boise Meridian, Valley County, Idaho. Action Item

This item was postponed to May 11, 2023, at 6:00 p.m., earlier during this meeting.

6:45 p.m.

- 4. C.U.P. 23-06 Smith Family Camping Site and Multiple Residences:** Mike and Elishia Smith are requesting approval of a conditional use permit for a Recreational Vehicle Park to allow nine Campers/RVs plus two tiny homes under 400-sqft to be used by family and friends. Visitors would also use tents throughout the property. The campsite will be for personal use and will not have any commercial/rental use. There is an individual well, a septic system, and electrical power. A porta-potty is proposed. The 4.99-acre site, addressed at 465 Cabarton RD, is parcel RP13N04E072870, located in the NW ¼ Section 7, 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** – Paul Ashton, Valley County Engineer, responded. (April 11, 2023)
- **Exhibit 2** – Elishia Smith correspondence with Director Herrick (April 10, 2023)
- **Exhibit 3** – Mike Reno's, Central District Health, responded with new requirements due to correspondence from the applicant. (April 12, 2023)
- **Exhibit 4** – Joseph B. Jones is opposed. (April 10, 2023)
- **Exhibit 5** – Robert Pritchard, 234 Cabarton Road, is opposed. (April 11, 2023)
- **Exhibit 6** – An anonymous letter has concerns. (April 12, 2023)
- **Exhibit 7** – Shauna and Mike Arnold, 535 Cabarton Road, listed concerns and attached pictures. (April 13, 2023)
- **Exhibit 8** – Applicant Submittal with Updated Site Plan. (April 13, 2023)
- **Exhibit 9** – La Dawn and David Saxton are opposed. (April 13, 2023)

The updated site plan has reduced the number of RVs to six, removed the proposed tiny homes, and any tents would not be visible from other properties. Staff's compatibility rating was based on the original site plan. Director Herrick displayed the updated site plan and applicant's pictures (**Exhibit 8**) on the projector screen.

The property has an approved RVC permit to allow three recreational vehicles/campers; additional use requires a conditional use permit. Neither the RVs nor the RV sites can be rented. The RVC permit allows the same setbacks as a single-family residence.

Chairman Caldwell asked for the applicant's presentation.

Elishia and Mike Smith, 465 Cabarton Road, have scaled the proposed site plan back significantly based on concerns from the neighbors. The tiny homes have been removed. They had not realized that the land directly behind them was private, they thought it was land managed by the U.S. Bureau of Land Management. She has owned Trinity Assisted Living for 15 years. This site is not for business use; visitors are really family and friends. The users of the three RVs approved by the RVC permit are present. This application is asking for three additional RVs. They will attempt to have tents pitched where they are not visible from Cabarton Road.

It is safer to leave the RVs at the site instead of transporting them back and forth from the Boise/Nampa area. No funds are exchanged. Dog poop is picked up. They moved to the property in April 2022. During construction and property clean-up, the site did get messy in 2022. The snow is now melting, and they are still cleaning the area. The big pile is all rubbish from the property and will be taken to the landfill once the snow melts. The U.S. flags will remain. Cabarton Road is paved at this location. There are many RVs at the nearby Trinity Pines RV Camp. The applicants have a large extended family; his three brothers bring up their RVs. The applicant also owns two RVs that are stored at the site but not used; they want to put these under a cover. The RVs are regularly pumped. The one porta-potty was pumped at the end of the season; it is placed behind the garage. Last year was a busy year as they were moving onto the property and making improvements, many people came to help. Using this revised site plan will make the area neater as there will be designated spots. The two RVs across from the house are used by her aunt and uncle. The third one belongs to his brother. People were only there for a total of three weeks. There are misconceptions of the site and use. It is not a partying area. There is only one fire pit. The RVs do have solar lights that flicker. Much of the trash, such as the abandoned boat, was on site when they purchased the property. At the end of this month, she will only have a 5% interest in the Trinity Assisted Living business. Elishia does have a business license; her business liability insurance does not cover this

property. Neither her clients nor staff use this property. The business takes clients to other areas for outdoor recreation, not this property. Cabarton Road is heavily used by UTVs, ATVs, etc. Noise comes from other nearby properties. Going forward, the applicants will be far more conscientious of neighbor's concerns regarding noise. The septic tank is located on the south side of the house; the two leach fields are in the grassy area. They are willing to put up a fence if needed. They own many personal vehicles and snowmachines that will be moved further away from the house and Cabarton Road. Idaho Power set a pole on the property and put a light on their pole. The applicant had to place a light and outlet plug on another pole to pass inspection. The light does face downward.

Chairman Caldwell asked for proponents.

Jared Smith, Meridian, has the camper on the right side of the site plan. He has six siblings. This is a place for family to gather together. He visits on the weekends and the kids pitch a tent.

Tom Cole, Nampa, responded to complaints about the flags and the anniversary celebration held in 2022. Regarding the traffic complaints, the nearby Nazarene Church Camp [Trinity Pines] is expanding and increasing traffic. He is disappointed in the comments.

Patricia Cole, Nampa, has camped in the area for many years; previously they stayed in The Pines RV Camp. It saves gas to not move RV around. This is a place for extended family to stay.

John Cole, Meridian, has camped and traveled throughout Idaho. He was elated when he heard his daughter and son-in-law was buying property in Cascade area. He was glad to be able to leave his camper on the property and not transport it back and forth weekly.

Kolby Ricky, 465 Cabarton Road, apologized for his past driving as he is the one who people have complained about. Mike and Elisha have done a lot for this community already, including fundraising.

Chairman Caldwell asked for uncommitted. There were none.

Chairman Caldwell asked for opponents.

Bob Carr, 214 Pole Cat Ridge RD, is opposed. The application has discrepancies and lacks specificity and details. Problems with enforcement would exist. Last summer six RVs were on the property in violation of the allowed three. At this time, there are four RVs on the property. This parcel is a huge fire hazard due to vegetation types, ladder fuels, and topography.

Ron Melchiorre, 237 Pole Cat Ridge RD, drives by this site regularly. This use is not appropriate for a residential neighborhood. During 2022, there were many tents and trash. The trash was gone today.

Tom McGlashen, 469 Cabarton RD, is the adjacent neighbor. The applicant has not violated the noise requirements of the RVC permit. However, there are other issues. The RV parked adjacent to the McGlashen property is intrusive and has affected their use of their own property. Other issues include dogs, noise, gun shots, and boats and trailers parked along the property line. He is opposed to the proposed increase in the number of units. There are security implications to the neighborhood. The application is vague and could spiral out of control.

Dwight Jividen, 413 Cabarton RD, stated that Accessory Dwelling Units (ADUs) and RV Parks are good and needed in Valley County. However, they should not exist in this location and

present condition. The site and use negatively impacts the neighborhood and property values. It has been an eyesore. He has been in real estate for 35 years. He was surprised when told that the current use was legal. Vehicles from this property are speeding on Cabarton Road. The applicants want to expand beyond the approved use and apparently did not understand how offensive the use already is. A six-ft fence would look ugly. The RVC Ordinance should be changed.

Robbie Miller, 413 Cabarton Rd, asked if this is the precedent the Commission wants to set in the area. The expansion of Trinity Pines and additional RVs are not visible from Cabarton Road. The camping experience is questionable. She is not aware of any complaints about the flags but there have been many complaints about the RV use at the property. Overloading the septic system is an important concern. The portable potty is visible from Cabarton Road. The appearance from Cabarton Road is of a junky commercial use. There was a minimum of six, and usually seven, RVs throughout the summer of 2022.

Bobbi Bicandi, 517 Cabarton RD located across the road, said the current use is reducing property value. The snow is being piled from their driveway across the road onto her fence and property. Gray water is a concern as it could flow across the property to the river. She is concerned that dogs might chase her cattle. A fire truck would not fit and be able to turnaround in the driveway. The trash was still there at 3:45 p.m. today. Based on this application, she could put 400 RVs for friends and family on her 200-acre property

Mike Hendrickson, 610 Cabarton Road, accepts the young man's apology. He opposes any future expansion of the existing permit. Trash should be managed better. The use is occurring with much opposition. The application was not fully complete; the impact report was inadequate.

Paul Weirum, 156 Pine Valley DR, concurs with comments in opposition and concerns in staff report. The applicant seems to be asking for a permit for existing use. It is difficult to tell which RVs are being used and which are stored; this would be difficult to track and enforce. The use has huge impacts on the road and to neighbors, including noise and light pollution. People visiting Valley County tend to behave in a manner that is not consistent with what they do at home.

Jeff Lamb, 481 Cabarton RD, biggest concern is wildfire and increased fire risk. Allowing this use would set a precedent for the residential neighborhood.

Karen Johnson, 221 Pole Cat Ridge RD, concurs with many of the points in opposition. The use does not comply with the Valley County Comprehensive Plan which requires the protection of property values and to secure the most appropriate use of land. The proposed density would be beyond the allowed single-family residence density. The proposal is not compatible with nor appropriate for the neighborhood. There are existing RV parks in the Cascade vicinity.

Michelle McGlashen, 469 Cabarton RD, is an adjacent neighbor. The application lacks detailed plans, particularly for the needs of disabled users which the application mentions. Last year she was personally affected. The RV placed by her property line overlooks her property and she feels she lost access to this area of her property. Adding additional RVs will make this worse. Traffic is a concern. She is nervous and annoyed that in order to protect her personal property rights she will have to police the site and report violations.

Chairman Caldwell asked for rebuttal from the applicant.

Elisha Smith responded to comments. They have revised the plan to allow specific RV sites, not random parking. They are currently permitted for three RV sites. The existing fire pit is

elevated off the ground and surrounded by gravel. She understands the fire safety concerns. They had up to three tents at a time. The tents will be placed in a more secluded area than during 2022. Tree limbs were trimmed to reduce the fire hazard, unfortunately this increased visibility of the site. The three RVs stay on the property; the two that were present the majority of the summer were used by her parents and aunt/uncle. People have trespassed onto her property. The septic system is not being overwhelmed. The RVs are pumped. They are willing to move the porta-potty if needed.

Chairman Caldwell closed the public hearing. The Commission deliberated.

Commissioner Childs states that the proposed use does not meet ordinances nor the Comprehensive Plan. She calculated a negative compatibility rating. Valid concerns exist, including fire hazards, impact to neighbors, and negative impacts to property values.

Commissioner Roberts concurs. The revised site plan means the application has changed from what was in the public notice. He also calculated a negative compatibility rating; the proposal is not compatible with adjacent single-family residential subdivision lots. Application of ordinances should be consistent; other similar proposals have been denied. He referred to the revised response from the Central District Health [Exhibit 3]; the applicant indicated that users of the RVs are using the home's facilities which violates CDH requirements. The application does not include a wildland fire plan which is required for conditional use permits in timberlands. The Comprehensive Plan in Chapter 3 Goal 1 speaks strongly to private property rights while considering community rights. This application has multiple conflicts with the Comprehensive Plan, including adjoining property owners' rights and property values. State Law requires a balance between the rights of various owners. Lastly, the proposal goes beyond VCC 9-4-9 that allows the use of two or three RVs at a property.

Chairman Caldwell concurs. Her concerns include fire, overuse of the septic system, parked versus lived-in RVs, and trespass of dogs. The proposed use is not compatible. The first three items on her compatibility rating were negative.

Commissioner Roberts moved to deny the conditional use permit for C.U.P. 23-06 Smith Family Camping Site and Multiple Residences. Commission Childs 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.

Short Recess until 8:30 p.m.

5. C.U.P. 23-08 Fredriksen RV Rental Site: Steve Fredriksen is requesting a conditional use permit for the rental of five recreational vehicle sites. Northlake Recreational Sewer and Water District would supply sewer services; water would be supplied by two existing wells. The 0.93-acre site, addressed at 12784 Cascade Drive and 12786 Cascade Drive, is Wagon Wheel Ranch #5 Subdivision Lots 12 and 13, Block 4 located in the SWSW Section 27 and SESE Section 28, T.16N, R.3E, 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** – Paul Ashton, Valley County Engineer response. (April 11, 2023)

These lots were previously used by Jim Yates's employees living in a mobile home and four RV spots. Mr. Yates, the previous owner, was not required to obtain a conditional use permit in 2002.

Director Herrick and Commissioners discussed a recreational business, area business, and service business classifications. Valley County Code (VCC) Table 9.3.1 was reviewed. These sites would be long-term rentals not short-term rentals; thus, the proposal is not a service business with frequent turnover. The use could be considered multiple residences on one parcel. The specific use of RV Rentals was not anticipated when this Table 9.3.1 was prepared. Therefore, it is up to the PZ Commission to determine the correct land use classification as stated in VCC 9-4-1B. The surrounding lots are platted as single-family residential subdivisions. The Wagon Wheel area also has a lot of RV use and Recreational Vehicle Campground (RVC) permits. This area is what inspired the creation of the RVC ordinance. Director Herrick stated that applications vary because of the specific use and site; each application must be looked at differently. Director Herrick believes the use is similar to a long-term rental.

Chairman Caldwell asked for the applicant's presentation.

Steve Fredriksen, Boise, bought the property from Jim Yates. Many of the neighbors also have added multiple RVs to their properties. He has allowed one RV per lot. He has had people ask to rent the sites, particularly local workers and construction workers. These rentals would provide affordable housing. He does not want five separate tenants but would be able to house crews and subcontractors. Someday these lots will be great single-family residences, but for now, he is able to supply affordable housing.

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. Commissioner Childs and Commissioner Roberts have concerns. Commissioner Childs referred to staff report comment #5 regarding the 1971 ordinance and commercial recreational use. Commissioner Childs obtained a negative compatibility rating. Staff used long-term residential instead of commercial use based on similarity as the proposed use is not an Recreational Vehicle Park with constant turnover of visitors and a recreational atmosphere.

Commissioner Roberts compared his compatibility rating with Staff's. He calculated a negative one (-1) for Question 6 as he believes the other lots have less units and less traffic compared to sites in proximity. This site is within a single-family residential subdivision; thus, he also obtained a negative one (-1) for Question 5. Thus, he calculated an overall negative score.

Commissioner Childs stated this proposed use does not comply with VCC 9-1-10 limiting the use of RV sites to friends and family of the property owner. VCC does allow for one recreational vehicle per lot; the proposed use is a total of two RVs for each lot. Affordable housing is needed; however, this would be a dangerous precedent to set.

Chairman Caldwell concurs. Affordable workforce housing is needed, and it sounds as if all spots would not be filled all the time. However, she has concerns with density of the site.

Commissioner Childs moved to deny the conditional use permit for C.U.P. 23-08 Fredriksen RV Rental. Commissioner Roberts 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.

8:55 p.m.

- 6. C.U.P. 23-09 Frost Management Storage:** Farm to Market Land LLC is requesting approval of a conditional use permit to construct a storage facility. The proposal includes a 10,000-sqft building to store commercial business and personal items. Individual septic system and individual well are proposed. Access would be from Farm to Market Road, a public road. The site is 10.9 acres, addressed at 13091 Farm to Market RD, parcel RP16N03E141920 located in the SENE Section 14 T.16N R.3E, 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** – Paul Ashton, Valley County Engineer response. (April 11, 2023)
- **Exhibit 2** – Jeff McFadden,

The floodplain and wetland maps were reviewed on the projector screen.

Chairman Caldwell asked for the applicant's presentation.

Jonathan Frost, representing Farm to Market Land LLC, Donnelly, has owned the property since 2020. The property is currently used for cattle grazing which will continue. A correction to previous information is that up to five trips per day are expected during the winter. Their business needs a place to store snow removal equipment, dump trucks, excavation equipment, and other equipment used for property management. This equipment is currently stored outside in various places in Valley County. They would like to have the equipment located at one spot.

The proposed building height varies from 30-ft to 20-ft. The roofline slopes down toward to the south. The structure would be fully enclosed.

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 asked for rebuttal from the applicant.

Marta Frost, Donnelly, would like to have the equipment stored in an enclosed space.

Chairman Caldwell closed the public hearing. The Commission deliberated. Commissioner Childs struggled with the compatibility of adjacent property but did calculate an overall positive compatibility rating. The proposal meets the requirements of Valley County Code. Commissioner Roberts calculated negative numbers within the compatibility rating. The one-to-three-mile radius was a particular concern. The Valley County Comprehensive Plan includes maintaining rural atmosphere and agricultural lands but also balancing the needs of the community. Commissioner Roberts does not believe building a 10,000-sqft building in the middle of pastureland is a compatible use. Roseberry is an old townsite and makes sense to cluster buildings and have more commercial-oriented facilities at that location. This proposal is in direct conflict of the Valley County Comprehensive Plan goals of maintaining a rural atmosphere and agricultural aspects of Valley County.

Director Herrick stated the site is 0.23 miles from Totorica Rentals, the nearest commercial use, at 13124 Farm to Market Road.

Chairman Caldwell also calculated a negative compatibility; however, she states that precedent exists as commercial use is nearby. Private property rights also must be protected. The proposed use does not have the same impact as a commercial business with on-site customers. There would be minimal impact to the neighborhood. There are also existing commercial storage sheds along Farm to Market Road. C.U.P. 22-45 Ikola Storage (aka Cheap Thrills) is not considered a home-based use. The site was approved for storage of business equipment. The owners want to add a home in the future at that site. C.U.P. 19-36 Post Storage Well Drilling on Barker Lane includes storage of business equipment. Chairman Caldwell added that there are wetland concerns; however, the applicant will need to obtain necessary permits from the U.S. Corps of Engineers if required.

The Roseberry Irrigation District did not comment. A creek and an irrigation ditch are on the property.

Commissioner Childs stated the proposal does meet Valley County Code.

Commissioner Childs moved to approve the conditional use permit for C.U.P. 23-09 Frost Management Storage with the stated conditions.

COA: Must look like an agricultural building.

COA: No berm shall be constructed.

Chairman Caldwell seconded.

Chairman Caldwell added that the applicant will need to add landscaping against the building, not along Farm to Market RD. Director Herrick stated that the applicant will have to have a tree for every 25 feet; the trees can be clustered. Berm along Farm to Market RD would not look natural or blend into the agricultural pastureland. The building will be a stick-built building, not a sprung building.

Commissioner Childs and Chairman Caldwell voted in favor of the motion to approve C.U.P. 23-09. Commissioner Robert voted against the motion. The motion carried.

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

F. OTHER:

- Appeal of Administrative Decision that a Conditional Use Permit Is Required for Solar Panels at 13643 Morris Ranch Road. Action Item.

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

Cynthia Heiney, 13643 Morris Ranch Road, purchased the property with solar panels in existence. She was not aware of the conditional use permit process until she received a violation letter. The former homeowner applied for other building permits and should have had to obtain all the required permits at that time. She is trying to retire and reduce expenses. The solar panels are over 10 years old. They do not generate much electricity; her winter bills are \$300 per month. It is not worth it to her to pay the \$300 conditional use permit fee. She has never had any complaints from neighbors. There is no glare.

The Commission deliberated. 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. Prior ownership was discussed. The four separate panels do not cover the entire pergola. The pergola is not considered a primary structure. The panels are 14-ft x 20-ft. The point of a conditional use permit is to mitigate any impacts on neighbors. The neighbors have not had a chance to comment. The price of the conditional use permit and the cost of public noticing and staff time were discussed.

Commissioner Childs would not require a conditional use permit as the appellant did not install the solar panels. Commissioner Roberts would like more information; this matter does not need to be decided tonight. Commissioner Roberts believes an ordinance revision may be necessary. Solar panels could be allowed on existing structures, not just the primary structure. If there are a number of similar violations, perhaps the ordinance should be modified to account for previously constructed structures. The Staff does not know the number of previously constructed solar panels in violation. Are there conditions where grandfathering would be permissible? Chairman Caldwell stated ordinances are black and white. Real estate is buyer beware; for example, a new owner would need to correct a septic system that was in violation. The public hearing is to prevent impact to neighbors.

Commissioner Roberts move to table the Appeal of Administrative Decision that a Conditional Use Permit Is Required for Solar Panels at 13643 Morris Ranch Road to a date and time at the discretion of the Chairman. Commission Childs seconded.

Commissioner Childs and Commissioner Roberts voted in favor of the motion to approve C.U.P. 23-09. Chairman Caldwell voted against the motion. The motion carried.

G. FACTS AND CONCLUSIONS – Action Items:

- VAC 23-01 Vacation of Utility and Drainage Easement
- C.U.P. 23-01 Sands 55 Subdivision
- C.U.P. 23-02 McCall Landing Subdivision
- C.U.P. 23-03 Xperience Glamping Site
- C.U.P. 23-04 River Bottom Ranch Subdivision
- C.U.P. 23-05 Takkinen Estates
- C.U.P. 23-07 Triple M Refrigeration

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

Chairman Caldwell adjourned the meeting at 9:38 p.m.