

Valley County Planning & Zoning Commission

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Johanna Defoort, Chairman
Scott Freeman, Vice-Chair

Ed Allen, Commissioner
Brian Benton, Commissioner
Ray Cooper, Commissioner

MINUTES

Valley County Planning and Zoning Commission
July 9, 2020
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:05 p.m. Quorum exists.

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|-------------------------------------|---------|
| P&Z Administrator – Cynda Herrick: | Present |
| P&Z Commissioner – Ed Allen: | Excused |
| P&Z Commissioner – Brian Benton: | Present |
| P&Z Commissioner – Ray Cooper: | Present |
| P&Z Commissioner – Johanna Defoort: | Present |
| P&Z Commissioner – Scott Freeman: | Present |
| P&Z Technician – Lori Hunter: | Present |

Chairman Defoort explained tonight's public hearing procedures which are based on the Governor's current requirements for Covid-19. The public can livestream the meeting and may either comment in person or telephonically.

B. MINUTES: Commissioner Cooper moved to approve the minutes of June 11, 2020.
Commissioner Benton seconded the motion. Motion carried unanimously.

C. NEW BUSINESS:

- 1. C.U.P. 20-06 Appel Subdivision – Preliminary and Final Plat:** Harold and Janice Appel are requesting a conditional use permit for a 2-lot residential subdivision on five acres. Lots will range in size from approximately 1.9 to 2.9 acres. Two homes currently exist and would continue to share the existing well and septic system. Access will be from a shared driveway onto S. Samson Trail (public). The site is RP18N03E281807 located in the SENE Section 28, T.18N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item. Postponed from June 11, 2020.*

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *exparte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Staff presented the staff report.

Chairman Defoort asked for the applicant's presentation.

Harold Appel, 1440 S. Samson Trail, said the lighting requirement is met with the existing lighting. There are currently two homes on one parcel; one home was used by parents until their death. Now they would like to sell the homes separately in two lots. The existing septic system replacement is large. There are two septic tanks and a shared well. He clarified wording mentioned in the Valley County Cartographer's letter. He has not yet gotten an engineer's signature due to high cost. He does not have Central District Health approval at this time. Will speak to Mike Reno regarding a simpler solution for septic approval and to get CDH approval.

Chairman Defoort asked for proponents. There were none in person or telephonically. Chairman Defoort asked for undecided. There were none in person or telephonically. Chairman Defoort asked for opponents. There were none in person or telephonically. Chairman Defoort closed the public hearing.

The Commission deliberated and had no issues.

Commissioner Freeman moved to approve C.U.P. 20-06 with the conditions as stated and the preliminary and final plats and authorize the Chairman to sign. Commissioner Cooper seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period.

6:20 p.m.

2. C.U.P. 20- 08 RMC Equipment Storage: Rocky Mountain Crane is requesting a conditional use permit for an equipment storage site. A 1-acre area would be used for overflow parking and equipment storage. An existing building on the parcel is used for boat storage (C.U.P. 96-04). No new construction is planned. Access would be via the existing driveway for Rocky Mountain Crane at 14032 Highway 55. The 9.6-acre site is addressed as 14040 Highway 55. It is parcel RP18N03E330006 located in the NENE Section 33, T.18N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item. **Postponed from June 11, 2020.***

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *exparte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Staff presented the staff report and summarized the following exhibits:

- **Exhibit 1** – Easement access information (Instruments #194269, 214072, and 219946)

Chairman Defoort asked for the applicant's presentation.

Dusty Bitton, 14032 Highway 55, said Rocky Mountain Crane is asking for an additional parking area adjacent to business site. **Exhibit 2** is an aerial view of the site plan. Gravel would be added to the site. The same access would be used as RMC and the storage units. Parking would be along the fence line. He will add trees bunched in front near highway as required per Valley County Code to screen the equipment from the highway. No additional fencing would be added. The site would store rental equipment. An easement exists, thus no additional entrance needed. No lighting at the site. The property slopes away from irrigation canal. He will lease the site as the property is not for sale.

Chairman Defoort asked for proponents. There were none in person or telephonically. Chairman Defoort asked for undecided. There were none in person or telephonically. Chairman Defoort asked for opponents. There were none in person or telephonically. The Sherriff Deputy on duty confirmed that there was no one waiting to testify in person.

Chairman Defoort closed the public hearing.

The Commission deliberated. The site will be for overflow storage adjacent to existing business. Only the 1-acre portion of the entire property will be available for the use.

Commissioner Cooper moved to approve C.U.P. 20-08 with the stated conditions. Commissioner Benton seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period.

6:33 p.m.

3. C.U.P. 20-10 Clear Creek Crossing - Preliminary Plat: Nick Schlekeway of Green River Project LLC is requesting a conditional use permit for a 9-lot residential subdivision on 80.23 acres, with 8 buildable parcels and 1 open space lot. Lots will range in size from approximately 4 to 18 acres. Individual well and septic systems are proposed. Access to each lot will be from a new gravel private road from Atkin Lane. A variance is requested for the length of the proposed cul-de-sac road. The site is in the NE ¼ Section 4, T.12N, R.4E, Boise Meridian, Valley County, Idaho. *Action Item.*

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *exparte* contact or conflict of interest. Scott Freeman excused himself.

Chairman Defoort asked for the Staff Report. Staff presented the staff report. Staff responded to Chairman Defoort's questions. The proposed conditions of approval include ones from the previous approved application. Drainage concerns raised during the previous application were discussed.

Chairman Defoort asked for the applicant's presentation.

Jim Fronk, James Fronk Consulting, presented a revised preliminary plat (**Exhibit 1**).

Nick Schlekeway, 140 N Heartstone, Boise, is asking to increase the number of buildable lots. It is still a large acreage development. The reasons for this new application are:

1. To spread cost of private road maintenance between eight property owners instead of five.
2. More efficient use of parcels
3. To improve character of development from the entrance; adding a home in lot 1 will look similar to existing neighborhood where many homes are near Atkin Lane.
4. Underestimated cost of improvements to roads, utilities, etc.
5. Length of time and cost of to obtain an agreement with Alpha Ditch Company as well as increase in construction costs.

In response to Staff Report questions:

1. Maintenance of Atkin Lane – there have not been any substantial agreements with neighbors.
2. The revised plat (**Exhibit 1**) shows a 20-foot-wide irrigation easement across lots 1, 2, and 3.
3. Power will be underground from Atkin Lane
4. CCRs will be drafted including HOA and road sharing agreement(s) for the private road and shared driveways within the subdivision.
5. Open range fencing requirements will be included in CCRs.

Commissioners asked for clarifications regarding the irrigation pipe protection and Atkin Lane. An association for Atkin Lane does exist. They do not collect fees. The road is privately maintained and snowplowed. Proposed COA #12 was discussed.

Jim Fronk, James Fronk Consulting, 14028 Norwood road, discussed runoff and grading. He referred to **Exhibit 1**. The runoff will be kept from going into the ditch. Since there is a small area between septic fields and the top of the hill, the building envelope is fixed. The slope is somewhat steep but not severely. The applicant wishes to have limited impact to native plants; therefore, would prefer using stacked bio-rolls instead of silt fencing. During construction, a silt fence would be used to reduce sedimentation with temporary ditches and small swales. The Silt fence will not be necessary after first year. The applicant would prefer to get stormwater engineering that is specific for building sites. He prefers approval by individual lots, once location of house construction is known.

Mr. Fronk discussed the cul-de-sac and shared driveways (**Exhibit 1**). Changes have been made since the application was submitted. The changes will minimize disturbance and improve the view from Atkin Lane area. The Cul-de-sac was not extended due to grade. The shared driveways are on steeper grade which will decrease impact to ground as narrower roadway and cut/fill required if road extended. The roadway has a 7-8% grade. The driveways are 9-10%, lower than the County allows. The cul-de-sac does meet the Cascade Fire District's requirements.

The required water tank will likely be near the entrance to the subdivision on flatter ground and more easily accessible; they will continue to work the Fire District.

Stormwater and drainage was discussed further. The road name was discussed.

Chairman Defoort asked if there was anyone who wished to testify in person.

Gary Hastriter, 85 Atkin Lane, is opposed as it will further increase traffic on Atkin Lane and will thus increase maintenance issues and cost for the current residents.

Sandy Heunisch, 24 Atkin Lane, wants clarification on the irrigation easement. She is satisfied with the 20 ' width easement on the revised plat. Driveways for Lots 1 and 2 will cross the buried irrigation pipe. She wanted clarification for easement protections; she should not be responsible for any damage. Her property borders subdivision. Idaho Law is open range for this area; therefore, she does not want to be responsible for the cost of "fancy fencing". She has been paying for half the cost of the boundary fencing. The proposed open space has decreased from 20 acres to 10 acres. Part of Lot 2 should be non-buildable to maintain aesthetic view from Atkin Lane. It would increase the protection of her irrigation pipe more if it is in a no-build area.

Dan Moore, 29 Atkin Lane, said Atkin Lane was built for ranch use, not for traffic. The road has no foundation. This proposal will more than double traffic on the road. He discussed heavy vehicles used for construction. He discussed the current maintenance of Atkin Lane; it has been maintained at low cost with a lot of volunteer work. These new homes will be more expensive and expect a higher quality road than the current residents want to pay for or maintain. Dust abatement is a concern, particularly during construction. The speed limit is 10 mph. Water is currently crossing the newly built road and onto Atkin Lane. Only one culvert exists under their road. Water on Atkin Lane will further degrade the road.

There was no one else available to testify in person or telephonically.

Chairman Defoort asked for rebuttal from the applicant.

Mr. Fronk discussed the current drainage. The new roadbed is only subgrade at this time. The water is seeping from the ditch which would normally go into the wetland area and swales.

Mr. Schlekeway said that any fencing by the lot owners would need to be approved by the homeowner's association. Ms. Heunisch would not be responsible for maintaining fencing requirements. CCRS will also restrict the number of buildings per lot; the reality is most of Lot 2 will remain open area. Atkin Lane is in good shape most of the year. It is in the same condition as last year, prior to the subdivision and road construction occurring. It is not possible to improve the road to county standards with a 70-foot right-of-way. Houses and fences are currently in the way and people would lose property that they currently use. He would participate in a road maintenance agreement but not my sole responsibility to improve the current road. As Mr. Moore stated, the neighbors' do not want a maintenance agreement. He will do dust abatement during construction but not annual dust abatement.

Chairman Defoort closed the public hearing.

The Commission deliberated. The applicant has answered concerns. There is a lengthy list of conditions of approval due to previous application review.

COA: A note shall be place on the plat stating that Lots 3, 4, and 5 shall be required to submit individual stormwater plans to Valley County Engineer for approval in order to keep silt and runoff from Alpha Ditch, at the expense of the property owner.

COA: Shall comply with requirements of Cascade Rural Fire District.

COA: Any damage to pipeline in the 20-foot easement shall be repaired by landowner.

COA: Any damage to established driveways due to pipeline repairs shall be repaired by easement holder.

COA: Shall abate dust during construction.

Commissioner Cooper moved to approve C.U.P. 20-10 with the stated conditions.
Commissioner Benton seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period.

Short recess; resumed at 7:34 p.m.

Commissioner Freeman returned.

4. C.U.P. 20-11 Matlena Farms Event Venue: Terri Martin is requesting approval to establish an event venue to include weddings. Events would be held on the lawn area, in event tents, and the existing home, barn, and outbuildings. Portable restrooms would be used. Electricity, propane, septic system and a well exist at the site. Access is via an existing driveway off Ashton Lane, a public road. The 10.4-acre site is addressed at 239 Ashton Lane. It is Ashton Ridge Ranch Subdivision Lot 6 in the NE ¼ Section 12, T.17N, R.3E, Boise Meridian, Valley County, Idaho. *Action Item.*

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *exparte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Staff presented the staff report and summarized the following exhibits:

- **Exhibit 1** – responses received since staff report

Chairman Defoort asked for the applicant's presentation.

Terri Martin, 239 Ashton Lane, presented photos from her daughter's wedding at the site and a letter with policies for the venue (**Exhibit 2**). She has restored the property and buildings. The proposed name comes from a girl's journal written in Finnish and found on the property. She wants to keep this area and the surrounding property open and "green". People want their

peace and quiet and safety. Amy Pemberton's letter struck a good balance. She has been negotiating with Sal Galucci to rewrite the CCRs. She is willing to have a P&Z Commission review, preferably three years after approval.

She discussed changes made after reviewing the staff report. This will be for weddings and other small events. The non-conforming barn light will not be used. There is a big turn-around for access. There is also access onto Ashton Ridge Court. Profit from the venue will be used to buy surrounding property to preserve it.

Guests will shuttle to the site, except for people who required special assistance. The septic drainfield is on a steep slope and will not be parked on. All food will be catered in. Porta-potties will be used. No open flames of any kind would be allowed nor any smoking. There would be no camping nor ATVs. Amplified music allowed in the barn only. She is now only requesting 12 weddings per year. Either herself or a delegate will be at the site during all events. In her proposed welcome letter, she has complied with Amy Pemberton's list of recommendations.

The maximum number of guests is 120; 75 people can fit in the barn. No overnight camping. Events will close at 10 p.m., not 11 p.m. Both the driveway from Ashton Lane and access from Ashton Ridge Court would be used. She wants to specialize in weddings and not business retreats. Parking for caterers and staff will be behind the barn; there are 30 parking spaces.

Commissioner Cooper said the applicant has answered his previous questions. Chairman Defoort asked about CCRs; Staff recommended a condition of approval that the event venue shall not operate until the CCRs have been modified. The applicant is in agreement with this condition. She is asking for 12 weddings per year with a 2-event maximum per month.

Chairman Defoort asked for in-person testimony.

Catherine Grunsky, 13793 Sweet Iron Court, is the closest homeowner to the venue. She is in full support of the proposal. Ms. Martin will adhere to requirements.

Julie Nickels, Nampa, is a wedding photographer who supports this venue and location. The applicant has a high attention to detail. The venue would be a positive asset for the community.

Lenny Nelson, 232 Elkhorn Ranch Road, owns Lot 7. He has the closest house to west of the property. He is a full-time resident. A commercial event center is not compatible due to the noise and traffic. Weddings are more than a single-day event. Ashton Lane has no shoulder and no secondary access. The use is against the CCRs. The proposed conditions of approval will not make everyone happy. There are better local locations where the use is allowed (e.g. Brundage Resort).

Shannon Berry, New Meadows, is a wedding coordinator and caterer. She has been working with Ms. Martin on the design of the site and events. It would have a positive economic impact

to community. The applicant is very organized. Specific rules have been laid out. It would be a positive experience for clients and surrounding property owners.

Tanya Neutze, 660 Stockton Drive, works for Shannon Berry. The applicant will be respectful to both people and property.

Bill Borg, lives a few miles from the site, said the integrity of neighborhoods is important. Commercial venue does not belong here. Weddings are fun and loud; events would get tiresome to neighbors if held regularly.

Lloyd Manning, 427 Wilhelm Creek Court, agrees with the many letters written in opposition. He bought his home for quiet, safety, and solitude. The event venue does not belong and opens up the area for more commercial use. CCRs were put in place to protect the neighborhood. Weddings can get raucous.

Sal Galluci, developer of Ashton Ridge Ranch, included CCRs to limit certain events in the subdivision. This use is prohibited by CCRs. He is not in favor of this use. He wants tranquility in the area, not an income generating use. It takes a majority of lot owners to amend CCRs; the developer owns 7 of the 9 lots and is opposed. He has a lot of investment in the area and does not want to deter lot buyers who want quiet and peace. The nearby Willows subdivision has similar CCRs not allowing commercial use.

Heidi Schneider agrees with Mr. Galluci.

Amy Pemberton, 254 Cold Creek Court, is a full-time homeowner who is opposed to the proposal. She appreciates Ms. Martin's efforts to mitigate concerns of the neighbors. However, conditional use permits run with the land; a new person could own this property and not be as careful as Ms. Martin is.

Paul Pemberton, 254 Cold Creek Court, is opposed. His concerns have been addressed. Conditional use permit approval is for the land, not the owner.

Kim Crane, 13759 Grouse Knoll, lives in the Willows and is the first home to the south of the proposed venue. She is upset that someone wants to impact the neighbor's home. This is a quiet area. Wildlife, particularly in wetlands, would be negatively impacted. Owner may have high intention, but things change over time. Glaring white tents and vehicles would impact the neighboring properties.

Kristie Peterson has lived in Jughandle Estates for about 20 years. She loves the restoration of the property and barn but is opposed to this use. It would particularly negatively impact adjacent neighbors. There is a difference in impacts between an occasional owner's family wedding and holding multiple weddings per year.

Dana Haldeman is representing her mother, Sharon DeGarimore, who lives at 253 Cold Creek Court, right across Ashton Lane from the proposed site. She is opposed to proposed use.

Karrie Rain had requested to speak. Staff called her phone number unsuccessfully.

Staff also call Kirsten who had requested to speak. However, she was unable to speak at this time.

Chairman Defoort confirmed that no one else was on the phone nor physically available to testify.

Chairman Defoort asked for rebuttal from the applicant.

Ms. Martin said her whole goal was a temporary use. She was led to believe that there was a possibility that CCRs would be amended. The weddings would be small events.

Chairman Defoort closed the public hearing.

The Commission deliberated. There was discussion regarding CCRs and HOA requirements. The Commission could approve this use with conditions but would be expressly approving an application that is against the CCRs. The CCRs are recent and the HOA is active. There would need be multiple conditions of approval include for approval of the conditional use permit.

Commissioner Cooper moved to deny C.U.P. 20-11. Commissioner Benton seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period.

D. OTHER

1. **Appeal of Administrative Decision** – New Construction at Nemec Subdivision Lot 1 requires a conditional use permit. Action Item.

The property owner has applied for a building permit for a single-family residence with two full kitchens, two master bedrooms, and shared common areas. A duplex would require a multiple residence conditional use permit. This is a family situation. The home will be on sewer. The home has not yet been built; currently building plan permits have been approved as long as only one full kitchen. Staff has stated that a conditional use permit is required due to the two full kitchens. The owner is appealing that decision as the home will not be used as two separate residences.

Commissioner Cooper has reviewed Valley County Code 9-3-1F. This building plan does not fit any of the definitions. Could it eventually be changed into a duplex? The definition of a residence is based on number of kitchens with range and a full fridge. The Commissioners discussed this further. The possibility of renting part of the home out was discussed; that would require a conditional use permit.

Staff can add a conditional of approval on building permit. Commissioners would also like a recorded document that would be linked to the property. Staff stated she can record a

document that if the building is turned into a duplex or rented to separate parties, a conditional use permit will be required.

Commissioner Freeman moved to approve the appeal to overturn the administrative decision that Wager's cabin requires a conditional use permit and require a recording stating that building is turned into a duplex or rented to separate parties, a conditional use permit will be required. Commissioner Cooper seconded. Motion passed unanimously.

E. FACTS AND CONCLUSIONS – *Action Items:*

- V-1-20 Dellwo Setback Variance
- C.U.P. 20- 09 BP Property Equipment Storage

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

Chairman Defoort adjourned the meeting at 9:00 p.m.