

Valley County Planning & Zoning Commission

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Johanna Defoort, Chairman
Scott Freeman, Vice-Chair

Brian Benton, Commissioner
Ray Cooper, Commissioner
Neal Thompson, Commissioner

MINUTES

Valley County Planning and Zoning Commission

June 17, 2021

Valley County Court House - Cascade, Idaho

PUBLIC HEARING - 6:00 p.m.

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 testify either in person or telephonically.

A. OPEN: Meeting called to order at 6:00 p.m. Quorum exists.

P&Z Director – Cynda Herrick:	Present
P&Z Commissioner – Brian Benton:	Excused
P&Z Commissioner – Ray Cooper:	Present
P&Z Commissioner – Johanna Defoort:	Present
P&Z Commissioner – Scott Freeman:	Present
P&Z Commissioner – Neal Thompson:	Excused
P&Z Technician – Lori Hunter:	Present

B. MINUTES: Commissioner Cooper moved to approve the minutes of May 13, 2021. Commissioner Freeman seconded the motion. Motion carried unanimously.

C. NEW BUSINESS:

- 1. C.U.P. 21-11 Valley Wide Country Store:** Valley Wide Cooperative is requesting approval of a conditional use permit for a mixed retail store, fuel sales, convenience store, farm store, and restaurant. The building would be approximately 23,900 sqft on the first floor. There would be fenced open storage. A covered storage area may be added. Underground power, a public well, and a septic system are proposed. Two access points are proposed from Highway 55. The 18-acre site is RP18N03E331807 addressed at 14014 Highway 55 and located in the SENE Sec. 33, T.18N 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** – Kathy Deinhardt Hill and Bob Hill, 14068 Pioneer Road, are opposed to business of this magnitude.

Director Herrick displayed the GIS map with the property and adjacent properties on the large projector screen.

Chairman Defoort asked for the applicant's presentation.

Joe Carson, Nampa, Idaho, represented the applicant; also present for questions are Gregg Tankersley of Crestline Engineering, Retail Manager Gavin Gregory, and Communication Specialist Carlie Weaver. Mr. Carson presented a slide show with pictures of the site, proposed site plan, and the proposed storefront view as seen from different angles (**Exhibit 2**). Valley County is a good fit for the company; they serve similar demographic areas. The company supports local communities where they have businesses. This part of Highway 55 is an industrial and commercial corridor. Idaho Transportation Department will grant one access to the south. Valley Wide would like to share the northerly access with the McCall-Donnelly School District who uses the access for the school bus storage area. The building would be similar in size to the Albertson's building in McCall. It would have mixed timber and steel accents. They are currently planning for five single-lane gas canopies and one dual-lane diesel canopy.

Snow will be moved from the parking and driving areas and stored on site. They have not yet determined the sign design. Exterior lighting will comply with the dark sky ordinance. There may have 24-hour fueling but minimal security lighting after 10 p.m. He anticipates 18-24 months for construction; other existing buildings will likely be demolished over time.

The applicant proposes outdoor storage of all-weather items. There is a large area on northeast portion of property with which they could collaborate with the school district; perhaps an athletic field and/or walking path could be built there. Proposed pond would be used for fire suppression and collect stormwater runoff. The site would be landscaped.

They have been in contact with Idaho Transportation Department (ITD). A traffic engineer would complete a traffic study. A center turn lane may be required by ITD; however, a traffic study will take 60 days to complete. Tentative closing date for property purchase is August 3rd.

Regarding the concerns of community, there is a large amount of commercial use to the north. Employee staffing has not been a problem in other areas, including the Wood River Valley. He is not aware of any easement to the land-locked property to the south.

Gregg Tankersley, Crestline Engineering, stated they have reached out to Lake Irrigation District. He pointed out where the water conveyance appears to be on the property. Easements would be provided. Possible piping could be added to minimize off-site water flooding the property. The southern approach of Harlow's intrudes onto the Valley Wide property. They need to speak to the School Board to discuss this and a shared access driveway.

Responding to questions from the Commissioners, Mr. Carson stated the fuel pumps would be open 24 hours, seven days per week. In other locations, their businesses see a few thousand customers per day; 600-1000 at Wood River Valley site. Significantly less are expected at this site.

Regarding the septic system, there is high ground water at the site. There are ways to mitigate this and dewater the site. Until a formal application is submitted to Central District Health, it is too early to determine requirements.

ITD is obligated to grant one access to the property pending a traffic study. The applicant would be required to pay for a required turn lane and/or center lane if required by ITD. Their traffic engineer will be working with ITD to determine requirements. A shared access would be beneficial for both the school bus traffic and Valley Wide traffic.

The outside storage request was further clarified. The large indoor storage allows winter coverage of equipment. The applicant wants an outdoor storage area for inventory; the exact size and location is fluid. The items would be for sale and should be partially visible to the public.

Placing in-ground fuel storage tanks is not uncommon in high ground water areas and has requirements that must be met. The applicant believes the ground water issues can be mitigated and water redirected. Regarding overnight parking of large trucks/vehicles, they are not marketing this as a truck stop.

Chairman Defoort asked for proponents.

Jake Maupin, 376 Verita Road, McCall, said this area is a commercial corridor and this business would be a positive look and feel for the area. The business would accommodate a lot of people with large vehicles and/or trailers.

Chairman Defoort asked for undecided. There were none.

Chairman Defoort asked for opponents.

Shelly Platt has lived at 24 Knob Hill Drive for 30 years and is strongly opposed. The proposed location is bordered by one business, the highway, cattle grazing, and single-family residential. The proposed use is not compatible with the adjacent single-family residences most with full-time residents. This business would have much more noise and round-the clock activity than the nearby commercial uses. The school bus barn does not have weekend traffic or lighting. Noise will travel. She is concerned about the effect on wells; her well is 84 feet deep. She discussed the highway configuration nearby. Any center lane should be completed prior to construction. This is an inappropriate location; Lake Fork would be better.

Richard Platt, 24 Knob Hill Drive said the water table is 55 feet above the proposed site. His well hits static water at 50 feet. The water table under his house is about five feet below the proposed site elevation. The site is a very wet site with hardpan soil. The proposal to lower the water table would affect the wells on Knob Hill. Traffic is an issue; the "hump" by Knob Hill

Drive blocks the oncoming view of drivers and leads to vehicle accidents. Noise travels from the current buildings up to the houses on Knob Hill. This would add vehicle noise plus people noise. He is concerned that fire could ignite the dry grass and travel to nearby properties. Wetlands and increased litter are concerns. Sports events, walking paths, etc., would contribute to noise, trespass, and other issues. This is a poor location choice.

Bill Borg, 45 Knob Hill Drive, understands the business opportunity but the location is a poor choice and not compatible. It would detract from the look and feel of the area. The nearby commercial use is very different use than this proposed service business. The existing businesses are daytime only without constant traffic and night-time lighting. Approving a gas station that is not needed would negatively affect the residents on Knob Hill who overlook this site. The Lake Fork area has already been established for service businesses and would be more appropriate. As the Commission has noted, there is a striking need for affordable housing.

April Whitney, 18 Knob Hill Drive, is opposed. She disagrees with the rating for Number 4 in the compatibility rating. The existing businesses neighboring this residential area have minimal, predictable traffic; operate during daylight hours; and do not create light or noise pollution (**Exhibit 3**). There are no trees or contours to shield the neighbors from lights or the noise. The required 4-foot-high trees would not shield this site. The nearby businesses have a much smaller impact. She has concerns regarding with fire, emissions, high water table, wetlands, and the effect on the existing good residential wells. Much of the area, including the proposed building, is on mapped wetlands (**Exhibit 4**). This is one of the wettest sites along the highway corridor between Lake Fork and McCall. This proposal would affect the quality of life. This site is in a bowl and projects sound as documented during a previous public hearing for a nearby application. A two-year construction project and a 24-hour business would negatively impact the 400+ homes in the area.

Rick Fereday has lived in the area for 50 years and spoke about the long-standing issue of open space. The rural character of the area is disappearing. The current zoning based on compatibility is not working. He realizes that these are County Commissioner level decisions, but something should start at the Planning and Zoning Commission level. A new ordinance should take into account maintaining a rural vision, availability of services (septic, power, etc.); highway safety; clustered industrial areas; affordable housing areas; and cluster development. With the current explosion in development, we are behind in protecting the reasons why people move here. There should be greater restrictions on septic systems. Comprehensive zoning ordinance is needed instead of compatibility ratings.

Lance Mallow, 34 Trabert Lane, moved here due to the beauty of the area. He owns the Lake Fork Merc; this business would be devastating to their company. Finding employees is extremely difficult for all area businesses.

Faith Mackert, 31 Trabert Lane, owns Alpine Automotive and is extremely opposed, primarily due to the traffic on Highway 55. Wood River Valley has four towns and much higher population. There is a housing and employee shortage in Valley County. This would negatively affect family-owned businesses in Lake Fork. This type of business is not currently appropriate for our area.

Chairman Defoort asked for rebuttal from the applicant.

Mr. Carson asked for clarification on the zoning for the property. Chairman Defoort replied that it is zoned Multiple Use; conditional use permits are required for uses other than agriculture and single-family residences.

Mr. Carson stated that the Highway 55 corridor will continue to evolve. What else will the property be used for? No residential use of the property is proposed in the application. Remainder of property will be open space and undeveloped. Fifteen or less employees are expected on the retail side. They are willing to work with hours of operation and lighting requirements. This is not a truck stop. The diesel canopy could be moved to the north side away from the residential area. Properties of this size are very limited along Highway 55. The company supports rural residential lifestyles.

Gregg Tankersley referred to the wetland layer shown on the County's GIS site. The map was determined by photos not a site visit. The site does have challenges. Wetlands created by poor irrigation practices are non-jurisdictional. The wetland size will be determined by the Corps of Engineers. They would be lowering the water table about five feet, not 50. The pipe will drain water into the natural drainage area. A well permit would be obtained through the Department of Water Resources.

The housing shortage should not impact whether this application is approved. There is guidance in the Comprehensive Plan and a goal to consolidate uses. The site is one and half miles from Lake Fork. The business would not add additional truck traffic as vehicles are already driving by. They would pay for turn lanes and acceleration lanes as required by State Code. McCall does not want this use within city limits. This location would be a safe spot for large vehicles and trailers to get fuel, etc.

Chairman Defoort asked if the applicant has current plans for employee housing. Mr. Carson said the company understands that finding and keeping employees is a challenge state-wide. Employees have needs such as housing, day-care, etc. Adding housing to other property they own in McCall would have to be another discussion. They are not a housing developer.

Chairman Defoort closed the public hearing.

The Commission deliberated.

Commissioner Cooper said that Highway 55 is his largest concern. Harpo's in Cascade has turning lanes, but traffic does stack up. Noise is another important issue. Businesses providing the same use currently exist in Cascade and New Meadows. The proposal is not a good fit for the area due to the impact on the highway, noise level, and existing businesses.

Commissioner Freeman is torn. A center turning lane would help everyone in the area. Ground water issue might be solvable; currently this issue is all speculation. This business could hurt other similar businesses, but he is not sure how that should affect Planning & Zoning

Commission decisions. Employee housing is a County-wide problem and should not be a requirement for this applicant.

Chairman Defoort sees issue with traffic due to a blind spot and highway speeds. Turn lanes would be large and a huge financial burden. Noise would carry a long ways into residential areas. This would add too much noise and light pollution in a rural area. This is a good company and contributes to local communities. It is a needed business in Valley County but should be located somewhere with a reduced speed limit and less residential housing nearby.

Commissioner Cooper moved to deny C.U.P. 21-11 Valley Wide Country Store with the stated conditions. Commissioner Freeman seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

7:30 p.m.

2. C.U.P. 21-12 Hart Lodge: Benjamin Hart is requesting a conditional use permit for a short-term rental with a maximum of 20 guests. The home is approximately 4300 sqft and uses an Individual well and individual septic system. The 1.5-acre site is addressed at 43 Tranquility Lane, located on Moonridge Subdivision Lot 3, in the SE ¼ Section 30, T.18N, 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** – Samantha and Jeff Westendorf, 321 Moon Drive, are opposed.
- **Exhibit 2** – Kim Zeydel, 295 Moonridge Drive, is opposed.
- **Exhibit 3** – Mark and Cheryl Brownell and Karl and Jan Focke, 171 Cindy Lane, are opposed.
- **Exhibit 4** – Chris and Jo Sours, 320 Moon Drive, are opposed.

Director Herrick clarified that a short-term rental permit would be required for the property for up to 12 guests, not a conditional use permit. She displayed the GIS map with the property and adjacent properties on the large projector screen.

Chairman Defoort asked for the applicant's presentation.

Benjamin Hart, Boise, purchased the home in late August 2020, primarily for the use by his six sons and large extended family in Boise and southern Idaho. It was bought for a place for his family and friends to gather, not for a rental. The property had been a rental previously and the purchase agreement including honoring the previous bookings. The neighbors' issues are from problem renter from the previous owner. The home, on 1 ¼ acres, works well as a rental for multi-generational groups and families. They are not absentee owners. They are using the money from renters to upgrade the home and property. The north side of the house is drainfield area and stays pretty green. They are choosy about whom they rent to. The home is

only listed on Airbnb and VRBO. They personally use the house with groups of 25+ family and friends. They have installed a security camera on the front of the house. The snowmobiling and trespassing on neighboring properties will not be allowed. Renters have to agree to the rules prior to reserving the property. The fire chief made recommendations, not requirements. There is a 10,000-gallon water tank for fire near the home. There are both hard-wired and battery-operated smoke detectors and carbon monoxide detectors in the home. Retrofitting sprinklers systems is cost prohibitive. They do want to add a fence to the property for dogs and kids. The HOA and property owners in the subdivision have their phone number. Outside lights are LED and are shielded. Tents are not allowed by renters. They have three bear-proof trash cans. The average number of guests has been 10-14; the next two rental groups are both family celebrations (anniversary and birthday). The septic is big enough. There are currently groups in July who reserved two years ago. He previously submitted an application for a STR but was told a conditional use permit was required.

Mr. Hart is not familiar with the ads listed on other websites referenced in the comment letters; perhaps the previous owner submitted ads. They only advertise using Airbnb and VRBO. Since they took ownership, there has been only one complaint from a neighbor regarding friends' use of an ATV on the adjoining properties. This activity was also seen on their security camera, and they contacted the friends to stop the use and fix any damage.

Chairman Defoort asked for proponents. There were none.

Chairman Defoort asked for undecided. There were none.

Chairman Defoort asked for opponents.

Bill Borg, 45 Knob Hill Drive, is opposed. The applicant seems to mean well; however, Mr. Borg feels very strongly about maintaining integrity of residential neighborhoods. He has had firsthand experience with a party-house in his neighborhood. Noise, traffic, and disregard of the neighbors are issues that affect the neighbors who are then charged with policing the use. Twelve people are groups of one or two families; more people equal a party atmosphere.

Jennifer Sizemore owns Lot 3B which is directly to the west of this home. They purchased the lot within the last three months and will be building a home there. She is also from a large family and knows there are other ways to entertain family than just renting one residence. The use of the home by large groups ruins the neighborhood and the neighbors end up policing it. Mr. Hart already mentioned many violations of the HOA requirements; the applicant is not available to police the use. The 10,000-gallon water tank is for fire response for the entire neighborhood, not just one house.

Lisa Zeiter owns Lot 7 across the street and are in process of building a home. She did submit a letter. Parking is an issue. Per the CCRs, a maximum of four cars can be parked outside on the property overnight.

Bolek Masiak, owner of 56 Tranquility Lane, Lot 4, said many points have been brought up. If not purchased for profit, then why not limit it to 12 guests per night. Expanding to 20 people opens up to another market for parties. Security camera doesn't solve the problem. There are no noise or visual barriers; noise travels. It is different when it is your own family and friends

versus rental groups. Violations of CCRs include number of guests, parking, and boats/ATVs visible. Although most of the complaints are from the previous owners, the issues do not go away. This would allow one recreational use to negatively impact others. Allowing 20 plus guests discourages full-time residential use of the neighborhood.

Chairman Defoort asked for rebuttal from the applicant.

Mr. Hart reiterated that the complaints are from previous owner's use. There are nine vacation rentals in the neighborhood. There is a high demand for the larger groups. Limiting to 12 is different market; renting to large families is better than 12 from multiple families. We are involved with the house compared to those owners using a property management group. McCall's limit is 19 people before an additional permit is required.

State law requires that an HOA have each owner agree to not use their home as a short-term rental; he has not agreed to such a stipulation. The HOA nor the other owners do not do snow removal at this time. The renters are basically paying for Mr. Hart to plow the road free of snow.

Chairman Defoort closed the public hearing.

The Commission deliberated. Commissioner Cooper is concerned about the impact on the surrounding neighborhood by allowing rentals to large groups. It seems most of the complaints were during the previous ownership. It is easier to keep a handle on 12 people even if the home is capable of holding more.

Chairman Defoort said the new owner has had to deal with previous digressions. More people lead to more problems. Enforcement is difficult. Fire and safety are concerns. When the Short-Term Rental ordinance was created, the two main issues were septic systems and guest safety. Unfortunately, the fire chiefs can only make recommendations for short-term rentals, not requirements. Central District Health has approved this home for 20 people.

Commissioner Freeman said motels must meet certain standards. This is a commercial venture, and more safety features should be required than for a residential home.

The Commissioners agree they are not experts on fire requirements and rely on the expertise of the Fire Departments. If fire conditions are met and an automatic sprinkler system added, Chairman Defoort would be willing to revisit a new application for this use.

The 10,000-gallon in the subdivision exists from previous requirements when the subdivision was approved. The three fire departments [Cascade, Donnelly, McCall] currently have different requirements for new subdivisions.

Director Herrick read State Code regarding short-term rentals which allows regulations to protect the integrity of the neighborhood.

Commissioner Freeman asked if the McCall Fire Department knew that there an existing 10,000-gallon tank exists nearby when the Fire Chief made his recommendations. Do the Fire Departments track the water tanks that are put into subdivisions? Would the existing water tank negate the recommendation for sprinklers? According to the McCall Fire Department's response, R-1 occupancy (for example a hotel) requires automatic fire sprinklers; R-3 does not.

Commissioner Freeman moved to table C.U.P. 20-12 to July 8, 2021, for more information from the Fire Department. Commissioner Cooper seconded the motion. Motion carried unanimously.

8:57 p.m.

D. OTHER:

1. Are yurts and containers single family residences that are eligible for STR permits? Action Item.

The Commissioners deliberated and discussed short-term rental and dwelling definitions. Short term rental for a yurt at Silver Fox Spur was submitted. The site has no power, no refrigerator, and no well. There is a pit privy. On a nearby property, the owner is renting a shipping container. Short-term rental applications require parking on-site. The access to both sites is not plowed in the winter, thus, people park in the public right-of-way.

If a site does not meet the definition of a short-term rental, then a conditional use permit for a rustic guest experience will be necessary. Dwelling units require a kitchen. A conditional use permit application fee would be \$300 for this type of use. Safety (fire), septic, and access were discussed. Chairman Defoort believes the use should require a conditional use permit, not a short-term rental permit. Yurts are valued as out-buildings, not a single-family residence, by the Valley County Assessor's Office.

The Commissioners agreed that yurts and containers are not single-family residences; therefore, they are not eligible for short-term rental permits.

2. Storage for asphalt at Gilbert Gravel Pit. Action Item

Idaho Transportation Department is beginning the Highway 55 project between Donnelly to McCall. There is a request to stockpile the asphalt millings from this project at the Gilbert's Pit on East Lake Fork Road. There would be approximately 5000 tons of materials stockpiled for reuse on future projects. This site is within the Quarry Run Subdivision which is an industrial subdivision south of East Lake Fork Road. Director Herrick displayed the GIS map with the property and adjacent properties on the large projector screen. The site is hidden by trees and topography. Idaho Code, State agencies, and local planning ordinances were discussed (Idaho Code 67-6528).

Commissioner Freeman moved to approve the use. Commissioner Cooper seconded the motion. Motion carried unanimously.

E. FACTS AND CONCLUSIONS - *Action Items:*

- VAC 21-02 Vacation of Drainage Easement
- C.U.P. 21-10 Pearson Landing – Preliminary Plat

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

Chairman Defoort adjourned the meeting at 9:13 p.m.