

Valley County Planning and Zoning Commission

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Sasha Childs, Commissioner
Katlin Caldwell, Commissioner
Scott Freeman, Commissioner

MINUTES

Valley County Planning and Zoning Commission

March 22, 2022

Valley County Court House - Cascade, Idaho

WORK SESSION - 5:30 p.m.

A. OPEN: Meeting called to order at 5:30 p.m. by Chairman Thompson. 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 – Neal Thompson:	Present
PZ Assistant Planner – Lori Hunter:	Present

E. Work Session

1. Discussion with representatives from Central District Health and Idaho Department of Environmental Quality

Mike Reno, Central District Health (CDH), and Matthew Plaisted, Idaho Department of Environmental Quality (DEQ), joined the meeting via Microsoft Teams.

Director Herrick explained that the PZ Commission is doing long-range planning and rewriting portions of Valley County Code. To make informed decisions, the Commissioners has questions for CDH and Idaho DEQ, particularly regarding septic systems and groundwater contamination.

Mike Reno previously responded to some questions in an email on March 2, 2022. The Commissioners received this email plus the memorandum of understanding between the DEQ and public health districts. The separation of septic systems from surface water requirements are some of the most stringent in the United States. The restrictions were recently slightly eased based on data for phosphate removal. The permeability of soil and soil type affect separation requirements.

Mr. Reno and Mr. Plaisted responded to additional questions. Both PZ Commissioners and local residents are concerned with the water quality of Lake Cascade and tributaries and phosphorus loading. Mr. Plaisted said that there is not much migration of phosphorus thru soils. Phosphorus will bind in the soil within the 100-200' setbacks of the septic systems to ground water. But like a sponge, the ground can only hold until saturated. Generally, the expected life of a drainfield is approximately 20 to 30 years. Then the septic systems would switch to an alternate site.

People have frequently commented on their concerns regarding the septic systems in proximity to tributaries flowing into Lake Cascade. The DEQ generally recommends central sewer over

individual treatment. However, from a regulatory agency standpoint, “it depends” on whether a development should be required to extend central sewer lines. Idaho law states that new developments within 200 feet of central sewer are required to hook up to sewer. What are the long-term plans of the existing sewer districts? If a proposed subdivision is within the future area of a sewer district, then should developers be told to connect? Sewer systems do not have unlimited capacity. Mr. Reno stated that subdivision density is an important consideration as sewer districts do not like to take sewage from lots that are 1 acre or larger as the flows are too low and maintenance costs are higher.

Nitrogen is not readily removed from the soil column and will eventually move to the ground water. Movement is less in areas of clay soil, more so in basalt rock areas. Valley County has no areas of nitrate priority status.

Individual septic systems are not much of concern for ground water.

Is a minimal lot size of one acre adequate for a septic system and well water? Mr. Reno said that enough room is needed for a house, well, septic system, and replacement drainfield on a lot. If public water is provided to the lots, the minimum size could be reduced to half-acre. Mr. Plaisted replied that minimum lot size is a site-specific determination. For example, Kootenai County requires a minimum of five acres for individual septic systems due to soil types. There is a required setback from high water line for septic systems.

The Commissioners asked if septic systems should be located within a certain distance from Lake Cascade. Do septic systems contribute to the on-going algae blooms on Lake Cascade? Mr. Plaisted said that it is difficult to point at specific source as the cause; there are many different sources resulting in the algae blooms.

The method of determining septic sites and release of subdivision sanitary restrictions was discussed. Test holes identify locations for drainfields. Groundwater monitoring occurs mid-February thru May. Septic systems treat effluent properly before the discharge meets with ground water. Setbacks in Idaho are stringent. The release of sanitary restrictions occurs when a subdivision has met all requirements, and lots would be acceptable for septic systems and wells. Various alternative septic systems were discussed. Mound systems are used in areas of high ground water. All septic system types must be approved by State of Idaho and National Sanitation Foundation.

Should Valley County allow “off-grid” subdivisions to be recorded with sanitary restrictions in place? Mr. Reno said this would prevent building of structures with sewage or water facilities. How would lot owners manage gray water and black waste? Are incinerator toilets, composting toilets, and/or vault privies alternatives to traditional septic systems? Mr. Reno added that requiring the release of sanitary restrictions means a developer must provide an engineering report showing lots are buildable. If sanitary restrictions are released lot by lot, the future lot owners will be required to show the lot is buildable. If camping is allowed with a gray water system, the gray water sump must meet all separation distances similar to a regular septic system. Idaho does not differentiate between gray water and black waste. Some Idaho health districts do allow sanitary restriction release for each individual lot; however, CDH policy has been to have the developer responsible for sanitary restriction release up front prior to lots being sold as buildable lots.

Nutrient pathogen studies are required for a subdivision of five or more lots in a designated nitrate area; however, this is not relevant in Valley County. Thus, only a large drainfield of over 25 gallons per day, serving 10 or more homes, requires a nutrient pathogen study.

Whether public water systems are required depends on site specific information. A public water system is defined as 15 connections or 25 people. From a planning perspective, 10 homes or greater has the potential to require a public water system. Idaho has roughly 2.5 people per home based on census data. Public water systems require a redundant (second) well once a threshold of homes is reached.

The regulatory agency for a large commercial use such as event center or hotel is based on the number of people. DEQ requires engineered plans and specifications for larger uses over 25 people per day. Smaller, “non-community” water systems, such as restaurants, churches, and gas stations, are contracted out to health districts.

2. Impact Fees

PZ Commissioner would make a recommendation to Board of County Commissioners regarding impact fees at a future, unscheduled, public hearing. Tonight’s discussion is not an action item.

Gary Swain and Kirby Robertson, members of the Valley County Road Advisory Board, were present. The PZ Commissioners have received a letter submitted by Gary Swain on February 15, 2022. Extensive discussion on impact fees occurred during 2007 and 2008. Impact fees and projections of costs and growth are controversial. Impact fees sound good but other solutions exist. The Valley County Comprehensive Plan states the purpose is to provide direction and guidelines in making consistent, rational decisions for Valley County’s future growth. A goal is to accommodate growth and development while protecting quality of life within Valley County.

Impact fees cannot single out new folks only; anyone building must pay the same impact fees regardless of size of house. Impact fees would affect both new residents and long-term locals. Mr. Swain believes the middle class will not be able to build and stay in Valley County if impact fees are approved. The current boom is the fourth growth surge since the 1970’s. Growth spurts only last a couple of years then end resulting in a drop in tourism and second home ownership. However, any impact fees would still be in effect. Mr. Swain cautioned the Commissioners about the impact fee study by Anne Westcott. The previous study projected much higher growth than occurred and overestimated capital improvement costs.

Mr. Swain believes growth does pay for itself. Developments results in greater property tax received by Valley County. Impact fees would not solve today’s problems; they can only offset cost of new growth. Improper use of impact fees results in significant litigation which taxpayers must pay for. Impact fees work for fire departments and equipment. They do not work well for road maintenance. Impact fees would negatively impact those on fixed incomes due to increase in property values and taxes as a result of adding impact fees to all new construction and development.

Director Herrick clarified that the Board of County Commissioners has chosen participants to review impact fees. At some time in the future, the PZ Commissioners may be asked to give their impression of impact fees. The Commissioners believe that more information is needed before they can make a recommendation.

Commissioner Roberts is familiar with the growth surges that have occurred in Valley County. Cautions about possible litigation are important. Idaho state statute is specific on what impact fees can be used for. There was a significant interest in Valley County voters to improve roads; however, quantified data on costs is not available yet. Impact fees could be used for turn lanes and other road improvements. The 2008 report on impact fees was flawed and based on a spurt of growth. Impact fees have a place. Local citizens want to make new growth pay its way. What tools can we use to do so?

Mr. Robertson mentioned development agreements, traffic studies, and other possible requirements.

Valley County can request voluntary development agreements at this time. Changes must be made to Idaho Statute 67-65 to enable Valley County to require development agreements. The words "change in zoning" should be modified to include "or change in land use or replatting". Development agreements would be an alternative to impact fees.

Mr. Robertson would like the Commissioners to delay making a decision on impact fees. Actual numbers and costs are needed. A levy is a better way to fund road improvements, not impact fees. Mr. Swain does not want to lose the "middle class" in Valley County. The real estate market will control itself as the current value is unsustainable.

Recent subdivision approvals have included the following condition of approval:

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.

Impact fees might be part of the solution; the levy for road dept might be part of the solution. More subdivisions result in more people and more impacts.

Mr. Swain and Mr. Robertson request that the Commission impose maximum costs on the person who is going to change the land use. It is up to the developer to determine if the project is profitable. Specific wish lists for projects could include turn lanes and road improvements. Changing verbiage in state code to allow mandatory development agreements would help immensely.

Director Herrick reminded Commissioners that their decisions and recommendations cannot be arbitrary. She clarified the capital contribution agreement program that was previously use by the Road Department. The new condition of approval pushes the discussion to the Board of County Commissioners and the Road Department until such time they determine if Valley County will be doing impact fees or development fees.

The following note is now added on all subdivision plats in Valley County:

The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed.

The Commissioners agree that Idaho Statute 67-65 needs to change so Valley County can require development agreements.

The Road Department knows what improvements need made, not the PZ Commissioners. Recommendations from the Road Department is included in staff reports as conditions of approval for conditional use permits.

7:25 p.m. Short break

3. Review of the Local Land Use Planning Act - Idaho Code - Title 67-65

Idaho State Statute Title 67-65 regulates local land use planning in Idaho. It covers what local planning and zoning commissioners are allowed to do and limitations. All Commissioners should review the copy provided. Director Herrick reviewed the stated purpose of the Local Land Use Planning Act (Title 67-6502). Other items covered in the Act are:

- Planning duties and Comprehensive Plans
- Public hearing notification
- Duties of PZ Commission
- Planned Unit Developments allowing clustering and open space
- Development Agreements
- Affected persons
- Combining of permits (C.U.P.s, variances, etc.)
- Emergency ordinances
- Annexations and impact areas
- Penalties
- State agencies must comply with all plans and ordinances; endowment lands are excepted.
- Transcribable records requirement
- “Grandfathered Uses”
- Short-term Rental

4. Review Valley County Comprehensive Plan – last updated in 2018

The Valley County Comprehensive Plan was last updated in 2018. As part of the long-range zoning discussion, some amendments will need to be made to the Comprehensive Plan. The Board of County Commissioners have asked if the PZ Commission and staff can do the necessary revisions or is a consultant needed. The PZ Commissioners will review the Comprehensive Plan and discuss at the next work session. Upcoming work session dates were reviewed. Ordinances implement the Comprehensive Plan. Decisions are based upon ordinances.

5. Review Updated Administrative Plat and continue with Worksheet on Plat Types

Director Herrick and Commissioners discussed types of plats. A flow chart could be added to Valley County Code to show requirements of each type of plat, similar to a “regulatory staircase”. Each step up would have more requirements than the previous type of plat. An Administrative Plat would be simplest. A short plat would have more extensive requirements. A P.U.D. would have the most requirements.

The Commissioners discussed possible building and landscaping requirements for subdivisions within the wildland urban wildfire interface, particularly for off-grid subdivisions.

Sewer District boundaries were discussed. Both Payette Lake and North Lake Recreational Sewer and Water Districts are currently revising their master plans. Payette Lake Recreational Sewer and Water District will not go beyond their current boundaries

Prior to the next work session, the Commissioners are asked to review and consider:

- Valley County Comprehensive Plan

- Euclidian Zoning or a Multiple Use Zone with overlays and/or other revisions to Valley County Code
- Title 10 Wildfire mitigation Plan and fire-related questions
- Subdivision process, types of subdivisions, and the “worksheet to determine plat types”
- Development Agreements vs Impact Fees vs LID vs CID (Community Improvement District)

Requiring a subdivision plat is not a “regulatory taking”. The revision to the subdivision ordinance will determine what level of review will be required. Illegal splits do not receive building permits. Original parcels can still be split once without this review. Other exemptions are still valid. The “worksheet” is a Commissioner priority so the types of subdivisions allowed can be updated in Valley County Code.

Chairman Thompson adjourned the meeting at 828 p.m.