



**MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING
CITY OF MOUNTAIN HOME, ELMORE COUNTY, IDAHO**

October 17, 2022
6:00 PM

ESTABLISH A QUORUM

Vice-Chairperson William Roeder noted a quorum present and called the October 17, 2022, Regular Meeting of the Planning and Zoning Commission to order. Attending were Planning and Zoning Commission Members, William Roeder, Scott Harjo, Cristina Drake, and Travis Eikeness.

Commission Member Kristopher Wallaert was not in attendance.

Staff members attending were Community Development Director, Brock Cherry, Assistant City Planner, Chris Curtis, and Legal Counsel, Geoff Schroeder.

Public Works Superintendent, Rich Urquidi was not present.

MINUTES

*Action Item – Minutes, October 3, 2022

Commission Member Cristina Drake made a motion to approve the minutes for October 3, 2022. Commission Member Scott Harjo seconded the motion. All in favor. The motion passed by a unanimous vote.

RECOGNIZING PERSONS NOT ON THE AGENDA – None

CONFLICT OF INTEREST DECLARATION

Has any Commissioner received information pertaining to, or otherwise had, any contact with any person regarding any items on this Planning and Zoning agenda? If so, please set forth the nature of the contact, such as economic interest, or communications ex-parte. – None
Legal Counsel amended the declaration to include “does any Commissioner, Commissioners employer, or Commissioners family member have an economic interest in any procedure or action before the Commission at this meeting?”. – None.

PUBLIC HEARING AND ACTION

* Action Item – Preliminary Plat (PPLAT) Jane Suggs – Trilogy Development
A request to approve the proposed Blue Yonder Preliminary Plat (PPLAT) 40-acres located on Smith Road between South 5th West and South 14th West streets. (RPA3S06E358410). The Blue Yonder Subdivision will consist of 10 duplex units, 35 4plex units, and 94 single family homes for a total of 254 dwelling units.
PZ-22-90

*Action Item - Conditional Use Permit (CUP) – Jane Suggs – Trilogy Development

A request for A Conditional Use Permit to allow multiple units to be constructed on a single lot located on Smith Road between South 5th West and South 14th West streets. (RPA3S06E358410). The proposal includes 35 4plex buildings for a total of 140 units on a single lot.

PZ-22-91 Action Item – Preliminary Plat (PPLAT) – Tim Mokwa, Hayden Homes

A request to approve the proposed Fall Creek Preliminary Plat (PPLAT) consisting of 40 acres south of Silver Stone #2 Subdivisions at the southern termination of South 5th West Street. (RPA4S06E015400). The Fall Creek subdivision will consist of 176 detached single-family homes proposed to be built in five (5) phases.

Application: PZ-22-92

Community Development Director, Brock Cherry, gave the staff report. There are two applications. One is a preliminary plat. This parcel is already annexed, and zoned R-4 and the Comprehensive Plan's Future Land Use Map designates this area as residential. This plat request contains a larger ten-acre lot, designated under singular ownership, to contain multiple four-plexes on, which triggers the second application for a Conditional Use Permit. These two items are summarized under one report. They are separate from one another and have different standards of approval. There are 254 total dwelling units, ninety-four being single-family homes, ten duplex buildings, and thirty-five four-plex buildings. The southwest corner contains the proposed multi-family dwellings and buffers out to the less intense residential. Items to consider along with the Zoning Ordinance is the Comprehensive Plan, Staff has reviewed the Comprehensive Plan and have found the most pertinent points to this discussion. The Plan encourages multi-family residential projects next to major streets, which Smith Road is slowly becoming a major street. The Plan tells us to explore the allowance of a full range of housing types for a diversity of housing. Perceived issues are water, and sewer. Public Works has reviewed the item and the city can services this project as presented. An additional issue is traffic. The applicant has provided a Traffic Impact Study. Local roadways typically have between 1000-2000 vehicle trips a day. With the projected development the roadways stay under the 1000 mark. The projected traffic through the existing neighborhoods, 15% will go to the north, 5% to the east, and the remainder to Smith Road and South 5th West. The applicant was hoping to utilize the Conditional Use Permit as a method of asking for a slight deviation for a section of product for their side yard setback. Having conferred with Counsel it is believed the mechanism being used is not appropriate. It may not be the right policy, but it is what we have in the Code. Normally to deviate from property development standards we recommend doing a Planned Unit Development application.

Commissioner Roeder read in the memo from Public Works Director, Richard Urquidi, regarding utility connectivity and adequate EDU availability.

The TIS recommended by City Staff during preliminary meetings with the applicant given the number of dwellings proposed. The parcel is already zoned R-4 and technically speaking, minus the four-plexes, is already zoned appropriately. They must meet the design standards and the setbacks; everything would have to be in place. The Conditional use permit process sets conditions for use, and the Plat sets conditions for subdivision. Using a conditional use permit to waive deviations from numeric standards such as setbacks and height restrictions is not lawful. The language for waiver from these standards is the variance process, which requires unique characteristics of the land that are not the fault of the application.

Jane Suggs with Gem State Planning came forward representing the applicant. Jane appreciated the staff's recommendation for approval of both the Preliminary Plat and the Conditional Use Permit for Blue Yonder Subdivision. This property is an R-4 Zone. The adjacent subdivisions are single family detached homes. R-4 zone has an intent for a mix of single-family households, multiple dwellings, and cluster developments as defined in code and we request to do just that on the property. There are ten acres for the four-plexes located in the southwest corner of the site, right on Smith Road, it then transitions to smaller lots. The north and east perimeters closely match the lots size widths to those parcels that are adjacent in the existing subdivisions. The Comprehensive Plan makes it very clear that Mountain Home is lacking in

multi-family development, which is why the higher density has been added. It further states, the development approval should be tied to infrastructure availability, and as per Mr. Urquidi's memo, the infrastructure for water and sewer is available. Trees are popular for providing shade, and grass uses a lot of water, so what is proposed on the landscape plan are trees that are being used along pathways and in the open spaces, but also using a rock/mulch along those area where there might have shrubs planted, but not big swaths of grass. The Comprehensive Plan encourages multi-family development next to major streets and mentions protecting residential property through transitional use as shown in this proposal. In addition, it supports connectivity between the neighborhoods. The duplex units are a little larger. There is a park in the northwest corner and in the middle of the four-plex community is also some recreation area. Jane showed renderings of the housing units. They are asking for 5' and 7' setbacks on the smaller lots and not the 5' and 12' as in the bulk and coverage controls. Without this deviation they will lose about ten percent of the lots. They believe Blue Yonder meets the zoning code and the Comprehensive Plan. It provides a mix of housing opportunities and mix of lot homes and styles, with neighborhood parks and pathways that add to the connectivity. In the code there is a section that could be misrepresented, that says that in the Conditional Use Permit code that you can adjust setbacks. They believe that LUPA has identified conditional use permits as special use permits and the city does not have special use permits but has variances. Variances require a hardship, and this project does not have a hardship. They are asking for the deviation to be implemented like a waiver through the conditional use permit, as per 9-17-1, D, 11.

There are 316 parking spaces for the four-plexes, which is 2.26 parking spaces per dwelling unit. The park will not be a drainage basin. The HOA will maintain the park. The yard size request will be a determination for the Commission to decide if it is appropriate for the area, will it take away from existing neighborhood character, and is the buffer adequate. In addition, the Commission will need to determine the appropriate mechanism to secure the deviation. Legal counsel will counsel City Council that we do not believe this is the right mechanism for approval for the deviation. Legal counsel gave a synopsis of a legal case regarding standard variations and how to obtain waivers. The city ordinance points this process back to a variance procedure, which then points back to unique characteristics of the land. Five foot and twelve-foot setbacks are very common, it allows access for fire as well as access to rear boundaries for utilities. There is no evidence unless the fire department has or hasn't provided information about the liability of such a waiver. It is the legal recommendation that you can't approve it, unless the applicant follows the variance proceeding to grant the waiver of the setbacks. If the City Council wants to amend the land use ordinance to provide a waiver or reduce those setbacks, it is within its purview to do that, but that is not what is in front of them right now. The zoning change must comply with State Statutes and could take up to four months.

Public Hearing Opened

Carol Barnes came forward to speak. Carol objected to the setback waiver, because the closer the houses are together the greater the risk to adjacent homes and limited access between. Water is also a concern. If the Council objected to Mayfield Springs due to water, why are we continuing building projects in Mountain Home. Overcrowding of schools is also a concern of Carols. Carol objects to the project entirely. Carol took issue with receiving a letter that was sent to the entire neighborhood regarding dumping trash over the fence with no evidence that anyone was throwing things over the fence.

Letters are sent to all political subdivisions including the school district for any public hearing. No comments were received.

Carol came back up a second time to address the CUP. Carol wanted clarification on parking whether it was for the entire plat or for the four-plexes. Carol objected to the mix of single family mixed with the multi-units which according to Carol requires a special authorization from this council to do that. Regarding the HOA, Carol is not aware of apartments coming under a mix like that with an HOA. In addition, there are two intersecting streets that come in from the existing housing, once those two streets interact with the new development that may have boats sitting out or trailers. Carol wanted to know how it would affect that part of the housing with the intersecting streets.

Rebecca Martinez came forward to speak. Putting two-story homes on the north side will triple the number of neighbors for Rebecca, and they will be able to look in their yard. Rebecca does not feel like that is compatible. Each house will gain two to four neighbors. Rebecca also objects to the setback deviation, if water is an issue why cram in ten more homes? Rebecca inquired if they would be using concrete in the gravel areas to control dust and weeds. Rebecca wanted to know when the permit process started. Sometime shortly after the dumping letter was received, someone started plowing without any dust mitigation. Rebecca contacted DEQ, who then contacted the city, and were told that at that time there was no construction planned.

The preapplication process began about a year ago. The formal application was submitted a few months ago.

Misty Pierce came forward to speak. Having had prior discussions with Mr. Cherry regarding construction in the area of Smith Road and South 5th West area. Misty is a precinct committee person; the precinct boundaries have not been adjusted. Adding these new houses will burden on that precinct committee person.

Public Hearing Closed

The organization of voting precincts is for the purposes of facilitating voting, there is no requirement in the statutes for population per boundaries to be equalized and are not an entity entitled to notice. This is not relevant to this discussion.

Jane Suggs came forward to speak regarding the public comment. The applicant has been in contact with Mountain Home Schools, and they had capacity for additional children. Other municipalities have five-foot side yard setbacks. The four-plex community is valued at \$24,500,000.00, the duplex lots at \$3,680,00.00, and the single family lots at \$31,800,00.00, that makes this about a \$60,000,000.00 project that is proposed. This is a large investment into the city tax base. Cul-de-sacs will have more than one lot behind them. They will talk to the landscaper regarding treatment of the mulched areas to mitigate any problems. In the multi-family area, there will be a management association, as they will be rentals. The HOA will be for the single-family homes, the duplexes may be rentals but will be on separate lots. CC&R's typically take care of parking boats and trailers in the street, it is also against the City Code. It may be spring or summer before they begin clearing or construction.

Sidewalk, curb, and gutter will be along Smith Road. Fire has no issues with the preliminary plat, and the four-plexes will be sprinkled. The streets within the subdivision will be city streets. Commissioner Eikeness explained how the EDU's allocation works. Mr. Cherry explained the plating process and timelines. It has not yet been determined whether the houses that abut Rebecca Martinez's house will be one or two story. There has to be a nexus tied to the condition placed upon the plat, to the Code. A privacy issue is not protected in code. To clarify, the applicant could submit a variance application. The applicant does not feel they have a hardship, and therefore could not argue that. The Code 9-17-1, supplementary conditions and safeguards was read, which then refers to City Code 9-6-14 Variance procedures. If approval of the preliminary plat without granting the setback deviation, the applicant mentioned they would have to go back and revise the smaller lots to be large enough to put in the setbacks, meaning they would lose lots. A projected path forward would be that Ms. Suggs will approach the Council and have a similar conversation. If the City Council deems there is a void in the code, they could direct staff to pursue a code change, to allow for added discretion in the future for these sorts of situations. If the code changes to allow for a waiver in the future nothing would preclude the application after the fact of approval to apply for that waiver to the development in the future, but we do not have it right now in code. The HOA for the multi-unit and the single family will probably be separate organizations as the rentals will be under a professional management company. If the duplexes are rentals, they will be part of that as well.

Commission Member Travis Eikeness made a motion to approve the request for the Conditional Use Permit without the setback deviation of five and seven feet instead of five and twelve feet that is required by R-4 Zoning. Commission Member Scott Harjo seconded the motion. The vote is as follows: Commission Member Harjo; aye, Commission Member Drake; aye, Commission Member Eikeness; aye, and Commission Member Roeder; aye. The motion passed by a unanimous vote.

Commission Member Travis Eikeness made a motion to deny the preliminary plat to allow thirty-five four-plex units on a single ten acre lot, ninety-four single family units, and ten duplex units on approximately forty acres, due to the fact that you cannot approve a five to seven foot setback, instead of a five to twelve setback in the required R-4 zoning in a conditional use permit. Commission Member Scott Harjo seconded the motion. The vote is as follows: Commission Member Harjo; aye, Commission Member Drake; aye, Commission Member Eikeness; aye, and Commission Member Roeder; aye. The motion passed by a unanimous vote.

NEW BUSINESS

*None

OLD BUSINESS

* Action Item – Approve Findings of Fact

Preliminary Plat (PPLAT) – Tim Mokwa, Hayden Homes

A request to approve the proposed Fall Creek Preliminary Plat (PPLAT) consisting of 40 acres south of Silver Stone #2 Subdivisions at the southern termination of South 5th West Street. (RPA4S06E015400). The Fall Creek subdivision will consist of 176 detached single-family homes proposed to be built in five (5) phases.

Application: PZ-22-92

Commission Member Cristina Drake made a motion to approve the Findings of Fact for application PZ-22-92. Commission Member Travis Eikeness seconded the motion. The vote is as follows: Commission Member Harjo; aye, Commission Member Drake; aye, Commission Member Eikeness; aye, and Commission Member Roeder; aye. The motion passed by a unanimous vote.

* Action item – Approve Findings of Fact

Conditional Use Permit (CUP) - Mobile Food Truck Yard

Applicant - The Yard Idaho, LLC, William Hodges

A request for A Conditional Use Permit to allow a Food truck court and community center at 2010 American Legion Boulevard. (RPA3S07E303982) The proposed Mobile food concession yard (Johnny-Behind-The-Rocks) would be designed for moveable objects such as food and beverage trucks, mobile seating, portable containers, tables and chairs, temporary shade, toilets, and transportable trash containers.

Application – PZ-22-93

Commission Member Cristina Drake made a motion to approve the Findings of Fact for application PZ-22-93. Commission Member Scott Harjo seconded the motion. The vote is as follows: Commission Member Eikeness; aye, Commission Member Drake; aye, Commission Member Harjo; aye, and Commission Member Roeder; aye. The motion passed by a unanimous vote.

DEPARTMENT HEAD ITEMS

* Monthly Code Enforcement Report – September 2022-None


* Monthly Building Permit Report – September 2022-The return to the original format was appreciated.

ITEMS REQUESTED BY COMMISSIONERS/STAFF

*Commission Member Harjo mentioned that the procedure of having both applications on the same staff report appeared to create some confusion and perhaps look at a way to break each application out for presentation.

ADJOURN

Vice-Chairperson Roeder adjourned the meeting at 7:48 p.m.


Chair
