

MINUTES

ADAMS COUNTY PLANNING & ZONING COMMISSION

Regular Meeting

September 16, 2019

7:00 p.m.

Members Present: Al Becker, Kip Kamerdula, Dennis Nau, Julie Burkhardt, Joe Warner

Members Absent: Royce Bauer, Mark Peterson

Others Present: P&Z Administrator Wendy Green; Kraig Spelman, Road & Bridge; Jeff Batten, Southwest District Health

Public Present: Al Duncan; David & Deana Hockman; Shelby Leighton and Nigel Williamson with Nez Perce Tribe; Steve Ryals; Royce Schwenkfelder; Dan McGahey; Jerry & Sharon Lee; Lynette & Randall Marquard; Lyle Sall, *The Record*; Drew Dodson, *Star-News*

1. **Call to Order:** Chairman Nau called the meeting to order at 7:00 p.m.
2. **Approval of Agenda:** Julie Burkhardt moved to accept the agenda as presented; Kip Kamerdula seconded; passed.
3. **Approval of Minutes of July 2019 regular meeting:** Joe Warner moved to accepted the minutes as presented; Julie Burkhardt seconded; passed.
4. **New Business: At 7:05, Chairman Nau opened the public hearing on the Salubria Valley Properties application for a Conditional Use Permit for a rock pit in Indian Valley.** Nau asked if any commissioners wished to recuse themselves due to conflicts of interest; there were none. Administrator Wendy Green presented the staff report (attached). The Zoning Ordinance allows commercial rock pits in the Agriculture, Timber and Grazing Zone under permitted conditional uses. The proposed site meets the requirement that new rock pits be a mile or more from the nearest residence. The applicant has an approved mined lands reclamation plan on file with Idaho Department of Lands for disturbance on 9.52 acres. Royce Schwenkfelder of Cambridge, co-owner of Salubria Valley Properties, said they have owned the property for about four years. The site had been used as a noncommercial rock pit for many years; now they want to be able to crush and sell material. The site lies within a 1200-acre rangeland parcel owned by the applicant, so the impact on neighbors should be minimal. A seasonal stream, Mundy Gulch, flows near the site, but it is dry six to seven months a year. IDL recommended using berms to prevent runoff from the operation from carrying sediment to the stream. The applicant does not anticipate blasting; the rock can be excavated using a dozer. A portable rock crusher will be brought in from time to time to crush and stockpile rock. The applicant said there are no plans for an asphalt plant. Commissioners advised that setting up an asphalt plant would require a separate or amended CUP. In response to questions from Commission, the applicant agreed that it is reasonable to operate only during daylight hours and only during the dry season; to employ best management practices to mitigate dust at the crusher, pit floor, and haul route, which will be near Stewart Hill via Mundy Gulch Road only. The applicant intends to improve the haul route with rock from the pit. Ogle Lane will not be used to access the pit. The reclamation plan also stipulates that fuel

will not be stored on site. Road & Bridge Supervisor Kraig Spelman said that while the county does not have specific "break-up limits," he prefers that operators not haul heavy loads on a regular basis from late fall through spring when roads are wet because of the damage that causes to county roads. Schwenkfelder agreed, and noted another limiting factor is the weight limits on bridges on county roads accessing the site. Spelman noted the county does not own rock pits, but purchasers road maintenance rock from private entities. Having an additional source and bidder in Indian Valley could benefit county taxpayers. Nau asked for public comment; there was none during the meeting. Written comments received prior to the meeting are attached. The one specific concern expressed by a neighboring landowner was that trucks not use Ogle Lane to access the pit for safety reasons. Chairman Nau closed the public hearing at 7:26. The Commission reviewed uses allowed in the ATG Zone and conditional uses that may be permitted per Section 4-2, as well as the criteria and standards for approval. After discussion, Commission found that the proposed use complies with the Zoning Ordinance and is not likely to have significant impact on adjoining landowners or county resources. Al Becker moved that the Commission recommend approval of the CUP with the following conditions: 1) operations will take place only during dry season; 2) access to and from the pit will be via Mundy Gulch Road, not Ogle Lane; 3) operator will employ dust abatement at the crusher, pit floor and haul road; and 4) crushing will be done during daylight hours. Kip Kamerdula seconded; passed with none opposed.

At 7:32, Chairman Nau opened the public hearing for the Nez Perce Tribe's application for a Conditional Use Permit to operate Zims hot springs and RV park. Nau asked if any commissioners wished to recuse themselves; there were none. Administrator Green presented the staff report (attached). The parcel is approximately 38 acres in the Agriculture, Timber and Grazing Zone in Township 20 North Range 1 East, lying in the SW1/4SW1/4 Section 25 and the SE1/4SE1/4 Section 26. Section 2-2 Agriculture, Timber and Grazing of the Zoning Ordinance, Part C. Conditional Uses, includes private campgrounds as uses that "may be established subject to the goals and objectives in the Plan and compliance with the requirements for conditional use permits" (pp. 4-5). Shelby Leighton, representing the Nez Perce Tribe, said the applicant intends to continue to operate the hot springs pool, dry RV and tent camping, and related concessions much as they have operated for decades. The Tribe is updating electrical and plumbing and making other needed improvements to existing facilities but does not plan any expansion or significant changes in operations. They may replace the cows in the adjoining pasture with appaloosa horses for which the Tribe is well known.

Jeff Batten, Environmental Health Specialist with Southwest District Health, explained that the existing septic system meets current needs, but any increase in effluent would require abandoning the system and replacing it with a sewage system to meet today's standards. That would require a review by Department of Environmental Quality due to the soil type, high water table, and proximity to the Little Salmon River. Batten noted that he has been responsible for inspecting the pool for nearly 30 years. He explained that a geothermal flow-through pool such as this cannot use chemicals to treat the water; the water flows through the pool to an application field and then filters into the Little Salmon River. It is the volume of water flowing through the system, plus manual scrubbing of the pool walls, that allows water quality to meet standards set by the State and protects public health. The operator is required to send water samples to a certified lab each month to test for bacteria.

Nigel Williamson with the Tribe said they employ a pool operator who takes those water samples regularly. Williamson noted the Tribe operates three other pools, too, so they are familiar with health requirements. He said the Tribe is studying how best to invest in upgrades to the 50-year-old structures and stay within parameters such as the effluent limits. Leighton said they will add an assistant to help scrub the pool, as keeping it free of algae is very labor intensive. In response to questions from the Commission, Leighton said there are two manufactured homes on the site that are unusable and will be removed. The Tribe plans to offer the remaining home for short-term rental.

Chairman Nau invited public comment. Neal Osborn of New Meadows owns adjacent pasture and asked that the Tribe take responsibility for its share of maintaining fence, especially at the river

crossing. Leighton agreed to work with neighbors to keep fences up to standard. Bill Rautsaw of New Meadows asked about the operating hours. He also wanted to know if the Tribe planned to change the use of the pasture adjoining his property. Leighton reiterated that they intend to continue to use it for pasture. He said summer operating hours are 2:00-10:00 p.m. Tuesday through Thursday and noon to 8:00 p.m. Friday through Sunday, but he expects hours will be reduced during winter.

Chairman Nau closed the public hearing at 7:59. The Commission discussed the Zoning Ordinance allowance of campgrounds and recreational uses in the ATG Zone and criteria for approval of conditional uses. After discussion, the Commission concluded that state statute spells out landowner fencing obligations, and any expansion of the operation that leads to an increase in effluent would require review by SWDH and DEQ. Therefore, Commission concluded there is no need to recommend conditions to address those issues. Al Becker moved to recommend approval of the application as submitted to continue the existing operation of the hot springs pool and RV/tent camping; Julie Burkhardt seconded; passed with none opposed.

At 8:06, Chairman Nau opened the public hearing for Al Duncan's application for a Conditional Use Permit to operate Quail Hollow RV park at 2304 Lappin Lane. Nau asked if any commissioners wished to recuse themselves; there were none. Administrator Green presented the staff report (attached). The parcel is in the Agriculture, Timber and Grazing Zone in the SW1/4SW1/4 Section 26 of Township 17 North Range 1 West. Section 2-2 of the Zoning Ordinance, Part C, Conditional Uses in the Agriculture, Timber and Grazing Zone, includes private parks, playgrounds, and campgrounds and commercial activities provided directly in conjunction therewith. Applicant Al Duncan said he intends to develop Quail Hollow RV park and tent camping on about 8.5 acres at 2304 Lappin Lane approximately 2.5 miles north of Council on Highway 95. Five acres more or less will be used for the RV park. Three acres more or less will remain the owner's residence, where he has an existing home and shop. Currently, the land apart from his home is used as marginal or poor hay ground. Duncan mostly mows that ground to keep down weeds and fire hazard. He believes the business will not necessarily increase traffic in the area, but will attract travelers using Highway 95 and could generate additional business for Council-area retailers. He is in discussion with Idaho Transportation Department about the approach to Highway 95 to and from his property but will not apply for a permit until he knows whether his CUP will be granted. ITD told him the approach permit is feasible, but he would need to relocate the driveway slightly to the north and widen the apron, which he is prepared to do. Duncan plans to complete fencing the perimeter of the property and put up No Trespassing signs to protect his neighbors from encroachment by RV park visitors. He will situate porta-potties throughout the campground, along with dumpsters for solid waste. Jeff Batten with Southwest District Health said there is no need for his approval of the project, as it does not involve sewage disposal except a limited number of porta-potties. However, he recommended the operator test his well water quarterly, as he will be piping water to multiple RV sites. If a water system serves a certain number of users, testing is required to assure the water meets drinking water standards. Chairman Nau invited public comment. Steve Ryals of 2429 Lappin Lane, Council, questioned whether concentrating up to 41 RV campers plus a few tent campers in a 5-acre area meets the definition of "low density, low impact" use prescribed in the ATG Zone. If all spaces are occupied, there could be one hundred or more people on the site at one time. Ryals also said dozens of porta-potties on site would be unsightly, visible from the highway, and suggested the applicant be required to construct a restroom building, perhaps to include hot and cold running water, and provide an RV dump station on site. Ryals noted that dogs of campers could become a nuisance to neighbors and suggested perimeter fencing that would keep dogs from leaving the property. He asked whether the Adams County Sheriff had been informed about the application and if all the appropriate permitting agencies had been notified, including Idaho Department of Transportation for the approach to Highway 95 and Department of Water Resources for the well permit. Ryals questioned where Phase Two would go, as the additional 14 spaces are not reflected on the drawings submitted with the application. He asked what would be done to control dust on the roadways within the campground.

Todd Nelson of 2301 Highway 95, Council, said he has lived across the highway from this site for many years. The shallow soils and lack of irrigation make it very unproductive for agriculture; Nelson felt the RV park would be a better use of the land and would serve a need for hunters and other recreationists. He sees the proposed use as a positive addition to the community. There being no further public comment, Chairman Nau invited the applicant to respond to issues raised. Duncan said there will not be 40 porta-potties on site; he will place 5 to 10 units throughout the campground as a convenience, especially for tent campers, and units won't be visible from the highway. He reiterated his intention to repair or replace boundary fences as needed. Duncan plans to harden the roadways within the project as he proceeds, and he has a water truck that can be used for dust abatement when needed as well as for fire protection. He showed the commissioners where he could add 14 more spaces, if the demand exists. Administrator Green said Sheriff Zollman was notified of the application and had no comment.

Chairman Nau closed the public hearing at 8:34. The Commission discussed the allowance for private parks and campgrounds in the ATG Zone and criteria for approval. Given the location adjacent to Highway 95, the proposed use does not represent a conversion of agricultural land or a conflict with surrounding agricultural uses. Although there was some reservation about the density if built out to the full 41 RV sites, the Commission agreed that the plan as presented is not likely to be injurious to surrounding landowners. Finding the proposed use complies with county ordinance, Julie Burkhardt moved to recommend approval of the application as presented with no conditions; Al Becker seconded; passed with none opposed.

At 8:46, Chairman Nau opened the second public hearing for David & Deana Hockman's application for a Conditional Use Permit to operate Bear Den cabin rental and RV park at 4015 & 4017 Council-Cuprum Road. Nau asked if any commissioners wished to recuse themselves; Joe Warner did so. Administrator Green presented the staff report (attached). The parcel is in the Agriculture, Timber and Grazing Zone Township 20 North Range 3 West, Sections 34 and 35. Section 2-2 of the Zoning Ordinance, Part C. Conditional Uses in the Agriculture, Timber and Grazing Zone, includes private parks, playgrounds, and campgrounds and commercial activities provided directly in conjunction therewith. Applicant David Hockman reiterated his request for a permit to offer short-term rental of cabins and RV spaces at Bear Den. He noted that Jeff Batten, Environmental Health Specialist with Southwest District Health, had visited the property on August 30, 2019 and stipulated limits on the number of overnight guests, based on the capacity of the septic systems. Batten described the existing septic system for the Commission:

- There are three (3) septic tanks and drain fields in place.
- One serves the three-bedroom house or lodge.
- One serves the "tin room" gathering place plus two (2) of the cabins.
- One serves the remaining two (2) cabins.

Based on the seasonal and maximal flow rates designed for each system, Batten recommends limiting the number of occupants of cabins #2 and #3 to no more than eight (8) people at once and limiting the number of occupants staying in cabins #1 and #4 to no more than six (6) people at once. The three-bedroom house/lodge is limited to a maximum of five (5) persons, including the property owners. There is not capacity for any RVs to be connected to the existing septic systems. Hockman stated that the operators would abide by those limits.

Chairman Nau invited public comment. Lynette Maquard of 4019 Council-Cuprum Road said the published legal notice did not mention RV parking. There had been tent camping in the past; would there be tent camping in the future? What bathroom facilities are provided for tent campers? She said over the Labor Day weekend, there were RVs on site and she heard shooting on the property and dogs barking.

Jerry Lee, 4019 Council-Cuprum Road, said the owners have operated a rental business on this property for more than ten years without a conditional use permit. He believes the business is not

needed in Bear and is a detriment to the community, creating a nuisance including trespassing, shooting, and noise. He requested the Commission deny the permit.

Dan McGahey, 4033 Landore Road, said he opposes the application because there is no regulation of the activities on the property, thus there is no way to minimize disturbance to the neighbors. The owners do not have someone on site to enforce the rules.

John Dyer, 3960 Council-Cuprum Road, said guests at Bear Den speed up and down the road on ATVs, raising noise and dust. Shooting on the property poses a risk to livestock in the area. He asked that the application be denied and the denial be enforced this time, unlike the previous permit denial.

Sharon Lee, 4019 Council-Cuprum Road, lives at her property six months of the year and objects to the noise and dust created by Bear Den guests riding ATVs. Due to the remote location, 32 miles from Council, residents rarely call the sheriff's office because they don't think it will do any good. She worries about fire danger posed by Bear Den guests using camp fires, and no owner's representatives are on site to enforce rules.

Chairman Nau asked the applicant if he wished to respond to public comment. Hockman said he was on site over Labor Day and there was no shooting on the property. He has posted 5-10 mph speed limit signs on the property. He is aware that there is a legacy of complaints about the property from the previous ownership, and he and his wife have worked to bring everything up to code and be good neighbors. He believes Bear Den is a complement to the area. He said they have rented it for several years and have not received complaints from the neighbors. There are three (3) RV parking sites.

There being no further public comment, Chairman Nau closed the public hearing at 9:15. Given the late hour and the complexity of this issue, Julie Burkhardt moved to consider this application at the next regular meeting of the Planning & Zoning Commission; Al Becker seconded; passed with none opposed.

5. Upcoming Meetings:

Next regular meeting: Monday, October 28, 2019 at 7:00 p.m.: J.I. Morgan application for Conditional Use Permit to expand an existing rock pit; consider Hockman application and make recommendation to the Board; finalize community survey; and review split guidelines in the Zoning Ordinance.

6. Adjournment

The meeting was adjourned at 9:28 p.m..



Dennis Nau, Chairman

12/9/19

Date

