

MINUTES
LEMHI COUNTY PLANNING AND ZONING COMMISSION
REGULAR MEETING/PUBLIC HEARING
May 26, 2010

MEMBERS PRESENT: Chairman, Roy Barrett, Vinn Strupp, Bret Heaps, Tammy Bailey, Raymond Cockrell, Gina Knudson, Barbara Miller and John Ziegler

STAFF PRESENT: Gary Goodman & Teresa Morton

GUEST PRESENT:

MEETING CALLED TO ORDER:

MINUTES OF PREVIOUS MEETING: No minutes were approved

COMMUNICATION:

Usher/Mavros Decision

The board discusses the Usher/Mavros application for a gold mining operation located in the Gibbonsville area of Lemhi County. Roy starts the discussion by reminding the board of recently approved applications and the special conditions that were set forth in those approvals. He also asks the board to remember the previously approved application presentations and the information that was submitted. Roy believes that it is the responsibility of the applicant to bring to them a clear and well planned application. Gina does not believe that a decent plan of operation was presented as well as the maps were unclear. She believes that the application was incomplete and inadequate. The board discusses discrepancies in the verbal testimony that was presented and the information submitted in the application such as the application being for a gold mining and the applicant stating that they might sell gravel and topsoil, which would be in conflict with ITD's letters concerning the project. Bret feels that if the applicant went and talked to the neighbors and gave them more information they may feel better about the application. The board discusses additional information that they would like to see from the applicant before they come back for another hearing. The board would like to see the applicant address the discrepancies in the code and to reference the staff report for those discrepancies. The board would like a clearer plan of operation and better maps.

Bret Heaps moves and Gina Knudson seconds that the application be denied without prejudice while giving the applicant an opportunity to resubmit additional information without paying another application fee but will be responsible for all other fee. Motion approved unanimously

DECISION FROM THE LEMHI COUNTY PLANNING & ZONING COMMISSION REGARDING:

Sue & Milton Usher's Gold Mining Operation

INTRODUCTION

The application of Sue & Milton Usher who's mailing address is 39 Gibbonsville Road in Gibbonsville, Idaho 83463, for a Gold Mining Operation.

FACTUAL BACKGROUND

- 1. The subject application requests authority to develop a Gold Mining Operation*
- 2. The application for a special use permit pursuant to Ordinance #2009-3.*
- 3. The proper legal requirements for advertisement of the hearing have been fulfilled as required by county code and by laws of the State of Idaho. Advertisements have taken place on the following dates: April 22nd & 29th 2010 Notice was posted on the property on May 10, 2010.*

4. The existing use of the property described in the petition is Ag/Residential

5. That the comprehensive plan designates this area as North Fork/Gibbonsville. And the proposed use will conform to the comprehensive plan.

6. Surrounding property zoning is Ag/Residential

7. Factual information regarding the application is contained in the application documents and staff report which are part of the record in this matter.

8. Written comments were received from:

8.1 **Army Corps of Engineers**- Permit is not required as application was submitted, applicant may need to obtain permit from IDWR

8.1.1 Reviewed development code section 6.4

8.2 **USFS**- Applicant needs to obtain a permanent access through Forest Service Land, agency has only granted temporary access until December 31, 2010.

8.3 **Lemhi County Road & Bridge**- No concerns on the project

8.4 **IDWR**- Application was submitted but is not currently approved

8.4.1 Reviewed development code section Appendix H

8.5 **Idaho Transportation Department**- Does not approve commercial use of the highway for this development.

8.6 **Tom Townsend**- Concerns on impact of river, environment, location, pollution, nuisances, existing road, water rights and hours of operation.

8.6.1- Reviewed development code sections 6.13.2 – 6.13.5, 6.17, 5.18, 6.21.5, 13.4.5, 13.4.2, 13.4.3, 13.4.7, 13.3.5, 6.16

8.7 **William & Barbara Suggs**- Concerns on groundwater, river and location of development.

8.7.1- Reviewed development code sections 6.16, 13.4.5, 13.4.6, 13.3.6

9. Additional information was received at the public hearing.

9.1. Concerns supporting the application were:

9.1.1- **Bruce Barns**- Supports the application, knows applicant will follow are necessary rules and regulations. Supports private property rights and people should be allowed to do what they want with their property as long as they follow the requirements. Does not believe this type of development will affect property values.

9.2. Concerns uncommitted to the application were:

9.2.1- **Joe Proschk**- Owns property near the development, feels this development could work if all the regulations are followed and consideration is given to the neighboring property owners.

9.3. Concerns opposed to the application were:

9.3.1- **Bill Oldham**- Reads a statement submitted by the Idaho Conservation League stating that they would like the Army Corps of Engineers to seek a 401 certification from the Idaho Department of Environmental Quality to determine that placer mining will comply with the Clean Water Act and not degrade the conditions of the North Fork of the Salmon River.

9.3.2-**Tom Townsend**- Would like to correct the letter he originally sent in concerning this proposal, his property is not to the south of the project it is BLM land. Doesn't believe that the information submitted was clear. Concerns on nuisances that the proposal may cause. Would like the board to approve a development that they would be proud of 50 years from now. Suggests the P&Z deny the application or have the application continued and ask the applicant to supply more information.

9.3.2.1- Reviewed development code section 6.13

9.3.3- **Jim Newton**- Concerns on noise and dust proposal may cause. Would like to see compliance of all the rules and regulation before approving plan.

9.3.3.1- Reviewed development code section 6.13.1 & 6.12

10. Applicant rebuts concerns:

- 10.1 **Access**- No new road will be put in, utilizing old road and rebuilding it. A portion of the road can only be built at a certain time as required by NOAH Fisheries.
- 10.2 **Forest Service concern**- Sue and Milton Usher have obtained a temporary permit from the Forest Service and are proceeding with applying for a permanent access.
- 10.3 **Water testing concern**- Representative for applicant states that if the water tests don't pass he will be fined.
- 10.4 **Watershed concern**- Representative for applicant indicates that he has never had a complaint and believes Montana is similar to Idaho regulations.
- 10.5 **Protecting the river concern**- Representative for the applicant indicates that they will construct straw waddles to prevent damage to the river.
- 10.6 **Dust and Noise concern**- Representative for applicant indicates that no more dust will be created than the gravel pit down the road. Noise won't be a problem as they will not be crushing and the equipment will be located 1/3 of the way into the property.
- 10.7 **Property value concern**- Representative for the applicant indicates that the property value should go up if gold is found.
- 10.8 **Camping on the property concern**- Representative for the applicant indicates that they didn't realize there was a regulation against that and will not camp on the property.
- 10.9 **Location of Development concern**- Representative for the applicant indicates that the property will look better once the reclamation is done and that is project is not intended to last a long time.

11. Additional facts made by the Lemhi County Planning & Zoning Commission

None

12. The proposed use is not in conflict with provisions of any adopted ordinance or intent of any county policy or uses within the proposed area.

CONCLUSION

13. The following conclusions have been made by the Lemhi County Planning & Zoning:

13.1- Planning & Zoning felt the application was inadequate and needs clarification

13.2- Code discrepancies were not addressed by applicant

13.3- LESA document was not addressed by the applicant

*Based upon the factual record compiled and upon testimony received at the public hearing conducted to receive such testimony, and after considering the relevant ordinance provisions, the Lemhi County Planning & Zoning determines that the special use permit requested by **Sue & Milton** for the intended use of a **gold mining operation** be denied as presented without prejudice, the applicant may resubmit without paying an additional application fee but will be responsible for all other fees.*

Discussion

The board discusses the ability to allow RV's in Lemhi County to be lived in. Gary explains that recently with the code changes a proposed change was brought up to allow RV's to be lived in and there was negative feedback on it. They did not change the code because the majority of the people attending these meeting and providing feedback did not want to allow this. Vinn is concerned that with almost every application there is always something pending. Gary explains that we instruct the applicants to have all the necessary permits in hand but it is their right to go forward with their application as submitted. It is up to the board to determine if those permits are necessary before approving the application. Gary explains a conversation he had with Jim Herndon at the May 19th meeting and explains what information Mr. Herndon provided to him about allowing applications to be approved without the proper permits being in place first.

Booker's Retreat Decision

Roy addresses the comment that Jim Herndon passed onto Gary about approving applications without all permits being in place. Roy asked Gary to contact the County legal advice on this matter. Gary indicates that he has not gotten a response from Karl other than he thought it was okay to approve with special conditions but Gary doesn't think that Karl was clear on the question submitted. Bruce indicated that you do not approve applications without the proper permits in place. Gary thinks that if you don't sign the decision or sign the development agreement you should be okay until the proper permits will be in place. He thinks that holding the decision until the proof of the permits being issued would be okay. Gary suggests putting in a condition that the approval is only valid once the proper information is provided to the staff and/or P&Z members. The board discusses the historical information of this proposal and the fact it started in 1993 and that John Booker came before the board with a similar project, it was approved for a phased development but Mr. Booker didn't provide the information as required by the P&Z in 1993. The board discusses the discrepancies in the code and the applicant's alternative designs and or comments on those discrepancies. The board accepts the alternative design on the road due to the type of development and the area the development is in. They board discusses the distances between service building discrepancy and believe that due to the area and type of development it would cause a more clustered spacing of campsite and would not be adequate for this type of proposal. They point out that the bathrooms are planned to be placed next to tent spaces and cabins that are not self contained like trailers are. They then discuss the number of plumbing fixtures/showers/bathroom stalls, along with laundry facilities. Barbara is concerned that the occupants of the campgrounds would be more likely to use the shower because there is not a close place to dump their contained units. Tammy explains that in the past she has worked at the Outpost for a steelhead season and they currently have two showers and they were used very little during that time. Vinn is concerned about the septic and well and believes that the applicant needs to design for the maximum number of occupants that can be served at this location. The members talk about the number of people that could be utilizing these bathrooms/showers and how long they will stay. The board questions if someone goes down and pumps. Teresa indicates that PEP's Septic has an advertisement into the office that he goes down and pumps upon request; this was part of Charles Maulems proposal. The board realizes that water is a premium in the area and they are trying to conserve what they can and adding the required items it would utilize an unnecessary amount of water. The board accepts the alternative design as proposed by the applicant. The board then discusses the hydro study being done and shows some concern on the permits not being issued and the study not being done. The board would like a special condition that before the project is in full operation that the applicant provides a permit and/or approval from the necessary agencies. The hydro plant brings up the Forest Service's letter indicating that they need a special use permit before a point of diversion is approved. The board discuss that the applicant stated the hydro plant is not necessary for the operation to run. They also

discuss that the Fish and Game would like to review the hydro study when it becomes available.

A motion to approve the Booker's Retreat application with the special conditions was made by Gina Knudson and seconded by Bret Heaps, approve unanimously.

*DECISION FROM THE LEMHI COUNTY PLANNING & ZONING COMMISSION REGARDING:
Dan & Preston Rufe (Booker's Retreat LLC) For a Private Campground and Future Tourist Retreat
INTRODUCTION*

*The application of Dan & Preston Rufe (Booker's Retreat LLC) who's mailing address is Po Box 204 Carmen, Idaho 83462,
for Private Campground and Future Tourist Retreat located at 2660 Salmon River Rd.*

FACTUAL BACKGROUND

1. *The subject application requests authority to develop a private campground and future tourist retreat*
2. *The application for a special use permit pursuant to Ordinance #2009-3.*
3. *The proper legal requirements for advertisement of the hearing have been fulfilled as required by county code and by laws of the State of Idaho. Advertisements have taken place on the following dates: April 22nd & 29th 2010 Notice was posted on the property on May 10, 2010.*
4. *The existing use of the property described in the petition is Ag/Residential*
5. *That the comprehensive plan designates this area as Salmon River Mountains. And the proposed use will conform to the comprehensive plan.*
6. *Surrounding property zoning is Ag/Residential and Commercial*
7. *Factual information regarding the application is contained in the application documents and staff report which are part of the record in this matter.*
8. *Written comments were received from:*
 - 8.1 *DEQ- Applicant is working with DEQ on a hydro study of Garden Creek*
 - 8.2 *Army Corps of Engineers- Permit is not required as application was submitted*
 - 8.3 *Fish & Game- Would like an opportunity to review septic and hydro system plan when it becomes available.*
 - 8.4 *Lemhi County Weed Control- Applicant has an appropriate weed plan in place.*
 - 8.4.1 *Reviewed development code section 6.13.7*
 - 8.5 *USFS- Applicant will need to obtain a special use permit if they intend to request a point of diversion for proposed hydro plant.*
 - 8.6 *Lemhi County Road & Bridge- Has no concerns*

- 8.7 **EIPH**- Waiting for hydrologic study to determine if a septic permit and potable water can be issued for the proposed shower/restroom. Existing structures do not have a valid sewage disposal for residence or any other use.
8.7.1 Reviewed development code section 6.27

9. Additional information was received at the public hearing.

9.1. Concerns supporting the application were:

9.1.1- **Grant Duncan**- Supports applicant, this type of proposal is needed to help keep people from camping on the roadway during fishing season.

9.1.2- **Vicky Brooks**- Proposal will help people get off the roadway when fishing and proposal will not have an impact on roadway system. Believes that the mudslides will not be an issue at Garden Creek.

9.2. Concerns uncommitted to the application were:

9.2.1- **Jim Herndon**- Has concerns on water quality and sewer, after hearing proposal it sounds like the applicant is taking the necessary precautions. As long as these precautions are taken he has no issues.

9.2.1.1 Reviewed development code section 6.4 and 6.27

9.3. Concerns opposed to the application were:

9.3.1- **None**

10. Applicant rebuts concerns:

10.1 **Fish & Games Concerns**- Indicates that they are working with DEQ and EIPH.

10.2 **Jim Herndon concerns**- Groundwater will be handled by DEQ and EIPH

10.3 **Access road discrepancy**- Not practical for the area, has provided an alternative plan.

10.4 **Service building discrepancy**- Area is spatially challenged and is not practical for the area, applicant does not want to reduce the visual impact of a large cluster of campers.

10.5 **Plumbing fixture discrepancy**- Will be using ultra low fixtures to minimize the amount of water being used as it is a premium. The demand for the required amount of fixtures is lower because of the location and type of development being proposed.

10.6 **USFS Concerns**- Hydro power will not be the primary source of power, generator and backup power can be used if the hydrologic study does not come back favorable. Hydro power is not essential to the development.

11. Additional facts made by the Lemhi County Planning & Zoning Commission

None

12. The proposed use is not in conflict with provisions of any adopted ordinance or intent of any county policy or uses within the proposed area.

CONCLUSION

13. The following conclusions have been made by the Lemhi County Planning & Zoning Commission:

13.1- The proposed main access road alternative design has been accepted

13.2- *The proposed alternative design for the number of service building being available has been accepted due to the amount of ground available and to conserve and protect water resource, and limit the amount of septic requirements.*

13.3- *The alternative design for the water consuming facilities is accepted.*

*Based upon the factual record compiled and upon testimony received at the public hearing conducted to receive such testimony, and after considering the relevant ordinance provisions, the Lemhi County Planning & Zoning determines that the special use permit requested by **Dan & Preston Rufe (Booker's Retreat LLC)** for the intended use of a **private campground and future tourist retreat** be approved with special conditions.*

SPECIAL CONDITIONS

1. *The application is approved on the condition that the applicant provides copies of all of the required permits and/or approvals associated with this application.*
2. *This proposal must meet all federal, state and local codes.*
3. *Permits shall be valid for one year from the date of approval, unless extended by a development agreement.*
4. *Must sign a development agreement with Lemhi County.*

Meeting adjourned

Respectfully Submitted

Teresa L. Morton