

**BOARD OF ADA COUNTY COMMISSIONERS  
MINUTES OF THE PUBLIC HEARING  
WEDNESDAY, AUGUST 14, 2013  
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Megan Basham, Brent Danielson, and Diana Sanders, Development Services; and Ray Chacko, Prosecuting Attorney's Office. Minutes Recorder: Judy Morris.

**I. IN THE MATTER OF CALL TO ORDER:**

Commissioner David L. Case called the meeting to order at 5:59 p.m.

**II. IN THE MATTER OF ROLL CALL:**

Commissioners David L. Case and Rick Yzaguirre were present.

**III. IN THE MATTER OF CHANGES TO THE AGENDA:**

There were no changes to the agenda.

**IV. IN THE MATTER OF NEW BUSINESS:**

- 1. 201300887-SEW: BOISE PUBLIC WORKS:** The City of Boise is seeking the Board of Ada County Commissioners' approval for a proposed sanitary sewer extension project located at 11500 West Hidden Valley Road; Section 03, T 2N, R 1E

D. Case opened the public hearing.

M. Basham presented the Staff report.

Jim Pardy of the city of Boise stated his name and address for the record and presented testimony explaining the proposed project. He explained the city desired to put the necessary infrastructure in place prior to ACHD's paving project in that area. He said only three property owners were affected by the extension, and one individual has already requested to hook-up and has paid the appropriate fees.

D. Case closed the public hearing.

**ACTION: R. YZAGUIRRE MOVED TO APPROVE APPLICATION NO. 201300887-SEW: BOISE PUBLIC WORKS, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

- 2. 201201482-CPA-ZC-ZOA: ADA COUNTY:** A petition for a Comprehensive Plan Map and Text Amendment and application for a Zoning Ordinance Map and Text Amendment resulting from the State of Idaho Joint Land Use Study (JLUS). The proposed comprehensive plan and zoning ordinance amendments aspire to address issues associated with development near areas of military influence.

D. Case opened the public hearing.

B. Danielson entered Exhibit No. 66, email correspondence from the Rita Family, into the record and presented the Staff report via Power Point. He summarized that the overlay district would provide for notification areas to ensure the Idaho National Guard officials are made aware of Land Use Applications within the overlay district, allowing the military to be involved in the process to mitigate any possible issues. He stated that having regulations and standards for new development within the overlay district would ensure compatibility with military activity and promote public health, safety and welfare. He addressed questions raised during the transmittal period and prior public hearings with the Planning and Zoning Commission. He said this is not an easement. He advised that the County is not delegating its authority to make land use decisions to the military. He also noted that the overlay district is not restricting any land uses that are currently allowed.

Colonel Tom Rasmussen of the Army National Guard (ANG) stated his name and address for the record. He explained that the Comprehensive Plan Map and related ordinance amendments are the result of the Idaho Joint Land Use Study conducted over the past several years. He said the proposed Ordinance would formalize and codify the processes and agreements the ANG has been working under for some time. He expressed concern for potential conflicts with training activities occurring at the Orchard Combat Training Center located in the Southeast corner of Ada County and proposed developments in the same area. He affirmed the testimony presented by B. Danielson.

Scott Simplot stated his name and address for the record and presented testimony opposing an overlay zone. He said he believed the findings regarding the possible impacts are speculative and would be very minor. He stated he believed the main issue may be dust, and suggested the County consider establishing a plan for property owners to mitigate a mutually satisfactory solution directly with ANG should an issue arise. He submitted a letter for consideration and it was entered into the record as Exhibit No. 67.

Jerry Smith stated his name and address for the record. He inquired if there are currently standards or guidelines established for mitigating possible noise or dust issues. B. Danielson responded that the developers would be encouraged to work directly with ANG to mitigate issues and make property owners aware of possible problems. J. Smith argued that without written guidelines being created prior to the passage of the proposed ordinance, developers would be put at a disadvantage. He said that if the ANG training center is reduced or disbanded, there would be an ineffective ordinance in place that would hinder development in the overlay area. He suggested that any considerations be mitigated in a development agreement rather than creating an ordinance to establish an overlay district.

Mike Vuittonet stated his name and address for the record and presented testimony opposing the proposed overlay. He stated the overlay would negatively affect property rights and limit the future development opportunities in the area.

Steve Swanson stated his name and address for the record and presented testimony supporting the overlay. He said he believed the overlay is consistent with the JLUS study and he endorsed the document.

R. Yzaguirre requested T. Rasmussen respond to some of the testimony presented.

T. Rasmussen re-approached the podium. He reiterated that the purpose of the overlay is to allow ANG an opportunity to mitigate potential issues with proposed development plans early in the process. He provided examples of projects that ANG has successfully coordinated with developers to address traffic and other issues.

D. Case closed the public hearing.

R. Yzaguirre stated that the study has taken several years. He believes that the findings will protect the area and does not believe that the rights of the property owner will be encroached upon.

D. Case said that he believed the purpose of the proposed amendments was mainly to open communication and to allow ANG an opportunity to work with a developer to mitigate any potential issues. He also reiterated that the County would retain authority over land use in the area.

**ACTION: R. YZAGUIRRE MOVED TO APPROVE APPLICATION NO. 201201482-CPA-ZC-ZOA: ADA COUNTY, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT AND THE RECOMMENDATIONS OF STAFF AND THE PLANNING AND ZONING COMMISSION. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

3. **201000223-CU-MSP-TE: CALVARY CHAPEL:** The applicant is requesting a second Time Extension for an additional two years to complete the conditions of

approval for project #201000223-CU-MSP. A conditional use, master site plan was approved for a 9,500 sq. ft. church, amphitheater, community garden, modular office and/or classrooms, construction trailer, and a temporary tent structure for Calvary Chapel Church. The temporary tent structure was proposed to be in place for approximately one year as the main structure for the church was being built. The parcel number is S1404212435 and the property contains 14.87 acres. The property is located at 3727 East Lake Hazel Road; Section 04, T 2N, R 1E

D. Case opened the public hearing.

D. Sanders entered Exhibit No. 8, the Sign Posting Certification, into the record and presented the Staff report. She noted that there is an ongoing Code enforcement issue on the property and Applicant has been notified of such violations several times. She said violations include an RV being used as a residence; modular buildings on the property without building permits; and there is an accumulation of junk in storage containers on the site. She explained that an extension cannot be granted while violations exist.

Applicant, Daryl Zachman, stated his name and address for the record and presented testimony responding to the alleged Code violations. He advised the Board that the only Code violation he was aware of was his living in the RV on the property. He explained that he is living in the RV to manage the property while the church is being constructed. He said the modular buildings referenced in the Staff report were donated and are not currently being used. He explained the original Conditional Use Permit was modified on August 29, 2011, to incorporate the modular units into their first phase. He stated the fire officials will not authorize putting them on a permanent foundation at this time as they do not have water or sewer on their property. He said the storage containers on the property were being used to manage the property and were not accumulating junk. He said the tent with furniture was used as a temporary meeting place for youth during the summer months and would be removed by November.

D. Case inquired how he was living on the property without sewer or water. He explained that he received water from a house in the area. He said the sewer is being pumped by a company as needed. D. Case inquired how many notices he received regarding the Code violations. He responded he believed he received three calls from Code Enforcement and argued that he did not believe the statute addressed living in an RV. He said he researched the violations, but was unable to locate any code that says an RV cannot be used as a residence.

Justin Zachman, Youth Leader of Calvary Chapel, stated his name and address for the record and presented testimony supporting the extension.

Cindy Wallace stated her name and address for the record and presented testimony supporting the extension. She advised the Board that Applicant has been approached by a developer interested in acquiring a portion of the land by providing a sewer and water connection to Applicant's remaining property. She said the expense of obtaining a sewer and water connection has delayed the construction of the church.

Ward Schwider stated his name and address for the record. He affirmed the testimony of C. Wallace regarding the possible sale or trade of certain property to pay for the sewer and water lines.

Justin Griffin stated his name and address for the record and presented testimony supporting the extension. He explained that he is the neighbor directly adjacent to Applicant's property. He said he is purchasing additional property in the area and is working with other landowners to hook up to sewer and water and bring the lines across to the church.

D. Case inquired what J. Griffin thought would be the timing of extending the water and sewer lines. J. Griffin stated he hopes to have the lines within a year.

Curtis Olachea stated his name and address for the record. He stated he was a member of Calvary Chapel and part of the planning committee to build the church. He reiterated the testimony already provided.

D. Case closed the public hearing.

R. Yzaguirre confirmed the original Conditional Use was approved on June 10, 2010, receiving one administrative time extension. He recited the complaints and Code violations of Applicant from the Staff report, and Applicant's apparent non-response to correcting the issues. He expressed his concerns with granting a time extension in light of the continued violations and inaction of Applicant. He suggested Applicant clean up the property and work with a developer to submit a new application creating timelines that can be attained.

D. Case concurred with R. Yzaguirre's statements and explained that he believed it would not be in the County's best interest to grant the extension. He encouraged Applicant to reevaluate the project and submit a new application when they were financially ready to proceed.

**ACTION: R. YZAGUIRRE MOVED TO DENY APPLICATION NO. 201000223-CU-MSP-TE: CALVARY CHAPEL, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

4. **201300424-V: FRED PIERCE:** The applicant is requesting a variance from the 50' front setback for a proposed garage. Columbia Road is classified as a Minor Arterial Road and a section line road. The property contains five acres and is located at 5602 West Columbia Road; Section 04, T 2N, R 1W.

D. Case opened the public hearing.

D. Sanders entered Exhibit No. 9, the Sign Posting Certification, into the record and presented the Staff report. She explained that the existing residence was constructed in 1973 and zoned D1, requiring a minimum front yard set-back of 30 feet. In 1999 the zone changed to RR requiring a minimum set-back of 50 feet from an arterial or collector road for parcels or lots 2.5 acres or greater.

Applicant, Fred Pierce, stated his name and address for the record. He explained that he has lived in his current residence for over 40 years and had always intended to build an attached garage. He was unaware of ACHD's set back requirements and explained his desire to obtain the Board's authorization to proceed with his garage.

D. Case closed the public hearing.

The Board discussed their inclination to grant the variance. R. Yzaguirre stated that there were three criteria to look at: 1) did it grant a special privilege; 2) did it cause an undue hardship; and 3) was it detrimental to the public. He said he didn't believe the variance met any of these conditions.

**ACTION: R. YZAGUIRRE MOVED TO APPROVE APPLICATION NO. 201300424-V: FRED PIERCE BASED ON THE TESTIMONY, AND TABLE IT TO THE AUGUST 27, 2013, DEVELOPMENT SERVICES MEETING FOR REVISED FINDINGS OF FACT AND CONCLUSIONS OF LAW. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

5. **200600050-AC-TP-TE: IDAHO CONCRETE COMPANY:** A Board Level Time Extension for the operation of a 5.7 acre gravel extraction pit. The property contains 88.160 acres and is located at 280 North Plummer Road & 9374 West State Street; Section 9, T 4N, R 1W.

B. Danielson presented the Staff report. He advised the Board that if they granted the time extension, it could be extended to July 13, 2015. He entered Exhibit Nos. 22, the Sign Posting Certification, 23, a letter from Dani Hardy; and 24, a letter from Judi Williams. He stated the letters from D. Hardy and J. Williams requested the hours of operation be restricted to 8:00 a.m. to 5:00 p.m. Monday through Friday. He noted

the current permit limits the hours of operation from 7:00 a.m. to dusk or 6:00 p.m., whichever is earlier.

D. Case requested B. Danielson indicate on the map where D. Hardi and J. Williams live in relation to the gravel pit.

Applicant, Joe Moyle, stated his name and address for the record. He presented testimony explaining their extension was to allow them an opportunity to complete their project. He stated that the delay was due to the downturn in the economy. He said they are respectful of the noise and generally operate between the hours of 7:00 a.m. to 5:00 p.m.

D. Case opened the public hearing and acknowledged the previous testimony.

D. Case closed the public hearing.

**ACTION: R. YZAGUIRRE MOVED TO APPROVE THE TIME EXTENSION FOR APPLICATION NO. 200600050-AC-TP-TE: IDAHO CONCRETE COMPANY, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

- 6. 201300476-A: KNIFE RIVER:** An appeal of Condition of Approval #11 for Project #201300476 CU-MSP, which limits the hours of operation for the gravel pit with a rock crusher, asphalt hot plant, and concrete batch plant to just daylight hours (dawn to dusk). The property contains 80 acres and is located at West Amyx Lane, east of South Pleasant Valley Road; Section 21, T 2N, R 2E.

D. Case opened the public hearing.

B. Danielson presented the Staff report and entered Exhibit No. 16, the Sign Posting Certification, into the record. He explained that Applicant desired to utilize the pit for nighttime operations. He recommended that if the Board desired to grant the removal of Condition No. 11, that a new condition be added. He advised that adding Condition No. 2D would ensure the gravel pit complies with Article 8-4E, and would require Applicant to submit a lighting plan for nighttime operation. He stated that Applicant has submitted the requested plan.

R. Yzaguirre requested B. Danielson show the site plan for the gravel pit. He then inquired what hours Applicant desired to operate. B. Danielson suggested the Board direct that question to Applicant.

Daren Fluke stated his name and address for the record and advised that he was representing Applicant. He explained that they have approximately four to six projects a year in which nighttime grinding would be required to coincide with paving projects occurring after dark to ease impact on the traveling public. He said those contracts generally run four to eight weeks.

R. Yzaguirre inquired as to the life of the Conditional Use Permit (CUP). D. Fluke explained that the CUP expires in 20 years. He stated he believed Applicant anticipated being done within the 20-year period.

D. Case closed the public hearing.

**ACTION: R. YZAGUIRRE MOVED TO APPROVE THE REMOVAL OF CONDITION NO. 11 FROM THE PROJECT PLAN FOR APPLICATION NO. 201300476-A: KNIFE RIVER, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT.**

**DISCUSSION: D. CASE INQUIRED IF THE MOTION NEEDED TO INCLUDE THE ADDITION OF A NEW CONDITION. B. DANIELSON ADVISED THAT**

**CONDITION NO. 2D NEEDED TO BE ADDED TO REQUIRE A LIGHTING PLAN FOR NIGHTTIME OPERATION.**

**ACTION: R. YZAGUIRRE AMENDED HIS MOTION TO ADD CONDITION 2D TO THE PROJECT PLAN. D. CASE SECONDED. R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED.**

**V. IN THE MATTER OF ADJOURNMENT:**

There being no further business to come before the Board on this date, the meeting was adjourned at 7:45 p.m.

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David L. Case, Chairman

ATTEST:

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Christopher D. Rich, Ada County Clerk