



REGULAR MEETING OF THE  
BOISE COUNTY PLANNING & ZONING COMMISSION

August 16, 2012  
Centerville Fire Station  
115 Grimes Pass Road  
Idaho City, Idaho 83622

ORIGINAL

**Commissioners:** Present were: Commissioner Clint Evans, Commissioner Jack Kane, Commissioner Rosemary P. Ardinger, Commissioner Lois Murphy, Commissioner Jon Bart and Commissioner Dan Gasiorowski.

**Staff Present:** Planning & Zoning Interim Administrator Rora A. Canody, Administrative Assistant Nola Yonker, Deputy Administrative Assistant Mindy Dorau, Assistant Mike Williams and Attorney of Record Cheresse McLain.

**Roll Call** was taken and all six members were present. Chairman Clint Evans declared a quorum was present and called the meeting to order at 6:35 p.m.

**Administrative Appeal on Severance Sand & Gravel Conditional Use Permit:**

Chairman Evans stated for the record that none of the sitting P&Z Commission members were on the P&Z Commission back in 2004 when the original Severance Sand & Gravel Conditional Use Permit was approved. Chairman Evans explained the procedure for this hearing: the staff report will be given, a representative of the citizen's group will be given 15 minutes to make a presentation, a representative for the Severance's will be given 15 minutes to make a presentation, public testimony will be taken and were asked to keep their comments to the appeal being heard-they will be given 3 minutes to speak, and a 5 minute rebuttal time will be given to the citizen's group and the Severances. The public hearing will then be closed and the P&Z Commission will deliberate the facts and make a decision.

Planning & Zoning Interim Administrator Rora A. Canody appeared before the Commission on the matter of the Administrative appeal on Severance Sand & Gravel CUP and stated that the entire Planning and Zoning Department file was being entered into the record at this time; and proceeded to give her staff report regarding the Appeal of Administrative Actions taken on the following conditions of the original CUP:

- a. Condition #6 which states, *"Approval of this CUP is limited to gravel pit extraction, crushing, storage and sale. Other collateral, associated or ancillary uses must be approved by the Planning and Zoning Department and are subject to appeal to the Board of County Commissioners."*
- b. Condition #8 which states, *"Noise generated from the site shall be limited to 60 db at all property lines of the subject property."*
- c. Condition #9, which states, *"No gravel mining shall impact the integrity of the bluff that screens the subject property from the Lowman Banks Highway and the Payette River; and, the parked machinery and equipment."*

P&Z Acting/Interim Administrator Canody read her final analysis/conclusions:

- a) Regarding Condition #6, Approval of this CUP is limited to gravel pit extraction, crushing, storage and sale. Other collateral, associated or ancillary uses must be

approved by the Planning and Zoning Department and are subject to appeal to the Board of County Commissioners.

- i Since 2004, there have been three (3) different P&Z Administrators and there are no notes in the CUP file from any of them stating the selling of top soil was not permitted under the 2004 CUP by the P&Z Department.
  - ii Documentation was received from Severance's attorney that Severance has been selling top soil from Severance Sand & Gravel since it was first approved in 2004.
  - iii Acting P&Z Administrator Canody's determination is that the selling of top soil was approved at some point by a former P&Z Administrator but not documented in the file; and therefore, the Severance's have not violated Condition #6.
- b) Regarding Condition #8, Noise generated from the site shall be limited to 60 db at all property lines of the subject property.
- i. On June 12, 2012, the Severance's were not in violation of this condition. This determination is based on the P&Z staff's visit to the Severance property, adjoining State property and Mills Mountain Road on that date and the decibel readings that were taken on that date.
- c) Regarding Condition #9, No gravel mining shall impact the integrity of the bluff that screens the subject property from the Lowman Banks Highway and the Payette River. (dirt piles and the parked machinery and equipment)
- i. Acting P&Z Administrator Canody determined from the site visit and photos taken on May 12, 2012 that the piles of dirt above the bluff would be used in their Reclamation of the property and did not violate this condition.
  - ii. Acting P&Z Administrator Canody met with Severance to discuss reducing the two end piles of dirt to make them more uniform; and therefore, more in line with the horizon and it does not jeopardize the view from the Banks-Lowman Road.

Chairman Evans called upon the Citizen's Group for speakers: Ken Patterson, Chris Parker and Mary Wilson appeared before the Commission and gave testimony against the Administrator's Decision on the Severance CUP.

Chairman Evans called upon the Severances for a speaker: Richard Andrus, Attorney at Law, appeared on behalf of the Severances and gave testimony to support the Administrator's Decision on the Severance CUP.

After a short recess, Chairman Evans called upon the public for testimony; stating fourteen (14) citizens had signed in to Support the Appeal, thirty (30) citizens had signed in opposed to the Appeal, and five (5) citizens were neutral.

Those who spoke in support of the Appeal were: Peter Wilson, Mary Wilson, Marla Patterson, Georgianna Goetsch; and Ron Richter.

Those who spoke in opposition to the Appeal were: Nick Seubert, Valley Paving, and Cari Severance.

Chairman Evans requested rebuttal testimony: Peter Wilson, Ken Patterson and Georgianna Goetsch gave rebuttal testimony for those in Support of the Appeal. Richard Andrus, Attorney at Law, gave rebuttal testimony for those in Opposition of the Appeal.

Chairman Evans asked the Commission if there were any other questions before he closed the public hearing. The Commission asked a few questions; and asked advice from Attorney McLain. Both the Supporters and Opposers of the Appeal agreed they would be open to mediation of the issues that are before the Commission at this time.

Chairman Evans closed the public hearing and requested the record reflect the following; that Boise County P&Z Acting/Interim Administrator Canody is the 4<sup>th</sup> P&Z Administrator since he became a member of the Commission; that the Appeal Record is complete and detailed, he objects to the derogatory statements made towards the P&Z Staff; and the P&Z Department is running with very little resources. Chairman Evans continued that he felt P&Z Interim Administrator Canody did what she could do with the resources available, suggested the Commission deny the Appeal and if the parties so choose they can appeal the Commission decision to the Board of County Commissioners.

Commissioners Ardinger stated she supports Chairman Evans' comments. Commissioner Bart stated he also was in favor of denial; however, he would like to see the parties enter into mediation to resolve the issues, if possible. Commissioner Kane stated he too would support denial and having the parties work together to resolve the issues. Commissioner Murphy stated she felt complaints should be made in writing and that the process should provide for any applicant to get along with the neighbors. Commissioner Gasiorowski agreed that P&Z Staff had performed as best as they could and would support a denial of the Appeal. Commissioner Bart stated that maybe new amended conditions for the Severance CUP could be brought to the Commission for review.

Chairman Evans asked for any further deliberation; hearing none he asked for a motion. Commissioner Ardinger moved that the P&Z Commission Deny the Appeal of the Administrator's Decision on the Severance Conditional Use Permit violations based on: 1) The Planning and Zoning Acting Administrator conducted a thorough investigation of alleged violations of the Severance Sand and Gravel Conditional Use Permit; and 2) The Planning and Zoning Acting Administrator reasonably relied on the information compiled by her and Planning and Zoning Department staff to determine a finding of no violation for Conditions 6, 8, or 9; seconded by Commissioner Gasiorowski.

Roll Call vote:

Commissioner Evans	Aye	Commissioner Ardinger	Aye
Commissioner Kane	Aye	Commissioner Murphy	Aye
Commissioner Bart	Aye	Commissioner Gasiorowski	Aye

Motion carried.

Chairman Evans stated the issue, under Boise County Zoning and Development Ordinance #2001-07, Chapter 10-3, may be appealed to the Board of County Commissioners within twenty-one days of the written decision by the Commission.

Ian Gee stated to the Commission that he would be willing to act as a mediator and would not give legal advice to either party. The Commission agreed that mediation was a good plan.

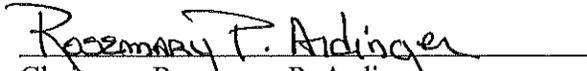
**General Discussion:**

Chairman Evans asked if any member had any general discussion issue. Commissioner Murphy informed the Commission of her intent to resign from the Commission as of September 19, 2012, due to personal reasons. The Commission expressed their regrets, thanked her for her service and state she would be missed.

Commissioner Kane stated to the Commission that he had felt the P&Z Commission had been a well balanced commission and had enjoyed working with all of the members; however, he tendered his resignation, effective September 19, 2012, in protest of the Board of County Commissioners' appointment of Jayne Reed to the P&Z Commission. The Commission expressed their regrets.

Having no further business, Chairman Evans adjourned the meeting at 8:40 p.m.

Approved by the Commission this 17<sup>th</sup> day of Jan. 2013, ~~October, 2012.~~

  
Chairman Rosemary P. Ardinger

Attest:

  
Rora A. Canody, Planning & Zoning Interim Administrator