

Latah County Planning Commission
Minutes, 5 April 2005

Planning Commission [PC] Members: John Hunt [JDH], Suvia Judd [SJ], Kathleen Warnick [KW], James Smith [JS], Janet Hohle [JH], Louise Barber [LB].
Planning Director, Michelle Fuson [MF]

Present/Absent: SJ, KW, JH, JS, LB present; JDH absent. Staff: MF. Public present.

Packet: Agenda; 3/15/05 minutes (now on the PD website)

Handouts: Materials from Murray Stanton and Sarah Skaar

Meeting. Minutes of 3/15/05 accepted. Sarah Skaar, Latah County Cattlemen's Association president, presented: her handout contained recommended changes in wording for several definitions; specifically, she indicated that there are problems with using 7.5 minute maps for intermittent streams (especially), with no real solution to this problem at this point in time; updated maps and digitization will occur in future; she suggests that impacts, not user groups, be used as basis for definitions.

Jeff Harkins, representing the Latah County Rural Alliance, will forward a written copy of testimony; Article 1 needs clarification; objectives needed throughout (the state code list should be reinserted); the fee schedule should be included and proposed expenditures of those fees available in 1.02.06; a schedule for enforcement fines should be provided (certainly \$300 would not be imposed for improper use of a 75-watt light bulb?) (1/02.07) [MF later explained that the fees are unchanged from the existing ordinance, and that she would have that posted on the website]; the state standards for the membership of planning commissions should be provided in 1/02.08 (if there had been representation from diverse sectors of the county's economy, perhaps some of PC's problems could have been avoided [CC have tried repeatedly to garner representation with broadened perspective]; perhaps county should require broader representation?); sections 1.02.16-18 (Land Use Board of Appeals) should be legally vetted, since no one wants unenforceable regulations [this has been vetted several times by Prosecuting Attorney].

Murray Stanton, also representing the Latah County Rural Alliance: Why did the PC not use other existing sources for definitions? An analysis of budgetary consequences (Harkins' point) would be very useful. Stanton (speaking for himself only): less, but targeted, regulation better than more, but broad, regulation. When PC asks for Prosecuting Attorney's opinion, are we asking for answers to whether something specific is enforceable or whether regulation is advisable (since enforceability is such an issue in the county)? There are two types of definitions: 1) for the purposes of identification; and 2) ones that are legally operative; the latter should always be vetted (i.e., "is it practically a good idea?" and "will it address a need?"); don't regulate for the sake of regulation. Ms. Skaar provided specific suggestions for definitions, but there are problems with definitions (e.g., "park," "primary residence"; Stanton indicated that specific suggestions for language would be forthcoming when specific discussions are held.

Sheriff's officer Wilson: who enforces what? MF: PD enforces land uses as contained in the existing land use ordinance, county law enforcement and state beyond that (e.g., mistreatment of animals, trespassing, etc., are sheriff's responsibility);

Gary Jones, attorney for Clearwater Power Company, was “finally” responding to our “summons” to get information; a letter from the company will be forthcoming; definition re. “transmission” needs clarification; to CPC, it means transmitting electricity, whereas in the draft ordinance, we are referring to “wireless transmission”; additionally, do we mean to suggest that every power pole/structure needs a CU for installation? They need to know our intention, and then will respond; he promises to be in attendance May 17 for light pollution discussion.

John Goggin: “gun club” definition needs clarification.

Murray Stanton: gathering(s) of people should be clarified: “200 persons or more at one time” should be the operative language.

Mark Moorer?: does our definition of “commercial” include bartering? What do we intend with any definition of “commercial?” What about fruit stands? Yard sales?

Audience member: number of animals a problem; is one milked cow a dairy? Questions of primary income and personal use (feeding pigs) vs. selling? State and federal laws exist re. raw milk, etc. JH reminded audience that our intent was to limit CAFOs; Ms. Skaar informed PC that an actual dairy would have to have a license and a milk shipper’s permit to operate; shouldn’t the ordinance be tied to those regulations? SJ: the definitions relate to particular applications and refer back to specific sections of the draft. JH: these required licenses may help PC solve some ordinance problems.

Audience member: was anyone aware that very soon the DEA? will bar-code all poultry and meat, etc., for location [of origin?] and that if federal standards are not met, the product could not be sold to public. Wouldn’t this make county regulation moot?

Mark Moorer: definition problems with landing strip, airplane, helicopter, ultralights? Implications for fire fighting considered? “Manufacturing” regarding Industrial Zone only? Does this include wood cutting? MF: yes.

Murray Stanton: audience’s job is not to come up with language, but to make suggestions as to the problem areas; however, he suggests that the approach be “for the purposes of this ordinance, a commercial dairy is X. . . .” MF: PC should actually get rid of the definition for “commercial” because it refers to the Commercial Zone. Definitions should relate to the section they apply to.

Mark Moorer: does “tower” mean “flagpole?” MF: this language came directly from the existing ordinance, and we will need to revisit this. PC’s “tower” was a direct reference to wireless telecommunications section, which has a definition section included. PC: decided to remove tower from definitions section.

Murray Stanton: “public right of way” a huge problem because so many exist in county; in the junk ordinance, our definition could become a nightmare. Problems with legal technicalities. MF: it is the case that, because “junk” is complaint driven, if PD could see it from a public right of way, they would have to enforce it.

Mark Moorer: “Church?” What about a home where Friends meet? a problem of abridging freedom of religion? MF: doesn’t know why draft changed churches from permitted uses in any zone; perhaps because of parking, etc.

Audience: “grandfathering”; MF: 4.01 (non-conforming use); established use could continue, but if expansion were desired, a CU would be required. In 2000 the state amended the code, and a ten-year lawful or unlawful intervening use _____(? *needed input from MF*)

Murray Stanton: a problem exists with the definition of non-conforming use and the non-conforming section of the ordinance.

Other assorted problems: “slaughter house” (the cleaning of an elk in a garage? Perhaps use “a building that is specifically intended, configured, equipped for); if a house were sited after “junk” existed, a complaint could be launched; junk and non-conforming use (Prosecuting Attorney’s ruling that if the use of the property was for junk, it was a non-conforming use; but if the primary use of the property were residential, then junk is not a legitimate non-conforming use). Question again of whether the PC is attempting to dismantle the agricultural emphasis/culture of the county (comprehensive plan).

Next meeting will be on Article 3 (contained animals and affected persons). Audience asked to please continue to submit problems with definitions, but that PC would not interrupt its announced schedule of meetings; perhaps best to postpone definitions section until after the ordinances complete.

JH reported on Emergency Groundwater Overlay Zone/moratorium: task force is looking at all land uses and their affect on ground water (for instance, an obvious one of not allowing the storage of toxic or nuclear materials); to produce an ordinance is the purpose for the task force, and the overlay zone with have more restrictive permitting; if no action in 180 days, existing ordinance stays in effect; public is invited to Monday, 5:30 meetings. There will be at least two public hearings on this matter (one by the PC and one by the CC).

Next Meeting: 19 April 2005 at 5:30pm in the Latah County Courthouse, Room 2B.

Submitted by Louise D. Barber, 6 April 2005