Jefferson County

Planning and Zoning Public Hearing

June 24, 2021 6:00 PM

Planning and Zoning Commission Present: Michael Clark, Ryan Ashcraft, Heath Lewis, Lane Steel, and Adam Hall.

Staff Present: Mark Taylor – Prosecuting Attorney
Kevin Hathaway – Planning and Zoning Administrator
Erik Stout – Assistant Planner
Samantha Farr – Administrative Assistant
Vernon Ulrich – Permit Technician

6:04:15 PM Commissioner Clark opened the meeting. Taylor led the Pledge of Allegiance. The staff was introduced.

6:05:58 PM The vote to accept the minutes and written decisions from June 4, 2021 will be go forward at the July 1, 2021 hearing. No ex parte communications disclosed. Commissioner Clark read the proceedings of the public hearing.

6:09:18 PM Public Hearing No.1 Preliminary Plat / J & L Holdings LLC / Saddle Hill Division No. 1 / Located approximately at 353 N 3800 E, Rigby, Jefferson County, Idaho / To propose a 100 lot subdivision.

6:09:38 PM The Staff report was read by Assistant Planner Erik Stout.

6:10:42 PM Presenting: Jim Bernard representing J & L Holdings (337 N 4500 E) – The Saddle Hill Subdivision sits right outside the town there. We think it meets all the requirements of new ordinances. An NP study is currently in progress. We talked to the county, they would like us to put a turn lane in there. It has 4 different exits out, which should help a lot with different traffic problems. It goes out from 3700 and 3800 and it will go down into the existing Woodhaven. It will come with a fully landscaped park like Autumn Heights. It’s going to have narrower frontage for sidewalks so it’s a nice subdivision near the city and keep the traffic off the roads. There will be well for the water in the park. We’re working on acquiring underground water rights. I’ll try to make the pump big enough to assist on fire protection.

6:12:39 PM Lewis – It says 100 lots and only 99 buildable? Bernard – One is the park. It’s 2.25 acres.
6:12:56 PM  Clark — Pressurized water? Irrigation on it? What provision on it for water? Bernard — Irrigation will be private wells and there will be a private septic. There will be a deal in there that they can’t water more than ½ acre off that. Clark — I’m trying to remember issues on transferring surface water rights on subdivisions and pressurized water with existing surface water rights; anything come with that? Bernard — As far as trying to use the existing? Is that what you’re wondering? Clark — I was wondering if there’s any provisions to provide that water. Bernard — It’s currently all flood irrigated, so there’s no functional reason with that water supply. We will try to trade some surface water rights for irrigation rights for underground stuff, we’ll see what happens with that. If we can’t trade, we’ll just have to buy, and that’s not easy.

6:14:12 PM  Hall asked about the 4 exits. Bernard indicated where they are on the plat. One goes to 3700 E, one to 3800 E, one into Woodhaven, and one goes north into currently unplatted ground. Bernard stated that the owners to the north were in the process of designing something there.

6:14:51 PM  Hall — Which one is the park? Bernard indicated and said that’s where the community mailbox would be.

6:15:18 PM  Ashcraft — You mentioned something with Road and Bridge, that you had agreed to do turnarounds or something? Bernard — Turn lanes off of 3700 and 3800 so cars could decelerate to approach. Ashcraft — And you said something about sidewalks and making it narrow because it is close to the city? Bernard — We made the 1 acre lots narrower to make the sidewalk more affordable and keep the look more like the city. Everyone will be able to access the park off the sidewalk. I think it gives it a lot better feel.

6:15:58 PM  Hall — All are 1 acre or more? Bernard — Yes.

6:16:11 PM  Lewis — How close is this to the city impact area? Bernard said it was just across the street.

6:16:23 PM  Hall — Does the city have intentions to put utilities down 3800? Bernard — I haven’t seen the city put utilities anywhere. They want someone else to do it, so no.

6:16:39 PM  Clark — Any considerations of working with the city to put utilities in that area? Bernard — It’s not really a consideration. I don’t want to see four houses per acres. It’s more of a country feel. Its nicer homes that I’m shooting for there. I could probably make more money going through the city, but I really prefer to stay larger lots. As a developer, if I’m forced to go to the city with streetlights, curb and gutter, etc., I’m going to go to the most lots that I can. And I see those in the city right now. It’s really small. This will be a nicer subdivision and create kind of a buffer between the high-density city and the rural area.

6:17:34 PM  Ashcraft — This is surface water currently? Does that involve a canal company? Bernard — Yeah there are water rights off the canal company. Ashcraft — Is there going to be any complications with the canal company? Bernard — Not if I leave the water in the ditch and let them use it for transport.

6:18:15 PM  Bernard indicated on the map where the canal is.

6:19:18 PM  Public Testimony Portion Opened:

2021-2
In favor: Ryan Loftus (10727 N Yellowstone Hwy, Idaho Falls) – I’m Jim’s engineer any technical questions you may have on the water or sewer. I’m not the surveyor. Clark – Did you look at traffic, is there any indication on what the traffic would look like on that? Loftus – It will be similar to Woodhaven. Woodhaven has 79 similarly sized lots, 1 acre. This will have 99 homes, so it will be similar. I don’t think you’ll see an increase traffic. With the school and traffic light, both intersections have left turn lanes. At 3800 E 300 N, there are four lanes there. I expect most traffic will come off 300 and hit both 3800 and 3700 equally. I think it will be spread out enough. They can drive through Woodhaven if they need to.

6:21:36 PM Clark – Is there any requirement for specific placement for well and septic and is it noted.
Loftus – They would be placed so there’s not a conflict between well and septic. With 1 acre lots, there’s plenty of separation. That’s not usually on the plat, usually it’s a separate document. The developer’s done this in the past and has great success keeping wells on one side and septic on the other. These lots are 150’ wide, so there’s enough room for 100’ of separation. Clark – You mentioned that document, is that usually referenced in the plat? Loftus – It’s not normally on the plat, but it can be recorded separately alongside it. That’s what we’ve done in other subdivisions.

6:23:01 PM Stout read a letter from Central Fire.

6:23:56 PM Neutral: None

6:24:03 PM Speaking in Opposition: Stout read in a letter of opposition.

6:26:53 PM Rebuttal: Jim Bernard – To touch on the ditch issue. I believe Steve Tanner maintains the ditch now. Anything that needs to be done we’ll do. I don’t want water coming into the subdivision. I just built the whole bank at Autumn Heights. I’m willing to work with them. They should have more water if I’m not watering the 80 acres. Part of the ditch I’ll pull out the head gates so there’s no leaking around it and it should make it a bit better for everyone.

6:27:48 PM Lewis – Can you shorten the ditch at all? Bernard – I’ll take a look at it. I wrote down their name and I’m going to see where their ditch goes to see if there’s a way to shorten it. I’m not sure if there is. If there’s a shorter route, we’ll look into that and culverts and new head gates.

6:28:30 PM Discussion of the Board:

6:28:45 PM Lewis – Rigby doesn’t want to get real involved with their utilities. They’re not in the AOI and he’s meeting the subdivision ordinance that I see.

6:29:10 PM Clark verified that this would be under the new subdivision ordinance.

6:29:21 PM Steel – The impact study is underway currently, and this is the preliminary and we don’t need those results for the preliminary.

6:29:39 PM Lewis – In the new ordinance we ask them to talk about fire suppression. It sounds like they’re working with Central Fire. They talked with the county on the turn lanes. That was an issue before. He’s met requirements for 1 acre lots, there are plenty of accesses from what I see. The only problem is that Rigby won’t extend services.

2021-3
6:30:19 PM  Clark – With respect to having an irrigation plan on subdivisions. I'm not familiar with that. I'm going to look to you guys. Hall – Are you saying it needs to be on the plat itself? Clark – Yes, that's what I mean.

6:30:51 PM  Stout – You are correct. In his application, there is an irrigation plan listing out how his water rights are distributed, but it’s not on the plat. Lewis – In talking to the engineer, it sounds like we don’t want that on the plat, it gets crowded. Hathaway – You have to have the irrigation plan on the plat or the commissioners will kick it back and wonder where it is. What they’re talking about is placement of the well and sewers. That can be on the plat or on a supplemental document. Lewis – But the irrigation plan has to be on the plat? Hathaway – Correct.

6:31:31 PM  Clark – This is a preliminary, just things we need to ask for. Lewis – So he can still add that and put it on the final. Hathaway – This is just the time for you to see if there’s anything missing that you believe needs to be included for the final.

6:31:59 PM  Lewis – We must have done something right, there wasn’t any opposition other than one person complaining about a ditch.

6:32:06 PM  Clark – If you look at 3-4-1-9(c) it says it shall be provided with a surface water right unless there’s a waiver. For completeness, that’s something that needs to be brought up. I didn’t see the letters mentioned there, it’s something to discuss before a final. It may be something for staff to discuss with the application.

6:33:17 PM  Lewis – He did mention that he would make sure that everyone knew that they couldn’t irrigate more than ½ acre with their well. The way the lots are designed, I’m not sure if they’re going to need much more than that. Hathaway – They can’t irrigate more than ½ acre with their well, but the irrigation plan is for anything else. Hall – That’s no different than any other 1 acre lot in the county. Lewis – Yeah, but he’s going to make sure that it’s in the covenants or on the plat so they know that.

6:33:50 PM  Clark – Back to the zoning regulation that says it’s supposed to have it. Staff described the process of the final plat coming to them and how the changes could be applied.

6:34:43 PM  Lewis – This is saying that it needs a waiver if there’s not an irrigation plan, is that what I’m reading? Hall – I might be confused on this irrigation plan. Clark – In section, 3-4-1-9. Lewis – I see that, but there’s also a loophole to ask the county commissioners and get away with it. Clark – We’re not saying that. We’re hearing the proposal and our job is to see things that need to be addressed. Lewis – We need a waiver or a plan. Hathaway – In reality Mr. Bernard needs a plan and he has outlined a plan that should work. He will need a letter from Canal Company saying there is adequate water. We’ll work with him on that. I doubt that you would see a waiver in this circumstance. That will be more and more scrutinized.

6:36:09 PM  Clark – It was mentioned by Central Fire, let’s make sure they add any pertinent fire information on there as well.

6:36:25 PM  Steel – Given the proximity to the city, do we want to encourage a conversation with them? Stout – Under the previous submittal, he received a letter from Rigby. They said they won’t extend services as it sits currently. They’ve had the conversation.
6:37:02 PM  Clark – Historically, the city has had the opportunity to include that within the AOI and they chose not to. He has presented a good proposal and it flows well, with the traffic access in and out. The location is good as well. It’s adjacent to the AOI and it is appropriate. As the applicant mentioned, it gives a decreasing density coming off of the city. We’d love to see municipal services, but in this case it’s not feasible, reasonable, or expected. The other thing we might suggest be added is something in respect to the ditches. It’s an interesting issue. The letter quoted some state regulations. It implies that the users of the ditch are liable for the care and upkeep as well. In many cases, if an adjacent land owner is not using that water, the courts have found that it’s the users of the ditch that can maintain and those adjacent to cannot deny access. It would be beneficial to show the ditches and any changes that are proposed.

6:39:20 PM  Ashcraft – I would agree with that and looking at the comprehensive plan, it goes along with most of these goals and policies in chapter 8. Policy 8-15 details canals. It outlines what should be done in this situation.

6:40:04 PM  Clark clarified with staff what action would be taken on this preliminary plat.

6:40:32 PM  Ashcraft moves to encourage the applicant to move forward towards final plat. To also include what we’ve discussed in regards to the fire suppression supply, the ditch/canal issues, and to label the irrigation plan and well and septic placement. Clark – I wouldn’t worry about well and septic, it can be on a separate document. Lewis – NP study has to be done before final. Hall – They’re working on that. Clark – We can put the note that it needs to be completed and referenced on the plat.

6:42:07 PM  Hall seconds. Staff listed the recommendations given: irrigation plan, fire protection information, state the ditch information on the plat, state the well and septic information on a separate document, and ensure that the NP Level 2 is completed.

6:44:06 PM  Clark – Even though we have the motion. One additional comment going back to the ordinance. 3-5-4-4 no 7. Never mind, that’s for a PUD. Taylor said that they were referencing the old subdivision ordinance. Clark – I was under the impression that we had added a traffic study. Stout – It is in section 110-93.

6:44:06 PM  Adam withdraws his second. Ashcraft allows amendment of adding a traffic study to motion. Hall seconds. All in favor.

6:44:52 PM  The Public Hearing No.2 Conditional Use Permit / Curt and Susan Daniger / Located at 445 N 3600 E, Lewisville, Jefferson County, Idaho/ To propose placing a temporary dwelling on the property for their children to live in.

6:45:10 PM  The Staff report was read by Assistant Planner Erik Stout.

6:46:03 PM  Presenting: Curt and Susan Daniger (445 N 3600 E) – Mrs. Daniger – Our children are adults, I want to make that clear. Our daughter would be here but she was working. She is divorced and we’d like her close to us. She wants a small mobile home on the property. Clark asked them point at where and how it would fit. The Danigers indicated on the site plan where it would be. Mr. Daniger – There is a road that’s already here and has been used. It’s packed really tight, but I’m still going to do some road base. There is a little bit of a valley in here but it has a flat spot and it’s where we plan on putting the home. I’ve checked with Rocky Mountain Power. It’s just a matter of getting the Conditional Use Permit for that.

2021-5
Clark – What about sewer or water? Mr. Daniger – There was a report for the water, how deep it was. I checked with someone, they said that they will use the old permit from 2016 and that report was sufficient enough to use a plastic septic because it's a small home. I have access to water. We just need to have power to that.

Lewis – Was there an existing home there already? Mr. Daniger – A hundred and something years ago there was there was one where the barn is. That was demolished. The last tenant built the house where we live. There was never a home right there.


Hall – There's just fields on all sides? Lewis – You said they were going to use an existing permit, I was just curious. Mr. Daniger – They were going to refer to an existing permit, so I wouldn’t have to do a study on the water height. I’ve put a few in before I wanted to know what you wanted.

Hall – Are you going to have to dig a well for it? Mr. Daniger – I’ve already got a well there that’s adequate and irrigation well and water rights and there’s another well that’s not being used on my property. They’re all 3 in a row behind the barn. It’s already tapped it just doesn’t have a pump.

Clark – You intend to put another septic in? Mr. Daniger said yes. Hall – But just temporary? It sounds like plastic that can come out later? Mr. Daniger – Correct. I guess that was your requirement for your use permit for temporary housing. Hall – That I don’t know, because public health does that.

Stout – Public health governs septic, we don’t have any say in those. The only thing that we require is when they come in for their building permit if this is approved, that they have to have an approved septic permit. Hall – So we don’t need to worry about that to an extent.

Ashcraft – What do you mean by temporary? Mr. Daniger – When I went to the mobile home place to order it, they said that this county likes to say whenever we die, you have to pull it out or refill for another use permit.

Hall – Do you have intentions to leave it there indefinitely? Mrs. Daniger – We plan on living there indefinitely. It’s in a family trust, which my daughter is listed in.

Steel – How is it temporary if it’s meant to be there long-term? Mrs. Daniger – We’re only temporary. Eventually we’re going to go away. Mr. Daniger – We’re only doing what you require.

Hall – It’s not them as much as us. We did this for another one. We put a mobile home on the property that was only 5 years and it would be revisited. They’re saying temporary in the sense of when someone passes away. I haven’t been here long enough to experience this in a temporary structure that is longer. I don’t know what is defined as temporary.

Hathaway – It’s a CUP and it is evaluated every use. If the commission approves it, you can use it for family, but you can’t leave it there and rent it. It only stays there as long as your family lives there as long as the conditions that are provided are met.

Public Testimony Portion Opened:

In favor: None
Neutral: None

Speaking in Opposition: None

Rebuttal: None

6:55:12 PM Discussion of the Board:

6:55:16 PM Hall – This is pretty cut and dry. We need to decide what conditions to place. There is nothing close around that is going to frustrate anyone. I think the property is big enough. They’ve done their due diligence with septic and water. I would like to hear discussion on this temporary concept. What do we define as temporary?

6:56:12 PM Clark – Section 3.11.6 addresses manufactured homes. It lists a number of conditions. 2 (a-e). In this case, it’s a temporary unit and it’s for a family member of one level of consanguinity. By virtue of having a CUP it makes it temporary. It’s one level. Basically that line meets the requirement. I don’t know if it explains it. We’re not relying on it.

6:58:04 PM Hall – We’re not worried as much about the temporary status as much as the CUP which requires one level of consanguinity.

6:58:20 PM Lewis – Last meeting we had a similar one in a subdivision, we didn’t approve it because of the question of temporary. Clark – The key factor in that was that it was in the subdivision. Lewis – But we had the same kind of issue. Steel – I thought we don’t uphold covenants. Clark – No but it fits in subdivision ordinance as opposed to the zoning ordinance.

6:58:59 PM Lewis – The CUP and the length being temporary is null and void. It sounds conditional and they check it once a year. Clark – But in that same thing is the condition is one level of consanguinity. When that condition changes, then the Conditional Use Permit is no longer valid. The unit would have to be removed unless it is reapproved. Lewis – Unless another family member moves in and then it continues on and on.

7:00:01 PM Lane – Can it be on a permanent foundation? Clark – No, in this case it cannot be on a permanent foundation. Lewis – It’s a crazy concept to figure conditional use with no term limit.

7:00:29 PM Hathaway – It’s conditional, because it’s on an ongoing basis. Steel – If she got married and moved out, they couldn’t rent it out. Or for whatever could change that.

7:00:52 PM Hall – Any recommendations we would have? Lewis asked about the zoning. Staff indicated the zoning on the map. Hall – If anything, that makes me feel better about it.

7:01:46 PM Ashcraft – This is allowed under the Land Use Table with a CUP. In 3.7.4, it has standards for a residential yard. They won’t have any trouble there. Clark – One of the conditions would be having a blood relative of not more than one level of consanguinity.

7:02:42 PM Lewis moves to approve CUP for the temporary dwelling as long as it meets the requirements in 3.7.4. Clark – Add that they have to get the septic permit and building permit. Annual review. Not more than one level on consanguinity. Lewis – Include 3.11.6 2 (a-f). Steel seconds. All in favor. Motion carries.

2021-7
7:04:53 PM Lewis moves to adjourn. Hall seconds. All in favor. Meeting adjourned.

Date of Document completion: August 5, 2021

Kevin Hathaway  
Jefferson County  
Planning and Zoning  
Administrator

Warren Albertson  
Jefferson County  
Planning and Zoning  
Chairman of the Board