



**CITY OF PONDERAY PLANNING & ZONING  
PONDERAY CITY COUNCIL CHAMBERS  
288 4<sup>TH</sup> STREET  
MAY 8<sup>TH</sup>, 2019**

**CALL MEETING TO ORDER - THE PLEDGE OF ALLEGIANCE WAS RECITED.**

**Commission member Woller called the meeting to order at 5:37 p.m.**

**Planner Brubaker called the roll: Commission Members Present: Marc Woller, Steve Fox, Lawson Tate, Arlana Dunkel**

**Staff: Planner KayLeigh Miller**

**ABSENT: Karen Engel, Josh Devita,**

**CONSENT AGENDA: Minutes P&Z Regular meeting**

**Commission Member Fox/Tate, Roll call vote, all in favor. Motion approved**

1. **GENERAL UPDATES:** Our City clean-up is Sunday June 9<sup>th</sup>. Last year we had a lack of volunteers and projects, so we reduced it down to only one day. Nazarene Church will have a bar-b-ques at triangle park at 12:45 in conjunction with Wildwood Grilling. That is for all community members to attend.

The City Council did approve the improvements to City Hall. It will be repainted, with new rain gutters and replacement of the beams out the back of the building.

2. **ACTION ITEMS:** SS19-019 Starr's Development, LLC (Scott Dempsey) is requesting approval to divide a ±33.29-acre parcel into 6 lots ranging in size from ±3.02 acres to ±7.963 acres. The property is zoned rural and is located north and west of McNearney Road and south of the Field of Dreams access road in Section 2, Township 57 North, Range 2 West, Boise Meridian. A portion of Proposed Lot 3 was approved for rezone to industrial upon completion of the stipulated conditions of approval in 2018. To date, the zone change ordinance has not been recorded.

There are no conflicts of interest or disclosure.

PUBLIC HEARING opened: 5:45 p.m. rules were read.

Planner Miller stated that before we get into the actual project, just a reminder that with the subdivision applications we try to keep the impacts on the applicants very low up front prior to the preliminary Platt phase. So there are no requirements for engineer drawings up front, no requirements for actual survey documents up front. Those all will happen subsequent to a preliminary Plat approval. So they are spending those funds after they have received their approval. So you will notice that there are a lot of conditions to that effect in this packets.

- **Site Data**

- ±33.29 acres of Ag land into 6 lots ranging from 3.02 to 7.963 acres
- Currently zoned rural (File ZC18-015, south east ±3.92 ac rezone to industrial)
  - To date, the zone change ordinance has not been recorded
  - Required dedications have not been made

- Access
  - Lot's 1 and 2 will have direct frontage on a proposed private access drive that will extend north from Starr Lane.
  - Lots 3-6 will have direct frontage on a proposed private access drive that will extend north from McNearney Road
  - Lot 3 will also have public right-of-way along the South boundary. Construction is not proposed in this location
  - Private Access Drives per PCC 8-1-6 Road Specifications
    - Providing access to 4 or fewer lots
    - Designed to the satisfaction of the City Engineer

- Environmental
  - The site is relatively flat
  - Bonner County GIS mapping indicates the potential presence of wetlands over a very small portion of the subject parcel
    - Overlay only
    - Mapping created in the 1980's with no process for updates
    - Ponderay City Code is silent with reference to wetlands

The site does not contain mapped water bodies or floodplain (Zone x)

- Services
  - According to the preliminary plat the proposed subdivision will be served by:
    - City of Sandpoint Water
    - Individual septic systems
    - Avista (Natural Gas and Power)
    - Northern Lights (Power)
    - Northside Fire
    - Lake Pend Oreille School District

- Standards for Review
  - PCC 8-1-3 Public Hearings
    - Planning and Zoning Commission and City Council must each hold a public hearing
    - Notice must be mailed to all land owners within 500 feet of the subject property
    - Written decision must be issued within 28 days of the City Council Decision
  - PCC 9-4A-2 Minimum Lot Size for Rural Zone
    - 3 acres
    - Proposed lots range in size from ±3.02-acres to ±7.963-acres
  - PCC 8-1-1 (E) – Minimum Lots Size without Urban Services
    - 2.5 acres unless served by all urban services
    - Urban services include public water, sewer, telephone and electric
    - The proposed lots will not be served by urban sewer
    - File ZC18-015 (3.92 ac to Industrial)
  - PCC 9-4A-2(B) – Access
    - Lots shall have at least one **existing** access
  - PCC 8-1-6 Road Specifications
    - Typically, all new lots must have direct access on a public street
    - Access for up to 4 lots may be permitted by private drive which shall be constructed to the satisfaction of the City Engineer PCC 8-1-6
      - Lot's 1 and 2 will have direct frontage on a proposed private access drive that will extend north from Starr Lane. (Proposed 30-foot dedication)

- Lots 3-6 will have direct frontage on a proposed private access drive that will extend north from McNearney Road (Proposed 60-foot dedication)
  - Lot 3 will also have public right-of-way along the South boundary. Construction is not proposed in this location (Proposed 30-foot dedication)
  - Private access drives will need to be constructed to at a minimum, meet the fire code access road stds.
- PCC 8-1-7 – Development Agreement
- May enter into a development agreement with the City. This agreement clarifies the development standards, responsibilities and timing.
    - The applicant does have the option to bond for required infrastructure improvements
    - If the applicant pursues this option, a development agreement shall be completed
  - Proposed Condition 7 - Should the applicant choose to pursue a bond for any portion of the site development, a developer agreement between the City of Ponderay and the Landowner shall be executed.
  - No public comment received
  - Agency Review: *Avista Utilities* stated that they have no comment. *Panhandle Health* e-mailed that there was a subdivision application that was required before they could provide comment and do site evaluations, so we did place condition three that requires that they provide proof that adequate sewage disposal methods can be supplied for these sites from Panhandle Health District prior to final Plat recordation. *Pat Park-James A. Sewell* commented that if they are choosing to do the private access drive along the west boundary they will need to either Hammer Head or create a cul-de-sac at the North end of lot 1 or drift that road construction a little to the west and continue it north to the Field of Dreams access road which is the preferred option. He also indicated that there would be a need for fire hydrants to be installed in order to satisfy fire code. Those design would be stipulated and provided post preliminary plat approval and prior to recordation to the final plat. *Kootenai Ponderay Sewer Dist*-responded back letting us know that there is no infrastructure in that location nor do they have a plan to expand and it is outside their sewer district boundaries. So they will not be providing service. *Northside Fire*-had similar comments to the building official. We need to make sure that the roads are all built to fire code access road standards and that we provide fire flow to each of the lots and that the development complies with all fire code standards and the City standards. *Independent Highway Dist*-let us know that they would really like us to require these roads to be built out to public road standards. Code does not require that because we allow this alternative. At this time this property is zoned rural and the uses allotted in the rural district are very minimal. We felt that that would be excessive to require construction of public roads at this time. However, if anything does go out there that falls into those more commercial categories, they will come back to us through the site plan approval process. At that time we have the ability to trigger based on the development. *HMH Engineering*-noted the wetlands as we indicated here and then he provided several recommendation conditions of approval which tied into ones that staff had already placed into our draft.

- Staff Recommendation

- Approval of the subdivision request and the requested setback reductions, subject to the conditions of approval.

### **Conditions of Approval**

1. A final plat shall be recorded.
2. The final plat shall be recorded within two (2) years of preliminary plat approval. The city may grant a one-year administrative extension with the approval of the city engineer.
3. Prior to final plat recording, the applicant shall provide proof of compliance with the requirements of the Panhandle Health District and documentation that an adequate sewer disposal method can be supplied for each proposed lot.
4. Prior to final plat recording, the applicant shall provide evidence that the site will be served by City of Sandpoint Water or Northside Water. Additionally, water infrastructure, shall be installed prior to final recordation or the landowner shall bond for installation.
5. Prior to construction the applicant shall submit civil plans for the proposed private access road, stormwater, grading and erosion control, fire hydrant locations and utility installation for review and approval, to the satisfaction of the City of Ponderay and affected agencies.
6. Prior to recording the final plat, the landowner shall construct physical access to all lots and associated stormwater facilities to the satisfaction of the City Engineer or the landowner shall bond for installation.
7. Should the applicant choose to pursue a bond for any portion of the site development, a developer agreement between the City of Ponderay and the Landowner shall be executed.
8. The final plat and proposed infrastructure shall comply with applicable portions of the 2015 International fire code.
9. A road maintenance agreement shall be recorded concurrent with the final plat.
10. Prior to final plat recording the landowner shall provide proof that the proposed lots will receive power service from Avista Utilities or Northern Lights.
11. Prior to final plat recordation, the landowner shall dedicate the east 60-feet, the south 30-feet and the west 30-feet of the subject parcel to the City of Ponderay for public right-of-way.

**Questions for staff-**Commission member Tate asked, On the southern boarder it shows a twenty-foot alley, is that platted? They overlaid their preliminary plat on an old plat document and the County has been miss mapping that twenty-foot-wide public alley for thirty years or more. It had been vacated. There is no twenty-foot right-of-way. The lot to the south is a very narrow lot, a sixty-foot dedication on the south of this property would make since. On the East side of this property there is an eighty-foot north-south corridor that has a fence line. Considering what the Field of Dreams is, the way we have been talking and working over the last months, if we are going to have on street parking would an eighty-foot right-of-way corridor suffice? Planner said that at the time of Zone change they discussed an eight-foot corridor and it was rolled back to sixty feet. The landowner thought this was an excessive request because it is above and beyond what we had requested on any of our other projects. We stipulate that a sixty-foot-wide public dedication is the width for all of our public streets. So, asking for anything above that becomes difficult. So, the dedication on the west doesn't include Rodney acres? No, it does not. So, with thirty feet we would have almost sixty there? True, with thirty feet we would have sixty to the south edge of Rodney Acres and then thirty continuing north from there at this time. There was discussion on the rezoning of Lot #3, this does not come into play for this subdivision. It was asked what the private road standards are? This seems like an opportune time to have the adjoining landowner share in the improvements and the road that would benefit the City. What we are talking about now is allowing a developer to build a sub-standard road that the City then would have to go back in and rebuild. Because these are agricultural in nature, we can't require them to do this. The properties that they are dividing ate zoned AG. They are a larger acreage development; they cannot go to high density and they are very restricted on their ability to use those. Erik and I felt that it would be disproportionate to require them to build roads that are to public road standard for agricultural uses when they may very well stay as farm fields for a very long time. What they are required to do is meet the fire code access road standards. That is not us making an exception, the code allows that. There was more discussion between Planner Miller and Commission member Tate.

**Applicant**-Scott Dempsey-first off in reference to roadways, we are giving twice as much as is typically required from the developer. We are donating six to seven acres there. There are tradeoffs, in that the property value will increase with the road there. I was able to get three sixty-foot easement approved with the zone change. But with the amount of money that we are spending we really can't recoup that and that was in the minutes of the meeting. What we agreed to was a twenty four fabric and a twenty four inch profile. I said that it is going to be a dry graded surface that we will put in. At this point in time we can't do curbs, gutters, sidewalks, streetlights. Right now, if we can get something to start with that is an incubator to get this going. We are going to have to install our own sewage treatment systems. We are showing a good interest to the City by giving additional land.

**Question by the Commission members**- Commission member Tate-taking about the east side of the property, do you know what your typical set back would be on a rural parcel? DEMPSEY: No, one of the things that we looked at was storage. We need to try to do something with it to try to create something that would help everybody. TATE: Where I was going with my question is, within your setbacks, because you were talking about having lot #3 be industrial and the rest of the lots being rural. DEMPSEY: that dotted line on lot three is the area that was included prior. TATE: within your standard setbacks would the development group allow for a path or some sort of sidewalk or some sort of greenbelt to be placed? DEMPSEY: We would like to see sidewalks and other stuff, yes. TATE: if McNearney was a eighty foot boulevard, it would allow parking on both sides. If it was a sixty-foot boulevard you could probably still get parking on both sides, but you wouldn't have the room to have a greenbelt or a pathway or sidewalk. DEMPSEY: We have gone to many recreational facilities, all of them are in industrial/commercial areas. What happens is those are typically closed on the weekends and all of this overflow of uses are parking lots. TATE: what I was asking is if there was a greenbelt and a pathway of six or eight foot and some sort of paved or concrete, so when people get out of their vehicles that there is somewhere to walk. DEMPSEY: We typically put the sidewalks on the edge of the right-of-way. MILLER: I think what Commission member Tate is asking is, if there is not sufficient room within the sixty foot wide right-of-way would the development group consider an easement along the edge of that right-of-way to allow for sidewalks or green belts to be constructed within that front yard setback. TATE: It would be space that you wouldn't be able to use either way and it wouldn't set you back even further. If it is a forty-five or a twenty-five-foot setback from a building it is just going to be something that is just mowed. DEMPSEY: Certainly, we are going to have green space there to treat storm water. It would be difficult for me to ask the other members of our group to give more land. Lot three is owned by one of group. TATE: What would it take to ask for more land from your group? DEMPSEY: I would tell you no. MILLER: I would suggest that through the site plan approval process these sites are being developed that would be the best time to look at something like that because we could look at... TATE: I don't know. I disagree. This is a great time to do it because you have a lot for sale now which could close any day. MILLER: I guess what I was suggesting was that we would have the ability to know what the parking requirements were and the other restrictions that we are placing on them at that time. DEMPSEY: We really don't know what we are going to do with the other lots. I would like to get activity, access and services to the Field because I have more property there. TATE: What water are you bringing out there. DEMPSEY: City of Sandpoint water. TATE: What size main are you putting out there? DEMPSEY: probably a five to an eight. TATE: When you have six lots, How do you make that decision whether to bring in a twelve or an eight. DEMPSEY: The engineer does. We have forty on the other side and we have two hundred to the east. We are going to size that line to accommodate all of that. We can't afford not to. MILLER: They are required to provide fire flows and required to provide engineering designs to the satisfaction of the agencies. The comments received today from the City of Sandpoint water indicate that the current lines extending in that direction are eight inches on both Starr Lane and McNearney. Assuming that they would continue with that size. I don't know for sure that the Field of Dreams access road grants easement to this parcel. It did for Rodney Acres but did it for these lots. DEMPSEY: According to Attorney Finney there are two accesses. MILLER: that is something that need to confirm through the development of that lot. But he will have at least one legal access through the dedications. TATE: From my personal knowledge of that property I believe that it does

not have legal access to highway 95 and the two accesses are Starr and McNearney. DEMPSEY: We hope to create traffic and see a successful Field of Dreams.

**Testimony from the public**-Giessila Schult - It really doesn't matter what I think. They are going to do what they want to anyway. It is OK, it makes since. (not understandable talking)

**No rebuttal or additional questions. Close hearing at 6:28 p.m.**

Commission member Tate sated that he is not that comfortable and somewhat confused about the right-of-way dedications. I am confused on what is standard each road would be built to.

Commission Member Woller said that he understood your concerns but in the same since with the rules that we have to work from it is not something that we can force at this time.

Planner Miller said that we do have a condition that states that the applicant has to provide the cross section of the road stormwater plans, utility drawings and all of those will be reviewed through the City engineer and affected agencies for approval and then implemented prior to final plat approval and the recordation. Mr. Dempsey and Giessila Schultz left the meeting.

Planner Miller said that an item that needs to be noted is that the twenty-foot vacated alleyway that was there has been misinterpreted on every single map from the County. It only came to light through working with previous commissioner McNearney when he shared with me that his parents had vacated that property and I went on an old records hunt and found that it had been vacated through some board of County Commissioner minutes prior to Ponderay becoming its own entity. The one thing I will say is that most people that are looking at the purchase of that property to the south are seeing that right-of-way along the north, there, and assuming that it still exists and it is assumed that we would gain the other half of that dedication from that property. I realize it would make it very tight for development, but it is assumed, and that is typically our standard that we ask for half.

**Initiate deliberations, discuss finding of facts and develop a reasoned decision.** There was discussion between the Commission Members.

**MOTION TO APPROVE:** I move to recommend approval of this application, FILE #SS19-019, requesting subdivision approval to divide an existing ±33.29-acre parcel into 6 lots, finding that it is in accord with the applicable sections of Ponderay City Code as outlined in the staff report, and based upon the evidence submitted up to the time the staff report was prepared and testimony received at this hearing. I further move to adopt the conditions of approval (noting any amendments) in the staff report. On the Conditions of approval number eleven we want to change the south dedication from thirty feet to forty feet.

**Commission Member Fox/Dunkel, Roll call vote, Commission Member Fox-yes. Commission Member Dunkel-yes. Commission Member Woller-yes. Commission Member Tate-no. Motion approved.**

**Elections of officers:** Chairman Merrill's term has expired so we need to elect new officers.

Nomination for Chair-Mark Woller

**Commission Member Woller/Tate, Roll call vote, all in favor. Motion approved**

Nomination for vice Chair-Lawson Tate

**Commission Member Woller/Fox, Roll call vote, all in favor. Motion approved**

**The Meeting was adjourned at 6:48 p.m.**

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Planning and Zoning Chairperson

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Su Warren, City Clerk-Treasurer