



**CITY OF PONDERAY
REGULAR
MEETING MINUTES
September 7th, 2021 (Tuesday)**

MAYOR GEIGER CALLED THE MEETING TO ORDER AT 6:00 P.M.

PRESENT: Mayor Geiger, Councilmember McNearney, Councilmember Mitton, Councilmember Osborne, Councilmember Thompson

ALSO, PRESENT: Chief Cornelius, Attorney Marshall, Deputy Clerk Peterson, Planner Miller, City Engineer Metts

ABSENT: City Clerk Warren, Planning Director Brubaker, City Engineer Shaw

CONFLICTS OF INTEREST AND/OR DISCLOSURES:

AMEND AGENDA:

PUBLIC COMMENT:

CONSENT AGENDA:

- A. Approve Bills \$ 7,577.00
- B. Acknowledge Treasurer's Report

Motion to Approve the Consent Agenda.

Councilmember Thompson/Osborne. Roll Call Vote. All Voted in Favor. Motion Approved.

DEPARTMENT REPORTS/UPDATES

MAYOR:

- Mayor thanked Steve Fox and Marc Woller for mowing Harbison Field in preparation for the Ponderay Neighbor Day event being held Saturday September 18th. He also thanked the Inmate Labor Crew for cleaning up the highway this last weekend.
- **ACTION ITEM:** Mayor to sign Audit Engagement Letter

Motion to Approve Mayor Geiger to sign the Audit Engagement Letter.

Councilmember Mitton/McNearney. Roll Call Vote. All Voted in Favor. Motion Approved.

CLERK:

- Deputy Clerk Peterson reported the Local Option Sales Tax total for July, \$289,421.68. Bed Tax update, 104 is behind three months, Mayor is going to look into Code, and will proceed with the next course of action.
- Mayor reported Phil McNearney and Rick Larkin are currently the only Councilmember candidates for the upcoming election.

POLICE:

- Chief Cornelius noted the Police Department is accepting applications for the Patrol position through the end of the month.
- There will be a Back the Blue Rally held on Saturday in Sandpoint. The event is sponsored by the Bonner County Chaplains. Chief will be attending the event to give the Chaplains a letter of commendation as well as a reimbursement check for the monies expended during Mike Victorino's ordeal.
- Councilmember Mitton asked if the Police Dept. had any needs for equipment. Chief stated he will be purchasing a couple new body cams. They will be getting new DUI/breath testing equipment, a generous deal from our County Prosecutor.

STREET/PUBLIC WORKS:

- City Engineer Metts reported on the Field of Dreams; the ITD Approach Permit had been submitted, it came back with comments. Those comments have been addressed and it has been resubmitted. A Stakeholder meeting is set for September 23rd. They are finalizing the layout alternatives and those should be submitted to the city next week.
- Trailer Park Drainage – We did not receive the FEMA Grant.
- IHD will be out next week crack filling.

- City Engineer Shaw has been working on a large zoning map and should be delivered next week.

PLANNING, PARKS & COMMUNITY DEVELOPMENT:

- **ACTION ITEM:** VR21-002 Thompson Setback Variance

Planner Miller asked if there were any conflicts of interest or disclosures. Councilmember Thompson stated she had a conflict of interest and will step down, there were no others.

Opened the Public Hearing at 6:12 p.m.

Planner Miller began the presentation. The Thompsons are requesting variance approval to construct a residential accessory structure (shop) +/-3 feet from the east property line (Elm right-of-way). This request will place the structure +/-27 feet from the edge of the travel way according to the application. The property is located at the intersection of 7th Street and Elm Ave in Section 11, Township 57 North, Range 2 West, Boise Meridian.

- PCC 9-5A-3 (C) Setbacks, Commercial and Industrial Zones –
 - The front yard and primary parking face 7th Street.
 - The structure faces Elm, as a result it is not front facing.
 - Proposed location meets the front, side, and rear yard setbacks.
 - Side flanking is 3-feet where, 10-feet is required by code.
 - Result is this variance request.
- History –
 - Applicant worked with staff to identify building envelope.
 - Using a metal detector, they located the assumed property corner.
 - Building Permit 21-041 was issued, and a structure was purchased.
 - During excavation, a neighbor approached them and let them know that they were measuring from something other than the property corner.
 - They immediately ceased construction and contacted staff.
 - Prior to making application for a variance the following were pursued:
 - Reducing the size of the structure
 - Structure had been purchased.
 - Because it was a pole style building it required engineering which would have to be redone.
 - Relocating the home further to the west
 - MH is on a full foundation, and it was not feasible to relocate.
 - Relocating the proposed shop to the west end of the home
 - While there is more room at the west end of the lot, the landowner just made a large investment into landscaping improvements in this location.
 - It was discovered that all utilities run through this portion of the property and would have required relocation.
 - As a result, the applicant pursued a variance request.
- PCC 9-7-1 Variances
 - Owning to specific site circumstances or conditions
 - The site was platted in 1904 as a part of the original plat of Ponderay.
 - The lots are 25' x 142'.
 - Overtime the property pins have been removed or buried throughout the neighborhood.
 - The existing residence was placed on a foundation prior to acquisition by the current owners.
 - A strict enforcement of the provisions of this title would result in an undue hardship
 - After working with staff for several weeks to determine the buildable footprint for the proposed building the landowner obtained building permit approval (BP21-041) and purchased the structure.
 - While excavating for construction it came to their attention that the corner pin located during their due diligence was not the accurate lot corner.
 - This resulted in a reduced building envelope.
 - Where the applicant makes a showing that the variance is not in conflict with the public interest.
 - The application was routed to agencies for review on July 16, 2021.
 - Comments received from City Engineer indicating that the proposed shop will not pose a traffic safety issue.
 - No comment from the Ponderay Police.
- Agency Comments Received
 - City Engineer, Justin Shaw, P.E, HMM Engineering, email dated July 16, 2021: Mr. Shaw stated that he had no objection to the variance request. The proposed shop will be located outside of the public R-O-W and does not pose a traffic safety issue. He noted that he had no further concerns from the engineering side.
 - Ponderay Police, Chief Jimmy Cornelius, email dated July 19, 2021: Chief Cornelius stated that he had no comment.
 - Independent Highway District, Commissioner Mel Bailey, email dated July 20, 2021: Commissioner Bailey stated that each of the driveways for this request are closer than 50-feet from the intersection. He noted that the limited distance can cause a traffic hazard. ****STAFF NOTE:** The driveway onto 7th was installed previously (it is assumed that this was at the time of manufactured home installation). The driveway onto

- Elm received encroachment permit approval from the City of Ponderay and had been constructed outside of the variance request.
- Avista, Don Peterson, email dated July 21, 2021: Mr. Peterson stated that Avista recommends approval.
- City of Sandpoint (water) Dan Tadic, P.E., memo dated July 20, 2021: Mr. Tadic noted that the City of Sandpoint currently services this site. He noted that no impacts to the water main or existing meter are anticipated as a result of the applicant's request.
- Kootenai-Ponderay Sewer District, Colleen Johnson, memo dated July 27, 2021: Ms. Johnson stated that the property is in the boundaries of the sewer district. The property has sufficient capacity and hook-up for its current demonstrated use. They have reviewed the plans and have no issues with the placement of the building as indicated on the plans. If utilities are to be added, the property owner will need to contact the district and additional fee's may be required.
- Public Comment (P & Z Hearing)
 - Linda Dellinger, Notice indicating "Support", received July 27, 2021.
 - R.M. Linscott, Notice indicating "Support", received July 28, 2021. Additionally, Mr. Linscott noted that he thinks the request is okay because the lots are so small a variance is needed in order to build a garage or shop.
 - Brenda Thompson, Notice indicating "Support", received July 29, 2021. Mrs. Thompson noted that she fully supports the variance request, she stated the building will not adversely affect any of the surrounding area.
 - Michael Hutter, Notice indicating "Support", received August 6, 2021.
 - Randall Marley, Notice indicating "Do Not Support"
 - Randall Marley, Opal Marley Estate Administrator, dated August 3, 2021: Mr. Marley indicated that allowing the variance would be detrimental to the property, as it would negatively affect its value and development of the land to the east of Elm. He stated that the proposed variance would push any expansion of Elm to the east rather than splitting it equally between the properties on each side of the street. Additionally, he noted the building in any direction could impact the future expansion of 7th Street. He noted that if the City is going to enforce codes for other properties it should insist that they are followed by all. ****Staff Note:** The City of Ponderay standard right-of-way for a public street is 60-feet in width. The Plat of Ponderay, recorded in 1904, dedicated 60-feet of right-of-way for both 7th Street and Elm Ave.
- Public Comment (City Council Hearing)
 - Linda Dellinger, Notice indicating "Support", received August 27, 2021.
 - Patricia Brown, Notice indicating "Support", received August 31, 2021.
 - Brenda Thompson, Notice indicating "Support", received July 29, 2021. Mrs. Thompson stated that she supports this project, and it will not hinder visibility at the corner.
- Staff Analysis & Recommendation – Subject to the recommended conditions of approval, staff finds that this project is consistent with Ponderay City Code and recommends approval. Planning Commission recommended approval.
- Questions/Comments by Council
 - Councilmember Mitton noted that there have been issues with setbacks on Elm and asked what the requirements were for an applicant to show proof of property. He respected Mr. Marley's comment.
 - Staff noted the applicant would identify property boundaries. It was also mentioned that Planning has discussed re-establishing block corners since it has been many years.

Closed the Public Hearing at 6:28 p.m.

Discussion/Deliberation among Councilmembers.

I Move to recommend Approval of FILE VR21-002 requesting variance approval in order to construct a residential accessory building with a 3-foot setback to Elm, finding that it is in accord with the applicable provisions of Ponderay City Code. I further move to adopt the conditions of approval, as listed (or amended) in the staff report. Based on these findings of fact, the Ponderay City Council concludes this variance request is in accordance with the applicable sections of Ponderay City Code and therefore is approved.

Councilmember McNearney/Osborne. Roll Call Vote. Councilmember McNearney, Osborne, and Mitton in Favor.

Councilmember Thompson stepped down for this file. Motion Approved.

- **ACTION ITEM:** SS21-027 Ponderay Cottages, Mylar Approval

Motion to approve SS21-027 Ponderay Cottages, Mylar Approval.

Councilmember Mitton/McNearney. Roll Call Vote. All Voted in Favor. Motion Approved.

- Development Standards Protocols – Planner Miller stated after the last Council meeting Planning was made aware of some questions that were brought up about dedications and specific projects. She noted that a lot of times these are done at the Planning & Zoning level and do not make it to City Council. Idaho Code and Ponderay City Code allows for exactions when a project is developed that offset the impacts and are of proportionate contribution depending on the project. When the Planners see a project and there is a large impact that is traffic based, they have a substandard right-of-way, they work with those applicants to a proportionate contribution to move the substandard rights of ways towards being standardized. She described the site plan in question. This particular case there were concerns from other neighboring property owners. She noted in speaking with Mr. Ambrosiani, after their discussion he was okay with the city's process. In knowing the city gets adequate rights of ways and being able to improve inadequate streets is by bringing them up to standard width. So, they can accommodate commercial and industrial zones, and to seek funding in order to make those improvements. There are other ways, other than dedications

where exactions happen, it depends all on the size and intensity of the project. These situations are brought to the applicant's attention during the pre-application phase. Councilmember Mitton noted the city should send out a memo to property owners once a plan is set for a particular street for awareness. Councilmember McNearney noted the need to re-visit traffic impacts. Public comment, Jessie DeMers reported that as of 5:15 this evening the property owner had consulted his attorney, and the city should expect to hear from him. She noted her vested interest in the park, and then stated on January 13th, 2020, she came into City Hall and briefly spoke with Planner Brubaker about the underpass, and he told her for the grant application, the more access to that parcel the better, he stated he wanted to extend the Ponderay Road through her property and, eminent domain would be an option, but it would take longer. She noted his attitude and approach the city takes towards property owners who are more than willing to work with the city. Mayor clarified that those words were absolutely used and apologized for that experience. He noted the city is not here to take any property and firmly believes Planning does a great job looking out for the city's future by making improvements to inadequate infrastructure when possible.

MISCELLANEOUS REPORTS:

- Kootenai-Ponderay Sewer District Minutes for July 12th; Sandpoint Minutes for August 4th and 18th; Bonner County Minutes for July 20th, 27th, August 3rd, 10th, and 17th; SPOT Minutes for July 15th.

ORDINANCES, RESOLUTIONS, PROCLAMATIONS, CONTRACTS:

OLD BUSINESS:

NEW BUSINESS:

*******Executive Session – ID Code 74-206, subsection 1-c and 1-f.**

- c. To acquire an interest in real property which is not owned by a public agency.
- f. To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated.

Motion to enter Executive Session per ID Code 74-206 1-c and 1-f.

Councilmember Mitton/Thompson. Roll Call Vote. All Voted in Favor. Motion Approved.

Entered Executive Session at 7:03 pm.

Left Executive Session at 7:07 pm.

PUBLIC COMMENT:

- Rick Larkin spoke in regard to the owners improving the McGhee property, if they had been approached about coming forth with funding since they will be using the same drainage. Planner Miller noted there has been no submission of an application for public record at this time, but the owners are aware of the drainage issues.

Councilmember Thompson/McNearney

Meeting adjourned 7:08 p.m.

City Clerk/Treasurer Su Warren-Brown

Mayor Steve Geiger