

**REGULAR MEETING OF THE WALLACE PLANNING, ZONING  
AND HISTORIC PRESERVATION COMMISSION  
August 4, 2021**

Chairman Sherman called the meeting to order at 6:00 pm at Wallace City Hall in the Council Chambers.

**Roll Call:** Commission members present: David Kuns, David Sherman, Courtney Friehe, Sarah Murphy, Scott Lewis

Absent Commission members: Katie Watterson

**Minutes:**

C. Friehe made a motion to approve the minutes of the July 7, 2021 Planning, Zoning and Historic Preservation Meeting. Seconded by S. Murphy. No further Discussion.

**Business:**

**528 Cedar Street-Awning**

Representative for 528 Cedar Street spoke to the City of Wallace Clerk and asked to withdraw application till the month of September 2021. She was unable to attend tonight's meeting.

**804 Residence-Windows**

Sheana Braulick, owner of 804 Residence, was granted a Certificate of Appropriateness at the July 7, 2021 Planning and Zoning meeting for faux panels, removal exterior half wall, paint, new metal roof, new modified front living room window to a smaller size, and replacement of all windows contingent on the windows being vertical sliding. Sheana reached out to City Hall and informed the clerk that she was unable to change the order from horizontal sliding windows to vertical sliding windows. Discussion was held. Motion was made by D. Kuns to deny approval of horizontal sliding windows. Seconded by C. Friehe. Roll call vote: Kuns; yes, Sherman; yes, Friehe; yes, Murphy; yes, Lewis; yes. All in favor, motion carried. No further discussion.

**Site Development Ordinance Title 11-potential revisions**

D. Sherman gave background about the revisions. He stated that about four years ago he was approached by the then Mayor of Wallace to review/revise the Title 11-Site Development Ordinance to make it more applicable to the city and the residents especially pertaining to trees. One of the changes include clarifying public trees owned by the city on the parking strip and trees on private property. Also, instead of including an exhaustive list of trees that can or cannot be cut down, it was simplified to the size of the trees. The original ordinance and the proposed revision, give the responsibility of site development to the Planning and Zoning Commission. Sherman stated that he thinks the small changes he suggested making are "house-keeping" or simplified changes. Also included in the suggested revisions are the yardage of dirt removal. He wanted to have clarification on basic home landscaping and maintenance to a hillside clearing for a new home. Discussion was held to what was to be done at tonight's meeting.

C. Friehe brought a list of items that she had concerns about in the language of the potential revisions and would like to go over each one individually.

Part of the Title 11- Site Development, has wording pertaining to dirt removal and with that, the Planning and Zoning Commission has some jurisdiction as to what an owner can or cannot do on their property. Clarification was asked about what jurisdiction Panhandle Health District has when it comes to site disturbance and/or dirt removal. Mary Rehnberg, Program Manager of Panhandle Health District

gave clarification. "Any dirt disturbance that takes place within the Bunker Hill Superfund Site requires a permit with the agency, which is tied into the Bunker Hill Superfund Site Contaminate Management rules IDAPA 41.01.01. Anything that is over a cubic yard has to meet the criteria and be approved by our agency." C. Frieh wanted to clarify that Panhandle Health has jurisdiction over what is in the dirt, not over the movement of it, or engineering plans, or drainage plans. Again, Mary stated that Panhandle Health's jurisdiction has to do with contaminants that may be within the dirt.

More discussion was held as to the P&Z's role pertaining to site development under the current Title 11 Ordinance and the "obtaining of appropriate permits and/or certificates with other local, state, and federal agencies". B. Allen spoke to the Commission regarding the discussion at hand.

C. Frieh went on to discuss her concerns and referred to the written handout she had provided to all of the commissioners and are listed as follows:

1. Concern: (1) 11-1-2

a. Concern: "major project": I think the thresholds that trigger the need for a permit (10k sq ft or 20 cu ft) are too high, especially on our steep hillsides:

i. A typical Wallace city lot is 25x100. That means someone could clear the equivalent to four city lots without getting a permit. Even on the hillsides.

ii. 20 cu ft is a lot of dirt-the equivalent of a large rollaway dumpster. I brought a graphic to show how much dirt that is.

b. Proposal: I would propose that we cut those thresholds in half. To 5,000 sq ft and 10 cu yards. Those numbers still allow truly minor projects to proceed without a permit.

c. Concern: "per parcel per year" language should include contiguous parcels. If not, it creates a loophole where an owner of adjoining parcels could clear all of them as long as he/she didn't exceed the minimum threshold that triggers the permit requirements. We need to address that potential loophole.

Discussion was held.

2. Concern: 11-1-3 (a)(2) Authority/Control

a. Regarding Certificate of Compliance, we do not have the discretion or authority to waive local, state or federal permit requirements, nor should we want to. Permit requirements protect the public. We should care about protecting the public.

b. I propose that we leave the language from the existing ordinance that requires obtaining any required local, state or federal agency's certificates/permits prior to the granting of a city permit.

Discussion was held.

3. Concern: 11-1-4 Application

a. Regarding the "simple words" language, I think that it is too vague and lead to confusion. Either a project is a major project or it is a minor project.

b. I propose we change the language to state that "if the project qualifies and as a 'major project', then the following information shall accompany the application."

Discussion was held.

4. Concern: 11-1-4 Application requirements

a. I think we need a narrative description of the work to be done, including the estimate of the amount of earth to be moved and the intended purpose.

b. I think we should include a site disturbance plan that includes how BMPs will be implemented, to ensure there is no water runoff and that dust is contained, so as not to damage neighboring properties.

c. And we should require information about slope percentages. It's one thing to clear land on the flat land in town and another to clear land on steep hillsides. Kootenai County's site

disturbance permit application includes the question "does the site slope exceed 10%?" Land clearing major projects on steep slopes should be subject to additional studies and best management practices.

i. For example, Shoshone County requires that if more than 25% of the disturbed area lies on a slope steeper than 15%, we should require plans prepared by design professionals. I think we should adopt the same requirements.

d. I think we should also include the question whether the grading or disturbance is within 500 ft of watercourse and if so, additional BMPs should apply.

e. I also think, like Kootenai County, we should ask if there are many existing code violations on the parcel and require resolution of those violations prior to granting any further permits. Discussion was held.

#### 5. 11-1-4 (1)(b) Property Boundaries

a. The code is very vague about respecting property lines. Think about how close Wallace lots are. We need some language that addresses how close disturbance can occur near property lines. And if disturbance occurs within, say five feet of property lines, we should require a survey. This has already been a problem in the city.

Discussion was held.

#### 6. 11-1-5 Performance Bond

a. Re-estimated costs, who is responsible for estimating the costs? It probably shouldn't be the property owner/developer for obvious reasons.

Discussion was held.

#### 7. 11-1-7 Standards

a. 11-1-7 (B)(6): Why did you change language from "shall" to "may" re-requiring subsurface drainage requirements?

b. Should we consult the city engineer before making these revisions that we're not really qualified to do as laypeople? Perhaps we should require an estimate from the city engineer or a licensed design engineer.

c. I think it might be a good idea to officially adopt Idaho's BMPs and provide a copy of them to applicants.

Discussion was held.

#### 8. 11-1-11 Violation and Penalties

a. I don't understand the reasoning behind changing the violation from a misdemeanor to an infraction. An infraction means nothing. It's a slap on the wrist. Basically, someone could tear up a large property or the hillside without permits and there would be no real consequence. I think we need to keep the misdemeanor language as a deterrent.

Discussion was held. B. Allen of Silver Valley Law spoke to the concern and gave clarification.

The Commission continued the discussion regarding what was going to be recommended to the City Council and if legal needed to review revised/proposed language from the concerns brought up at tonight's meeting.

C. Frieh made a motion that the Commission table the issue that speaks to the definition of "major project", specifically that speaks to the language "per parcel per year." The Commission is also requesting legal to review that language to ensure that there is no loophole where a property owner who owns several parcels contiguously could escape the requirements of the code. Seconded by S. Lewis. Roll call vote: Kuns; yes, Sherman; yes, Frieh; yes, Murphy; yes, Lewis; yes. Motion carried, no further discussion.

C. Frieh stated that for the record she wanted to recap exactly what was deliberated on and the agreed upon items for referral to legal.

Discussion was held. B. Allen spoke to the discussion and gave guidance to the Commission.  
C. Frieh stated for the record that the issues that have been discussed and agreed upon for language modifications to the existing code include:

1. 11-1-2: DEFINITIONS

Agreed to reduce the threshold of MAJOR PROJECT from 10,000 square feet of land to 5,000 square feet of land and to reduce 20 cubic yards of material to 10 cubic yards of material.

2. Regarding Section 11-1-3-(A)(2)

Proposed leave existing language.

3. Regarding Section 11-1-4 APPLICATION REQUIREMENTS

Would like to include a requirement that the application include a narrative description of the project, a site disturbance plan, slope analysis or slope percentage, and if the parcel has an existing code violation on it at present.

C. Frieh wanted to clarify that none of these requirements are to be stamped by a design professional, unless under the discretion of the Commission they think it is prudent to require it.

Discussion was held regarding the language provided by the Shoshone County's application example regarding slope.

4. Regarding Section 11-1-4 (1)(b) PROPERTY BOUNDARIES

Want to include a requirement that if the site disturbance is five feet or less from property line, a survey will be required.

Sherman stated he was not in agreement with this added requirement. Discussion was held. B. Allen spoke to the issue and clarified what is to be done when the person making the motion has the floor. C. Frieh then spoke that she wanted an individual motion and a vote on each issue so that all the Commissioners can be heard with what they agree or disagree with.

C. Frieh made a motion to change section 11-1-2: DEFINITIONS: Regarding the definition of MAJOR PROJECT. Change the threshold from 10,000 square feet of land to 5,000 square feet of land and to reduce 20 cubic yards of material to 10 cubic yards of material. S. Murphy seconded the motion. Roll call vote: Kuns; yes, Sherman; yes, Frieh; yes, Murphy; yes, Lewis; yes. All in favor. Motion carries. No further discussion.

C. Frieh made motion #2. Regarding Section 11-1-3 (A)(2) AUTHORITY/CONTROL. Proposed leave existing language from the existing Site Development code. Seconded by S. Murphy. Roll call vote: Kuns; yes, Sherman; yes, Frieh; yes, Murphy; yes, Lewis; yes. All in favor. Motion carries, no further discussion.

C. Frieh made motion #3. Regarding Section 11-1-4 APPLICATION REQUIREMENTS. As part of the application requirement the Commission would like to include that the application write a narrative description of the work to be done. Also include a requirement of a site disturbance plan. Also, require information on slope percentages. Would also like to include a requirement for information if there is an existing code violation on the parcel. S. Murphy seconded the motion. Roll call vote: Kuns; yes, Sherman; yes, Frieh; yes, Murphy; yes, Lewis; yes. All in favor, motion carries. No further discussion.

C. Frieh made motion #4. Regarding Section 11-1-4 (1)(b) PROPERTY BOUNDARIES. Where if the site disturbance is five feet of a property line, a survey will be required. D. Kuns seconded the motion. Roll call vote: Kuns; yes, Sherman; no, Frieh; yes, Muphy; yes, Lewis; no. Majority in favor, motion carries.

Sherman stated that as a Commission, we will wait for legal advice before this is recommended to the City Council.

S. Murphy made a motion to adjourn. D. Kuns seconded the motion. All in favor, motion carries.  
Adjourned at 8:15 p.m.

  
David Sherman, Chairman of Commission

Attest:

  
Amanda Trogden, Deputy City Clerk