

SPECIAL MEETING/PUBLIC HEARING
OF THE WALLACE PLANNING, ZONING
AND HISTORIC PRESERVATION COMMISSION
September 6, 2022

Chairman Stayduhar called the meeting to order at 6:00 pm at the 3rd-floor courtroom of the Shoshone County Courthouse.

Roll Call: Commission members present: David Kuns, Scott Lewis, Courtney Friehe, Emma Stayduhar, and Sara Murphy. Absent Commission members: None

Flag Pledge

Business

Public hearing to receive public comment on Proposed Ordinance to Designate a Mountain Overlay District.

Visual: First page of the MOD (Exhibit 2)

Chairman Stayduhar addressed those in attendance and stated that this is a public hearing on the proposed Mountain Overlay District Ordinance. Stayduhar then thanked everyone for coming to the hearing.

Visual: City home page (Exhibit 3)

Chairman Stayduhar then stated that she hoped everyone here has taken the time to review the proposed ordinance. The ordinance was posted on the city website on August 12, 2022, which extended the public comment period by two weeks to give everyone time to review the ordinance and provide comments. A public workshop was held and the Commission worked through every sentence in the ordinance on July 20, 2022. The agenda for that workshop was posted publicly and two attendees were at that meeting; Dick Caron and Kevin Pickolick. P&Z's task tonight will be to introduce the ordinance, read and receive public comments, deliberate, and make a recommendation to Wallace City Council to either approve or not approve the ordinance. We are only making a recommendation tonight. City Council can hold their hearing if they choose and either accept or reject our recommendation or modify it as they see fit. We will follow the legal procedures for a public hearing at this hearing. You must sign in if you wish to speak, and please indicate if you are speaking in support, neutrality, or opposition to the ordinance so that we may call you in the correct order. Stayduhar stated that deferring speaking time to someone else will be allowed.

Chairman Stayduhar said that she will first introduce and provide some background on the ordinance. Then we will read all written comments received between August 12th and September 2nd into the record. We have received an exorbitant number of written comments before this hearing process, we will not be reading those as they are not explicitly for this hearing. We will then turn the floor over to public comments in the order of "in support" "neutral" and "in opposition." Because of the number of written comments already received and the number of people providing public comments, we will be limiting speaking time to three minutes. We will begin with a review of the legislative history of this proposed ordinance.

Stayduhar then stated that as early as 2019 discussions were held with community members and city officials about the need to address development on the hillside and in June of 2020, a petition was filed with Shoshone County requesting to amend its Comprehensive Plan to include policies that promote the preservation of the hillsides for aesthetic values and public safety and welfare. The County received 268

quality,” Harlig said in an article printed in the Sun Valley Gazette. “Hillside development also prevents the natural migration patterns of many wildlife species. So, we accomplished three big things with one ordinance: we protect wildlife, waterways, and the safety of people.”

1. No building on ridgetops that would have a material visual impact on a significant skyline visible from a public vantage point entering the city or within the city
2. Building, excavation, and vegetation disturbance on the hillsides which would have a material visual impact visible from a public vantage point entering the city or within the city shall be minimized.
3. New development shall be compatible with the general scale (height, mass, dimensions) of development in the vicinity.
4. The bulk of the structure shall be hidden or minimized by design, landscaping, and siting
5. Cuts and fills for roadways shall be minimized and concealed with landscaping and revegetation.
6. Utilities shall be underground
7. Man Made slopes, roads, driveways grading, and excavation shall conform to the natural terrain
8. Exterior building materials shall be of non-reflective materials
9. Roofs shall be designed to minimize the visibility of the structure

Stayduhar stated that the Wallace P&Z Commission looked at many different options when determining the Mountain Overlay District and ultimately chose to use a slope of 25% or more for the trigger of the MOD. This determination has been thoroughly vetted with current legislation in other counties and towns. These are some examples.

Loudon County Virginia MOD Language; "Very steep slopes refer to more environmentally critical slopes of greater than 25%. "

Albemarle County VA MOD; Critical slope threshold as 25%

Fayetteville North Carolina; They use a geological substrate justification as part of the reason for limiting hillside development. They talk about the shale that slides easily.

Dekalb County Georgia; No lot or portion of a lot having a grade over fifteen (15) percent shall be altered.

Visual: Overlay MAP (Exhibit 7)

Stayduhar stated that in terms of our proposed overlay district, we have created a useful map to visualize the boundaries and purpose of the district. Per language in the Mountain Overlay District ordinance: *“The mountain overlay regulations apply to those areas in the city limits having a slope of 25% or greater. Existing parcels zoned for residential use as of the adoption of the date of this ordinance shall be exempted from the requirements of the mountain overlay.”*

Stayduhar went on to show the public the map and pointed out the zones and briefly explained how the Mountain Overlay District would affect each zone.

Visual: GAIA SLOPE MAP, zoning map, map key (Exhibit 8, 9, & 10)

Chairman Stayduhar spoke and said, “So, for slopes over 25%, what are the standards set in the ordinance? In summary, the goal of the ordinance is to limit hillside development to residential housing, one house per 10 acres, to control erosion, maintain slope stability, and minimize the visual impacts of development on the city below. It contains clear standards and guidance for developers. The overlay does not ban the development, and it does not ban logging. It simply provides clear standards for development and enforcement mechanisms to ensure compliance. “

Stayduhar stated that the City is directed by its Comprehensive Plan to protect its hillsides and closely regulate structural development. The draft that we are here to present is in continuation with years of work and intent to preserve and protect the City of Wallace. First, I would like to review with you the language adopted in the City of Wallace’s Comprehensive Plan that directs our current action. In June of

2021, the City Comprehensive Plan was amended. Under Chapter 2, History, Demography, and Geology of Wallace- the second paragraph was modified as follows, "Wallace lies on a very narrow strip of land along the river, from which the mountains rise quite sharply. Most of the city is built upon the bottom and lower slopes of the mountains. *"The steep mountain setting and natural hillsides contribute to a high quality of life in Wallace, complement the City's federally recognized historic architecture, increase property values, enhance the visual quality of the area and attract visitors."* Under chapter 4, Land Use, the following directive was added, Subsection f: *"Establish policies and regulations governing hillside development for natural and scenic resource reasons and to preserve historic Wallace's unique mountain setting through the adoption of a Mountain Overlay District."* Stayduhar stated that aside from these amendments to the plan, we found a great deal of existing language in the Comprehensive Plan that supports the aim of the MOD ordinance. In the General Policies section, subdivision 5, subsection b. it directs: *"Require proofing, for example, a geological study, that steep slope area are safe from slippage and erosion and require non-safe slippage area to be left as open space. The proof is to be at the expense of the developer"* and subsection c: *"Encouraging the study of hazard areas to determine the effects of potential hazards of development."* Furthermore, in section 1. of the Land Use section, the Comprehensive Plan instructs that: *"The physical development of the city of Wallace should be accomplished by systematic and deliberate decisions, recognizing all the available alternatives, all the effects, and the desires of the citizens, to provide a reliable basis for public and private investments by establishing such standards as zoning, building, and subdivision codes, and policies for utility extension."* Generally, the Comprehensive Plan also stresses the importance of policies that protect water quality, responsible land management, erosion control, and avoidance of landslides and avalanches. The Environment section of the Comprehensive Plan, explicitly states that *"soil erosion on construction sites should be minimized, and that proposed land uses and activities should maintain safe levels of air and water quality, and that adverse environmental impacts of land use should be minimized."* Finally, within the Natural Hazard Areas section, the Comprehensive Plan states that a *"natural hazard area around Wallace includes steep mountains, lightning caused by forest fires, and snow and mudslides. A goal of the city is that development should occur in such a manner that the development is safe and practical."* In the Public Utilities Element section, the Comp Plan states that *"private water systems not integrated with the existing [city] system shall be discouraged"*, and that *"future development within Wallace should only be allowed with a provision of paved streets that meet current engineering and public works design and construction standards."*

Other policies within the Comp Plan relate to our current activities, but for the sake of time, we will now move on, having stated the most relevant language.

Visual: pictures of slippage (Exhibits 11 & 12)

Stayduhar stated that she has provided some images that show slippage of the hillsides in Wallace and that the Comprehensive Plan's emphasis on erosion control and public safety is reflected in the MOD Ordinance. Anyone familiar with South Hill will know that hillside erosion is a serious and ongoing problem. Many homes on Wallace's hillsides, which are built on slope angles below the threshold of our overlay criteria, are physically falling off the hillside. We recognize that homeowners are thus obligated to pump time and financial resources into maintaining the integrity of their properties. The burden also falls on the City to maintain precarious roads and retaining walls. It is a primary purpose of the MOD Ordinance to maintain slope stability and control erosion. The MOD is also concerned with the delivery of services to the public. As Wallace grows, we must work to avoid overburdening the fire, medical, police, and utility services. Under-regulated hillside development would place a burden on the existing tax base. The cost of provision of basic utility and emergency services to precarious properties on steep mountain slopes would fall on the City and the public.

Visual: beautiful hillsides of Wallace (Exhibit 13)

“Another main purpose of the MOD Ordinance is to preserve the aesthetic values of Wallace. In a personal anecdote, I recall a long-time member of this community telling me that “I would not be living here had I-90 been allowed to run through town.” There is a strong history of natural and historic preservation and reclamation in and around Wallace that contributes to the beauty of the town that we live in. While those efforts have not always been ubiquitously popular, they have been fruitful and contributed to a successful local economy. I hope that this ordinance serves as a continuation of those efforts that have preserved the beauty and viability of Wallace. The historic charm of Wallace runs part and parcel with the hillsides that it is nestled in. In 1908 George Teal, a writer for the Overland Monthly magazine came to Wallace and wrote that “the City of Wallace is a veritable little jewel of a city, set snugly in its beautiful velvet case of green-clad mountains.” People have been enjoying these hillsides for centuries. The beauty of Wallace is inseparable from the beauty of its surroundings and the overwhelming public support for this ordinance demonstrates that the citizens of Wallace recognize this and desire to preserve it.”

Chairman Stayduhar concluded and stated that we would now hear public testimony and asked for written comments to be read into the record first.

Deputy Clerk Trogden read into the record written public comments received by Wallace City Hall labeled exhibits A thru U in support of the Mountain Overlay District and exhibits A1 & A2 in opposition.

Chairman Stayduhar then called on the names of those people who signed in to provide oral testimony. Stayduhar stated that she would begin with those who are in support of the MOD.

Armond Gagne-160 King Street, Wallace:

In support of the MOD. Thanked the Commission for all their work. Stated that his question was already addressed prior. Also is concerned about developers who bring attorneys who have a lot of money who would want to challenge this language. Who makes the decisions and who decides who is to be on the P&Z Commission? Worries about what would happen and how would the City protect itself against such an invasion.

Hollis Anderson-125 Cedar Street, Wallace:

In support of the MOD. Thanked the Commission for the effort they have put into working on the MOD as volunteers. Was an attorney for the City of Wallace for approximately 27 years and stated this is not a new issue. Stated that during her time as the City of Wallace Attorney, dealt with protecting the hillsides to prevent slippage caused by logging. Is glad the City is taking the initiative to protect the hillsides.

Chris Lilienkamp-218 Cedar Street, Wallace:

In support of MOD. Read a prepared letter to the Commission.

Kevin Pickolick-103 Cedar Street, Wallace:

In support of MOD. In support of regulation and believes development is inevitable with the influx of people and that issue before they are a legacy issue for the Commission and urged the Commissioners to pass the MOD.

Julie Magneson-414 Third Street, Wallace:

In support of MOD. Defer speaking to John Magneson

Jill Cooper-1101 Pearl Street, Wallace:
In support of MOD. Defer speaking to John Magneson

Amy Lynn-112 King Street, Wallace:
In support of MOD. Read a prepared letter to Commission.

Kristi Gnaedinger-106 King Street, Wallace:
In support of MOD. Defer speaking to John Magneson

Gretchen Ehrsam-8 King Street, Wallace:
In support of MOD. Defer speaking to John Magneson

Cindy Lien (On behalf of the Historic Wallace Preservation Society, Authored by Heather Branstetter Executive Director)-416 Second Street, Wallace:
In support of MOD. Read a prepared letter to Commission.

Mariann FitzGerald-2 High Street
In support of MOD. Defer speaking to John Magneson

Dick Caron-416 ½ Sixth Street Apt #4, Wallace:
In support of MOD. Thanked the Commission for their work and ditto to all of the prior comments in support.

Mike Lavigne-221 Cedar Street
In support of MOD. Defer speaking to John Magnuson

Minde Beehner-876 Burke Rd, Wallace:
In support of MOD. Lives in the area of impact. Provided pictures to the Commission labeled as Exhibit #1. Spoke to the Commission about responsible hillside development and limiting road scarring.

John Magnuson-P.O. Box 2350, Coeur d'Alene:
In support of MOD. Spoke about the property he owns in Wallace and the past issues with logging and developers and that the hills have always been under siege either from nature or greed. Stated that this MOD is an expression of the community's conscience and asks that the Commission/City please adopt the MOD Ordinance.

Chris Stuecker-P.O. Box 1275, Wallace:
In support of MOD. Stated it was no mistake that Hollywood wanted to film movies in town. Spoke about the efforts of prior city officials to protect the City and to put us on the National Historic Preservation Record and commend the efforts in continuing that protection.

Stayduhar stated that there are no neutrals listed for oral testimony. Will now hear oral testimony from those in opposition to the MOD.

Ryder Gauteraux via phone/call in-Wallace:
Wasn't able to connect with him or hear him during this time.

Mike Chapman (Representing Zanetti's)-306 N. 4th Street, Coeur d'Alene:

Stated his clients are not opposed to the regulation of development of the hillsides but opposed to the specific language in 13-15-4, specifically one word. Stated this ordinance was taken directly from the City of Ketchum on uses permitted, but that there was one word added. Advises removing the word "replace" in that section.

Bill Delbridge-106 Buena Vista Heights, Wallace:

Stated he's not opposed to the Overlay Ordinance and was devastated when logging occurred many years ago but is concerned about the potential to build on his property in the future up Buena Vista Heights or "North Side". Talked about the history with the City of Wallace about living up the North Hillside.

There being no further person who wanted to provide oral testimony, Chairman Stayduhar concluded the public comment section of the Public Hearing.

Determine whether or not to recommend to City Council the Proposed Ordinance to designate a Mountain Overlay District.

C. Frieh asked to speak and address the public. She thanked everyone for coming and providing comments about the ordinance. Frieh addressed a question asked by Mr. Gagne earlier about who is the P&Z Commission and how they become a member. Frieh stated that the Commission is appointed by the mayor and confirmed by the City Council. Stated that as a City, we are also concerned with future developers, but we have proactive attorneys' that understand the complexity of this issue and that anyone who wants to develop, has to comply with the codes/laws in place. Frieh also addressed the concerns Mr. Delbridge had about building on his property on North Hill or Buena Vista Heights. Stated that his property lies within the Residential area and because they are an existing residential lot, they are exempted from the MOD, even though there is no building on them. Stayduhar wanted to also emphasize that this is not just a South Hill issue. The MOD encompasses all of the boundaries within City Limits. Frieh also asked to address Mr. Chapman's comment about 13-15-4 which covers permitted uses with regards to the word "replace". Frieh stated that Mr. Chapman made a good point regarding that language and that it makes sense to modify it. Frieh stated that about the MOD, the Commission would not be pursuing the objective to add an overlay district if the community did not want it and it is clear that an overwhelming majority of the community is in favor of moving forward with this ordinance in creating sensible and reasonable regulations for future development of the hillsides. Also, wanted to bring up again, that this is not a new concept for the City of Wallace. Overlay zones are common in dozens of communities around the country. Stated that this is a standard law and is common practice. Frieh brought up that an ID Supreme Court upheld the validity of a Mountain Overlay District very similar to the MOD before you. In that 2009 case, called Terrazas Vs. Blaine County, the Court said "This Court has recognized that the preservation of open space and the maintenance of the rural character of Blaine County are valid rationales for the County to enact zoning restrictions under its power. The purpose of the Mountain Overlay District falls squarely within the recognized powers of the County." Frieh went on to state that sensible, forward-thinking planning and zoning also serve the purpose of furthering public safety, health, and welfare. And public welfare is a broad legal concept. It's more than just having a good water system and good sewer system, it also includes quality of life concepts for residents and visitors alike. We all get joy from looking at the mountains, that's why we live here. The mountain backdrop is just as important as our charming historic architecture when it comes to our happiness, economy, and tourism, and speaking of the economy, aesthetic, and environmental concerns are not the only reason for preserving scenic beauty. There are very strong economic arguments for scenic preservation. Americans spend 646 billion dollars a year on outdoor recreation. 75 billion of that

is spent on wildlife viewing, triple what Americans spend on movies, concerts, and sporting events combined. So, keeping the surrounding mountains and environment intact is also good for business. For this reason, I am in favor of this ordinance. Getting back to Mr. Chapman's letter, C. Frieh stated that she makes a motion to change the section of 13-15-4 under Uses Permitted, to delete the two words "to replace" and insert the words "in addition to" in its place. Sarah Murphy seconded the motion. Roll call: Kuns; yes, Lewis; yes, Frieh; yes, Stayduhar; yes, Murphy; yes. All in favor, motion carries.

Stayduhar stated that Ryder Gauteraux has been reconnected and wishes to address the Commission for oral testimony and has re-opened the Public Hearing meeting for comment.

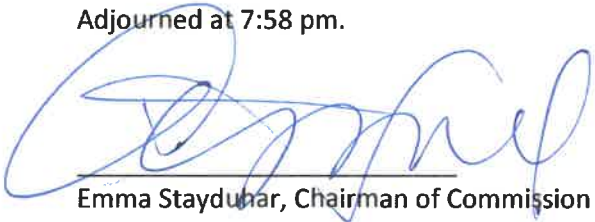
Ryder Gauteraux-Wallace:

In opposition to the MOD. Stated that he is speaking for both he and Chuck Jones, who are business partners who collectively own land on the hillside above Wallace. Read into the record a prepared letter to the Commission.

Stayduhar stated that the public comment period has been re-closed for oral testimony.

S. Lewis stated that he appreciates everyone for coming out to the meeting tonight and their comments. D. Kuns stated that they, as a Commission, have been given the responsibility to protect this town and its citizens and we take it seriously and consider everyone's situation who lives here. C. Frieh stated that in response to one of the comments, this ordinance applies to all of the boundaries within city limits, not just the South Hill. Stayduhar stated she would entertain a motion regarding the MOD Ordinance. S. Lewis made a motion to recommend to City Council the Mountain Overlay District Ordinance with the one edit that was earlier stated. D. Kuns seconded the motion. Roll call: Kuns; yes, Lewis; yes, Frieh; abstained, Stayduhar; yes, Murphy; yes. Motion carries.

There being no further business to come before the Commission, Stayduhar adjourned the meeting. Adjourned at 7:58 pm.



Emma Stayduhar, Chairman of Commission

Attest:



Amanda Trogden, Deputy City Clerk