

**MINUTES OF THE PLANNING AND ZONING COMMISSION
CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO**

June 15, 2020

**Regular Meeting: 5:00 PM
Council Chambers**

Hayden City Hall, 8930 N. Government Way, Hayden, ID 83835

CALL TO ORDER

Chair Petersen called the meeting to order at 5:02

ROLL CALL OF COMMISSION MEMBERS

Brian Petersen, Chair	Present
Michael Cramer, Vice-Chair	Not Present
Corey Andersen	Present
Alan Davis	Present
Benjamin Prickett	Present
Shawn Taylor	Not Present
Brandon Bemis	Present

STAFF PRESENT

Melissa Cleveland, Community Development Director
Caitlin Kling, Legal Counsel
Donna Phillips, Senior Planner
Elizabeth Allen, Planner
Beverly Wester, Commission Clerk

FLAG SALUTE

Chair Petersen led the meeting in the Pledge of Allegiance.

CALL FOR CONFLICTS OF INTEREST

No conflicts reported.

CONSENT CALENDAR

The consent calendar included the approval of the meeting minutes for June 01, 2020, and the written decision in case PZE-20-0111 for 162 E Hayden Ave, LLC, Special Use Permit. Commissioner Andersen moved to approve the consent calendar as presented. Commissioner Davis second the motion. All were in favor, none opposed. The motion passed.

PUBLIC HEARING

Case No. PZE-19-0311, a request by R&K Development LLC

Staff Presentation:

Donna Phillips, Senior Planner, introduced the application for Mark's annexation request PZE-19-0311. Background: On June 20th, 2019 City Council received a request for annexation from Cora Marks on behalf of the Marks Living Trust to have the three properties come in as residential R-1, but to have the maximum density be 2 dwelling units per acre. On June 25th, 2019 City Council heard that request and agreed with 5 requirements. On July 29, 2019 the property transferred ownership to R & K Development LLC. The five requirements the developer agreed to complete prior to annexation:

- 1- Traffic Impact Analysis
- 2- Coeur d'Alene School District Comments
- 3- Sewer Tech Memo
- 4- Surrounding Properties Participation
- 5- Army Corp of Engineers Wetlands Determination (ACEWD)

All must be submitted in order for approval of annexation. The 3 lots that the applicant is proposing to annex are shown on page 2 of the staff review. The knoll outside of the proposed annexation is owned by Lakes Highway District in conjunction with the bike/pedestrian path and right-of-way on Lancaster. Lakes Highway District requested that if annexed they would like the property to the south of Lancaster included. The request is to annex 3 lots for a total of 54+/- acres and to annex the area owned by Lakes Highway District's right-of-way. The request is for a zone designation of R-1 residential. Maximum density of 2 dwelling units per acre that will be written into the annexation agreement, if approved.

- Commissioner Davis asked whether all five of the City Council requirements for annexation consideration were met.

Ms. Phillips stated that all 5 requirements have been met.

Applicants Presentation:

Rob Tate, located at 417 E Indiana Ave, Coeur D'Alene, ID 83814, presented for R&K Development LLC. Rob shared a video while explaining property boundaries. The wet lands R&K Development was required to delineate are actually in the Stone Creek property. The property is 54 acres and R & K Development is looking for 2 units per acre zoning, roughly ½ acre lots.

The 5 conditions met from the letter of intent:

- 1- Traffic Impact Analysis funding was provided in November of 2019 and the results are in with suggested offsite improvements. Full details are available from Community Development Director, Melissa Cleveland.
- 2- CDA School District was contacted about a potential school site and they didn't have any comment other than a request for the number of students.
- 3- Sewer Tech Memo determined that sewer would go into the H1 basin.
- 4- Adjacent property owners were noticed about participating in the annexation – no feedback was received.
- 5- ACEWD determined that there are not any wetlands to preserve on this property.

Infrastructure development: This project proposes to extend services from the Stone Creek development to the south, including sewer. Emergency access would be provided between the two sites. This access road would be part of the bike path. Storm water to be contained on site. As part of the park plan the developer proposes connecting the bike path from Lancaster to Stone Creek Park and to wrap the path around the project.

- Commissioner Bemis asked for details about the proposed park setting.

Mr. Tate answered that parks are a preliminary plat issue and that the developer is required to have 10% of the total land area in parks. There will be dedicated open spaces and the connecting bike trail will be part of their park space. At this time the developer doesn't plan to designate an official park but does have plans to improve open spaces that will integrate with the property to the south.

- Commissioner Andersen asked if the developer has park plans similar to those at Stone Creek Subdivision where there is a pavilion.

Rob Tate answered, yes - the open areas would have amenities similar to Stone Creek's. He then reiterated that these are preliminary plat issues.

Staff Presentation:

Ms. Phillips continued with her presentation, reviewing the standards applicable for annexation found in pages 4-7 of the staff review.

Three sections in Idaho State Law:

1. 50-222: Annexation by Cities
2. 67-6509: Recommendation and Adoption, Amendment and Repeal of the Plan
3. 67-6511: Zoning Ordinance

Two sections in Hayden City Code

1. 1-7-5: Annexation Procedure
2. 11-16-5(F) Standards of Approval

The infrastructure analysis begins on page 7 of the staff review and it addresses the items that were in 11-1-1 A-H. The conceptual development plan has been discussed with respect to the transportation analysis and sewer tech memo. As Mr. Tate has noted there is the Stone Creek subdivision to the south where the park exists then there are two lots that are between that area and the proposed annexation. The City has received an application for a preliminary plat for the Stone Creek North subdivision that is not quite ready for consideration. The conceptual development plan that Mr. Tate refers to is referring to how these subdivisions would work together.

- Chair Petersen asked as to whether or not the two studies were based on 62 lots

Ms. Cleveland answered that the studies were based on the developer's conceptual plan, not necessarily 2 units per acre. If the conceptual plan changes to include more lots the City would need to recalculate that proportional share. The developer has agreed to that condition.

- Chair Petersen clarified that the studies weren't done on 54x2, but something less than that.

Annexed area is greater than 50 acres. Subdivision code requires that 10% of the gross area is to be reserved for park land. In the staff review, beginning on page 9, there's a park analysis explaining that to be considered a park something more than a bike path must be installed. The park development is a requirement that the City is proposing to put in the annexation agreement. Sewer, referenced on page 9 of the staff review, must meet Hayden city code at the time of construction. If the property to the south is not developed at the same time as this property a sewer easement shall be required to cross the properties to the south. Storm water, found on page 10 of the staff review, points out that Hayden City Code 8-3 prohibits storm water runoff beyond the project boundaries. Should there be storm water runoff during the time of construction the developer may need storm water easements. Potable water and fire-flow, page 10 of staff review, will be provided by Avondale Irrigation District. Streets, Pedestrian Paths, and Utilities, located on page 10 of the staff review, explains that Lancaster Road was built by Lakes Highway District to a typical rural road standard and that in order to be annexed into the city the road needs to be built to an urban standard. At the time of development the dedication of right-of-way and construction of improvements shall be in accordance with the City of Hayden Transportation Plan current at the time of the development. Transportation Impact analysis, pages 10-11 of the staff review, showed eight projects for a proportional share of \$43,528. Staff recognized that not all eight projects would be initiated within 10 years so the number was reduced to 3 projects for a total proportional share of \$29,971. Page 11 of the staff review shows that the project is within the Coeur d'Alene School District Boundary and that the school district is not concerned about the additional students as a result of this project. Airport Impacts, staff review page 11, the northern portion of the project resides within the outer critical zone of the airport. Coeur d'Alene Airport did not have any comments but requested an aviation easement. Future Land Use Designations, found on pages 2-3 and 12 of the staff review, show that the applicant is only requesting 2 dwelling units per acre. City of Hayden zoning around the site is R-1. County currently has the land designated ag-suburban. The comprehensive plan analysis can be found on pages 14-21 of the staff review. Comments received from noticing agencies were related to review and construction. Three public comments came in after the staff review was finalized: 2 in support, 1 opposed.

Staff Recommended Conditions, found on page 21 of the staff review:

- 1- The applicant shall enter into an annexation agreement with the City and shall abide by the terms delineated therein.

- 2- At the time of either site and/or subdivision development the applicant shall comply with the requirements set out in the letter from the Northern Lakes Fire Protection District.
- 3- No dedication of right-of-way on Lancaster Road in accordance with the City's adopted transportation plan shall be required at the time of annexation. Nothing shall preclude the City from requiring additional future right-of-way at the time of development.
- 4- The developer shall use the City of Hayden sanitary sewer system to serve future development. If the adjacent property to the south is not developed, a sewer easement shall be required to cross the said adjacent property to the south prior to the development of the subject property.
- 5- Any proposed residential or multi-family development of the property shall be limited to a base density of not greater than two units per acre. The base density may be increased beyond this limit, when an applicable density bonus is applied for and approved through the Planned Unit Development Process.
- 6- Annexation fees as identified in the Traffic Impact Analysis shall be paid as a condition of the annexation agreement and prior to the publication of the Annexation Ordinance.
- 7- Future development shall be designed in accordance with wildland urban interface guidelines.
- 8- An avigation easement shall be recorded as a condition of the annexation agreement and prior to the publication of the Annexation Ordinance as requested by the Coeur d'Alene Airport.
- 9- Due to the uniqueness of the proposed park area and the importance of the connectivity between the multi-modal path on Lancaster Road and the Stone Creek Park, as a condition of the annexation agreement, upon completion of construction of the improvements to include a complete trail system which shall include multiple paved and unpaved trails, bike and hiking trails, and other associated park-like facilities. These facilities shall include benches, trash receptacles, and a view overlook at a minimum that would make the trail system operate as a public recreation opportunity. In order to facilitate the trail system a trailhead shall also be required as part of the construction, unless a trailhead with adequate parking has been provided at another location along the trail system as determined by the City. Additionally, connectivity between this trail system and the subdivision to the south shall be required to meet the non-motorized transportation requirements. The construction of the park shall be required prior to final plat of the second phase of any development of the annexed property.
 - Commissioner Davis asked why so much emphasis on the proposed park plan prior to the developer submitting a development plan.

Ms. Cleveland answered that there has been a lot of discussion regarding the annexation and Stone Creek North connectivity. The applicant had asked if the City would consider non-traditional recreation facilities. The City agreed but wanted it documented that all were on the same page as to what that meant.

- Commissioner Davis asked if the Commission is voting on the parks at annexation or if they are really to vote on whether or not to annex and designate as R-1.

Ms. Phillips confirmed that the Commission is only voting on the annexation and zone designation.

- Chair Petersen asked if Ms. Phillips could identify the contiguous boundaries to the existing incorporated areas.

Ms. Phillips used the map located in page 2 of the staff review to show the contiguous boundaries.

- Chair Petersen asked if the traffic and sewer studies were based on an area less than 2 units per acre. If so, the request is that we do an R-1 with 2 units per acre. The studies haven't demonstrated that the traffic or sewer will support that. Can we limit this to the 64 that the studies are based on?

Ms. Cleveland answered that the studies were based on 72 units. If the developer comes back to the city requesting more lots The City would have to reevaluate the studies.

- Chair Petersen asked if the number of units allowed needs to be in the conditions of approval that the staff is recommending.

Caitlin Kling, Legal Counsel, answered that we could add that to the conditions of approval.

- Commissioner Bemis asked if Stone Creek North is in the city limits.

Ms. Cleveland answered yes it has already been annexed; it just has not been developed yet.

Public Testimony:

Public Testimony Against:

Tammy Bateson, 3125 E Lancaster Rd, Hayden, Idaho 83835, requested clarification because there were a lot of numbers floating around. She pointed out that Mr. Tate stated his request was for no more than 2 houses per acre, then he mentioned 10,000 square feet, to which Ms. Cleveland said was incorrect. So what is the actual zoning? What does that actually look like? Is there an idea on the sizes of the homes? Ms. Bateson then stated that it's her understanding that the 2 houses per acre is an average. Realistically, if you take the open spaces out of the equation there would be more than 2 houses per acre?

- Chair Petersen answered that the applicant is requesting 2 lots per acre with R-1 zoning designation. The studies were based on 72 units. Minimum lot size in R-1 is 8,250 square feet.
- Ms. Cleveland answered that we cannot have more than 2 units per acre over the entire property including the open spaces. The applicant can have 1-7 units based on the City's comprehensive plan. 8,250 is the minimum lot size in an R-1 zone, but the applicant cannot build at a higher density than 2 units per acre. It isn't known yet what the size of the homes will be.

Daniel Owsley, 37593 E Hayden Lake Rd, Hayden, Idaho 83835 stated that the staff review was clearly not complete based on the traffic study which was for 62-72 new homes. This staff review was not posted on the City of Hayden website as promised by the public service announcement. Mr. Owsley saw this mistake as a lack of transparency. When we are looking at development for this area, how are we supposed to be able to comment on these things if we cannot comment on the staff review until we get to the meeting? Most of the information that would be valuable to him to make a decision on whether to support or oppose the decision would be in the staff review, so he finds that it was not posted a serious problem. In his mind the meeting and discussion should be stopped until the staff review is posted to the website for two weeks. Let the public see it and have an opinion. The City of Hayden does have the ability to ensure that any additional burdens from a taxing perspective are placed upon the new residents of this community as opposed to placing burdens on all the remaining City of Hayden and Kootenai County residents. Mr. Owsley believes that the new infrastructure burdens are being paid for by all City of Hayden and Kootenai County residents, and he doesn't think that is right. There are methods that can be used to ensure that developers and those moving into the new neighborhoods pay more for services so that we protect and reduce the burden on long-term residents. He'd like to know what concessions have been negotiated with developers as part of this annexation. It does not appear that many community service items were negotiated as part of this development. Two major developments are coming along Lancaster that are going to push traffic through the intersection of Lancaster and Government Way: Haydon Canyon and this proposal. We're looking at 5,700 plus daily trips through this intersection and yet based on what he can see there isn't any planning that indicates this has been thought about. He believes that people will have to cut through back streets in order to avoid the increased traffic. The three reasons why he is against this annexation:

1. Transparency is missing because the City didn't post the staff review.
 2. No thought put into ensuring that needed services (police, fire & schools) are funded as a part of this annexation.
 3. Traffic study was only done for a tiny piece of the street.
- Commissioner Davis asked which road Mr. Owsley lived on?

Mr. Owsley replied that he lives on East Hayden Lake Avenue, which is off of Lancaster Rd.

Chair Petersen concluded the public comment period.

Rebuttal:

Rob Tate went on to clarify the lot size proposed. In an R-1 zone there's a minimum lot size of 8,250 square feet. The applicant is asking for 2 houses per acre and the definition in the terms of the code is that the 2 houses per acre is based on a gross area that we are bringing in through the annexation of 54 acres. On the 54 acres, based on a gross density of 2 houses per acre the applicant is allowed a maximum number of units. The plan submitted for conceptual review showed 62 lots or units. There will be some areas with smaller lots and some with 1-2 acre estate lots. The goal was to provide a mixed style of lot sizes. The traffic impact analysis was originally modeled on 2 homes per acre, even though the applicant didn't intend to develop the 108 units allowed. The 72 units used for the traffic analysis included the potential subdivision to the south as well as this project. The analysis took into account the existing traffic volumes on Lancaster Road, Government Way and the potential growth of Hayden Canyon. Those values all go into the model and the applicant's numbers get added to it to determine the level of impact. The applicant was assigned a level of impact of \$30,000 over the next 10 years. The applicant fully intends to support and pay those fees. As a development group they haven't gone in to negotiate any concessions yet. Mr. Tate pointed out that as developers they have to pay separate fees to several area agencies in order to build out their development and that they have not tried to negotiate any of those fees down.

- Commissioner Bemis wanted to know how the annexed property connected to the future Stone Creek North area, which will then connect to the South Stone Creek neighborhood, connecting all neighborhoods to Lancaster Road.

Mr. Tate answered no – there is no car connection between the parks. There is an emergency access road for fire, police and snow removal equipment to travel between the neighborhoods. This access road is part of the proposed bike path. The residential roads in Stone Creek are not set up for through traffic. All of the traffic from the proposed annexation has to exit onto Lancaster Road.

- Chair Petersen asked about whether or not the staff review was posted.

Ms. Cleveland answered that the link for the staff review brings up a press copy, but that we did not receive any feedback that the staff review wasn't available. She explained that this hearing for annexation was only a recommendation to Council and that the staff review will be posted during the month that we wait for the annexation to go before council.

Ms. Kling stated that the requirements of the open meeting act were met: this meeting was a properly noticed meeting. The requirements of the local land use planning act were met. All baselines were met and the staff review is not required to be posted under the local land use planning act or the open meeting act. The commission is allowed to go forward with the public hearing. This annexation is only a recommendation to Council so nothing from this meeting is a final action. The commission is here tonight to make a deliberation and recommendation to City Council who then has a second public hearing on this annexation. City Council's hearing will have additional noticing along with the posting of the staff review.

Commission Discussion:

- Chair Petersen restated that the staff review was not available to the public prior to the meeting. He then posed to the commission, in light of learning that the staff review was not available, there are 2 options. 1 – Continue with the deliberations and make a recommendation. 2 – Continue the hearing and have deliberations after the public has had time to read and digest the staff review and then open the meeting back up for public comments. Question to commissioners, continue or deliberate?
- Commissioner Alan clarified with Ms. Kling that the City has operated within the law and that all of the required noticing was completed. Since the City operated within the parameters of the Open Meeting Law he is comfortable with deliberations going forward.

- Commissioner Andersen confirmed with Ms. Phillips that the incorrect document was on the website, but that all of the required noticing was completed. He voted to continue with the meeting.
- Commissioner Bemis agreed that deliberations should continue since not having a staff review posted does not violate any laws.
- Commissioner Prickett agrees with Commissioner Bemis. He agreed to continue with the deliberations.
- Chair Petersen stated that even though the staff review was not available online, proper noticing was in place, he then agreed that the deliberations should continue.
- Commissioner Davis asked of Chair Petersen – You feel that if we continue tonight the Planning and Zoning Commission decision will already be cemented, which may undermine the City Council hearing, because we are only talking about annexation and designating a land use, usually there is no public attendance.

Chair Petersen answered that it is possible testimony based on the staff review may have caused this commission to make a different decision.

Motion 1:

Chair Petersen made a motion to continue the hearing, and Commissioner Anderson seconded the motion.

Roll Call:

Commissioner Andersen:	Yes
Commissioner Bemis:	No
Commissioner Davis:	No
Commissioner Prickett:	No
Chair Petersen:	Yes

Three opposed and 2 in favor. The motion was denied.

Commission Discussion:

- Commissioner Davis wishes to tackle the annexation and zoning designation separately in order to keep the discussion clear. In regard to the zone ordinance amendment – a thorough analysis was completed by the City that after reviewing he didn’t have any objection to annexing this land into the City.
- Commissioner Bemis agrees that this request can be passed on to City Council.
- Commissioner Prickett agrees that this application for annexation can go forward to City Council.
- Chair Petersen finds that this annexation meets the standards for approval and he recommends that City Council proceed with the annexation with an R-1 designation. He recommends the 9 staff conditions along with an additional condition to limit the density.

Ms. Cleveland commented that staff recommended condition number 6 talks about annexation fees as identified in the traffic impact analysis shall be paid as a condition of the annexation agreement. What if staff amended condition 6 to read: impacts greater than 62 family homes shall be assessed at the time of subdivision.

- Chair Petersen is concerned that without a density condition in place this annexation may overburden the existing infrastructure. He wishes to approve the application with stated conditions.
- Commissioner Andersen is concerned with all of the new development overwhelming the existing infrastructure.
- Commissioner Davis asked if the other commissioners agreed that in addition to the 9 staff recommended conditions that we add a condition that an additional analysis will be conducted if the density is beyond the original analysis.

Ms. Kling said that it is important to note that the City would require payment, from the developer, for any additional analysis.

Ms. Cleveland said that this new analysis would be required only if the preliminary plat comes in over the 62 lots proposed in the annexation stage of planning.

- Commissioner Davis saw the utility in waiting until we know what the plat looks like, but then why did the City demand the analysis in the annexation stage.

Chair Petersen answered that it is his understanding that the analysis is based on a combined 72 lots and that is what the commission is making their recommendation on. If the developer comes back to say they want 108 lots – that is not what the commission based the recommendation on. The annexation approval would be based on the information presented at this meeting.

- Commissioner Davis inquired as to whether the 10 homes from Stone Creek North would actually use Lancaster Road.

Ms. Cleveland answered that there are 62 units from the proposed Marks Annexation and 10 from the approved Stone Creek North that will access Lancaster Road through the proposed Marks Annexation, which is why the traffic study included the numbers from both subdivisions.

- Commissioner Davis stated that if it was important to have an analysis prior to annexation it should be important now.

Ms. Phillips asked Commissioner Davis to restate his suggestion.

- Commissioner Davis stated that the additional analysis will be conducted to support infrastructure beyond documented density analysis at the developer's expense. A recommended condition of approval is that if the City is presented with more than 72 units then it would be on the developer to pay the expense of an additional analysis and any additional impact fees associated.

Ms. Philips will rephrase the original staff recommendations to include the commission's condition.

Motion 2:

Commissioner Davis made a motion in Case Number PZE-19-0311 to conditionally approve the annexation and designate the area as Residential R-1 with the 9 recommended staff conditions of approval and a 10th condition to explain that Council's decision is based on an analysis of 62 units. If the developer exceeds that number, additional analysis will be necessary. Commissioner Bemis seconded the motion.

Roll Call:

Commissioner Andersen:	Yes
Commissioner Bemis:	Yes
Commissioner Davis:	Yes
Commissioner Prickett:	Yes
Chair Petersen:	Yes

All in favor none opposed. The motion passed.

REVIEW OF UP COMING MEETING CALENDAR, AND REPORT ON COUNCIL ACTION

Director's Review

Ms. Cleveland presented that Imagine Hayden is getting to the point where a public comment period is required. In the June 24th joint meeting with City Council there will be an overview of all 4 comprehensive plans. June 23rd City Council will hear the appeal of the McCarthy 1st subdivision.

Planning and Zoning Commission

July 6, 2020

- Consent Calendar
- PZE-20-0102 Stone Creek North Subdivision

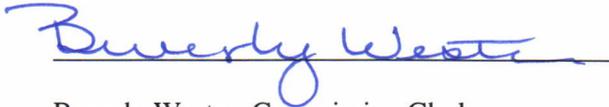
City Council Actions

June 9, 2020

- Approval of Hayden Canyon Charter School Construction Improvement Agreement – Consent Calendar

ADJOURNMENT

The meeting adjourned at 6:37 p.m.



Beverly Wester, Commission Clerk