

Nez Perce County Planning & Zoning Commission
Minutes – Tuesday, September 15, 2015
Lewiston, Idaho

I. CALL TO ORDER

The meeting was called to order at 6:00 p.m. with Chairman Wentworth presiding.

COMMISSION MEMBERS PRESENT: Jim O’Connell, Joe Greco, Kristin Gibson, Terry Kristof, Frank Dillon and Shawn Wentworth.

COMMISSION MEMBERS ABSENT: Randy Arnold, Excused.

PROFESSIONAL STAFF PRESENT: Alison Tompkins, Planner; Connie Bell, Planning & Building Specialist.

II. APPROVAL OF MINUTES

Commission Member O’Connell made a motion to approve the August 18, 2015 minutes as written; seconded by Commission Member Kristof. Motion passed with 4 ayes and 2 abstain.

III. PUBLIC HEARING

CUP 2015-2 Communications Tower – A request for a conditional use permit to construct a 30’ communications tower and 8’x10’ communications shelter, in the Agricultural Residential (AR) zone, and including development of an access road and power to the site located south of Davis Road, Kendrick; Parcel #RP3N02W213002. Idaho Military Division, Public Safety Communications, Applicant.

Chairman Wentworth opened the public hearing and asked for the Applicant’s testimony.

KEVIN ZYWINA, STATE OF IDAHO PUBLIC SAFETY COMMUNICATIONS, addressed the Commission and stated they are requesting to put in a communications site above Cherry Lane in the Lenore area. He said it will be a steel cargo container with a 30 foot self-supporting tower. He said this will house the Idaho State Police and highway department communication gear.

Chairman Wentworth asked if there were any questions.

Being none, Chairman Wentworth asked for the staff report.

Alison said she requested comments and the only comment she received was from the 911 coordinator. She read the comment into the record. She said it states the site provides a co-location opportunity that would help expand the communications coverage area for NPC and LFD [Lewiston Fire Department] first responders.

Alison said regarding the Zoning Analysis the property is in the AR zone and consists of undeveloped cropland. She said the map included in the staff report shows the location of the parcel. She stated transmission towers are permitted with a conditional use permit in this

zone. She said other than being visible due to the height of a tower; there are no other detrimental effects on residences being the closest residence is over a mile away.

Alison said the Comprehensive Plan Analysis designates the Future Land Use of the parcel as Rural Land, Range Lands. Rural lands are not projected for intense development and the Range Lands include industrial uses. She said non-agricultural development may be allowed subject to appropriate performance standards.

Alison said there is a lease agreement between the applicant and the property owner for 1,000 square feet of land being .02 acres with the remainder of the property being kept in crop land.

Alison said there are a number of Policy's in the Comp Plan that support the proposed use that are listed in the staff report. She said she would read a couple of them from the Public Service section. She said #8 states the County should improve law enforcement activities and facilities. She said #10 states the County should take advantage of technological advances to improve its effectiveness and efficiency in providing public services. Alison said the purpose of the site is to fill gaps in communication service in the area for Idaho State Police. She said there could also be co-location of equipment that could serve other agencies through future co-location agreements.

Alison said staff recommends approval with 2 conditions. She said one being: if in the future the tower is not used for a 2 year period that the tower is removed. She said the second condition being the tower and associated equipment be maintained in compliance with state and federal regulations.

Commission Member O'Connell asked if the tower was far enough away from everything that if it fell over it would not hit anything on anyone's property. He was told that was true and there is nothing around it.

Chairman Wentworth asked if there were any other questions.

Being none, Chairman Wentworth asked if there was any testimony in favor.

Being none, Chairman Wentworth asked if there was any testimony about this.

Being none, Chairman Wentworth asked for discussion on this.

Commission Member O'Connell said it is needed for the gap along the river corridor and is a good thing.

Commission Member Dillon made a motion to approve CUP 2015-2 with the condition to remove the tower if it is not used for a period of 2 years; seconded by Commission Member Gibson. Motion passed unanimously.

IV. PUBLIC MEETING ~ RECONSIDERATION OF RENEWALS

Consideration of renewal of Wells CUP 2012-2

CUP 2012-2 Hardship for MFH as 2nd Residence – A request for a Conditional Use Permit to allow a second manufactured home for a hardship on 2.520 acres of land in the Agricultural Residential zone. Property is located at 29027 N. Juliaetta Grade, Juliaetta; Travis & Michele Wells, Applicants.

Chairman Wentworth asked for the Applicant's testimony.

JOHN WELLES, 29027 N. JULIAETTA GRADE, JULIAETTA, stated he was asking for a continuation of the CUP for his son for monetary hardship as his son was out of work for a

couple of months. He said he is working now but doesn't get off until about 7:00. He said there was a concern previously with the sewer system and he said they had Roto-Rooter pump the system again this year. He said he had the line from the tank to the drainfield video-cammed. He said it is a 1961 Fleetwood home and does not think it could handle a move to a MFH park but the home did pass HUD inspection and has a metal roof over it. He said there is no adverse effect on the County.

Chairman Wentworth asked if there were any questions.

Being none, Chairman Wentworth asked if there was any staff report.

Alison said there is no new staff report.

Commission Member Greco asked Alison how many times this can be renewed.

Alison said the zoning ordinance does not state any limit on the times it can be renewed. She read parts of the ordinance referencing MFH hardship and continuations of CUP's.

Commission Member Dillon said he thought last year they talked about not continuing this on and on.

Chairman Wentworth said there were not neighbors complaining.

Commission Member Kristof said it sounds like the hardship still exists.

Alison explained this is different than an accessory building with living quarters, and a second residence is not allowed outright being the parcel is not 5 acres.

Commission Member O'Connell made a motion to approve the renewal of CUP 2012-2; seconded by Commission Member Kristof. Motion passed unanimously.

Consideration of renewal of preliminary plat for The Paddocks

Pheasant Trail Estates 2nd Addition (The Paddocks at Schaub Ranch) ~ A proposed 45-acre subdivision consisting of (25) lots, 0.65 to 3.2 acres size, in the Rural Residential zone. The proposed development is located off of Red Pheasant Boulevard. Developer proposes new private roads, a public water system, and private individual septic systems. Development is located in Wheatlands Fire Protection District. Red Pheasant Holdings, LLC/Schaub Ranch, Inc., Applicant.

Chairman Wentworth asked for the Applicant's testimony.

BILL HOBBS, 1065 HARVEST MOON LN, LEWISTON, stated he had asked for an extension on the preliminary plat. Well 3 would serve that area, and he is trying to work things out with IDWR. He said the Ground Water Management Plan was adopted about a year after he submitted his plat. He said he has been told his water proposal is in Boise being reviewed but said there have been problems in the past with the Coeur d'Alene office saying the paperwork was sent but it wasn't. He said this has prolonged the process making it necessary for an extension. He said the water permit for this area is what is affecting all the development. He said this has been a burden for himself and individual property owners. Mr. Hobbs said it baffles him how he can be approved and then be required to make modifications.

There was discussion about costs, testing, gallons per minute, and what IDWR wants Mr. Hobbs to do with the well.

Commission Member O'Connell asked Mr. Hobbs if he has received any help from any government agencies, including the County.

Mr. Hobbs said he has not received a lot of support. He said the County is really out of the loop but it was the County [Commissioners] that brought the issue in the Tammany area to the IDWR and then that agency's focus turned to their area. He said that costs him and other property owners that needed to drill their wells deeper a lot of money, having to get engineers and IDWR approval.

Chairman Wentworth asked if there were any questions.

Being none, Chairman Wentworth asked if there was any further discussion.

Commission Member O'Connell said this delay is out of Mr. Hobbs hands.

Commission Member Greco made a motion to approve the renewal of the preliminary plat; seconded by Commission Member Dillon. Motion passed unanimously.

V. PUBLIC HEARING

TA 2015-1 Non-Commercial Tracks – A request for a text amendment to Lewiston Area of City Impact Zoning Ordinance #93 which would require existing and proposed non-commercial tracks used for the racing or operation of vehicles to obtain a conditional use permit and meet operational standards. Margaret Polek, Applicant.

Chairman Wentworth opened the public hearing and asked for the Applicant's testimony.

MARGARET POLEK, 3812 22ND ST, LEWISTON, addressed the Commission and stated they are requesting this amendment for non-commercial tracts and not for commercial tracks. She said the reason for this request is to eliminate or minimize the adverse impacts of non-commercial tracks in the ACI. She said the adverse impacts include noise, smoke and dust. She said this way there would not be free coming and going without any regulations.

Commission Member Kristof asked what she meant by smoke and if she means exhaust vapors.

Ms. Polek said it was the vapors off of the Razors [ATV's].

Commission Member O'Connell said there is one place that is the problem and asked if this was at the end of 22nd Street. He said it is out in the County.

Commission Member Greco state he wanted it known that the track Ms. Polek is talking about is on his own property.

Ms. Polek said the track is in the County and to the east of 22nd St. and goes to the south of Hemlock. She was asked if the track was there before she was and she said it was not.

Commission Member O'Connell asked if there was horseback riding, barrel racing, dressage with music going or tractors plowing and all of these making dust and the tractors causing fumes, would these be the same problem.

Ms. Polek said they have had horses out there and said there is dust but not the same as what comes from the track. She said there have been tractors and they do create fumes and dust but they are not centered in one area like a track is. She said she feels the County should be able to apply some rules if they wanted to.

Commission Member Kristof asked how often the track is used and what the hours are.

Ms. Polek said it varies on different days at different times. She said it could be at 7 in the morning or 10 at night. She said it could also be all day or part of a day.

Commission Member Greco said it has never been past dark and it has not been at 7 in the morning. He also said it has never been all day long. He said this was the truth.

Ms. Polek said they [Grecos] do not see what goes on where they [Poleks] live. She did say that lately there has not been any activity out there.

Commission Member Kristof said she wanted to understand about this and asked if this was a private track and asked who uses it.

Ms. Polek said her understanding is it was going to be family, and then it was family and their friends, and then family and their friends and their kids and friends, so she said she cannot verify who actually uses it.

Chairman Wentworth asked if there were any questions.

Being none, Chairman Wentworth asked for the staff report.

Alison said she is going to go over the staff report in a little more detail being most in the audience are for this public hearing. She said the Planning and Building office occasionally gets questions about if it is allowed to build a track on a person's own parcel for their own use. She said the County has 2 zoning ordinances in effect. She said one is for the Lewiston ACI and one is for the County. She said that neither of these ordinances regulates privately used tracks but they do both regulate commercial tracks.

Alison said in the ACI, the closest use to a track that is regulated is an entertainment center. She said there is no definition for an OHV or ATV or off-road vehicle track. She said there is a distinction between a private and a commercial track. She said when the County received a complaint on Mr. Greco's track; the City also got a complaint. She said the complaint came from a property owner in the City limits but the area the complaint is about is in the ACI which is outside the City limits. She said the area outside the City limits is subject to County zoning and enforcement. She said the City cannot enforce outside their city limits.

Alison said this was looked into and determined not to be a commercial track so it was a lawful use by the property owner. She said the noise was brought up but the County does not have a noise ordinance so there was no violation there.

Alison said to evaluate the proposed amendment, the only thing she could find to compare this to is a commercial entertainment center, but for private use. She said the definition of a commercial entertainment center is "for the use for gain under private ownership and the primary purpose is to provide one of various types of indoor or outdoor entertainment, recreational activity, or athletic involvement, and for which a fee for admission or service is charged, or for which donations are solicited". She said "typical uses may include theaters, bowling alleys, handball-racquetball club-court, go-cart tracks, radio controlled car race centers, etc., and excluding commercial riding arenas/rodeo grounds". She said if a person did want to have a commercial entertainment facility and wanted to have a dirt bike track, it would be prohibited. She said a commercial dirt bike track is not allowed in the ACI but there is nothing in the ordinance prohibiting the use of a private track.

Alison said that a commercial entertainment center is regulated to address perimeter fencing, sanitation services, water supply, lighting, hours of operation and overnight camping. She said the current ACI Zoning Ordinance already has these things in place for a commercial facility.

Alison said in comparison, this proposed text amendment is for 3 different sections in the zoning ordinance. She said first, there would be a new section called Non-Commercial Tracks. She said this would require a CUP for all vehicle tracks in the ACI; existing as well as new tracks. She said normally a zoning ordinance is set up so when a new regulation is

implemented, if a person had an existing use or building in effect prior to the new regulation, it is considered a legal non-conforming use, also known as a grandfathered use or structure.

Alison said this proposed amendment would require existing as well as new tracks to apply for a CUP that would require a track operation plan to be included. She said this would need to address issues of air quality, emergency response, objectionable noise, traffic, security, hours of operation, fire control, spill containment, and minimum distance to any residence other than the owner.

Alison said she put together Table 1 in the staff report that is a comparison between existing regulations for a Commercial Entertainment Facility and proposed regulations for a Non-Commercial Track. She reminded that the existing regulations are for commercial ventures and the proposed regulations are for non-commercial/private uses. She said a few of the things listed are similar, those being security, hours of operation and setbacks. She said the other issues listed are not similar. She said those are air quality, emergency response, traffic and objectionable noise. She said in the existing regulations there is a line that is "Other Standards Deemed Necessary to ensure compatibility with adjacent uses". She said if you compare these side by side, the proposed regulations appear to be more restrictive than the existing regulations for commercial ventures.

Alison said in the proposed text, objectionable noise is defined as use that results in greater than 60 decibels at the property line developed with the residential land use. She said she did a search online regarding noise and has included a few charts in the staff report to show decibel volumes by a number of different uses. She said what all of the charts have in common is that 60 decibels is about what is generated from a normal conversation. She said your refrigerator would be about 40 decibels and a car horn is around 110 decibels. She said one of the charts shows urban daytime traffic as 80 decibels and nighttime being about 40 decibels. She said these examples should give an idea of what the 60 decibel range would be like.

Alison said that noise is subjective in that it depends on what you are doing, and what is acceptable can change depending on who you are talking to, the time of day, and topography. She said there are zones in the ACI where noise is restricted in some way. She said that uses which create a nuisance due to noise, smoke, odor, gas, or dust are prohibited. She said amplified noise and loudspeakers are prohibited between 7:00 p.m. and 7:00 a.m. in the North Lewiston Mixed Use Development zone, for example.

Alison said Section 7.0 of the ACI Zoning Ordinance governs non-conforming uses. She said a use that was lawful July 25, 1988 at the date of adoption of Ordinance No. 46 (that is the adoption of the original ACI Zoning Ordinance) is known as a non-conforming use or a "grandfathered use". She said the proposed amendment conflicts with Section 7.2 which permits a non-conforming use to continue subject to standards.

Alison said there is a conflict between the proposed amendment and the ACI Zoning Ordinance being the proposed amendment's intent is to apply to existing tracks. She said if this was approved as written, existing tracks would become non-conforming. She said you would also have to notify everyone with an existing track and give them an opportunity to get a CUP so they are not in violation.

Alison discussed the Comp Plan Analysis. She said the Lewiston ACI is Urban Land and City Impact Area. She said the urban land is projected or used for intensive development. She said the uses include rural and neighborhood uses and land is expected to be annexed into the City at some point in time. She explained the city impact areas are supposed to provide zoning, subdivisions, and design standards that are compatible with those of the City.

Alison said the goal statement in the Comp Plan that is specific to ACI's states the intent is "to plan for and manage growth that protects private property rights, ensures adequate public facilities and services are provided at reasonable costs, encourage urban development within cities, and ensure that land is developed commensurate with its physical characteristics".

Alison said it states that NPC should consider and weigh the needs of residents in land use and land management decisions and also allow for mixed uses where the environment, community, and infrastructure will not be adversely affected.

Alison said the ACI receives a lot of attention in both Idaho Code and in local ordinances because of the circumstances that affect them. She said they are in the County but expected

to be annexed and become urban so they are subject to standards that are a combination of city and county regulations. She said this requires careful balancing of the needs of both planning perspectives, which can differ greatly.

Alison said her conclusion is the proposed amendment is a significant change in policy and should be carefully considered for the 4 reasons she has listed in the staff report. She read the reasons she listed:

- 1) As written and proposed, this creates standards for private use that are more restrictive than those currently required for commercial entertainment facilities. She said most of the time a private use not open to the public is not as restricted as commercial and/or public uses.
- 2) This amendment would impact all tracks, existing and proposed. She said this could make a currently lawful use become unlawful without an approved CUP. She said this could require an application and fee for a CUP for a property owner to maintain an existing right.
- 3) The new text creates an inherent conflict with the existing definition of allowable non-conforming uses, as well as disregard for pre-existing/current and lawful uses of tracks.
- 4) The additional regulations require staff time for oversight, enforcement, and processing of applications, as well as additional time and expenses for public hearing notices and the Planning and Zoning Commissioner time and costs.

Alison said staff does not recommend approval of this amendment as written. She asked if there were any questions.

Commission Member O'Connell asked if a private non-profit club would be considered commercial. He also asked how many tracks are in the ACI and how long before this would cover the whole County.

Alison said she did not know the answer to any of his 3 questions. She said she can say that if this only applies to the ACI, and a property owner in the County would have to initiate a text amendment for the County zoning ordinance before it would affect the area outside the ACI.

There was discussion that the ACI boundaries change from time to time and that would affect parcels going in or out of the ACI with one of those changes. There was discussion if someone would be grandfathered-in out in the County, and it was stated it would depend on how a text amendment was written.

Commission Member Kristof stated it makes her nervous to take a legal use of someone's private property and by some words make the use illegal and she questions if they have the right to do that.

Alison said in general ordinances change and usually they do get more restrictive over time, but it is unusual that it would apply to existing tracks. She said usually a change would apply to uses moving forward and not to existing uses.

There was discussion if this would be setting a precedence of making legal uses non-legal for other uses.

Commission Member Dillon said it was his opinion that there would be no chance of this passing the way it is written. He discussed the uses at 60 and at 100 decibels along with the request to have all the safety precautions to have this use. He said the next thing would be the roping arenas and said there are probably 50-60 around and they create dust and noise and they might have to have an ambulance present. He said it is not usable as it is written. He said he was not sure who wrote it but feel someone needs to do their homework and come back with something that makes sense. He said he lives next to the round up grounds and the motorcycle races and demolition derby is loud and dusty but at 11:00 p.m. they shut it off. He said when they farm the wheat fields by him; they make more dust than a 1,000 motorcycles. He said that is just life when living out.

Alison said in looking through the file she noticed she did receive a comment from Joel Plaskon with the City but it was addressing commercial tracks and that is why it was not part of the staff report. She read the comment into the record.

There was discussion that the decibels were not known that were generated by the riding on this track and that equipment was needed to test decibels.

Chairman Wentworth asked if there were any other questions.

Being none, Chairman Wentworth asked if there was any testimony in favor.

SAM CREASON, 1219 IDAHO ST, LEWISTON, testified he is the attorney representing a number of people in the County and asked to speak on the proposed ordinance. He said the County does not have any way for the people next to a track to do anything but go to court with a nuisance claim and try to enforce a public or private nuisance through their own expense. He said he would like to address the Commission in how they are reading the standards and how they are to be met. He said the proposed ordinance states those standards need to be addressed in the application process. He said for example, the Commission could say they do not feel there needs to be a road out to the track for an ambulance.

Mr. Creason said they are asking to have this approved so the P&Z Members can ask the questions they have been asking of an applicant. He said this is not about a particular track but about the ACI area and people not having any aid from the County for having to listen to these tracks and that is not neighborly. He said there is no precedence of what has to be done in the future. He said this would give the P&Z a tool to analyze uses and be able to say if the uses are consistent with the surrounding residential area. He said he saw 2 CUP's go through rather quickly and that is all they are asking for in the ACI.

Mr. Creason said they believe it is consistent with the Comp Plan. He said when this is properly read; he said it is not more restrictive than the commercial track use. He said this would not allow the government the right to other considerations and make a bunch of lists. He said this would have a person go over the 8 items and come to the County with a plan that addresses those items or say why they are not needed. He said for these reasons, they would ask the P&Z to recommend approval.

Chairman Wentworth asked if Mr. Creason could "read it correctly" so he can understand.

Mr. Creason said if you look at the text amendment, it says that a proposed use must "address" the 8 elements and not that it "must comply". He said an application could state they don't see a need to access the fire department and give reasons why for example. He said then the P&Z can make a decision after having this information. He said he thinks this might be the misunderstanding about these not being minimum requirements but 8 criteria to address from the application for the P&Z in making their educated decision.

Chairman Wentworth said this was confusing in that he was not sure if Mr. Creason was in favor of this or not.

Mr. Creason said he was in favor of the text amendment but wanted to make sure that the 8 criteria are to be addressed in any application and they were not a requirement. He said it is a guidepost for the P&Z to use to make their decision from.

There was discussion regarding the 60 decibel criteria and that is was consistent with other counties and the State of WA.

Commission Member Kristof asked if 60 was picked as a place to start and which counties have this criteria.

Mr. Creason said he did not bring that information with him but he thinks Bannock County was one of them. He said they are talking about county standards and not state standards. He said he did not use Ada County as they are far more restrictive.

Commission Member Kristof said she does not see this in Idaho or Latah County which are on both sides of Nez Perce County.

Commission Member O'Connell asked if it was the government's job to regulate neighborly behavior. He also addressed Mr. Creason's comment about breezing through the other CUP's. He said those were only affecting the property owners themselves so he doesn't think what is being talked about can be compared with those. He said some CUP's are very logical and others like this issue are more complicated.

Mr. Creason said the fact that the P&Z Commission exists with the members on it, that there is some role for the government for regulating neighborly behavior.

Chairman Wentworth asked if there was any other testimony in favor.

BOB MCCARTNEY, 2125 HEMLOCK AVE, LEWISTON, testified he is approximately 3,500 feet from this track. He said during the summer when he has his windows open, he has had to clean off the 1/8 inch thick dust off his TV so he can see again. He said he is not totally against this track but he is against it being used past late and said it has been used past 10:00 p.m.

PAT KLEMPPEL, 2134 HEMLOCK AVE, LEWISTON, testified he is a neighbor next to Mr. McCartney so he will not go over that same testimony. He said he does not feel it is unreasonable to have a track on a person's own property in the ACI but does feel it is unreasonable when the use of the track negatively impacts surrounding neighbors by noise, dust or detract from enjoyment of a person's personal property. He said he is in favor of this because of these reasons.

Chairman Wentworth asked Mr. Klempel what his experience is about the hours of use.

Mr. Klempel said it was the same as has been testified. He said at first it was used most of the day. He said there would be riders and then he would see them on their cell phone and then another batch of riders would come.

TOM POLEK, 3812 22ND ST, LEWISTON, testified he is not in favor of the dust that is atrocious and the noise is unbelievable. He said when they drive to and from the track through the stubble field the dust is like 10 stage coaches. He said it is not like the rodeo grounds. He said it is the dust and the noise and the inconsideration of the neighbors. He said he has lived there for about 40 years and never thought he would have to put up with this. He said he has a gazebo and does not even want to have people over due to the dust and the noise.

Chairman Wentworth asked if there was any other testimony in favor.

Being none, Chairman Wentworth asked for testimony in opposition.

TRACI GRECO, 2316 GRELLE AVE, LEWISTON, testified she also owns the property in dispute. She said they have done everything they can to minimize the hours and keep the dust down. She said regarding the late riding, they have been called by the county police many times about trespassing and riding on the track without permission and they have met them at the track. She said whoever is calling law enforcement would have no idea who has permission to ride on the track so the police say they cannot do anything. She said one of the people that

testified works shift work. She said they got a copy of the person's schedule and would not allow anyone to ride on the track while that person was sleeping.

Ms. Greco said they had water trucks come and wet the track at times. She said the people that have testified have called the City to report them stealing water from fire hydrants, and that they have paid the City for that water. She said the people have contacted DEQ, EPA and the County Commissioners. She said all of these have contacted them and none of them have determined they have done anything that is not rightful to them. She said so if there were people riding late at night that they did not know about, she said she finds it hard to believe when people are riding during the day that they would be calling the police that they would not be calling the police late at night.

Ms. Greco said there is talk about what people can do with their own property and she understands that everyone does not enjoy outside activities and that the neighbors have a gazebo outside at their house. She said a few weeks ago they rode bikes over to this property and found cars parked in their field for a wedding the neighbors were having. She said they also found there had been pine cones and needles and yard debris dumped in their field. She said when you talk about being neighborly and doing the right thing, she feels they have done everything to allow some kids some entertainment and allow them to do what they like to do. She said they have some family members that enjoy riding motorcycles. She said they have 2 little nieces and nephews that are really the only ones that have been riding in the last 12 months.

Ms. Greco said they have driven their own vehicles over there and the neighbors call and complain about the dust. She said it is not just about the track. She said the neighbors know they are planning a subdivision there. She said they are opposed to it because the neighbors' families have used that field over the years to ride horses and tame wild animals. She said it is not just about the track. She said she understands that they have owned their house for 40 years but things are going to be changing. She said they are doing everything legally and within their rights.

Commission Member Kristof asked if they could post their property as private property and if that might help. She also asked about what has been done to control the dust.

Ms. Greco said there are no trespassing signs. She said for the neighbors to call the cops when they don't even know who has permission to ride. She said they have had friends that had permission to ride that have been approached by officers. She said they have received calls when they are out of town by officers asking if someone has permission to ride and Greco's will tell the officer that they do. She said anytime they have been contacted and they are in town, Joe will drive over there and make sure that only the people that have permission are the ones on the property. She said if the neighbors have contacted the police so many times for people riding during the day that she finds it hard to believe they would not call the police at night if people truly are riding at night. She said they have not had any calls from the neighbors or the police regarding people riding at night.

Ms. Greco said they had heavy equipment out there when they were building the track for her son that races UTV's in CA, AZ and NV for him to have a place to practice. She said they have a family member that enjoys riding motorcycles. She said there was a family that was allowed to ride but were bringing friends to ride also and they were cut off from using the track anymore. She said they are very conscious of who and how many are using the track and how long it is used. She said at times when the dust was greater; they would hire a water truck that would fill up with City water. She said they paid for the truck and the water. She said this was at the same time there were complaints about the equipment, the traffic down the road, and they were accused of taking the water without permission.

Ms. Greco said they can't win. She said they live on Grelle and they have farm fields that are plowed around them all the time. She said she knows what the dust is. She does not complain about the dust from the farm equipment because that is the way of life. She said they should have the right to drive across their stubble field whether it creates dust or not.

Commission Member O'Connell asked how far they live from the track. He also asked if the track was part of the subdivision area.

Ms. Greco said they live on Grelle and Powers is behind them and they own 160 acres on Powers. She said it is about 1,200 feet from their home. She said the track is on the 160 acres but the subdivision will be done in phases and it is not part of the first phase. She said they will continue with the track and the part that is farmed until it is all developed. She said the first phase will be off Powers and 22nd St. She said the track is at the far end of 22nd St where it is not even a developed through street. She said it is within a quarter mile of each other.

Chairman Wentworth asked if there was any more testimony.

RICK KEANE, 35309 POWELL RD, LEWISTON, testified to beware of the attorney as they lure you in and sugar coat what they say. He said we all live in Idaho and don't have the California restrictions and red tape. He said there was talk about protecting the future, of impact, and about being annexed. He said with the rate of growth, it would probably be 100 years before it would be annexed due to the very slow growth.

Mr. Keane asked why don't we add language to restrict leaf blowers, lawn mowers, weed eaters and tree pruning saws. He said his neighbor mows his lawn from 8:00 to 1 or 2:00 every Saturday. He said it is a lot louder than motorcycles. He wants to see us keeping things simple and free from too many regulations. He said if this passes, then they might as well pass an ordinance on horses as they have flies galore. He said that is more of a nuisance. He mentioned a number of other things that could be considered nuisances.

KENT SIMMONS, 7028 COUGAR RIDGE DR, LEWISTON, testified he lives outside the ACI and has a track he has had for about 9½ years. He said the way he reads this is overly restrictive and unnecessary.

LUKE BALDWIN, 19095 CLYDESDALE DR, LEWISTON, testified he is a little ways out in the county and said he hopes the ACI never reaches him. He said if it does, he would sell and move. He said he does not care what his neighbors do and if what they are doing crosses over onto his property line; he would ask them not to do that. He said if he is on shift work and his neighbor starts his lawnmower he would close his window. He said if it doesn't work out, he might ask his neighbor if he wants to sell his property and he can go away, or might sell his own property and then he can go away.

BILL HOBBS, 1065 HARVEST MOON LN, LEWISTON, testified about personal property and uses and it is great to have property to raise your kids on and have their friends over. He said they can ride an ATV or motorcycle and it is controlled. He said there were some people riding around at night on motorcycles and started some fires. He said anywhere you are in the County, there is going to be some fire and EMS response.

Mr. Hobbs said what hit him about what Mr. Creason said was that there was already an avenue for problems like this through civil court. He said why make everyone else pay for you having a problem with your neighbor. He said it might not be a small issue to some but for the County in whole, it is a small issue. But the whole County is going to suffer for it because people can't work through their problems and talk to their neighbors.

JACK BRINGMAN, 3624 23RD ST, LEWISTON, testified he lives in the general area of the track just down the street from Powers. He said when they have the motorcycles or demolition cars at the Round Up Grounds, he can hear them at his house but he has never heard noise from Joe's track. He said he might not be as close as the neighbors across the street but is in that general neighborhood. He said the dust from the roping arena behind him has more dust than he has ever noticed from Joe's track. He said he is adamantly opposed to any restrictions on this kind of use.

ERIC CHRISTTIANSEN, 3433 5TH ST, LEWISTON, testified he owns a decibel meter and has ridden out at Joe's. He said he puts on the events at the Round Up Grounds and creates all this noise in the County. He said they probably came up with the 60 decibels from a reading he had previously done. He said he thinks the City of Lewiston, which is more restrictive than the County, uses 70 decibels at the property line. He said as the noise rises, the meter quadruples. He said he is not a professional at using the meter and doesn't claim to be. Exhibit A was submitted into the record labeled as EC Enterprises, LLC. He said he is going to use Joe's place as an example and made a map back when these complaint issues came up. He said on the map in Position A, at 75 feet with multiple bikes going by, the meter read 58-60 decibels.

JAYNE HAYS, 1417 ALDER AVE, LEWISTON, testified said she has 2 children that ride motorcycles. She said she thinks it would be awful to impose this. She said everyone owns their own property and it would be bad for someone to tell you that you can't do something on your own property. She said she thinks it would be neighborly to work with them and to see when it might work best to ride with the neighbors but the neighbors also have to be understanding. She said it comes down to trying to work it out and be neighborly but it is still a person's property for them to use. She said her husband owns a lawn care service and if a lawnmower is 70 decibels, he would have to have a CUP to run his business to support his family.

EMILY HOLZER, 1834 BIRCH DR, LEWISTON, testified she is hoping to move in the near future, very close to this track. She said she has been around motorcycles her whole life and said there are diesel trucks that are much louder than most motorcycles. She said her son had a small track when they were building a place by where the old Wal-Mart was. She said most of the neighbors thought it was cute and fun to watch. She said Joe's track is similar and for young people to learn to ride and for families to be together. She said they are not doing this to be harmful or create havoc but to support family time together. She said this track offers more than the dust and chaos that some might feel. She said it offers time for families to be together and close to home. She said there might be a dad that works a lot but it is close enough he might be able to take a few minutes and go watch his kids ride. She said she is not in favor of this.

JEFF CORNISH, 101 DOWN RIVER RD, LEWISTON, testified that he agrees this is not just about Joe's track. He said this is about the Commission setting precedence about everyone's property in the future and their rights.

ANGIE VALLIANT, 914 8TH AVE, LEWISTON, testified she is looking for property and a house to purchase. She said it scares her to think that someone could dictate what she can do on her own property. She said her kids like to ride dirt bikes and she would not want someone telling them they can't ride on their own property. She said because of this, she is against this.

Chairman Wentworth asked if there was any further testimony.

Being none, Chairman Wentworth asked for rebuttal from the Applicant.

Ms. Polek said she is not against motorcycles or horses. She said she used to ride horses. She said this is not a small track. She said it is 12 feet tall and 40 feet long. She said these are razors they are riding and not small motorcycles. She said she raised 5 children and they enjoyed outdoor things.

Ms. Polek said they have always had respect for their neighbors. She said they had to get a permit to have the wedding for noise. She said she is really not against this but said it is not about what the track is for; it is about what the track is causing. She said the track is causing more than a minimal amount of dust and noise. She said unless you live there you don't

know. She said she is not sure what the decibel reading is but it has gotten very loud. She said if there was a schedule, it was ignored and she knows that for a fact.

Ms. Polek said she is not sure who is making all the calls. She said it was not her. She said she is only concerned about what is happening now. She said she is not concerned about the noise of a farm tractor or the horse arenas.

Commission Member O'Connell asked about the permit she said she got and questioned if she was in the County.

Ms. Polek said she is in the City Limits and Joe's property is County.

Commission Member Kristof asked about Ms. Polek not being opposed to the sport and what would it take for her.

Ms. Polek said she is not opposed to the sport but this is right on the west side of the property.

There was discussion about the track being on the east or west side of the property now.

Ms. Polek said if it was on the east side of the property, they would probably not be here today.

Chairman Wentworth asked if there were any other questions.

Being none, Chairman Wentworth asked for discussion amongst the Members.

Commission Member Dillon said the Poleks do have a beautiful place and he can understand the dust and the noise but said he is not for this the way it is written and he does not support it.

There was discussion about a lack of support the way the amendment is written and being that restrictive. It was discussed about accomplishing more talking among neighbors or handling in court but not passing this.

Commission Member Gibson said neighbors that like to shoot and kids like to ride horses and motorcycles outside of town, but just not at the same time.

Commission Member O'Connell said there are too many regulations now and does not want to see more. He said he thinks people should work things out with their neighbors and not get government involved. He said he is going over the big picture and not talking about Joe's track as he has never been out there or seen it.

Mr. Polek (speaking out of order) said that was the problem that the Members never come out and see what the problem is.

Being no further discussion, Chairman Wentworth closed the public hearing.

Chairman Wentworth said this is not just talking about Joe's track and he feels this is poorly written and gives long fingers stretched out if this was to pass. He said he can see there could be problems with hours of operation, but not as it is written right now.

Commission Member Dillon said if this is passed; the next thing will be someone coming in about regulating an arena or a farmer.

Commission Member Kristof said she agreed with Commission Member Dillon. She said she thinks it is setting precedence.

Chairman Wentworth reopened the public hearing.

CASE STEDHAM, 3360 E MAIN ST, LEWISTON, testified he lives in the ACI and they built a track for his son and his friends. He said he is in the M2, Heavy Industrial zone which he figures he will probably never get a complaint being he is next to outhouse companies, compost places, mills and junk yards next to him. He said being that they were discussing not passing this as written; he asked for them to keep in mind that different zoned areas would be affected if something was done regarding private tracks, that would probably never even have a complaint in the M2 zone.

Chairman Wentworth closed the public hearing.

Commission Member O'Connell said he finds it interesting that there are no commercial tracks in the whole area.

Commission Member Dillon made a motion to recommend denial to the Board of County Commissioners on TA 2015-1; seconded by Commission Member Gibson. Motion passed with 5 ayes and Commission Member Greco abstaining.

Chairman Wentworth called for a short break.

Chairman Wentworth reopened the meeting.

VI. FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

CUP 2015-1 Special Event Center, Winery & Tasting Room, and Bed & Breakfast – A request for a conditional use permit to operate a special event center, winery with wine and beer tasting room and associated retail shop, and bed and breakfast facility, in the Single Family Residential (R-1) zone, on property located at 2621 Grelle Avenue, Lewiston; Parcel #RP00116006000A. Bryan Chambers, Applicant.

Chairman Wentworth asked for any discussion.

Commission Member O'Connell asked if he was really going to do this or if there had been any update.

There was no information of any updates.

Being no further discussion, Chairman Wentworth asked for a motion.

Commission Member Kristof made a motion to approve the Findings of Fact, Conclusions of Law & Decision for CUP 2015-1; seconded by Commission Member Greco. A roll call vote was taken and motion passed with a vote of 4 Ayes and 2 Abstain by Commission Members Gibson and Dillon and 1 Absent as Commission Member Arnold was absent.

VII. OTHER BUSINESS OR CONCERNS

Being no further business, Chairman Wentworth asked for a motion to adjourn the meeting.

Commission Member O'Connell made a motion to adjourn the meeting; seconded by Commission Member Greco. Motion passed unanimously.

VIII. ADJOURN

Being no further discussion to come before the Commission, the meeting was adjourned at 8:00 P.M.

Respectfully Submitted,

Connie Bell, Planning & Building
Senior Customer Service Specialist

APPROVED:

Chairman/Vice Chairman
Nez Perce County Planning and Zoning Commission