



**AGENDA
PLANNING AND ZONING COMMISSION
WORK SESSION
September 18, 2014
STARTING AT 5:00 PM**

LOCATION: **150 Courthouse Dr., Driggs, ID**
Commissioners' Chamber – First Floor (lower level, SW Entrance)

1. Chairman Business
2. Administrator Business
3. Approve available minutes

ITEM #1 WORK SESSION: Draft Code: Discussion of the Draft Development Code. Focusing on non-conforming uses. **No public comment will be taken regarding the Draft Development Code.**

In our meeting with Lee in August one of the items that was listed to talk about was “Non-Conforming Uses”. I have included:

1. **A copy of our existing ordinance that addresses non-conforming uses**
2. **Code Studio’s model code section that addresses non-conforming uses**
3. **Aerial images of several non-conforming uses to use as examples for the conversation**
 - a. **Felt Town site**
 - b. **Drawknife/ Clawson Town site**
 - c. **The Spud, MD, Rocky Road**

I would like to discuss what we define as non-conforming uses (do we want to make an attempt to “zone” uses or buildings into conformance), how we handle non-conforming uses (do we want to let them continue indefinitely, or phase them out), and do we want to allow expansion.

Please review the two code documents and be prepared to share your thoughts.

ADJOURN

Any person needing special accommodations to participate in the above noticed meeting should contact the Board of County Commissioners’ office 2 business days prior to the meeting at 208-354-8775.

CHAPTER 7

NONCONFORMING USES

SECTION:

8-7-1: Nonconforming Uses

8-7-1: NONCONFORMING USES: Any uses lawfully occupying a building or land at the effective date hereof, or of subsequent amendments hereto, which do not conform to regulations for the zoning district in which it is located shall be a nonconforming use and may be continued. Nonconforming uses are, therefore, grand fathered under provisions of this title. The following provisions apply to nonconforming uses:

A. REPAIRS; MAINTENANCE: There shall be no limit on repairs of maintenance for nonconforming buildings or uses. Repairs and maintenance shall not increase the degree of nonconformity; other than to meet the provisions of law to accommodate handicap access as required by American Disabilities Act and other federal and state law.

B. CHANGES IN OCCUPANCY: Changes in occupancy may be permitted in a nonconforming use, provided the new occupancy has no greater impact on the land use, traffic, noise generation, parking requirements, and similar factors that existed with the nonconforming land use prior to the change in occupancy.

C. EXPANSION OF NONCONFORMING USE: Nonconforming uses may expand, but only on the lot occupied by the land use on the effective date of the zoning ordinance in effect on March 11, 1996. A building permit must be obtained prior to any expansion. Proof of lot size and existing buildings for the nonconforming use occupied on the adoption date of the zoning ordinance in effect March 11, 1996, must be submitted with the building permit by the applicant.

D. REPLACEMENT: Any nonconforming building may be replaced, but only where the effect of the replacement remains similar to or lessens the adverse impact of the nonconforming land use. Replacement of nonconforming structures requires a building permit.

E. ABANDONMENT; DISCONTINUANCE: Whenever a nonconforming use of land or building has been abandoned or discontinued for a period of 18 months, the use shall be deemed terminated. Use of the premises thereafter shall be in conformity with the regulations of the zoning district in which it is located.

F. RIGHT: The right to a nonconforming use runs with the land, not with the owner.

Div. 10.11. Nonconformities

10.11.1. Nonconforming Building or Structure

A. Defined

A principal or accessory building or structure that does not meet the requirements for the applicable zoning district.

B. Expansion

A nonconforming building or structure may be expanded, enlarged or extended where the expansion, enlargement or extension is for a conforming use in the applicable zoning district. Any expansion, enlargement or extension of a nonconforming building or structure must meet the dimensional requirements for the applicable zoning district and all other requirements of this Land Development Code.

C. Damage of Destruction

1. In the event that a nonconforming structure devoted to a conforming residential or civic use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause, such structure may be restored within the existing footprint and to the condition existing immediately before the damage or destruction.
2. In the event that a nonconforming structure devoted to a conforming non-residential use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% of the value of the structure prior to the damage or destruction, such structure may only be restored in conformance with this Land Development Code, unless a variance is granted by the Board of Zoning Appeals.

10.11.2. Nonconforming Use

A. Defined

Any use of land, building or structure that does not conform to the use regulations of this Land Development Code, but which was lawfully existing (conforming) on or before the effective date of this Land Development Code or its amendment.

B. Continuance

A nonconforming use may be continued, subject to the requirements of this Section.

C. Proof of Lawful Establishment

It is the responsibility of the owner of a nonconforming use to prove to the Administrator that the use was lawfully established and existed on the effective date of adoption or amendment of this Land Development Code.

D. Change in Use

A nonconforming use may not be changed to another nonconforming use. A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged.

E. Discontinuance

A nonconforming use may not be re-established after discontinuance for 90 days. Vacancy or non-use of the building, regardless of the intent of the owner or tenant, constitutes discontinuance under this provision. If a business registration is required for the nonconforming use, and the business registration has lapsed in excess of 90 days, the lapse of business registration will constitute discontinuance.

F. Expansion

A nonconforming use may not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except

for a use allowed within the applicable zoning district.

G. Repair

A nonconforming use may not be rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of damage, as determined by the building inspector, except for a use that conforms with the applicable zoning district, and provided any rebuilding, alteration or repair is completed within one year of such damage.

10.11.3. Nonconforming Lot of Record

A. Defined

A lot that does not conform to the lot requirements of the applicable zoning district, but which was a conforming lot of record prior to the effective date of this Land Development Code or its amendment.

B. Use as Building Site

A nonconforming lot of record may be used as a building site, provided that the all other dimensional requirements of the applicable zoning district are met or a variance is obtained from the Zoning Board of Appeals. Where applicable, the nonconforming lot of record must meet all current requirements of the Fulton County Health Department.

10.11.4. Nonconforming Build-to Requirement

A. Additions

When an existing building is being expanded and the building doesn't meet the build-to requirement, the following provisions apply.

Front: Addition. Any addition to the front must be placed in the build-to zone. The addition does not have to meet the build-to percentage for the lot.

[GRAPHIC]

Rear: Addition. Rear additions are allowed because the addition does not increase the degree of the nonconformity.

[GRAPHIC]

Side: Addition. Side additions are not allowed because the extension increases the width of the building not located in the build-to zone.

B. New Buildings

Where a new building is being constructed on a lot or site with an existing building on it that doesn't meet the build-to requirement, the following provisions apply.

Front: New Building. All new buildings must be placed in the build-to zone until the build-to percentage for the lot has been met.

[GRAPHIC]

Rear: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.

[GRAPHIC]

Side: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.

[GRAPHIC]

C. Replacement Buildings

New buildings located outside of the build-to zone are allowed to replace an existing building. Where the replacement building has the same or a similar footprint, it must be approved by the Design Review Advisory Committee. Where the replacement building footprint is increased, it must be approved by the City Council.

[GRAPHIC]

N45E113600
OOT FARMS LC

S 500 W

RP04N45E117802
MD NURSERY & LAND

RP04N45E117802
B & M LAND & LEASING LLC

W 2500 S

RP04N45E117802
ROMAN CATHOLIC DIOCESE / BOISE

33

RP04N45E117949
B & M LAND & LEASING INC

Rendezvous Dr

RP04N45E118100
B & M LAND & LEASING INC

East Rendezvous

S 500 W

RP04N45E118400
TWOSE, TREVOR & PATRICIA

Gros Vent

W 2000 S

W 3000 S

W 1000 W

33

W 5250 N

MOULTON, GWEN

ZOWA, KARA

33

85

W 5160 N

RP06N45E336600
SAPIENT TRADING, LLC

Glendon Taxolite

N 410 W

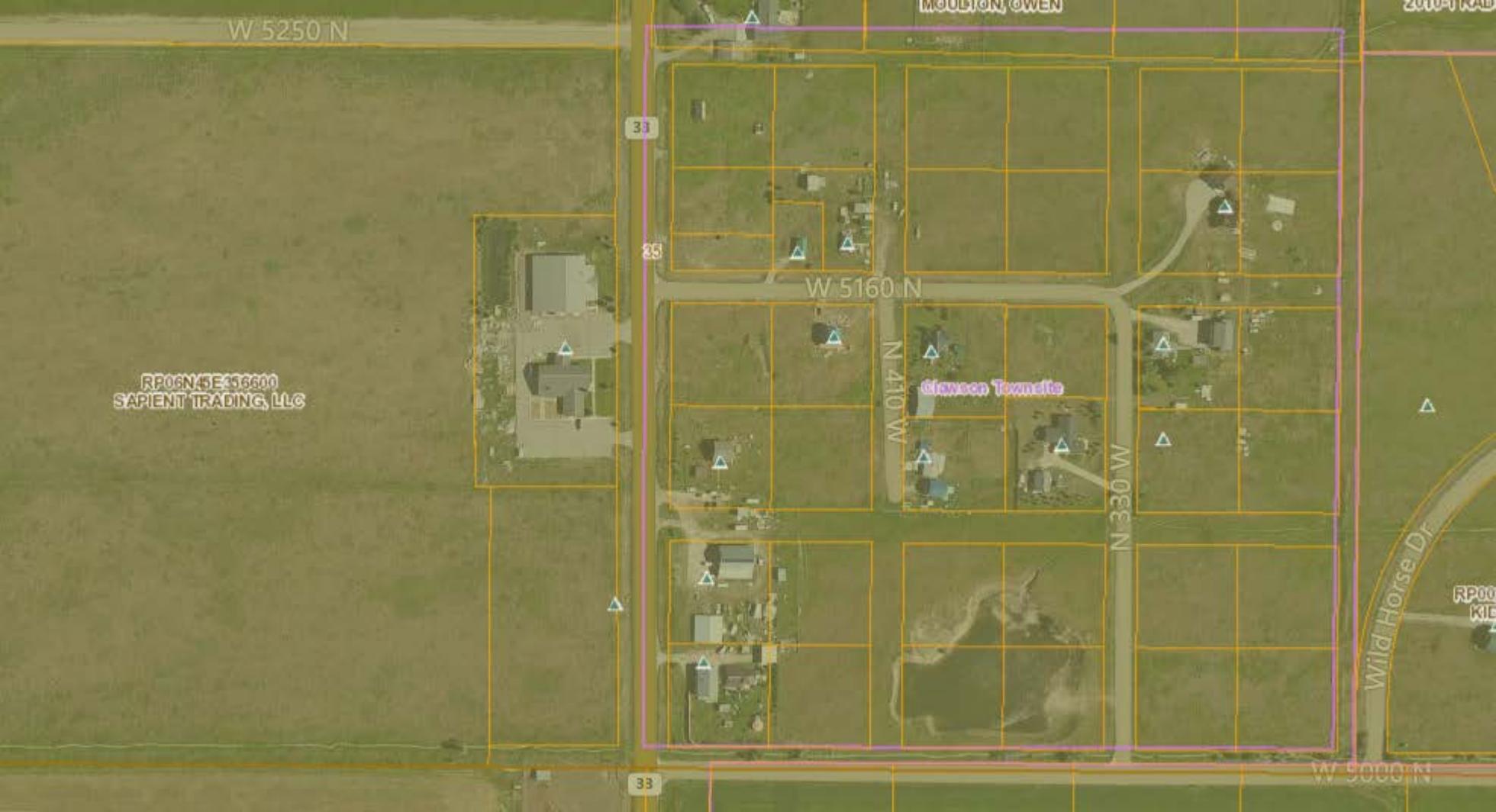
N 330 W

Wild Horse Dr

RP00
KID

33

W 5000 N





Cutler Ave

Louise Ave

Stewart St

Stewart St

Bancroft St

Wells Ave

McReynolds Ave

Fall Town

RP06N45E
ARNOLD, B

32

32

8