

**PLANNING AND ZONING COMMISSION  
MINUTES  
October 8, 2024  
City Hall – Conference Room #6  
710 E. MULLAN AVENUE**

**COMMISSIONERS PRESENT:**

Tom Messina, Chairman  
Jon Ingalls, Vice-Chair  
Lynn Fleming  
Sarah McCracken  
Mark Coppess  
Peter Luttrupp

**STAFF MEMBERS PRESENT:**

Hilary Patterson, Community Planning Director  
Sean Holm, Senior Planner  
Randy Adams, City Attorney  
Traci Clark, Administrative Assistant

**Commissioners Absent:**

Phill Ward

**CALL TO ORDER:**

The meeting was called to order by Chairman Messina at 5:30 p.m.

**APPROVAL OF MINUTES:**

Motion by Commissioner McCracken, seconded by Commissioner Fleming, to approve the minutes of the Planning Commission meeting on August 13, 2024. Motion approved.

**PUBLIC COMMENTS:**

None.

**STAFF COMMENTS:**

Hilary Patterson, Community Planning Director, provided the following comments:

- The November 12 Planning & Zoning Commission meeting will have an extension request, a Special Use Permit, a combination request for Annexation, a PUD and Subdivision, and a PUD modification.
- Last week was the APA conference in Moscow Idaho, there was about 120 that attended, which was great attendance for a remote location.
- The Planning & Zoning 101 workshop at the conference was a success and had 54 attendees. The training videos were featured, following by discussion. There are 16 videos that have been produced to date by APA Idaho and Association of Idaho Cities.
- City Council Member Kiki Miller received an award for the Planning Tool or Implementation for the Housing Solutions Partnership efforts.
- The Development Agreement Workshop will be on October 15. The Regional Planning & Zoning

Workshop, which is now called Planning Workshop this will be held on November 7<sup>th</sup> at the County Admin building at 5:00 p.m. Please RSVP for both events if you plan to attend.

**COMMISSION COMMENTS:**

Commissioner Fleming asked if we have heard anything back from the short term rental folks?

Ms. Patterson replied that Senator Clow from Twin Falls is working on legislation. The City has not done any work on possible code amendments because any legislative change may affect us. Commissioners Fleming and McCracken asked about the timing of the legislation. Ms. Patterson said they expect it would be during the upcoming legislative session, which would begin in January 2025.

Commissioner Fleming asked if the commission has heard anything about the hospital development since it's been handed to CDA Ignite.

Ms. Patterson replied there is nothing to report at this time. Ignite CDA has asked if the City would consider at some point looking at the zoning in that area with the goal of allowing some additional housing types but there is no tax increment financing coming in. There is still no agreement with Kootenai Health for payment in lieu of taxes and no plans to do anything with the roadway realignment. There has been some talk with IDT about 95 and Lincoln and maybe a pedestrian overpass to Kootenai Health, but that would be evaluated in the future. At this time, there is no development within the district.

Commissioner Luttrupp asked about Idaho legislation when items do come up, does the City have a position to report to the committee meetings regarding planning & zoning changes?

City Attorney Randy Adams replied that a lot of people respond to the legislature and we always invite comments from planning & zoning or administration on any legislation. If anyone on the commission would like a letter written to the legislature, we help draft it and it would be signed by the mayor and be sent off to the committee. Post Falls does have a lobbyist, but Coeur d'Alene does not. We can testify in person, which would generally be the mayor. The Association of Idaho City's will also assist on many items as well.

Ms. Patterson replied that APA Idaho and the Resort Cities Coalition also help out with responding to proposed legislation. Even though Coeur d'Alene is not considered a Resort City, the Resort Cities Coalition do keep us in the loop of their efforts. They have a paid lobbyist, and they are tracking their bills and having regular meetings.

Chairman Messina asked if the general public knows about the short term rental bill being drafted up and presented to the legislation in January.

Mr. Adams replied not typically.

Commissioner McCracken asked about the workshops regarding the twin homes and the Special Use Permit for single-family only.

Ms. Patterson replied yes, those items are on her To Do List. She hopes she can set up a workshop when there are not a lot of items on a hearing night.

Commissioner Fleming commented on the multi-generational houses. This has only been brought up once in the last four years. She thinks this will become more popular and should be considered.

**PUBLIC HEARINGS: \*\*\*ITEM BELOW IS CONSIDERED TO BE AN ACTION ITEM.**

1. Applicant: Kirk Lauer  
Location: 2565 E Mountain Vista Dr.  
Request: A request for a substantial deviation from the Light Reflective Value (LRV) requirement specified in the Hillside Ordinance (HD-1-24)

**Presented by Sean Holm, Senior Planner**

Mr. Holm, Senior Planner, provided the following statements:

Does the Planning and Zoning Commission find it acceptable to grant the applicant, Kirk Lauer, approval to deviate from the Hillside Ordinance regarding the exterior color of his residence at 2565 E. Mountain Vista Dr., given that the proposed color, "Classic White (LRV 94)" exceeds the maximum allowable LRV of 40. The request stems from the applicant's need to repaint their home as part of a necessary re-siding project following a paint adhesion failure that occurred six years ago. The home's original cedar siding has been replaced with a more durable and fire-resistant material.

The Copper Ridge subdivision, a 41-lot plat which includes both hillside and hillside exempt parcels, was approved in 2005. It was a multipart request including a zone change from R-1 to R-3, a subdivision, and a Planned Unit Development (PUD) request. Following two denials in 2004, the number of lots proposed was reduced, the PUD was foregone, which resulted in an R-3 zone and a subdivision within the hillside overlay. Note that some of the lots are less than the prerequisite 15% slope, and are thus hillside exempt. The following illustration taken from the Copper Ridge subdivision along Mountain Vista Dr. are marked to show which lots in the immediate area are hillside lots.

The home was constructed in full compliance with the Hillside Overlay Zone (Hillside Ordinance) at the time of its development). The building permit was issued in 2007, with the Certificate of Occupancy following in 2009. The parcel itself spans 0.564 acres, with an average slope of 21.8%, and includes an undisturbed area of 11,494.08 square feet. Significant trees were preserved throughout the construction process as denoted in the tree survey, further adhering to the ordinance's requirements. The home's original design featured natural cedar siding complemented by a rock veneer base, to meet the color limitation of 40 LRV or less. Additionally, the height of the home was built to a compliant 30 feet as measured from average finish grade to the ridgeline (peak).

Even though the code says that Council would choose a pallet of colors to be approved, Council never did limit the actual color. It was just the light reflective value. He did bring some swatches to look at. They removed everything that was over 40 LRV. The applicant did provide a swatch from the company that he would like to purchase the paint from as well. Mr. Holm passed around the paint swatch from the applicant and the paint swatch "color wheel" that staff has with all colors being 40 LRV and below.

Commissioner McCracken asked for confirmation that the color wheel being passed around represents paint colors that are all under 40 LRV.

Ms. Holm replied, that is correct.

The proposed color scheme includes a color that exceeds the LRV limit, with dark brown trim for contrast. The applicant contends that the deviation will not negatively impact the surrounding properties or the hillside's visual integrity for several reasons: the home sits lower on the slope compared to neighboring properties, the lot has a 21.8% slope, and the home is not visible from a distance of over 1,000 feet. Additionally, the applicant notes that similar deviations exist in the neighborhood, including homes with higher LRVs.

In terms of compliance with the City's Hillside Ordinance, the primary intent of the LRV requirement is to reduce visual impacts and blend structures into the natural landscape. Light Reflectance Value (LRV) is a scale that measures how much visible light a surface reflects. It's used by designers and lighting professionals to help with color coordination, mood, and energy efficiency.

Mr. Holm indicated that staff had a discussion regarding #3 and they felt that it would not apply to this item.

Commissioner Ingalls asked where these deviations come from.

Ms. Patterson replied these come from the City Code.

Commissioner Luttrupp asked again what does it mean that #3 would not apply to this item.

Mr. Holm stated because there has been no appeal during the public hearing right now.

Commissioner McCracken asked why does this come before this commission and not the Design Review Commission.

Ms. Patterson replied it has already been built and this is subject to a hillside ordinance, which refers any substantial deviations to the Planning and Zoning Commission.

Commissioner Coppess commented that one of the things that Mr. Holm stated during the presentation was the character of the city's natural environment is not adversely affected. From looking across the city at the hillside and seeing something that isn't mentioned with the rest of the hillside, houses on the hillside are blending in to the natural environment. He asked Mr. Holm if when you were out driving to this home, could you at any point see across the horizon did this home stick out from the from the hillside or could you see the words Tyvek that it is wrapped in now since they took the siding off?

Mr. Holm replied when he went to take the photos for the staff report his goal was to drive around a little bit to spot the home from other areas of the city. He could not see this home at all. There are trees blocking the home.

Commissioner Ingalls commented that this neighborhood is like a garden variety neighborhood as opposed to the Hillside Ordinance that came along when there were threats of more hillside expansion of Fernan Hill, Armstrong Park, Blackwell Island, etc. where you do see those houses like Canfield Mountain. There is a large white house on the hill that you see and there is one that blends in to the hill side. This is different in your opinion, Mr. Holm?

Mr. Holm, replied from a staff's opinion, yes. But this is ultimately the Planning and Zoning Commission's decision to make.

Mr. Adams stated the criteria is set out in the code and does not include the purpose or that overarching effect on the city. The criteria specifically just talks about the physical aspects on adjacent properties.

Substantial deviations may only be granted if all of the following circumstances are found to exist:

1. The deviation is the minimum necessary to alleviate the difficulty.
2. The deviation will result in equal or greater protection of the resources protected under this article.
3. The requested modification was not specifically appealed during the public hearing process.
4. The requested modification will not cause adverse physical impacts on adjacent properties
5. The deviation does not conflict with Idaho Code, the city of Coeur d'Alene Comprehensive plan and zoning ordinance and, in the case of the Fernan Lake planning area, the Fernan watershed management plan.

Commissioner Coppess commented if he is sitting in his house and he lives next door to Mr. Lauer who has painted his house this white color and the sun is shining perfectly in a way that basically hits a wall and shines into his house while he is reading his on his Kindle and the light is so bright on his Kindle that he can no longer read from it, is that what this is referring to?

Mr. Adams replied physical impact is not defined in the code. This is up the commission to decide if that would be considered a physical impact. But, to him, that would seem to qualify as a physical impact.

Commissioner Fleming asked if there was an HOA in this neighborhood?

Mr. Holm replied yes. Staff received no feedback from the HOA and only received one phone call from one neighbor who happened to be an employee of the city and wondered what was happening.

Commissioner McCracken asked if the HOA has color requirements?

Mr. Holm replied that the City does not enforce HOA requirements.

Mr. Adams replied the only issue would be if the deviation from the City's standards would be into question.

Chairman Messina asked if the public notices were all done properly?

Mr. Holm replied yes.

Chairman Messina stated he read in the packet that some homes are over the LRV but they are exempt from this Hillside Ordinance.

Mr. Holm replied yes, they do not have the slope so they are not part of the Hillside Ordinance.

Mr. Holm continued his presentation and said the decision point was for the commission to consider the requested substantial deviation to use the proposed "Classic White" color with a Light Reflective Value (LRV) of 94, which exceeds the maximum allowable LRV of 40, determine if the request would meet the required evaluation criteria, and then make findings to: approve, approve with conditions, deny, or deny without prejudice

Mr. Holm, concluded his presentation.

**Public testimony open:**

Kirk Lauer introduced himself and was sworn in. He stated he bought this home in 2018. He is the 5<sup>th</sup> generation here. The home was very run down when they bought it – it was used as a party home, was in horrible disrepair, and he did not know about the paint color. He did have one neighbor tell him about the paint with LRV when the painters were there and someone from the City stopped by and suggested to the painters that they make sure that they were using the correct paint color. The reason why he is even repainting the home is because there was an issue with the siding manufacturer. After two months of painting the siding, it started to bubble. The home had cedar siding that had to be removed and re-roofed. The colors he felt were dated. He said he does understand the use of some colors on hillside lots and having them be an eyesore. He does not want the home to stand out. He does want the home to blend in. He spoke with Sean Holm about the paint color and he does agree in certain areas, for example as someone brought up the side of Canfield Mountain, you would want those houses to blend in because you can see them from the street. He does have a secondary structure behind the home as well. It is a gym. The HOA does require the hillside lots to comply with the LRV and they want the design of the homes to blend in, but they haven't actively enforced it. There are some homes in the neighborhood that have galvanized metal, and the neighbor across the street the home is painted gold and that home is well over the LRV of 40. He has spoken with

every neighbor about the color. Whatever the decision is tonight, he has to start painting tomorrow because he has no rain gutters and the weather is changing.

Commissioner McCracken asked about the HOA. Do they stick with the 40 LRV and under although they are not enforcing it?

Mr. Lauer replied yes. The gentlemen that is two homes down from him, he is the HOA president and he is fully aware of the color he choose.

Commissioner Ingalls stated he has no problem with the color. He sees this as completely different then the primary history of why the Hillside Ordinance was created. He has seen a lot of hillsides with a lot of the houses with very white houses around the city. it is a shame that the County does not have a Hillside Ordinance because you see these houses on the hillsides. This house fits in fine. His challenge is that he has to make findings. It is because of the variance that he struggles with this. But he has to go with the code and the findings.

Chairman Messina stated the commission has to make the findings and follow the code.

Mr. Lauer stated he understands. He understands why they are asking why he picked this color when there are other colors that he can choose from that would meet the minimum requirement.

Commissioner McCracken asked if any of the homes that follow the Hillside Ordinance have white garage doors?

Mr. Lauer replied no.

Commissioner Luttrupp stated the job of the commission is to look at the code that the city council approved and listen to the applicant's presentation. It's not our job to change the code. He feels he cannot support this, but he does sympathize with the owner.

Commissioner Coppess asked the applicant if he was given the option if City Council were to change issue number 1 that allowed an opportunity to better shape the code that we have now, if, in the interim, you would be willing to do a primer paint that was a temporary color that can protect the home until such time maybe until Spring it can allow the final coats of paint on that are either white or an LRV that is less than 40, is that something you can work with?

Mr. Lauer replied the only issue is that he has no rain gutters on the home.

Chairman Messina replied if this has to go in front of City Council to amend the code, this this might take months.

Mr. Adams replied the change of the code would have to go to Planning and Zoning for a recommendation and then to City Council, and there is no guarantee what City Council would do with the code. They don't tend to do code amendments for just one person. This is a mandatory code that has to be followed.

Ms. Patterson clarified the process of amending the code would take two public hearings and have noticing requirements.

Commissioner Coppess commented that if someone were to put an LRV that is higher than 40 as primer, pending future review of code for a final paint color in the Spring, would that be something possible as a temporary primary color that is merely intended to protect the home over the Winter season?

Mr. Adams replied the code does not differentiate between primer and final paint colors; it just says the color of pallet cannot exceed 40 LRV.

Commissioner Ingalls stated that the bottom 3 criteria are not applicable, but asked how applicable is deviation #1? In his view he would like to say yes, it's fine if it's a different neighborhood. This is not Armstrong Park. What he would like to do if number 1 is written for all of those things on the hillside, the slope, banks, rock walls, all of those things are in there. Were these things really conceived around paint? If we approve this based on this is not an Armstrong Park, etc. and someone catches wind of it on Fernan Hill Terrace or Armstrong and then they paint their home white. Would we be able to say no, and that we approved the paint color because yours is different?

Mr. Adams stated you have the latitude in determining what the difficulty is and the latitude in determining what the minimum necessary deviation is to correct that difficulty. His understanding is the difficulty is Mr. Lauer wants to update the look of his house. There is not much interpretation there. The question becomes what is the minimum deviation necessary to do that? That is the decision you will have to make.

Commissioner Ingalls replied if the person on Armstrong Park or Fernan Terrace comes in tomorrow asking for the same LRV and we approve this one, we would have a difficult time saying no to that one as well?

Mr. Adams replied again that the commission needs to evaluate the difficulty. With paint color, there is not much leeway on finding what the difficulty is.

Mr. Lauer asked if it would possible to have a higher LRV maybe 60?

Commissioner Fleming replied she was wondering that as well. Is it Hardy board products? She colors people's houses everywhere. There are a lot of whites in the world, and a lot in the 60 LRV range, she brought two samples herself. Have you looked at other colors, that are less extreme?

Mr. Lauer replied yes.

Commissioner Fleming stated she is not a trendy person, because trends go out really fast. She would like if you have another color to be open to looking, maybe look at a color that is in the 90 LRVs., It's tough on the neighborhood and consistency. She understands that Mr. Lauer is on the cusp but she thinks he has taken it too far. This is not a white farm house; this is not out on the prairie. If you have any other back up colors, we would happy to look at them.

Chairman Messina stated he is not sure the color of the spread between 42, 45 is the issue. The issue is deviation #1 is still going to be there.

Commissioner Fleming replied it says the minimum necessary to alleviate the difficulty. So, if you are getting closer to the 40 LRV standard, she thinks the commission should be open minded rather than to deny it flat out. Things change. She does not want to be the color police.

Commissioner Luttrupp asked Mr. Adams about determining of the commission's minimum latitude of the LRV?

Mr. Adams replied the commission has a great deal of latitude. You will need to justify it. You will need to make your decision based on the evidence.

Commissioner McCracken stated we do get stuck on the code and facts.

Commissioner Ingalls commented the code does not really give us some flexibility to make a more realistic decision where we can use judgment and say this is a different lot and a different kind of a view, it is seen different than other kind of examples up on the hills that we talk about and can that be being the basis for us allowing for a brighter color?

Chairman Messina stated the applicant has the ability to appeal to City Council based on what the decision is tonight. If we deny without prejudice, it does not mean he has to go through the application again.

Mr. Adams stated yes, the application can appeal. But it will not be on October 15. City Council it would be sometime in November.

**Public testimony closed.**

**Commission Discussion:**

Commissioner Ingalls will make a motion to deny.

Chairman Messina agrees to make a motion to deny, because of the code.

**Motion by Commissioner Ingalls, seconded by Commissioner McCracken, to deny without prejudice item HD-1-24. Motion carried.**

**ROLL CALL:**

Commissioner Fleming	Voted Aye
Commissioner McCracken	Voted Aye
Commissioner Luttrupp	Voted Aye
Chairman Messina	Voted Aye
Commissioner Ingalls	Voted Aye
Commissioner Coppess	Voted Aye

Motion was denied by a 6 to 0 vote.

**Commissioner Comments:**

Commissioner Luttrupp commented that he would like to invite the commissioners to the Tubbs Hill Winter clean up that will take place this Saturday from 8:30 to 12:00. It is a fun and worthwhile event for the community.

**ADJOURNMENT:**

Motion by Commissioner Luttrupp, seconded by Commissioner Fleming, to adjourn. Motion carried.

The meeting was adjourned at 6:45 p.m.

Prepared by Traci Clark, Administrative Assistant