

FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS OF THE MADISON COUNTY PLANNING AND ZONING COMMISSION

- **New Unified Development Code Chapter 15 Sexually Oriented Business**
- **Update Chapter 1 General Provisions, Section 1.3 Filing Fees**

The Madison County Planning and Zoning Commission held a public hearing on June 14, 2012 at 7:15 p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho to consider the proposed Unified Development Code addition and update.

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing. Media in attendance were: Emmilie Buchanan (Standard Journal), Evan Wirig (BYUI Scroll), Rachel Brown (BYUI Scroll), Jailynn Zenger (BYUI Scroll), and Hannah Davis (BYUI Scroll).

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Chairman Bill Squires, Vice Chairman Anthony Merrill, Ed Williams, Doug Sakota, Rick Robertson, Dean Peterson, Matt Hartline, Mike Munns, Kevin Willmore and Millie Andrus. Those unable to attend were: Jolene Sutton and Kay Burrell. Planning and Zoning Administrator Brent G. McFadden, Coordinator Shauna J. Ringel and Legal Counsel Troy Evans also attended.

The public hearing was called to order by Chairman Squires. Shauna J. Ringel acted as clerk for the meeting. The Chairman questioned Mr. McFadden as to whether or not notices of the hearing had been properly published, posted and provided. Mr. McFadden stated all required legal notices had been given. The Chairman asked if there were any conflicts of interest. None were stated.

A summary of the discussion at the hearing is attached hereto and incorporated herein. (June 14th, 2012 un-approved minutes, plus New Sexually Oriented Business and updated Filing Fees are attached)

Brent McFadden gave the presentation on behalf of Planning and Zoning Department for the following addition and update: The new chapter on Sexually Oriented Business does not prohibit from Madison County, but does require a conditional use permit with conditions attached. It also requires background checks for the owner and employees. He asked for a motion to waive the reading of the ordinance because of the graphic nature of new chapter. **This was**

approved on a motion by Commission member Mike Munns. Seconded by Commission member Doug Sakota and vote was unanimous. The updates to the Filing Fees are necessary to add the licensing for the Sexually Oriented Business. Mr. McFadden was asked questions by the Commission.

After hearing the presentation by Madison County officials on behalf of the Unified Development Code addition and update, Chairman Squires reminded the citizens in attendance that they would need to sign up on the appropriate lists if they wished to speak at the hearing. He asked all those who wanted to speak in favor, in neutral, or opposed to the proposal to come forward and be heard.

Sexually Oriented Business

Those in favor were: Trevor Rasmussen, Jennifer Rawlinson and Holly Christensen.

Those in neutral were: None

Those opposed were: None

Written comments: None

Filing Fees Update

Those in favor: None

Those Neutral: None

Those Opposed: None

Written Comments: None

There being no further comments, the public hearings were closed. The Planning and Zoning Commission noted that any recommendations they would make would be tentative, pending final approval from the Board of County Commissioners. The Commission then deliberated the Unified Development Code addition and update.

Having given due consideration to the application and evidence presented, the Planning and Zoning Commission hereby makes the following findings of fact:

FINDINGS OF FACT

- 1) Public hearing was held June 14, 2012 to take the testimony on a proposed Unified Development Code addition and update. The proposed Code addition and update are consistent with the goals and objectives of the Comprehensive Plan. Notice was published in the legal County newspaper, the Standard Journal, May 26 and 31 and June 5, 2012 as required. Said notice was also posted in the

Madison County Courthouse, Madison County Administration Building, Madison County Public Library, Albertson's and Broulim's Supermarkets. The published notice included an appropriate and accurate summary of the issues to be heard. Copies of the notices were made available as requested and were provided to political subdivisions within the planning jurisdiction at least 15 days prior to the hearings.

- 2) At the beginning of the hearing, Chairman Squires asked whether proper notice of the hearings had been provided. The Planning and Zoning Staff answered in the affirmative, discussing what notices had been provided.
- 3) The Public hearings were scheduled at 7:15 pm all as set out in the published notices, as described above.
- 4) The meeting agenda was available prior to the meeting, and the public hearings followed the order of events listed on the agenda. The Planning and Zoning Administrator gave an explanation of the subject of the public hearings. An opportunity was provided for the applicant and members of the public to present testimony, which was followed by members of the Planning and Zoning Commission. Public testimony was closed after all present had been given an opportunity to submit oral or written testimony. Reasonable time limit was imposed on oral testimony.
- 5) Approval of the proposed Unified Development Code addition and update was in the best interests of the people of Madison County.

CONCLUSIONS AND RECOMMENDATIONS

1. Notice of the Public Hearings held to consider approval of the proposed Unified Development Code addition and update were published and provided as is required by Idaho Code §§67-6509 and 67-6511.

2. The Public Hearings were held to consider approval of the proposed Unified Development Code addition and update and was conducted in accordance with the requirements of Idaho Code §§ 67-6509 and 6511 as well as Title 10 Unified Development Code, Chapter 1 General Provisions.

3. A transcribable verbatim record was made and kept of the

Public Hearing held to consider approval of the Unified Development Code addition and update, in accordance with the requirements of Idaho Code §§ 67-6536.

4. The proposed Unified Development Code addition and update is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et. seg.*

5. Approval of the proposed Unified Development Code addition and update is in the best interest of the people of Madison County, Idaho:

The Sexually Oriented Business Chapter would govern the location of a Sexually Oriented Business in order to avoid adverse secondary effects that may result from the operation of such a business. It protects the governmental interest of Madison County from the operation of such businesses in a manner consistent with the protections provided by the United States Constitution and the Idaho Constitution.

The Filing Fees update is consistent with the need for fees associated with a Sexual Oriented Business application fee, renewal fee and employee license fee.

6. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

Commission member Doug Sakota made the motion to strike the reference of the SOB abbreviation from the new Chapter because of its negative connotation. Dean Peterson seconded. Vote was unanimous.

Commission member Kevin Willmore made the motion to approve the new Unified Development Code Chapter 15 Sexually Oriented Business. Commission member Ed Williams seconded the motion. Vote was unanimous.

Commission member Millie Andrus made the motion to approve the updated Section 1.3 Filing Fees to include a Sexual Oriented Business application fee, renewal fee and employee license fee. Commission member Dean Peterson seconded. Vote was unanimous.

CONCLUSION

Based upon the foregoing Findings of Fact, Conclusions and Recommendations, the planning and zoning procedures conducted throughout the county, the comments received at the public hearing held hereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends approval of the requested new Unified Development Code Chapter 15 Sexually Oriented Business addition and Chapter 1 General Provisions, Section 1.3 Filing Fees update.

This decision may be appealed, in writing, relative to this decision taken by the Commission, as long as the appeal is submitted within twenty-eight (28) days from such Commission action, per Title 10 Unified Development Code, Chapter 1 General Provisions, Section 1.6 Appeals.

Dated this 18th day of June, 2012.

PLANNING AND ZONING COMMISSION
MADISON COUNTY, IDAHO
Bill Squires, Chairman

ATTEST:
Brent G. McFadden, Planning and Zoning Administrator

Adoption of Findings of Fact
by Madison County Board of County Commissioners

Based upon the foregoing Findings of Fact, Conclusions and Recommendation of the Planning and Zoning Commission, and based upon the Madison County Board of County Commissioners' (Board) review thereon, pursuant to Madison County Title 10, Unified Development Code, Chapter 1 General Provisions, and Idaho State Code §§ 67-6509, 67-6511, *et seq.*, the Board hereby approves the Findings of Fact and Conclusions of Law presented by the Commission and approves this action based thereon. The applicant is hereby given notice that it has the right to request a regulatory taking analysis pursuant to Idaho Code §67-8003.

Dated this _____ day of _____, 2012.

BOARD OF COMMISSIONERS
MADISON COUNTY, IDAHO

Kimber Ricks, Chairman

Jon Weber, Commissioner

Todd Smith, Commissioner

ATTEST:

Kim H. Muir, Clerk

