

**BONNER COUNTY PLANNING DEPARTMENT
BOARD OF COUNTY COMMISSIONERS
STAFF MEMO FOR FEBUARY 10, 2022**



Project Name: Rockstarr Acres First Addition

File Number, Type: MLD0186-21, Minor Land Division

Request: The applicant is requesting to divide a 22-acre into three (3) lots, two (2) 5-acre lots, and one (1) 12.5-acre lot.

Legal Description: 1-54N-6W S 870FT OF E 1150FT OF SE

Location: The project site is located off Sundance Road in Section 1, Township 54 North, Range 6 West, Boise Meridian, Bonner County, Idaho.

Parcel Number: RP54N06W019500A

Parcel Size: 22-acres

Applicant: Christian Starr | Rockstarr Land, LLC.
564 Roberts Lane
Blanchard, ID 83864

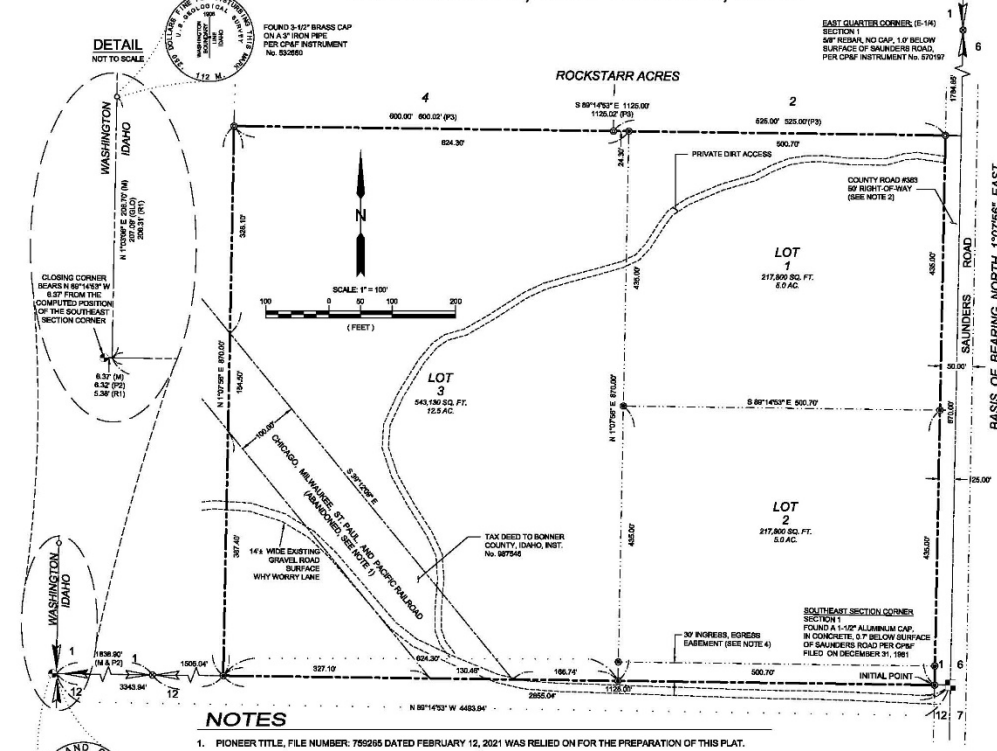
Project Representative: Lindsay Willhite | Sawtooth Land Surveying, LLC.
560 W Canfield Ave Ste. 200
Coeur d'Alene, ID 83815

Property owner: Same as applicant.

Application filed: November 04, 2021

ROCKSTARR ACRES FIRST ADDITION
 LOCATED WITHIN THE SOUTHEAST 1/4 OF SECTION 1,
 TOWNSHIP 54 NORTH, RANGE 6 WEST,
 BOISE MERIDIAN, BONNER COUNTY, IDAHO

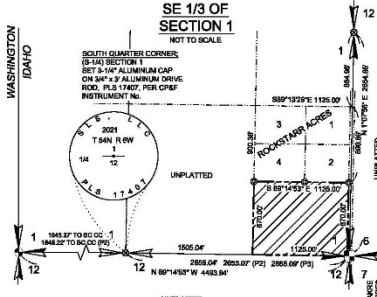
RECORDER'S
 CERTIFICATE



BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS THE NORTH AMERICAN DATUM OF 1983 (NAD83) 2011 ADJUSTMENT (EPOCH: 2010), IDAHO STATE PLANE COORDINATE SYSTEM, WEST ZONE (ISPCW) USING REAL TIME KINEMATIC (RTK) GPS MEASUREMENTS AS MEASURED ALONG THE EAST SECTION LINE FROM THE SOUTHEAST CORNER OF SECTION 1 TO THE EAST QUARTER CORNER (E-1/4) OF SECTION 1, SAID LINE BEARS: NORTH 01° 07' 56" EAST.

A COMBINED ADJUSTMENT FACTOR (CAF) OF 1.00006189 WAS USED TO CONVERT GRID COORDINATES TO GROUND COORDINATED AND APPLIED AT THE ORIGIN POINT OF (N-2330287.509 E-2312361.129)



REFERENCES

- (PER RECORDS OF BONNER COUNTY, UNLESS OTHERWISE NOTED)
- (P1) THE PLAT OF AIDEN ACRES, RECORDED IN BOOK 9, PAGE 69, BY DAVID P. EVANS, PLS 5687, DATED FEBRUARY 20, 2008.
 - (P2) THE PLAT OF WHITE HORSE SUBDIVISION, RECORDED IN BOOK 10, PAGE 1, BY RANDY RAY HOSINGTON, PLS 6019, DATED DECEMBER 2, 2008.
 - (P3) THE PLAT OF ROCKSTARR ACRES, RECORDED IN BOOK 14, PAGE 92, BY BRAD ALLEN DIESEN, PLS 15516, DATED FEBRUARY 25, 2020.
 - (R1) RECORD OF SURVEY BY JAMES A. SEWELL, PLS 775, FILED AS INSTRUMENT No. 308818, DATED AUGUST 9, 1985.

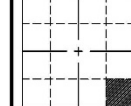
LEGEND

- SET A 1-1/4" ORANGE PLASTIC CAP (OPC) ON A 5/8" x 24" REBAR, 'SLS PLS 17407'
- QUARTER CORNER AS DESCRIBED
- SECTION CORNER AS DESCRIBED
- ✱ FOUND A 3" BRASS CAP ON A 2 1/2" OUTSIDE DIAMETER IRON PIPE, US LAND OFFICE
- FOUND A 1-1/4" YELLOW PLASTIC CAP ON A 5/8" REBAR, PLS 16518
- FOUND A MILE POST AS DESCRIBED

NOTES

1. PIONEER TITLE, FILE NUMBER: 755285 DATED FEBRUARY 12, 2021 WAS RELIED ON FOR THE PREPARATION OF THIS PLAT.
2. TAX DEED TO BONNER COUNTY, IDAHO, INSTRUMENT No. 800015, DATED APRIL 22, 2002.
3. NO RIGHT-OF-WAY DEEDS FOR THE EXISTING ROAD, "SAUNDERS ROAD" WERE FOUND. THE ROAD WAS AS-BUILT WITH 50' RIGHT-OF-WAY PER IDAHO CODE 40-202 & 40-2312. ROAD WAS CREATED BY BONNER COUNTY ON 11/17/1916 AS ROAD #363. SEE RECORDS AT BONNER COUNTY ASSESSORS OFFICE.
4. A 30' WIDE INGRESS, EGRESS, AND UTILITIES EASEMENT AS SHOWN HEREON IS HEREBY DEDICATED TO THE LOT OWNERS.
5. THE LOTS AS SHOWN HEREON ARE AFFECTED BY A WASHINGTON WATER POWER COMPANY UTILITY EASEMENT (INSTRUMENT 17752, BONNER COUNTY RECORDS).
6. THE LOTS AS SHOWN HEREON ARE AFFECTED BY A WATER RIGHT DEED No. 96-07845 (INSTRUMENT 628862, BONNER COUNTY RECORDS).

S. 1, T. 54N., R. 6W., B. M.



560 W. CANFIELD AVE., STE. 200
 COEUR D'ALENE, IDAHO 83815
 (208) 714 - 4544

SAWTOOTH
 Land Surveying, LLC
 www.sawtoothls.com

DATE: 10-18-21 DRAWN BY: LSW CHECKED BY: RCH JOB#: 221020 DWS: 221020-ROBERTS LANE-PLAT SHEET: 2/2

Project summary:

The applicant is requesting to divide a 22-acre parcel into three (3) lots: two (2) 5-acre lots, and one (1) 12.5-acre lot. The proposed lots are in the Rural 5-acre zoning district per Ord. 626, recorded July 15, 2021. The subject property is in Section 1, Township 54 North, Range 6 West, Boise Meridian, Bonner County, Idaho. The applicant acquired the property in February 2021 per Warrant Deed, Instrument #976710.

The applicant appeal states that they were not afforded a timely hearing for a comprehensive land use plan designation map amendment and zone change on the subject parcel, which ultimately delayed their submittal of the minor land division application.

Application file date: November 4, 2021

Appeal file date: December 6, 2021

Applicable laws:

The following sections of BCRC, Title 12, apply to this project:

BCRC 12-411: Density and Dimensional Standards; Forestry, Agricultural/Forestry and Rural Zones
BCRC 12 – Chapter 6 Subdivisions

Background:

A. Site data:

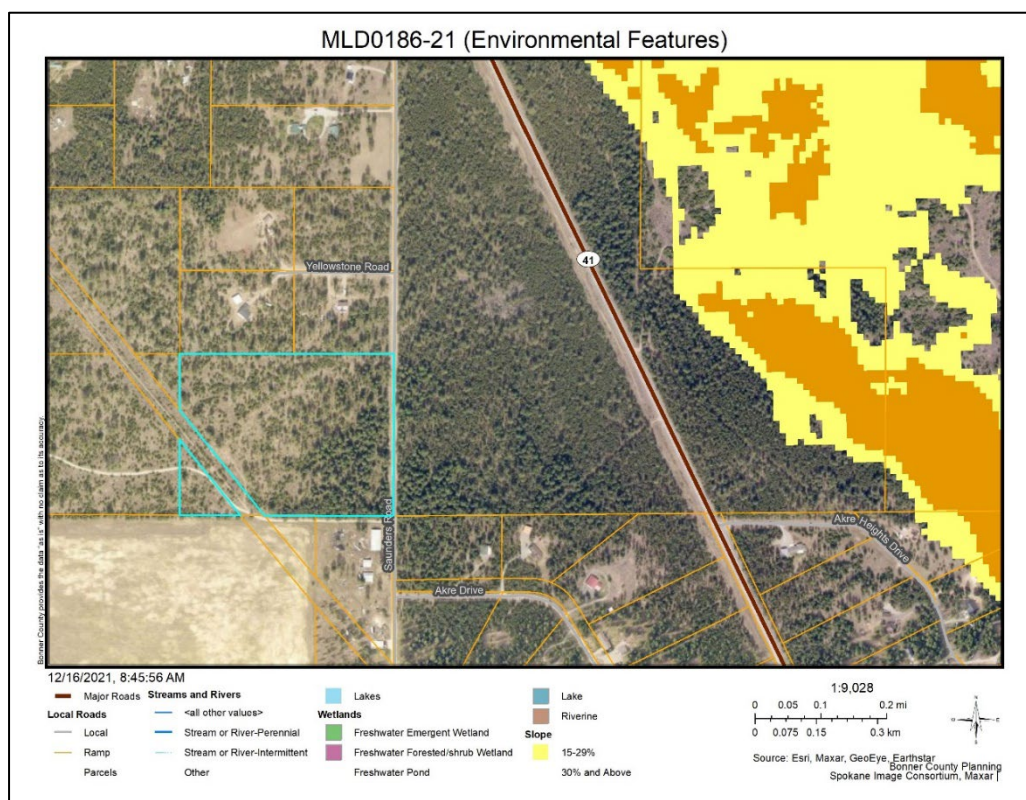
- 22-acre parcel
- Zone: Rural 5-acre (Ord. 626, Instrument #987396)
- Land Use: Rural Residential (Res. 21-58, Instrument #987395)

B. Access:

- The subject property is accessed by Sundance Lane, a county owned and maintained road.

C. Environmental factors:

- Site does not contain mapped slopes between 15-29% or 30%+. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake.
- Site does contain one (1) soil type: Stapaloo-Kaniksu, dry complex which is characterized as farmland of statewide importance and is well drained.
- ABS: Entire parcel is SFHA Zone X per FIRM Panel #16017C1075E, Effective Date 11/18/2009. No further flood review needed.



D. Services:

- Water: “nearby wells show water is about 150’ and produce sufficient water 50+ gpm”
- Sewage: “septic”
- Fire: Spirit Lake Fire
- Power: Avista
- School District: West Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural 5-acre	Currently vacant
North	Rural Residential	Rural 5-acre	Rural residences / vacant
East	Ag/Forest Land	Agricultural/Forestry 20-acre	U.S. Govt. land
South	Rural Residential & Ag/Forest Land	Agricultural/Forestry 20-acre & Rural 5-acre	Rural residences & bison ranch
West	Ag/Forest Land	Agricultural/Forestry 20-acre	Currently vacant

F. Standards review

BCRC 12-411, Density and Dimensional Standards; Forestry, Agricultural/Forestry and Rural Zones

- **Staff:** The proposed division of land is consistent with BCRC 12-411; all proposed lots are above the 5-acre minimum standard.

BCRC 12- Chapter 6, Subdivisions

BCRC 12-600: Purpose: (C). It is unlawful for a person or group of persons acting in concert to attempt to avoid this article by acting in concert to divide a parcel of land or sell subdivision lots using a series of owners or conveyances or by any other method that ultimately results in the division of lands into a subdivision or the sale of subdivided land. (Ord. 501, 11-18-2008; amd. Ord. 634, 8-4-2021)

- ✘ **Staff:** the proposed minor land division (MLD) constitutes a contiguous MLD. Rockstarr Acres, File MLD0009-20 (Instrument No. 953629, Recorded February 25, 2020) to the immediate north, sharing a border with the subject property, parcel # RP54N06W019500A was previously processed as a Minor Land Division.

BCRC 12-611: Definitions: MINOR LAND DIVISION – Any division of land into four (4) or fewer lots or parcels. Exception: those lots under common ownership and limited in use to common open space or agricultural pursuits, need not be counted as a lot for purposes of determining applicable land division procedures only. A minor land division shall not be used contiguously to avoid the regular subdivision process (See BCRC 12-600 C).

- ✘ **Staff:** The Rockstarr Acres minor land division (MLD0009-20, filed with the planning department on January 27, 2020) includes the same applicant information (i.e – the

applicant name, address, and email) as File MLD0186-21, Rockstarr Acres First Addition. The naming convention of Rockstarr Acres First Addition implies a 'addition' to the original 'Rockstarr Acres' minor land division. Moreover, the Rockstarr Acres First Addition Plat identifies 'Rockstarr Acres' as the minor land division just north of the proposed MLD.

G. Comprehensive Plan Land Use Designation

The comprehensive plan designation of Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

H. Stormwater plan

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

Staff analysis:

Staff concluded this project **is not** consistent with Bonner County Revised Code based upon staff's analysis of the BCRC 12-600: Purpose and BCRC 12-611: DEFINITIONS in section 'F. Review Standards'. Moreover, the evidence submitted in the appeal does not provide an adequate reason for reversing the decision to DENY the application.

- Even if a clerical error occurred which delayed the zone change and comprehensive land use plan map amendment, the applicant could have filed the Minor Land Division prior to the August 12, 2021 BCRC 12-600 text amendment. A minor land division application could have been filed before, during, or after a zone change and comprehensive land use plan map amendment.
- The Ordinance and Resolution for the property in question was recorded on July 15, 2021.
- Naming the plat 'Rockstarr Acres First Addition' provides concrete evidence that the application to divide the property with a minor land division was a proposal to create more lots with a contiguous minor land division, circumventing 12-600: PURPOSE (C) and 12-611 DEFINITIONS

Staff recommendation:

UPHOLD ADMINISTRATIVE DECISION: DENIAL

Planner's Initials: CRC Date: 01.19.2022

Note: This is only a recommendation. The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Decision by the governing body:

BOARD OF COUNTY COMMISSIONERS

DECISION TO DENY: I move to uphold the administrative decision of the Bonner County Planning Department for denial of this project FILE MLD0186-2, Rockstarr Acres First Addition, a request to divide a 22-acre parcel into three (3) lots, two (2) 5-acre lots, and one (1) 12.5-acre lot, finding that it is not in accord with the Bonner County Revised Code. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Memo (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this decision, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain land division is to:

- 1) File a new short plat application with the Planning Department and meet the standards required by Bonner County Revised Code.

DECISION TO APPROVE: I move to overturn the administrative decision of the Bonner County Planning Department for denial of this project FILE MLD0186-2, Rockstarr Acres First Addition, a request to divide a 22-acre parcel into three (3) lots, two (2) 5-acre lots, and one (1) 12.5-acre lot, finding that it is not in accord with the Bonner County Revised Code. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Memo (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this decision, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Findings of Fact

1. File MLD0009-20 Rockstarr Acres was received by the planning department on JAN 27 2020, per the stamp on the application.
2. Rockstarr Acres shares a property line with the proposed Rockstarr Acres First Addition.
3. At the time in which File MLD0009-20 was filed with the planning department (Jan. 27, 2020), Rockstarr Land LLC was the applicant. This LLC, mailing address, and email address was also used for File MLD0186-21, Rockstarr Acres First Addition.
4. The naming convention of Rockstarr Acres First Addition implies a 'second addition' to the original Rockstarr Acres minor land division.
5. File MLD0186-21 was received by the planning department on Nov 04, 2021.
6. Ordinance 634, which became effective when published in the Daily Bee on August 12, 2021, prohibits the creation of contiguous lots or parcels via multiple minor land divisions.
7. The Rockstarr Acres First Addition plat recognizes Rockstarr Acres minor land division (MLD) is just north of the proposed land division.

8. Per the application, the proposed lots would be served by individual wells, septic systems, and Avista for power.
9. The subject property is within the Spirit Lake Fire District.
10. The subject property is not situated within an Area of City Impact.
11. The applicant has not had Panhandle Health District lift the sanitary restrictions on the property.
12. There are no mapped wetlands, rivers, streams or mapped slopes on the property.
13. To date, Rockstarr Land LLC does not own any of the lots created via Rockstarr Acres minor land division.
 - Lot 1 transferred ownership from Rockstarr Land LLC to Anthony and Brittany Brandt in March 2020, per Warranty Deed #954371.
 - Lot 2 transferred ownership from Rockstarr Land LLC to Kyle and Jordan Frates in April 2020, per Warranty Deed #956167.
 - Lot 3 transferred ownership from Rockstarr Land LLC to Thomas Lee Fitzmorris in September 2020 per Warranty Deed #964453.
 - Lot 4 transferred ownership from Rockstarr Land LLC to Joshua Cole Hopkins in November 2020 per Warranty Deed #969427.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The minor land division **is** in accord with the Rural 5-acre zoning district.

Conclusion 2

The minor land division **is** in alignment with existing roads, and easements.

Conclusion 3

The minor land division **does not** meet the standards set forth in BCRC Chapter 6, Title 12.

Conditions of Approval:

A-1 A final plat shall be recorded.

A-2 The preliminary plat of a minor land division shall be valid for a period not to exceed two (2) calendar years from the date of approval. Within two (2) years of the approval of the preliminary plat, the applicant shall submit the final plat to the Planning Director. At any time prior to the expiration date of the preliminary plat, an applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Planning Director may

consider such request for extension. The extension request must be approved or denied prior to the expiration date of the preliminary plat.

- A-3** The applicant must complete any and all corrections, as required by the Assessor, GIS, County Surveyor, Bonner County Road & Bridge, Planning Department, and pay all applicable fees (including conformed copies of the plat), prior to recording the final plat.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online one week before the hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.