

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
DECEMBER 11, 2019**

**CALL TO ORDER:** Chair Connolly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

**PRESENT:** Commissioners Chair Jeff Connolly; Vice Chair Dan McDonald; and Steve Bradshaw

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Planning Operations Manager Josh Pilch; Planner II Halee Sabourin; Administrative Assistant II Emily Aerni; and Administrative Manager Jeannie Welter

**PUBLIC HEARINGS:**

**VACATION**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

**File VS0004-19 – Vacate a portion of Bella Circle – Richard Jones/Second Lion Development LLC & Third Lion Development LLC** are petitioning to vacate a portion of Bella Circle that lies outside the 60 foot Public Right-of-Way. The property is zoned Suburban. The project is located on Bella Circle in the Amended Golden Meadows Phase III Subdivision in a portion of Section 2, Township 56 North, Range 2 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Representative Lance Miller of True North Land Surveying stated it is a simple vacation request. He stated they were in the process of replatting the 3 lots into 2. Once complete, only 2 lots will be fronting on Bella Circle. Mr. Miller further stated the vacated area will be distributed equally as best they can. The replat will be coming to the planning department in the next few weeks and the attorney will work on the utility easement documents once approval is granted today.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

**BOARD DELIBERATION:** The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

**MOTION TO APPROVE:** Commissioner McDonald moved to approve this petition, FILE VS0004-19, a petition to vacate a portion of Bella Circle, finding that it is in accord with Idaho Code enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner McDonald further moved to adopt the following findings of fact, conclusions of law and conditions of approval as written. The action that could be taken to obtain the vacation is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

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**Overview:**

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**A. Site data:**

- Hydrologic Features: None
- Flood Hazard Zone: AE
- Wetlands: None
- Slope: <15% per USGS
- Soils:
  - Mission Silt Loam, 0 To 2 Percent Slopes

**B. Access:**

- Access to the bulb out is provided by Bella Circle Road, a public right of way.

**C. Standards review:**

- Required:
  - Compliance with:
    - §40-203, Abandonment and Vacation of County and Highway District System Highways or Public Rights-Of-Way
      - The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way, or to reclassify a public highway as a public right-of-way, where doing so is in the public interest.
- Provided:
  - Petitioner's reason for the request:
    - *"Richard Jones is proposing to Vacate a portion of Bella Circle, a Public Right of Way, that lies outside of the sixty foot wide portion of the Public Right of Way. The area to be Vacated was added to the Right of Way in the Plat of Amended Golden Meadows Phase III to meet minimum Lot frontage*

requirements. The applicant is adjusting Lot lines that are adjacent to the proposed Vacated area and the resultant Lots will meet current Bonner County frontage requirements. The subject area is not used by the County for access or turnaround. A sixty foot wide Public Right of Way will remain after the proposed Vacation is complete.

- The adjacent Lots are served by utilities that lie within the Proposed Vacation area and Easement will be granted to those utilities prior to issuance of the Vacation by Bonner County.
- The proposed Vacation will not have an adverse effect on the Public or land owners in the vicinity of the proposal."

**D. Agency Review**

The petition was routed to the following agencies on November 8, 2019.

|                                    |  |
|------------------------------------|--|
| Southside Sewer and Water District | Dept. of Lands, Nav. Waters            |
| Bonner County Road and Bridge      | Army Corps (Coeur d’Alene)             |
| Selkirk Fire District              | Dept. of Env. Quality                  |
| Avista Utility                     | Fish and Wildlife Service              |
| School District #84                | Bonner County Schools – Transportation |
| Dept. of Fish and Game             | Dept. of Lands (Sandpoint)             |
| Frontier Communications            | Northland Communications               |

Agency Review Ended on December 2, 2019.

- DEQ – No Comment.
- IF&G – No Comment.
- Bonner County Road and Bridge - The Road & Bridge Department is slightly opposed to this vacation request. These right-of-way "bulb-outs" can prove to be valuable on occasion for turning around heavy trucks and other equipment, as well as emergency vehicles, once a suitable travel surface has been constructed. They are also useful for the potential storage of materials and equipment when County crews are doing work on the roads in the area. That said, I'm not aware that this particular bulb-out has ever been utilized in these ways, and the looped nature of Bella Circle makes the need of a turn-around in this location non-critical. Therefore, my opposition is only slight as a general principle, rather than being adamantly opposed because of a current need.

**E. Public Notice & Comments**

- There have been no public comments at the time this staff report was produced.

**Conclusions of Law:**

**The Background section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted:**

Conclusion 1

This proposal is compliant with the vacation criteria and standards set forth at Idaho Code §40-203.

Finding

The procedures set forth in section 40-203, Idaho Code, have been followed. No public agency has objected to the proposed petition to vacate. Local utility providers were routed as part of agency review, and none opposed the validation.

Conclusion 2

That portion of Bella Circle is hereby vacated and declared abandoned.

Finding

The petitioner demonstrated adequate evidence that the vacation of the subject easement would not be in conflict with public interest.

Finding

The petitioner provided adequate evidence that the vacation of the subject easement would not result in any real property, adjoining Bella Circle, to not have access to an established highway or public right-of-way

**Conditions of approval:**

1. The vacation of the above-described platted area shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. The costs for legal advertisements and recording fees shall be borne by the petitioner and shall be paid prior to the recording of this vacation.
3. The petitioner shall provide for easements for continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances – pursuant to Idaho Code §40-203(3).

**AMENDMENT & ZONE CHANGE**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

**Files AM0006-19 & ZC0004-19 – Comprehensive Plan Map Amendment & Zone Change – Rockstarr Land LLC** is requesting a Comprehensive Plan Map Amendment from Agriculture/Forest to Rural Residential and a Zone Change from Agriculture Forestry 10/20 to Rural-5. The ±23.25 acre parcel of land is located off Saunders Road in Section 1, Township 54 North, Range 6 West, Boise-Meridian. The

Planning & Zoning Commission at the public hearing on November 7, 2019 recommended approval of this project to the Board of County Commissioners.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planning Director Milton Ollerton presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

**APPLICANT PRESENTATION:** Christian Starr with Rockstarr Land stated, provided this project is approved, they were working with Sewell & Associates to plat a 60-foot easement directly to the back to keep the access going to the next lots. Mr. Starr further stated they would be putting in a circle in the middle to access all 4 lots. Mr. Starr stated he wants to keep the option available to be able to go through that property and will assign an easement.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

**BOARD DELIBERATION:** The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

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**Comprehensive Plan Amendment Motion by the governing body:**

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**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project, FILE AM0006-19, requesting a comprehensive plan amendment for the subject property from Ag/Forest Land to Rural Residential, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner McDonald seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

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**Comprehensive Plan Map Resolution Adoption:**

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Commissioner McDonald moved to approve resolution #19-116 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

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**Zone Change Motion by the Governing Body:**

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**MOTION TO APPROVE:** Commissioner McDonald moved to approve this project, FILE ZC0004-19, requesting a zone change from Ag/Forest-10/20 to Rural-5, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner McDonald further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

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**Zone Change Ordinance Motion:**

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Commissioner Bradshaw moved to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the reclassification of lands located in Section 1, Township 54 North, Range 6 West, Boise Meridian, Bonner County, Idaho from A/F-20 and A/F-10 to R-5, and providing for an effective date. Commissioner Bradshaw further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner McDonald seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

|                       |     |
|-----------------------|-----|
| Commissioner McDonald | AYE |
| Commissioner Connolly | AYE |
| Commissioner Bradshaw | AYE |

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**Background:**

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**A. Site data:**

- Acreage: ±23.25 acres
- Zoning: Ag/Forest-10/20 (split zoned)
- Structures: vacant
- Access:
  - Saunders Rd
    - Public ROW – County Maintained
    - Local Access
    - Gravel
- Environmental:
  - Flood hazard area:
    - X – 0.2% Annual Chance Flood Hazard
  - Wetlands: N/A
  - Hydrography: N/A
  - Slope: <15%

- Soil: Stapalooop-Kaniksu, Dry Complex, 8 To 25 Percent Slopes
- Services:
  - Water:
    - Individual well
  - Sewage:
    - Individual septic
  - Fire:
    - Spirit Lake Fire
  - School:
    - Bonner School #83

**B. Comprehensive Plan, Zoning and Current Land Use**

| Compass | Comp Plan                    | Zoning    | Current Land Use & Density  |
|---------|------------------------------|-----------|-----------------------------|
| Site    | Ag/Forest Land (10-20 acres) | A/F-10/20 | Vacant Timber               |
| North   | Ag/Forest Land (10-20 acres) | A/F-10    | Residential, 5-10 acre lots |
| East    | Ag/Forest Land (10-20 acres) | A/F-20    | Public Forest               |
| South   | Ag/Forest Land (10-20 acres) | A/F-20    | Vacant Timber               |
| West    | State of Washington          | A/F-10/20 | Vacant Timber               |

**C. Standards review: Bonner County Revised Code**

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
  - Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)
- **Comprehensive Plan Map Amendment:**
  - **Ag/Forest Land:** The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive Plan CHAPTER 6-4 or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.
    - Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Saunders Rd, a county

maintained road, and the parcel is afforded fire protection via Spirit Lake Fire.

- **Rural Residential:** The 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.
  - Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Saunders Rd, a county road, and the parcel is afforded fire protection via Spirit Lake Fire. Surrounding properties feature agricultural and residential uses. Parcels lying to the North are 5-10 acres in size and are developed with residences.

- Conclusion: Existing densities, environmental features, and services indicate that the subject property conforms to the Rural Residential Designation.

● **Zone Change:**

- **Rural District:** The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
  - Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
  - Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
  - Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
  - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
    - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
    - Characterized by slopes steeper than thirty percent (30%).
    - Located within critical wildlife habitat as identified by federal, state or local agencies.
    - Contain prime agricultural soils.
    - Served by a network of public and/or private roadways that generally do not meet applicable roadway standards

set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.

- Within the floodway.
- Contain limited access to public services.
- R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008

- Staff: The subject parcel does not feature slopes in excess of 15% (USGS). Access is provided by Saunders Rd, a county road. The parcel does not feature any special flood hazard areas or floodway. The parcel has access to public services such as Spirit Lake Fire. Surrounding properties vary in size. Those lying to the north and southeast are approximately 5 acres in size and have been developed with residential uses. Similar environmental conditions, services and access are present.

**D. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.2 because the proposal does not listed in the applicability section.

- E. Agency Review:** The application was routed to agencies for comment on October 8, 2019.
- The following agencies responded:
    - IDL – No comment
    - IDFG – No comment
    - Road and Bridge – No comment
    - PHD – No comment
    - Spirit Lake Fire District – No Comment

All comments from agencies are due by October 31, 2019.

**F. Public Notice & Comments:** As of November 29, 2019, there have been no public comments received.

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#### Findings of Fact

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- The parcel is ±23.25 acres.
- Properties in the area are 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Saunders Road, a county road.
- The parcel does not feature steep slopes or special flood hazard areas.

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#### Conclusions of Law:

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

##### Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

|                      |                        |                   |
|----------------------|------------------------|-------------------|
| Property Rights      | Population             | School Facilities |
| Transportation       | Community Design       | Implementation    |
| Economic Development | Land Use               | Natural Resources |
| Hazardous Areas      | Public Services        | Transportation    |
| Recreation           | Special Areas or Sites | Housing           |

##### Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is** found to be in compliance.

##### Conclusion 3

The proposal **is** in accord with the Rural Residential Land Use Designation.

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#### Zone Change Findings of Fact

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- The parcel is ±23.25 acres.
- Properties in the area are 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Saunders Road, a county road.
- The parcel does not feature steep slopes or special flood hazard areas.

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#### Zone Change Conclusions of Law:

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

##### Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

|                      |                        |                   |
|----------------------|------------------------|-------------------|
| Property Rights      | Population             | School Facilities |
| Transportation       | Community Design       | Implementation    |
| Economic Development | Land Use               | Natural Resources |
| Hazardous Areas      | Public Services        | Transportation    |
| Recreation           | Special Areas or Sites | Housing           |

##### Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

The Chair declared the hearing adjourned at 1:52 p.m.

Respectfully submitted, this 18<sup>th</sup> day of December, 2019.

A handwritten signature in cursive script, appearing to read "Milton Ollerton".

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Milton Ollerton, Planning Director