

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
MARCH 11, 2020**

CALL TO ORDER: Chair McDonald 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 Dan McDonald and Steve Bradshaw

ABSENT: Vice Chair Jeff Connolly

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

PUBLIC HEARINGS:

Commissioner Bradshaw moved to amend the agenda to remove File AM0002-20. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

MODIFICATION OF PUD

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 MOD0001-19 – Modification of PUD – The Highlands – Highlands Homeowner's Association is requesting to remove a strip of land consisting of 0.23 acres (9,829 sq.ft.) from the 22.7 acre "common area." The property is zoned Recreation. The project is located off Red Fir Road in Section 2, Township 56 North, Range 1 East, Boise-Meridian. The Planning & Zoning Commission at the public hearing on February 6, 2020 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: Staff Planner Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Marty Taylor with James A. Sewell & Associates stated the HOA does not use this strip of land. He further stated there is 66% of open space, well above the 10% minimum requirement.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

Motion by the governing body:

MOTION TO APPROVE: Commissioner Bradshaw moved to approve this project FILE MOD0001-19, a modification of the Highlands PUD, removing 0.23 acres from the 22.7 acre "common area" of the previously approved PUD site plan, 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. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

- o Acreage: ±22.7 acres (common area)
- o Acreage: 0.23 acres
- o Legal Description: The Highlands PUD Common Area
 - (Book 14 of Plats, Page 16)
- o Zoning: Recreation
- o Use: Common Area

B. Access (Strip of land in question):

- o Red Fir Road – public, maintained by Bonner County

C. Environmental factors (Strip of land in question):

- o Hydrography: Lake Pend Oreille (USGS)
- o Floodplain: Zone X/AE, Firm Panel #: 16017C0981E (FEMA)
- o Vegetation: Moderately forested (Application)
- o Soils: Pend Oreille Silt Loam, 5 To 45 Percent Slopes (Not Prime Farmland – NRCS)
- o Wetlands: Freshwater Lake (USFWS NWI)

- o Slopes: <30% (USGS)

D. Services (Strip of land in question):

- o Water: Not intended to be plumbed
- o Sewer: Not intended to be sewered
- o Fire: Sam-Owen Fire
- o Power: Avista
- o School: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC	PUD Common Area
North	Lake	Lake	Lake Pend Oreille
East	Resort Community	REC	PUD Common Area
South	Resort Community	REC	PUD Common Area
West	Resort Community	REC	PUD Common Area

F. Standards review

- BCRC 12-266, Modifications of Terms and Conditions of Permit Approval
 - o The Planning Director, commission and/or Board shall consider the proposed modification in accordance with the requirements for the original permit application and shall confine the review to the proposed modification. The proposal shall be reviewed against the previous ordinance established at the time or the original permit.
 - BCRC Title 12 Chapter 22 et al.
 - BCRC 12-2210 (b): Considered a Large Scale PUD (residential)

G. Comprehensive Plan Land Use Designation: The property is designated Resort Community. The comprehensive plan designation of Resort Community provides for urban-like densities for areas centered on the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

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.

I. Agency Review: The application was routed to agencies for comment on January 7, 2020.

<i>Panhandle Health District</i>	<i>Idaho Department of Water Resources</i>
<i>Ellisport Bay Sewer</i>	<i>Army Corps (Coeur d'Alene)</i>
<i>Bonner County Road Department</i>	<i>Idaho Department of Lands (Sandpoint)</i>
<i>Sam Owen Fire District</i>	<i>US Forest Service</i>
<i>Avista Utilities</i>	<i>US Fish and Wildlife Service</i>
<i>Bonner School District #84</i>	<i>Idaho Department of Environmental Quality</i>
<i>Idaho Department of Fish and Game</i>	<i>Bonner County Schools – Transportation</i>

The following agencies replied “No Comment”:

*Idaho Department of Environmental Quality
Idaho Department of Water Resources
Panhandle Health District
Bonner County Road and Bridge*

The following agencies replied with comment:

Idaho Department of Lands (Justin Eshelman) – January 8, 2020

The subject 0.23 acres that will be adjusted to adjacent Lot 12 has an encroachment permit associated with the property. This permit will need to go through the assignment process to transfer the permit into the new owner’s name

All other agencies did not reply.

J. Public Notice & Comments

No public comments have been submitted to staff at this time.

Findings of Fact

1. The project is consistent with BCRC 12-266, and the original ordinances that the original permit was approved against.
2. Adequate common open space is retained – 10% minimum required. Will be retaining 65.8%.
3. HOA, Covenants and Articles of Incorporation remain unchanged, excepting a portion addressing the severance of the common area in question.
4. Development density is not being exceeded.
5. Public amenities are not proposed.
6. Design standards are being met.
7. Buffering/Clustering is not altered by the proposal.

Conclusions of Law:

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

Conclusion 1

The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.

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

Conclusion 2

This proposal is in compliance with the criteria and standards set forth at BCRC Title 12.

Conclusion 3

The proposed use will not create a hazard or will not be dangerous to persons on or adjacent to the property.

Conditions of approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** Pursuant to Title 12, Chapter 6, Bonner County Revised Code, a Lot Line Adjustment application shall be submitted to the Bonner County Planning Department to lawfully remove the subject 0.23 acre area from the 22.7 acre 'common area'.

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.

File AM0010-19 & ZC0009-19 – Comprehensive Plan Map Amendment & Zone Change – Daum Construction, 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 ±59.6-acre parcel of land is located off Hoo Doo Loop road in Section 17, Township 55 North, Range 05 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on February 6, 2020 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 Operations Manager presented a summary of the project and previously circulated staff report, concluding this project is consistent with the Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Bill Daum stated he thought it was going to be a nice neighborhood.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record: Douglas Jerred and Raymond Evenson.

APPLICANT REBUTTAL: None.

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

Comprehensive Plan Amendment - Motion by the governing body:

MOTION TO APPROVE: Commissioner Bradshaw moved to approve this project, FILE AM00010-19, 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. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

Comprehensive Plan Map Resolution Adoption:

Commissioner Bradshaw moved to approve resolution #2020-26 amending the Bonner County Projected Land Use Map. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

Zone Change - Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Bradshaw moved to approve this project, FILE ZC0009-19, 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 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. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

Zone Change Ordinance Motion:

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 17, Township 55 North, Range 5 West, Boise Meridian, Bonner County, Idaho from Ag/Forest-10/20 to Rural-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. Upon stepping down from the Chair, Commissioner McDonald seconded the motion.

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

ROLL CALL VOTE

Commissioner McDonald AYE
 Commissioner Connolly ABSENT
 Commissioner Bradshaw AYE

Background:

A. Site data:

- Size: 59.6 Acres
- Zone: Ag/Forestry land (A/F-20)
- Land Use: Ag/Forest Land (A/F-10/20)
- Structures : Vacant

B. Access:

- Property fronts on Hoo Doo Loop, a county maintained, 24' wide, paved road.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- SFHA x – 0.2% Annual Chance Flood Hazard, FIRM Panel 16017C1100E, Effective Date 11/18/2009
- Soil:
 - Classification: All Areas Are Prime Farmland
 - Type: Consociation
 - Drainage: Well Drained

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Spirit lake Fire
- Power: Inland Power & Light
- School District: #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber
North	Rural Residential (5-10 AC)	R-5	Residential
East	Ag/Forest Land (10-20 acres)	A/F-20	Residential/ Farming
South	Ag/Forest Land (10-20 acres)	A/F-20	Residential
West	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber

F. 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:**
 - **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 Hoo Doo Loop Rd, a paved, 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 Hoo Doo Loop 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 Hoo Doo Loop, 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.

G. Storm water plan: A storm water management plan was not required, pursuant to BCRC Title 12, Chapter 7.

H. Agency Review: The application was routed to agencies for comment on January 7, 2020.

*All Taxing Districts
Bonner County Road and Bridge
Northern Lights
Bonner County Schools – Transportation*

*Dept. of Water Resources
Dept. of Fish and Game
Dept. of Env. Quality*

The following agencies provided comment:

Spirit lake Fire: Per Chief DeBernardi: Regarding the comprehensive plan map amendment & Zone Change noted above, Spirit Lake Fire Protection District wants to maintain access/egress for all adjacent parties. There should be two roads going into this area from Hoo Doo Loop so that all parties can exit in the event of a wildland fire or other conflagration requiring evacuation. This would improve public safety for the impacted area.

The following agencies replied "No Comment":

Inland Power, Panhandle Health, Bonner County Road & Bridge, Idaho Transportation dept.

All other agencies did not reply.

I. Public Notice & Comments: No Comments

Findings of Fact

- The parcel is 59.6± 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 Hoo Doo Loop Rd. a paved, county road.
- The parcel does not feature steep slopes or special flood hazard areas.
- Site features prime Ag soils that are well drained.

Conclusions of Law:

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.

Zone Change Findings of Fact

- The parcel is ± 59.6 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 Hoo Doo Loop, a paved, county road.
- The parcel does not feature steep slopes or special flood hazard areas.
- Site features prime Ag soils that are well drained.

Zone Change Conclusions of Law:

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 1:57 p.m.

Respectfully submitted, this 13th day of March, 2020.



Milton Ollerton, Planning Director